

Dealing with private property for public purposes

An interdisciplinary study of land transactions
from a micro-scale perspective

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Dealing with private property for public purposes

An interdisciplinary study of land transactions
from a micro-scale perspective

Sanne Holtslag-Broekhof

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“The first man who, having enclosed a piece of ground,
bethought himself of saying *this is mine*,
and found people simple enough to believe him,
was the real founder of civil society.”

(Rousseau, 1754, The Second Part, paragraph 1)

Introduction



1

1.1 An introduction to land property rights

Property rights to land play an essential role in today's society. They are considered a driver for economic developments and are essential during spatial developments. Today's system of property rights is the outcome of a gradual evolution of societies and the ways in which they manage and use land. The system has its roots in a period when private property rights on land and private landownership did not exist. Over the centuries, private property rights to land have gradually evolved and become institutionalised in many countries. Simultaneously, free land has become increasingly scarce and valuable to people (Feder and Feeny, 1991). Today, a system of private property rights to land is dominant in Western economies. Property rights to every square meter of land are registered and – in the majority of cases - socially recognised. Land rights are frequently traded around the entire world. These land transactions can have an important impact on land use. For example, in Europe, one million hectares of agricultural and natural land is transacted yearly, resulting in a change from rural land use into urban land use (Nilsson and Nielsen, 2008). Also, landownership is used as a strategy to influence land use or to profit from changes in land use (Obidzinski et al., 2013).

Consequently, land transactions and landownership have a tight-knit relationship with spatial planning (Jacobs and Paulsen, 2009). Some even consider landownership as the most central topic of spatial planning (Krueckeberg, 1995). Land is a fixed commodity and cannot be moved. It is heterogeneous, traded relatively infrequently, the number of actors on the land market is limited, and when selling and purchasing land (in)direct transaction costs are part of the transaction price (Adams et al., 2001a). This results in each landowner having a monopoly position on a unique piece of land. Whilst the landowner is the first party who decides how the land is used, land use can also be influenced by governments and their institutional frameworks. First, governments can prohibit any developments involving building or demolishing without a permit. Building and demolition permits are granted based on their correspondence to the actual land use plan. As such, undesired developments can be prevented. Second, governments can take a more active and steering role in which they are involved with the landowner in order to initiate new developments (Segeren et al., 2007). Governments can do this in many ways, varying from financial support and fiscal benefits, to providing infrastructure, or actively acquiring land, servicing it, and selling it to a developer.

For governments, the significance of landownership can be high if planned developments are not realised by landowners themselves. However, it can be very costly (in terms of time, money and effort) if a landowner is not willing to sell the land. Most countries therefore have adopted legal instruments, such as expropriation, pre-emption or land consolidation, to enable governments to acquire the ownership of land for the public gain. These instruments are part of a toolbox for land policy. Through land policy, governments can govern property rights and the management, use, and development of land. As such, land policy forms the basis

of many spatial planning processes. Land policy can make the difference between a successful or an unsuccessful planning process, it can be a considerable financial expense and it can seriously influence the time frame of a process (Blokhuys et al., 2010; Buitelaar et al., 2008). Land policy includes the intervention into land rights by means of land transactions. Consequently, understanding land policy requires an understanding of land transactions between the government and private landowners.

The mutual interdependency of a landowner and the government during a planned land use change brings up many questions. Under which conditions should a government be able to interfere in private property? What drives a landowner's behaviour when (s)he is confronted with public land use plans on his/her land? To what extent does the content of a land use plan influence the landowner's behaviour during public-private land transactions? What is the impact of an enforced replacement on landowners? How are land prices constructed during negotiation processes? In this thesis, I seek to answer these questions by analysing and explaining public-private land transactions.

These questions formed the basis of the initial curiosity that shaped the beginning of this research and led to concrete research questions which will be introduced in the next paragraph. The following paragraphs provide an overview of the scientific knowledge about land transactions and describe how this study adds to the existing literature (paragraph 1.2), describe the conceptualisation of the main research topics and introduce the aim of the research (paragraph 1.3 and 1.4), and provide an outline for chapters 2-7 of the thesis (paragraph 1.5).

1.2 Gap in the scientific literature

A reasonable amount of research has been conducted on the relationship between public (land) policy, public land acquisition and the property market. The body of research is diverse and has been carried out by researchers of many different backgrounds who have studied the property market from different property sectors and using various methodological approaches. Today, it is increasingly recognized that the interaction between the people that are involved in land transactions is essential for the outcome and therefore for the understanding of economic behaviour (Guy and Henneberry, 2000). This research adds to the existing literature by providing a micro-scale perspective on land transactions, in which the different relevant aspects are studied in an integrated manner. In contrast to the dominant body of literature, the core of this study does not attempt to quantify the results, but rather to gain insight in the mutual relationships and interdependency of the different relevant aspects. This was achieved by studying a number of public-private land transactions in depth. This paragraph provides an overview of the main bodies of literature that provide insight into and theory on different aspects of land transactions. These bodies of literature include five relevant schools of economics (figure 1.1), as economics is the main field of research that studies land transactions.

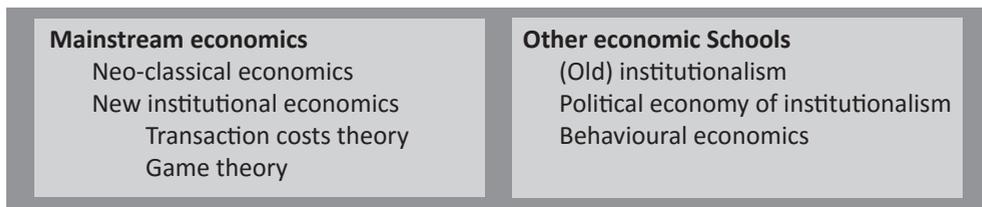


Figure 1.1 Schools of economics and their mutual relationships.

The figure shows how the different schools are related and whether they are placed under mainstream economics or seen as other economic schools.

Neo-classical economics

Research on land transactions has been dominated by mainstream economic scholars, focussing on quantitative model building to analyse land prices as part of the land market (e.g. Abelairas-Exebarria and Inma, 2012; Asabere and Huffman, 2001; Naudé et al., 2012). Within mainstream economics, three main schools can be distinguished: neo-classical economics, welfare economics and new institutional economics (Tiesdell and Allmendinger, 2008). All three schools approach the property market mainly in a quantitative manner and focus on the outcomes (prices) of the property market rather than on transaction processes. Factors within these processes, may however influence the outcomes and understanding of land transaction prices and outcomes.

Neo-classical economists assume in their models that actors behave rationally, that transaction costs are negligible, that markets are competitive, that actors behave based on price fluctuations, and that prices are constructed as functions of supply and demand. Rational behaviour is seen as behaviour in which people choose for the economically most optimal solution. Nowadays, neo-classical economists acknowledge that humans do not always act 'rationally' in reality. Neo-classical economists increasingly attempt to include 'market imperfection' in their models. However, the assumption of rationality is still used as a working hypothesis in most models to predict market developments (Adams et al., 2005; Ball, 2002). The main assumptions of neo-classical theory provide a valuable starting point for research on land transactions. The extent to which people choose the economically most optimal solution can be studied, as well as what their considerations are when either choosing or deviating from this option.

(Old) Institutionalism

Institutionalism originally stems from several scholars¹, the most influential of these being Thorstein Veblen's (1898; 1899; 1901; 1904) works (Rutherford, 2001). Veblen described institutions as generally accepted ways of thinking and

1. In several sources scholars that are mentioned as early founders of institutionalism are Thorstein Veblen, Wesley Mitchell, John R. Commons, Walter Hamilton, Walter Steward, John M. Clark.

acting in society. Veblen criticised the mainstream economic idea of maximising utility and proposed a more psychological view that was based on habits and instinct (Rutherford, 2001). Several years later, John R. Commons was the first who described the transaction as the main unit of economic analysis. He stated that the conditions of transactions are determined by a combination of institutions and bargaining power (Rutherford, 2001). From 1910 onwards, Wesley Mitchell was the first to combine Veblen's institutionalism with quantitative approaches, arguing that institutions are the cause of the predictable human behaviour. Institutionalism (often referred to today as 'old institutional economics') declined after the Second World War, being overhauled by the Keynesian economics, econometrics, and being unable to demonstrate its premises empirically in order to develop the foundational theories of Veblen and Commons theoretically. The school of institutionalism provides another explanation of the motives of human behaviour, proposing that incentives for human behaviour may be closely related to the general norms and values as to desired or 'right' behaviour in society.

New institutional economics

New institutional economics can be seen as a revived (and adapted) version of institutionalism (Lai, 2005). New institutional economics developed around the 1970's, giving the old institutional economics a 'second life', with the desire to extend mainstream economics (Adams et al., 2005). Research on land transactions in relation to land policy or spatial planning is often conducted from a new institutional economic perspective. Neo-institutional economists regularly use hedonic pricing models to quantify the effect of a certain measure on land or property prices. For example, Cotteleer et al (2011) studied the effect of plans for a new motorway upon the prices of residential properties located in and around the plan area. It was found that the planning procedure for the motorway had a significant negative impact upon the prices of residential properties, especially in the period during which the government was very certain about the implementation of their plans. However, neo-institutional economists also regularly use qualitative research methods to study the influence of institutions on economic transactions (Shelanski and Klein, 1995).

New institutional economics refers to a broad school of research and can be divided again in various sub-disciplines. The various authors that have attempted to provide an overview of the different strands within new institutional economics are not univocal. Strands that are named include transaction costs theory, property rights economics, public choice economics, evolutionary economics, collective action theory, economic contract theory, and game theory (Rutherford, 1996; Tiesdell and Allmendinger, 2008). Within the field of land policy research, especially transaction costs economics and game theory have been applied. These two strands will therefore now be elaborated upon.

Transaction costs economics

Transaction costs economists mainly build on the work of Coase and Williamson (Adams et al., 2005). They state that transaction costs occur due to uncertainties, asset specificity, bounded rationality, and opportunism (Williamson, 1998). For Williamson, uncertainty refers mainly to procedural uncertainty resulting from complexity and not to fundamental uncertainty. Instability and delays in planning processes can increase uncertainties and thereby transaction costs. Institutions, such as systems of land registration, can reduce risk and uncertainty and thereby transaction costs (Adams et al., 2005). This notion of uncertainty is related to Williamson's notion of bounded rationality, referring to the fact that the complexity of the decision is too large for the human mind to handle. Needham and De Kam (2004) applied transaction costs theory to land acquisition by Dutch housing associations and found that for the majority of transactions, trust rather than price was the main aspect that determined whether the association would decide to buy a certain parcel of land. Needham and De Kam distinguished different coordination mechanisms for land transactions including price, rules and trust, and showed that the neo-classical assumption that price is always the coordination mechanism can be upended. Buitelaar (2004) analysed land development from the viewpoint of transaction costs economics. He proposed that transactions costs of a development process can be identified by distinguishing them from production costs. By referring to the fictional situation of perfect information and rationality, costs can be labelled as production costs if they would also occur in a situation with perfect information and rationality. According to Buitelaar, all other costs are transaction costs. Later, Buitelaar used the approach to study land transactions and showed that transaction costs matter for land and property development without providing exact figures about the extent of transaction costs (Buitelaar, 2007). Richman and Boerner (2004) applied transaction costs economics to determine the optimum regulatory frame for locating waste facilities. They distinguish three contractual hazards during negotiation on compensation for waste facilities: negotiation externalities, asset specificity, and measurement problems. Cho (2011) used transaction costs economics to analyse housing redevelopment in Korea. He concludes that the transaction costs approach can be applied successfully to study process efficiency. Buitelaar (2004) and Tan (2009) also used transaction costs to assess the efficiency of transaction processes. The higher the transaction costs, the lower the efficiency of the process and vice versa. Overall, the application of transaction costs economics in planning and property research is rare (Buitelaar, 2007). According to these studies, transactions costs are expected to have an influence on public-private land transactions.

Game theory

Game theory has been used by a small number of researchers to model negotiation processes in property development (Glumac et al., 2015; Rabin, 1993; Samsura; Samsura et al., 2010). Game theorists approach decision-making as an interactional process. Game theory relies on three basic concepts to describe this process:

players, referring to the actors making a decision; strategies, referring to player's actions; and payoffs, referring to the value that of the result. Players can have conflicting or supplementing interests and therefore anticipate each other's expected decisions and strategies before making their own decisions (Colman, 2005; Glumac et al., 2011; Samsura et al., 2010). Game theory is used both in a normative manner, i.e. to decide which strategies players should choose in order to maximise their payoff, and in a predictive manner, i.e. to predict what strategies players will choose. Blokhuis et al. (2012) have applied game theory in the setting of brownfield redevelopment, in order to analyse the interaction structure in the redevelopment process. They find that the interaction problems do not result from the prisoner's dilemma² as is sometimes suggested, but from unwillingness to cooperate on the part of one of the parties. They also find that stakeholders do not base their decisions on the expected behaviour of others, but on their individual considerations including their appraisal of the development plan. Hui and Bao (2013) applied game theory to develop a framework for analysing land acquisition conflicts between the government and landowners in China. They state that contradictions and inconsistencies in land acquisition legislation are the main cause of land acquisition conflicts in China. Samsura et al. (2010) applied game theory to a case of greenfield residential development and concluded that game theory can be a useful decision support tool in planning to structure and simplify complex decisions within planning processes. However, they also find that game theory has various limitations including the deficiency to draw conclusions from the outcomes of a model as long as the model's assumptions are not grounded in empirical data. Moreover, the assumption that players are aware of each other's strategies and payoffs is often not the case in reality. In summary, game theory can help to structure and understand the relations and interdependencies of transaction decisions but does not enable a full understanding of the decisions that actors make during land transactions.

Political economy of institutionalism

Various authors have criticised mainstream economic schools for their strong simplifications of human behaviour. North (2005) points out the often forgotten importance of human beliefs and perceptions during economic development. Moreover, he states that human decisions are not only guided by our (imperfect)

2. The prisoners' dilemma, illustrates a situation in which the individual optimisation of gain leads to socially undesirable outcomes. It is a classic game that is used in game theory that exists of the following fictive situation:

Two criminals A & B are arrested and imprisoned. They are each placed in separate rooms with no options of communicating to each other. A and B are each given the choice between betraying the other or to remain silent. If they both chose to betray, they will each serve two years in prison. If they both remain silent, they will serve each one year in prison. But if A betrays and B remains silent, A will be set free and B has to serve 3 years of imprisonment and vice versa.

perceptions of reality, but that uncertainties are also ubiquitous in human decision processes. Guy and Henneberry (2000) emphasise the need to include a social perspective in the current paradigm on property, since land transactions are in fact social processes. Critics like North, Guy and Henneberry represent a second body of literature on the land market. Tiesdell and Allmendinger (2008) named this body as the political economy of institutionalism. Others place it as a separate strand under new institutional economics. Developers' behavioural strategies have been studied several times from this perspective in an urban context (i.e. Adams et al., 2001a; Adams et al., 2008; Ruming, 2009; Triantafyllopoulos, 2008). The political economy of institutionalism is clearly related to new institutionalism, but also clearly relates to the old institutionalism as it resembles specific aspects of both schools, as such it makes a first attempt at the integration of the different schools with the aim of gaining a better understanding of land transactions.

Behavioural economics

The rise of behavioural economics has been a relevant development for the study of land transactions. Kahneman and Tversky's research (Kahneman and Tversky, 1979; Tversky and Kahneman, 1974; 1991) has shown by way of simple experiments that human behaviour is influenced by uncertainties and risk. Kahneman and Tversky (1979) developed prospect theory, incorporating the aspect of risk in human decision making, based on the idea that people are loss averse and reference dependent. Their work has gained increased attention since Kahneman won the Nobel prize for economics in 2002. Post et al. (2008) analysed choices in the television programme 'deal or no deal', in which participants have to make decisions involving a certain risk of losing prize money. They found that on average, participants are risk averse, but that individual behaviour differs strongly. In addition, Post et al. found a relationship between the participants' prior experiences in the programme and their level of risk aversion. Individual participants' level of risk aversion changed throughout the programme.

Apart from studies on risk and uncertainty, behavioural economists have also shown that people do not always act in their own self-interest, but are also led by altruism, fairness, loss aversion, present-bias, identity, herding, social networking, racial discrimination and reciprocity (Fehr and Schmidt, 2006; Sent, 2005). Kahneman and Thaler (1991) observe that people do maximise their utility, but that this is an experienced utility rather than the utility that classic economic theories refer to. They suggest that people may sometimes need help in order to make better or more desired choices. Thaler and Sunstein later brought this idea to a large audience in their book 'The Nudge' (2008). The insights from behavioural economics have hardly been used in research on spatial planning, land policy, land markets or land transactions. Adams and Tiesdell (2010) applied behavioural economics and approach the land market as social construct. This inevitably makes planners market actors, as they play a part in the construction of the land market. Adams and Tiesdell argued that more awareness of the land market as social construct

could lead to more effective planning policy. Theories from behavioural economy provide a valuable addition to the prior introduced schools of economics introduced above, as they provides insights into the psychological level of human behaviour.

Sociological perspectives on property

The significance of ‘social aspects’ of land property has been studied by sociologists, anthropologists and jurists. In sociological and anthropological studies, it is commonly accepted that property rights establish social relations and that owners’ ideological justifications for ownership (and the purchase or selling of ownership rights) can be quite diverse (Munton, 2009). Anthropological research has for example indicated the existence of various conceptualisations of landownership in different countries and cultures (Carrier, 1998). Manji (2006) elaborates on the limitations of mainstream economic approaches and states that these deny ‘the multitude of ways in which people relate to and perceive of land as well as their fellow landholders’ (p.20-21). These studies focus primarily on displacement, land grabbing and tenure security, while neo-institutional studies often have a more instrumental approach towards planning and property. Sociological and anthropological studies towards land and property rights often approach situations to describe and analyse the harm that is done to landowners. The majority of these studies focus on practises in developing countries, where contexts and problems are fundamentally different than in western countries. Korthals Altes (2014) summarised this difference as the distinction between a focus on *property rights to gain insight into ownership constraints* versus a focus on *planning as harmful activity to owners*. The first body of literature aims to gain more insight into land policy, the land market, and land transactions in order to conduct more efficient planning, and consists mainly of literature that is written from a neo-institutional perspective. The second body of literature aims to reduce the harm that is being done to landowners within planning processes. This distinction can indeed be found in the literature, but does not fully cover the broad range of studies that have been conducted on property rights from sociological and anthropological perspectives. Apart from the above-mentioned bodies of literature, for example, there have been numerous debates on the importance of a land administration system for economic development.

In summary, land transactions and human decision making have been studied from various angles, including psychological, sociological, and economic perspectives. Although much has been written on land policy and land transactions, few studies offer detailed insights into the actual transaction processes that underlie markets and land policy. Most studies focus either on the outcomes (prices) of land transactions or on the influence of a specific legal instrument on land transactions. Existing theories are empirically tested by comparing predicted outcomes with actual outcomes, the result of which are never fully convincing. Needham and de Kam (2004) state that “an alternative way of testing the theories would be by

investigating the separate transactions: do these take place as assumed? Such empirical research is rare. It is very time-consuming; the buyers and sellers usually want to keep the details secret because of their financial interests; and even when a transaction is recorded together with its price in a cadastral register, it is difficult to get the parties involved to explain their actions” (p.2064). This thesis represents an attempt to address this gap in the scientific literature in order to move towards a more heterogeneous and micro-scale approach to land transactions, by studying individual land transactions in a number of public planning practices. It is guided by the following research question:

How can the different aspects that determine how public-private land transactions take place be understood and related from a micro-scale perspective?

The main question was divided in four sub-questions, in which a distinction is made between:

- The landowner and government who directly influence the transaction as buyer and seller of the land (question 1 and 2).
- External aspects such as institutions that can influence the land transaction (question 3).
- The understanding of the outcome (price) of land transactions (question 4).

This led to the following sub-questions:

1. What considerations do landowners make when they are confronted with public land acquisition and how do these considerations translate into landowner behaviour during land transactions?
2. What considerations do governments make when deciding on a strategy for land development and how do these considerations translate into government behaviour during land transactions?
3. Which external aspects are relevant for the understanding of public-private land transactions from a micro-scale perspective and how do they influence land transactions?
4. How are prices of public-private land transactions constructed and how can they be understood?

The following paragraph describes the conceptual frame from which these questions were approached and answered.

1.3 Conceptual orientation

1.3.1 Conceptual framework

The presented strands of research in paragraph 1.2 each focus on specific aspects of land transactions or decision making; for this reason none of them enables a

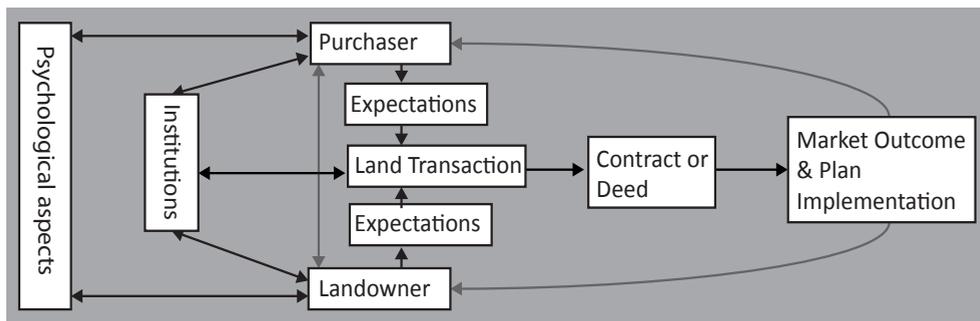


Figure 1.2 Conceptual Framework adapted from Needham et al (2011).

satisfactory understanding of the full complexity of land transactions on its own. Behavioural economics is the only school that approaches human behaviour from a micro-scale perspective based on empirical results, but behavioural economics has not yet been applied to land transactions. In order to gain a full understanding of land and property rights, the different approaches towards property must be integrated into a more heterogeneous approach, and disciplinary research on property must be replaced by more pluralist and interdisciplinary approaches (Adams et al., 2005; Guy and Henneberry, 2000; Needham et al., 2011). This is a challenging task, as the different approaches sometimes have contrasting starting points that are impossible to integrate into one approach. Needham et al. (2011) integrated neo-classical economics, old institutionalism and new institutional economics into a theoretical framework for research into land markets. In this research, I add to this a behavioural economic perspective and the perspective of the political economy of institutionalism and approach land transactions from a micro-scale perspective (figure 1.2).

A micro-scale perspective upon single land transactions allows the integration of different approaches towards land transactions. Moreover, it helps to provide insight into the mutual relations of different aspects that play a role in the process. It enables a distinction between causes and effects and helps to explain these relations in a meaningful way. In summary, it enables the researcher to gain insight into the reality of land transactions and to better understand ‘what happens out there’. The following table 1.1 summarises five main strands in the literature that are relevant and integrated within this research, as described in the previous paragraph.

The theoretical perspective on land transactions that I use in this thesis is based on aspects of these five strands. Neo-classical economics provides the starting point for the idea that a person will choose whatever he feels is best for himself. This ‘rationality’ can be limited by various aspects including transaction costs, others’ behaviour, uncertainties and (in)formal rules (new institutional economics). Institutions are not static and are more than the rules but include shared values and culture. These are not static but are shaped through time and may be reshaped (political economy of institutionalism and institutionalism). Even when these aspects are included, individual behaviour is not always aimed at achieving a maximum financial

Table 1.1 Strands in economic literature that are used in this research

Perspective	Individuals	Institutions	Transactions
Neo-classical Economics	Individual as a given, acts rationally. Focus on market, firm and society	Institutions do not influence the land market	Market equilibrium and Pareto efficiency
New institutional Economics –Transaction Costs Theory & Game theory	Individuals have bounded rationality and act in a way which maximises utility, but are restricted by institutions and transaction costs.	Institutions restrict individual behaviour upon the land market. As a result, their behaviour is not rational, but bounded-rational.	Not goods and services, but property rights are transacted. Transactions are not without costs and frictions (opportunistic behaviour)
(Old) Institutionalism	Individuals are affected by institutions, culture and social context in fundamental ways and therefore do not act rationally.	Institutions structure the economic system. Institutions are not simply constructed but evolve over time.	Occur between non-rational individuals and are thus influenced by institutions, culture and social norms and values.
Behavioural Economics	Psychological explanations for economic behaviour including risk and loss aversion and references to prior experiences.	Institutions can influence human behaviour and can be used to influence behaviour in the desired direction (nudging)	Transaction is the result of decision-making by two parties
Political Economy of Institutionalism	Individuals have imperfect perceptions of reality and have their own beliefs and perceptions	Institutions are humanly devised constraints that structure political, economic and social interaction	Transaction costs depend on the institutional environment. Institutions are created through history to reduce uncertainty during exchange

gain, as most people tend to be risk and loss averse (behavioural economics).

1.3.2 Spatial Planning and land policy: the struggle between the public and the private good

Spatial planning practises are conceptualised as interventions in or influences on the organisation of the physical environment. Spatial planning is coordinated and organised by policies, laws, plans, visions and other means. Spatial planning processes can be initiated by both public and private parties, and often involve the cooperation between multiple stakeholders. The focus of this thesis is on the implementation and realisation of these spatial plans, visions and policies. Often, the implementation of plans or spatial policies includes land acquisition. Public organisations can use land policy as a toolbox of instruments that can help them to actively implement spatial plans and policies. Land development is the combination of land acquisition and servicing the land to prepare it for development. Some authors suggest that the reason for the separation between spatial planning and land development is the ideology that planners should make spatial plans based on spatial, social or economic arguments as part of the public interest. If a public planning body gains from developing on a certain location, because it owns the land on this location, the location may be preferred by the planner based on the economic gain of the public body, rather than on arguments that count for the public interest. However, closer integration and coordination between spatial planning and land development would be preferable because it is more effective than a strict separation of these two processes (Van Rij and Korthals Altes, 2010).

During plan or policy implementation governments often use land policy instruments to gain certain rights upon land (Cho, 2011). These instruments, such as compulsory purchase, directly influence the way transactions can take place. Moreover, fiscal laws, agricultural production laws, planning laws and subsidies indirectly influence the way property rights on land are transacted (Needham et al., 2011). Land policy instruments change the voluntary negotiation process of land transactions in a process in which different interests are at stake.

Plan implementation highlights the often contrasting interests between private landowners and the interest of the wider community. For example, the realisation of a new road may be democratically desired and can be seen as being in the public interest, while the road is often not in the interest of the individual landowners that have to sell their land for the building of this road. Foglesong (2014) described this as the property contradiction, while Needham and Hartmann (2012) describe it as dilemma between on the one hand flexible planning and on the other hand secure property rights for landowners. Land use planning, land policy, and their underlying legislation provide a frame within which it is possible to interfere in private property rights and to deliberate between the private and the public interest, as well as between flexible planning and secure property rights.



Figure 1.3 Simplified transactions process, with the six steps that were analysed in this research.

Following neo-classical economic theory, a market is a social arrangement where people can exchange commodities. Some authors add to this that the exchanged products have a ‘particular, reasonably well-defined type’ and that the exchanges should occur at a regular basis (Hodgson, 2002; Alexander, 2014). Every parcel of land is unique because of its unique location, and therefore cannot be replaced. Moreover, the number of buyers and sellers of land rights is relatively limited (Alexander, 2014; Segeren et al., 2007). These characteristics of land transactions cause specific dynamics on land markets. The sum of all land transactions in a certain area within a certain period of time is referred to as the land market. Following Segeren et al. (2007) and Adams and Tiesdell (2010) I do not refer to the land market as being in contradiction to the state or government, but rather perceive the government as an integral part of the market, even when the government is not involved in land transactions. I agree with Needham et al. (2011), who state that there can be no general theory on land markets, as the local context are so different from one another that no one universal theory can be generated that applies in each context.

1.3.3 Land transactions as negotiation processes

In this study, land transactions were approached as interaction processes between at least two persons. These interaction processes ultimately lead to one or more economic decision(s) by the involved actors that can be registered in juridical contracts (deeds). While in mainstream economics the transaction is often reduced to the moment of agreement or the final outcome of the agreement, I perceive land transactions as the entire interaction process regarding this agreement (figure 1.3).

During these interactions, different actors each have their own perspective and opinions on, and interest in, the transaction and the wider context in which this transaction is negotiated. These translate into different individual strategies. An interactional perspective on land transactions, requires insight into human behaviour and human interactions. Human values and mental models are challenging to study and operationalise, due to the impossibility of observing or measuring human thoughts directly. However, people’s intrinsic valuations can influence their decisions and behaviour. I therefore took a broad view upon the human interactions, without an immediate focus on institutions alone. This research focusses on public-private land transactions; i.e. those land transactions that are initiated because of a government’s desire to create a certain spatial development. During these land transactions, land rights are negotiated between the party that wants to develop (mostly either a developer or the government)

and the landowner. Negotiations are seen as interaction processes between two or more people. Each of the mental models of the people involved in the negotiation, their norms and values regarding fairness and ethics, and the communication medium that is used, all determine how negotiations take place (Bazerman, 2000). Institutions are prescriptions that humans use to manage interactions (Ostrom, 2005). They are the rules of the negotiation process. As such, they do not only influence the possible actions of the negotiators, but institutions also create expectations about other's behaviour. For example, in the Netherlands, people are expected to drive on the right side of the road, children to go to school on week days, and consumers to pay for their groceries before taking them home from the supermarket. Although often unaware of it, people have extensive knowledge about the expected 'do's' and 'don'ts' in specific circumstances. These expectations in turn influence people's behaviour during social interactions (Ostrom, 2005).

Property rights are institutions that were designed to create order and legal security in today's society. Property organises and legitimises rights and restrictions regarding goods that are perceived as valuable (Von Benda Beckmann et al., 2006). Land and property markets are networks of rules and human relationships (Keogh and D'Arcy, 1999). Property rights can be seen as a triadic relationship between an owner, the object that is owned and others that confirm and accept the ownership. This acceptance of someone's property rights by others distinguishes ownership from mere possession (Carruthers and Ariovich, 2004). Property rights on land are perceived as a bundle of rights, for example the right to use, develop, to sell, or to exclude others from a piece of land. This makes the transaction of land the exchange of a set of land rights (Demsetz, 1967). Laws are seen as institutions that represent the dominant cultural ideologies in a society.

Markets, property rights and land transactions are seen as human constructs. The human decisions that are made within these markets or transactions are building blocks that construct the outcomes of a transaction. It is thus essential to understand the human behaviour concerning property rights on land in order to understand land transactions. Human decisions are determined by a system of different layers of internal processing. These different layers can all influence human decisions, either consciously or unconsciously. Central to the process of decision making around land transactions is the (expected) outcome of the transaction. The participants' valuation of the outcome and its rewards and sanctions are conceptualised as the utility (Ostrom, 2005). This internal processing may be influenced by people's prior experiences, expectations and empathic feelings or feelings of fairness (Sent, 2005).

1.4 Aim of this thesis

Given the problem statement above, the aim of this research is to gain a greater understanding of public-private land transactions from a micro-scale perspective. This contributes to the existing body of literature on land transactions and land policy.

This research studies single land transactions so as to gain a deeper understanding of how public-private land transactions work. The micro-scale perspective enables a study of 'greater methodological pluralism', which has been cited as an important lack in current property research (Adams et al., 2005, p. 9). This research will concede to this demand, as will be explained in the next chapter. Finally, the research heeds to Hodgsons' (1999) demand for principles of categorisation that are meaningful and workable for land transaction analysis.

1.5 Outline of the thesis

The core of this thesis consists of four scientific publications that are presented in chapters 3-6. The conceptual and methodological frame of the overall study has been presented in this first chapter. The second chapter describes the conceptual frame and the methods of the overall study. The detailed methods that were used for the different sub-studies are presented in each of the respective chapters (3-6). Chapters 3-5 focus on land acquisition in three different planning contexts.

The third chapter deals with land valuation during compulsory land acquisition (and compulsory purchase) for infrastructure development. The main question that is answered here is how land values are constructed based on compulsory purchase legislation and how this determines local land prices.

In various respects, land transactions that are initiated by the government differ from other land transactions. The fourth chapter provides an insight into the characteristics of public land transactions, by analysing a voluntary land acquisition process of agricultural land to develop new nature areas. In this chapter, the analysis focussed on landowners' transaction behaviour. The chapter deals with the question as to which considerations landowners make when they are faced with a land use change on their property and asked by the government to sell their land.

A third context in which public land transactions take place is for urban developments. Greenfield developments for new urban areas are increasingly scarce. Moreover, there are more difficulties with property during urban developments in inner-urban areas. Therefore, the fifth chapter deals with property rights in the inner-urban context. Land acquisition for urban redevelopment is scarcely used in the Netherlands. This led to the decision to study the municipal strategies to deal with private property and owner-occupiers in situations of urban redevelopment.

In all three contexts, perceived justice of the planning and land transaction process had an important role for both owners and land acquires; this aspect is more profoundly analysed in chapter six, providing the results of the analysis of perceived justice of land acquisition by both landowners and land purchasers.

Finally, in the last chapter the research questions are answered and discussed in relation to other studies. In this chapter, the results of the four studies are integrated and discussed. Figure 1.4 provides a schematic overview of the outline of the thesis.

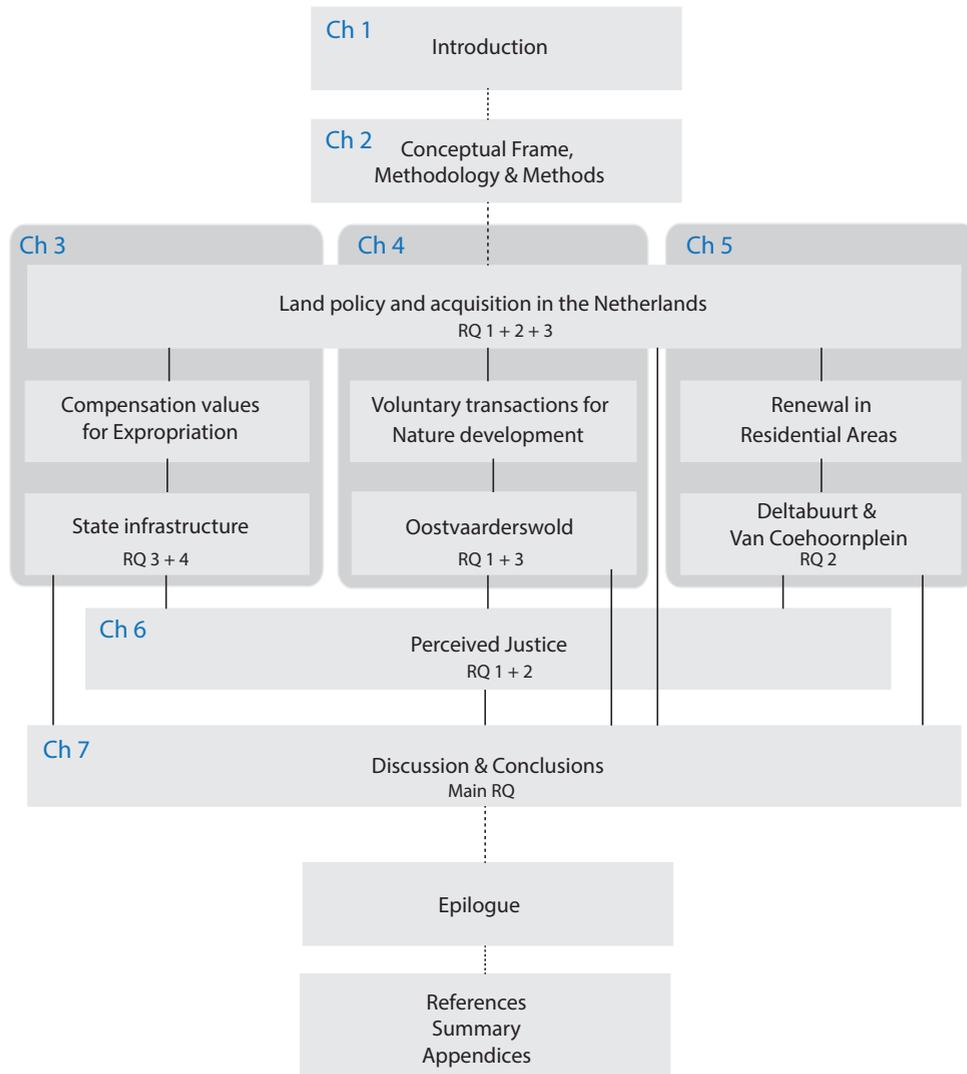
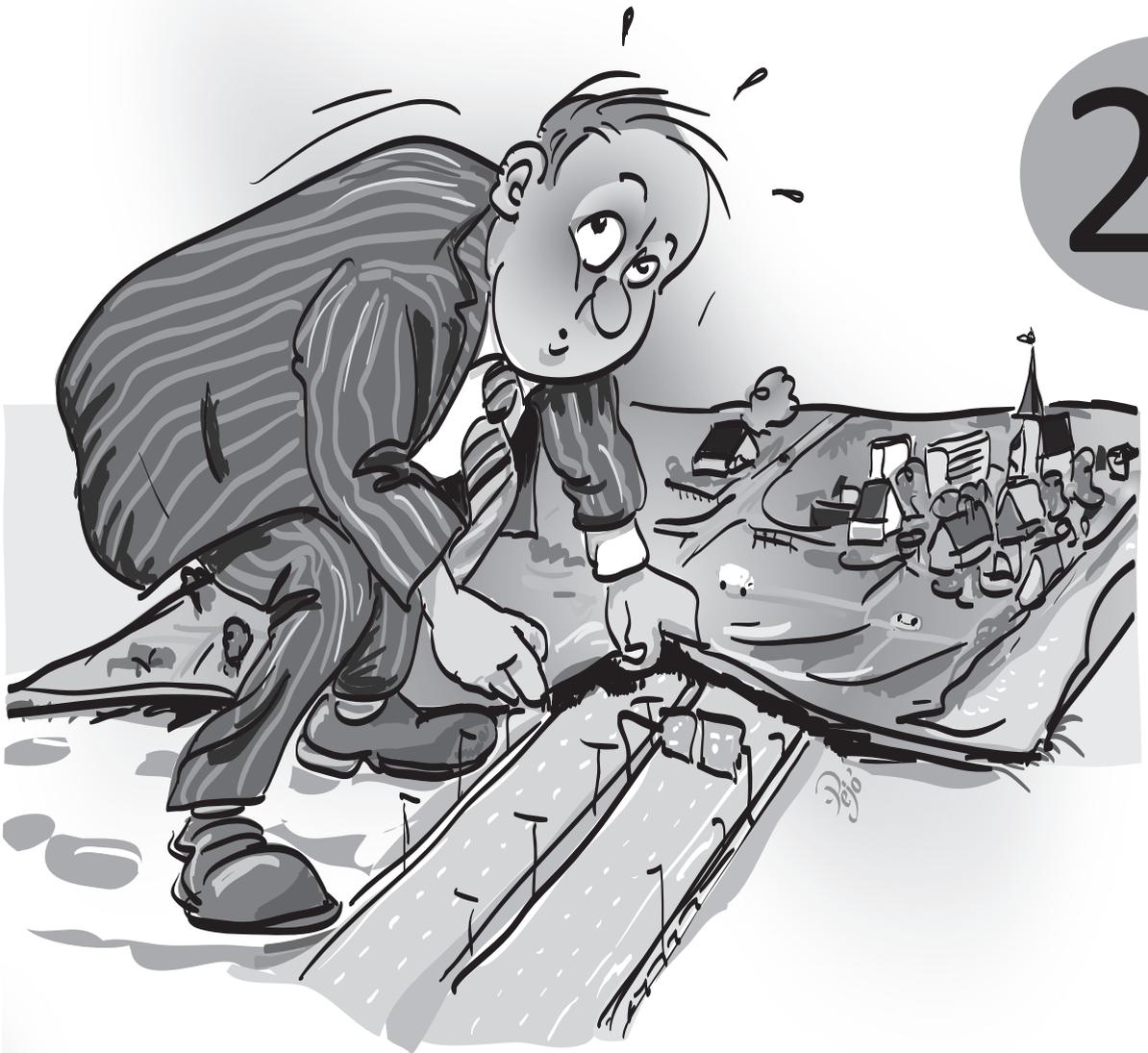


Figure 1.4 Schematic overview of the outline of the thesis

“Humans are ... fallible, boundedly rational, and norm-using. In complex settings, no one is able to do a complete analysis before actions are taken.”

