

Changes in Dutch land policy: New ways to finance the public space.

How foreign land policies give insights in the Dutch possibilities.

A study of different forms of land policy and different ways to finance the Dutch public space.



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Preface

This thesis you're about to read is a study on the current Dutch land policy. The goal of this thesis is to identify the current problems on the Dutch land policy. The Dutch land policy makers are trying to cope with the effects that the economic crisis has on the municipalities and especially the municipal budget. The municipal budget has been financed for an important part out of revenue of land development and housing projects. Public space has for decades been (partly) financed by these developments. Since the economic crisis, it has become harder and harder to continue the current system. To find a system that helps to keep financing the public space out of development project we will look at foreign policies. Will these policies give a solution for the Dutch land policy?

This study was written as part of the bachelor thesis. The Bachelor thesis is the completion of the bachelor Urban Planning, at the Faculty of Management Sciences at the Radboud University Nijmegen.

I would also like use this preface to seize the opportunity to personally thank some people for their contribution. First, my thanks go to Berit Edlich, for her guidance in conducting this research. She helped me to focus the subject and guided me through the process of writing a bachelor thesis. Secondly I would like to thank Erwin van der Krabben who helped me to structure my thesis. Erwin van der Krabben also shared his expertise and therewith helped me to improve and finish my thesis. Finally I want to thank Herman de Wolff and Demetrio Munoz-Gielen for sharing their expertise with me. I also want to thank them for their suggestions. They all gave me different view on the case.

I hope you will appreciate reading this thesis.

Lukas Meuleman

Summary

During the past couple of years the Dutch government and the municipalities in particular, have to cope with increasing problems on the housing market (Segeren, 2007). The crisis on the property market is far from over, and this affects not only the property owners but also the municipalities. How is this property and land market organized in the Netherlands? Is there another way to arrange this market, and might another way be a better, more effective way? This study will give an overview of the land policies in three different countries and will compare these policies to the Dutch policy; this study will focus on the way of financing the public space in particular.

The main problems the Dutch municipalities have to cope with, have arisen since the eighties and have been aggravated in the last ten years (Buitelaar, 2010). Municipalities have bought land from farmers and other land owners during the economic growth (Priemus and Louw, 2003; de Greef 2003), but since the recession there is no one to sell the land to. Therefore profits are no longer made, and the public space cannot longer be financed by the policy of active land policy (Van der Krabben, personal communication, June 29, 2012).

The addressed problems on the Dutch land policy led to the main question of this thesis:
How can the Dutch land use policy be changed and adapted to the current economic situation by studying Spanish, German and British land use models, in order to cope with the Dutch problem of financing the public space?

This main question will help to fulfill the goal of this thesis: *Contribute to the solution of the financing problem of the public space in the Netherlands by studying the Spanish, German and British way of financing the public space and eventually advice on possible implementations of the three foreign models into the Dutch land policy.*

Theory

Changing social, political, and most important, economic conditions have a great influence on the behavior of actors on the land market. The government responds to changes in the economic situation the Netherlands (and many other western countries) is coping with. These changes range from overall cuts to reorganizations in governmental organizations.

The Dutch government and Powel both define three different forms of organization. Both sources describe the first form of organization as a strongly hierarchal organization. Then, the second form of organization is seen as a form of a network with a strong form of interdependency between the actors in this network. Both Powel as the Dutch government define this third form as form of a market organization.

In a hierarchy organization, the government is the single directing actor (Powell, 1990). This form of organization is a top-down organization; the form contains clear lines of authority. The government organizes, directs and coordinates the organisation; other actors like local governments, the private sector, social institutions etc. are directed by the governing body. Governments direct through the tools of legislation and regulation.

A network organization according to Powell (1990) is a form of organization that contains equal actors. There is no single directing actor like the government is in the hierarchal organization. Interested parties (private actors, governmental organizations, social institutions etc.) have tools and capabilities to realise a goal or at least a part of the defined common goal. The government therefor is no longer the directing actor; it is dependable on other interested parties.

Powell (1990) defines market organizations as a 'self-directing organization'. A market according to Powell (1990) is 'a spontaneous coordination mechanism that imparts rationality and consistency to the self-interested actions of individuals and firms.' A perfect market means that information is freely available, alternative buyers or sellers are easy to come by and there are no carry-over effects from one transaction to another. The single purpose of a government is to create the conditions for the market to 'work' in. The government has a passive role, private organizations and the community have an active role.

This thesis focuses on the financing of the public space. Who should finance this, mostly non-profitable, public space? How should the public and/or private sector finance the public space? Is there a legitimate way to cope with this issue or will there always be a party that suffers from it?

We can divide the way of financing the public space roughly in two different categories: public financing and private financing. Different modes of organization come along with different forms of financing.

Public financing is normally done by the municipalities; the money that is needed for the public space is generated by taxes and/or other charges. An annotation can be put here, in practice it looks like the money indirectly comes from the people and private parties anyway. Public financing of the public space, fits well in a hierarchy organization. Governments organize the development of public space and therefor governments also must create the right conditions and circumstances. Public financing will always be organized by the government in this matter.

The second category is private financing, or perhaps a better way to put it; direct private financing. Private parties pay for the public space, usually in terms of package deals in some kind. Private financing is done with as little governmental interference as possible. This kind of financing is created by the market and therefor fits in a market organization mode.

In some cases the public and private parties work together or finance the public space together.

Dutch area development

At the current time there are three different kinds of problems at the Dutch area development, this 'tripod of problems' consists of:

- The drop in demand
- Excessive programming
- Unprofitable projects

Drop in demand

First of all, the drop in demand will be discussed. The drop in demand on the property market is a big problem for the current Dutch land market. It is not hard to imagine that a drop in demand means a drop in sales. The drop in sales means a decrease in income for the project developers and a decrease in income for the municipalities. This 'drop in demand' issue is not hard to understand but this problem is very comprehensive and therefor it is very hard to change this pod of the 'problem-tripod'.

Excessive programming

The second part of the problem according to Prof. van der Krabben (personal communication, June 29, 2012) is the excessive programming by the different municipalities. Municipalities keep competing with each other for new inhabitants, new companies to settle in their municipality and therefor to contribute to the municipality. The different area developments, for example business area developments, keep competing with each other but eventually the different areas are overdeveloping. There is not enough accretion of companies to fill these business areas therefor one of the two competing areas (or both) will develop too much office units. This is all resulting in huge vacancy and therefor huge losses for the municipalities.

Unprofitable projects

The third part of the problem is the problem of unprofitable projects. Apart from the drop in demand, the projects that currently are realised are more and more unprofitable.

When we look at the problem of Dutch land policy as a whole one might see everything is connected. What part of the policy or what circumstances have changed a major successful policy into a flawed system? The major change that occurred is the change in the Dutch economic situation. From a flourishing economy, the Netherlands fell into a crisis. This changing conditions and circumstances also have effect on the way Dutch land policy is organized. In a flourishing economy a more hierarchal organization can work fine. Since the economy has dropped a network or market organization would fit better. When the mode of organization changes, the policy of land development can also change.

The Dutch model

The Dutch municipalities are depending on the revenues from 'active land policy'. This active land policy has worked very well for many years. As the financial crisis took place, the policy of active land policy is coping with many problems. Dutch municipalities have to earn money from active land policy but when this flow of money is being reduced or even stopped, the municipalities have to cope with major problems on financing the public space.

The public space is an unprofitable part of area development. The municipalities are responsible for the realization of the public space, so they have to develop this public space with revenues from other parts of a total area development. There are many ways possible to arrange this financing of the public space. Other countries use other ways of land policy and could give a solution for the current problems in the Dutch area development and therefor also the financing of the public space

Foreign models: Spanish, British and German ways of financing the public space

Current economic times ask for a different governmental organization. As a hierarchy is not the best fit for the current governmental organization, a freer mode of organization fits better. A network or market mode of organization fits better with the current situation. Policies that fit with these modes will therefor also have to be more freely.

Spanish model

The Valencian model is a model that worked very well for many years. Due to the market oriented character of the organization, parts of the model are very effective and successful but other parts are not always social accepted.

British Model

The British model has changed from a hierarchal mode of organization to a more market based organization (Munoz-Gielen, personal communication, July 24, 2012). Previous the model could be characterized by a separated commissioning and contractor; basically the public party decides what should be developed and the private party mostly develops these assignments (Cullingworth & Nadin, 2006). Current, initiatives for development is taken by private parties.

German Model

The German model is a model that worked very well for many years and doesn't seem very susceptible to the economic crisis. Private ownership is on the other hand not very much protected by the German law.

Conclusion

The Dutch land policy

The main problem that has arisen was the fact that municipalities saw the revenues of active land policy as a default flow of income. The main mistake of the policy makers was made in the heydays of active land policy: none of the revenues were saved by the municipalities. Possible risks of active land policy could therefore not be absorbed.

Excessive programming is a mistake made by policy makers in the more recent history. A lot of land was bought by municipalities with the idea that they could and would sell it to developers. Since the economic crisis the demand dropped and now the municipalities can't sell the land.

The last main problem of current active land policy is the unprofitable projects. This problem is on the one hand caused by changing conditions on the location development (the development went from expansion areas to transformation areas) but on the other hand is caused by errors in the system of active land policy. The revenue of the increase of value is leaking away. This leakage is caused in three ways:

- The creation of expected value in the area that should be developed
- Non-priced positive external effects for the surrounding areas
- And the non-priced positive external effects for future owners

This leakage could be addressed but this means that the system of active land policy should be changed.

The tool of active land policy was (and is) part of a hierarchical mode of organization for land development. Since the economy has dropped, the demand for houses has dropped. The economy is shrinking. The mode of organization should be adapted to the current economic situation. A freer mode of organization, a market oriented or network oriented mode, would fit better with the current economic situation. To change the policy, the mode of organization should be changed to a freer mode of organization.

The foreign land use policies

In this part of the conclusion the three foreign land use policies will be concluded. Basically the positive points of three policies will be discussed related to the problems that occur(ed) in the Dutch policy. Basically possible ways of financing the public space within their land policy context will be discussed.

The main benefit of the Valencian model and also Umlegung is the fact that the municipalities do not carry any investment risks. This is currently a major problem for the Dutch municipalities. In the Netherlands the municipalities first buy the land and then seek a developer to sell it to. In Spain and Germany this investment risk is not an issue. In Spain the investment risks lay with the developers (mostly financially supported by the banks) and for a smaller part with the landowners. In Germany the risks are limited because of the fact that there is almost no expansion during the development, the risk lies almost solely with the contribution of capital by the landowners.