(Ostrom, 1999, p.496)

Research methodology and methods



To understand the process of land acquisition and land policy, it is important to understand its separate building blocks, namely land transactions. Land transactions were studied using empirical data from Dutch land transaction processes. This enabled the analysis of a rich and complex set of information about the way land transactions occur. Given the complexity of land policy and land transactions, and the lack of empirical studies of land transactions, I chose to use empirical data rather than simulations to study land transactions. This chapter describes the methodology and methods that were used during the overall research. The specific methods that were used for the four studies that are presented in the chapters 3-6 are provided in each of these following chapters.

2.1 Methodology

In an iterative process, I continuously moved from land policies and strategies, via their general impact on the land and property market, into the individual land transactions that resulted from these public land policies, and back to the land policies again (figure 2.1). This iterative process enabled me to bring together different individual parts (land transactions) into one whole (the land market) and link this to the governmental land policy. This is one important aspect of gaining an understanding of something (Debesay et al., 2008).

Communication has appeared to be a means of developing shared mental models (Ostrom, 2005). In this research I will therefore study each the interests and behaviour of both governments and landowners, and the communication between these two parties during land transactions. Inevitably, researchers need to deal with interpretations when studying human behaviour and interactions. This implies that the interviewed participants each provide their own interpretation of the land acquisition process. All persons have their own background and personality that will lead them to focus on different aspects, and to understand others' behaviour or words in their own way. The interpretative researcher recognises that we will all interpret particular situations, events and objects



Figure 2.1 Iterative research process from land policy, to land market and land transactions.

differently. These interpretations are the object of study. In other words, it is not the goal of the interpretative researcher to discover 'what really happened' during land transactions, but to understand the different interpretations or perceptions of the participants of the transactions. To understand land transactions, the understanding of these interpretations is of central importance, as transaction behaviour is based on these interpretations of the transaction process.

2.2 Context: the Netherlands

This research was conducted in the Netherlands. This country was chosen because it had several advantages for the research. First, the Netherlands is known for its successful combination of spatial planning and land development (Van Rij and Korthals Altes, 2010). Second, a study in the Dutch context enabled me to use land transaction data from the Netherlands Land Registry and Mapping Agency, which has registered all land transactions in the Netherlands since 1851. Since 1993, the land transactions have been digitalised and are easy available. This provided a valuable source of empirical data for the study of land transactions that would have been absent, or difficult to collect in many other countries. Third, as a researcher I was educated and reside in the Netherlands. This enabled me to understand the different legislations, culture and habits in the Netherlands to a level of depth that I would not have been able to achieve within the scope of a PhD research in a context, culture and legal system that was unfamiliar to me. The choice of setting enabled me to understand the available policy and planning documents, and the legislation, as well as to conduct interviews in my native language.

The Netherlands is a densely populated country with almost 17 million people, living in an area of 41,543 km². All three levels of the government¹ have the ability to impose land use plans and regulations. Municipalities are in particular responsible for land use planning and policy, and are the only level of the government that can provide building and demolition permits, thereby having the most influential position within urban development (Needham, 2007). Municipalities formulate statutory land use plans in which legally binding land use for each square meter of land is prescribed. Land use plans form the legal basis for each building permits, expropriation and pre-emption rights. Although this has the appearance of being a plan-led planning system, in practise land use plans are regularly adapted to follow and facilitate developments, rather than to use it as a frame to guide spatial development (Buitelaar et al., 2011).

Since 1811, Dutch governments are legally entitled to expropriate land for the public good. Until the Second World War, governments used this right to buy land for the realisation of infrastructure. After the end of the Second World War, the need

1. In the Netherlands, the government can be divided into the local scale (393 municipalities), regional scale (12 provinces), and national scale (11 ministries). All these governmental actors have a political council and civil servants. The political council is democratically chosen by the inhabitants, while civil servants work in service of the municipality, to implement and supervise the political policy.

for housing had become significant and Dutch governments actively steered urban development at the border of cities, according to large-scale plans. Municipalities purchased all land in the area of the planned development, developed the parcels into plots that could be used for buildings, and sold the parcels - under specific conditions regarding the land use - to project developers or housing associations (Louw et al., 2003). This has been conceptualised as active land policy (Needham, 1997). By using active land policy, small private landowners (mostly agrarians) were kept out of urban developments. Active land policy reduced the complexity of the plan implementation and the number of parties involved in the development process. It also ensured that governments could steer spatial developments (Needham, 1997). This was necessary to realise the ambitious Dutch planning aims (Tan et al., 2009). Finally, active land policy was financially profitable due to the value increase that occurs after land is developed and zoned from agricultural to urban land use (Needham, 1997; Van der Krabben and Jacobs, 2013). The profits that were made during land development were used to realise unprofitable public goals such as public space, public facilities or urban renewal (Buitelaar, 2010).

The active land policy (both inner-urban and in greenfields) changed during the economic crisis of the 1980's, when subsidies for public land development were reduced (Muñoz Gielen, 2010). The active policy was however regained after the economic crises. Land speculation had already been an issue since the Second World War, so a new instrument was added to the public toolbox of land policy (Keers, 1989). Since 1981, municipalities have been legally entitled to establish a pre-emption right to land, the owner of which is obliged to offer the land first to the municipality if they wish to sell the land. However, the owner is neither obliged to sell the land, nor to accept the offer of the municipality. In the 1990's, two developments made the land market more attractive for private project developers and speculators. First, future locations of urban developments were made public by the government². Second, the share of - financially unprofitable – social housing decreased. Many developers started to actively acquire land property to anticipate on future developments on agricultural land. In the last decades, both public and private parties have been active on the Dutch land market (Needham, 1997; Korthals Altes, 2014). Between 1993 and 2012, municipalities bought 60.000 hectares of agricultural land (Van Marwijk et al., 2012). Municipalities still used active land policies, but cooperated increasingly with private parties to share the financial risks and to regain a position on the market. The extent to which municipalities have shared the financial risks differs substantially.

During the economic crisis of 2008, the development of new houses in the Netherlands stagnated. The risks of active land policy became visible again: active land policy had led to vast financial losses for several municipalities. Between 2010 and 2013, municipalities had a loss of about €4 billion, and in the coming years, losses between €0.3 and €2.1 billion are expected (EY and Fakton, 2015). Both governments and project developers have been struggling to make their plans

2. This was done in the Vinex (fourth memorandum on spatial planning extra), 1991.

profitable (Janssen-Jansen, 2010; Priemus, 2010). The question of what constitutes effective and successful land policy is therefore being debated once more. Governments want the land market and land policy to be efficient, effective and just, and yet, they struggle to achieve this, without taking irresponsible financial risks.

2.3 Case study design

Land policy can be studied using various different approaches. What all these approaches have in common is that they study land policy or land transactions in a certain context of a planning regime, often linked to the governing of a specific state. Although there are many similarities between land policies in different states, each state has its own institutions, culture, system, and habits that influence the way in which plans are implemented and how the spatial organisation looks. A case study design was used to analyse land policy and land transactions. Case studies provide a manner to study specific phenomena holistically in the real-life context. They enable the researcher to study the phenomenon in depth and in relation to its context (Yin, 2009). A case study design is therefore very well suited to gain a deeper understanding of land policy and land transactions. It enabled me to study a limited amount of transactions from a micro-perspective and in the context of the publicly initiated land development process. The case study enabled the study of land transactions. The decision to use case studies in three different contexts enabled a broad exploration of land transactions.

In this study, four different cases provided the main data for analysis. Not all of these cases had the same role in the research. As a consequence, the cases differed in their characteristics and in the way they were studied. The cases included one case of nature development (Oostvaarderswold), two cases of urban development (Van Coehoornplein and Deltabuurt) and one case of infrastructure development. The spatial location of the cases is visualised on figure 2.2. I chose to compare these three contexts of land policy within the Netherlands because they enabled me to study a broad pallet of land acquisition practises. The context of nature and infrastructure development differed in terms of voluntary versus compulsory land policy. The case of urban redevelopment provided another context in terms of land policy strategies and instruments used. Practises of land acquisition differ in these contexts due to the different timeframes, budgets, perceptions of urgency and different number and types of landowners.

The field work for this study occurred in four phases (table 2.1). The first phase consisted of the general exploration of Dutch land policy and land acquisition. This phase helped to strengthen the research questions, and to gain insight into the Dutch process of land policy and land acquisition. It helped me to gain insight into the institutional context of land policy, its major players, the methods of land acquisition, and the aspects that are relevant to landowners according to land acquirers.



Figure 2.2 Map of The Netherlands with case study locations indicated by stars. The small stars without texts indicate the different locations of the roads that were included in the infrastructure case.

The second phase consisted of an analysis of seven cases of road infrastructure development. In these cases I analysed the influence of the expropriation law on the land transaction process and the land price.

The third phase was a case study of a planning process in which agricultural land was acquired to develop a new nature corridor between two existing nature reserves. This case study provided valuable insight into the relations between the different aspects and in the private landowners' perception of land acquisition.

In the fourth phase, two cases of land policy during urban renewal were studied. In these cases I focussed on the different strategies and instruments that the municipalities used to deal with private landownership during urban renewal practise.

Table 2.1 Overview of research phases.

1. Land policy and land acquisition in the Netherlands
2. Case of compulsory land acquisition for infrastructure planning
3. Case of voluntary land acquisition for nature planning Oostvaarderswold
4. Case of Urban renewal Deventer – Deltabuurt 's-Hertogenbosch – Van Coehoornplein

The data were analysed using a theoretical frame that grew as the research progressed. The specific theoretical frames for the four studies can be found in chapters 3-6, while the overall conceptual framework that was used during this research was presented in chapter one.

2.4 Methods of data collection

Land policy has been studied by policy analysts, political scientists and spatial planners, while land transactions are generally studied in economic or econometric studies on the land market. The first group of studies on land policy tends to use both quantitative and qualitative methods, while the second group of studies on land transactions uses primarily quantitative methods. This study combines both qualitative and quantitative methods in an effort to gain a deeper understanding of land policy and its underlying processes of land transactions. It was the combination of these methods that enabled me to gain a deeper understanding of land transactions. The four main data sources that were used in the analysis are described in the following sub-paragraphs. Apart from these main data sources, information about Dutch land policy that was published or available in other ways was used during the research period (2011-2015) to gain a better insight into the actual debate on land policy in the Netherlands. These data included newspaper articles, websites, LinkedIn discussions, conferences, informal talks about my research with practitioners, scientists, colleagues or friends, and visits

to inform municipalities about land readjustment that I carried out as part of my professional position at the Netherlands Land Registry and Mapping Agency.

The main source to gain insight into human interpretations of land policy and land transactions were interviews with landowners, land acquirers and other professionals such as land use planners, policy makers, and scientific experts. Interviews were conducted in every phase of the research, as shown in the following table 2.2.

Table 2.2 Number of interviews per type and research phase.

	Landowners	Land acquirers	Others	TOTAL
Infrastructure planning	-	5	1	6
Nature planning	10	1	12	23
Urban planning	13	-	6	19
Land acquisition in general	-	17	6	23
TOTAL	23	23	25	71

A second data source in the case studies was provided by the documents that were available about the specific case. These documents mainly included planning documents, political documents and meeting reports. To gain insight into the land policy that municipalities use for urban renewal in privately owned houses, land policy documents and housing policy documents were used. The planning documents provided insights into the different public plans and visions on the case study areas that were present during the planning processes.

The third data source in this study were cadastral purchase deeds and land transaction data (table 2.3). In the Netherlands, all land transactions are registered in a public registry that is governed by the Cadastre, Land Registry and Mapping Agency. For each transaction, the purchase deed describing the agreement made by the involved parties is available. The deed always includes a description of the people involved in the agreement, a description of the object that the agreement is about, a description of the agreement itself, and a description about the conditions under which the agreement is made. Deeds are richer in information than the administrative registration of land transactions, but are more time consuming to analyse, as they consist of about 7-20 pages of written text, sometimes with an additional drawn up plan of the situation.

Table 2.3. Number of cadastral deeds and transactions analysed per case

	No. Deeds	No. transactions
Infrastructure planning	533	533
Nature planning	66	270
TOTAL	599	803

The administrative registration of land transactions includes the following data for each transaction:

- The deed number, in order to link the transaction to the deed.
- The geographical coordinates of the object's location
- The municipality in which the object is situated
- The current land use of the object
- The address of the object
- The name and address of the buyer(s)
- The name and address of the seller(s)
- The buyer type (i.e. government, person, company, foundation etc.)
- The seller type (i.e. government, person, company, foundation etc.)
- The selling price, if the agreement contains one
- The date of the agreement
- The type of right that is transacted (i.e. right to build, full ownership rights, long lease rights etc.)
- The type of agreement (i.e. selling of full ownership, exchange of ownership, expropriation etc.)
- The dimensions (surface) of the transacted object

The acquisition transactions for the seven studied roads were manually extended with data from deeds: months of continued use, type of transaction, and level of compensation fee.

The last group of empirical data included 89 legal expropriation sentences that were collected from the database 'Legal Intelligence'. This is a database that links several other databases that publish legal sentences and verdicts including 'rechtspraak.nl'. There is no complete overview of all verdicts and sentences in the Netherlands, as not all sentences are published. The sentences were selected based on the terms 'full compensation' and 'expropriation'. The cases were only taken into account if both the initial offer and the final offer could be traced.

2.5 Methods of data analysis

The reality of a transaction process is subject to interpretation and cannot be measured in an equal manner as in technical sciences. This implies that interpretations will be a central object of study, but also that the researcher, inevitably interprets these interpretations. The interaction between me as a researcher and the participants that I studied resulted in my own interpretations of their stories and interpretations. The results of this study are the outcome of this interaction between the researcher and the objects of research. This has been called double hermeneutics or interpretations of interpretations (Giddens, 1984). Consequently, understanding

the interpretations of others starts with understanding one's own interpretations. The hermeneutic spiral describes the process of hermeneutic meaning making. It implies an iterative analysis of 'meaning-making'. In this process, the researcher moves from individual parts to the whole that is made from these individual parts and back in a circular process, to gain an understanding of the whole (Conroy, 2008).

The diversity in the both qualitative (texts) and quantitative (numbers) data that were used in this research led to different methods of data analysis. All methods of analysis occurred according to the iterative meaning-making process of the hermeneutic spiral. The methods included coding, statistical analysis, network analysis and the historical construction of events.

2.6 Quality of the research

Research should be trustworthy or its outcomes won't be believed and the use of the research may be seriously questioned. Validity, reliability and generalizability are common concepts within the quantitative research paradigm to demonstrate the trustworthiness of research. However, several researchers from qualitative fields have argued that validity and reliability are not suitable concepts to demonstrate the trustworthiness of qualitative research and have introduced other terms such as credibility, dependability, transferability, accuracy (of writing), or representation. In this research I follow Merriam (1995) and use internal validity, consistency, and external validity to demonstrate the quality of this research.

2.6.1 Internal validity – How congruent are the findings with reality?

In quantitative studies, the internal validity indicates whether a study is congruent with reality. However, within the interpretative research paradigm, the question whether the research's findings are congruent with *the reality* is not in its place. It is therefore rather the question if the findings are congruent with the perceived reality by the studied people (Merriam, 1995). I use two strategies to increase the internal validity of the research.

The first strategy was triangulation; this was used by using different data sources (interviews, policy and plan documents, deeds, observations, transaction data), and different methods of analysis (historical analysis, discourse analysis, statistical analysis). Results of different research methods were compared and able to strengthen each other as they were congruent with each other.

The second strategy that I used was peer colleague examination. At several stages of the research peers were asked to provide their feedback, or to reflect on the research findings. The comments of these peers were used to improve the quality of the research. Moreover, the participants of the research were also informed about the results of the research and were provided with the opportunity to react on the results. Their responses were used to further develop and sharpen the results.

2.6.2 Consistency

Instead of the commonly used reliability criterion, Merriam (1995) proposes to follow Lincoln and Guba (1981) in using consistency as a criterion rather than reliability. Consistency refers to the question as to whether the collected data are consistent with the results of the study. The above-mentioned strategies of triangulation and peer colleague examination also helped to ensure the consistency of the research. Moreover, all methodological steps were well documented, allowing the analysis to be repeated if possible and desired in a consistent manner.

2.6.3 External validity (generalizability)

The aim of qualitative research is to understand phenomena, rather than to generalise and to extrapolate from a sample into a population. Qualitative research is capable of generating working hypotheses that are derived from studies in a particular context. Strategies that were used to ensure that I can indeed produce working hypotheses were to provide thick descriptions of the data. Moreover, I used several cases in different contexts which will allow the results to be applied to a broader variety of settings. Third, for each case, I indicated how it differed from or corresponded to the typical practise. Fourth, methodological triangulation within the same research object helped to refine and confirm the findings. Finally, I sampled within each case and used not only interviews of one specific group of people, but from various people that were involved in the cases in different roles.

2.6.4 Limitations of the study

There were limitations due to ethical issues associated with the privacy of landowners during land negotiations. It was therefore not possible to study land negotiations in 'real life'. The protection of landowners privacy after public land acquisition made it impossible to reach a sufficiently large group of landowners to generalise findings of individual landowners. For comparable privacy issues, the original purchase agreements that contain much more detailed and extended information about the transaction were not available for analysis.

“Plans are worthless, but planning is everything”

(Eisenhower, 1957, paragraph 3)



The (un)ambiguousness of compulsory purchase compensation



3

Abstract

Compulsory Purchase (CP) is known as indispensable planning legislation designed to enable the efficient implementation of plans. A central issue in the CP procedure is the amount of compensation that the landowner receives. Various countries have their own set of compensation guidelines which prescribe the just compensation for CP in a variety of circumstances, based on the country's own legislation and jurisprudence. This creates the illusion that CP compensation is an objective 'science' based on a clear set of rules and standards that stem from legislation. There are few researchers who have studied how governments construct CP prices in practise and whether these prices are univocal. We study how CP compensation is established, how this determines the prices that are paid, and how (un)ambiguous the valuation system of CP is. The aim is to analyse how CP compensation is established and how this determines the prices that are paid during governmental land acquisition. The results from this research show that CP legislation and jurisprudence are central to understanding governmental land acquisition prices. The legislation and valuation of CP experience is not as univocal as many professionals assume. In 89 legal CP cases from the Netherlands, the final offer of compensation in court was on average 52.2% higher than the last compensation offer from the expropriator. The differences in valuation were related especially to different systems of valuation, and to different perspectives upon the expectation value of land.

This chapter is under review in the Journal of European Real Estate Research as: Holtslag-Broekhof, S.M, Marwijk, R. Van, Beunen, R. and Wiskerke, J.S.C. The (un) ambiguousness of compulsory purchase compensation.

3.1 Introduction

Without legal instruments, governments would depend on the willingness of landowners to sell their land in order to realise planning goals. The landowners' monopoly position enables a hold-out strategy, sometimes making it impossible for the government to realise their plans (Miceli, 2007; Arch, 2014; Heller, 2013). To prevent this, the instrument of compulsory purchase (CP, also termed as expropriation, eminent domain, takings or resumption) is used in many countries for the realisation of planning goals (Kotaka and Callies, 2002; Callies et al., 2014). Although CP legislation and the way it is employed differ between countries, the basic principle¹ of the legislation is very comparable. CP legislation is designed to enable planners to implement spatial goals effectively. One of the central points of contention within CP practise and research is 'just compensation' (Garnett, 2006). Different legislations as well as different interpretations of these legislations have led to varying standards of compensation such as the Fair Market Value or the market value in combination with compensation for other financial damage (Carland and Carland, 2006; Sluysmans, 2011). In several articles, researchers argue that just compensation should be higher than the Fair Market Value² (Knetsch and Borcharding, 1979; Fennel, 2004; Chang, 2010). In these articles, the question is posed as to whether emotional or attachment value should and indeed can be taken into account in CP compensation. For example, some authors propose extra compensation for owners based on the number of years that they have lived in the condemned property. There are only few studies that address the amount of CP compensation using empirical data on CP (Chang, 2011). Chang (2011) studied court-adjudicated takings compensation in New York and found that both the desired value by the expropriated and the expropriator are above the Fair Market Value that was calculated using a hedonic regression model. The difference between the settled compensation value and the Fair Market Value was often more than 150%, or less than 50% of the Fair Market Value (Chang, 2010). Clauretje et al. (2004) analysed the difference between CP valuation and the prices paid in the market in Nevada, using a hedonic regression model. They showed that the CP valuation and the market prices differed significantly. Government appraisers estimated the compensation of low-value properties as being lower than the actual market price, while they estimated the value of high value properties as being higher than the market price. The studies of Chang (2010) and Clauretje et al. (2004) show that there may be ambiguity in estimating CP compensation. This brings up the question as to whether the Dutch set of compensation guidelines enables the unambiguous establishment of CP compensation. Some

1. The basic principle is that governments can force landowners to sell their land if the acquisition of this land is necessary in order to fulfil a public aim. Landowners should receive a proper compensation in return. The definition of the public aim and the amount of compensation that landowners receive during CP differs between states.

2. Fair Market Value is the current standard of just compensation in the United States of America

professionals assume that the incentive to prevent CP may lead to a minor rise of CP compensation during the voluntary acquisition process preceding CP, while others state that this is not the case. However, there are few studies that analyse how governments determine CP prices in practise and whether these prices are univocal.

This study addresses this gap in our knowledge about CP compensation and analyses the compensation mechanism of CP in the Netherlands. The aim is to analyse how CP compensation is established and how this determines the prices that are paid during governmental land acquisition. Moreover, we study the diversity in the outcomes of the valuation system by analysing to what the extent of differences between the last compensation offer before CP and the CP price that is determined in court differ. A combination of transaction data, legal verdicts, and interviews provided insights into all of the different aspects of the construction of prices. This adds to current studies that are conducted from a juridical, a behavioural, or an economic perspective. In this study, these perspectives are combined in order to gain more in-depth insight into and understanding in of the way CP compensation is determined in practise. The improved insight into CP compensation will add to debates on the way landowners are compensated for CP. This is both not only relevant for Dutch planning, but also provides valuable input to insights for the various countries in which the 'compensation debate' for CP is still ongoing.

This chapter begins by providing a description of the CP legislation and the system of compensation estimation by government appraisers. Following this, the methods of this study are described. The fourth paragraph presents the results of the study in two sub-paragraphs; the first presents the way in which CP prices are constructed, using CP legislation, while the second deals with the difference between the last CP offer by the government and the final offer that is determined in court. Finally, in the last two sections, the implications of the results are discussed and conclusions are drawn.

3.2 Background: CP legislation and 'full compensation' in the Netherlands

In the Netherlands, there have been relatively few debates about the compensation scheme for CP. Dutch professionals are remarkably satisfied with the system of CP and the compensation thereof, which has evolved over more than 150 years of jurisprudence. Today's CP law has existed since 1851 and has only been adapted slightly since that time (Sluysmans, 2011). The basic principle of the law in 1851 was that governments should have the ability to acquire land within a limited timeframe if it is necessary for public purposes, with sufficient legal protection of and fair compensation for the landowner. In the Netherlands, the concept of full compensation (or indemnification) can just as in many other countries be seen as the central principle within contemporary CP compensation in the Netherlands. The meaning of full compensation is not defined in the law itself and as a result has evolved according to jurisdiction over the past one and a half centuries. The use of CP has decreased over the past few decades due to

the high costs of and negative political views on the instrument (Korthals Altes, 2014; Muñoz-Gielen, 2012; Van Straalen & Korthals Altes, 2014). Economic downfall and considerable governmental losses due to active land policy have started a social and professional debate on active land policy, including CP.

In the Netherlands, CP can be used by municipalities, provinces, water boards, and the state. To prevent an unnecessarily long process if CP is needed, governments can initiate the CP procedure at the beginning of the negotiation process (without knowing if CP will be necessary in the end). The government makes a CP plan that exists of a map and a list of all properties and the corresponding entitled persons. The CP plan is inscribed by the political government. Landowners are giving notice of the plan and may respond. After the responses have been processed, the government can demand a Royal Decree for CP with the Crown³. The government is committed to attempting to purchase the land by voluntary agreement with the landowner before demanding the Royal Decree. At this stage, the government must negotiate with the landowner and make a compensation offer that is based on the full compensation that landowners are entitled to receive. The government needs several documents to ground the need for CP, including a journal of the negotiations, a copy of a letter to the owner with the official compensation offer, and a plan that justifies the need for CP. The landowner(s) should have had at least 4 weeks to respond to the compensation offer, but simultaneously the offer should not be outdated. If all of these aspects are taken care of, the government can demand permission for CP with the Crown. The Crown will weigh the public interest against the private interest of the landowner (Van Straalen & Korthals Altes, 2014). If the government has fulfilled all conditions for CP and the public interest outweighs the interest of the private landowner, the Crown will pronounce a Royal Decree of CP.

During the procedure with the Crown, the voluntary negotiations can continue for or should start at the very latest by two years after the Royal Decree has been pronounced by the Crown. The government should have carried out sufficient 'voluntary consultation' with the landowner before a CP can be pronounced in court. After there has been sufficient consultation which has not led to an agreement about the sale of the land, the government summons the landowner with a final compensation offer. If the landowner does not agree with this final offer, the CP is pronounced in court.

In the first trial, the judge only tests whether there are sufficient grounds for CP. In the majority of trials this is the case, and the judge will pronounce the CP of the land and define the provisional compensation fee as either 90 or 100% of the final offer. During the first trial, the compensation fee is not yet determined, but the provisional compensation guarantees that the landowner receives temporary compensation for the land that is condemned. After the verdict has been registered in the Cadastre and the money has been transferred, the government is officially the owner of the land and can start with the works. In the following lawsuit,

3. The approval for CP is given by the King, who is advised by the Council of State



Project	Trace length	Trans. Dates
A2	9 km	1999-2007
A4 Delft	7 km	2007-2014
A4 Dinteloord	15 km	2002-2014
A5	7 km	1999-2009
A9	5 km	2009-2013
N18	41 km	2011-2014
N31	12 km	2000-2011
N61	21 km	2005-2013

Figure 3.1. Location and length of studied planned roads in the Netherlands. A4 Delft was removed from the analysis due to a small number of transactions.

the ultimate compensation will be determined. Three independent appraiser specialists argue what the value of the property should be according to their appraisal. Both the landowner and the expropriator have the right to respond to this appraisal. Finally, the judge decides what the ultimate compensation should be. Generally, the judge follows the advice of the appraisers (Sluysmans, 2011). If the ultimate compensation is higher than the provisional compensation fee, the government has to pay the landowner the difference. Otherwise, if the ultimate compensation is less than the provisional compensation fee, the landowner has to pay the government the difference. No further appeal against this verdict is possible.

3.3 Methods

In order to analyse how CP compensation is established and how this determines the prices during public land acquisition, we used a combination of data sources. The following paragraphs describe which data sources were used and how they were analysed.

3.3.1 Data selection and data descriptive

Transaction data

The majority of CP takes place for infrastructure (Van Straalen and Korthals Altes, 2014). The transaction data were therefore selected from cases for road infrastructure planning. All Rijkswaterstaat (RWS)⁴ infrastructure projects between 2000 and today were listed and compared. In order to be suitable for analysis, the projects had to meet the following criteria:

- The land acquirement for the project has finished, or is in the last stage.
- Land acquirement from at least 5 private actors was necessary in order to realise the project.
- The new road was planned on mainly agricultural land.

These criteria reduced the list of projects to 8 projects that were suitable for the analysis (figure 3.1).

From these planned new or broadened roads, we collected all land transactions that 1) had the State as buyer 2) took place between 1993 and today 3) were located within a buffer of 2.5 kilometres on each side of the road. This resulted in a dataset with 344 transactions and of each transaction the following information: location, deed-number, transaction date, land surface in m², transaction price, land use, seller, buyer, and type of property right.

The 'A4 Delft' was removed from the analysis due to the limited number of transactions (3) that were available for analysis from this road. The A5 and A9 are geographically located in the same region and performed by the same

4. Rijkswaterstaat is a Dutch state agency that is responsible for the design, construction, management and maintenance of the main infrastructure facilities in the Netherlands.

land purchaser and were therefore clustered as one case in the analysis.

Official plan documents of each of the cases were collected to reconstruct the development of the planning process.

Jurisprudence

We searched a database with a representative selection of all Dutch verdicts for all verdicts with 'onteigening' (CP), and with 'schadeloosstelling' (compensation). We took verdicts into account that:

- provided information about the initial verdict of expropriation and the verdict in which the final compensation fee was determined.
- indicated the CP of a landowner or lessee tenant.

This led to 89 CP verdicts that were selected for analysis.

Interviews

Interviews consisted of two rounds. In the first round 22 governmental land purchasers were interviewed about the land purchase process in the Netherlands in general. In the second round five (three 'new' and two for a second time) land purchasers were interviewed to discuss the found results. The interviewees in the second round were all land purchasers that each had acquired land for one or two of the analysed roads (A2, A4, A5, A9, N18, N61). In the second round of interviews, transactions with a deviant square meter price were discussed with the land purchasers, using the original purchase agreement. This enabled a validation of the outcomes and helped to gain an understanding in transaction with deviant square meter prices.

3.3.2 Methods of analysis

Transaction prices were used as the starting point for the analysis of CP compensation. Deeds and purchase agreements provided more in depth insight into the underlying thoughts and agreements that belonged to a certain price. As such, these were important data sources to analyse in combination with the land prices in order to understand how prices were established. However, the most detailed insight into the way prices were constructed was gained by asking those who had 'constructed' the prices. This was achieved by interviewing land purchasers about land acquisition and CP. Qualitative and quantitative methods were combined in a fully integrated mixed design (Teddlie & Tashakkori, 2006), which resulted in an iterative process between qualitative and quantitative data collection, statistical data analysis and analysis of deeds, purchase agreements, verdicts and interviews. The study started with descriptive quantitative methods, and continued with an interpretative analysis of these data using deeds, purchase agreements, verdicts and interviews.

Descriptive statistics were applied to the collected transaction data. To do this, all prices were converted into prices per square metre (m²) of land, and the transactions

of each road were divided in two groups: 1) transactions to prevent CP, and 2) CP transactions. After the descriptive statistics, the transactions were analysed on a micro-scale by analysing the corresponding deeds and replenishing the data set with information from the deeds. We searched for information in the deeds that could explain the differences in price. In six of the seven road transactions, the price differed by more than 25% from the average m² land price without a clear explanation based on the land's characteristics or information from the deed. These transactions were discussed with the land purchasers (n=5) of the corresponding roads. The land purchasers provided information about the land acquisition in general, the land valuation process for the specific roads, the valuation process of compensation fees, and, if possible, insights into the purchase agreements that corresponded to the deviating land transaction. These interviews enabled the dissection of land prices into the different compensation components including the market value of the land, income harm, and the reduced value of the remaining property.

The CP prices that were found in the CP deeds that are registered at the Cadastre, were the prices at the start of the trial, based on the last offer that was made by the government before the CP. To gain insight into the final compensation value that was determined in court, CP verdicts had to be analysed. Not all verdicts are published and the majority of verdicts that are published are anonymised. It was therefore not possible to relate the CP transactions from the 7 roads to their corresponding verdicts. We therefore made a new database with CP verdicts based on a study of 89 CP cases. From each verdict we recorded general information such as date, area of land, and expropriator. Moreover, we recorded the last compensation offer before CP, the final compensation that was determined in court and the additional costs of the CP. We calculated the relative difference between the last compensation offer before CP and the final compensation in court, and reviewed the verdicts in which the final compensation differed by more than 20% from the last compensation offer before CP in order to find out what caused the difference in value.

3.4 Results

The following paragraph presents the results of the various analyses per topic. Table 3.2 shows the descriptive statistics for the selected transactions per road. For each road, the land is acquired by RWS according to the principles of CP legislation. Landowners are informed at the beginning of the process about the CP procedure. This may stimulate them to sell their land voluntarily. Three of the seven roads do not have CP transactions. For the N18 and N31, the CP transactions still have to be executed, while the acquisition of the N61 has been completed without CP transactions. The differences in relative numbers of CP transactions is striking. For the A5 and A9, the relative number of CP transactions is 53.5% of the total number of land transactions, while the N61 has been fully acquired without the need for CP. According to the land purchaser of the N61, the success of the land acquisition for the N61 is due to the use of land readjustment in combination with the use of CP as a 'threat'.

Table 3.2 Descriptive statistics for m² price of all acquisition transactions per case. CP = Compulsory Purchase | Prev. CP = Transaction to prevent Compulsory Purchase

Case	Type	N	Mean	Median	Min	Max	St. Dev
A2	Prev. CP	50	6,76	4,79	1,94	34,26	6,63
	CP	12	7,02	5,93	2,86	22,72	5,05
A5 & A9	Prev. CP	20	15,44	14,95	3,46	27,50	8,26
	CP	23	15,28	10,15	3,86	49,97	12,07
N18	Prev. CP	64	12,11	7,39	1,78	65,45	11,54
N 3 1	Prev. CP	44	7,55	6,17	2,06	32,56	6,23
N 6 1	Prev. CP	43	7,24	6,21	2,10	20,09	3,98
A4-Dint	Prev. CP	86	12,87	7,15	1,71	58,28	13,03
	CP	2	7,68	7,68	7,34	8,03	0,49

Another explanation for the significant differences between the numbers of CP transactions is the difference in local context. The land that was acquired for the N61 was all agricultural land, while the majority of land that had to be acquired for the A5 and A9 was expected to be used for urban land use. This makes the value of this land more debatable than the value of pure agricultural land. Due to the expectation that the value of the land would increase in the future, various parcels were owned by project developers and land speculators who are more inclined to let themselves be expropriated if they decide that the price offered is not high enough. There is no significant difference between the mean m² prices of transactions in prevention of CP and those of CP transactions. This led to the assumption that compensation prices do not increase accordingly as the process of voluntary acquisition progresses.

3.4.1 Effect of CP legislation on the transaction price

Dutch CP law prescribes that those people who are forced to sell their land for a public purpose should always be fully compensated with 1) the market value of the purchased property, 2) the decreased value of the remaining property, 3) the loss in income that results from the CP and 4) other financial damage that results from the CP⁵.

1. The market value of the land is understood as the value for which a rational acting buyer and a rational acting seller can agree to transact the land. The CP law prescribes that ‘the real value of the expropriated property, not the illusory, that the property has to its rightful claimant’, is compensated⁶. The market value of land depends on many different factors. Two factors that are of central importance are the location of the land, and the type of land use that it is zoned for.
2. The decreased value of the remaining property is described as the difference

5. Section 40 of CP legislation prescribes that full indemnification of the landowner is needed.

6. Section 40b, paragraph 1

between the value of the remaining property before CP, and the value of the property after CP.

3. The loss in income and other financial damages refer to all extra costs that a landowner incurs, or income that he or she (temporarily or structurally) misses out on because of the CP.

The general square metre price of the land is estimated based on referential transactions in the region and regularly (at least yearly) corrected for inflation. The square metre price is used as a basis to estimate the CP value. A central decision that land purchasers (or appraisers) have to make when they estimate the compensation value is whether to compensate based on the 'liquidation' of the property or on basis of 'reconstruction' of the property.

The liquidation method assumes that the landowner is condemned of the acquired property, but will remain living or doing business at the same location, rather than replacing the property with a new location. Due to the loss of the property, the landowner can experience damage to his or her income that has to be compensated. For example, a farmer who has to make a detour to reach his land because it has been dissected by the new road is compensated for the extra distance he has to travel to reach his land. The landowners' loss of income is calculated per year and multiplied by ten⁷. Although the landowner may experience this loss in income for more than ten years, this will no longer be compensated. The reasoning behind this is as follows: the compensation for ten years is expected to compensate for 13-15 years because of the interest that the landowner receives. The extra damage that a landowner may face on top of this is assumed to belong to the normal risk of owning property.

The reconstruction method assumes that the landowner will replace the land by purchasing new property, the landowner therefore being compensated based on the costs of buying a comparable property. Apart from the transaction costs and costs of moving, the landowner is compensated by the value of the substitutive property. This value may be slightly higher than the value of the purchased property, if for example there are no properties of a comparable price in the region for sale. Businesses that temporarily lose income because of the relocation (they may for example have to reconstruct the new location to make it suitable for business, or may have to build up a new clientele because of the relocation) are compensated for their temporary loss in income. The reconstruction method is obviously appropriate when an entire property is being purchased. When only part of a property is purchased, however, the choice between liquidation or reconstruction is sometimes debatable. In this situation, the land purchaser should estimate how a rational landowner would act and base the decision for liquidation or reconstruction on this estimate. If both methods are plausible, the method with the lowest costs is chosen.

Another issue that can cause debate about the compensation is the 'elimination

7. Law Lords, 23 December 1927, NJ 1927, 521

and equalisation' principle that stems from CP legislation⁸. The elimination principle states that the plan for which the CP is applied should be eliminated during the appraisal of the land value. The appraised land value should be based on the value before the plans related to the CP (Frikkee, 2015). Disadvantages of the new plan are hereby eliminated from the compensation that the landowner receives. In practise, this rule was only used to eliminate the disadvantages of land uses infrastructure and nature development. Four verdicts⁹ in court have however argued that profitable plans should also be eliminated based on this rule. This has led to debate amongst Dutch CP professionals who anxiously await the verdict of the Law Lords on these trials. More generally, land values that are higher than the agricultural land value because of speculation about profitable future developments are also a topic of debate. It is difficult to ground a precise land value at a specific time, especially if there are little comparative transactions in the area.

The appraisal both of the market value of land and of the decreased value of the remaining property can be carried out according to different systematics. Most commonly used in the Netherlands are the comparative method, which bases the price on comparable land transactions, and the residual valuation system, which bases the valuation on the possible profit that can be gained by developing the land minus the necessary costs that have to be made to gain this profit. Another method is the intuitive method in which the appraiser determines the value of the land based on his or her own intuition and experience with appraising. The choice between the one or other system of valuation can however cause differences in the appraised value. If the professionals in court use a different system of valuation than the land purchasers did, this can lead to different 'real' values. The final choice of valuation system is subject to the decision of the court.¹⁰

Apart from the legislation itself, conditions of selling that occur specifically during CP may also influence the price. The most commonly occurring condition of selling was continued use. With continued use, the landowner has the right to use the land for a certain amount of time without further financial compensation after selling it to the government. The continued uses in the studied transactions differed between 2 days and 3 years. There was no correlation between the continued use and the price of the land. This result corresponds to the prevailing jurisprudence¹¹ that states that the ownership right is much more valuable than the right to use the land temporarily and cannot therefore be compensated by continued use, but should be compensated in money.

8. Article 40c of CP law (Onteigeningswet)

9. Court of Justice Limburg 4 November 2013, C/03/153269/HA ZA 10-85 (unpublished), Court of Justice Rotterdam 21 May 2014, C/10/428853 / HA ZA 13-730, Court of Justice Rotterdam 18 June 2014, C/10/412648 / HA ZA 12-997, Court of Justice Middelburg 16 July 2014, 85397/ HAZA 12-353 (unpublished)

10. Court of Justice 23-5-2012, NJ 2014/221

11. Law Lords 22 March 1989, NJ 1990, 251 and HR 27 October 2006, NJ 2008,3

3.4.2 Comparing last compensation offer and final CP compensation

Land valuation experts indicated that a trial for CP is expensive and politically undesirable. Only a small minority¹² of land transactions ultimately leads to a CP in court. The land purchasers indicated that the valuation of the land is objective and is calculated according to clear rules and standards that are provided by CP legislation and jurisprudence. They did not indicate a significant difference between the last voluntary compensation offer and the final compensation that is determined in court. However, one professional land purchaser did mention that the final decision in court on compensation is often slightly higher than the last compensation offer of the state. The reason for this, according to the interviewee, is because the judge is inclined to be more compliant towards the landowner than towards the state.

In the first interview round, the interviews with land purchasers showed that CP is perceived by policy makers and politicians as something that should be prevented where possible. On the basis of these interviews, we expected the compensation prices to show some increase during the land acquirement process. However, our results show that the prices of land that is condemned do not differ significantly from the prices which were offered earlier by the government. To analyse the unambiguity of the Dutch CP compensation principles, we studied the difference between the last compensation offer before CP and the final compensation that is determined in court. Given the contentment of Dutch professionals with the CP legislation, we expected that these two prices would not deviate by more than 5-10%.

Table 3.4 provides an overview of the descriptive statistics for the CP trial cases (n=89). The verdicts took place between 2001 and 2014. The CPs were registered in the land registry between 1997 and 2014. The first two lines show the figures for the last price before CP and the price that was then determined in court. The mean compensation price in court is € 161.682,49 (152%) higher than the mean last offer. The standard deviation is high because these are different independent CP cases that strongly differ in their characteristics (such as area of the land, region and building type).

The third line of the table provides the mean difference between the last offer and the price in court. As the individual differences could be negative or positive, and we wanted to prevent these differences from compensating for each other, we used the following formula to calculate the mean difference Δ with P_o as price of the last offer and P_c as the price in court.

$$\Delta = \sqrt{\frac{\sum(P_o - P_c)^2}{N}}$$

The mean difference between the last compensation before CP and final compensation that is determined in court is € 161.682,49, presumably a significant

12. Figures of the percentage of governmental land transactions that end up in court are not available for all governmental land transactions. Interviewed land purchasers indicated different percentages for their own projects that differed between 0 and 5 %.

difference to an individual landowner. The difference between the last offer before CP and the price determined in court was in one case as high as 1.5 million Euros. Table 3.5 provides insight into the spread of the relative difference between the last offer before CP and the final price that is determined in court. The cases of CP came from all four levels of the government, although certain institutions were over-represented within these groups. Column B renders the average relative difference between the last offer by the government and the compensation price that is determined in court. The transactions of the State, Provinces, Municipalities and Water Boards did not differ significantly from one another. Columns C and D render the number of transactions that remain with a level of between 10% and 20% deviation from the initial compensation offer. These figures show that there are indeed high numbers of transactions that differ by more than 20% from the initial compensation offer. Column E shows that only 13,5% of the transactions end with a lower price than the final offer. Only 9% of the CP cases end with a compensation price which is equal to the final offer and the remaining 77,5% end with a compensation value that is higher than the initial compensation offer.

The idea that CP is an 'expensive' instrument to use is broadly carried amongst experts and planners. Experts indicated that CP would cost an average of 30 to 40% more than normal transactions. Figures that confirmed these estimates were however unavailable. The costs of CP include legal and advisory costs for both the landowner and the government. The extent of these costs depends on the length and complexity of the procedure. The landowner is entitled to receive compensation for the juridical costs while generally, the costs of CP are ascribed to the government. Table 4 provides the mean costs of the 89 cases. It is expected that the mean costs of all CP cases will be significantly higher than the reported € 46.583,35 (11,9% of the mean last price offer before CP). This expectation results from two observations. First, in 27 of the cases, no complete information about the costs was available. If we exclude these 27 cases, the mean of the other 62 cases is € 64.931,79 (16.6% of the mean last price offer before CP). Second, in a verdict, the costs are generally ascribed to one of the two sides (the costs of the landowner are usually ascribed to the government). However, this does not mean that the other side did contribute to these costs. In order to estimate the actual costs that accrue, the amount of ascribed costs should be doubled, which brings us to estimated cost of about € 130.000, which is about 33% of the last compensation offer before CP and corresponds with the 30-40% that were indicated by land purchasers. Obviously, the relative costs of CP compared to the last compensation offer will be much higher for property with a low value compared to the relative costs of the CP of an object with a higher value.

3.5 Discussion

Various countries have their own guidelines for CP compensation, based both on legislation and on cases of jurisprudence. The understanding of these guidelines is crucial for the understanding of CP compensation. These extensive guidelines, based on the principle of indemnification, cause the notion that CP compensation

stems directly from a clear set of rules and standards. The results of this study show however that this is not the case. In the following paragraph we will discuss the significance of the results for the understanding of the CP value and for the use of CP in practice. The results show that Dutch land purchasers do not offer higher prices to prevent CP, as government appraisers lay a strong emphasis on the equal treatment of all landowners. In 77% of the CP cases, the values offered by the government are judged as too low during the CP trial. Strikingly, the final compensation offer before CP differs structurally and significantly from the final compensation offered in court. In other words, the compensation value that is determined by the expropriator is inconsistent with the compensation value that is determined in court.

This corresponds with prior research (Chang, 2010) in New York and Nevada which found that compensation values that are settled in court differ significantly from the values that he calculated using the Fair Market Value. However, instead of concluding that there is an inherent ambiguity in the compensation value and that his model is not accurate enough to calculate the Fair Market Value, Chang assumes that his calculated Fair Market Value is accurate and concludes that the landowner, expropriator, and court use values that differ significantly from the 'real' Fair Market Value. Indeed, land purchasers and appraisers may deviate from the estimated price or make mistakes that a computer model does not make, but on the other hand, they are expected to have a much more complete view of the characteristics of a property than the Hedonic price model can have. Interviews with government land purchasers and inspection of (usually private) purchase agreements of CP transactions showed that transactions in prevention of CP are – at least in the Netherlands by the RWS – based entirely on unambiguous calculations taken from the principles of CP law. There is not much space for the land purchaser to deviate from these calculations.

Sluysmans (2011) argues that the Dutch criterion (determining the compensation as all costs and financial harm that are directly and necessarily caused by CP) is not always univocal and does not always lead to an obvious result. Moreover, he argues that the criterion 'necessary result of the CP' has an important subjective component. More specifically, the guidelines for CP compensation appraisal that have evolved over the last 150 years contain several fictions¹³ that are easy to adapt given the actual circumstances. The court of justice has considerable freedom in the application of CP legislation (Sluysmans, 2011). Sluysmans signals that this has ensured the topicality and usability of the law despite minor modifications since its foundation in 1851. Sluysmans, the CP professionals he interviewed, and the professionals that were interviewed in this research, were all content with the current CP legislation and the guidelines to determine CP compensation. Sluysmans

13. These fictions include the date (peildatum) on which the compensation and value of the property has to be determined, the assumed voluntary sale, the elimination of the plan for which the CP takes place, levelling different values in one area into one value of the entire complex, and the estimate of how a rational owner would deal with damage resulting from the CP.

concludes his research by stating that although the limited guidelines of CP may lead to the concern that there is little legal certainty for landowners, 'I am of opinion that this approach is exactly the strength of the CP compensation legislation. After all, it is clear for all those involved what the result should be, namely 'full compensation'. We argue instead that the Dutch jurisprudence and methods of appraisal for CP are so complex that they lead to ambiguous CP prices. Full compensation may not be as obvious as it seems. At best, this ambiguity occurs only in a small group of complex cases, that may have determined the majority of the 89 studied verdicts, but the idea that this ambiguousness is more widespread cannot be precluded. The full or just compensation value that is referred to in CP legislations is based on a set of principles for appraisal rather than on a technical number that can be calculated unambiguously using a model. The principles are based on the assumption that there is one objective value, while in reality value is something that people construct and that may differ from person to person. The studies of Chang (2010; 2011) and Clauretje et al. (2004) indicate that the ambiguity in CP compensation may not be present in the Netherlands alone, but rather more widely.

The results bring up the question as to how representative the studied verdicts were. The verdicts were selected from a database with a representative selection of all Dutch verdicts and are therefore assumed to provide a representative selection of all recent CP verdicts. However, the most complex acquisition cases with significant disagreement about the CP value will probably more often lead to CP. These complex cases may therefore be over-represented within the studied CP verdicts. The results also bring up a number of relevant questions about CP. Could several juridical CP cases have been prevented if the government had offered a higher price during the voluntary negotiations? Should the government spend 100.000 Euros to ensure that one person receives 3000 rather than 4000 Euros? Does the government decide to initiate CP too readily? To what extent are professionals able to estimate the CP value consistently with the current set of principles that follow from CP jurisprudence? These questions are political in nature, but might not be posed (or answered) without the insights offered by this study.

3.6 Conclusions

CP might be one of the most underestimated and unknown influences on our planning system. The empirical results of this study show that CP legislation has a major influence on the construction of prices during government transactions. This influence is major, both during the voluntary land acquisition process and the juridical process. The interpretation of the legislation and the CP valuations that result from these interpretations are not as univocal as might be expected. In 89 legal CP cases, the mean difference between the last offer from the government and the final offer in court was 152,2%. More than three-quarters (77,5%) of the CP cases in court led to a compensation value that was higher than the last offer at the summon for CP. The differences in valuation were especially related to different systems of valuation that are used, and to the different perspectives on

Table 3.4. Descriptive statistics for CP transactions

	Mean	Min	Max	standard dev.
Price last offer	€ 389.688,16	€ 1.700,00	€ 4.015.450,00	€ 647.604,29
Price in court	€ 551.370,65	€ 1.700,00	€ 5.480.460,00	€ 861.949,90
Difference last offer and price in court	€ 161.682,49	€ -185.831,27	€ 1.590.460,00	€ 347.411,96
Extra costs government	€ 46.583,35	€ -	€ 396.386,00	€ 58.687,99
Extra costs landowner	€ 457,54	€ -	€ 3.062,05	€ 1.032,48

Table 3.5. Relative differences in value, and spread of the difference per government type

	A	B	C	D	E	F	G
	N	Av. Difference %	# 90-110%	# 80-120%	# < 100%	min %	max %
State	32	144,9%	7 (21,9%)	11 (34,4%)	6 (18,8%)	67,4	321,4
Province	21	145,2%	8 (38,1%)	11 (52,4%)	5 (23,8%)	73,7	491,8
Municipality	25	153,5%	4 (16,0%)	9 (36,0%)	0 (0%)	100,0	251,0
Water Board	11	183,3%	2 (18,2%)	2 (18,2%)	1 (9,1%)	66,3	299,8
TOTAL	89	152,2%	21 (23,6%)	33 (37,1%)	12 (13,5%)	66,3	491,8

the expected value of land. CP legislation and the directly related compensation valuation has become a complex discipline that requires knowledge both of appraisal, and of CP legislation. Only a limited number of professionals are familiar with CP jurisprudence, and this is sometimes difficult to explain to lay people. Moreover, the results show that the average transaction costs of a juridical CP procedure are at least 33% of the transaction price, but may be higher and are relatively high in cases where the compensation value is low.

“The rational man of economics is a maximizer who will settle for nothing less than the best”

(Herbert A. Simon, 1978, p. 2)

Understanding land transactions during land use change



4

Abstract

In this chapter results of a study are presented in which land transactions were investigated in relation to intended land use change from a micro-scale perspective. A better understanding of land transactions is important for understanding and influencing the way land is used. The aim of the study is to explore different aspects and their interrelations that influence landowner behaviour during land transactions initiated by the government. The study draws on 42 explorative interviews with land purchasers, land policy experts, planning professionals and local farmers. Aspects that were found of central importance during land transactions are uncertainty, feelings of justice, and the planning process. Landowners perform strategic behaviour based on their personal situation and their expectations on uncertain aspects. These strategies are strongly interrelated with the evolution of land use change. Land use changes are both input on which actors based their strategies, as well as the outcome of those strategies. The aspects found in this study were strongly interrelated and changed over time. Some aspects were context dependent, while others are expected to be generally influential during land transactions.

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4.1 Introduction

In Europe, one million hectares of land used for agriculture or nature are traded and developed into built area, each year (Nilsson and Nielsen, 2008). Land acquisition is the beginning of many land use changes. Both governments and private investors use land acquisition to gain power over land use (Obidzinski et al., 2013). Knowledge on land acquisition is thus important for understanding and influencing the way land is used. Land acquisition can be complex and opaque, due to the involvement of a variety of parties and interests within a dynamic political, social and economic context (Van Assche et al., 2014). To understand land acquisition, it is essential to understand its basis: land transactions.

Research into land transactions has been dominated by neo-classical economists, that focused on quantitative model building (e.g. Abelairas-Exebarria and Inma, 2012; Filatova et al., 2009; Jjumba and Dragičević, 2012). However, the complexity of the land market and the influence of land use planning, financial subsidies, taxes and regulations in this market, is increasingly recognised (Needham and Segeren, 2005). Financial gain, or price, is not the only exchange mechanism employed during land transactions. Non-financial aspects, such as the personal relationship between buyers and sellers, and landowners' attachment to their land, also influence the terms and conditions of the selling process (Dijk, 2003; Grubbström, 2011; Kostov, 2010; Perry and Robison, 2001; Tsoodle et al., 2006). Various authors have argued that the dominant, neo-classical approach towards the land market fails to explain the mechanisms that influence land transactions. New knowledge is therefore required (Ball, 1998; Needham and de Kam, 2004; Samsura et al., 2010). This knowledge is for example needed to enhance the quality of multi-actor based land-use modelling (Ligtenberg et al., 2001; Newburn et al., 2005). In response, several authors have studied the land market from a neo-institutional economic perspective (Cho, 2011; Needham et al., 2011; Richman and Boerner, 2004; Van der Krabben and Buitelaar, 2011). In this perspective actors are still perceived as rational, but influenced and restricted by uncertainties and institutions. Neo-institutional economists assume that a better understanding of institutions helps to understand and predict land transactions more accurately. Neo-institutional economic studies focus however mainly on the land market from a macro-level and so far, have not yet focused on micro-scale land transactions. Adams (2001a; 2001b; 2005) is one of the few scholars to address the construction of individual land transactions in relation to land use changes. In his studies of commercial landowner behaviour, he shows that landowners' strategies and considerations can be diverse and complex.

Despite some exceptions, studies of land transactions on a micro-scale in relation to land use change, thus primarily remain from a neo-classical perspective. This chapter addresses this scientific gap and aims to investigate land transactions in relation to intended land use change from a micro-scale in a West-European context. This is achieved by exploring different aspects and their interrelations that influence landowner behaviour during public-private land transactions.

4.2 Theoretical Framework

This study approaches land transactions as shifts in property relations via interactions (negotiation) between the buyer and supplier of land rights. Three theoretical perspectives helped to build an analytical frame: neo-institutional economic theory, to study the influence of institutions on land transactions, and negotiation and game theory to study land transactions as interaction process.

Neo-institutional economists assume that people act to maximise utility, but that they are limited in this behaviour by uncertainties and institutions. These formal and informal institutions (norms and regulations that are developed within societies over time) shape the actual meaning of property rights (Allina-Pisano, 2008; Johnson, 2001; Verdery, 2003). Fiscal laws, agricultural production laws, planning regulations and subsidies are for example formal institutions influencing land transactions (Jacobs, 2004; Needham et al., 2011; Platt; Van Dijk and Beunen, 2009). Informal institutions that influence property relations and land transactions are for example informal planning practice (Van Assche et al., 2012), personal preferences, personal relations, norms, values, habits and traditions (Kussar, 2010) and emotional attachment to land (Needham and Segeren, 2005). Informal institutions are often perceived as all irrational, informal constraints to transactions. In this study informal institutions are separated from personality aspects and interactional aspects and perceived as all informal rules, such as norms, values, and traditions. Institutions shape the relation and interactions between landowners and land purchasers. The effect of each institution can only be grasped in relation to other institutions (Van Assche et al., 2012). The institutional context changes over time, as new institutions are introduced and existing institutions change. Institutions and the organisations that apply them, such as banks and governments, helped to complete transactions in an environment where trust levels were low and perceived risk high (e.g. Greif, 2007; North, 2005). Risks in land transactions occur due to uncertainties. Uncertainties are diverse and can be about (land) values, the social environment, the search for alternatives, and related decisions (Musole, 2009). Although institutions are created to deal with uncertainties, many uncertainties still occur during land transactions. This can make human behaviour unpredictable. Experiments have for example shown that in situations of uncertainty and risk, decisions are not always utility maximising (Kahneman and Tversky, 1979).

During land transactions, at least two parties (buyer and seller) are directly involved. Their interaction is not only influenced by institutions, but they also influence each other. During land transactions, individual parties (un)consciously develop strategies based on their interests and backgrounds, which makes transactions negotiation processes. According to Thompson et al. (2010), negotiation takes place when people need others to achieve their goals. They distinguish five main fields of study within negotiation research: 1) intrapersonal aspects, 2) interpersonal aspects, 3) group dynamics, 4) organisational aspects, and 5) virtual aspect. Four of these fields are also relevant to land transactions. Intrapersonal

aspects, or personal perceptions, that are, relevant for land transactions include place attachment (Dijk, 2003; Jorgensen and Stedman, 2001), sense of power (Malhotra and Gino, 2011), buyer characteristics (Kostov, 2010) and the negotiators affect (combination of mood and emotion) (Van Kleef et al., 2004). Interpersonal aspects refer to negotiation behaviour that is influenced by the interaction process. They have been studied using game theory. This theory builds on the assumption that decision-making is an interactional process. The theory relies on three basic concepts to describe decision making: players, referring to the people or corporate bodies making a decision; strategies, referring to players' actions (concerning the decisions); and payoffs, referring to the value that the result of a decision gives. Players can have conflicting, or supplementing interests and therefore must anticipate on each other's expected decisions and strategies before making their own decisions (Colman, 2005; Glumac et al., 2011; Samsura et al., 2010). Trust is an important interpersonal and organisational aspect of land transactions. Trust helps to reduce uncertainty and complexity throughout negotiation (Van Ark, 2005). This may reduce transaction costs, which decreases the prices of transactions between acquaintances (Kostov, 2010; Perry and Robison, 2001; Tsoodle et al., 2006). The influence of group dynamics is closely related to the prior-described informal institutions, as institutions are in essence the result of group dynamics in society. Research on dilemmas between personal and mutual gain, shows that how a dilemma is displayed influences whether people choose for a personal or mutual gain. Moreover, group identity can influence individuals' negation behaviour (Thompson et al., 2010). The organisational level is described by Thompson et al. (2010) as the broader social context in which negotiations take place. Formal institutions form an essential part of this context, just like social networks.

In summary, inter- and intrapersonal aspects of buyers and sellers, group dynamics, organisational aspects, institutions, and uncertainties may all influence the construction and price of land transactions. Various academic movements have described different elements of these influences, but, so far, have not been entirely

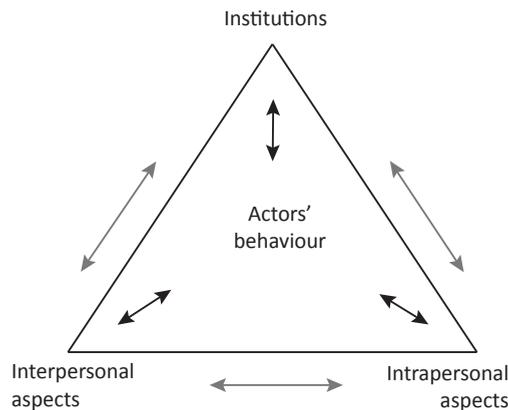


Figure 4.1 Analytical framework of the social construction of land transactions during spatial planning processes.

conclusive. To study land transactions in the context of spatial planning, the various perspectives on land transactions separately offer too little support. Therefore, in this study we focus on the interrelations between institutions, interpersonal and intrapersonal aspects (Figure 4.1). This analytical frame was used to analyse data from a case of land acquisition for nature development in the Netherlands.

4.3 Methods

This study draws on interviews with land purchasers, and the reconstruction of land transactions in the 'Oostvaarderswold' (OVW) nature development project. The data was collected in two phases. First, to explore land acquisition and relevant aspects for the interaction between government and landowners, interviews with 20 Dutch land purchasers and land policy experts were conducted. The selected interviewees work for different governmental or commercial organisations and all have experience with land acquisition. They were asked about the strategies they use to purchase land, their ideas about the way landowners perceive land acquisition, and how this affects landowners' behaviour. The interviews were analysed to describe general purchase strategies and to select relevant topics to refine the analysis and develop a list of questions that was used in the second phase of data collection.

The dynamics around land transactions in the OVW case were studied in the second phase. A case study research design was found most appropriate to better understand complex human interactions within a planning context. The case was selected based on two criteria: the instrument of compulsory purchase should not have been used and the inhabitants of the area should have been offered a fair financial compensation for their land (market value plus transaction costs, in Dutch *volledige schadeloosstelling*). These criteria were chosen to select transactions that were as 'pure' as possible, not influenced by expropriation law or prices that deviate from market values. OVW was one of the few cases in the Netherlands that met these criteria.

The OVW nature development was planned on the land of 37 farmers (27 tenants and 10 full owners). Ten (former) farmers in the OVW area were interviewed to gain insights in their perception about the planning process and the particular land transaction in which they were involved, as well as the different aspects that influenced their behaviour in relation to these processes. In three of these interviews, the farmer's wife also participated. Furthermore, 12 planning professionals¹ were interviewed. All interviews were recorded and transcribed. In addition to these interviews, 63 policy documents (17 planning reports, 16 official letters, and 30 meeting reports) and 26 newspaper articles were analysed. Additional information about the conditions of sale and pricing of the land

1. The professionals worked for the Province of Flevoland, Flevoland Nature Management (in Dutch: Flevolandschap), the Dutch ministry, farmers' agency (in Dutch: LTO-Noord), water board district, Dutch forestry commission (in Dutch: Staatsbosbeheer), and the municipality of Almere, Lelystad and Zeewolde.

transactions in the study area was gathered, by studying 65 notarial deeds of the land transactions. All data was collected between November 2011 and July 2012.

Interpretative analysis was used to analyse the interviews and documents. The interviews were coded for institutions, interpersonal and intrapersonal aspects using scientific software (Atlas.ti). The analysis of the notarial deeds focused upon three main aspects: time before selling, price, and the conditions of selling. This analysis was used to make a reconstruction of the land acquisition process and the strategies deployed by buyers and sellers, and to develop further insights into the interrelation between spatial planning and land transactions.

4.4 Results

4.4.1 Historical overview of the planning process

This paragraph presents a historical overview of the Oostvaarderswold (OVW) project. It describes the most important decisions and events (table 4.1). The OVW is a much-debated plan for the development of an ecological corridor, located in the province of Flevoland (figure 4.2). Flevoland is located on the former 'Zuiderzee' (South Sea). The plan for the OVW is included in the Dutch 'National Ecological Network', a policy document introduced in 1990. This policy aims to enlarge and connect natural areas in the Netherlands (Beunen and Hagens, 2009).

In a memorandum of the Dutch Government in 2000, the OVW was officially mentioned as one of nine planned nature corridors in the Netherlands. In 2006, the Dutch Government officially commissioned the province to develop the OVW. In the same year the province started exploring possible locations for the OVW.

Besides its function as ecological corridor, the OVW area was planned to serve as a water catchment and recreation area. Furthermore, the project would function as



Figure 4.2 Planning map for the nature corridor 'Oostvaarderswold'.

necessary nature compensation for urban development elsewhere in the province. The OVW project was therefore approached as an integral area development for which various actors had to cooperate during the planning process. The province took the lead in this cooperation. Three plan variants were developed, compared and contemplated. Although all studies indicated the location north-east of the 'adelaarstrace' as the best location to develop the corridor, the province unexpectedly moved the location of the corridor 875 meters west of the 'adelaarstrace', during the stipulation of the Environmental Plan in November 2006.

It was important for the province to create public support and therefore a relatively large budget was used for communication. However, the local residents of the nature zone were only involved after the main aspects of the plan were decided upon. In October 2006, residents of the OVW area received the first official letter from the province. During an information evening held in November 2006 the plans for OVW were presented and local residents were given the opportunity to pose questions. In December, the Dutch Government and the province signed an agreement on the financing of the OVW. This document was important, as the land was inhabited and farmed by 37 farmer families that needed to be bought out. After the stipulation of an environmental plan, the province started to prepare the land acquisition and to specify the plan. In February 2008, the local residents were updated and asked to provide feedback on the plan and its possible consequences for agricultural activities in the area.

After the approval of the land acquisition plan in July 2008, the Government Service for Land and Water Management ('Dienst Landelijk Gebied', an agency of the Dutch Ministry of Economy, Agriculture and Innovation) started purchasing land for the OVW. Time pressure was high with the OVW planned for completion in 2014. As a result, the province proposed full financial compensation for farmers who were required to sell their farms. Landowners were thus not only compensated for the value of their land, but also for their income loss and all additional costs. This was different from other land acquisition processes for nature development in the Netherlands, where a maximum of ten per cent of the land can be purchased with full financial compensation.

In 2010, a new Dutch Governmental cabinet was formed that decided to stop support for the OVW-project. At that time, the Government Service had already purchased the land from 14 farmers and the province was ready to implement the land-use plan. Despite a warning from the Dutch Minister of Agriculture, the province decided to continue, acting on by the legal advice of an external company. In addition, they launched a lawsuit against the Dutch Government for ending financial support for the OVW. The province furthermore decided to make a plan ordinance in order to withstand spatial developments in the area that could complicate the realisation of the nature zone in the area. In December 2008 this ordinance was stipulated, resulting in a prohibition on spatial changes that complicate the realisation of a nature zone.

In March 2012, the Council of State and the Court declared the land-use plan

invalid based on the lack of proper finances (LJN: BV8038). In the same month, the Court ruled against the province concerning the financial support of the Dutch Government (LJN: BV 9654). These verdicts led to the establishment of an independent research committee on the planning process of the OVW. Their conclusions were critical on the provinces financial policy during the OVW project. The province was accused to have neglected severe risks in the project, including insufficient local support, and financial risks. These conclusions caused four provincial representatives to step back. Later three of them returned to their position.

Table 4.1. Time line of important events regarding the plans for the OVW and hectares of land purchased

Date	Relevant Decisions, Policy and Plans	ha
11-2003	OVW is first mentioned as one of the ecological areas in a memorandum of the Dutch Government.	
08-2004	Province Flevoland is asked by the Dutch Government to explore the planning of the OVW.	
01-2006	The national planning memorandum is enacted, in which the Flevoland province is officially assigned by the Dutch Government to realise the ecological corridors.	
10-2006	The first official letter about financial compensation is sent to the local residents in the area of the plan.	
11-2006	Environmental Plan Flevoland, including the OVW (1950 ha) is stipulated.	
11-2006	The first information evening for local residents of the project area is held.	
12-2006	Agreement signed between Dutch Government and the Flevoland province about the objectives of the OVW and the financial contribution from the Dutch Government.	15.7 ha
02-2008	The second information evening for local residents of the project area is held.	
07-2008	Government Service for Land and Water Management (DLG) starts with the official land acquisition.	153 ha
09-2008	Agreement signed between national and provincial authorities on the size of the OVW (1125 ha).	
09-2008	Second official letter is sent to local residents of the plan area updating them on the enactment of the plan ordinance for the nature zone and the way they can provide feedback on this plan.	
12-2008	Provincial plan ordinance on the future change of land use in the plan area stipulated.	746 ha
02-2010	Dutch Government cabinet dissolved.	833 ha
09-2010	Coalition agreement for a new Dutch Government cabinet.	
10-2010	New cabinet appointed that it does not support the plans of the OVW.	
12-2010	Province attempts to enact the land-use plan (OVW=1800 ha).	
03-2012	The Council of State and the Court declare the imposed land-use plan invalid, based on the lack of proper finances.	921 ha
03-2012	The Court rules against the province concerning the height of the financial support.	
05-2012	Province decides to start an open plan process for the development of the OVW.	
06-2012	Province decides not to lodge notice of appeal.	
09-2012	Critical research report on the financial policy of the Province makes Provincial representatives step back	

4.4.2 Land transactions from the perspective of Land Purchasers

Governmental land purchase strategies can be based on various political visions, and are influenced by time pressure, legislation, and financial possibilities. For nature developments in the Netherlands, time pressure is generally less than time pressure for urban- or infrastructural developments. Legally, a distinction can be made between voluntarily purchase (minnelijke verwerving), pre-emption

right (wet voorkeursrecht), or compulsory purchase (onteigening). Moreover, governments can use land consolidation (ruilverkaveling) to acquire ownership in a specific area. Governments have restricted financial means for infrastructural and rural developments as (European Union) legislation delimits the possibilities for financial compensation. Formal institutions set the space for negotiation that governmental land purchasers have. Strategies clarified by land purchasers therefore focus on the timing of the deployment of land management instruments.

The interviews show that purchase strategies are strongly related to the expected land use development. In the Netherlands, land acquisition for nature and recreation is often perceived as less compulsory than for infrastructure or residential developments. This implies that although the same legal rules might apply, a different strategy is likely to be used, because it is socially unacceptable to use compulsory purchase for nature or recreational plans.

Relations between sellers and buyers can influence the strategies used to purchase land. For example, (small) municipalities were mentioned to be very consultative and compliant towards landowners, because land acquisition is relatively visible for local residents on this level, and can therefore directly influence voting behaviour. Moreover, institutions influence the purchase strategies that are used. For example, European regulations state that governmental support is generally not accepted. This leads to European supervision on the price level of government land transactions, which should be in line with transaction prices in the prevailing market. Governments are therefore legally restricted in setting their purchase prices.

Based upon the interviews, three different sets of strategies for land acquisition could be distinguished: offensive, consultative, and anticipative strategies. The selected strategy strongly depends on the type of project, the legal possibilities and the associated time pressure. During an offensive strategy, the instrument of compulsory purchase is taken as a starting point for the purchase process. This strategy is chosen if the plan needs to be realised quickly and all land is necessary in order to implement the spatial plan. In this situation, the plan is presented to the landowner as inevitable from the start. It is explained that non-cooperation will lead to compulsory purchase.

In a consultative strategy, more time is taken to purchase the necessary land. This strategy is chosen if there is more flexibility concerning the plan and the compensation. Flexibility is applied in searching for solutions that fit the involved landowners best. This does not, however, exclude the possibility of compulsory purchase, but it is used as more of a last resort. The anticipative strategy is used to purchase land that is offered for sale on the market and that may be of use for the realisation of spatial plans in the future. Contrary to the situations in which offensive and consultative purchase strategies are used, the landowner is the initiator of a transaction during an anticipative strategy. This makes it relatively easy to purchase land. Table 4.2 summarises the most important organisations that purchase land for spatial developments in the Netherlands and the strategies they apply.

Table 4.2: Most import land acquisition actors in the Netherlands and their purchase strategies.

Organisation	Purchase Strategy	Type of Land Use(s) aiming for
Municipalities	Consultative, anticipative	Diverse, mostly urban
Province	Offensive, consultative	Diverse, mostly nature, recreation,
DLG	and anticipative Consultative and	infrastructure, water. Agriculture, nature, recreation,
Housing	anticipative	water
associations	Consultative and	Residential
RWS*, ProRail	anticipative	
Nature	Offensive, consultative	Infrastructure, water
organisations	Consultative, anticipative	Nature, recreation, water
Project developers	Consultative and anticipative	Urban (mostly residential or businesses)

* RWS is the Government service for infrastructure and water management.