A second benefit of the three foreign policies is the contract and agreements with the developer and/or the landowners. In all the three policies these contracts and agreements exist in their own ways but also have a lot in common. The British model assures a 50-50 percent interest in the project. This assures that the municipalities do not have to inject capital in the project. After the agreement of the 50-50 percent interest both parties start to negotiate on the demands for the project. In the German policy the states negotiate primarily with the landowners on forehand, detailed agreements can be made in the informal way of Umlegung in private agreements. In Spain the municipalities negotiate on forehand with developers and landowners about the demands of both parties. In Spain these points of negotiation are all detailed listed in the law. Only the points that are listed can be negotiated, it is on forehand clear to all the parties what the negotiation points are and what the room for negotiation is.

Finally the three models all have their own way of forcing the landowners to join the project. This possibility to force the landowners makes it easier to negotiate and much easier to accomplish a project. This ensures that the political process and eventually the entire process takes a lot less time and there for the entire process will be cheaper.

Recommendation for Dutch land policy

Recommendations will follow from the study about the foreign land use models. The recommendations will contribute to fulfill the goal of this thesis: *Contribute to the solution of the financing problem of the public space in the Netherlands by studying the Spanish, German and British way of financing the public space and eventually advice on possible implementations of the three foreign models into the Dutch land policy.*

Two sorts of changes should be made: A change in the thinking of policy makers and the municipalities as a whole secondly a more technical change in the rules of Dutch land policy

A mentality change

The mentality of the policy makers should change. The municipalities should take the economic cyclical movements in account. When big projects are working fine, revenues are made. These revenues should be saved to carry the risks for a less productive period.

The change that should be made is the change in development policy. To change the policy, the mode of organization should change first. The Dutch land development would have to be based on a freer mode of organization. The hierarchal mode of organization should change in a freer mode of organization like a market based or network based organization. Initiative should be more and more taken by the market instead of the municipalities (save in exceptional circumstances). In practice the policy of land- and housing development, should change into a more project based approach. Municipalities should react to the demand and not try to create a demand. Project should be developed when the demand for these projects is high enough. The British model is in this matter a good system to get an indication for the need of a certain project. This means that when there is a want to develop an area can only be implemented when the support and the demand is big enough. A form of this 'evidence of support' should also be implemented in the Dutch land policy in order to prevent excessive programming.

Changes in the system of Dutch land policy

Next to the 'mentality change' changes should be made in the Dutch system of land policy. These more technical changes are inspired on benefits of the three foreign models (the Spanish, British and German model). To change to a more market organization and stop the leakage of the current Dutch land use policy conclusions are drawn from the three foreign models.

The main benefit of the Valencian model and also Umlegung is the fact that the municipalities do not carry any investment risks. This way of development should be adapted in the Netherlands. In Spain and Germany the investment risks are with the landowners themselves and for the (possible) developer. The Dutch land policy should adapt this policy in order to prevent excessive programming and prevent undevelopable land plots. This means that municipalities do not invest in the project; the risk is carried by the landowners and the developers.

A second benefit of the three foreign policies is the contract and agreements with the developer and/or the landowners. The Dutch land policy should adapt this form of negotiation. The Dutch law should make sure that points that can be negotiated are listed in the law. This assures clarity for both parties and eventually it assures clarity to the outside world.

Finally the three models all have their own way of forcing the landowners to join the project. This possibility to force the landowners strengthens the negotiation position of the municipalities. The possibility to force the landowners also makes sure that project can be developed, the duration of the process will be shorter and cheaper and finally it helps to make sure that the public space will be developed. This kind of forces must be handled with care because of the rights of ownership are a high value in the Netherlands. The British idea of collecting support in the area is an effective way of making sure the development of the project is social accepted by the majority of the landowners. When this is the fact the decision to expropriate people from their land will be more accepted in general.

When the changes in the mentality and the changes in the policies and the law are made, many problems can be prevented. The five most important changes that should be made are summarized as followed:

- The municipalities should take the economic cyclical movements in account. When big projects are successful, revenues are made. These revenues should be saved to carry the risks for a less productive period.
- The Dutch land development would have to be based on a freer mode of organization. Initiative should be taken by the market instead of the municipalities. The policy of land- and housing development should change into a more project based approach.
- Municipalities should not invest a lot in development projects; the risk should mainly be carried by the landowners and the developers.
- Open negotiations about contracts and agreements with the developer and/or the landowners should be conducted, before any formal policy rules are followed. The Dutch land policy should make a list of negotiation points in order to avoid arbitrariness.
- The tool of force should be strengthened. When local support for a development project is collected, municipalities or developers should be able to force landowners to join a project.

Active land policy need not to be abandoned but should change in certain points. A freer mode of organization and active land policy in combination with land readjustment and private agreements (according to established rules and negotiation points) should be the future of the Dutch land policy.

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1. Introduction

The economic crisis continues. This crisis causes a lot of damage to many different organizations, countries, people and hence the municipalities. The municipalities in the Netherlands are highly affected by the economic crisis. This causes problems in many ways and in many fields.

During the past couple of years the Dutch government and the municipalities in particular, have to cope with increasing problems on the housing market (Segeren, 2007). The crisis on the property market is far from over, and this affects not only the property owners but also the municipalities. The freezing of the property market has caused the municipalities big problems. Houses are no longer sold; therefore land is no longer sold. How is this property and land market organized in the Netherlands? Is there another way to arrange this market, and might another way be a better, more effective way? This study will give an overview of the land policies in three different countries and will compare these policies to the Dutch policy; this study will focus on the way of financing the public space in particular. The comparison will lead to an advice for the Dutch municipalities. It will advise particularly on which way the Dutch municipalities can arrange the finance for the creation and the maintaining of the public space. The Dutch land policy and land market will be analyzed as a case. Then the Spanish, British and German policies will be analyzed. Eventually the three different foreign policies will give an insight in how the financing of the public space can be done different. Could and would it be cheaper, more 'fair', quicker, better, etc.?

This thesis focuses on a major cost item: The financing of the public space. Public space can be defined in many ways. Public space is in social sciences mostly defined as a public sphere, space is mostly not seen as a physical space (Benhabib, 1992). A (social) geographer sees the public space as a physical space, like a park or a square that contributes to a social concept of interaction between people in that physical sphere (space) (Mitchell, 2010). In the field of anthropology, public space is seen as a space that must be accessible for everyone, but is in practice not always accessible for everyone, the social effects of, and on, public space is often studied by anthropologists (Bowen, 2007).

An urban planner sees the public space as an urban public infrastructure. Urban public infrastructure is a physical space, accessible for everyone and is in everyone's interest (Benhabib, 1992; Bowen, 2007; Kirwan, 1988; Mitchell, 2010). Examples of urban public infrastructure (from this point urban public infrastructure will be referred to as 'public space' again) are the (public) streets, the streetlights, traffic lights, signage, squares, parks, etc.

But how is this public space created? Who creates this public space? Who pays for this public space? How do these financiers get the money to finance the public space? What if there is no money left to pay this public space? Whose responsibility is it to create and or finance this public space? These questions will be studied, discussed, and eventually, if there is an answer, answered.

1.1. Project framework

In this paragraph the problem of financing the public space, as defined in the introduction, will be presented. In the following paragraphs the most important concepts and the problems that come with these concepts will be discussed. The current problem with the Dutch land policy will be explained briefly and eventually three different foreign land use models will be introduced.

1.1.1. Land policy

The land market is a complex market. There are many different players, different rules, different tactics, different policies and different interests. In probably the most countries, the government is the market leader and determines the rules on this market. A view on land policy determined by the Dutch government in the 'Nota grondbeleid' (Note land policy), is interesting to read. The Dutch government describes the use of land and the organization structure of the market as follows (Ministry of VROM, 2001): 'Land is –depending on the destination- a scarce resource with which money can be earned. At the same time, the use of land is of great importance for the realization of public goals. At the land market, land is bought, exploited and soled. To make the land market efficient and righteous, and achieve public goals at the same time, the government is using land policy. Land policy is in this matter not an objective in itself. It serves the purpose of spatial policy and sectorial policies for living, working and recreating.' The Dutch government assumes that land policy and also the land market are in nature, practical-administrative.

Wigmans (1992) also assumes that land policy is practical-administrative in nature but adds a political perspective to it. This political perspective fits well with the assumption of land as a profit product on the one hand and land as a public purpose on the other hand. 'Within land policy, the connection of tools, conditions and goals requires political choices. A first political choice is not to see land policy as an independent topic of policy but to consider it as a part of a wider policy, known as spatial policy. On the basis of this political choice goals should include public housing, spatial planning, and achieving employment. The first and main goals should not be strengthening the economic position of the companies.'

As seen in the two definitions about land policy there is still a lot of discussion about the definition of land policy, not to mention the manner in which land use policy should be carried out and controlled.

1.2. Dutch land policy

The Dutch land policy is unique in its kind. Foreign countries have looked at the Dutch land use policy with admiration for many years but since a couple of years the downside of this unique system emerges. What does this unique system content?

The public space is financed mostly by the profit of selling development land to project developers and private parties. But what if these parties don't have the money anymore to buy the land? The municipalities are left with a lot of land and no one to sell it to. Interest cost on the land continue to pressure the budget and the public space can no longer be paid for with the benefits from the land development policy.

The Dutch land policy has been a unique model (Ministerie van VROM, 2001). The Dutch municipalities have used 'active land policy' as a way to finance the public space. Active land policy has always contributed to the financing of the public space. How does this so called 'active land policy' work? Active land policy is a typical Dutch way of land policy and has often been admired but since a couple of years more and more criticized. Active land policy means that the municipality is the market leader as well as a market player (Kruyt, Needham and Spit, 1990). This means that the municipalities make the rules on the market (and can change them in some way) but are also active players on this market. In practice this means that the municipality can buy land from a farmer, then change the destination and eventually sell the land to a developer for a housing land price. In this way the Dutch municipalities made money by selling their land with profit. This profit was often used for organizing, developing and maintaining the public space (Conijn, 2006; Niehof, 2008). Is this a fair way to finance the public space? One might say it isn't fair because you can't change the rules (the destination of the land) during the game. Another might say that the user (developer) is eventually also the one that is paying for the use and therefore it is the right way (Segeren, 2007).

The main problems the Dutch municipalities have to cope with, have arisen since the eighties and have been aggravated in the last ten years (Buitelaar, 2010). The property market is frozen, there are almost no transactions on the property market and therefore the land market is also frozen. Municipalities have bought land from farmers and other land owners during the economic growth but since the recession there is no one to sell the land to. Therefore profits are no longer made, and the public space cannot longer be financed by the policy of active land policy (Priemus and Louw, 2003; de Greef 2003). In fact, the municipalities are coping with big losses by owning all this land: Interest costs weigh heavily on the balance. How can we solve this problem? Just raising taxes seems to simplistic. There are other ways, but can these other ways help or even rescue the Dutch land market? What mode of organization fits best with the current situation? Are the possible solutions indeed more sufficient? The Spanish, British and German way of land policy will contribute to the answer to these questions.