Governments can strategically use their land management instruments to purchase land within the given timeframe. Some purchasers, for example, explain that the threat of compulsory purchase can help to purchase land. Not all purchasers perceived compulsory purchase as an effective and desirable means to convince people to sell their land. Most land purchasers emphasised the importance of trust in realising a transaction. Both buyers and sellers face uncertainties on the decisions of other players in the field, and changes in the political and economic context. This makes it even more important for purchasers to gain trust of the landowners. Openness and clarity on the planning process were mentioned as important aspects in developing trust. The land purchasers argue however that the importance of trust is often overlooked by politicians and that planners make and change plans too easily, without taking the landowners into account. These changes increase uncertainty for both land purchasers (buyers) and landowners (suppliers), leading to inevitable risks for both parties. Land purchasers, therefore, prefer to wait for legally-approved plans before starting to purchase land, although this is due to time pressures not always possible. Conversely, the start of the realisation of a plan is generally dependent on the purchase of enough land. The longer this is delayed, the more expensive a project becomes. This makes time an important additional aspect influencing land purchasers' strategies.

4.4.3 Land transactions from the perspective of the landowner

Most of the landowners and tenants² in the area initially viewed the OVW plan with great scepticism. In their perspective the plan will change valuable and productive agricultural land into 'worthless' nature. Although this perspective was

2. All farmers in the area were at least owner of their farmstead and real property on this farmstead. Although we refer to some of them in this paper as 'tenants' or 'long-lease tenants' all farmers are thus to a certain extent the owner of their land.

widely shared among the farmers, their strategies to deal with the land acquisition by the government differed. After a brief period in which the farmers collectively protested against the plans for the OVW, the group fell apart. One farmer explained:

“The whole group of farmers in the area agreed, until October 2006 - No OVW. But as soon as the plan was established, people felt assured that it was threatening, so the first moves were made in 2006.” (Farmer)

After the plan was established, it became clear that some farmers were able to turn the plans for the OVW into a personal opportunity. For others the plans remained a threat. Even though financial aspects, such as land price are important when selling land, the case of OVW shows additional aspects that influence the decision of a landowner to sell or not. These include aspects such as the continuation of the firm, the distribution of risk, the end of an uncertain situation, the expectations about the development of the project, the enlargement of property, or the possibility to gain full ownership instead of being a tenant.

“The plan, well, the way we looked at it, we could gain some advantage out of it. But the whole plan itself, it did not make much sense at all.” (Farmer)

Some of the farmers pointed out the difference between the dilemma for tenants, long-lease tenants³ and full landowners. As lease prices increase, many of the long-lease tenants and tenants have a strong wish to gain full ownership on their land. The plans for the OVW provided them with an opportunity to gain private land in a very profitable manner that would have been unfeasible without the OVW. In contrary, full landowners often had less potential gains, while they were offered a land price that was comparable to that possible in a ‘normal’ sale, plus a financial compensation for their relocation. This would

Three main strategies could be distinguished among the farmers in the area: early-sellers, late-sellers and non-sellers. Early sellers are conceptualised as landowners that decided⁴ to sell within one year after the land acquisition process started in 2008. Late sellers decided to sell after more than one year of deliberation. Non-sellers had not (yet) sold their land at the moment of interviewing (four and a half

3. Long-lease tenants, refers here to the Dutch term of ‘erfpacht’. This is a special type of property right, in which the owner has almost the same rights as a full landowner. This type of property rights can – just as full ownership rights – be transacted on the market. Moreover, it is possible to receive a mortgage based on an ‘erfpacht’ right. Although the m² price of a ‘erfpacht’ right is lower than the m² price of full landownership rights, the process of transacting the rights is thus very comparable with the process of transacting full ownership rights. Moreover, the deeds are also registered at the Netherlands Land registry and Mapping Agency.

4. There was a difference between the moment someone decides that he wants to sell and the actual transaction. In some cases, this difference between the moment someone decided to sell and the actual transaction was more than one year. This had to do with negotiations, administrative issues or sometimes problems with the full landowner (in case of long-lease tenants).

years after the land acquisition process started). Table 4.3 provides an overview of the differences in landowner behaviour for four types of landowners.

Table 4.3. Relation between type of ownership and behaviour on the land market.

	Landowner	Long-lease tenant	Tenant (gov)	Tenant (comm.)
Early-selling	1	4	7	0
Late-selling	2	2	1	1
Non-selling	7	0	4	8

Early-sellers (n=12) chose this option because they had a strong feeling that they did not have the power to stop the development of the ecological zone. Although most farmers experienced a feeling of anger at the beginning of the process, some of them quickly realised that the plan could also create new opportunities. Some farmers profited from selling their land, because to the transaction offered them an improved location for their farm, a good retirement option, or the possibility to change a lease contract into full ownership. Moreover, they realized that the interests of farmers in the area were diverse and therefore felt that it was wise to make the best out of the OVW for themselves.

“I wasn’t exactly amused, but if such organisations are pursuing it, you can ‘bet your bottom dollar’ that something will happen, so from the beginning, we took the attitude of, well, we can resist and sabotage, but that will not help us, so let’s try to get the best out of it.” (Farmer)

Obviously, especially tenants were able to see new opportunities. Early-sellers were willing to take a risk and, if necessary, a high loan in order to expand their property. In retrospective, they made good financial deals and were satisfied with their decisions afterwards.

“My advisor told me: ‘It is possible that the people who are next in line to do business will have better deals than you,’ I said ‘That doesn’t bother me at all, I’m very content with the deal I have now. If my neighbour receives 200.000 extra, I don’t care” (Farmer)

Also, for some of the early-sellers the uncertainties that they would experience when not selling, formed an important argument to sell their land. Early-sellers thus reconciled themselves with the OVW plans and chose to continue their farm on a new location without uncertainties and restrictions.

Late-sellers (n=6) needed more time to decide what was best for them. For them, the opportunities offered by moving were less obvious and they were less certain if selling was the best strategy. Their decision was eventually influenced by pressure of the Dutch Government, such as the threat of expropriation:

“Well initially you just don’t want to cooperate... but at a certain moment they start

to approach you and say if you do not cooperate, we will expropriate, so then you will change your attitude from unwilling, to cooperative, to searching for another place.” (Farmer)

Another late-seller eventually sold his land rights because of uncertainties on long-lease regulations. The implementation of plans to increase rent and accentuate the regulations concerning the transfer of long-lease rights, would bring him to a financially unattractive situation. Moreover, other farmers with long-lease contracts outside the OVW-area had already the chance to buy their land in full property. Yet, he adds:

“If we had full ownership, we wouldn’t have done it, but then we would have been in a more powerful position.” (Farmer)

Late-sellers eventually sell their land mainly due to a combination of emotional pressure, the feeling that this is the best option from a number of poor options, and to protect themselves from longer uncertainty and the risk of being expropriated (and only receiving financial compensation). They are not as satisfied as early-sellers with the new situation. Late-sellers feel that there was no other option and often have negative feelings on the time period in which the OVW was implemented.

“I asked about compensation for emotional damage, but they simply ignored that... you don’t feel you are being taken seriously. I understand that they are not always able to do something about it, but if they would only make a gesture by giving compensation for it, then you would get the feeling that they understand how unpleasant going through this process really is.” (Farmer)

Finally, the non-sellers (n=19) believe that it is in their best interest not to sell. They are very satisfied with their current farm and do not believe that it is possible to gain from the plans for the OVW. Moreover, they believe it is possible to stop the plan, by not cooperating with the Dutch Government.

“They all act like it is heaven and that you are well compensated, but for nature conservation land, you just get nothing, that is just the truth. The money received is not enough to start a proper farm somewhere else, and you have to go to a bank and get a huge mortgage. That’s absolutely not what you want.” (Farmer)

Similar to late-sellers, non-sellers had strong feelings of unfairness, as other farmers in the vicinity were bought out by project developers as part of housing developing plans. In that situation the buyers paid five to ten times more than the prices offered in the OVW project. Local stories on transactions of these farmers were widely shared amongst the landowners in the area.

“One kilometre down the road, people received five times more money. That is unacceptable. For example, on the Wild Road, someone moved in. When he came, he already knew that he would have to leave again, but he came from Schiphol area and was wealthy. He bought land here and sold it again, leaving with even more money. So it is way out of proportion. For nature conservation, you just get a

severance pay which is useless.” (Farmer)

Both late- and non-sellers had strong feelings of injustice, which increased over time. Early-sellers reported good deals, as they could often move to a better location in the region and have continued use of their original properties until the nature zone would be realized. Later on, compensation land⁵ was not available for non-sellers. This made land transactions less beneficial for them.

4.4.4 Land transactions as interpersonal interactions

The previous paragraphs describe the planning process and the strategies of purchasers and landowners. A full understanding of land acquisition, however, requires analysis of the interpersonal interactions and their combined effects on the planning process.

At the start of the purchase process, land purchasers focused on landowners that were willing to sell their land and postponed negotiations with landowners that were not immediately willing to sell their land. Early-sellers knew that they were amongst the first to sell their land and that it would be important for the Dutch Government to gain some success in purchasing land. They used this position to negotiate favourable selling conditions. Later in the process, purchasers started to pay higher prices for the land, appealing also to the owners who were not willing to sell immediately. The average price paid by the Dutch Government increased from €6,67 per m² in 2008, to €9,81 per m² in 2010. Cadastral records show that more than half of the land surface of OVW was purchased in approximately two and a half years of negotiations. The remaining area was partly owned by commercial project developers (5), farmers (8) and the State (with land tenants, 7).

In the area between Almere and Zeewolde, the number of agrarian land transactions⁶ was influenced by plans for the OVW. The number of transactions was relatively low in the years that plans for the OVW were developed (2001-2006) and the future of the area was uncertain. Only six agrarian land transactions had been completed in 2006, when protests against the OVW were most severe. After the province decided on the exact location of the OVW, in November 2006, the number

5. Compensation land was not part of the official land transaction for any of the landowners. The farmers were all compensated financially for the loss of their property rights and were able to use their compensation to buy new property rights on another location. However, a significant part of the land in the region was owned by the Dutch state (Domeinen) that promised the Province to provide a first selling option to farmers in the OVW zone. Many of the early sellers used this to acquire a good new location in the region.

6. Agrarian land transactions were defined as transactions in which property rights of agricultural land is transacted between an agrarian and a second party or between two agrarians.

of transactions in the area started to rise again to 38 agrarian transactions in 2011.

Expectations about future plans may have influenced buyer and seller behaviour and therewith influenced the transactions in the case area over time. This influence is at least twofold. Firstly, the value of land can change due to (expected) land use changes. Secondly, the property situation may change due to (expected) land use changes.

The OVW plans thus influenced the land prices, the property situation, and the number of transactions in the area. Landowners were influenced in their decisions to sell or not to sell, by their expectations on the continuation on the plan (if they perceived the plans of the Dutch Government as definite, they were more likely to sell their land), by (in)formal institutions, and by their personal circumstances. Table 4.4 provides an overview of the aspects that were found to be influential for both sellers and buyers during the land transaction process.

Table 4.4. Aspects that were found to influence landowner behaviour during land transactions in OVW.

Intrapersonal aspects	
Age	Farmers who were closer to the age of retirement were more inclined to sell their land, as they were often already planning to sell in the near future.
Family situation	Although family situation did not seem to be decisive, farmers did name this as an important aspect to take into account during the transaction process. It made the transaction process more complex for farmers with a partner and children, than for farmers without partner and/or children.
Financial situation	The financial situation of farmers influenced if they were able to invest in an expansion of their land surface. The financial situation was related to the type of property rights the farmers had. Financial deals were generally more attractive for tenants than for owners. This caused significantly more tenants to sell, compared to long-lease tenants and owners.
Risk propensity	Farmers who had a higher risk propensity were more inclined to sell their land. This was related to the later mentioned aspect of conservatism.
Feelings of satisfaction vs. feelings of hope	When the deal was positive enough to make the farmer satisfied, he was inclined to agree, even if a longer negotiation could have led to a better deal. However, when farmers were not satisfied and had hope to get a better deal, they did not sell.
Feelings of justice	Farmers who felt that their purchase offer was justified were more inclined to sell their land, than farmers that felt injustice on their situation (see laws and informal rules on equality).
Personal experiences	All farmers in the OVW had the experience to move from another region towards their current location. This made most farmers unwilling to leave this region again. Farmers who had negative experiences with long uncertainties in planning processes before, were more inclined to sell early.
Conservatism	Not all farmers had the same level of conservatism. For some, change was more difficult than for others. Farmers who were more conservative were less inclined to sell their land. A related aspect is described in literature as place attachment or 'sense of place'.
Sense of power	Farmers who felt that the plans of the Province were inevitable, and that they did not have to power to change them, were more inclined to sell, than farmers that felt that a joint resistance would be able to stop the plans for the OVW (see expectations).

Interpersonal aspects	
Expectations on the behaviour of province	The expectations on the power and perseverance of the province to realise the nature zone, differed amongst the farmers. Farmers who believed that the province would certainly realise the zone, sold their land, while farmers who believed that they might be able to stop the province did not sell their land.
Trust	According to land purchasers, landowners will not sell their land if they do not trust the purchaser of the land. For the farmers trust in the person that did the actual negotiations was more important than trust in the province as a public body. Trust in the land acquirer was rather a precondition for the transaction, than a factor that directly influenced the farmers' decisions.
Group dynamics	Although most farmers eventually decided to protect their own interest, some cooperated in fighting the OVW. They supported each other and sometimes thought of others in the area as betrayers. This group dynamic strengthened their choice not to sell. Group dynamics
Relation between buyer and seller	Transactions between governments mutually had significantly lower prices than transactions between the government and farmers.
Institutions	
Provincial Ordinance	The provincial ordinance made it impossible to expand or innovate a farm within the plan area. This made it unattractive to stay in the area and helped some farmers decide to sell their land.
Compulsory Purchase	The treat of compulsory purchase made some farmers decide to sell their land, even when they were not voluntarily willing to do so and felt the transaction as unjust. Moreover, famers received a higher price than the agrarian land value, which made it more attractive to sell.
Development of Tenure prices	The yearly increase of tenure prices, made the opportunity to transfer from tenured land into owner land, attractive to farmers.
Continued use (and other additional selling agreements)	The province offered continued use of the land under the planned nature zone, as long as the nature development did not start. This made the offers more attractive to most farmers and helped them to decide to sell.
Plans and the planning process	The changes in the plans for the OVW, and the instruments the province used to implement the plan caused uncertainty on the future of the farmers in the plan area. This made some farmers offer their land for sale to the province, to prevent a period of uncertainty. Due to uncertainties farmers constructed their own expectations on the future (see expectations).

Dealing with Private Property for Public Purposes

Type of property right	Property rights of the farmers in the area differed between tenants, long-lease tenants and owners. This made their interests and situations different. It also influenced the way they were approached by the province and the compensation they could receive (see financial situation).
Family 'rules'	Within families, people constructed their own unwritten rules on making important decisions in life. These 'rules' differed per family. For example, some parents said to take into account their children's opinion, while in other families the farmer decided mostly by himself.
Laws and informal rules on equality	European regulations determine the prices governments may pay private landowners. Simultaneously strongly entrenched ideas on justice and the fact that we have the right to be treated equally as our neighbours influenced the non-selling behaviour of some farmers (see feelings of justice).

4.5 Discussion

Uncertainties were central to understanding the land transactions in the OVW case. The uncertainties that farmers perceived were personal and divergent, as was the way in which farmers rationalized their decisions. Interpersonal, intrapersonal, group dynamics and organisational aspects were all found influential within the uncertain transaction process, but differed from person to person. For example, some farmers were clearly influenced by their social environment or by advisors, while others made their own judgements.

Both buyers and sellers had different ways to deal with the uncertainties of the plan process. They developed their own strategic behaviour taking into account their personal situation and their expectations on uncertainties. This corresponds to the insights of Domingo and Beunen (2012), who state that expectations are created to deal with uncertainties in planning processes. The method that was used to study land transactions, made it difficult to reconstruct how uncertainties led to expectations. To better understand the way expectations and behaviour are constructed during the plan process, future research is needed in which the transactions process is followed longitudinally.

Farmers did not only have uncertainties on the transaction and plan process, but also about the behaviour and strategies of other actors. This is an important difference between the game theoretical starting points and reality. In games players are often aware of each other's potential strategies and interactions, while in reality they are not always aware of each other's strategies and interactions. Game theorists are aware of this difference and attempt to deal with this problem developing games with incomplete, imperfect and asymmetric information (Samsura et al., 2010). The results of this study show, however, that not only the information on strategies and payoff functions may be uncertain, but that also the rules of the game and the relation between the different actors may change during the game. In the case of the OVW, the strategy of the province to use compulsory purchase, for example changed due to interference of the central government during the purchase process. This changing context is continuously re-interpreted by purchasers and landowners and influencing their behaviour and decisions (Van Assche, 2007). Expectations, opportunities, and strategies might thus change during the process.

Neo-institutional economics assumes that people act to maximise utility or self-interest, but are limited in this behaviour by uncertainties, bounded rationality and institutions (i.e. Hodgson, 2000; Needham et al., 2011; North, 2005; Sorensen, 2010; Triantafyllopoulos, 2008; Van der Krabben and Buitelaar, 2011). The question remains what 'maximum utility' is. If maximum utility can be everything, the theory becomes tautological. The majority (two third) of the farmers decided to negotiate on the sale of their land, which can be explained as an attempt to maximise their own interest. The deals they negotiated were however not always steered by economic maximisation, but also by other aspects such as the desire to stay in

the region, the wish to have the guarantee that no other farmer could farm on their land, or the desire to have certainty on the future. This leads to three basic problems with the notion of maximum utility. First, maximum utility is often not (only) economic and is thus more than a combination of money, goods and services. People behave to make best out of a situation for themselves, within the given context and limitations. Searching for maximum utility is searching for an optimal solution within a given situation. This solution is not objectively measurable and different for each person. Although 'rational' factors (i.e. price or the financial situation of the farmer) can be of influence of someone's optimal solution, it always remains a construct of this specific person. Not the price or selling conditions themselves are of direct influence to the development of a transaction, but the derivate (personal) value of these conditions to the buyer and seller. The optimal solution is thus shaped by a personal belief that is in return influenced by many interrelated factors. This can cause people to behave completely 'irrational' from an outsider's perspective. Many economists seem to forget this when developing land models. Second, the influence of uncertainty is underestimated in economic models and theories, while in reality these are central to the behaviour people show. Uncertainties will always be present in our daily environment and therefore also during land transactions. Planning processes cause these uncertainties to rise. Due to the variety and complexity of interest and therewith the lengthy timeframe of plan processes, uncertainties are central to planners, politicians and landowners (Domingo and Beunen, 2012; Friend and Hickling, 2005). People find it hard to deal with these uncertainties and therefore often try to create their own certainties, such as trust. In the OVW, farmers translated uncertainties in different expectations on the plan. This, moreover, influenced their different types of behaviour (selling and not selling). Third, someone's optimal solution may change during the transaction, due to changing circumstances, renewed insights, or changed expectations. Even if we know someone's 'optimal solution', this solution is not static may change during the process. The notion of maximum utility should therefore be changed to fit better to the reality of human behaviour.

4.6 Conclusion

Land transactions were described as shifts in property rights that are constituted in interactions (negotiations) between a buyer and seller. Institutions, interpersonal and intrapersonal aspects were all found influential to the strategies landowners and land purchasers applied. These factors are currently not all taken into account in traditional economic models (Ligtenberg et al., 2001; Newburn et al., 2005).

This study shows that many of these aspects are interrelated, and that their effects on land transactions can only be assessed in relation to each other. For analytical purposes we have categorized them into institutions, intrapersonal, and interpersonal aspects. The relative importance of these aspects can change during the process. Group dynamics were, for example, strongly present in the beginning of the process, but soon dwindled during the process. Some of the

aspects were strongly context dependent. These aspects may thus differ in a different setting, although other aspects are expected to be generally influential.

We have described the aspects (table 4) without claiming to be exhaustive. Woestenburg and Van Der Krabben (2013) focussing more particular on institutions, for example describe several additional institutions that influence transaction prices in the Netherlands. There is thus a complexity of aspects that influence landowner behaviour and land prices.

The influence of feelings of satisfaction and feelings of justice, cannot be found in neo-institutional economic theory. One group of farmers felt unjust about the compensation they could get to move for the OVW. Although they knew that not negotiating could lead to expropriation and as a result having no guarantee on compensation land, they felt so much harmed in justice that they still decided not to sell.

Farmers translated uncertainties into expectations. These expectations led to beliefs that influenced the decisions farmers made in the acquisition process. The interviewed land purchasers described trust as essential for the successful construction of land transactions. Landowners, however did not spontaneously mention the importance of trust and rather described it as a precondition for the transaction, than a factor that influenced their decision.

The land transactions that were studied were initiated by the province to realise the OVW. Although the planning process existed of many studies to find the best location for the nature zone, the results of these studies did not determine the location of the zone. Instead, the decision on the location of the zone was a political choice, influenced by lobbying. Human interactions were critical for the understanding of the OVW plan and transaction process. The importance of these interactions for the successful realisation of plans is sometimes forgotten by planners. Land purchasers are aware of the importance of these interactions, but planners do not always realise that their policy documents and 'pen lines' are the starting point of these interactions with landowners. Yet, land transactions can be crucial for the successful implementation of land use changes.

Intermezzo: the Dutch debate about land readjustment

The first two chapters dealt with land transactions in the context of rural areas. The coming chapter will present an analysis of public land policy for residential renewal in two Dutch cases of residential renewal. Urban renewal practises in the Netherlands have changed in several respects in the last years. At least three developments have caused the context for urban renewal to change. First, the financial means for urban renewal have been decreased. Until the crisis in 2008, profits from greenfield development were used to invest in urban areas. However, these profits have changed into losses. Moreover, since the beginning of 2015, governmental subsidies for urban renewal have been ended (Heijkers et al., 2012). Second, the number of owner-occupied residences have increased dramatically from about 30% in the 1950s to about 60% today. Third, the major and most complex planning tasks are no longer in greenfield areas, but in urban areas (Van der Krabben and Needham, 2008). Current tasks in urban areas include the improvement of the energy efficiency of the housing stock, and the development of the housing stock to the obsolescent population. There are thus increasing tasks in urban areas, an increasing chance that these tasks will be located in areas with owner occupiers, and less money with which to execute these tasks.

The existing municipal land policy strategies of either acquiring property (too expensive) or leaving all responsibility to owner-occupiers themselves (too complex) are not always applicable in this context (Van der Krabben and Needham, 2008). As a result, a new instrument for urban land policy has been debated: land readjustment. Municipalities and developers want to be able to share financial risks and to develop in complex property situations, without having to purchase all of the land. Moreover, they want to be able to facilitate rather than to initiate urban developments actively (De Zeeuw, 2013).

During land readjustment, the original landowners form the basis of the renewal process. Several countries including Germany, Spain (Muñoz-Gielen, 2014), Japan, Korea and Turkey (Turk and Korthals Altes, 2010) have their own conception of a legal instrument for land readjustment (Larsson, 1997). Common characteristics of these conceptions are the share of costs and benefits amongst all landowners and the absence of acquisition costs (Turk and Korthals Altes, 2010). Generally, the process consists of the transfer of all ownership rights to one party (this can for example be the municipality or an association of all owners together), the redistribution of the parcels and ownership rights, and the return of equivalent new rights to the original landowners (Turk and Korthals Altes, 2010).

Land readjustment has been described by various scholars as a successful method for initiating urban developments and increasing community involvement (Muñoz-Gielen, 2014; Needham and Krabben; Turk and Korthals Altes, 2010; Van der Krabben and Needham, 2009). Land readjustment is expected to lead to more

democracy due to the involvement of local landowners in the process (Yau, 2012). The instrument enables risks to be shared amongst all parties, rather than leaving the risk to the government alone (Van der Putten et. al, 2004; Bregman and De Wolff, 2011).

The basic principle behind the type of land readjustment that is debated in the Netherlands is that landowners should be able to exchange property rights in order to make urban development possible (Commissie Stedelijke Hervestering, 2004a). The Dutch minister for infrastructure and the environment decided at the beginning of 2015 that a new law for voluntary land readjustment should be created. The new law is planned to be ready in 2018. Some experts state that land readjustment can also be used without legislation, using compulsory purchase instead (Commissie Stedelijke Hervestering, 2004b). Indeed a form of land readjustment is already being used in public-private partnerships for new greenfield developments. As long as there is a financial profit of these development to share and the landowners can agree how to share this profit, voluntary land readjustment can be used successfully to develop an area with multiple owners cooperatively. This is different in the situation of urban renewal, when financial results are sometimes small, but mostly negative. This brings up a number of questions. How can these urban areas be redeveloped under the current circumstances? How do municipalities deal with urban renewal in areas with private property tasks? Do municipalities expect that a legal instrument of land readjustment will help them with these tasks in the future? Could land readjustment help municipalities to conduct urban renewal in areas with complex property, and if so how?

To reflect upon these questions, two cases in Deventer and Den Bosch are studied and presented in the following chapter. Land readjustment is not applied in either of them, but both cases are examples of urban renewal in areas with private owner-occupiers. The chapter deals with critical aspects for understanding the strategies that municipalities (can) use to deal with private property. The strategies for urban renewal in Deventer and Den Bosch were conducted within the current institutional frame of land policy in the Netherlands. Within this institutional frame, land readjustment is not (yet) possible.

Critical aspects for understanding urban renewal in owner-occupied areas



Abstract

The importance of owner-occupiers within urban renewal has increased due to increasing urban renewal tasks, decreased budgets for these tasks, and the increased share of owner-occupied dwellings. The dominant approach to deal with owner-occupiers during urban renewal has been replacement. The changed context gives rise to explore the potential of alternative approaches towards urban renewal in areas with owner-occupiers. This study aims to identify critical aspects for understanding urban renewal approaches in owner-occupied areas. To do this, we explored two approaches to deal with owner-occupiers during urban renewal. We used an analytical framework in which we unravel and compare the approaches based on four central questions: where to conduct urban renewal; which instruments to use; how to act towards owner-occupiers; and who wins and who loses. The study showed that critical aspects for understanding urban renewal approaches were 1) flexibility to develop and adapt the approach during the renewal process itself, based on the local context and interests of residents, 2) active empowerment of owner-occupiers, 3) insight in the interests of the involved owner-occupiers during the process, 4) relationship of confidence between the municipality and the owner-occupiers.

This chapter is under review in International Planning Studies as: Holtslag-Broekhof, S. M., Beunen, R., van Marwijk, R., & Wiskerke, J. S. C. Critical aspects for understanding urban renewal in owner-occupied areas.

5.1 Introduction

In most European countries, owner-occupiers are increasingly important during urban renewal due to the increasing share of homeownership in the last decades (Priemus, 2013). Owner-occupiers are often held responsible for the maintenance and refurbishment of their properties (Chen and Webster, 2005; Yau, 2010). However, the dependency of joint action of a group of individual owners can lead to difficulties when coherent renovation or renewal is necessary in areas with multiple owners (Yau, 2012; Yau, 2013). This is most obvious in apartments with multiple owners, which has led to debates in several countries on the necessity of the unanimous agreement of all apartment owners to redevelop the apartment building (Easthope, Hudson, and Randolph, 2013; Puustinen and Lysnar, 2014). Gonçalves Lanzinha (2006) found that in Portugal the lack of financial reserve of apartment associations is an important reason that the maintenance and refurbishing of apartment buildings is difficult. Apart from this study, to the authors' knowledge, the topic of owner-occupied apartment renewal has scarcely been studied. Moreover, little attention has been given to the diverse roles that governments can have and approaches they can use when dealing with owner-occupiers. Researchers who have studied private owner-occupiers often focus on the impact of replacement processes. Several studies showed that imposed replacement of residents can be harmful and should therefore be prevented when possible (Rosenfeld, 2013). In this chapter, this gap is addressed. The study aims to identify critical aspects for understanding urban renewal approaches in owner-occupied areas. To identify these aspects, two approaches towards apartment renewal in the context of Dutch urban renewal were studied. This was done by analysing two case of urban renewal in a comparative analysis of how approaches towards owner-occupiers were shaped during the renewal process, and how these approaches affected the renewal process. The combination of renewal tasks in areas with significant shares of owner-occupiers and the lack of financial resources and political willingness to purchase owner-occupiers, makes Dutch municipalities explore new ways to deal with private owner-occupiers during urban renewal. This is an interesting dynamic to research urban renewal in owner-occupied areas. The Netherlands was chosen as context for these case studies as it is widely seen as a successful example of the combination of land development and spatial planning (Van Rij and Korthals Altes, 2010). Moreover, urban renewal has been actively conducted by municipalities in de past decades. Although the urban renewal practises were studied in the context of the Netherlands, the results of this study can be of interest to planners in various countries that are dealing with the issues of owner-occupiers (and in particular apartment owners) in renewal tasks.

This chapter starts with an analytical framework that was used to guide the comparative analysis of the two cases. Then, the methods are described. In paragraph 5.4, the context of Dutch urban renewal is provided. The results from the two cases and a comparative analysis of the cases are presented in paragraph 5.5. In the last paragraph, results are discussed and conclusions are drawn.

5.2 Understanding renewal approaches

Urban renewal can refer to a variety of interventions concerning housing, public space, public facilities, social issues and fiscal measures. Urban renewal approaches have developed in the last decades from only physical urban renewal into a combination of social, economic and physical measures to improve the liveability in deprived areas (Andersen and Van Kempen, 2003; Carmon, 1999; Haran et al., 2011). The terms that are used to conceptualise developments in urban areas are almost as broad as the measures that they refer to and include urban regeneration, revitalisation, redevelopment, renewal and restructuring. In this chapter, we focus on physical urban renewal measures when we mention urban renewal. Especially in the context of physical renewal, there is a relevant difference between the positions of owner-occupiers compared to the position of tenants. Physical urban renewal is defined as the variety of activities that aim to renew or rehabilitate existing urban areas in such a manner that they affect existing buildings in the area. Physical urban renewal is often associated with land assembly, demolition of property, and relocation of the existing residents (Louw, 2008). However, there are also possibilities of renovation and refurbishment of existing buildings.

In the analysis we focus on how municipalities approach owner-occupiers during urban renewal. We perceive this as a set of decisions that is made over time. This set is likely influenced through time by the relationship between actors and actors' behaviour. A local governments' approach towards owner-occupiers is conceptualised as the set of political decisions that governments make concerning land and real estate during urban renewal. Just like any other policy problem, urban renewal requires the municipality to make choices between alternative courses of action (Jordan et al., 2010). These decisions concern different, but interrelated aspects such as: what is the problem that should be addressed, at which level of scale to act, when to act, who wins and who loses, and how can policy results be delivered? For this study we focus on four of these choice dimensions: where to conduct urban renewal; which methods and instruments to use to deal with owner-occupied property; how to act towards owners-occupiers; and who wins and who loses in the renewal process (Figure 5.1). These four choice dimensions are most relevant to distinguish the approach that a public body uses towards owner-occupiers.

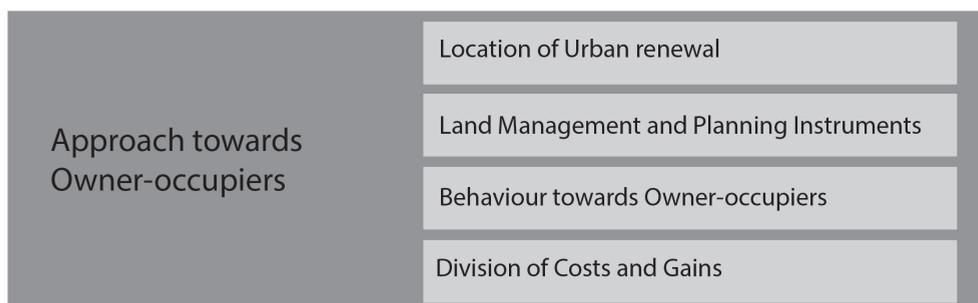


Figure 5.1 Choice dimensions of an urban renewal approach.

The first decision municipalities have to make is where to conduct urban renewal. The geographical boundaries of the project determine the location and can be adapted during the process. This decision determines who are involved in the renewal and who aren't. The ownership structure of a neighbourhood can influence the municipalities' decision to actively initiate renewal or to leave renewal to the owners' own responsibility. The more fundamental question could be: What makes a municipality initiative to starting a renewal process? The exact criteria for starting urban renewal are not always explicit and are often strongly influenced by politics.

The second decision concerns the instruments that will be used to deal with the property situation. To realise urban renewal, diverse instruments can be used by governments to match the ownership situation to the desired development, or to recover the costs of public works with private owners (Van der Krabben and Jacobs, 2013). Public bodies can use two strategies to initiate urban renewal actively. One option for public bodies is to assemble properties and sell these to private developers that subsequently supply and develop the land (public planning-led quasi market development). The other option is to supply the acquired parcels into buildable plots themselves and subsequently sell them to private developers (public comprehensive top-down development) (Van Der Krabben and Jacobs, 2013). Both options involve public land assembly. Land assembly is often assumed as an inevitable part of urban renewal in areas with many different owners (Blokhuys et al., 2012; Louw, 2008). Several authors describe land assembly as the biggest obstacle towards urban renewal (Nelson and Lang, 2007; Shoup, 2008). In practice most problems during land assembly relate to the high costs of land assembly and its social and political acceptance. As a result, compulsory purchase is seldom used for urban renewal in Denmark, Sweden, Italy, France, UK, Flanders or the Netherlands (Muñoz-Gielen, 2014). Municipalities may use different instruments for various situations based on the political willingness to actively interfere and the amount of resources and time that is available for the plan implementation.

The decision how to approach private owners is strongly related to the type of instruments municipalities decide to use. Also, the municipality's view on the relationship between public and private actors will influence their approach towards private owners. Literature on the public behaviour towards residence often use the concept of participation. The meanings of participation can be diverse. Several authors have attempted to provide typologies for different types of participation that can be used to categorise the type of participation that occurred (Arnstein, 1969; Rowe and Frewer, 2000; Tippet, Handley, and Ravetz, 2007). The typologies are not meant to rank participatory approaches in comparison with each other. Different types of participation are suitable in different situations and can all be valuable in certain contexts (Reed, 2008). In this study we follow Rowe and Frewer (2000) and distinguish between communication, consultation and participation. Communication involves informing passive

owners about the plan. Consultation involves gathering information from owners that can be used in the plan. Participation involves both informing the owners and gathering information from them in an active dialogue or negotiation.

The final decision as to who wins and who loses is the inevitable balance that municipalities aim to achieve between the interests of the actors involved. Municipalities have to decide what kind of costs and benefits will be taken into account during the urban renewal process, how to divide these costs and benefits over the actors involved, and whether those actors who lose will be compensated (and how). Dutch municipalities, for example have a legal instrument ('grondexploitatiewet') to impose the share of public development costs on private developers (Janssen-Jansen et al., 2010). Decisions on who wins and who loses are related to equity, fairness and the legitimacy of the renewal process. A better result of one aspect of the process and for one group of actors, often implicates a lesser result for another aspect and other group of actors. This requires dealing with different interests in order to keep all parties involved. Some costs and benefits can be measured in financial units, while benefits such as a better liveability or costs like noise nuisance are difficult to measure. Although there have been various attempts to quantify these qualitative aspects of planning, we do not attempt to do this here. Rather, we use the perceived balance of costs and gains that is communicated by the different interviewees as a source for this aspect of the municipalities' renewal approach.

The approaches that actors develop and deploy, depend on the context in which these are to be used. Approaches and the decisions that form them are therefore not static, they will be adapted during the renewal process. For understanding the choice for certain approaches, attention must also be paid to the underlying assumptions about these approaches. In the context of this study, this implies paying attention to the way in which professionals understand the changing context of urban renewal and how this is reflected in the approaches used by municipalities.

5.3 Methods and methodology

Firstly, we explored the approaches that municipalities used for urban renewal in general and more specific in owner-occupied areas, using expert interviews and municipal policy documents. These helped to gain a general understanding of Dutch urban renewal practise.

Secondly, we carried out two cases studies, to gain a better insight into the practical realities of urban renewal, and the way in which strategies for dealing with owner-occupiers work out in practice. Residential renewal projects with apartment buildings in which a significant part of the apartments were owned by owner-occupiers were selected for this study. We chose for apartment owner-occupiers because apartments are good examples of a situation in which cooperation between owners is necessary to achieve coherent renewal. The cases were selected from a list with the 56 most underdeveloped neighbourhoods that was compound in

2003 by the minister. We selected the cases in which the municipality had plans that would have physical impact in one or more apartment buildings, with private apartment owners. This resulted in two qualified cases in comparable cities: Van Coehoornplein ('s-Hertogenbosch) and Deltabuurt (Deventer). Table 5.1 provides general characteristics of both cases. Both cases were analysed using a triangulation of different methods and information sources. For each of the cases, the data sources included interviews with owners and planning professionals, planning documents, newspaper articles, and several project websites. Moreover, in the case of the Deltabuurt, a meeting with residents and two planning professionals was attended in the role of observant. The municipalities that provided the context for the cases and the apartments were selected to be comparable in size and type. However, the approaches used in the cases made the cases strongly contrasting. This enabled a comparative analysis of the both approaches. All data was coded and analysed using the analytical frame (figure 5.1). Also, a chronological reconstruction of planning events helped to understand how perceptions, visions and plans changed over time.

Table 5.1 General information studied cases. (Sources Kadaster, BAG, CBS, Funda)

	Van Coehoornplein	Deltabuurt
Land Use	2 apartment buildings, small retail	36 apartment buildings
Reason for renewal	Decline and degradation	Decline and degradation
Start planning process	2000	2005
Ownership structure	54 units owned by owner-occupiers, 23 shops, half owned by retailers and half owned by real estate contractors	750 individual units, half owned by owner-occupiers, half owned by private sub-renters.
M2 of apartments	52-78 m2	70-80 m2
Age of the building	Build between 1955 and 1965	Build between 1960 and 1963
Average selling price per apartment unit	135.000 Euro	100.000 Euro
Level of Planning Ambition	High at the start, later reduced	Low at the beginning, later higher
Municipality (population)	's-Hertogenbosch (ca. 150.000)	Deventer (ca. 100.000)
Income distribution neighbourhood	Low 42-46% High 10-15%	Low > 50% High < 10%
Age distribution neighbourhood	1-24 27% 1-64 64% 65+ 10%	1-25 40% 1-65 52% 65+ 8%
Number of inhabitants / neighbourhood	3045 (entire neighbourhood)	2550

5.4 Context: Dutch urban renewal practice

5.4.1 General context of Dutch urban renewal

In the Netherlands, municipalities and housing associations are the main initiators of urban renewal. Municipalities develop and enforce the zoning plan ('bestemmingsplan') and are responsible for allocating building permits. Housing associations play an important role in the history of urban development. Unlike in most European countries, there still is a high percentage of social housing, the figure being 37% in 2010 (Priemus, 2010). Housing associations are not directly steered or controlled by governmental organisations, but do act within a framework of legislations, regulations and governmental policies (Boelhouwer, 2007). Apart from active acquisition, municipalities use stimulation measures such as subsidies or tax-based legislation to encourage private owners to invest in their property. Also, municipalities can use legislation from the Housing Act ('Woningwet') to enforce owners to maintain their property at an acceptable level. Most urban renewal takes place in neighbourhoods with social tenants that rent from a housing association (CBS, 2010). In areas with many different private owners, urban development is carried out either with high acquisition costs, or not at all (Buitelaar, Segeren, and Kronberger, 2008). Within these situations, urban renewal often has a financially negative balance (Van der Meulen et al., 2013) and is therefore unattractive for private investors.

In 2014, 35.1 percent of all Dutch dwellings were classified as apartment (including apartments). More than 36 percent of this group (957.708 apartments) was built before 1966. In 1951, the condominium right was established. A condominium right is a legal form of ownership that is used in apartment buildings that are owned by different individual owners. The owners have ownership of an individual apartment unit and shared ownership of the common parts of the building such as the garden and the common entrance. In the Netherlands, the membership of a homeowner association is obligatory for owners of a condominium right. As a rule, there is one association per apartment building, or per cluster of buildings. Members of the association (all apartment owners) pay a certain monthly or yearly fee that can be used for the maintenance and management of common spaces. The homeowner association is an organisational unit that is responsible for the common maintenance and management of the building, but can never make decisions about physical changes or sale of the (common) property of the building. Not all homeowner associations are active in maintenance. A study from 2002 showed that the smaller the association, the older the building, the shorter the average length of residence, and the lower the owners incomes, the less active a homeowner association is expected to be (Bonnerman et al., 2002).

5.4.2 Topicality of Dutch urban renewal

On May 21st 2015, the Association of Dutch Municipalities (VNG), the G32, and the G4 sent a letter to the House of Representatives in which they ask for a hearing

on the future of urban renewal. In this letter they denounce their concern about the lack of financial means for physical urban renewal, despite the various tasks in the urban environment. The municipalities write that they are by constitution responsible to take care of liveability and safety. Therefore, they feel obliged to invest in the build environment when liveability or safety is under pressure, despite their lack of financial means.

Simultaneously, the necessity for a new act that enables land readjustment has been put forward by various Dutch municipalities, property developers, housing associations, Cadastre, and several land policy experts. On November 25th 2015, the Dutch minister Schultz Van Haegen-Maas Geesteranus declared to implement a new act for land readjustment before 2018 (Schultz Van Haegen, 2015). The design of the text of the law has now started.

The letter in which municipalities demand a hearing on the future of urban renewal and the demand for a new act for land readjustment are illustrative for the struggle Dutch municipalities currently have during urban renewal. In the last years, two major developments have caused the role of municipalities in urban renewal and the context of urban renewal itself to change:

1. The economic crisis that started in 2008. Since the economic crisis, the development of new houses in the Netherlands has stagnated and vacancy in offices, shops and houses has increased. Moreover, the financially risky aspects of the Dutch method of active public land development became visible again. The active acquisition of land with borrowed money, anticipating a profitable increase in value in the future, has caused serious losses for municipalities during the economic crisis (Van der Krabben et al., 2013). In turn, this has sparked a debate on the suitability of the active method of developing public land (both inner-urban and urban expansions).
2. Changing planning regulation and budgets. In 2008, the national government has decentralized urban development and renewal tasks to local governments (municipalities). In 2011, the 'ladder for sustainable urban development' (ladder voor duurzame verstedelijking) is established that requires municipalities to check every urban development to the criteria of 1) regional demand 2) possibility of inner-urban implementation 3) multi-modal accessibility with new urban developments in rural areas. In 2015, the yearly budget (Investeringsbudget Stedelijke Vernieuwing, ISV) that municipalities received from the national government to execute urban renewal tasks has stopped.

Given this context in which municipalities have few financial means, urban renewal becomes increasingly important, and the dominant discourse to empower residents to start renewal initiatives themselves, municipalities are exploring new ways to conduct urban renewal tasks.



Figure 5.2 Map of the Netherlands with the two case study cities indicated.

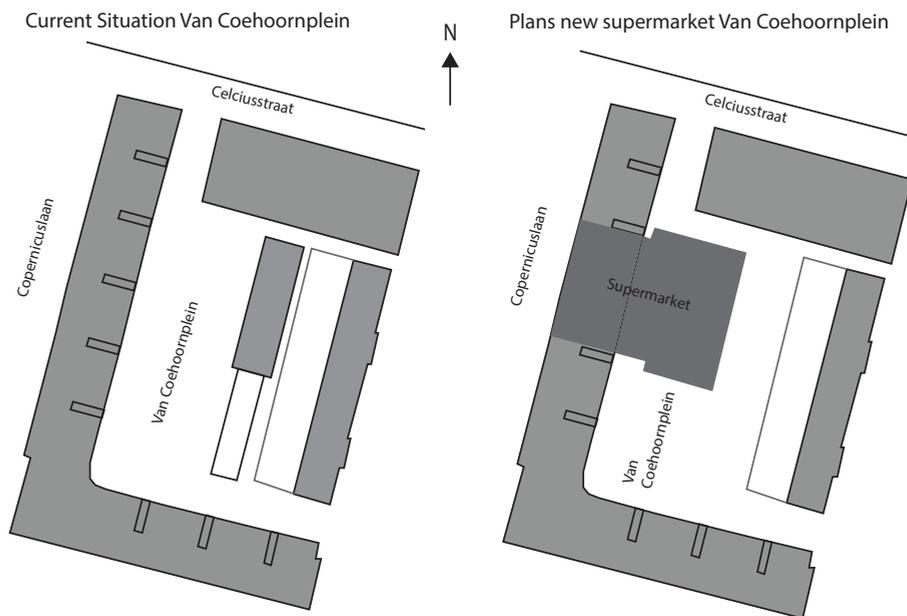


Figure 5.3 Map of the current situation of Van Coehoornplein (left) and the design for the small supermarket at the Van Coehoornplein (right). The map on the right indicates the area that is planned to become the new supermarket in the checked area. To realise this part of the apartment building will have to be redeveloped and the privately owned garage boxes have to be demolished.

5.5 Comparing two strategies towards owner occupiers

The following section provides the results of a comparative analysis of the two selected cases of urban renewal. The cases are located in two Dutch towns that belong to the medium sized cities in the Netherlands. For each of the cases we present the starting situation of the neighbourhood, the planning process, and the results at the moment of analysis (5.5.1 and 5.5.2). In paragraph 5.5.3, we use the analytical frame to compare and explain the processes and results of the two urban renewal processes.

5.5.1 Van Coehoornplein

Van Coehoornplein is located in the city of 's-Hertogenbosch. The neighbourhood in which the Van Coehoornplein is located has approximately 3000 inhabitants, several tens of shops and some manufacturing industry. The neighbourhood was built in the 1950s close to the central station of the city. The municipality and two housing associations own the majority of the land and buildings in the neighbourhood. In the 1980s and 1990s the area declined because of overcrowding, drug dealing and degradation of the buildings. As a result, the municipality decided that the neighbourhood needed to be redeveloped at the beginning of this century. The municipality and two housing associations in the area cooperated to redevelop and renovate the association buildings. The majority of the 200 private dwellings in the neighbourhood were deliberately left out of the renewal process, because of the high cost of urban land acquisition. Moreover, the municipality takes the view that private homeowners were responsible for the maintenance of their homes.

The research focussed on a central part in the neighbourhood around the 'Van Coehoornplein'. This area consists of two apartment buildings with various privately owned shops on the ground floor and 54 privately owned apartments on top. The shops include a Turkish supermarket, cafe, pizza restaurant, shoes shop, flower shop, fitness shop, several phone shops, and hair dressers. We refer to the area as 'Van Coehoornplein' although the actual area also includes several other streets as well (see figure 5.3, left image for the current situation). Van Coehoornplein is an exception on the municipality's policy not to renew in privately owned buildings.

Four groups of actors were involved in the urban renewal process. The municipality was the initiator of the project. The municipality wished to improve the liveability and safety of the Van Coehoornplein and to transform the area into an attractive shopping centre for the neighbourhood. A second actor was the group of retailers, located in the shopping centre of the Van Coehoornplein. Some retailers expected to increase their sales with a new supermarket. Others were negative about the interference of the municipality and feared to lose customers because of the new supermarket. The third actor was the future owner of the new supermarket that was planned in the area. Fourth, were the 54 apartment owners, living in the apartments above the shops. The apartment owners were grouped in seven homeowner associations. The homeowner associations had different levels of organisation. Some had a fairly good level of maintenance and financial reserve,

while other homeowner associations had not saved to conduct the necessary maintenance tasks in their building.

The municipality and many residents of the neighbourhood considered the shopping centre as one of the main problematic areas. Drug dealing and other criminal offences were concentrated around the shopping centre. The high level of political willingness to renew this area, enabled the municipal decision to start buying shops and to take an active role in the renewal of this area.

In the first years of the renewal, apartment owners were occasionally informed on the progress of the plans by letters from the municipality. Residents of the entire neighbourhood became increasingly negative about the plans, due to the high number of buildings that was planned to be demolished. In 2005, the municipality therefore decided to stop the existing renewal plans and to start with a new plan in which the residents of the neighbourhood were more involved. However, for the Van Coehoornplein, the plan to realise a new supermarket at the ground floor of the apartment buildings remains existing. The municipality decided that there were only limited options for the realisation of the supermarket at the Van Coehoornplein. According to the municipality, this made a participatory approach amongst the residents of Van Coehoornplein unsuitable. The necessary and complex cooperation with the seven homeowner associations, led to the decision to hire a consultancy company to readjust the seven homeowner associations into one or two associations. The negotiations on the merge of the different homeowner associations did, however, not succeed. According to the apartment owners, the failure of the merge of homeowner associations was related to several clauses in the last version of the new deed that were not in the interest of the apartment owners. These clauses were, according to several homeowners, changed last minute without informing them about the changes. This made several owners refuse to sign for the new deed of ownership. In 2013, the municipality decided to reduce the plans for the supermarket and to locate it under only one of the apartment buildings. Herewith, the number of homeowner associations within the plan area was reduced from seven to two. Table 5.2 provides an extensive chronological timeline of the main events of the renewal process in the Van Coehoornplein.

What was achieved?

At the moment of writing, the renewal process in the Van Coehoornplein is still ongoing (see chronological timeline). At this moment, 15 years of trial and error led to the painting of the facade of the buildings and renewed illumination. Security cameras and extra illumination have led to the decrease of criminal activities around the area. In front of the buildings, the square was renewed (pavement, public benches, new design of parking space). Negotiations with apartment owners above the location of the new supermarket are ongoing. The municipality wants to start the implementation of the plans for the new supermarket as soon as these negotiations are successfully resolved.

Table 5.2 Chronological timeline Van Coehoornplein area

1990	Various visions, plans and ideas for renewal of Boschveld, including Van Coehoornplein area.
2000	Start of renewal Boschveld. Municipality hires architect to make a new design for Boschveld. Political decision to improve the shops at the Van Coehoornplein area and start buying shops under the apartment buildings of the Van Coehoornplein.
2001	Informal presentation for residents of ideas Boschveld by Bhalotra. In the plans of Bhalotra the buildings of Van Coehoornplein are demolished. Several residents start to worry.
2002	Four inhabitants of Van Coehoornplein start a committee of residents, after they have heard rumours on the demolition of their buildings. Together they design plan 'Wyckel' a plan in which the buildings at the Van Coehoornplein will be rehabilitated instead of demolished. Establishment association of residents Boschveld OBB.
2003	Master plan Boschveld by Bhalotra finished official presentation of Master plan. Presentation of alternative Plan Wyckel at a council committee by the committee of residents.
2004	Municipality buys first depository at Van Coehoornplein Committee of residents demands a subsidy of 250.000 to hire professional planners and designers to implement their Plan Wyckel. The subsidy is denied. Critical VPRO documentary (national television) on the plans to demolish Boschveld.
2005	Public hearing in which residents can reflect on their participation in the plans for Boschveld. All residents name that they feel not heard. The chairman of the retail association in Van Coehoornplein does feel that the municipality listens to his input. Decision to stop the Master plan of Bhalotra for Boschveld by the alderman of 's-Hertogenbosch. The plans for demolition and renewal of the neighbourhood will continue, but will be planned in smaller phased projects. Politicians of the municipality expect that the public support will increase by this change of plan implementation. August- October: Pilot cameras at Van Coehoornplein. Political opposition presents an alternative plan for the Van Coehoornplein area in the city council. This plan includes a 75 meters high building (20 floors) with 250 regular apartments, 84 care apartments, a supermarket and a school. The plan would be about 5 million euro cheaper than the current plan.
2006	Design competition for the Van Coehoornplein, 3 bureaus invited to send in a design.
2007	Municipal effort to check shops in the Van Coehoornplein area for criminal activities, due to severe suspicion around the activities of especially phone shops and hair dressers. Start effort to merge the 7 homeowner associations by a hired consultancy company.

2008	Placement of security cameras and extra illumination in the shopping area Municipality buys two shops.
2009	New plan 'Boschveld Beweegt' for the neighbourhood finished, including design for new supermarket (1600 m2) under Van Coehoornplein. The design covers almost the entire parking square of the apartment buildings of Van Coehoornplein and includes a parking deck at the first floor, for which several of the balconies of residents at the first floor should be adapted or reduced. Municipality buys five shops. Investment of 150.000 by the municipality to paint the façade and improve the illumination of the apartment buildings.
2010	Municipality votes for the implementation of the earlier presented plan 'Boschveld Beweegt', including the supermarket of 1600 m2 under the Van Coehoornplein.
2011	Municipality buys 3 depositories and one shop.
2012	Cost reduction at the Municipality and end of term of architect J. van der Ven Buildings Van Coehoornplein declared as monument.
2013	Municipality buys depository. Municipal decision to adapt the design for Van Coehoornplein to a smaller supermarket (ca 800 m2), located under one of the two apartment buildings. The parking deck at the first floor is removed from the design. However, the entrances of the apartments of this part of the building have to be adapted, therefore the agreement of all owner-occupiers is necessary. The municipality is still looking for a solution for parking space in the area. Negotiations with owner-occupiers to adapt the entrances of their apartment buildings.
2015	Information gathering for residents in which plans for the new square for the shops are explained by the municipal designer. The plan has been proposed to the association of retailers and will be adapted based on this consultation. Vegetation, benches and pavement are renewed and available parking is increased.

5.5.2 Deltabuurt

Deltabuurt is part of a neighbourhood that was listed in 2002 as one of the 40 most underdeveloped neighbourhoods in the Netherlands. As a result, the municipality received governmental support for the renewal of the neighbourhood. The Deltabuurt exists of 37 privately owned apartment buildings (containing about 750 apartment units) that are inhabited by each renters, sub-renters, and owner-occupiers. Two apartment buildings are completely owned by a local housing association, and two buildings are completely owned by one private owner. The remaining 33 buildings have mixed ownership. Two of the 37 buildings are part of the central shopping square with supermarket in the neighbourhood. The inhabitants of the neighbourhood are of 83 different nationalities. Both the apartment buildings and the public space in the neighbourhood suffered from difficulties associated with overdue maintenance.

In Deventer, the lack of budget for acquisition, made it impossible to acquire the 37 apartment buildings of the Deltabuurt. As a result, the Deltabuurt long stayed out of the renewal plans in the neighbourhood. However, the municipality and housing association realised that the revitalisation of the Deltabuurt was an important part of the renewal of the neighbourhood. Initially, the housing association purchased several apartment units in the neighbourhood. Financial problems of the housing association returned the planning lead to the municipality. The municipality chose to follow a different approach and hired a professional to compose an attractive toolbox for apartment renewal by homeowner associations themselves. This toolbox existed of:

- An attractive loan (1% interest) for the homeowners' association to invest in their buildings
- An energy label report for each apartment building
- A planning for the maintenance of the buildings (2010-2025)
- Information about possible subsidies (although these were limited to 2000 euro per apartment building)
- A description of the necessary technical improvements in the buildings and an estimation of their costs

The toolbox was made available for each homeowner association in the neighbourhood. Two blocks of apartments reacted quickly, and decided to take the loan for technical improvements in their apartment building. For the remaining apartment buildings, a more active approach was necessary. Several apartment owners reacted based on the example of the first apartment buildings or the promotion made for the loan. However, most apartment owners still did not apply to the loan to invest in their apartments. The municipality therefore decided to hire a social worker, to actively stimulate the owners and inhabitants to invest in their apartment buildings. Two external professionals were hired to communicate with the apartment owners and inhabitants. They developed 'Delta deals': informal agreements between the municipality, owners and inhabitants of each apartment building (figure 5.4). In these deals it was agreed that the owner would invest in



Figure 5.4 Map of the Deltabuurt with the different apartment buildings in red (no deal), orange (working on the deal) and green (deal) after almost 2 years of using the Deltadeals (2013).

the maintenance of the apartment building, while the inhabitants would keep the apartment building neat. In return, the municipality would give the apartments priority with the renewal of the public space (sewer system, planting, bicycle racks and pavement) surrounding the apartment building. For two apartment buildings at the central square, a separate trajectory was followed in which the apartment and shop owners were involved in a new design for the public square around their buildings. Part of the design was the extension of the local supermarket. The building of the supermarket was separate from the apartment buildings, which made it possible to extend the building without many difficulties. In the following table 5.3, a chronological timeline of the main events of the renewal process in the Deltabuurt is provided.

Table 5.3 Chronological timeline Deltabuurt, including Deltaplein

2005	Start of renewal. Municipality and housing association make appointments on the renewal of the Rivierenwijk. Plans are both social and physical. 500 dwellings will be demolished and 700 dwellings will be rebuilt.
2009	Start to Stimulate Homeowners associations in Deltabuurt
2010	Financial problems for the housing association. Municipality takes over part of the project from the housing association. Consultant hired to develop a 'toolbox' for homeowner associations that would help them with the maintenance of their apartment buildings.
2011	Municipality hires professional to actively accompany the renewal process in Deltabuurt
2011-2012	Delta-deals approach is developed and actively executed by searching for representatives for each porch and guiding the residents and owners towards a common set of rules of conduct
2013	Evaluation of Deltadeals, the findings are positive. However, budget for the last part of renewal still lacks political approval. Participatory assembly for apartment and shop owners of Deltaplein in which they can give their opinion about several design options for the Deltaplein
2014	City council agrees to assign 250.000 extra to finish Deltadeals in the 8 remaining apartment buildings. Start implementation design Deltaplein (July). The implementation process is finished (November)

What was achieved?

In 36 of the 37 apartment buildings, deals have successfully been made between the municipality, owners and residents (figure 5.4 shows the deals that were made after 2 years). Only in one of the apartment buildings, the deal was not achieved. Two buildings were part of a different approach because they were part of the central shopping square. The investments that the homeowner associations have made in their apartment buildings varied from a combination of isolation measures (roof, front walls, double glass windows), to the improvement of balconies and refurbishing of common stairwells. The average investment was about 7000 euro per apartment building. This could be decreased with a provincial subsidy of 2000 euro and sometimes an investment of the financial reserve of the homeowner association.

Around the buildings of which the owners successfully agreed on a deal, the municipality invested in a new design of public space around the apartment buildings, including vegetation, pavement and bicycle racks. The new designs for the public spaces were made in a participatory process in which the residents and owners could point out their wishes for the area around their apartment building. Most apartment buildings improved from energy label F or E to energy label C. Finally, in all buildings with a deal, the residents agreed on certain behavioural norms that were published in symbolic images in the common stairwells. These norms differed per building and included norms about the garbage, noise nuisance, or smoking in the common stairwells.

5.5.3 A comparative analysis of the cases

The two neighbourhoods dealt with comparable problems: degradation of buildings, liveability and insecurity. Moreover, both municipalities envisioned comparable solutions for the problems they encountered in the neighbourhood. First, they both decided to redesign a shopping square including a new or expanded supermarket. Second, they both wanted to improve the appeal of the buildings. In both neighbourhoods, the approach to deal with the privately owned apartment buildings changed on basis of 'trial and error' and changing (political or economic) circumstances during time. The results in both neighbourhoods were relatively small in terms of physical renewal. However, the renewal approach that was used, and the results (or lack of results) from this approach strongly differed between Deltabuurt and Van Coehoornplein (table 5.4). When comparing the approaches that were used in both neighbourhoods, we first notice that in both neighbourhoods the approach was not static. Rather, the approach was regularly adapted based on the ineffectiveness of the prior approach, renewed political insights, or changing economic circumstances (most obvious was the influence of the economic crisis on both renewal processes). Speed and timing were important factors in both cases. In Deltabuurt, the quick visible results caused residents to trust the planning professionals, whereas in 's-Hertogenbosch, the long duration of the plan process caused the residents to lose trust in the municipality and in the project.

Although the number of apartment buildings that had to be rehabilitated was much higher in Deventer, the starting situation was less complex in two respects. First, each apartment building had its own homeowner association. Second, the supermarket was located in a separate building with enough space to extend and renovate the building without interference in other people's property. This made the basis for cooperation and negotiation with the apartment owners and residents in Deltabuurt different from Van Coehoornplein. In Deltabuurt, the renewal process was in the own interest of the residents and owners. The municipality wanted to stimulate them to invest in their buildings, but was not dependent on the cooperation of all owners to invest. This feeling of self-responsibility was strengthened by the participatory process in which the municipality empowered the residents to care for their own neighbourhood and property. On the contrary, the municipality of 's-Hertogenbosch focused on the realisation of the new supermarket rather than the renewal of the apartment buildings. This made the gains for the apartment owners less obvious, while the municipality was dependent of the owners' cooperation to realise the supermarket. In this paragraph we make an analytical comparison between the renewal processes and the results in the two neighbourhoods on the basis of the analytical frame.

Table 5.4 Differences between the renewal approach in Van Coehoornplein and Deltabuurt.

	Van Coehoornplein	Deltabuurt
Plan focus (location)	Focus on shops at ground floor level	Entire neighbourhood, including private apartment buildings
Instruments	Acquisition of shops and depositories	Stimulation and facilitation by attractive loans, information, and accompaniment with the process
Behaviour towards owners	Informing via the citizen representation of the neighbourhood	Actively involve owners and tenants. Start renewal process from owners and tenants.
Division of costs	Municipality (investment in real estate, design costs, public space)	Municipality (facilitation, public space, loan) Owner-occupiers (investment in maintenance)
and gains	Shop owners (increased sales) Supermarket (increased sales) Municipality & neighbourhood (improvement liveability shopping centre)	Municipality (improvement liveability) Owner-occupiers & tenants (improvement liveability and lower costs energy)

In Van Coehoornplein, the municipality adapted the location and design of the plan for the supermarket during the renewal process. The plan variants changed from an entire new shopping centre for which the demolition of the existing buildings was necessary, to the realisation of a 1600 m² supermarket in the existing building, to a 800m² supermarket with a parking deck on the first floor, and finally to a 800m² supermarket without parking deck. The first plan and location change, from entire demolition of the buildings to the realisation of a supermarket on the ground floor, was prompted by the changing vision on planning (more bottom up and participatory) and the lack of financial means. The following changes were prompted by a combination of difficulties during the implementation of the plans (the failure to merge the seven homeowner associations), and the changed demand from the future supermarket.

In Deltabuurt, the plan development evolved exactly opposite as in the Van Coehoornplein. At first, the municipality restricted the interference in private property and concentrated on the housing association residences. Later, the municipality decided to also include the privately owned apartment buildings of the Deltabuurt. While, the extent of the plan became smaller in Van Coehoornplein throughout the process, the extent of the plan became larger in the Deltabuurt. This made the planning process much shorter for the perception of owners in Deltabuurt (3 years), compared to the perceptions of the owners of Van Coehoornplein (some owners talked about 25 years). In the Deltabuurt, the renewal location changed

only once, when the municipality decided to enlarge the plan area and include the Deltabuurt despite its private ownership. The owners were involved and informed about the renewal after this change and therefore perceived a consistent plan throughout the process. In the Van Coehoornplein, the location and plan were changed several times and remained uncertain which has reduced confidence of the apartment owners in the professional capacities of the municipality.

The political ambitiousness and available budgets influenced the land policy instruments that were feasible to use. In Van Coehoornplein, the financial means and political ambitiousness were relatively high and the municipality was therefore able to purchase several shops to gain control in the area. The financial budget was however not high enough to acquire all apartments. The municipality did not consider to actively involve the private owners in the renewal process. In Deltabuurt, active purchase of owner-occupied property was never an option due to limited financial means. Therefore, the municipality developed an approach to stimulate owners to invest in the refurbishing of their property. This instrument was developed by professionals who based their first ideas for the toolbox on interviews with residents of the neighbourhood. When the use of the toolbox by homeowner associations felt short, the instrument was quickly replenished with more active empowerment of residents. The ability to quickly change the instrument based on the local situation, enabled the municipality of Deventer to achieve their renewal aims.

In Van Coehoornplein, the involvement of homeowners included informing them on the progress of the renewal process (communication). During the planning process, the plans for the supermarket were reduced and relocated within the buildings. This reduced the number of homeowner associations and owners that are directly affected by the plan. Instead of changing the instrument or approach, the municipality changed the location of the plan. The apartment owners have a powerful position towards the municipality, as long as the municipality has no resources to purchase the apartments. For the municipality it is necessary to negotiate with the owners to get their agreement about the plans for the new supermarket. Yet, the municipality has nothing to offer the owners during these negotiations. The municipality has brought itself into a difficult position with this approach. The future will have to show if the municipality will succeed in their negotiations.

In Deltabuurt, the owners became the starting point of the plan processes. They were involved by social workers that functioned as a link between the municipality and the owners. Both residents (tenants) and owners were allowed to express their wishes on the renewal. These wishes were moreover integrated into Delta Deals. The direct and regular contact between the social workers and residents caused the residents to feel heard. Representatives of the residents and owners were able to negotiate about the DeltaDeal themselves. They could decide not to cooperate (although only one building did so) and they could decide how to spend their investment in the refurbishing of their building. The social workers attempted to reach more empowerment of the residents, but this remained difficult.

Perceptions of costs and gains differed between mutual owners. For example, some retailers expected gains due to increased merchandise, while others were afraid to lose their customers. Some apartment owners expected to gain by the supermarket because of the increasing value of their apartment, while others expected to have noise nuisance and hindrance from loading trucks. In Deltabuurt, both the costs and gains of the renewal were for the private owners themselves, while in Van Coehoornplein the investments and the gains were in hands of the government. The municipality invested at least 1.8 million in the purchase of shops. This resulted in a completely different planning process in Deltabuurt compared to Van Coehoornplein in which the owners of the apartments had a central role to invest but also to gain of their own investment.

5.6 Discussion

This study aimed to identify critical aspects for understanding urban renewal approaches in owner-occupied areas. We did this based on a comparative analysis of two cases in which we focused on four central questions: where to conduct urban renewal; which instruments to use; how to act towards owner-occupiers; and who wins and who loses. In the following text we will discuss the findings using these four questions as a base.

Where to conduct urban renewal?

The two cases dealt with comparable renewal tasks, although the number of private apartment units was much smaller in Van Coehoornplein (2 buildings with 54 units) than in Deltabuurt (37 buildings with about 750 units). For both municipalities, the local property situation influenced the municipality's decision for the location of the renewal. Owner-occupied property often is a 'no-go area' for municipalities because urban renewal in private property is known to be very expensive. Owner-occupiers are expected to organise the maintenance and renewal of their property independently. In the studied cases the level of resident organisation and maintenance of the buildings were low. Coherent renewal is challenging in these situations, but may be increasingly desirable in the coming years.

Which instruments to use?

The cases showed that renewal approaches or plans were regularly adapted and reshaped during the planning process. The approaches that were used to realise the goals differed, resulting in different processes and results. A dominant cause for the different approaches was the difference in financial means of the municipalities. The municipality of 's-Hertogenbosch had financial means to acquire part of the property, while in Deventer, the purchase of property was not possible due to limited financial means. However, the extra financial means that the municipality of 's-Hertogenbosch used to purchase several shops, did not lead to the realisation of their planning goals. In Deltabuurt, the process of flexible (re)shaping the renewal approach appeared a very natural manner to bring the renewal process to

an effective end. The municipality's ability to quickly adapt the renewal approach based on the insights of the local situation resulted in the DeltaDeals, that were perceived by residents and the municipality as a successful and effective approach to conduct the renewal. The ability to be adaptive towards the dynamics and initiatives from civil society itself, is the capacity that governments often lack and the reason that participatory approaches often fail (Boonstra and Boelens, 2011). Boonstra and Boelens (2011) and Meerkerk et al. (2013) argue therefore for more self-organisation. In Deltabuurt the municipality did prove to be adaptive towards the local situation, resulting in a widely accepted perception of a successful renewal process. In Van Coehoornplein, the municipality adapted the plan based on the local context, but was not informed about the motives and desires of local owners and as a result did not include these in their considerations to change the plan location.

How to act towards owner-occupiers?

This study showed that owner-occupiers will not always be capable to actively take initiative towards these refurbishment tasks themselves. Different interests between the owners can make cooperation towards renewal complex and demanding. Moreover, municipal goals do not always match the individual owners' interests, as was the case in Van Coehoornplein. Both cases showed that the majority of owner-occupiers needed to be actively empowered and stimulated in order to become active. It is therefore questionable if bottom up initiatives for refurbishment or renewal will spontaneously come from this group of owner-occupiers. In Deltabuurt, the aim to make owner-occupiers invest in their buildings was achieved and the project was perceived as successful by the residents, owner-occupiers and the municipality. But, even in Deltabuurt with active empowerment, the majority of the owner-occupiers remained passive. In these situations, it will be necessary to actively stimulate and support owner-occupiers during renewal.

Who wins and who loses?

Both cases show that it is essential to know the interests and expected behaviour of the people involved and to adapt or decide about the renewal approach based on these interests. Owners want to perceive a benefit from their involvement in the renewal process. If a benefit of the renewal is perceived, most owners indicate that they are willing to invest (time, money, or energy) in the renewal process. The owners' perception of a just process and outcome was central to their cooperation in the process. To achieve this a relationship of confidence between the municipality or its representatives and the owners is essential. It may be impossible to develop a plan to fulfil everybody's desires and interests. However, it is possible to negotiate on compensation or alternative solutions for people whose interests are not (fully) met by the plan. This approach may help to realise complex renewal processes without having obvious 'winners and losers'.

Intermezzo: to sell or not to sell?

In the previous chapters the results of studies on aspects of land transactions and land policy in different circumstances were presented. In addition to these studies, I analysed how land purchasers and landowners legitimised their (selling or non-selling) behaviour during the land acquisition process. This was done by analysing the transcriptions of interviews with twenty landowners and twenty land purchasers. The group of land purchasers included both acquirers who bought land on behalf of the government and land advisors who represented landowners during land acquisitions. The interview transcriptions were systematically coded in two rounds. In the first round, we identified characteristic concepts and descriptions that related to the legitimisation of people's behaviour during land acquisition. This led to a list of 132 codes to legitimate transaction behaviour. This list was used to code the second round consistently. Although most interviewees not only legitimised their own, but also others' behaviour, I only coded texts that I interpreted as legitimisations of landowners' own behaviour during the land transaction process. The 132 codes were categorised in 20 main codes and 112 related sub-codes.

The following table presents a list of the twenty main codes ranging from the code that was mentioned most often (at the top of the list), to the code that was least mentioned (at the bottom of the list). A distinction was made between the buyer (in this research the government), the seller (including both the landowner as seller and the landowner's professional advisor as seller) and the private landowner.

Table 1. Main codes and the number and percentage of their occurrence in the interview transcripts

Legitimacy by	Buyer	Seller	Owner	TOTALS
Financial Result	7,2%	5,2%	2,5%	260
Social Skills	6,8%	3,2%	2,3%	216
Equality	3,6%	4,0%	4,4%	154
Own interest	1,6%	6,5%	7,1%	148
Expropriation	4,6%	1,8%	1,0%	141
Starting position	1,6%	5,4%	6,4%	130
Additional conditions of selling	2,6%	3,9%	4,1%	128
Politics	4,4%	0,9%	0,5%	125
Emotion	1,3%	4,8%	6,4%	114
Negotiation	2,8%	1,9%	1,5%	100
Substitutive Land	0,9%	4,5%	5,4%	98
Openness and transparency	2,1%	2,6%	2,1%	94
Compensation fee	2,5%	1,6%	0,2%	88
Laws and regulations	3,0%	0,8%	0,7%	86
Plan	1,4%	2,8%	3,5%	82

Time	2,3%	1,3%	1,3%	78
Risk and (un)certainty	1,8%	1,6%	1,6%	72
Empathy	2,1%	0,2%	0,0%	54
Clarity on all aspects of the plan and process	1,6%	0,9%	0,3%	54
Market Value	1,9%	0,4%	0,0%	52

The percentages in the table refer to the relative number of codes compared to the total number of codes per group (buyer/seller/owner). For example, in 7.2% of all codes from buyers, the financial result of the land transaction was used to legitimise a choice to buy or not to buy land, as well as how this was achieved. The table shows several interesting aspects of reasons that people refer to regarding their buying/selling or non-buying/non-selling behaviour. First, the table shows that the reasons that people use to legitimise their buying and selling behaviour are diverse. They include the 20 main codes as presented in the table, each divided in sub-codes resulting in 112 different reasons to legitimise buying or selling. The sub-codes that were most frequently mentioned are presented in table 2.

Table 2. Most frequent sub-codes per buyers, sellers and owners

Legitimacy by	Buyer	Seller	Owner	TOTALS
Self-interest, improvement, chance	0,7%	4,1%	5,3%	86
Empathy	2,1%	0,2%	0,0%	54
Openness to all aspects of the plan and process	1,6%	0,9%	0,3%	54
Market value, taxation	1,9%	0,4%	0,0%	52
Selling for the highest price possible (gain) trust	0,8%	1,9%	1,3%	52
Government should treat people equally	1,4%	0,9%	0,7%	50
Zoning plan, infrastructure plan, planning scheme	1,3%	0,8%	0,7%	46
The legal frame of expropriation	1,7%	0,2%	0,0%	44
Family situation	1,4%	0,6%	0,0%	44
(Un)fair outcome	0,3%	2,0%	2,1%	42
Substitutive land or dwelling	0,3%	1,9%	2,5%	40
Carefulness, good communication	0,8%	1,2%	1,0%	40
Good solution	1,3%	0,5%	0,2%	40
Good solution	1,3%	0,4%	0,00%	38

Second, there are striking differences between the most important arguments used by the three different groups. Buyers used the financial result, their social skills, expropriation (or compulsory purchase) and politics

to legitimise their buying behaviour. Sellers and owners used their starting position, own interests and substantial land as important reasons to sell.