1.3. Goal of the thesis and questioning

In this paragraph, the goal of thesis and the main question of this thesis will be discussed. Subsequently some sub-questions will be defined; these sub-questions will help to answer the main question. Eventually the thesis will have to answer the main question. At the end of this paragraph, the scientific and social relevance of this thesis will be discussed and the limitations of research will be explained.

1.3.1. Goal

The approach of this thesis will be a theoretical approach. This is a logical result of the fact that there is not a wide selection of literature about the possibilities of different land policies applied to the Dutch land policy. This means that there is more than enough room to contribute to this flaw in the current literature. The goal of this thesis will therefore be:

Contribute to the solution of the financing problem of the public space in the Netherlands by studying the Spanish, German and British way of financing the public space and eventually advice on possible implementations of the three foreign models into the Dutch land policy.

I want to contribute to the improvement of the current Dutch land policy. I want to investigate if there is a different, and perhaps better, more effective way of land policy in the current economic situation. I will focus on one of the main problems of the current land policy: financing the public space. This thesis will contribute to a solution for the current Dutch problem of financing the public space.

What kind of organization fits best with the current economic situation and which kind of policy fits best with this form of organization? Different policies in different countries should give insight in the possibilities, opportunities, strengths and weaknesses of different land policies. Eventually this will give me the possibility to advice on changing and improving the current land policy.

1.3.2. Questioning

I will investigate the 'financing of the public space problem' by giving an answer to the main question:

How can the Dutch land use policy be changed and adapted to the current economic situation by studying Spanish, German and British land use models, in order to cope with the Dutch problem of financing the public space?

To answer this question it is necessary to study literature on the Dutch urban planning policy and also the three foreign ways of urban planning. First a theory for changing an organization must be obtained. When a policy must be changed, first an organization must be found that fits with the current economic situation. Second the main problems of the Dutch way of financing the public space must be identified and studied. After determining these problems, a switch will be made to different foreign ways of urban planning concerning the financing of the public space. The foreign models will give an insight in different ways of financing the public space.

To answer this main question and therefor to accomplish the goal, sub-questions will navigate me to the main question and the goal of the thesis.

Sub-question 1:

What is problem of the Dutch land policy?

- *Which flaws shows the current Dutch land policy focusing on the financing problem of the public space?*
- *Where do these flaws occur? On which level and in which field do these problems occur?*
- *What does the current economic situation have for effect on the current land development?*
- *Does the current governmental organization still fit with the current economic situation?*
- *In which ways can the public space be financed?*
- *Which changes would help to solve the current flaws in the current Dutch policy?*

Sub-question 2:

What makes foreign land policies successful?

- *What are the Spanish, German and British land policies in theory, focusing on the 'financing issue'?*
- *How do the three foreign policies work in practice?*
- *What makes the Spanish, German and British land policies unique?*
- *In what way are the Spanish, German and British land policies different from the Dutch land policy?*
- *What are the positive and negative parts of these policies? What problems do occur and how do the policies cope with these problems?*

Sub-question 3:

In what way can the Dutch land policy be changed by adapting (parts of) foreign land policies?

- *Which foreign success factors are lacking in the Dutch land use policy?*
- *In what way should the Dutch land policy change?*
- *Which parts of foreign land policies can be used in the Dutch land use policy?*
- Concluding: *What changes can/should be made in the Netherlands coping with the financing of the public space?*
- Concluding: *What effects will these changes have?*

1.3.3. Relevance of the thesis

The scientific relevancy of this thesis is mainly determined by the existing theories and literature. In the current literature there has been spoken a lot about land policies. Scientists have also compared different kinds of land policies of different countries. Even the question, what can the Dutch land policy learn from a foreign land policy, has been asked. The focus on different ways of financing the public space has not been investigated by many scientists. The fact that these 'foreign findings' will be used to discuss the flaws in the Dutch system makes it also a enrichment to the current literature. Until so far

there has not been a research that has been structured like this thesis. This thesis focusses first on the current economic situation and the organization that fits with this situation. Then the problem of the current land policy will be matched with the governmental organization. Finally different foreign policies will be projected on the defined problem. The way the problem is defined in combination with the focus on the financing of the public space is unique and therefore gives a different view on the Dutch problem of land policy. This different view will contribute to the existing literature will help to focus the problem and also frame possible solutions.

The social relevance of this thesis mainly applies to administrators. Scientists, administrators, planners and developers are all convinced by the fact that the Dutch land policy is not working as it should be working at the moment. This thesis will give an insight in different options and possibilities of land policy. Eventually these new insights will help to give recommendations to change the way of financing the public space. This thesis is also relevant for developers. The way the public space is financed and, in a broader view, the way land policy is defined has consequences for developers. Developers are for a great part dependant on the government for their income. If this income is changed or is even cut of, developers will have a major problem. Finally this thesis is relevant for the community. The community is dependant on the government and therefore the policy of the government for their housing, infrastructure and public space. If the government is losing a lot of money due to a failing land development system, the public eventually will have to pay. All this combined, problems concerning land policy will eventually be a problem for all the public.

1.3.4. Limitations of this research

As in almost every bachelor study, time is limited. Time is therefore also a major limitation for my research for this thesis. I would have liked to study some more and different foreign land policies to compare with the Dutch land policy like the planning systems in Norway (from hierarchy to a more marked governance) Switzerland (The challenge of making land-use fit for planning goals) and Italy (In Italy private contributions are made for urban development).

Also in the theoretical framework, only the three classic forms of coordination are discussed. Some more and different (combined) forms of organization could have been interesting, like transition management, self-steering and knowledge management. These different forms of management could have been interesting to study.

Not only time is limited for this study also knowledge and expertise is limited. As a bachelor student Urban Planning, a basic knowledge of urban development is present. Also interviews with experts on this topic gave a lot of insight. The more experts I spoke with, the more different views on the problem I discovered. Therefore it would have been great to speak with a lot more experts. These experts are not always reachable, and also their time is limited as well.

This study is focused on one topic (financing the public space), but also tries to look at the policy as a whole. Without the limitations of time and resources, the whole policy could have been studied. In the end the time and resources, have been a limitation for a wider, broader study.

1.4. Foreign land use models

In this part of the thesis the three foreign models will be briefly introduced. The choice for these three different foreign models is based on the uniqueness of the models; this uniqueness will be explained for each of the foreign model themselves.

The three foreign land use models, The Spanish, British and German models are studied because these models are unique and completely different from the Dutch way of land use policy. All of the policies have their own way of public-private partnership. Eventually the Dutch way of land use policy will have to be changed because of the fact, as mentioned in the introduction, can no longer solely afford to finance the public space. Eventually the Dutch policy will probably have to move to a public-private way to finance the public space. The three foreign models will show ways in which this can be done.

1.4.1. Spanish ‘Valencian model’

The Valencian model is a different way of land policy (Donkers, 2011). In 1994 García-Bellido claimed that reforms could offer a solution to the shortcomings of the planning system only if they addressed the structural cause of these shortcomings (Garcia-Bellido, 1991). The shortcomings of the planning-system until then mainly meant that the system apparently had failed to assure an efficient (quantitative and qualitative) implementation. As a rule, landowners have not proceeded quickly, processes have been slow and public bodies have not used their legal instruments to intervene directly (Gascó Verdier, C. and Muñoz Gielen, D. 2003).

The Valencian Reparcelacion was created on the basis of these reforms (Gascó Verdier, C. and Muñoz Gielen, D. 2003). In short, according to Muñoz Gielen (personal communication, July 24, 2012), the Reparcelacion comes down to the following. Joint owners in a planning area or a third party in the form of the ‘agente urbanizador’ can develop a proposal for a new plot layout in a planning area. This proposal is as a part of an existing, and broadly used in Spain, procedure for the realization of a plan. The new plan should make the open space be used more intensively, by for example increasing the residential density. The proposed program should be in conformity with the existing general plan that organizes the land use (like the demarcation of the area). The proposal first has to be approved by the municipality; eventually one of proposals is chosen.

At this point the LRAU-system has been included by almost every Spanish region.

1.4.2. British model

Until the eighties, the British municipalities used active land policy (just like the Dutch municipalities) as a common policy (Ladd, 1982). Since the eighties, active land policy is no longer allowed in the UK. The British municipalities now use a different land policy (Muñoz Gielen, D., Brouwer, P. and Winsemius, J., 2004).

Now the urban policy in the United Kingdom is a very complex system of initiatives and programs. The cause of this complexity is that different legal, economic, social and demographic conditions of each area in the UK (England, Northern Ireland, Scotland, and Wales) require variety and flexibility in the policy response. Developers (landowners or project developers) take the initiative for the development of the projects. On forehand the developers and the municipalities will discuss and negotiate about the finance of the project, the distribution of the profit and the demands of the project, set by the municipalities. When the developer and/or landowner and the municipalities negotiate about the demands of the project, they will discuss the so called 'section 106 agreements'. Section 106 is a section of the 'Town and country planning act 1990'. It allows a local planning authority (LPA) to enter into a legally-binding agreement or planning obligation with a landowner in association with the granting of planning permission. If and when the developer and the municipality come to an agreement the developer can start the realization of the project.

1.4.3. German 'Umlegung'

The German law and rules for 'Umlegung' are already pretty old. Besides reparcelling in rural areas, different states use reparcelling for urban purposes since the end of the 19th century or the beginning of the 20th century. After the Second World War, rules for reparcelling were used in rebuilding laws. In 1960 the Umlegung became part of the Bundesbauwesen and was included in to the Baugesetzbuch (BauGB) in 1986 (Reinhardt, 1999). The German Umlegung is regulated at a federal level and finds its basis in the 'Baugesetzbuch' (BauGB) (Dieterich, 2006).

Umlegung, according to Bregman & de Wolff (2011), in short comes down to the following. The government can use Umlegung to unilateral adjust the existing plot layout. By adjusting the plot layout new parcels are created that are suitable for the created plans (usually cultivation). In this, land is cleared for the development and the realization of the public space and public facilities. The original owners will still be the owners but now they are owners of a new formed parcel (Ernst, Zinkahn, Bielenberg & Krautzberger, 2009).

1.5. Reading Guide

In this reading guide I will discuss in short what to expect in every upcoming chapter.

In chapter two the theory that will apply as a basic starting point for this thesis can be read. Different modes of organization will be discussed. In what situation the organization fits best. Next to the modes of organization, different ways of financing the public space are discussed.

In chapter three the methodology of this thesis will be discussed. The research strategy and materials that are used for the writing of this thesis will be outlined.

In chapter four the Dutch land policy will be discussed. The history of Dutch land policy will be discussed to get an overview about the origin of Dutch land policy. Second the current situation of Dutch land policy will be discussed and finally the flaws of the current land policy will be discussed.

In chapter five the Spanish, British and German land policies will be discussed. For every foreign land policy first a short history of the model will be given, then the functioning of the model will be discussed, third the way the public space is financed and eventually the pros and cons of the model will be outlined.