In general, the analysis of the interviews revealed three main categories that were used to legitimise transaction behaviour.

- Self-interest or organisational interest
- Institutions
- External circumstances (often influencing one or both of the first two categories)

The first of these two are elucidated in the following text.

Self-interest or organisational interest

Self-interest was the most frequently named sub-code to legitimise transaction behaviour and stood out especially for landowners (table 2). In addition, several other sub-codes, including 'selling for the highest price possible', 'substitutive land or dwelling', and 'good solution' are strongly related to self-interest. Most, landowners that sold their land to the government described the deliberation process involved to balancing their feelings towards the plan and their personal interest when selling. The self-interest that the landowners referred to was often not the self-interest that corresponds to quantifiable concept of self-interest from rational economic theory. Most landowners who decided to sell their land to the government describe it as a personal chance to improve their situation. The following quotation illustrate this.

"If they really want, they nag anyway, then you have to turn the page and then you have to, well to take the chances that occur. And that's what we did." (Landowner)

All landowners who perceived the land transaction as a chance indicated that this was not the way they immediately perceived the plans. The journey towards perceiving the governmental plans as a chance rather than a threat was described by all of them, although the length of this process varied between one night of sleep and several years of time. This process was also recognised and described by several land purchasers.

Although self-interest was often used by landowners to legitimise their choice of selling or not selling, their considerations on what to do and what would be in their best interest were different and led to different decisions in very comparable situations. Landowners had to balance different advantages and disadvantages and made their own choices based on this balancing process. Such a process is well illustrated by the following quotation.

"That is the most dominant problem for me that I have to leave my place, while I really enjoy living here. But, you should not forget about the financial part. I do end up rather royally." (Landowner)

The eventual self-interest of the landowner that provides the basis for the decision of whether or not to sell or not to sell is thus the result of a process in

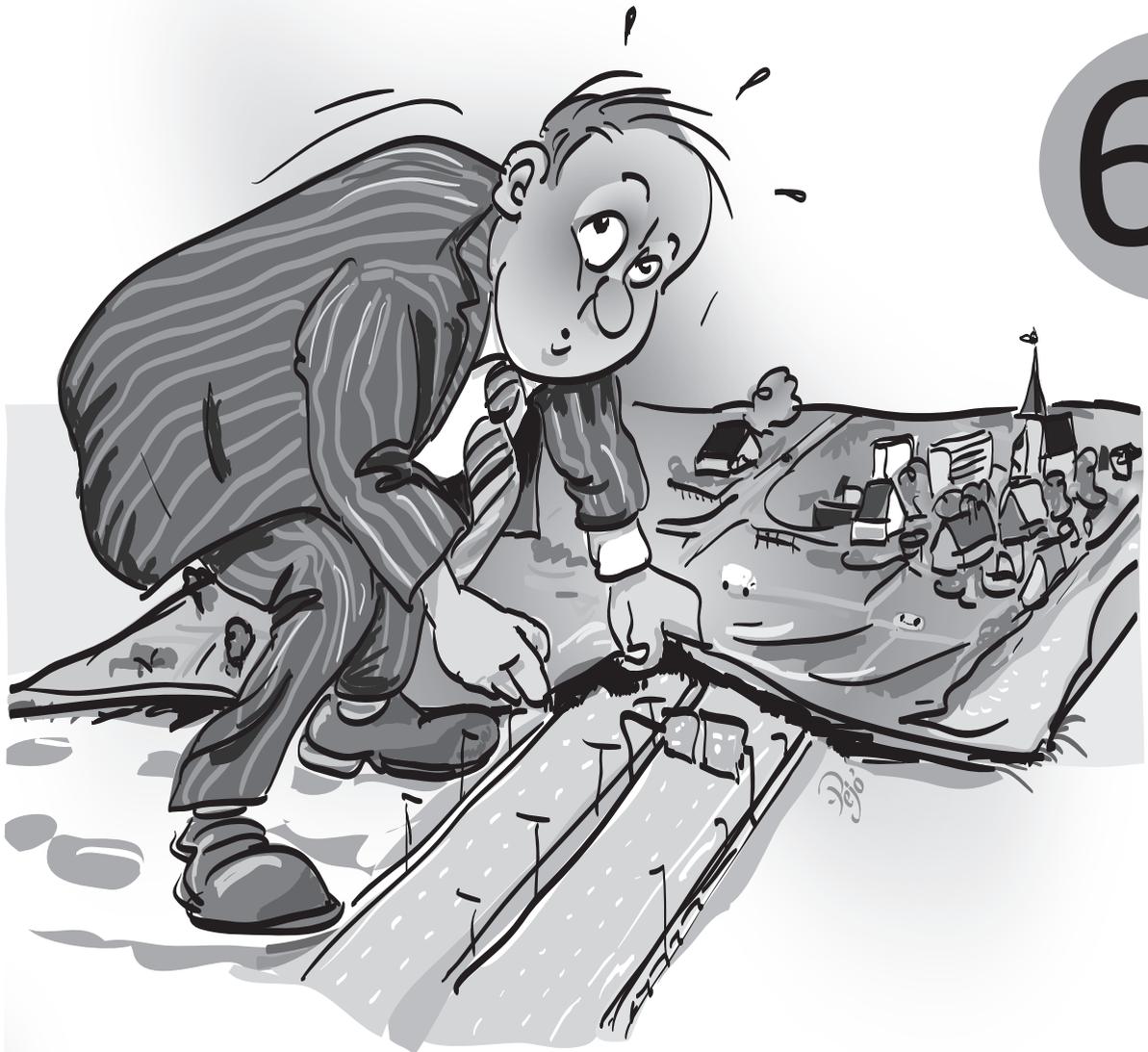
which the landowners develops expectations about the process and its outcome. For some, this process occurs over the course of a few days, but for most landowners, this process was much longer and could take several years. During this process, the perceived self-interest of the landowner is not static, but may change according as the landowner develops new expectations. Hence, the self-interest that the landowners referred to is a dynamic and subjective concept that is certainly not always equal to the best economic outcome. This brings up a challenge when using this concept to understand economic behaviour in real-life situations. We cannot determine what will be others' best interest, even if we are informed in detail about their personal and business circumstances.

Institutions

Various institutions were used by the interviewees to legitimise their behaviour. Among the various institutions that were named by both purchasers and landowners, two related concepts stood out: fairness and lawfulness (according to the principles of legislation). Moreover, land purchasers used various descriptions of socially desired behaviour (such as empathising with landowners) to legitimise their behaviour. For land purchasers, the CP law provided an important basis for legitimising the purchase process and the amount of compensation that landowners received.

The influence of the CP law on land transactions was analysed in chapter three. Since justice, fairness and equality also played an important role in the legitimating process for both governments and landowners, perceptions of justice are studied more extensively in chapter six.

Perceived (in)justice of public land acquisition



Abstract

Many studies have addressed the justice of public land acquisition, but few studies have addressed the question of what landowners perceive as just. Individual perceptions drive an important part of the social and scientific debates on legitimate and just land acquisition. This chapter addresses this gap by studying landowners' and land purchasers' perceptions of just land acquisition. We did this by uncovering the prevailing discourse on just land acquisition and studying the values that shaped people's perceptions of just land acquisition. The results showed that perceptions of justice are based on the values of lawfulness, decentness and equality. These values were translated into different norms that resulted in expectations pertaining to just land acquisition. Insight into the different perceptions and the prevailing discourse of just land acquisition and their underlying values increases the understanding of land acquisition processes and land policy strategies. First, it becomes apparent that land acquisition has an essential element of injustice that cannot be avoided by good process or a just compensation fee. Second, insight in different discourses provides valuable input for debates on just land acquisition. Third, such insight shows that money is not always a sufficient means of indemnification. The combination of sufficient financial compensation, the opportunity of a new location, attractive selling conditions and accurate and open process are all important requisites to ensure that public land acquisition is perceived by the majority of landowners as just.

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6.1 Introduction

Land acquisition by governments has been the topic of many debates on legitimacy and justice (Larbi, Antwi, and Olomolaiye, 2004; Morris, 2007; Moyo, 2000; Sarkar, 2007). Justice has been an important starting point and prerequisite for most expropriation laws. Social and scientific debates on the justice of expropriation and public land acquisition revolve mainly around the issue of just compensation. Several commonwealth countries, including the USA and UK, have legislations that require 'just compensation' as a prerequisite for expropriation. The term has led to an extensive debate and jurisprudence on the meaning of just compensation, and has led to different standards across countries (Denyer-Green, 2013; Luijt, Veeneklaas, Schans, and Venema, 2003).

The main justification for public land acquisition is the common or public good. There is a widespread admission for governmental land acquisition and expropriation in order to realise public goals under the condition of a 'just compensation' for the expropriated landowner (Denyer-Green, 2013). Despite the widespread social acceptance of land acquisition, it can in practise lead to perceptions of injustice among landowners. Studies have shown that considering feelings of (in)justice is indeed important in understanding landowners' behaviour during land acquisition (Guo, 2001; Holtslag-Broekhof et al., 2014). Guo (2001) studied the social and economic background of protest during the expropriation of land in rural China and found that the combination of low financial compensation and feelings of moral injustice made landowners protest against governmental land expropriation. While government officials stated that their takings were legal and just, the landowners stated that the local governments' behaviour was illegal and felt that injustice had been done to them. These feelings of injustice were shaped by the process of expropriation. Holtslag-Broekhof et al. (2014) found that feelings of injustice helped to explain the difference between landowners who were willing to sell and those who were not willing to sell their land to the government. Cvetkovich and Earl (1994) argued that feelings of justice are constructed during planning processes and that public participation can play an important role in shaping landowners' perceptions of justice and in creating shared values and discourses.

Most authors who have studied land management, land acquisition or compulsory purchase have done this from a legal perspective upon justice. The individual's perceptions of just land acquisition have been underexposed in these studies thus far. Kalbro and Lind (2007), for example, elaborate on the amount of just compensation in Sweden. Ding (2007) did the same in China. These studies show that in both countries, just compensation is aligned with the market value of the land. They also show the difficulty of determining this value due to a lack of comparable land transactions. Chang (2009) argues that the just compensation value should include the market value plus a bonus that is based on the type of landowner and length of ownership, as this is most efficient. Fennel (2004) argues that the market value that is compensated during regulatory takings in the USA

always has an uncompensated increment which consists of the amount by which the subjective value of the owner exceeds the market value of the property, the freedom of choice to sell the property at a moment chosen by the landowner him- /herself, and the chance to make a profit when selling the property.

Perceptions of justice in general have been extensively studied by behavioural economists and psychologists. These studies have shown that despite the universal concern for justice, perceptions of justice are shaped differently in each situation (Montada, 2012). Each person involved in land acquisition processes can have personal and divergent ideas on what constitutes (in)just land acquisition. Just land acquisition is more likely to be developed on the basis of knowledge on the way people perceive the justice of land acquisition (Cvetkovich and Earle, 1994). This brings up two relevant questions; firstly, what do landowners and land purchasers perceive as just land acquisition? Secondly, which values underlie their perceptions of just land acquisition? In this chapter, we aim to unravel the prevailing discourse on just land acquisition and its underlying values in order to add a new perspective to debates on just land acquisition.

The next section provides a conceptual frame on perceptions of (in)just land acquisition. Following this, the methods of the study are introduced, and the context of this study is described. This is followed by the results of an analysis of interview transcriptions and newspaper articles in which we interpreted landowners' and land purchasers' perceptions of justice. Finally, the relevance of the findings for the wider debate on land acquisition and planning are discussed and conclusions are drawn.

6.2 Perceptions of (un)just land acquisition

The following paragraph presents the conceptual framework that was used to analyse perceptions of injustice. Many meanings of justice exist at the same time. Each individual person may have his or her own perception of justice. Simultaneously, groups of people may develop similar perceptions of justice, shaped by their shared cultural values or experiences. We perceive these shared perceptions of justice as discourses on justice. Recognising and portraying these different perceptions of justice is essential in conflict situations that involve justice, including land management (Davy, 1997; Hartmann and Spit, 2015).

Equity theory makes a distinction between distributive and procedural justice (Goodwin and Ross, 1992; Yim et al., 2003). Studies on justice perceptions often focus on distributive justice, while according to equity theory, differences in distributions are rarely capable of explaining perceptions of injustice. Procedural justice would derive from the completeness of information for the participant, the opportunity for the participant to add to this information, the extent to which the decision maker uses this information, and the extent to which the participants feel that they have influenced the end result (Goodwin and Ross, 1992). In terms of land acquisition, this implies that justice not only depends on the outcomes,

but also on the rules and processes through which land acquisition takes place.

Land acquisition is not usually something that landowners have been acquainted with all their life. Their perceptions of just land acquisition start to be shaped when they are first confronted with land acquisition. The same holds true for land purchasers who will often first encounter this issue during their education, or work as land purchaser. Past, present and future actions (both of ourselves and of others) influence our personal value systems and enable us to build expectations about others' behaviour (Greif, 2014). This implies that justice perceptions will be influenced by expectations about the behaviour of others, which in turn have been influenced by the individual's experiences in relation to justice. We make a distinction between these two types of expectations, the former being expectations about how people should behave (normative expectations) and the latter being expectations about the way people will behave (predictive expectations) (Yim et al., 2003). For some actions, these expectations will correspond with each other, while in other cases they might conflict. For example, in most countries, car drivers expect that other road users will drive on the right side of the road and simultaneously thinks that other road users should drive at the right side of the road. The first predictive expectation follows from someone's prior experiences with driving, perceiving that all road users drive on the right side of the road, while the second normative expectation may stem from the traffic rules that this person has learned. The same person might however expect that road users should adhere to the speed limit, while simultaneously expecting that some road users will exceed the speed limit. In the last example the normative and predictive expectations do not correspond with each other, which may lead to negative feelings or indifference.

Behavioural economists found several patterns of human behaviour that might be relevant for understanding individual perceptions of just land acquisition. The first of the relevant concepts is 'loss aversion'. Loss aversion is the observation that people value losses twice as much as they value gains of an equal amount, during economic decisions (Tversky and Kahneman, 1991). This is closely related to the 'endowment effect', whereby people become attached to property immediately after receiving it, causing loss aversion when they are forced to sell their property (Thaler, 1980). This may cause people to attach more weight to their loss of land than the compensation fee that they receive in return, which may in turn lead to differences in perceptions of

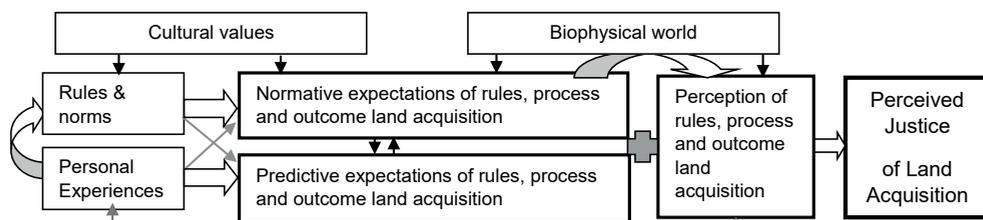


Figure 6.1 The construction of perceived justice, adapted from Ostrom (2005).

just compensation between the landowner and land purchaser. The second concept that may be relevant for the interpretation of just land acquisition is 'reference dependency'. Reference dependency is the tendency to value the outcomes of an economic decision in terms of losses and gains, instead of absolute values. In other words, people tend to refer the outcome in accordance with a set point of reference, such as the status quo (Kahneman and Tversky, 1979). This may cause people to refer the expected outcome of the acquisition to their own or others' current situation.

The processes in which peoples' individual perceptions of just land acquisition are shaped and reshaped cannot be isolated from the more stabilised values of justice that people have formed throughout their life. Moreover, it is important to know the wider institutional context in which land acquisition takes place, including the planning and policy processes in which it is embedded and the social networks individuals are part of (Van Assche, 2007). Perceptions of just land acquisition are shaped in various levels of social systems such as society, culture, family, working environment and in a person's values (North, 2005; Ostrom, 2005). All these systems may have their own written or unwritten rules and norms about expected behaviour (Ostrom, 2005).

Figure 6.1 summarises the previous text by visualising the way in which the different elements that shape someone's perceived justice relate to each other. The figure shows that both rules and personal experiences lead to predictive and normative expectations on land acquisition. Cultural values and the biophysical world each influence the rules, expectations and perceptions of land acquisition. Rules and norms are influenced by personal experiences from social systems, including someone's personal 'system'. The difference between these expectations and someone's perceptions of the actual land acquisition determines his or her perception of the justice of land acquisition. If people's normative and predictive expectations and their actual perceptions correspond, they will perceive the acquisition as just. However, if their expectations and actual perceptions do not correspond, the experience of the acquisition should either make them adapt their prior expectations, or they will perceive the land acquisition as unjust. In practise, the perception of land acquisition is a personal experience that adds to other experiences that people have had in the past. In this way it may lead to new normative and predictive expectations about the rules, process and outcome of land acquisition. In other words, perceptions are dynamic and may change over time. In this study, we therefore analyse the difference between the expectations towards just land acquisition and the perception of land acquisition, with the aim of better understanding perceptions of justice of both landowners and land purchasers. We did this in the last stage of the acquisition process in order to include the possible feedback loop in the normative and predictive expectations.

As presented before, figure 6.1 was used as an analytical frame for the analysis. It represents the way justice perceptions are shaped for individuals. The advice of Davy (1997) to focus on feelings of injustice was followed. He argued that it is much easier to perceive a personal victory as a just victory than a personal defeat as a just defeat.

6.3 Methods and methodology

As we are interested in different perceptions of just land acquisition, we analysed the interpretations of (just) land acquisition of the people involved in land transactions. We did this by conducting semi-structured interviews; interviews are suitable for an interpretative analysis as they allow us to analyse the original language in which people express their feelings (Wagenaar, 2014). We decided to reduce the people involved in land transactions down to the two parties most centrally involved in acquisition: the land purchasers (n=20) and landowners (n=20). The land purchasers were employed in various governmental and commercial institutions and were interviewed on their own considerations and frame with which they conduct land acquisition and their behaviour during land acquisition. The landowners were all involved with governmental plans on their property resulting in either the voluntary or involuntary sale of their property, or the wish to be bought out by the government while the government was not willing to buy their land. We did not directly ask about people's perceptions of justice in order to be as unobtrusive as possible and to prevent putting words in the participants' mouths. The questions asked were open and gave the interviewees the opportunity to describe their own perceptions of and views on the land acquisition and planning process. We recorded and transcribed all interviews.

We analysed interview transcriptions with Dutch land purchasers and landowners. To reveal different values that shaped landowners' and land purchasers' perceptions of justice, we systematically coded the transcriptions in two rounds. In the first round, we identified characteristic concepts and descriptions that related to the way people perceived the acquisitions process and its outcomes. This led to a list of 132 codes. This list was then used to code the second round consistently, during which we focused on the role of justice and the underlying values that were used by landowners or land purchasers to legitimise, explain or support their perception of (un)just land acquisition. Finally, we focussed on the codes that were related to justice and conducted a cluster analysis in which we focused on concepts that were named by the interviewees in coherence with justice-related terms. In the analysis we unravelled the different elements that determined peoples' justice constructions, how they related, and whether they differed between landowners and land purchasers.

In addition, we analysed news items that were related to expropriation and in which specific cases of landowners who had been expropriated or wanted to be expropriated were described. This led to 42 publications on expropriation reported in newspaper articles, journal articles, news items on television, as part of a professional research report, or as a television documentary. We used these cases to verify and strengthen the themes that we found in the prior analysis.

The interpretative method which was employed implies that the outcomes of this research are interpretations of interpretations. This means that the outcomes of such research are inevitably influenced by our own ideas of just

land acquisition. To the extent that we were aware of our own values and norms on just land acquisition, we have described this in a separate document that can be requested from the researchers as additional material for this study.

6.4 Context of the study: land acquisition in the Netherlands

This study was conducted in the Netherlands. The Netherlands is a densely populated country with 16.9 million inhabitants spread over 41,543 km². This causes high pressure on land and a clear demand for public planning and land acquisition. Local governments have a broad set of instruments that they can use to conduct active land policy. The use of these instruments is accepted for planning tasks for which private property rights are regarded as inferior to the public good. Next to the option to purchase land sold voluntarily by landowners, governments have three major options to acquire private land. First, governments may cooperate with private landowners during the implementation of their plans and lawfully settle the costs of a certain development hand in hand with developing landowners ('grondexploitatie'). Second, governments can claim a first right of purchase by laying a pre-emption right on land they want to develop in the near future. This is only possible if there is a land use plan. The pre-emption right has a validity of three years. If the landowner wants to sell his or her property during this period, he or she is obliged to offer the land to the government, which will pay the market value of the land. Third, and the most important to understand in the context of this study, is the expropriation law. This law allows governments to expropriate private property for the public good. Apart from a land use plan indicating the use that the government needs to expropriate the land for, there are three important conditions that governments need to meet in order to expropriate land from private landowners:

- The government has negotiated sufficiently with the landowner to buy the property on a voluntary basis.
- During these negotiations, the government offered the landowner a full compensation fee. This full compensation fee comprises the market value of the property, compensation for the loss in income, and other financial damage that the landowner has because of the expropriation.
- The landowner is not capable of realising the indented land use plan him- or herself.

The judicial expropriation of landowners is only seldom necessary; most purchases are resolved before the actual lawsuit of expropriation, because the threat of expropriation is sufficient to make landowners sell 'voluntarily' (Buitelaar et al. 2007; Van Straalen and Korthals Altes 2014). The explanations of the public good, in the name of which governments are allowed to use expropriation, are registered in 11 legal titles for expropriation. These titles include for example a title for new road infrastructure, public housing, and a title for land consolidation. However, in practise the use of expropriation is not limited by the presence of titles, but by the political opinion on the public goals that are important enough to use expropriation.

This has caused regional differences in terms of the ease with which expropriation is used, especially for nature conservation and recreation development purposes, while the use of expropriation for infrastructure development has been accepted throughout the past decades and is used consistently throughout the entire country.

The Netherlands can be seen as an extraordinary case within expropriation legislations, as the indemnification of landowners is generous compared to expropriation laws in other countries. This makes it an interesting context in which to study perceived justice of land acquisition.

6.5 Results

The interviews and document analysis showed that (in)justice and related values were an important topic for the interviewees when talking about land acquisition. Especially in those situations where landowners were dissatisfied, the interviewees brought up perceived injustice spontaneously. In the newspaper articles, the group of landowners that were dissatisfied was overexposed. Just as the landowners indicated their dissatisfaction during the interview, the newspaper articles indicated perceptions of injustice due to indecent treatment, unequal treatment or both. Furthermore, land purchasers regularly emphasised the importance of a just outcome.

To further understand the results, the underlying values were analysed. Three underlying values were found to shape landowners' and land purchasers' norms of just land acquisition.

1. Lawful treatment
2. Decent treatment
3. Equal treatment

These values are related to the three aspects of land acquisition: the legal rules that enable and coordinate land acquisition (lawful treatment), the negotiation process between the government and landowner (decent treatment), and the outcome of land acquisition (equal treatment). The first value was brought up mainly by land purchasers. The second value was mentioned by both land purchasers and landowners. The third value was shared by both land purchasers and landowners, but mainly brought up by landowners.

In this paragraph, each of the values are described and elaborated upon in the normative expectations about land acquisition that follow from these values.

6.5.1 Lawful treatment

Governmental land purchasers formed a small group of professionals that were educated to appraise and acquire real estate according to the Dutch law. It was important for them to ensure a just process of land acquisition. The main guideline

that land purchasers used to ensure such a just process was the expropriation law. For most land purchasers, the law guaranteed that all landowners were treated lawfully (and therewith also equally) and received a full compensation, based on the market value of the expropriated property. The following quote is illustrative of the role which the expropriation law has in order to guarantee a just process according to land purchasers:

“At a certain moment you need a good frame for this job, because, if you went beyond the frame, something that is compensated with 10 Euros for one person and 15 Euros for another person and somewhere else for 100 Euros, then there is no logical line in your work anymore.” (Land Purchaser)

To compensate landowners with the right price according to the standards of the expropriation law was of central importance for land purchasers. In line with Dutch legislation, the amount of compensation equals the market value of the property. In the case of expropriation, according to the Dutch expropriation law, the market values should be replenished with compensation for other financial damages a landowner suffers. Land purchasers described that the market value is estimated by official appraisers, so that it is the actual objective market value. The expropriation law provides guidelines for the indemnification of landowners. Indemnification is the principle that a landowner should be put back into the same economical position he or she was in before expropriation. In other words, the landowner should make neither a loss, nor a profit from the expropriation. This principle of indemnification is perceived by the purchasers as the most just manner of public land acquisition.

The expropriation law provided not only clear guidelines for a just outcome, but also the opportunity to settle an unsolved negotiation by employing an objective lawyer. The following land purchaser described this as follows:

“Then it is very reasonable to go to court and to ask the judge to decide how much the compensation fee should be. So it is justified for those who have already sold their land and it is also justified for those who have not yet agreed to sell. We do not come to an agreement together, so let an independent third person decide what it should be.” (Land Purchaser)

In this land purchaser’s perception of just acquisition, the compensation is just if it is determined by an independent judge. For land purchasers, the expropriation law offered an important guideline and instrument to treat all landowners equally (5.3) and to indemnify them in a structured manner. Land purchasers’ perceptions of justice were clearly shaped by this law and its background and their past working experiences of successfully using the law.

The legislation was not used by landowners to legitimise their perceptions of the process. When it was named by landowners, they referred to the legislation as an absolute known fact that they were not able to influence, but that sometimes did not correspond to their own standard of a just land acquisition process.

6.5.2 Decent treatment

The way the negotiation process of land acquisition is executed was named as an important requisite for just land acquisition by both landowners and land purchasers. Land purchasers emphasised the importance of gaining the landowners' trust during the acquisition negotiations. To this end, land purchasers stated that they should be empathic, open, unambiguous, good communicators, sociable, professional, accurate, sincere, and upright. Land purchasers named that it is important to serve not only the interest of the government during the negotiation, but to also serve the interest of the landowner. All land purchasers were of the opinion that an empathic and open attitude was important to gain the landowners' trust and to be able to buy the land. However, motivations to act openly and empathically differed amongst land purchasers. Some described their motivation for this behaviour by explaining that they felt it was a moral duty to act decently, while others simply felt that such behaviour helped them to reach their goal of purchasing the land. Despite the good intentions and empathic skills of most land purchasers, many landowners had negative impressions of the spatial planners, politicians and other governmental officials whom they had met during the land acquisition process. A specific attitude or a misplaced remark of a planner or politician could shape the landowners' view of the acquisition process. According to the land purchasers, most planners are insufficiently aware of the impact of land acquisition on landowners and the importance of being open and empathic towards all landowners.

The lack of information, clarity and openness about the plans in the first stages of the planning process was named as undesirable by landowners.

"Yes, just information, that they are open. Look, they really cannot scare us or so, but then we can give our opinion about the plans and then people can also make up their mind about it, like if people really want to move from their place or some people do not want to move." (Apartment owner)

Apart from the obvious desire to be informed about your own environment and future, the desire for openness and transparency might also be related to the landowners' feeling of being taken seriously.

Apart from the sociability and accuracy of the process, the right amount of time is also a relevant issue, and one that was named by both landowners and land purchasers. Land purchasers named two to three years as a reasonable amount of time for a negotiation process for the acquisition. Land purchasers argued that this time is needed for landowners to get used to the idea that they will have to move and to search for an alternative location. Both landowners and land purchasers agreed that it is not good for the process to be too lengthy, as this leaves people in uncertainty for too long.

"People are kept endlessly in the dark about what is going to happen, because it is not in their interest... so yes, unjust so eh if you have some sense of justice then these kinds of things are very difficult for you. Not only for yourself but also for others." (Landowner)

In some planning processes this uncertainty can even continue for more than twenty years. The following quote comes from a landowner who has already been in a situation of uncertainty about her house for more than twenty-two years:

“For years, the uncertainty about the new highway and before that the new railroad has been determining the steps we make in our life.... We understand that the government’s decisions bring along certain burdens for individual citizens and that is acceptable, but in our situation a line has been crossed... In this situation, the government is acting unjustly. As a citizen you should not be the victim of governmental decision making.” (Landowner)

Land purchasers were well aware of landowners’ negative feelings regarding long periods of uncertainty caused by long decision-making processes. One land purchaser described that the long lasting process could lead to situations that did not feel good for him, although he acted in a manner he regarded to be right.

“Yes, we call that the longest breath of the government, we do everything in a fair manner, but it does not always feel good. You can offer such good compensation, but you can also see, yes you do see very lingering situations, also people that get all kinds of tensions in their family.” (Land Purchaser)

The quote shows that this land purchaser’s perception of justice is close to acting ‘according to the rules’, while his personal feeling simultaneously led him to feel that the government’s persistent manner of acquisition was immoral.

Several landowners described feelings of injustice due to the difference between their own position and skills and the expertise and skills of land purchasers.

“Then I think, oh that is so frustrating, they know exactly what regulations they have use and yes for us it is the first time and so yes, we do not know it yet, but it does makes me feel like yes they know how the game is played and eh that is just frustrating to suffer from that, yes that is how it feels.” (Landowner)

Landowners described the feeling of having no choice and of being in an unequal power position compared to the government. Although they were able to negotiate over the conditions of selling, several felt that these negotiations were rather one-sided. From their perspective, the government could do anything as long as it was according to the rules, even if these rules do not indisputably guarantee a just process. The following two quotes illustrate this.

“You do not have so much choice. Look, we profited from the fact that we have two farms next to each other now. But at the moment that you are given the choice, we had to agree or not, yes we could have said no, but then we would not have had it of course. And I still think like we should have tried this or that, but yes we did not have another choice at that moment. Our hands were tied.” (Landowner)

Not only was the government perceived as more powerful than the landowners,

but the landowners also describe a difference in emotional involvement with the land between themselves and the government. While landowners experience a strong emotional involvement in the plans that can impact their social life and can have a strong impact on their personal well-being, they feel that the government professionals can end their work at five o' clock, and go home without worrying about the project.

Obviously, the perceptions of decent land acquisition differed amongst landowners. For example, the negotiation process itself was perceived as frustrating, unequal and unjust by some, while others said that they enjoyed the game of negotiating and trying to get the best out of it. However, the aspect of a decent process was mentioned by the vast majority of landowners and all of the land purchasers as being an important aspect of just land acquisition.

6.5.3 Equal treatment

About half of all landowners and all of the land purchasers mentioned the importance of treating people equally. The owners and purchasers shared a value of equal treatment in equal situations, but this value translated into different norms for land purchasers and landowners. This paragraph deals with both the landowners' and land purchasers' perceptions of equal treatment.

In areas with multiple land use developments, land prices are likely to diverge. In particular, the difference between the amount paid for land for urban development and land that is bought for other purposes might differ significantly. For landowners living in such areas, these differences are not always understandable and are often perceived as unjust. Landowners used references to other people in order to ground their perceptions of injustice, stating that they were not treated equally with neighbouring landowners. The following quotes by landowners illustrate this.

"Financially you do not profit from it at all. While other people who have to move for housing development, they are also located close to the city, they sell everything to project developers, they get ten times as much land as we get." (Landowner)

"When you are a landowner in this country and you are in the way of housing development then you get very high compensation or you can sell your land for a lot of money....That is of course very strange because we all lose land and have to buy back land somewhere else. That mistake in thinking that is fully integrated in the Dutch polder model causes the failure of this kind of plans." (Landowner)

The idea that others would profit from the loss that the landowners were suffering strengthened the feeling of injustice among several landowners. Moreover, landowners described that the different acquisition fees that landowners in the same region received caused unequal competition on the land market. While six landowners referred to others to explain their own perception of injustice, only one of them mentioned that he had difficulties

with the process because of the injustice and harm that was done to others.

Most land purchasers perceived the system of land valuation as just. At the same time they were also aware of the local differences in land values and often found it difficult to explain to landowners how the system works. Despite the overall positive ideas, some land purchasers did mention that the way the system of land valuation works may be unjust. This difference in perceptions of justice can be seen in the following two quotes from two land purchasers.

“People whose land is acquired for housing developments, they have of course, yes they have coincidental luck, because there is coincidentally a pen stroke on their land that it will become residential land. I find that a little bit strange, in the legislation they might want to change that because if someone is disadvantaged from planning, planning damage, then they can claim for it, but if someone profits then you cannot take this. As a matter of fact, that would be more realistic. Because why would someone who is a farmer in an area that is coincidentally zoned for housing development become a millionaire?” (Land Purchaser)

“That is the difference and that, that is something that you cannot explain to people. No matter how fair we work, it never feels good for those people.” (Land Purchaser)

The first land purchaser thought that the legislation could be changed because it led to inconsistent outcomes between different situations, while the second purchaser (talking about the same difference between the value of land that is zoned for urban use and the value of land that is zoned for natural use) perceived the approach as just, but found it hard to explain the system to landowners. Although the majority of the interviewed landowners did indeed have difficulties in accepting the differences in compensation fees for natural and urban development, several landowners did show an understanding of the system and did not use the concept of inequality to argue only for their own interests. These landowners showed an understanding of the fact that the government cannot easily give a higher price to them compared to others:

“But okay, they have to stay with a realistic value as well, they cannot say like, that barn of yours is worth three times as much as the others because we like you and at the others we do not get coffee.” (Landowner)

The reference to others was not only used in the situation of different land values, but was also used when landowners felt that another group was in any way privileged compared to them. This could for example lead to feelings of injustice among landowners whose land was not purchased by the government.

“So they have had an acquisition policy for shop owners, then we said, well if you want to build that’s fine, we would like to move anyway, we do not need the jackpot, but just buy us. But they don’t do that. So then I thought, shop owners yes and owner-occupiers no, then it becomes crooked.” (Apartment owner)

The reference to ‘others’ was even made by some landowners regarding the land use plan (‘there is space for more water, but there is no space for us’). Several landowners referred to their own situation before the (future) selling of the land. This often resulted in feelings of satisfaction about their decision to sell their land. However, this could also result in the demand for a good solution (often a good new location) and the complaint that the compensation fee was not sufficiently able to help them get a new location.

“We do not oppose expropriation in itself. If it is in the public interest, who are we to fight against that? But we do want another location or sufficient means to buy a location. We do not have to get rich from it, but we also do not want to get poorer.” (Landowner)

This quote also illustrates the feeling of many landowners who were expropriated for land use that was designated as public interest, such as road infrastructure. In return, the landowners expected to be supported in finding a good solution for their situation. Landowners who did not agree that the plan they were expropriated for was for in the public interest, such as nature development, were also more often negative about expropriation in itself.

Not all land acquisition is based on the principles of the expropriation law. Sometimes land is acquired on a voluntary basis, without full compensation but also without the possibility of expropriation. Several purchasers described acquisition without full compensation as unjust. This land purchaser for example stated:

“It is not more than fair that we offer a full compensation fee, because you do not pay more, but you compensate for the financial damage people have. And so you do not offer them too much, but that is often the assumption, that you pay too much, or you pay more so that’s why you can buy, but that is not the case, it is just the indemnification of people to the same financial position as before.” (Land purchaser)

The decision to buy on the basis of the expropriation law is made by politicians who are often resistant to doing this for socially less accepted land uses.

Several land purchasers stated that it is unjust to not expropriate once you have started an acquisition process in a certain area. The following quote illustrates this:

“That is what I always say to politicians, at a certain moment you do need to expropriate because if you don’t, it is at least unfair to those who already agreed to sell. Then you would favour those who remain unwilling to sell for a long time and that is not desirable, because that is not just.” (Land Purchaser)

The quote shows that this land purchaser attaches a lot of value to the equal treatment of landowners, which includes purchasing the land within a limited time frame.

The ‘equal treatment’ that landowners and land purchasers referred to seemed to be more a means towards an equal outcome than a goal in itself. When we examine the different perceptions of landowners and purchasers this way, their

different expectations can be better understood. While for landowners a good outcome mainly meant a good new location, or a good solution to compensate the loss of land at their existing location, land purchasers focussed on the 'right' amount of money. In most cases this full compensation fee is sufficient and capable of allowing the landowner to 'buy a good solution'. However, in some cases the solution that a landowner needed was so specific or difficult to achieve that the compensation fee was no solution to their problem. In these cases, it was especially essential for the land purchaser to be understanding and helpful towards the landowner's problem and to allow the landowner time to arrange this solution. When this did not happen – according to the perceptions of the landowner – perceptions of an unjust process or outcome were present.

6.6 Discussion

Perceptions of just land acquisition by both landowners and land purchasers were studied. The fact that these strongly diverge is in itself not a surprising outcome. These perceptions, however, revolved around three core values. Almost all landowners and land purchasers confirmed the need for expropriation in order to realise public purposes. The different discourses on just acquisition therefore did not differ in terms of the justice of the fundamental principle of expropriating landowners for public interest, but differed instead in their perception of what entails a just process and outcome of land acquisition.

The study showed the importance of the land acquisition process for people's perception of just land acquisition. This adds to the existing literature that mainly focusses on just outcomes of land acquisition (Levmore, 1989; Deutsch, 2005; Kanner, 2011; Parke, 2012; Zhang, 2013). Given the differences in expropriation legislations and the often low compensation fees that landowners receive, this is not surprising. The importance of the process is confirmed by equity theory that also makes a distinction between distributive and procedural justice (Goodwin and Ross, 1992; Yim et al., 2003). The aspects of procedural justice that Goodwin and Ross (1992) distinguish proved indeed to be of importance for the landowners' feelings of injustice; in particular, the feeling of having an influence on the outcome added to their perceptions of a (un)just process. The outcome also corresponds with the findings of Cvetkovich and Earl (1997) that endorse the importance of a just process during land management.

The empirical results for this study were collected in the Netherlands. In the Netherlands, the framework of the Dutch expropriation law is clear and has extensive jurisprudence on just compensation. This is comparable to the situation in most developed countries. Moreover, the values that were found as basis for landowners and land purchasers are broadly shared values across developed countries. It is therefore probable that comparable results will be found if this study would be repeated in other developed countries.

Landowners generally have normative expectations about the process and outcome of land acquisition, as it is not something that they face on regular basis, while land purchasers also had predictive expectations about the process and outcome of land acquisition. The presence of predictive expectations may be an important explanation for the different interpretations of just land acquisition between landowners and land purchasers.

Reference dependency (Tversky and Kahneman, 1991) was indeed found to help understand the way landowners valued and judged the outcome of the acquisition process. However, loss aversion (Tversky and Kahneman, 1991) was not useful in helping to understand landowners' perceptions of injustice. This was largely inherent to the research design.

Attempts to fully catch a 'fair and equitable' process in our expropriation legislation may have failed, and will continue to fail, as a full meaning of fair and equitable is more than we can prescribe by the expropriation law. During the 150 years that the expropriation legislation exists in the Netherlands, it has been detailed by several sentences Law Lords, that increasingly include regulation for a just compensation fee in specific circumstances. There is an enormous faith in the role of this law in safeguarding a just process amongst professional land purchasers. However, professionals might hand over too much responsibility to the law alone, while perceptions of justice are not experienced through legislative drafting, but through actual experiences of human interaction.

As Davy (1997) has already concluded, feelings of injustice during planning are and will remain inevitable. This does however not imply that we can neglect the theme and remain loyal to current planning practises without critically evaluating these. It does imply that we might adjust the impossible aim of 'justice for all' to 'enough justice for all' (Davy 1997).

During justice decisions, 'whatever a planner decides for herself, she has to be aware that others who have different values will take issue with her decision. The planner must explain her concept of justice to them. If she is not able to communicate about justice, but hides behind the principle of efficiency, she alienates stakeholders who maybe obstruct her plans' (Davy 1997).

6.7 Conclusions

This paper studies the different perceptions of (un)just land acquisition and their underlying values among land purchasers and landowners. It shows that these perceptions are hugely divergent, but revolve around three important values: lawful, decent, and equal treatment. These values translate into different norms pertaining to just land acquisition. The study moreover showed that for both landowners and land purchasers, just land acquisition entails much more than simply a just compensation fee. Current studies emphasise the level of the compensation fee, rather than procedural and interaction aspects of the acquisition process

(Fennel, 2004; Kalbro and Lind, 2007; Kanner, 2011; Parke, 2012; Fennel, 2013).

Land purchasers used values of lawful, decent, and equal treatment to legitimise their perceptions of just land acquisition, while landowners only used values of decent and equal treatment to legitimise their perceptions of just land acquisition. Land purchasers and landowners had different ideas about 'equal treatment'. Land purchasers perceived equal treatment as ensuring that all landowners receive the right amount of financial compensation according to the principles of the expropriation law. For landowners, it was more important to have a solution for their own situation and the feeling to have gained as much (or more) as others. Most land purchasers were aware of this, while planners and policy makers often lack this awareness.

Despite the international differences in the design of expropriation legislation, the basis of acquisition and expropriation processes is remarkably comparable. Hence it is likely that similar results would be found in other developed countries if perceptions of just land acquisition were to be studied.

Uncovering different perceptions of just land acquisition and their underlying values improves the understanding of land acquisition processes and land policy strategies. First, it shows that land acquisition has an essential injustice that we will have to accept and that cannot be avoided by a good process or a just compensation fee. Second, it shows that the different discourses are a valuable input to the debate of just land acquisition. They show that we should not be so afraid to expropriate per se, as long as we can clearly communicate the importance of the public purpose that we expropriate for, take enough time to organise an accurate and open process in which the interests of landowners are taken seriously, and ensure an outcome in which the landowner is truly brought back in the same economic position as before the transaction. Third, it shows that money is not always a sufficient means to indemnification. Reasons that landowners gave to be satisfied with their sale of land to the government were barely related to the amount of money they received, but to the conditions of selling and possibility to improve in the new situation (for example to gain full ownership of their arable land or to increase the size of their farmland).

Just compensation for expropriation has been studied extensively in the literature. However, this study shows that just expropriation encompasses more than fair compensation. The accurate, open and sociable way of coming to this compensation fee is an equally important requisite for just land acquisition as the compensation fee itself. This does of course not mean that an accurate, open and sociable process will compensate for a compensation fee that is perceived as too low to cover the landowners' value and costs. The combination of sufficient financial compensation, a new location, attractive selling conditions and an accurate and open process are all important requisites for ensuring that land acquisition will be perceived by the majority of landowners as just.

“If this were an ergodic world, that is, one whose fundamental underlying nature was constant, then once we understood that nature and developed the proper theory, we would get it right, today and in the future. But uncertainty is our inevitable lot because the world keeps on changing in novel ways. That is due in part to natural, physical causes, but it is primarily a consequence of human being’ altering the world and creating new conditions and new problems”

(North, 1999, p. 59)

Discussion and Conclusion



In this thesis, four interrelated studies of land policy and land transactions were presented. In the following chapter the results of these studies are integrated into general conclusions that answer and reflect on the research questions (7.1). Moreover, I will discuss two themes that were central in this research: 1) landowner behaviour during public-private land transactions (7.2) and 2) the understanding of land price (7.3). In the last paragraphs, I provide recommendations for further research (7.4), reflect on the methodology (7.5) and provide a practical recommendation for spatial planners (7.6).

7.1 Conclusions

This study provides in-depth understanding of public-private land transactions from a micro-scale perspective. The following text provides the main findings of this research by answering the research questions that were introduced in the first chapter of this thesis.

What considerations do landowners make when they are confronted with public land acquisition and how do these considerations translate into landowner behaviour during land transactions?

For landowners, the sale of land to the government does not occur on a regular basis. Most landowners experience it only once or a few times during their life. Public-private land transactions are part of processes of change and contain many uncertainties. In order to make a proper decision in these uncertain situations, landowners create expectations to 'estimate' what will be best to decide in the given situation. Landowners' considerations and behaviour are based largely on their expectations of the land acquisition and planning process. Landowners shape expectations about their gains or losses from selling their land to the government. They need time to get used to the idea of selling their land and then try to make the best out of the situation. This process in which landowners shape their expectations may take anything from several days up to several years. It is a personal process that may be influenced by external aspects such as institutions, but also the landowner's personal situation (i.e. family situation, financial situation, age), and his character (i.e. risk propensity or conservatism). Because the financial compensation of public-private land transactions has only limited room for negotiation, the landowners' best chance to profit from the negotiations is often not related to a good price. Rather, landowners can profit from governmental aid to increase the surface of their land, stronger property rights (i.e. from tenant to owner), or a better location. What a landowner perceives as the best solution depends on the landowners' personal circumstances and values; it is not always to sell the land under the best conditions and for the best price. Other aspects of the transaction that are taken into account and valued by landowners are conditions of selling, the duration of uncertainty, the risk of selling in vain, and the potential of a new location.

The considerations that landowners make can be described as a set of motivations

that are balanced during their decision process, rather than one single reason that solely determines their choice to sell or not.

The decision to agree or disagree to sell depends on the extent to which a) the landowner expects to be able to use the transaction to gain personally, b) the landowner perceives the process and outcome as just. The threat of compulsory purchase can result in a decision to sell the land despite a lack of perceived gain from or a justice of the process and outcome.

Most landowners are more understanding towards the necessity of new road infrastructure than towards the development of new natural areas. People can understand the necessity to sell their land in order to make way for a road from A to B, but have much more difficulty in understanding why there is a need for their land to become new nature.

These findings partly correspond to the assumptions of neo-institutional economists on people's behaviour being based on self-interest, but are bounded to behave in their self-interest due to institutions, uncertainties and transaction costs. This study shows that landowners indeed act in their perceived self-interest, but that this self-interest is not (only) based on the economic utility. Moreover, uncertainties are central in the transaction process, just as they are in all planning processes (Domingo and Beunen, 2012; Friend and Hickling, 2005). Decisions that both land purchasers and landowners make regarding the selling or purchasing of land are loaded by uncertainties on others behaviour, changing policies and regulations, the land market and future economic development. Psychological aspects of landowners' behaviour such as perceived justice are not taken into account to explain transaction behaviour within neo-institutional economic literature. Behavioural economists did show the influence of perceived justice on transaction behaviour (Sent, 2005). However, behavioural economists do not take into account the influence of legislation (or formal institutions) in their studies. This study's findings of landowner behaviour confirm the theory of Ostrom's theory (2005) that human behaviour is influenced by different layers of internal processing and the expected utility of the decisions outcome. While all separate elements of the results and the relation between these elements are confirmed by prior studies, the behaviour of private landowners during publicly initiated land transactions has not been studied and explained on a micro-scale before. None of the theories is sufficient in itself to elucidate the full complexity of private landowner behaviour during public land transactions that this study demonstrates.

What considerations do governments make when deciding on a strategy for land development and how do these considerations translate into government behaviour during land transactions?

In essence, Dutch Governments consist of two main organisational parts: civil servants and the political representatives. Land policy is prepared and executed

by civil servants. Main decisions regarding the land policy are ideally made by the political representatives. The actual acquisition is performed by land purchasers who are sometimes employed as civil servants and sometimes externally hired by the government. For land purchasers, the process of land acquisition can be a rather standardised process that is strongly institutionalised depending on the implementation instrument that is chosen. Legal procedures and institutions determine for example how much negotiation is necessary before a landowner who is unwilling to sell, can be condemned. A just treatment of all landowners is essential for land purchasers.

The analysis of land transactions in contexts of different land policies, as well as interviews with land purchasers, provided insight into the considerations governments make during land policy. Provincial and municipal land use policies are place, time, and resource dependent. If political support and - correspondingly - sufficient financial resources are available, governments have a full range of land policy instruments to choose from. If on the other hand financial resources or political support are limited, some land policy instruments are less suitable to use. Depending on the context, certain instruments tend to dominate over others. Compulsory purchase is certainly the most influential instrument for land policy, despite the limited number of compulsory purchase cases in court. For governments, compulsory purchase provides a guarantee that land that is necessary for the public good can always be acquired. Even if the compulsory purchase law is not immediately used to push landowners towards selling, the possibility of using the instrument can already influence on the transaction dynamics between the government and landowners. The instrument of compulsory purchase is not designed as an instrument for facilitative land policy, as the government is the only actor who can use the instrument and it is designed to set private landowners offside, rather than to leave the initiative with them. Land policy instruments are not applied equally by municipalities, provinces, and the national government. The different policies are partly related to the different characteristics of the planning objectives (i.e. infrastructure development, nature development, or urban renewal). The different policies also relate to the different customs and levels of knowledge between municipalities, provinces and the state. Local politicians are more involved with local landowners than are national politicians, and are therefore less inclined to use an instrument like compulsory purchase to realise a certain plan or policy. In the Netherlands, public land acquisition is mainly used in rural areas. Governments and private developers need to be creative in order to invent ways of instigating urban (re)development with limited resources. A broad spectrum of non-financial compensation instruments such as transferable development rights, space for space, voluntary land readjustment, and land exploitation companies are all available to facilitate this (Janssen-Jansen et al., 2008), and yet most of these instruments see only limitedly use by Dutch governments.

Decision processes within governmental organisations are complex and lack

transparency due to the different parties that can influence the decision. This makes it difficult to completely reconstruct the governments' decision processes.

Politicians make decisions on the most central and general acquisition options (where do we acquire land and which instruments can we use to do this?), but can all have their own motivations to vote in favour of or against a certain plan. These decisions can be influenced by lobbying from local stakeholders, especially in local and regional politics. Just like landowners, politicians have to make a decision based on incomplete information and with incomplete knowledge.

More specific acquisition decisions (how and in what order to approach the landowners) are made by the land purchasers and civil servants who are involved in the project. They often base their decisions on the set of rules and policy that is established and democratically approved.

Which external aspects are relevant for the understanding of public-private land transactions from a micro-scale perspective and how do they influence land transactions?

Public-private land transactions are constructed through a process of interactions that are influenced by institutions and uncertainties. The outcome of a landowner's decision may be influenced by the unknown behaviour of other landowners or the government.

Both formal institutions (legislation) and informal institutions (unwritten rules on how to behave) were found to be central to the understanding of public-private land transactions.

Land use plans are the immediate reason for the occurrence of public land transactions; without the plan to change the existing land use, the government would have no direct reason to buy the land. The designation of land for a particular land use, directly affects the prices that landowners are willing to pay for the land. compulsory purchase legislation has a significant influence on the transactions processes within areas that are designated for a new land use. Even if the compulsory purchase law is not immediately used to push landowners towards selling, the possibility that the instrument could be used can already influence the transaction dynamics between the government and landowners. The government's ability to condemn the landowner, places the government in a powerful negotiation position compared to the landowner. Landowners respond in various ways to this pressure.

Landowners' decisions not to sell their land to the government are all related to feelings of injustice about either the process itself, the outcome of the process or a combination of both. Perceptions of just land acquisition are hugely divergent. However, they also revolve around three values: lawful, decent, and equal treatment. These values have different meanings to individual landowners and land purchasers and translate into different expectations on just land acquisition.

For both landowners and land purchasers, just land acquisition entails more than simply the correct level of financial compensation. Arriving at the compensation fee in an accurate and open manner is an equally important requisite for just land acquisition as the compensation fee itself. This does not however mean that an accurate, open, and decent process can compensate for a compensation fee that is perceived as too low to cover the landowners' value and costs.

How are prices of public-private land transactions constructed and how can they be understood?

Public-private land transactions differ from voluntary land transactions between a willing buyer and seller of land. First, the government needs a specific piece of land and has no possibility of buying this elsewhere. This makes the government dependent on the willingness of a specific (group of) landowner(s) to sell. Second, the landowner is not generally planning to sell the land voluntarily. Third, governments can apply the instrument compulsory purchase to force the landowner to sell, which places them in an unequal power position. Fourth, a limited time frame can create time pressure within the transaction process. Fifth, the value of the land generally alters with the change of land use.

Due to the above-mentioned characteristics of public land transactions, neither classic economic theory nor hedonic land price models suffice to gain a complete understanding of the prices of these transactions. That is, these theories assume that prices are constructed via negotiation between a willing buyer and seller of land, which is not the case in public-private land transactions. This research showed that compulsory purchase legislation and jurisprudence is central to the understanding of land prices of public land transactions. Other than during transactions between a private buyer and seller, the negotiations during public land transactions do not deal with the price that governments and landowners are willing to pay or receive, but with the way the legislation and jurisprudence can be interpreted and lead to a compensation that both parties can agree with. This compensation is based on the fictive price for which a willing buyer and seller would agree to transact the land, complemented with all other financial harms that a landowner suffers because of the acquisition of the land. If the land use is unambiguous, the price that a buyer and seller are willing to pay for land is generally estimated by using comparable land transactions in the region.

Even within the prescriptions resulting from expropriation legislation, prices are ambiguous. At least in certain cases, 'full compensation' is a broad concept, rather than a hard number. This ambiguity in compensation prices has at least three causes. First, different methods of appraising land are permitted and lead to different appraised values. Second, the set of guidelines that is offered in the current legislation to appraise the full compensation offers room for different interpretations by professionals. Third, the land prices that buyers are willing to pay in a situation of hope value are very diverse.

Insights on the ambiguousness of appraised land prices for public land transactions have not, as far as the author is aware, been mentioned before in the literature. However, indications of ambiguous land prices may be concluded from studies of Chang (2010,2011) and Clauretje et al. (2004). Chang (2010, 2011) studied court-adjudicated takings compensation in New-York and found that both the desired value by the expropriated and the expropriator are above the Fair Market Value that he calculated using a hedonic regression model. The settled compensation value was often more than 150% or less than 50% of the Fair Market Value (Chang, 2010). Clauretje et al. (2004) analysed the difference between CP valuation and the prices paid in the market in Nevada, also using a hedonic regression model. They showed that the CP valuation and the market prices differed significantly. Government appraisers estimated the compensation of low-value properties lower than the market price according to the model, while they estimated the value of high value properties as higher than the market price from the model. In the 1960s, Patricia Munch found a very comparable result in court data on an urban renewal project in Chicago (Munch, 1973; 1976, cited in Chang, 2011).

On the previous pages, the different sub-questions of this research were answered. Now that all sub-questions have been answered, the main research question of this thesis can be answered.

How can the different aspects that determine how public-private land transactions take place, be understood and related from a micro-scale perspective?

This research shows that individual land transactions are too unique to be explained by one theory. However, patterns in behaviour and groups of land transactions can be explained.

The study of land transactions from a micro-scale perspective helped to understand land transactions as complex processes in which land policy legislation, the landowners' and land purchasers' decisions, and the interaction between landowners and land purchasers are of central importance. Landowners' decisions are largely based on their expectations of the land acquisition and planning process, while land purchasers' decisions are based more on their expectations that follow from land policy legislation. The landowners' expectations are influenced by their personal values, institutions, their personal situation and relational aspects between the land purchaser and the landowner. Landowners' personal values that were found to influence their expectations and decisions included risk propensity, conservatism and perceived justice. Landowners' expectations inform their strategies for dealing with uncertainties and 'estimating' what will be the best decision in the given situation. The decision to agree or not to agree towards selling depends on the extent to which a) the landowner expects to be able to use the transaction to gain personally, b) the landowner perceives the process and outcome as just. However, the threat of compulsory purchase can result in a decision to sell the land despite a lack of perceived gain or perceived justice.

Moreover, what a landowner perceives as the best solution is not always to sell under the best conditions and for the best price. For land purchasers, the process of land acquisition can be a rather standardised process that can, depending on the land policy instrument that is chosen, be strongly institutionalised.

Both landowners and land purchasers use perceived justice as an important requisite for public-private land transactions. Although perceptions of just land acquisition were found to be hugely divergent, they were also found to revolve around the values of lawful, decent, and equal treatment. For both landowners and land purchasers, just land acquisition entails more than a just amount of financial compensation. Arriving at the compensation fee is an accurate, open and sociable way is an equally important requisite for just land acquisition as the compensation fee itself.

Due to the characteristics of public-private land transactions, neither classic economic theory nor hedonic land price models suffice in order to gain a complete understanding of these transactions. That is, these theories assume that transactions are made by a willing buyer and seller of land, which is not the case in public-private land transactions. Land prices of public-private land transactions are based on expropriation legislation and jurisprudence that prescribes what a full compensation entails. However, even within these strict prescriptions, prices can be ambiguous, due to differences in interpretations during the appraisal process.

7.2 Discussing landowner behaviour during public-private land transactions

Neo-institutional economic theories state that people act to maximise utility or self-interest, but are limited in this behaviour by uncertainties, bounded rationality and institutions (i.e. Hodgson, 2000; Needham et al., 2011; North, 2005; Sorensen, 2010; Triantafyllopoulos, 2008; Van der Krabben and Buitelaar, 2011). North (2005) differs from most neo-institutional economists in stating that uncertainties are ubiquitous and central to human behaviour. This is confirmed by the results of this study, these showing that uncertainties are no exception, but rather are central to the understanding of land transactions. Landowners face uncertainties in the transaction process and planning processes, as well as about the behaviour and strategies of other actors. Game theorists attempt to deal with uncertainties by developing games with incomplete, imperfect and asymmetric information (Samsura et al., 2010). This is only a first step towards an incorporating uncertainties into game theory, as not only information on the game itself may be uncertain, but also information on possible strategies of other players. Moreover, uncertainties may change during the process and differ from person to person.

A central notion within the literature on human transaction behaviour is the self-interest. According to neo-classic economics, people act to maximise their self-interest (or utility). This idea has been criticised by both neo-institutional and behavioural economics (Needham et al., 2011; Sent, 2005). The results of this study confirm that landowners indeed based their decisions on self-interest. However, the

results also show that this self-interest is not per definition equal to the economic utility. The maximum utility is constructed differently by each individual. It can be seen as the highest price, but can just as well be seen as the least uncertainty or the opportunity to stay in the neighbourhood with family and friends. This brings up the question as to what 'maximum utility' is. If maximum utility can be everything, the theory becomes tautological. Three basic problems with the notion of maximum utility were distinguished during the course of this research and will now be discussed.

First, maximum utility is often not (only) economic, and is thus more than a combination of money, goods, services and values. Maximum utility should be seen as an optimal solution within a certain situation. Although 'rational' factors (i.e. price) can be of influence in arriving at someone's optimal solution, it always remains a construct of this specific person. It is not the price or the selling conditions themselves that are of direct influence in the development of a transaction, but rather the derivative (personal) value of these conditions to the buyer and seller. The optimal solution is thus shaped by personal expectations that are influenced by institutions, personal values and someone's personal situation at a particular moment. This can cause people to behave completely 'irrationally' from an outsider's perspective. Kahneman and Thaler (1991) use the notion of an experienced maximum utility to refer to the different perceptions of maximum utility that individuals can have. Despite this term, they still assume the existence of an objective, unambiguous maximum utility. Thaler (2008) also assumes in his book 'Nudge, Improving decisions about health, wealth and happiness' that there is one objective maximum utility that people might overlook. He suggests that people need 'a nudge' to move towards this objective maximum utility. In simplified economic problems, an objective maximum utility may indeed be present, but real-life problems generally have multiple dimensions that an individual will weigh up for him or herself and that are not generalizable to one truth. For example, choosing a healthy meal may be best from a health perspective, but may be time consuming in its preparation, more expensive and, depending on someone's taste less appetising. In such a situation, the maximum utility depends on a personal balance of the different pros and cons of the decision. This applies similarly to public land transactions; it cannot be objectively determined from an outsider's perspective what the best (or maximum utility) option is for a landowner, as this depends on his or her personal values and the mutual importance that he or she attaches to the different dimensions of the decision. For example, it is impossible to decide for a landowner whether it is better for a landowner to continue negotiations with a certain chance of gaining better selling conditions, but paying the price of longer uncertainty and the inability to continue their farming business. The deliberation between these options is personal and cannot be translated into an objective maximum utility.

Second, the influence of uncertainty is underestimated in economic models and theories, while in reality these are central to human choice situations. Planning

processes cause uncertainties to rise by putting an existing situation under discussion. Due to the variety and complexity of interest and the often lengthy timeframe of plan processes, uncertainties are central to planners, politicians and landowners (Domingo and Beunen, 2012; Friend and Hickling, 2005). Uncertainty and risk are recognised by both neo-institutional economists and behavioural economists. However, both neo-institutional and behavioural economists still assume the existence of a single maximum utility in choice situations. A single maximum utility in a given situation is impossible not only due to the different personal values of landowners, but also because choice situations include inevitable and unsolvable uncertainties. The example of the prisoner's dilemma¹ helps to explain the implication of uncertainties and risk within transaction behaviour. Although it is possible to define the optimal solution for both prisoners if both decisions can be determined and overseen, this is not per definition the optimal decision from the perspective of either prisoner alone, as each is uncertain what the other will decide, it being impossible to communicate and cooperate. Ultimately, going for the maximum shared outcome means the risk of the worst individual outcome. A public-private land transaction can be seen as a similar situation regarding the uncertainties that a landowner faces. The landowner has to decide whether or not to sell their land to the government for a certain price, a decision which involves many uncertainties. It is uncertain whether the government will use its compulsory purchase powers if the landowner remains unwilling to sell. It is unknown whether the landowner will receive a lower, equal or higher price during a possible expropriation. It is uncertain what land will come up on the market next month to buy. Landowners do not know if they should wait for another offer, or if this offer will never come. Landowners' final decisions depend on expectations which they start to form over time to reduce the uncertainties they have to cope with. These uncertainties may lead to hesitant behaviour, causing new uncertainties for other actors that may respond to this hesitance, conversely influencing the uncertainties the landowner is perceiving. In summary, land transactions are dialectic processes which brings us to the third argument.

Third, a landowner's optimal solution may change during the transaction, due to changing circumstances, renewed insights, or new experiences leading to changed expectations. Thus, even if it were possible to infer someone's 'optimal solution', this solution is not static and may change during the transaction process. The construction and continuous development of expectations is described by various authors (Ostrom, 2005; Van Assche et al., 2012).

7.3 Discussing the ambiguous nature of land prices

Understanding land prices is central to understanding land transactions. In this section I discuss the ambiguous nature of land prices, using both existing literature and theories that were used to conceptualise the research questions of this study and the findings of the studies that were presented in chapter 3-6.

1. The prisoner's dilemma is explained on page 18 of this thesis.

Land and property values are difficult to appraise, because they are location specific and may be valued differently by different owners (Sirmans et al., 2005). Hedonic pricing models have been extensively used to gain insight into the composition of property² prices (Glaesener and Caruso, 2015; Kostov, 2009; Maddison, 2000; Tsoodle et al., 2006; Wang and Huang, 2007). These models can be valuable to gain a deeper understanding of the weight and significance of different components that construct land prices in a certain market. However, when using hedonic pricing models, most economists assume that the transaction was made by a willing buyer and seller, which is not the case in public land transactions. In some cases, the models are used to (re)create rather than to understand land value. This leaves us with lists of aspects that influence land prices, without understanding how and under which conditions these aspects influence land price and why they are related. Though valuable, price models can also be misleading as a model is only able to define (sometimes meaningless) relations and patterns in a set of data, but not to explain them.

The results of this study show that the guidelines of the CP law strongly influence the prices of public land transactions. Sluysmans (2011) studied the Dutch CP legislation and stated that although the limited guidelines of CP may lead to the concern of little legal certainty for landowners, saying 'I am of opinion that this approach is exactly the strength of the CP compensation legislation. After all, it is for all those involved clear what the result should be, namely a full compensation'. This research shows a drawback of the flexible character of expropriation legislation: the ambiguousness of compensation fees. The outcomes of the study of 89 CP cases showed that the final compensation appraisal in court was on average 52% higher than the last compensation appraisal by the government. Hence, 'full compensation' is not as obvious and clear as it seems, since even educated appraisers disagree strongly about the value of this 'full compensation'. This brings up questions on landowner compensations that were not determined in court. Would some of them have been appraised as higher in court? Are landowners justly informed, if they are pushed to sell their land 'voluntarily', using the threat that they are not entitled to receive replacement land during a compulsory purchase procedure? Clauretje et. al. (2004) state that there is a risk of over- valuating transactions to prevent compulsory purchase and thus transferring these costs to tax payers. This research shows that the costs of an expropriation procedure may be equally high or even higher. Land purchasers highly value the equal treatment of all landowners and are thus not inclined to offer compensation fees that are too high. Given the relatively small number of public land transactions compared to the total amount of tax payers, the argument that too high compensation fees are unjust to tax payers seems less relevant than the question as to whether an individual landowner received just compensation for his or her situation.

To what extent can we translate these insights to the 'normal' appraisal of land

2. When I use the word 'property', I cover housing, offices, and land. Hedonic pricing models have been used to analyse each of these markets.

values? According to Bienert and Brunauer (Bienert and Brunauer, 2007) the (economic) appraisal of land can be described with various estimation methods, for which there are no generally accepted guidelines. The dispute in appraisal in the studied cases could also be related to the appraisal of land and property in general in two ways. First, there is disagreement about the method of appraisal, and different methods lead to different values. Second, in the situation of hope value, there are no clear guidelines on the value of land. Agrarian land prices are related to agricultural profits of the land. Urban land prices are related to development profits from the land. The hope value is somewhere in between the urban and agrarian land price and is based on (mostly developers' and speculators') estimations of the probability that agricultural land will be zoned as urban land within a certain time period. Land appraisers can only rely on reference transactions in the same area and the question as to whether these transactions were 'speculative' or based on a grounded expectation for urban development. The difference between price and value becomes fuzzy here. It may be impossible under the current conditions to determine an objective³ land value in situations of hope value. In these situations, it is impossible to estimate the prices according to the principle of a willing buyer and seller, because the price of a willing buyer depends strongly on the buyer's willingness and ability to take risk. This can be problematic, as the differences between the agrarian and urban land value can easily increase by tens of euro's per m², which can result in several millions of euro's for one single landowner.

7.4 Recommendations for further research

Several results of this research demand for further research. In general, more studies of land transactions at micro-scale level in different contexts are necessary in order to gain more insight into the workings of land transactions. In particular, I recommend three directions of research within the scope of land policy. The first recommendation comes from Dutch practice, the other two result from this study.

Comparison of specific land policy instruments

In Dutch planning practice there is a tendency towards 'instrumental thinking'. Success and failure of plans and policies are often related to which instrument is used, or the lack of an instrument to use. However, relatively little is known about the effects of the different instruments compared to each other or to other aspects of planning processes. Methodologically, it is challenging to structurally compare⁴ land policy

3. In essence, land value is always subjective and will differ from person to person. However, the use of objective here refers to an unambiguous value that can be appraised according to a set of guidelines that have agreed upon.

4. The grounds on which the instruments should be compared will not be elaborated upon further in this thesis. They could for example be the effectiveness, justice, efficiency or sustainability of the studied instruments. See for example: Janssen-Jansen, L., Spaans, M., van der Veen, M., 2008. New instruments in spatial planning: an international perspective on non-financial compensation. IOS Press. and Hartmann, T., Spit, T., 2015. Dilemmas of

instruments based on empirical research, because each case is in essence unique through its local context, culture and the people involved. Moreover, there are many aspects that influence the progress of a planning process beyond the instruments that are used. Innovative and mixed-methods may be able to overcome these challenges and to structurally compare land policy methods in different contexts.

Longitudinal research of land transactions

Land policy and planning processes contain a numbers of uncertainties that cannot all be prevented. People deal with these uncertainties by creating expectations. However, as yet, we have limited knowledge about the way these expectations are constructed during land acquisition or land readjustment processes. This research represents a beginning towards gaining an understanding of how expectations are constructed, but it did not use longitudinal methods to gain insight into the way expectations evolve over a certain time period. To better understand the way expectations are constructed and change during the planning process, future research is needed in which the transactions processes are followed longitudinally. The development of both individual expectations and of discourses are relevant to study, as these are mutually interrelated; expectations may be based on a discourse and a discourse may in its turn be based on a set of shared expectations. It may be interesting to combine this line of research with the first line in a comparative study of acquisition or readjustment processes in which different approaches or variations of the instruments are used.

Quantitative studies to follow up on the results found in qualitative studies and vice versa

There is a need for more methodological and theoretical pluralism in the field of planning and property rights (Adams et al., 2005). Currently, the field of law, mainstream economics and different schools of institutionalism usually work in parallel instead of using insights from the different research fields. Several findings of this study, in particular the ambiguousness of CP compensation, and the importance of perceptions of justice for both landowners and land purchasers, would be interesting to analyse further using quantitative methods. For example, a questionnaire amongst of broad group of landowners on their feelings of justice, using the insights of this research, would be valuable in enabling the generalisation of the findings among all landowners and land purchasers. It might also be interesting to include other groups such as planners or citizens who have never been involved in land acquisition in this study.

In general, the cooperation of researchers from different schools in mixed-methods studies on land transactions would provide a deeper understanding of land transactions as a building block of planning processes.

involvement in land management—Comparing an active (Dutch) and a passive (German) approach. *Land Use Policy* 42, 729-737.

7.5 Reflections on methodology

The use of the different empirical data sources is both the major strength and weakness of this research. The iterative and cyclic research process, using different data sources and methods of analysis, allowed a deep understanding of a limited number of land transactions. None of the used data sources (interviews, plan documents, deeds, transaction data, observation) could have provided this in-depth understanding on its own. The iterative method of data collection and analysis was sometimes time consuming and appeared inefficient or even frustrating during the research itself. However, looking back at the steps I took, I think there is no other, more efficient way of gaining this same deep level of understanding. The iterative process in which I moved from data collection and data analysis, via preliminary results into new data collection, analysis, writing, new analysis, discussion, data collection and so on, enabled me to keep sharpening the results and gain an increasingly deep understanding of the complexity and unicity of land transactions.

The limited number of CP cases complicates the generalisation of these results to all CP cases, although the 89 cases are estimated as about 20%⁵ of all CP cases in the last 20 years. Even if these cases were the most extreme cases, I think that the differences between the compensation appraisal in court and before the juridical procedure are extensive.

The use of a hedonic price model was considered at a late stage of the research. Such a model could have been valuable if there had been an assumption about the influence of certain factors on land prices. However, the difference between bare land prices and compensation prices is so obvious that a hedonic price model was not judged to be of added value to prove this. The lack of insight in the separate land price as component of the compensation value restricted the possibility to compare land prices of public land purchases with other land prices.

7.6 Practical recommendations: learn about landowners

Spatial planners translate political visions into feasible plans that can be executed. Actual developments outside are visible to the general public, not the plan designs on the drawing table. However, most planners⁶ do not have much affinity with land policy and landowners. Landowners are easily approachable and become increasingly important actors in planning processes. In 2008, Buitelaar already argued for more owner-sensitive planning in the Netherlands. I would even like to bring this even one step further, arguing that planners should not only bear in mind the local property situation when making plans, but should cooperate and communicate with landowners as fully-fledged actors in a development process.

5. Given the available jurisprudence and number of Crown decisions for CP, I estimated the number at 20 cases per year. This brings the estimated amount of CP cases in the last 20 years to $20 \times 20 = 400$ cases.

6. At least those in the Netherlands.

Landowners do whatever they feel is best within the given circumstances. As a government, it may be impossible to influence what a landowner feels that is best, but it may be possible to change the circumstances, based on a knowledge of landowners' interests. And even when it is impossible to change the given circumstances, it is valuable to know about the landowners' interests to be able to anticipate these when implementing policy and plans. The cliché view that people are emotionally attached to their property, is only true for a certain group of landowners, and is too often used as an excuse when dealing with unsatisfied landowners or citizens. The majority of people can be very understanding, as long as their concerns are taken seriously and they are approached as fully-fledged actors in the process. This requires a completely different approach towards planning than most planners are used to. In order to achieve this, planners would have to alternate between strategic, tactic and operational planning. 'Strategic planners' need for example to understand spatial legislation including land policy, the interests of all people involved in their plans, and need to be aware of the importance of good communicate and negotiation with citizens and developers. Currently, there is only a small group of people that have knowledge of both planning and the broad spectrum of land policy. As long as this group remains small, planners and land professionals will have to cooperate much more from the stage of the first political or landowners' ideas until the implementation of these ideas.

In Dutch planning education, land policy is only a marginal topic. While planners in the United States learn about negotiation as a central part of their curriculum, such classes are only scarcely present in Dutch planning education. If we truly want (or need) to develop towards a more facilitative planning system, planning education will have to be adapted toward this end. As far as I am aware, there are only limited courses on land policy instruments in Dutch planning education, which results in planners that are only being able to plan and not knowing how to implement their plans.

Epilogue

This thesis started from my own questions about the different ways people react to land acquisition by the government. What caused some people to sell their land easily to the government, while others have huge difficulties with the idea of selling and refuse to sell their property voluntarily? One answer that was provided by many people to whom I talked about this research was that it had to do with the emotional attachment to the land experienced by those landowners who are unwilling to sell. After four years of research, I have learned that this is only a part of the story behind public land transactions.

Another perspective on land transactions that was regularly reported was the belief that such transactions are simply economic, in which people try to get the highest price possible. This indeed formed another part of the 'puzzle of public land transactions' but did not complete the puzzle.

This is something that has characterised the entire research. Much of what was found was not new in itself, but what is innovative is the complete overview regarding the various aspects and their relationships.

While working on this research, I did not only learn how to do research, but was also able to develop other skills including pitching, presenting, writing, managing, interviewing, creativity and analytical thinking. To me, the ability to develop these skills was just as valuable as the opportunity to develop my research skills.

I have experienced the research process as one big jigsaw puzzle which I was making, while learning to solve at the same time. Throughout the research I learned tips and tricks on how to solve a puzzle, making it increasingly comfortable and satisfying to work on this puzzle. I have now finished my part of the puzzle, but the puzzle of land transactions is not yet finished by far. I hope that others can gain from this research while working on their part of the puzzle, just as I gained from numerous studies to finish my part of the puzzle.