In chapter 6 a conclusion will be drawn. Chapter 6 will be followed up by recommendations for changes in the Dutch land policy in chapter 7.

2. Theory

2.1. Theoretical framework

The theoretical framework will serve the establishment of a theory for a practical way of financing the public space by urban land policy in the current political, social and economic situation. This chapter will explain three different kinds of organization modes: hierarchy, network and market organization. Subsequently, different modes of financing the public the space will be linked to the modes of organization.

2.2. Organizing and directing governmental location development

2.2.1. Introduction

The main problems the Dutch municipalities have to cope with, have arisen since the eighties and have been aggravated in the last ten years (Buitelaar, 2010). The property market is frozen, as the demand drops there are almost no transactions on the property market. Therefore the demand on the land market also drops. Municipalities have bought land from farmers and other land owners during the economic growth (Priemus and Louw, 2003; de Greef 2003), but since the recession there is no one to sell the land to. Therefore profits are no longer made, and the public space cannot longer be financed by the policy of active land policy (Van der Krabben, personal communication, June 29, 2012).

As seen before, changing social, political, and most important, economic conditions have a great influence on the behavior of actors on the land market. The government responds to changes in the economic situation the Netherlands (and many other western countries) is coping with. These changes range from overall cuts to reorganizations in governmental organizations.

In some fields, the government and society have already found ways to cope with the economic crisis. Meanwhile, in the field of location development the government is still searching for the right strategy to cope with this crisis. 'Good old' active land policy is lacking in this time of economic crisis, but what kind of land policy would be effective? What kind of governmental organization fits best with what kind of social, political and, most important, economic circumstances? As the economy changes, should the governmental organization of location development change with it?

The government can pursue spatial goals in various ways. Various land policies can be pursued to obtain these goals. The chosen land policy will have to fit in the chosen form of governmental organization. In the existing theory three modes of organization are distinguished: hierarchy, network and market organization (Malone and Crownston, 1994; Rosenthal et. all., 1996; Powell, 1990; Miniserie van VROM, 2002). Each of these organization forms fit well under different circumstances. Under what conditions those each mode fit best?

2.2.2. Definition

Organizing

In the existing literature 'organizing' is mostly defined as a part of management of a private organization. Organizing by a government is not explicitly defined. Though we can adapt the definition of organizing in the private sector into organizing in the public sector.

Henri Fayol (1949) defines organizing in short as 'Providing a firm with everything it needed to achieve its objectives.' This included the classical factors of production: land, labor, and materials. According to Fayol, it was management's duty to ensure that a firm's "human and material organization is consistent with [its] objectives, resources, and requirements." In this regard, a firm should be structured to provide unity of direction, clearly defined duties, spur initiative and encourage responsibility, harmonize activities and coordinate efforts, and ensure control without an "excess of regulation".

It is not that hard to transform this definition to a definition for a government instead of a firm. The major difference for a government is the fact that a government is in a lot of ways dependable on the private sector. In the organization of providing land, labor, and materials it is often still dependable on the private sector.

Directing

Directing, in short, can be seen as influencing human behavior (Rosenthal, Ringeling, Bovens, 't Hart & van Twist, 1996). By influencing the human behavior a new situation is created. If this is done on purpose, it can be seen as directing. Basically every individual or every group can try to influence other individuals or groups. This means that not only the government can direct, also other actors can direct (Rosenthal et. all., 1996). With directing there is always an action of actors influenced by the action of other actors. When we look at the land market as a system, land policy is a form of directing the land market to achieve a specific goal.

Coordinating

According to Malone and Crowston (1994), coordination briefly can be defined as 'managing dependencies between activities.' This definition is consistent with the simple intuition that, if there is no inter-dependence, there is nothing to coordinate. It is also consistent with a long history in organization theory of emphasizing the importance of interdependence (Malone & Crowston, 1994).

When we look at the definition of coordination by a governmental institution a combination between directing and coordinating can be seen. First a government 'provides the *society* with everything it needs to achieve its objectives'. Secondly the government 'influences the human behavior' of this society to achieve a specific goal.

When in this paper the de word coordinating is used, the term 'coordination' as defined above is binding.

2.2.3. Modes of organization

Powell (1990) has analysed the three in his view most important modes of general coordination in society by means of three ideal types: Markets, Hierarchies, and Networks. According to Powell (1990) these three different forms of coordinating can be applied in many ways; to the economy, to the public administration and, important to this case, the government as a whole.

The Dutch government also maintains three different kinds of organizing. These three different kinds are mainly based on research done by Rosenthal et. al. (1996) and research done by De Bruijn et. al. (1993). The VROM (Dutch ministry of housing, spatial planning and the environment) bases the threefold on different relationship between the government and society. VROM ranks the three different forms of directing from strong governmental directing to a self-directing society. The first form is a top-down form, a strong directing government. The second form is network control, directing is done by the government but all the interested parties are interdependence. Every actor has his own goal but is depending on the other actors to achieve this goal. This also means that the government is depending on the other actors, instead of classic top-down directing the government is between the actors instead of above the actors. The third form is based on the self-directing actor there is no interdependence between the actor and the government (Ministerie van VROM, 2002).

The Dutch government and Powel both define three different forms of organization. Both sources describe the first form of organization as a strongly hierarchal organization. Then, the second form of organization is seen as a form of a network with a strong form of interdependency between the actors in this network. Both Powel as the Dutch government define this third form as form of a market organization. Powel's view and the view of the Dutch government are very much alike. The main difference between both views is due to the angle point taken by both sources. In his paper, Powell takes an economic point of view and therefor describes markets, hierarchies and networks as forms of economic organizations. The forms defined by the Dutch government are suitable for governmental organizations, though the Dutch government is not totally independent. As an actor in the organization the government can't be seen as an independent source. In this theoretical framework the forms of economic organizations defined by Powell will form theoretical basis of this thesis, though the forms will be adjusted to governmental organizations.

Hierarchy

The Netherlands in the 20th century can be defined as a hierarchy organization. Influenced by Marxism, the government increasingly developed into a welfare state. The idea of makeability was the common idea in society. The idea was that all developments and issues in society could be controlled and dissolved from one single point (Teisman, 1992). Best fitting to this situation was a hierarchy mode of organization.

In a hierarchy organization, the government is the single directing actor (Powell, 1990). This form of organization is a top-down organization; the form contains clear lines of authority. The government organizes, directs and coordinates the organisation; other actors like local governments, the private

sector, social institutions etc. are directed by the governing body. Governments direct through the tools of legislation and regulation.

In a hierarchy organization, communication occurs in the context of the employment contract, this means in a governmental organization that different actors are 'under contract' with the government. The government makes the decisions; other actors have a more executive role.

The hierarchy organisation is a formal organisation. Clear departmental boundaries, clear lines of authority, formal decision making procedures and detailed reporting mechanisms make sure the system is a formal organisation. Thanks to this formal organization, standard procedures are familiar to all actors. This familiarity of procedures makes the organisation very reliable and well suited for mass production. The formal character works very positive for mass production in a stable economic environment.

The major disadvantage of a hierarchy organisation is the formal and robust character of the organization. Hierarchy organisation is not suited for an insecure environment with a lot of fluctuations in demand. Hierarchical organizations are not flexible enough to act to fluctuating quantitative and qualitative demands.

Hierarchy organization only works under certain conditions. Next to the top-down organization is 'perfect administration' a second condition (Powell, 1990). Perfect administration means a central government, standard procedures, perfect obedience, perfect information availability and communication.

Eventually in the 80's the conditions of 'perfect administration' did not exist anymore, or had never even existed. Society was no longer a perfect top-down arranged society but much more a collection of organizations and institutions. Society became emancipated and therefore no longer perfect obedient. New problems occurred for which the answer wasn't immediately clear (Van Buuren, 2010). Next to an imperfect administration, the government became too big and therefore too expensive.

In land policy, hierarchy organization means also a form of top down organization. The central government defines the policy for project development. The government decides what kind of development has priority, what kind of problems should be solved and what these solutions should be. A government can give priority to housing or to the development of infrastructure etc., local governments have to act to and develop these defined policies. Eventually local governments assign private parties to develop the projects, according to the rules, procedures and goals set by the government. At the land market the government is the market leader, the government makes the rules, creates the conditions for this market, defines the goals, decides who and how goals should be achieved. Private parties are contractors.

Network

In the 1980's the Dutch society coped with a high unemployment rate. Heavy cutbacks had to be made in business but also by the government. The government had to cut in their organization and therefore transformed the big heavy mode of hierarchic organization into a smaller organization.

Concomitantly with recession and cutbacks in the 80's, available capacity in the public sector was limited. As a result of the changing conditions, a different mode of organization took over: network organization.

A network organization according to Powell (1990) is a form of organization that contains equal actors. There is no single directing actor like the government is in the hierarchal organization. Interested parties (private actors, governmental organizations, social institutions etc.) have tools and capabilities to realise a goal or at least a part of the defined common goal. The government therefore is no longer the directing actor; it is dependable on other interested parties. Each actor has its own goals and priorities and will adjust its strategy to achieve these goals. One party is dependent on resources controlled by another; gains are to be had by pooling of resources. Individual units exist not by themselves but in relation to other units. In network organization emphasis is placed on structuring relationships, changing positions in a network and formulate or modify rules between stakeholders or actors.

Network organisations are lighter on their feet than a hierarchy model. The model adapts to changing circumstances more easily than a network organisation. Network organization works under conditions of a time of insecurity concomitant with big economic and social changes. This is more or less similar to the current situation in the Netherlands. The Dutch government is making cutbacks and available capacity in the public sector is again limited. The strategy of the actors in the network is often one of creating indebtedness and reliance over the long haul. Transactions occur through networks of individuals engaged in reciprocal, preferential, mutually supportive actions. Complementarity and accommodation are the cornerstones of successful networks. Interdependency ensures benefits and burdens come to be shared.

Informality and the 'light on feet' character of a network organization are benefits of the organization but also the major disadvantage of the organization. Every point of contact in a network can be a source of harmony but also a source of conflict. There is no lead organization to control these issues.

Network organisations are complex organisations. There are no defined patterns or defined criteria to work with. The informal character of a network organisation also makes it hard to make the network visible. Network directing forms will be visible in tools by the development of communicating platforms, cooperation between parties, and by including or excluding parties to the network organization. Opportunities are foreclosed to newcomers, either intentionally or more subtly through such barriers as unwritten rules or informal codes of conducts.

In land policy, a network organization means public and private sectors will work together to cope with problems and to achieve land development goals. The government creates the conditions for the market, sets up a limited set of rules. The goals are defined in corporation with the private sector. In

network organizations actors are dependent on each other. This means in land policy that the government is dependent on the private sector and the other way around. The private sector needs the public sector to create legal and financial conditions. The public sector needs the expertise and recourses of the private sector.

Market

Powell (1990) defines market organizations as a 'self-directing organization'. A market according to Powell (1990) is 'a spontaneous coordination mechanism that imparts rationality and consistency to the self-interested actions of individuals and firms.' A perfect market means that information is freely available, alternative buyers or sellers are easy to come by and there are no carry-over effects from one transaction to another. The single purpose of a government is to create the conditions for the market to 'work' in. The government has a passive role, private organizations and the community have an active role. The government creates a political vision; this vision is the starting point for a market organization. Operationalization of this vision is created by different actors.

Problem-solving is done by society, organisations and market parties. These actors' standard strategy is to drive the hardest possible bargain in the immediate exchange. Personal involvement is limited and almost no long-term relationships are built. Participants are free of any future commitments; therefore no bonds will be established. Individual behaviour is not dictated, no governance or control is necessary.

Important properties of market organizations are privatization, decentralization, and deregulation this means market are not tied to certain major rules, laws, direction from upper hand etc. In the Netherlands we currently see privatization more and more often, the privatization of Holland Casino is a current example. Also decentralisation is seen in many fields. Policy is mainly transferred to local governments. For a example, alcohol policy is transferred to local governments. Markets offer choice, flexibility and opportunity. Market organization is open to all comers.

The major disadvantage of a market organization is primarily the fact that a perfect market is impossible. Government is setting rules and laws to prevent (fees, taxes etc.) or to stimulate (bonuses) certain behaviour. Information is not always freely available for everyone, demands fluctuate and almost every transaction contains a certain form of a carry-over effect.

A second major disadvantage is the fact that there is no control or direction by any governance. This means that there are major uncertainties; no standard working methods are defined.

It is hard to fit land policy in a pure market organization. Governments will always need to define goals and policies concerning land development. A market organization in a less pure form is possible for land policy. Goals are set from out the market; private parties propose projects and developments and can execute these projects. The government only defines the rules; the rest is up to the market. Conditions are created by the market, setting goals, developing, buying, selling etc. is all done by the market. The government can also be one of these market payers.

As seen above, every form of organization has its benefits and drawbacks. The three different forms of organization are all suited for specific situations. Which form of organization is best suited depends on the current economic situation, on goal or purpose of the organization, on the kind of actors in the organization, on the intended final product, and many smaller factors.

2.3. Financing the public space

This thesis focuses on the financing of the public space. Who should finance this, mostly non-profitable, public space? How should the public and/or private sector finance the public space? Is there a legitimate way to cope with this issue or will there always be a party that suffers from it? The theories below will give possible ways to finance the public space. Further on in this thesis the possible ways will be discussed on the fairness, rightness, productiveness, etc. of these ways to finance the public space.

We can divide the way of financing the public space roughly in two different categories: public financing and private financing. Different modes of organization come along with different forms of financing.

Public financing is normally done by the municipalities; the money that is needed for the public space is generated by taxes and/or other charges. An annotation can be put here, in practice it looks like the money indirectly comes from the people and private parties anyway. Public financing of the public space, fits well in a hierarchy organization. Governments organize the development of public space and therefor governments also must create the right conditions and circumstances. Public financing will always be organized by the government in this matter.

The second category is private financing, or perhaps a better way to put it; direct private financing. Private parties pay for the public space, usually in terms of package deals in some kind. Private financing is done with as little governmental interference as possible. This kind of financing is created by the market and therefor fits in a market organization mode.

In some cases the public and private parties work together or finance the public space together. Although in practice almost every kind of financing the public space is a cooperation between a private party and the municipalities. This particular way of cooperation between different private and public parties is very much like a network organization.

The many different ways of financing the public space are explained below.

2.3.1. Public financing

Financing the public space by active land policy

The public space can be financed by the use of active land policy. This can be defined as a classical Dutch way of land policy. The government plays a double role at the land market. The government is not only the market leader but also a market player. This means in practice that the municipalities can make and the change rules (Priemus en Louw, 2003; de Greef, 2003; de Greef, 1997). Active land policy means that the government actively buys cheap (mostly agricultural) land, usually from a farmer. Then the government changes the purpose of the land into housing land. The municipalities exploit the land and eventually sell the land for a much higher price to a developer. The profit that is made with the sale of

the land, the public space will be financed (Buitelaar, 2010; de Greef, 1997; Faludi, 1994). Critics point out that this isn't a fair way of raising money. The government can change the rules during the 'game' for their own benefit.

Financing the public space by tax revenues

The public space can be financed by the income from taxes. The government can use a part of the profit from income taxes to finance the public space. In this way everybody pays for the public space, disregarding the question if you use that particular public space or not. Critics point out that this way of financing is not fair because of the fact that people on one side of the country have to pay equally for projects as people on the other side of the country, disregarding the question if they benefit from the project or not. If this happens more often or on a big scale this will lead to imbalances within the country (De Greef, 1997).

Another way of financing the public space by tax revenues is to impose taxes on the profit of the project from the developer. This is further discussed under the next subtitle.

Financing the public space by macro-capping

The maximum costs that can be recovered are limited by law. If the total costs of the project, after deduction of contributions from third parties (province), are higher than the estimated revenue from land development then cost only can be recovered up to the revenue of land development (Melik van R.G. & I. Van Aalst & J. van Weesep, 2009). This is called macro-capping. Simply put, if the exploitation costs are higher than the profits of a project, the municipalities can recover these costs from the private parties.

Financing the public space by land readjustment

Land readjustment can be an efficient way of financing the public space. Shortly put land readjustment means the following. The existing plot layout in an area can be unilateral adjusted by the municipalities, so that new lots are created that are suitable for the purpose (mainly development) (Van der Krabben, personal communication, September 11, 2011). In this realization of a new plot layout land will be reserved for the public space. The original landowners will still be the landowners but from a new formed lot. The municipalities will try to get the landowners to turn in their land for public space voluntarily. This is mainly done by giving the landowners discounts or paying them extra in terms of money or land. When the land owners will not voluntarily give up their land, legal action (disowning) can be taken (Segeren, 2007). This way of land readjustment has many different forms; one of them will be discussed during the discussion of one of cases.

2.3.2. Public-private financing

Financing the public space by public-private partnership

The public space can be financed partly by the municipalities and party other private parties. Municipalities and private developers negotiate on forehand the conditions of the partnership (Priemus & Louw, 2003). The municipalities have the power of law; private parties mostly have the power of knowledge and ability. In this way the project can be realized efficient and effective and therefor the

costs will be low. Low costs mean a higher profit and therefore more money for the development and maintaining of the public space (Priemus & Louw, 2003). Critics point out that there will be a competition between private parties to carry out the project. The costs will be estimated lower than they eventually will be. In this way there will occur imbalances between theory and practice. Companies can get bankrupt, municipalities cannot. In this way the municipalities will face half-finished projects and eventually will have to finance the finishing of the project themselves (De Greef, 1997).

2.3.3 Private financing

Financing the public space by speculating on profit from the project

A way of financing the public space is by giving the developer a loan for the development of the project (Kirwan, 1988). This loan will be given by the municipalities and the private party with the demand that the developers will also develop the public space. In other words, the public party finances the development of a project; the private party will develop the project (Kirwan, 1988). When the project is realized, the loan must be paid back with interest. The developer pays the municipality back by selling the realized property. The interest in this agreement is financial in nature but in the form of the development of the public space. The developer speculates on the profit that will be made with the project (Niehof, 2008). Eventually the possible profit (or loss) is for the developer.

Critics point out that when developers take this risk the chances of them going bankrupt are considerable. When the developers go bankrupt, this will not only affect the developer but also the local economy and eventually the municipalities. Municipalities cannot get their money back from the bankrupt companies.

Developer finances the public space

Financing the public space does not always have to be done by the municipalities. Municipalities can give out land with the demand to the developer that they will pay and realize the public space (de Wolff, personal communication, July 17, 2012; Munoz-Gielen, personal communication, July 24, 2012).

Normally the municipalities will contribute to the development of the public space financially but this is all negotiated with the developers. The developers get the chance to develop a project but they will have to develop the public space too (Munoz-Gielen, personal communication, July 24, 2012).

The municipalities will not have to develop the public space, this is a big advantage. Critics point out that there are also big disadvantages. First of all, the negotiations will take a lot of time (de Wolff, personal communication, July 17, 2012). Time is money, so this will cost the municipalities and the developers money. The litigation costs are very high. A second critical point is that the agreements are not conclusive (de Wolff, personal communication, July 17, 2012). Developers will concentrate on the development of 'products' that will make the most profit. Public spaces will not bring the developers a lot of profit so there is little attention for this part of the project (de Wolff, personal communication, July 17, 2012). This will lead to an underdeveloped public space of low quality.

3. Methodology

In this chapter the methodology of this thesis will be discussed. The choice for an exclusive qualitative research strategy will be discussed. The way of studying the different policies will be discussed. Eventually this chapter will outline the research materials.

3.1. Research strategy

The time and possibilities for this thesis are limited. Therefore I will focus mainly on financing of the public space instead of the complete Dutch land policy. Financing the public space is of course not an issue in itself, it is connected to many different aspects of the complete Dutch land policy. Therefore I have to discuss the Dutch land policy as a whole but due to the fact that the time is limited, I will have to stay pretty superficial about the Dutch land policy. The research field I'm working on is a broad research field. This means that there is a lot of information, but this also means that the right detailed information has to be filtered out of this big mass of information.

In the current literature we can find a lot of literature about different land policies. Scientists have also compared different kinds of land policies of different countries. To make this thesis unique, this thesis will implement the strong points out of different foreign models into the Dutch land policy. These strong points will have to cope with the defined improvement points for the Dutch way of financing the public space. The goal of the thesis therefore is:

Contribute to the solution of the financing problem of the public space in the Netherlands by studying the Spanish, German and British way of financing the public space and eventually advice on possible implementations of the three foreign models into the Dutch land policy.

To accomplish this goal I will start with a pretty broad orientation on land policy and then I will go into detail on the financing of the public space part. Eventually I will try to set up a detailed set of improvement points for the Dutch land policy and the 'financing issue' in particular.

The 'case' in this matter is the Dutch land policy, this case will be studied, discussed and eventually the improvement points for the way of financing the public space will be noted. The comparing cases will be the Spanish, German and British land policy models. Also in these cases the focus will be on financing the public space. The fact that the thesis will not discuss a detailed case, for example a just developed urban quarter, means that the bachelor thesis will not directly be linked to the practice. Working from a case will give a direct link to the practice and will show the effect of a change in the policy. Still in this thesis there is no case studied, because this will make the thesis too comprehensive and too detailed; there is just not enough time and resource to finish such a project. This thesis could be followed up by a more detailed thesis which would have to involve a detailed case.