“Imagination is more important than knowledge. For knowledge is limited, whereas imagination embraces the entire world, stimulating progress, giving birth to evolution. It is, strictly speaking, a real factor in scientific research”

(Einstein, 1931, p. 49)

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Summary

Chapter 1 * Land transactions between governments and private landowners are the central object of this research. Land transactions can have an important impact on land use. Consequently, land transactions and landownership have a tight relationship with spatial planning. Land is fixed and heterogeneous through its location, resulting in each landowner having a monopoly position. For governments, the significance of landownership can be high if planned developments are not realised by landowners themselves.

A reasonable amount of research has been conducted on the relationship between public (land) policy, public land acquisition and the property market. This body of research is diverse and has been conducted by researchers of many different backgrounds. This research adds to the existing literature by providing a micro-scale perspective on land transactions, in which the different relevant aspects are studied in an integrated manner. In contrast to the dominant body of literature, the core of this study does not attempt to quantify the results, but to gain insight into the mutual relations and interdependency of the different relevant aspects. This was achieved by studying a limited number of public-private land transactions in depth. Six main bodies of literature were used as a basis to provide insights and theory on different aspects of land transactions: neo-classical economics, (old) institutionalism, new institutional economics, political economy of institutionalism, behavioural economics and sociological studies on property rights.

Although much has been written on land policy and land transactions, few studies offer detailed insights into transaction *processes*. Most studies focus either on the outcomes (prices) of land transaction or on the influence of a specific instrument or approach on land transactions or landowners. In order to gain a full understanding of land and property rights, there is a need to integrate these approaches and to move beyond disciplinary research on property into interdisciplinary approaches. This thesis represents a start in filling the scientific gap, moving towards a more heterogeneous and micro-scale approach towards land transactions. The following research question guided the research:

How can the different aspects that determine how public-private land transactions take place be understood and related from a micro-scale perspective?

The aim of this research is to gain a deeper understanding of public-private land transactions from a micro-scale perspective.

Chapter 2 * Land transactions were studied using empirical data from Dutch land transaction processes. In an iterative process, I continuously moved from land policies and strategies, via their general impact on the land and property market, to the individual land transactions that resulted from these public land policies, and then back again to the land policies again. This iterative process enabled me to bring together different individual parts (land transactions) into one whole (the

land market) and link this to the governmental land policy.

A case study design was used to analyse land policy and land transactions. Case studies provide a manner of studying specific phenomena holistically in the real-life context and is therefore well suited in order to gain a deeper understanding of land transactions.

Four different cases provided the main data for analysis: one case of nature development (Oostvaarderswold), two cases of urban development (Van Coehoornplein and Deltabuurt) and one case of infrastructure development. This variety of cases enabled me to study a broad pallet of land acquisition practises.

The data were analysed using a theoretical frame that grew according as the research progressed. This study combines both qualitative and quantitative methods in an effort to gain insight into land policy and its underlying land transactions. It was the combination of these methods that enabled me to gain a deep understanding of land transactions. The main source, in order to gain insights into human interpretations of land policy and land transactions, were interviews (n=71) with landowners, land acquirers and other professionals such as land use planners, policy makers, and scientific experts. A second data source in the case studies was provided by the documents that were available about the specific case. These documents primarily consisted of: planning documents, political documents and meeting reports. The third data source in this study were cadastral purchase deeds and land transaction data. The fourth group of empirical data included 89 legal expropriation sentences that were collected from the database 'Legal Intelligence'. Finally, information was used about Dutch land policy that was published or available in other ways during the research period (2011-2015) so as to gain a better insight into the actual debate on land policy in the Netherlands. These data included newspaper articles, websites, LinkedIn discussions, conferences, informal talks about my research with practitioners, scientists, colleagues or friends, and visits to inform municipalities about land readjustment that I made as part of my professional position at the Cadastre, Land Registry and Mapping Agency.

The diversity in both the qualitative (texts) and quantitative (numbers) data that were used in this research led to different methods of data analysis. All methods of analysis occurred according to the iterative meaning-making process of the hermeneutic spiral. The methods included coding, statistical analysis, network analysis and the historical construction of events.

Triangulation of data sources and methods, peer colleague examination and a broad variety of cases were used to increase the internal validity, consistency, and external validity of the research.

Chapter 3 * Compulsory Purchase (CP) is known as indispensable planning legislation to enable efficient plan implementation. Central in the CP procedure is the amount of compensation that the landowner receives. Various countries have their own set of compensation guidelines in which the just compensation for CP in a variety of

circumstances is prescribed, based on the country's legislation and jurisprudence. This creates the illusion that CP compensation is an objective 'science' based on a clear set of rules and standards that follow from legislation. There are few studies on how governments construct CP prices in practise and whether these prices are univocal. We study how CP compensation is established, how this determines the prices that are paid, and how (un)ambiguousness the valuation system of CP is. The aim is to analyse how CP compensation is established and how this determines the prices that are paid during governmental land acquisition. The results from this research show that the CP legislation and jurisprudence are central to understanding governmental land acquisition prices. The legislation and valuation of CP experience is not as univocal as many professionals assume. In 89 legal CP cases from the Netherlands, the compensation of the final offer in court was on average 52.2% higher than the last compensation offer from the expropriator. The differences in valuation were especially related to different systems of valuation, and to different perspectives upon the expected value of the land.

Chapter 4 * In this chapter, land transactions were studied in relation to publicly initiated nature development. A better understanding of land transactions is important for understanding and influencing the way in which land is used. The aim is to explore different aspects and their interrelations that influence landowner behaviour during land transactions initiated by the government. To achieve this the study drew on 42 explorative interviews with land purchasers, land policy experts, planning professionals and local farmers.

Aspects that were found to be of central importance during land transactions were uncertainty, feelings of justice, and the planning process. Landowners performed strategic behaviour based on their personal situation and their expectations on uncertain aspects. These strategies were strongly interrelated with the evolution of land use change. Land use changes were both the input on which actors based their strategies, as well as the outcome of those strategies.

The aspects found in this study were strongly interrelated and changed over time. Some aspects are context dependent, while others are expected to be generally influential during land transactions.

Chapter 5 * The importance of owner-occupiers within urban renewal has increased due to increasing urban renewal tasks, decreased budgets for these tasks, and the increased share of owner-occupied dwellings. The dominant approach to deal with owner-occupiers during urban renewal has been replacement. The changed context gives rise to explore the potential of alternative approaches towards urban renewal in areas with owner-occupiers. In this chapter we identified critical aspects for understanding urban renewal approaches in owner-occupied areas. To do this, we explored two approaches to deal with owner-occupiers during urban renewal. We used an analytical framework in which we unravel and compare the approaches based on four central questions: where to conduct urban renewal; which instruments

to use; how to act towards owner-occupiers; and who wins and who loses. The study showed that critical aspects for understanding urban renewal approaches were 1) flexibility to develop and adapt the approach during the renewal process itself, based on the local context and interests of residents, 2) active empowerment of owner-occupiers, 3) insight into the interests of the involved owner-occupiers during the process, and 4) relationships of confidence between the municipality and the owner-occupiers.

Chapter 6 * Many studies have addressed the justice of public land acquisition, but few studies have addressed the question of what landowners perceive as just. Individual perceptions drive an important part of the social and scientific debates on legitimate and just land acquisition. This gap is addressed by studying landowners' and land purchasers' perceptions of just land acquisition. We did this by uncovering the prevailing discourse on just land acquisition and studying the values that shaped people's perceptions of just land acquisition. The results showed that perceptions of justice are based on the values of lawfulness, decency and equality. These values were translated into different norms that resulted in expectations pertaining to just land acquisition. Insight into the different perceptions and the prevailing discourse of just land acquisition and their underlying values increases the understanding of land acquisition processes and land policy strategies. First, it becomes apparent that land acquisition has an essential element of injustice that cannot be avoided by a good process or a just compensation fee. Second, insight into different discourses provides valuable input for debates on just land acquisition. Third, such insight shows that money is not always a sufficient means of indemnification. The combination of sufficient financial compensation, the opportunity of a new location, attractive selling conditions and accurate and open process are all important requisites to ensuring that public land acquisition is perceived by the majority of landowners as just.

Chapter 7 * The study of land transactions from a micro-scale perspective culminated in understanding land transactions as complex processes in which land policy legislation, the landowners and land purchasers' decisions, and the interaction between landowners and land purchasers are of central importance. Landowners' decisions follow largely from their expectations of the land acquisition and planning process, while land purchasers' decisions are based more on expectations that follow from land policy legislation. The landowners' expectations are influenced by their personal values, institutions, their personal situation and relational aspects between the land purchaser and the landowner. Landowners create their expectations to deal with uncertainties and to 'estimate' which decision will be best in the given situation. The decision to sell or not to sell depends on the extent to which a) the landowner expects to be able to use the transaction to gain personally, b) the landowner perceives the process and outcome as just. However, the threat of CP can result in forced selling of the land despite a lack of perceived gain or perceived justice. Moreover, what a landowner perceives as the best solution is not always to sell under the best conditions and for the best price. For land purchasers,

the process of land acquisition can be a rather standardised process that is strongly institutionalised depending on the land policy instrument that is chosen.

Both landowners and land purchasers use perceived justice as an important requisite for public-private land transactions. Although perceptions of just land acquisition were found to be very divergent, they were also found to revolve around three values, namely lawful, decent, and equal treatment. For both landowners and land purchasers, just land acquisition does not only entail the offer of a just amount of financial compensation. Arriving at this compensation fee in an accurate, open and sociable manner is an equally important requisite for the perception of just land acquisition as the compensation fee itself.

Due to the characteristics of public-private land transactions, neither classic economic theory nor hedonic land price models suffice to gain a complete understanding of these transactions. That is, these theories assume that transactions are made by a willing buyer and seller of land, which is not the case in a public-private land transaction. Land prices of public-private land transactions are based on expropriation legislation and jurisprudence that prescribes what full compensation entails. However, even within these strict prescriptions, prices are ambiguous. The results of this study showed that the full compensation that is determined in court is on average 52% higher than the last compensation value that is offered before the expropriation in court has started. This shows that 'full compensation' is a broad concept, rather than a hard fact.

A central notion within the literature on human transaction behaviour is the self-interest. The results of this study confirmed that landowners indeed make decisions based on self-interest, but the results also show that this self-interest is not per definition equal to the economic utility. Maximum utility is a construct that is perceived differently by each individual. This brings up the question as to what 'maximum utility' actually is. If maximum utility can be everything, the theory becomes tautological.

Hedonic pricing models have been used extensively to gain insight into the composition of property¹ prices. Though valuable, price models can also be misleading, as a model is only able to define (sometimes meaningless) relations and patterns in a set of data, but not to explain them.

In the studied cases, the dispute in the appraisal could also be related to the appraisal of land and property in general in two ways. Firstly, there is disagreement about the method with which to appraise; different methods lead to different values. Secondly, in the situation of hope value, there are no clear guidelines on the value of land.

1. When I use the word property, I aim at each housing, offices, and land. Hedonic pricing models have been used to analyse each of these markets.

Samenvatting

Hoofdstuk 1 * In dit proefschrift worden de resultaten beschreven van een onderzoek naar grondtransacties tussen de overheid en private grondeigenaren. Grondtransacties hebben vaak een belangrijke invloed op de bestemming van grond en zijn daarmee nauw gerelateerd aan ruimtelijke planning. Een perceel grond is niet te verplaatsen en elk stuk grond is uniek vanwege de ruimtelijke locatie. Dit zorgt ervoor dat elke grondeigenaar een monopolypositie heeft. Voor overheden kan het belang van grond(eigendom) groot zijn als geplande ontwikkelingen niet worden gerealiseerd door de betreffende grondeigenaren zelf.

Er zijn verschillende studies gedaan naar de relatie tussen grondbeleid, grondverwerving en de grondmarkt. Het onderzoek dat zich op deze thematiek richt is gevarieerd en wordt uitgevoerd door onderzoekers van verschillende disciplines. Het onderzoek in dit proefschrift is aanvullend op het bestaande onderzoek door op microschaal naar grondtransacties te kijken. Hiermee kunnen de verschillende aspecten die grondtransacties beïnvloeden in relatie tot elkaar worden onderzocht. In tegenstelling tot de meerderheid aan studies over de grondmarkt, is het doel van dit onderzoek niet om de resultaten te kwantificeren, maar om meer inzicht te genereren in de onderlinge relaties en samenhang tussen de verschillende aspecten. Dit is bereikt door een aantal publiek-private grondtransacties diepgaand te bestuderen. Zes wetenschappelijke stromingen zijn gebruikt als theoretische basis voor het onderzoek: neoklassieke economie, institutionalisme, politieke economie van institutionalisme, gedragseconomie en sociale studies naar eigendomsrecht.

Hoewel er veel is geschreven over grondbeleid en de grondmarkt, zijn er weinig studies die ingaan op het transactieproces. De meeste studies focussen op de uitkomst van het transactieproces (de grondprijs) of op de invloed van een specifiek instrument op grondtransacties, de grondprijs of grondeigenaren. Om een volledig beeld van grond en eigendomsrechten te krijgen is het van belang om de verschillende benaderingen te integreren en in een vervolg op het disciplinair onderzoek ten aanzien van de grondmarkt en grondbeleid met een meer interdisciplinaire benadering te werken. Dit proefschrift vormt een begin om dit wetenschappelijke gat in het onderzoek te vullen en gebruikt daarvoor een analyse op microschaal. De volgende onderzoeksvraag was leidend tijdens het onderzoek:

Hoe kunnen de aspecten, die beïnvloeden hoe publiek-private grondtransacties plaatsvinden, op microschaal worden begrepen en met elkaar in relatie worden gebracht?

Het doel van het onderzoek is om inzicht te creëren in publiek-private grondtransacties vanuit een micro perspectief.

Hoofdstuk 2 * In dit onderzoek zijn grondtransacties geanalyseerd met behulp van empirische data uit grondtransactieprocessen in Nederland. In een iteratief proces, veranderde ik continue van een focus op grondbeleid en grondstrategieën,

via een focus op de grondmarkt, naar een focus op individuele grondtransacties en terug naar het grondbeleid. Dit iteratieve proces zorgde ervoor dat de verschillende grondtransacties in een groter geheel konden worden geplaatst en konden worden gerelateerd aan het gevoerde grondbeleid. Case studies zijn gebruikt om grondbeleid en grondtransacties te analyseren. Case studies helpen om een specifiek fenomeen in het grotere geheel te plaatsen binnen de realiteit en zijn daarom geschikt om het doel van dit onderzoek te bereiken. Vier verschillende case studies vormde de belangrijkste data voor de analyse: een case voor natuurontwikkeling (Oostvaarderswold, Flevoland), twee cases ten aanzien van stedelijke ontwikkeling (Van Coehoornplein in s'-Hertogenbosch en Deltabuurt in Deventer) en een case ten aanzien van infrastructurele ontwikkeling (Grondverwerving door Rijkswaterstaat bij (delen van) de A2, A4, A5, A9, N18, N31 en N61). De diversiteit aan cases zorgde voor inzicht in een breed palet aan grondverwervingstrategieën en grondbeleidsinstrumenten. De empirische data zijn geanalyseerd met behulp van een analytisch kader dat is gegroeid gedurende het onderzoek. Kwantitatieve en kwalitatieve methodes zijn gecombineerd tijdens de analyse om een beter inzicht te krijgen in het transactieproces. Juist de combinatie van deze methodes was van belang om een diepgaand inzicht in de grondtransacties te krijgen. De belangrijkste methode van data verzamelen was het houden van diepgaande interviews (n=71) met grondeigenaren, grondverwerwers en andere professionals in het vakgebied zoals ruimtelijke planners, beleidsmakers en wetenschappelijke experts. Ten tweede, is gebruik gemaakt van tekstuele documenten die beschikbaar waren voor elk van de onderzochte cases. Het ging hierbij voornamelijk om planologische rapporten, politieke verslagen en verslagen van bijeenkomsten en vergaderingen. De derde bron van empirisch materiaal werd gevormd door kadastrale aktes en kadastrale transactiedata. Ten vierde is gebruik gemaakt van 89 juridische uitspraken van onteigeningszaken. Tot slot is gebruik gemaakt van verschillende databronnen die inzicht gaven in het Nederlandse debat over grondbeleid (2011-2015). Het ging hierbij om o.a. nieuwsberichten, websites, LinkedIn discussies, conferenties, informele gesprekken met mensen uit de praktijk van grond, wetenschappers, familie en vrienden, en zakelijke bezoeken over stedelijke herverkaveling aan gemeenten vanuit mijn rol als adviseur bij het Kadaster.

De data zijn geanalyseerd met behulp van coderingstechnieken, statistische analyse, netwerkanalyse en de historische reconstructie van gebeurtenissen. De triangulatie van databronnen, triangulatie van methoden; het gebruik van collegiale toetsen en een grote variëteit aan cases zorgde voor een onderzoek dat voldoet aan eisen van consistentie, evenals aan de eisen van interne en externe validiteit.

Hoofdstuk 3 * Onteigening staat bekend als onmisbaar instrument om efficiënte planrealisatie te garanderen. Centraal binnen een onteigeningsprocedure is het bepalen van de financiële compensatie die een grondeigenaar kan ontvangen. Veel landen hebben hun eigen set van richtlijnen voor financiële compensatie bij onteigening. Deze richtlijnen wekken de illusie dat financiële compensatie bij

onteigening een nauwkeurige en objectieve ‘wetenschap’ is, gebaseerd op een duidelijke set van regels en standaarden die volgen uit de wet en de jurisprudentie. Er zijn echter weinig studies die hebben onderzocht hoe de compensatie voor onteigening wordt bepaald door de overheid en in hoeverre dit eenduidig is. In dit hoofdstuk wordt daarom onderzocht hoe de financiële compensatie voor onteigening wordt bepaald en in hoeverre deze systematiek eenduidig is. Het doel van de studie is te analyseren hoe de compensatie voor onteigening wordt bepaald en hoe dit resulteert in een grondprijs bij publiek-private transacties. De resultaten tonen dat de onteigeningswetgeving centraal staat bij een begrip van grondprijzen van publiek-private grondtransacties. De vastgestelde schadeloosstelling binnen de onteigeningssystematiek is echter niet altijd zo eenduidig als door de meeste professionals wordt aangenomen. In 89 onteigeningszaken, is de compensatie die door de rechtbank wordt vastgesteld gemiddeld 52,2% hoger dan het laatste bod dat door de overheid (volgens dezelfde systematiek) is gedaan voor onteigening. Deze verschillen in waarde konden voornamelijk worden verklaard door het gebruik van verschillende waarderingsmethodieken en verschillende perspectieven op de verwachtingswaarde van grond.

Hoofdstuk 4 * In dit hoofdstuk worden grondtransacties bestudeerd in de context van publieke natuur realisatie. Het doel van de studie is om de verschillende aspecten, die het gedrag van grondeigenaren kunnen beïnvloeden tijdens publiek-private grondtransacties, te verkennen en aan elkaar te relateren. Om dit te bereiken zijn 42 interviews afgenomen met grondverwerwers, grondbeleidsdeskundigen, planologen en grondeigenaren.

Voor de grondeigenaren waren gedurende de transacties de volgende aspecten van centraal belang: onzekerheid, het gevoel van rechtvaardigheid en het planningsproces. Grondeigenaren vertoonden strategisch gedrag op basis van hun persoonlijke situatie en hun verwachtingen met betrekking tot de onzekerheden in het proces. Deze strategieën waren sterk gerelateerd aan de ontwikkeling van de bestemmingswijziging. De bestemmingswijziging vormde daarmee zowel de input waarop de grondeigenaren hun strategie baseerde, als een deel van de uitkomst van hun strategie.

De aspecten die gevonden zijn in deze studie waren sterk aan elkaar gerelateerd en veranderde door de tijd heen. Sommige aspecten waren gerelateerd aan de context, terwijl anderen naar verwachting meer in het algemeen van invloed zijn op publiek-private grondtransacties.

Hoofdstuk 5 * Het belang van eigenaar-bewoners tijdens stedelijke herstructurering is toegenomen door een toenemend aantal binnenstedelijke opgaves, een verminderd budget om deze opgaven uit te voeren en het toenemende aantal woningen dat in bezit is van eigenaar-bewoners. De dominante benadering ten aanzien van het omgaan met eigenaar-bewoners tijdens herstructurering is verplaatsing. De veranderende context geeft aanleiding om het potentieel van alternatieve benaderingen ten aanzien van stedelijke vernieuwing in een gebied met eigenaar-

bewoners te verkennen. In dit hoofdstuk worden kritieke aspecten bepaald voor een beter begrip van stedelijke vernieuwing in gebieden met eigenaar-bewoners. Om dit te doen zijn twee cases van stedelijke vernieuwing waarin verschillende benaderingen ten aanzien van de eigenaar-bewoners zijn gebruikt onderzocht. Het analytisch kader om de benaderingen te kunnen begrijpen en vergelijken was gebaseerd op vier centrale vragen: Waar is de stedelijke vernieuwing gelokaliseerd? Welke instrumenten worden gebruikt om de vernieuwing te realiseren? Hoe wordt omgegaan met eigenaar-bewoners? Wie wint er en wie verliest er? De resultaten tonen aan dat ten minste vier aspecten kritiek zijn voor het begrip van stedelijke herstructurering in een gebied met eigenaar-bewoners. Het gaat om het belang van 1) flexibiliteit om de benadering te ontwikkelen en aan te passen gedurende het vernieuwingsproces zelf, gebaseerd op de lokale context en de belangen van de eigenaren 2) het belang van actieve 'empowerment' van eigenaar-bewoners 3) het belang van inzicht in de verschillende belangen van eigenaar-bewoners gedurende het proces en 4) het belang van een vertrouwensrelatie tussen de gemeente en eigenaar-bewoners.

Hoofdstuk 6 * Een aanzienlijk aantal studies heeft de rechtvaardigheid of eerlijkheid van publieke grondverwerving onderzocht, maar slechts enkele van deze studies gaan in op de vraag wat grondeigenaren zelf ervaren als eerlijk. Toch vormen juist individuele percepties een belangrijk onderdeel van maatschappelijke en wetenschappelijke discussies over legitieme en eerlijke grondverwerving. Dit gemis is aangehaald door de percepties van grondeigenaren en grondverwerfers ten aanzien van eerlijke publiek grondverwerving te analyseren. We hebben dit gedaan door het dominante discours over rechtvaardige publieke grondverwerving te verkennen en de verschillende waarden die ten grondslag liggen aan de percepties van rechtvaardige grondverwerving te bestuderen. De resultaten tonen aan dat percepties van eerlijke publieke grondverwerving zijn gebaseerd op gedeelde waarden van rechtvaardigheid, juistheid en gelijkheid. Deze waarden werden vertaald in verschillende normen die weer leidden tot verschillende verwachtingen ten aanzien van publieke grondverwerving. Inzicht in de verschillende percepties en het dominante discours ten aanzien van publieke grondverwerving en de onderliggende waarden zorgt voor een beter begrip van grondverwervingsprocessen en grondverwerving strategieën. Ten eerste, wordt het duidelijk dat publieke grondverwerving een inherent element van oneerlijkheid kenmerkt, hetgeen niet kan worden vermeden door een goed proces of een rechtvaardige financiële schadeloosstelling. Ten tweede, geeft het inzicht in verschillende beelden ten aanzien van eerlijke grondverwerving waardevolle input voor het debat over eerlijke grondverwerving. Ten derde, tonen de inzichten dat geld niet altijd een geschikt middel is om eigenaren te compenseren voor hun verlies. De combinatie van voldoende financiële compensatie, de mogelijkheden op een nieuwe locatie, aantrekkelijke verkoopvoorwaarden en een accuraat en open proces zijn allemaal belangrijke voorwaarden om te waarborgen dat publieke grondverwerving door de meerderheid van de grondeigenaren als eerlijk wordt ervaren.

Hoofdstuk 7 * Het bestuderen van grondtransacties op microschaal heeft gezorgd voor een beter begrip van grondtransacties als complexe processen waarin grondbeleid, wetgeving, gedrag van grondeigenaren, gedrag van grondverwerwers en de interactie tussen hen beiden van centraal belang zijn. Beslissingen van grondeigenaren volgen grotendeels uit hun verwachtingen over de grondverwerving en het planningsproces, terwijl de beslissingen van grondverwerwers meer volgen uit de verwachtingen die voortkomen uit hun kennis over de wet. Verwachtingen van grondeigenaren worden beïnvloed door hun persoonlijke waarden, instituties, hun persoonlijke situaties en relationele aspecten tussen de grondverwever en de grondeigenaar. Grondeigenaren creëren verwachtingen zodat ze om kunnen gaan met onzekerheden en om in te schatten wat het beste is om te besluiten in de gegeven situatie. De beslissing om wel of niet te verkopen hangt af van de mate waarin a) de eigenaar verwacht persoonlijk te kunnen winnen bij de verkoop, en b) de eigenaar het proces en de uitkomst van het proces ervaart als eerlijk. Maar, de dreiging van onteigening kan ervoor zorgen dat een eigenaar besluit om te verkopen ondanks het onvoldoende gewin of het gemis van het gevoel van eerlijkheid. Daarnaast is de beste oplossing voor een eigenaar niet altijd om te verkopen tegen goede voorwaarden en een goede prijs. Voor grondverwerwers is grondverwerving een standaard procedure die sterk is geïnstitutionaliseerd afhankelijk van het grondbeleidsinstrumentarium dat is gekozen.

Zowel grondeigenaren als grondverwerwers noemen eerlijkheid als een belangrijke randvoorwaarde voor publiek-private grondtransacties. Hoewel de beelden van eerlijke grondverwerving uiteen liepen, waren ze ook gerelateerd aan drie belangrijke waarden: rechtvaardigheid, juistheid en gelijkheid. Voor zowel de eigenaren als de verwerwers houdt een eerlijke grondverwerving meer in dan een eerlijke schadeloosstelling. Een accuraat, open en sociaal proces om tot deze schadeloosstelling te komen is even belangrijk als de schadeloosstelling zelf.

Door de specifieke kenmerken van publiek-private grondtransacties voldoen zowel de neo-klassieke economische theorie als hedonische prijsmodellen niet om een volledig begrip van grondtransacties te krijgen. In deze modellen wordt uitgegaan van een vrijwillige koper en verkoper van grond, hetgeen in publiek-private grondtransacties niet aan de orde is. Grondprijzen van publiek-private grondtransacties zijn gebaseerd op de onteigeningswetgeving die voorschrijft wat een volledige schadeloosstelling inhoudt. Zelfs met een uitgebreide jurisprudentie hierover zijn deze prijzen echter niet eenduidig. De resultaten van dit onderzoek tonen aan dat de volledige schadeloosstelling die in de rechtbank is vastgesteld gemiddeld 52% hoger is dan de laatste compensatie die is geboden door de overheid voordat de onteigening in de rechtbank start. Dit toont aan dat de volledige schadeloosstelling een breed begrip is en geen objectief getal. De verschillen in onderlinge taxaties die bij volledige schadeloosstellingen voor onteigening werden vastgesteld zijn op twee manieren te relateren aan de algemene taxatie van grond. Ten eerste, kan er onduidelijkheid zijn over de methode waarmee grond en opstallen getaxeerd

kunnen worden, hetgeen tot verschillende waardes kan leiden. Ten tweede, is er gebrek aan duidelijk taxatierichtlijnen wanneer er sprake is van verwachtingswaarde.

Een centraal begrip in de literatuur over transactiegedrag is eigenbelang. De resultaten van dit onderzoek bevestigen dat eigenaren inderdaad beslissen op basis van hun eigen belang. Maar de resultaten tonen ook dat dit eigen belang niet per definitie gelijk is aan het economische maximum gewin. Het maximale economische nut wordt door ieder individu verschillend geïnterpreteerd. Dit roept de vraag op wat het economische nut is. Immers, als het alles kan zijn dan wordt de theorie een tautologie.

Logbook of interviews

Position	Organisation	Nr.	Date
Strategic advisor real estate and area development	State Forestry Commission	1	Oct. 2011
Sr. Land Purchaser	Municipality of Ede	1	Oct. 2011
Senior Land Purchaser	RWS	2	Nov. 2011
Strategic advisor implementation strategies	Province (regional government)	2	Nov. 2011 Aug. 2014
Sr. Project leader	RVOB	1	Nov. 2011
Sr. Advisor land issues	DLG	2	Nov. 2011 Jan. 2012
Land Agent	Nature Organisation	1	Nov. 2011
Sr. Land Purchaser	ProRail	2	Nov. 2011
Sr. Land Purchaser	Municipality of Enschede	1	Dec. 2011
Strategic advisor real estate	Ministry of Finances	1	Dec. 2011
Legal expert, consultant, land purchaser	Advisory company	9*	Dec. 2011 - Aug. 2014
Area manager	Project developer	1	Jan. 2012
Landowner Oostvaarderswold		10	May 2012 - July 2012
Sr. advisor spatial planning and environment	Municipality of Almere	1	May 2012
Sr. Staff member	Ministry of Economic affairs	1	May 2012
Chair	Flevolandschap	1	May 2012
Strategic Planner	Municipality of Lelystad	1	April 2012
Spokesman Oostvaarderswold	LTO	1	April 2012
Deputy Provincial States	Province of Flevoland	1	March '12
Districtmanager	State Forestry Commission	1	May 2012
Sr. Staff member spatial development	Municipality of Zeewolde	1	March '12
Staff member	Waterboard Zuiderzeeland	1	March '12
Nature Planner	Municipality of Almere	1	Aug. 2012
Project manager Boschveld	Municipality of Den Bosch	2*	Apr. 2013
Landowner Boschveld		9	Apr. 2013 -Aug. 2013
Representative neighbourhood association	Boschveld & Veenmarktkwartier	2	Jun. 2013
Project manager Deltabuurt	Municipality Deventer	1	Oct. 2013
Landowner Deltabuurt		4	Nov. 2013
Participatory neighbourhood planner	Municipality of Deventer	2	Nov. 2013
Project manager neighbourhood renewal	Municipality of Amersfoort	1	Aug. 2014
Head department Land Policy	Municipality of Gouda	1	Aug. 2014

Dealing with Private Property for Public Purposes

Professor Land Policy	Technological University Delft	1	Jan. 2015
Land Purchaser	RWS	4*	Feb. 2015 - Apr. 2015

* (Including) two interviews with the same person. One Interview was conducted and recorded by a MSc student.

List of abbreviations

- A2 Motorway in the Netherlands that connects Amsterdam and Maastricht via Utrecht.
- A4 Motorway in the Netherlands that connects Amsterdam, The Hague and Rotterdam and leads to the Belgian border
- A5 Motorway in the Netherlands that connects Schiphol Airport and Amsterdam
- A9 Motorway in the Netherlands that connects intersection 'Diemen and Alkmaar via Amsterdam, Haarlem and IJmuiden
- BAG Basisregistratie Adressen en Gebouwen. General registration of addresses and buildings.
- CBS Centraal Bureau voor de Statistiek. Central Office for Statistics
- CP Compulsory Purchase. There are various terms for this instrument in different countries including expropriation, eminent domain, takings or resumption
- N18 Provincial road in the Netherlands that connects Zevenaar and Enschede
- N31 Provincial road in the Netherlands that connects the 'Afsluitdijk' with Drachten via Leeuwarden
- N61 Provincial road in the Netherlands that connects Terneuzen and Schoondijke
- OVW Oostvaarderswold, the name of the planned nature zone between the nature reserve 'Oostvaardersplassen' and the nature area 'Horsterwold'.
- RWS 'Rijkswaterstaat'. Rijkswaterstaat is a Dutch state agency that is responsible for the design, construction, management and maintenance of the main infrastructure facilities in the Netherlands. This includes the main road network, the main waterway network and water systems.

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About the author

Sanne Holtslag-Broekhof was born in 1986 in Leiden and grew up in Oegstgeest. She completed her A-levels in 2004 at the Stedelijk Gymnasium in Leiden.

After the completion of her A-levels, Sanne moved to Wageningen to study Landscape Architecture and Spatial Planning at the Wageningen University. She finalised her Bachelor studies with a specialisation in landscape architecture in 2007 with a thesis entitled 'Flexibility in planning for the housing market'. She finalised her master in January 2011 with a thesis entitled 'Building a common vision: from allotment garden to sustainable food system. An exploratory research for the planning of food systems in the Western context'. The results of this thesis were presented in 2010 during the European Sustainable Food Planning Conference in Brighton and resulted in a publication as chapter of the book 'Sustainable food planning: evolving theory and practice' (edited by A.M. Viljoen and J.S.C. Wiskerke). During her studies Sanne was a member of the education committee, editorial member of the semi-professional journal TOPOS, and was one of the members of the selection committee for a new professor of Landscape Architecture. Moreover, she was active in the Wageningen Student Orchestra as member, chief of the orchestra, concertmaster, member of the advisory board, and chair of the international exchange committee.

Since 2009, she also worked as assistant projectleader at the Netherlands' Cadastre, Land Registry and Mapping Agency (Kadaster), at the department for Spatial Consultancy and Advise. After finishing her studies, she continued working at the Netherlands' Cadastre, Land Registry and Mapping Agency and soon thereafter started her PhD research on public land transactions. She conducted the PhD research in cooperation between the Cadastre, Land Registry and Mapping Agency, and the Rural Sociology Group of Wageningen University. The PhD-research resulted in several peer-reviewed and professional journal articles. During the PhD-research she also cooperated in several teaching activities. Currently, she is working as Sr. Advisor at the department of product and procesmanagement of the Cadastre, Land Registry and Mapping Agency.

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Selection of publications

Holtslag-Broekhof, S.M., Marwijk, R. van, Beunen, R., Wiskerke, H. (2015) Perceived (in)justice of public land acquisition, *Journal of Agricultural and Environmental Ethics*, online first, 1-18.

Holtslag-Broekhof, S.M., Van Straalen, F. (2014) Grondbeleid tijdens binnenstedelijke herontwikkeling, *Grondzaken in de Praktijk*, oktober 2014, 15-17.

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Holtslag-Broekhof, S.M., Beunen, R., Marwijk, R. van, Wiskerke, H. (2014) "Let's try to get the best out of it". Understanding land transactions during land use change, *Land Use Policy* Vol. 41, 561-570.

Holtslag-Broekhof, S.M. (2013) Land Acquisitions for Nature Development: the social construction of Land Transactions. In: Planning, Law and Property Rights Conference, *7th international Conference. Planning matters, Law matters and Property matters*. Portland, USA, 12-15 February 2013.

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Vranken, M. and Broekhof, S (2012) Contribution of cadastral information to climate change policy in the Netherlands. In: FIG (Fédération Internationale des Géomètres), *FIG Working Week 2012. Knowing to manage the territory, protect the environment, evaluate the cultural heritage*. Rome, Italy 6-10 May 2012.

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Holtslag, W., Broekhof, S.M., Carsjens, G.J. and Duchart, I. (2011) Metropolitan Agriculture. *Environment and Landscape Architecture of Korea*. 279, 160-165.

Susanne Marjanne Holtslag-Broekhof
Wageningen School of Social Sciences (WASS)
Completed Training and Supervision Plan



Wageningen School
of Social Sciences

Name of the learning activity	Department/Institute	Year	ECTS*
A) Project related competences			
Write research proposal	WUR, LUP	2011	6
Participatory Approaches in Planning, Policy and Development	WASS	2011	3
<i>'Land acquisition as essential part of the planning process'</i>	International Conference on Planning, Law and Property Rights (PLPR), Belfast	2012	1
<i>'The role of spatial information for planning sustainable cities'</i>	FIG Working Week, Rome	2012	1
<i>'Land transactions as the fundamentals of spatial planning'</i>	PLPR, Portland	2013	1
<i>'The role of owner-occupiers in residential urban regeneration'</i>	International AESOP conference, Dublin	2013	1
PhD Summerschool	Aesop	2013	2
Supervising workshop <i>'Publiek-private verdienmodellen als zachte heelmesters voor een perverse ruimtelijke ordening'</i>	Student Conference <i>Life and death of de geldmaakmachine</i> , NGPS	2013	0.5
<i>'Dealing with private home owners during residential renewal'</i>	WASS PhD day	2014	1
<i>'Municipal strategies to deal with private ownership during urban renewal'</i>	International AESOP conference, Utrecht	2014	1
<i>'The development of Dutch land policy from an active to a passive approach'</i>	LandAC conference, Utrecht	2015	1
B) General research related competences			
Introduction course	WASS	2011	0.75
Research Methodology 1: From topic to proposal	WASS	2011	4
Techniques for writing and presenting a scientific paper	WGS	2012	1.2
Interdisciplinary research	WGS	2011	1.1
Voice Matters: Voice and Presentation Training	WGS	2012	0.3
C) Career related competences/personal development			
Teaching and Supervising for MSc course advanced research methodology	LUP	2012	2

Dealing with Private Property for Public Purposes

PhD Competence Assessment	WGS	2011	0.3
Career Orientation	WGS	2014	1.5
Supervising MSc thesis	ESD	2012	1.5
Organisation of Symposium 'Grond voor Discussie'	WUR	2013	2
Total			33.15

*One credit according to ECTS is on average equivalent to 28 hours of study load

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