To analyse the 'cases' of the Dutch, Spanish, German and British land-use models, I will use qualitative methods. Quantitative methods are not suitable for this thesis, the only quantitative data that could be

analyzed would be financial data. A money flow can be analyzed but that would be more appropriate for a financial thesis instead of this planning oriented thesis.

This study is mostly based on the existing literature. For the Spanish model Demetrio Munoz-Gielen will be interviewed he is an expert on the Spanish Valencian model, this will help to understand the model as a whole. For the German model, expert Herman de Wolff will be interviewed. It is hard to find an expert on the British model, for the simple reason of the fact that there are not that many experts in the Netherlands. So therefore a Demetrio Munoz-Gielen will also be interviewed about the British model, his focus is mainly on the Spanish model but he has also extensively studied the British model. He will give a pretty good insight on de British model as well. Finally the Dutch land market and the Dutch land policy. For this topic there will not be an explicit interview; for questions about the Dutch land market and the Dutch land policy some experts will be contacted. These questions will mostly be single, detailed questions. For help and advice about Dutch land policy Erwin van der Krabben, my supervisor on this thesis, can be of much help.

3.2. Research material

This bachelor thesis mostly is based on literature study. From the wide range of literature, the specific, needed, literature must be filtered. This literature will be supplemented with problems and recommendations from different cases. Cases will not serve as base for this study but will complement the existing literature. I will investigate the needs of the Dutch land market, which points are crucial for the Dutch land market? Which points are damaging the Dutch land market? The first phase will mainly be a general survey about the Dutch land market, with as a final goal to set up improvement points for a new good (better) Dutch land policy.

Secondly I will study the Spanish, German and British land policies. The study on these foreign models will also start with a broad literature study. After studying the literature I should have a good insight about the different land use models. Next to studying the literature, I will interview some experts on the matter of their own expertise. In these interviews a foreign land use model will be discussed, and compared to the Dutch land market. The first interview will be with Prof. Erwin van der Krabben, he is an expert on the field of Dutch land policy and has also contributed to a recent report on different land policy models in the European Union. For the Spanish (Valencian) model, MA Munoz-Gielen will be interviewed. Munoz-Gielen is a Spanish citizen living in the Netherlands for many years and is an expert on both the Dutch and Spanish land policies. Also Munoz-Gielen wrote a recent thesis about the British land policy, therefor he will be highly suitable to interview about the Spanish and British land policies. Finally *Ir.* Herman de Wolff will be interviewed about the German way of reparcelling. De Wolff is an expert on the Dutch land policy and he also contributed to a research on the German 'Umlegung'. De Wolff and Munoz-Gielen contributed to a research that compares the Dutch, German and Spanish policies. The interviews will give clarification about the uniqueness of the specific models, the advantages and disadvantages of the models. This qualitative research will give a good explanation why the model is working that way, and what the Dutch land policy can learn from these foreign models.

The third phase of the thesis will be comparing the different foreign models with the Dutch improvement points. The advantages of the different models will be discussed and compared with each other. Will these positive points also work in Dutch land policy? The different models will also be compared with the existing land exploitation law. Eventually the case will be analyzed and the changes that have to be made in the Dutch way of financing the public space will be discussed.

The final phase of the bachelor thesis will be a conclusion of the study above. This conclusion will contain advices for changes in the Dutch land policy. The advantages and disadvantages will be analyzed and will form the base of the advice.

4. Dutch land policy: The case of the public space

In this chapter, the Dutch land policy will be discussed. What is the problem the municipalities in the Netherlands have to cope with? How is the way of land policy and the way of financing the public space organized? What is the main reason for the current flaws in the system? How can these problems be solved? Can they be solved? The following chapter will have to give answers and discuss these questions.

4.1. A look in the past of active land policy

In this paragraph active land policy will be discussed. The successes of active land policy and the eventual reasons for the current problems on the Dutch land market will be discussed.

Active land policy, as discussed in the Introduction, has contributed to the development of high qualitative projects, infrastructure, housing, public space and social housing. As long as the economy was rising, or at least not dropping, active land policy worked very well in the Netherlands. Municipalities could buy the agricultural land, change the land use and eventually sell it to project developers as housing land. In this way, the municipalities could finance the infrastructure, social housing projects and the public space, even some money could be spend in different other departments of the municipalities.

The Netherlands in the 20th century can be defined as a hierarchy organization. The government increasingly developed into a welfare state. At the beginning of the 20th century the Dutch government introduced 'de Woningwet' ('the housing act'). The government wanted to regulate the development of houses, to assure the houses to be of high quality. Besides the quality of the houses, also the affordability of the houses was a major point for the government to regulate the housing (de Wolff, personal communication, July 17, 2012). The idea of makeability was the common idea in society. The idea was that all developments and issues in society could be controlled and dissolved from one single point (Teisman, 1992). Best fitting to this situation was a hierarchy mode of organization. This resulted in the development of housing associations. Municipalities gave financial support to these housing associations to assure houses of high quality for affordable prices. Municipalities eventually even bought land by means of a leasehold system for the housing associations to develop affordable houses.

After the Second World War the rebuilding of the Netherlands started. The government wanted to make sure that there were sufficient houses after the demolition of many existing houses. This had to be done fast en efficient with the goal to make sure that every Dutch citizen could buy an affordable house (de Wolff, personal communication, July 17, 2012). To get this done as quickly as possible, the government thought they should do it themselves. A hierarchy organization is the organization best suited for this mass production of houses. Thanks to this formal organization, standard procedures are familiar to all actors. This familiarity of procedures makes the organisation very reliable and well suited for mass production. At this point active land policy emerged.

At the beginning of the 1990's a switch was made in the goal of active land policy, the idea of the main goal, cheap housing, faded. New investors and new financial construction (like the mortgage interest

reduction) lead to the fact that people had more money to spend on houses. At this point, governments started to develop land from agricultural land to housing land, and sell these land plots at market prices (de Wolff, personal communication, July 17, 2012).

This system was working very well, Dutch municipalities kept buying land from farmers with the assumption they would sell it with a 'profit' to developers. Then the financial crisis began, purchasing power dropt, investors would no longer invest in projects than the demand for new houses, offices and business premises dropped. Eventually the demand for building land dropt, leaving the municipalities with the agricultural land. After the sky cleared, it turned out that a lot of municipalities had a lot of land in their possession, but no buyer to sell it to. This land was bought with the assumption that the municipalities would sell it in a short time. The big stag of land, mostly financed by loans, is now a significant cost item. Herman de Wolff (personal communication, July 17, 2012) explains that the system in itself has not failed but the people who execute the system made mistakes in the past. In the first place, municipalities have bought too much land in stock. This should not per se have to be a problem because this might be seen as the risk of 'the business'. But the second big flaw of the municipalities is that the municipalities did not save enough (and in some municipalities, not any) of the profit to carry the losses.

4.2. Current problems of Dutch area development

In this paragraph the different layers of the problems of Dutch area development will be discussed. This paragraph will be drawn up on the basis of the interview with prof. Erwin van der Krabben, professor at the Radboud University of Nijmegen and the University of Ulster.

A

At the current time there are three different kinds of problems at the Dutch area development, this 'tripod of problems' (see Figure 1) consists of:

- The drop in demand
- Excessive programming
- Unprofitable projects

Drop in demand

First of all, the drop in demand will be discussed. The drop in demand on the property market is a big problem for the current Dutch land market. It is not hard to imagine that a drop in demand means a drop in sales. The drop in sales means a decrease in income for the project developers and a decrease in income for the municipalities. This 'drop in demand' issue is not hard to understand but this problem is very comprehensive and therefor it is very hard to change this pod of the 'problem-tripod'.

B

Excessive programming

The second part of the problem according to Prof. van der Krabben (personal communication, June 29, 2012) is the excessive programming by the different municipalities. Municipalities keep competing with each other for new inhabitants, new companies to settle in their municipality and therefor to contribute to the municipality. The different area developments, for example business area developments, keep

competing with each other but eventually the different areas are overdeveloping. There is not enough accretion of companies to fill these business areas therefore one of the two competing areas (or both) will develop too much office units. This is all resulting in huge vacancy and therefore huge losses for the municipalities.

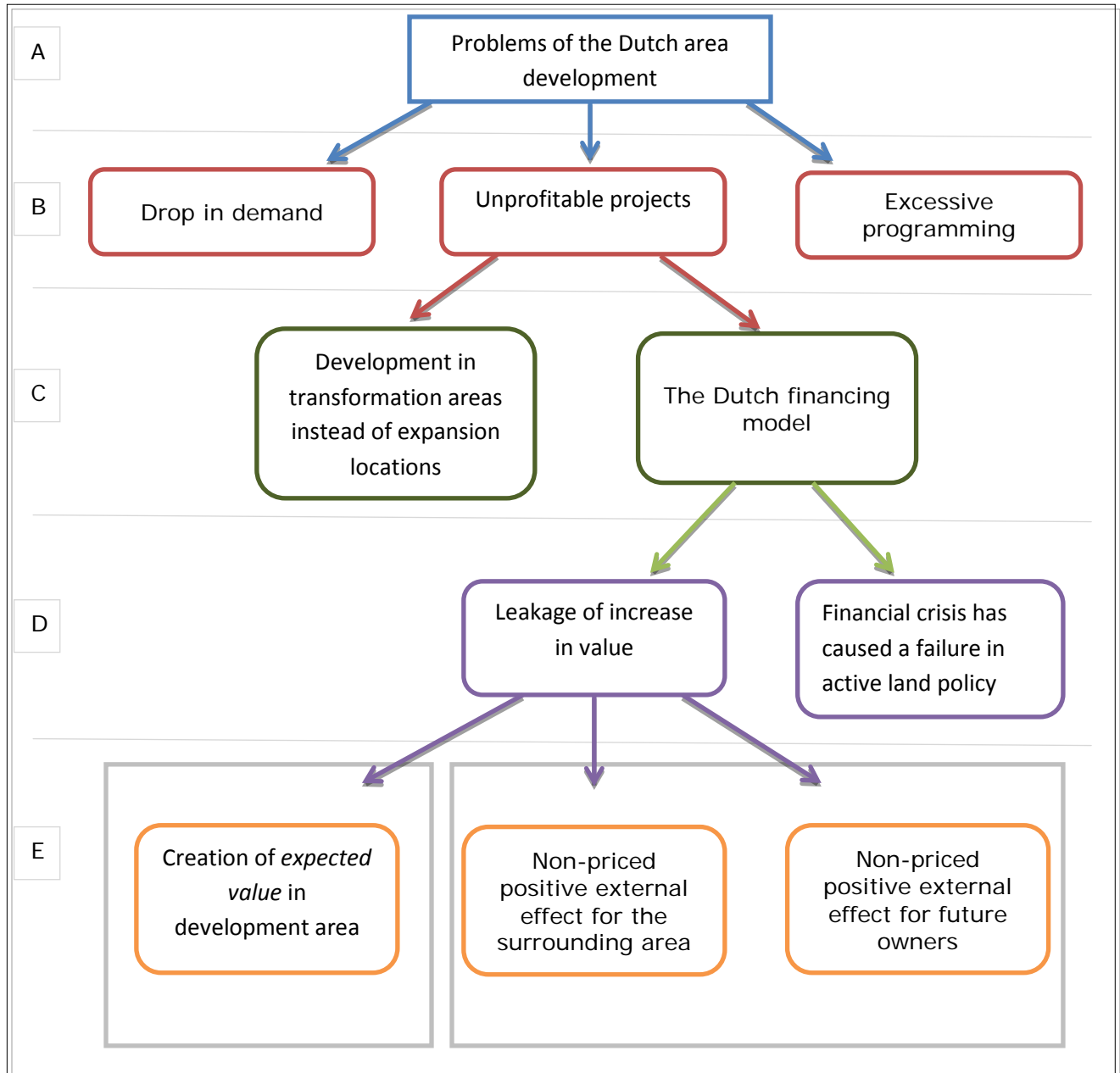


Figure 1: Problems of the Dutch area development

Unprofitable projects

The third part of the problem is the problem of unprofitable projects. Apart from the drop in demand, the projects that currently are realised are more and more unprofitable.

C

Development in transformation areas instead of expansion locations

The Dutch municipalities, in cooperation with private parties, are more and more building on transformation locations instead of expansion locations. It is much more expensive to build and develop in transformation locations than in expansion locations. The Dutch spatial planning policy is responsible for this change in locations. The question in this matter is, is it possible to arrange the spatial planning policy, looking at locations, differently? The answer to this question seems to be negative. The Netherlands is a small and densely country. It is almost not possible to constantly build at expansion locations, and at the same time letting the existing locations get pauperised. The Netherlands would be a silted and pauperised country.

The Dutch financing model

A second cause of the unprofitable projects is the Dutch financing model. The Dutch way of financing the area development is very much depending on the increase in value of the land when the land use is changed.

Financial crisis has caused a failure in active land policy

D

As explained in paragraph 1.2. current use of active land use policy costs the municipalities a lot of money. The municipalities buy agricultural land for the purpose of selling it as development sites. Since the financial crisis, the municipalities can no longer sell the land: there is a major drop in demand (as explained earlier in this chapter). The municipalities are suffering heavy losses on interest costs. Aside of the problem of the lack of income out of land use changes, there is the problem of the increase in value. When a site is being developed, the value of that site will increase.

Financing area development: Increase in value

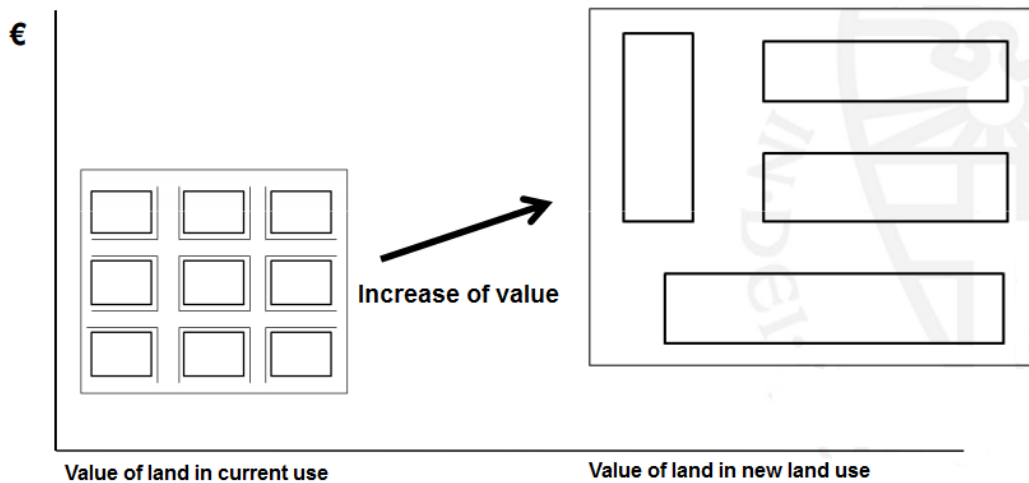


Figure 2: Financing area development: Increase in value

Leakage of increase in value

The problem that the Dutch municipalities have to cope with is the fact that the increase in value in transformation areas is 'leaking' away (E. van der Krabben, personal communication, June 29, 2012). This leaking of the increase of value is happening in three different ways.

Leakage of increase in value

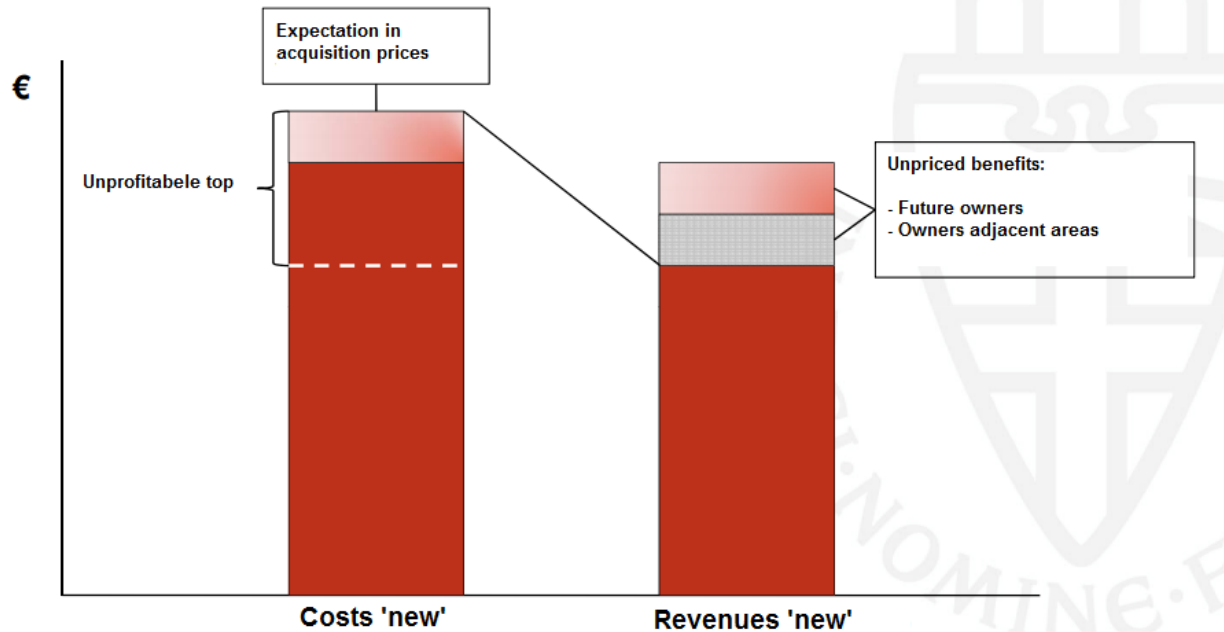


Figure 3: Leakage of increase in value

Creation of expected value in development area

The first leakage is happening at the very beginning of the process. The municipalities have to acquire all the land and property in the planning area. When the municipalities state that they will transform a given area, every owner in that area will think that they have hit the jackpot. The landowners will want to make sure that they will get maximum compensation for their property. The landowners will demand a sufficient part of the increase of value when the land is transformed. In this way a certain expected value is created. In this way, the landowners who'll have to be bought out will get a part of the increase in value. The landowners have every right to be compensated in this way. Otherwise, when we look at the position of the municipalities which depend on this increase of value, the profit leaks away. This first way of 'leaking' takes place on the cost side of the increase of value, the costs of the project will be higher because of the new expected value of the planning area.

E

Non-priced positive external effect for the surrounding area

A second way of leaking is 'caused' by the surrounding area. The increase of value of the planning area has a positive effect on the value of the surrounding area. When the planning area increases in value automatically the total area will increase in value. This non-priced positive external effect is very hard to recover from the surrounding area. The Dutch municipalities have the tool of 'baatbelasting' (betterment levy) this means that the surrounding can be taxed with the increase of value. This also happens vice versa: When an area is decreased in value because of an action undertaken by the municipalities in the area (non-priced negative external effect), the surrounding area will get compensated for this. In practice only the non-priced negative external effect is being compensated, the tool of 'baatbelasting' does not working in practice.

Non-priced positive external effect for future owners

Van der Krabben (personal communication, June 29, 2012) presupposes a third leak in the increase of value, namely the leak to the future owners. The first residents of the area will initially live in a semi-developed area, so the value of these houses will adapt to this semi-developed area. After the planning area is fully developed, the first house built will adapt to the new, increased value of the area. This also can be seen as a non-priced positive external effect and so this positive effect is leaking away to the future owners of the planning area. The second and third way of 'leaking' takes place on the revenue side of the increase of the value.

Concluding

When we look at the problem of Dutch land policy as a whole one might see everything is connected. What part of the policy or the circumstances has changed to go from a major successful policy to a flawed system? The major change that occurred is probably the change in the Dutch economic situation. From a flourishing economy, the Netherlands fell into a crisis. This changing conditions and circumstances also have effect on the way Dutch land policy is organized. In a flourishing economy a more hierarchical organization can work fine. Since the economy has dropped a network or market organization would fit better. When the mode of organization changes, the policy of land development can also change.

4.3. Financing problems for the public space

In this paragraph, the findings from the previous paragraph will be linked to the financing of the public space. The effects of the problems of the complete Dutch area development will be specified to the problems of the public space.

The Dutch municipalities are depending on the revenues from 'active land policy'. This active land policy has worked very well for many years. As the financial crisis took place, the policy of active land policy is coping with many problems. As discussed in the previous paragraph and other previous chapters, there are many reasons for these problems. Dutch municipalities have to earn money from active land policy but when this flow of money is being reduced or even stopped, the municipalities have to cope with

major problems for financing of the public space. In the Netherlands it is, in practice, not possible to raise money from different kind of taxes. Otherwise, the municipalities do have an expropriation tool but this tool doesn't work, or is not being used in the Netherlands.

The public space is an unprofitable part of area development. The municipalities are responsible for the realization of the public space, so they have to develop this public space with revenues from other parts of a total area development. There are many ways possible to arrange this financing of the public space. Other countries use other ways of land policy and could give a solution for the current problems in the Dutch area development and therefor also the financing of the public space.

5. Foreign models: Spanish, British and German ways of financing the public space

As discussed, current economic times ask for a different governmental organization. As a hierarchy is not the best fit for the current governmental organization, a freer mode of organization fits better. A network or market mode of organization fits better with the current situation. Policies that fit with these modes will therefore also have to be more freely. In this chapter three partly market or network oriented foreign policies will be analyzed.

In this chapter I will study and discuss the Spanish, British and German land use models. How do these foreign municipalities work? How does the mode of organization of the foreign municipality look like? What are the benefits and disadvantages of these models? How do the models work in practice? How is the public space financed? What does this way of financing the public space mean for the municipalities, private sector and the people? These kinds of questions will be answered in the following chapter.

Every paragraph will discuss one of the foreign land policy models, first the Spanish model, then the British model and finally the German model. First a short history of the development of the land use laws and policies will be overviewed. Then the current model will be discussed, how does it work in practice? Subsequently the way the model finances the public space will be outlined. Eventually each of the models will be reviewed; the cons and pros of the model will be compared. What makes it a success and what are the flaws in this model? What effect does the economic crisis have on the policy and on the implementation of this policy? These questions will be discussed and should eventually lead to a well-founded overview of each model.

5.1. Spain: The Valencian model

5.1.1. A short history of Spanish land policy

In 1956 the reparcelling (Reparcelacion) was introduced in the first Land Law (Ley del Suelo). This law still is the base for the Spanish (and therefor also the Valencian) planning system (García-bellido, 1991). In 1978 the regulatory powers of the municipalities have increased (the decentralization). This point has mainly led to the adaption of the Valencian model.

The system of 'Reparcelacion' was adapted in 1975-1976 and in 1990-1992 (Munoz-Gielen & Korthals-Altes, 2007). Since the decentralization in 1978 the municipalities have a large regulatory power in the urban development. During the 1990's almost all the municipalities are practicing their right on changing and creating their own laws concerning urban development and urban planning. In broad terms the central government keeps its ability to set rules on procedures and guarantees (Bregman & de Wolff, 2011).

The Valencian urbanization law (LRAU) gave the municipality of Valencia the option to create their own way of urban planning; in 1994 they gave meaning to this law (Bregman & de Wolff, 2011). The LRAU maintained, in broad terms, the reparcelling. They adjusted the procedural rules: The implementation of reparcelling was no longer done by the landowners but by a third part; the 'urbanisator' (agente urbanizador) (Munoz-Gielen & Korthals-Altes, 2007). In García-Bellido's view, there were shortcomings in the system. These shortcomings were due to a lack of real and effective liberalization in the production of urban land (Muñoz Gielen, D., Brouwer, P. and Winsemius, J., 2004). He made a proposal for re-shaping the system, which aimed to improve the functionality of the land market (García-Bellido, 1991) that is, by having at least two producers compete at the same time and place. The actor who offers the best combination of quality and price should develop the site. The public administration should evaluate the quality of the proposals and decide who deserves the right to develop. The proposal of García-Bellido meant a more private mode of development. The mode of organization changed from a hierarchy organization to a market oriented organization.

5.1.2. The functioning of the Valencian model

The Valencian development process consists of four steps: initiative, selection, land readjustment and infrastructure provision (Muñoz Gielen et al., 2004). These four steps will be discussed further in this paragraph. First the general land development plan in Spain will be discussed.

The General Land Use Plan (Plan General de Ordenación Urbana) indicates and amplifies a legally binding right for landowners to develop their land. This 'Plan General de Urbana' divides a municipal territory in three kinds of land; existing urban land, land to be developed in the future and non-developable land or rural area (Munoz-Gielen, 2010).

This plan makes sure that owners of land that is classified to be developed in future have property rights on this land. When municipalities or developers want to expropriate they have to pay compensation to

the rightful landowner for the property rights of that piece of land. This compensation has to be paid immediately even when the land is not being developed yet, or will not ever be developed. Munoz-Gielen (personal communication, July 24, 2012) explains that banks accept this development right as collateral for loans and mortgages (the current status of the banks in the economic crisis will be discussed in the next paragraph). In market transactions, the price of land tends to incorporate the residual value of this development right.

Another important part of the Plan General de Ordenación Urbana is the recognition of the provision of infrastructure and public facilities as both a duty and right of landowners. The defined principle of 'equitable redistribution of benefits costs and duties' indicates that planning, land readjustment and engineering are rights and duties of landowners.

Betterment and costs of development are proportionally distributed among all landowners according to the area of their original property (Munoz-Gielen, 2010). Betterment thus serves to compensate landowners for assuming responsibility for infrastructure provision and ceding the land that is required for this infrastructure (e.g. streets, pathways, electricity, public light, planted trees on path and gardens, water and sewage, gas, telephone and cable)(Munoz-Gielen, 2010). Landowners must also cede land for other public facilities (e.g. schools, sport installations, kindergartens, parks). The building costs of this public space must be paid by the respective public body. Next to this compensation, a certain percentage (at least 10 percent) of the total building rights should be set for affordable housing or other social purposes (Munoz-Gielen, personal communication, July 24, 2012).

Next to the payments and compensations for public space development in the plan area, a (mostly financial) compensation must be paid for the development of public space outside this plan area (Munoz-Gielen, personal communication, July 24, 2012). For example a highway that will be developed in the municipality. This highway must be financed by the municipality in some way; financial compensation out of urban development project can help financing this highway. Even if this highway is in the other part of the city, the project can still contribute to this highway. This contribution can also be done in the form of land. Landowners in the area where the highway must be build have to be compensated; they can be compensated by the distribution of land in other parts of the municipalities. Public facilities are standardized in planning law, and landowners are obliged to transfer between 50 and 75 per cent of the total area to municipalities for infrastructure provision and public facilities (Munoz-Gielen, 2010).

This mode of organization is very much market oriented. The idea that underlies this system is that the transformation of landownership for infrastructure provision is organized by the landowners themselves and not by inter-midair agents (e.g. developers or municipalities) (Gasco Verdier & Munoz Gielen, 2003).

The landowners must make an Infrastructure Provision Project (Proyecto de Urbanización). This project is a budget, calculated to predict the costs for the realization of the infrastructure. Next to the Infrastructure Provision Project, the landowners make a Land Readjustment Project (Proyecto de Reparcelación). This land readjustment project re-plots and reallocates the parcels that will be available

after the infrastructure provision (Munoz-Gielen, personal communication, July 24, 2012). The municipality can reject, approve or make adjustments to the project. When the project is approved the new property boundaries are lawful. The land readjustment project also specifies the distribution of the costs stipulated in the budget of the Infrastructure Provision Project.

The total building volume that is specified in the land use plan is distributed in square meters to the landowners. This can also mean that landowners will get their share in another area or in another sort of building (in extreme: a farm with a lot of land can be compensated with a couple of floors in a big apartment). When landowners did not own a lot of land they can get a (too) small share of the new land-plot. They can then sell their building rights or share their building right with another small land owner. When they combine their building rights they become joint owners of the same building. The buying and selling of the building rights is done often so the former land-owners can still buy or own a decent parcel.

Landowners are required to form a joint development organization (Junta de Compensación) (Brouwer, 2004). This Junta de Compensación, organizes and finances the urbanization through voluntary land readjustment and set up the above-mentioned Land Readjustment Project and Infrastructure Provision Project to present to the municipality (Munoz-Gielen, 2010). The municipality then organizes the public participation process and evaluates the different offered projects. This process should (according to the Valencian model) stimulate the providers of the different projects to make their proposal as cheap and of the highest quality as possible. Anyone can submit a program to the municipality to provide infrastructure for developable land, as landownership is not required (Bregman & De Wolff, 2011). The development organization of the landowners, the Junta, arranges the engineering, provides the location with the needed infrastructure, and redistributes the resulting parcels and infrastructure (Munoz-Gielen, 2010). This is all done within a strict time schedule and with clear terms (Munoz-Gielen, personal communication, July 24, 2012).

As mentioned before in this paragraph the Valencian development process consists of four steps: initiative, selection, land readjustment and infrastructure provision (Muñoz Gielen et al., 2004). A final proposal includes the following (Van Dijk, et. al., 2009):

- A detailed land use plan;
- A draft of the Infrastructure Provision Project with a calculation of the costs;
- A calculation of the total urbanization costs, which include the costs of making the plans and projects, the organizational costs of the urbanizing agent, the costs of compensating and demolishing existing buildings and plantations, the infrastructure provision costs and the profit margins of the urbanizing agent;
- An offer to the municipality containing such advantages as the construction of public buildings (e.g. swimming pools and sport installations). These costs cannot be included in the urbanization costs, and they must be paid out of the urbanizing agent's profit margins;
- An offer in cash to the landowners for their building rights; and
- Implementation schedules (fixed in the 1994 Act as a maximum of five years) and bank guarantees (at least 7 per cent of the infrastructure provision costs).

Finally the municipality rejects the program or selects a proposal from a public land-development agency. The proposals can be viewed by everyone, so there is a lot of openness in the process (Munoz-Gielen, personal communication, July 24, 2012). Anyone can object to the project or come up with an alternative program. The candidate developers can negotiate with the landowners and municipality about their proposed program. This is the base for the negotiations. In the end of this process the municipality will decide which project will be developed by whom. The urbanizing agent ('Urbanisator') is selected by costs, quality of the plan, development of public space, compensation prices, revenue for the municipality, and the amount of bank guarantees (Munoz-Gielen, 2010).

After a concession has been granted, landowners can decide whether they want to be expropriated or to continue the development process (Munoz-Gielen, personal communication, July 24, 2012). When the landowner chooses to sell their land to the urbanizing agent, the building rights of that plot will go to the developer. When a landowner decides to continue the development process (this is mostly done in practice); the landowner must contribute to the costs of the project and eventually will get their part of the revenue made by the development of the project. The landowner must give the urbanizing agent a guarantee of payment, mostly a bank guarantee (this will be discussed in the next paragraph). The urbanizing agent cedes the land to the municipality for public purposes (according to the provisions of the 1956 Act, Ley del Suelo) and distributes the resulting serviced building parcels among the landowners (Munoz-Gielen, 2010).

5.1.3. Financing the public space

How do the Spanish municipalities finance the public space? This question is already partly answered in the previous paragraph. In this paragraph the focus will be primarily on the way the public space is financed.

The public space is 'financed' in different ways in the Valencian model. This 'finance' can exist of an actual financial compensation but it can also be compensation in kind. This 'kind' mostly exists out of a contribution of land from the landowners to the municipalities (Munoz-Gielen, personal communication, July 24, 2012). Betterment and costs of development are proportionally distributed among all landowners according to the area of their original property (Munoz-Gielen, 2010). Betterment thus serves to compensate landowners for assuming responsibility for infrastructure provision and ceding the land that is required for this infrastructure (e.g. streets, pathways, electricity, public light, planted trees on path and gardens, water and sewage, gas, telephone and cable)(Munoz-Gielen, 2010). Next to this infrastructure provision, landowners must also give up land to the municipality for other public facilities as parks, schools, libraries etc. These two sorts of public space (the infrastructure on the one hand and the public facilities on the other) are clearly separated in the Spanish law. All these compensations for the public space are all very clear defined in the law and also in (public) agreements between the municipality, the landowners and the 'urbanisator' (personal communication, Munoz-Gielen, July 24, 2012).

The building costs of this public space must be paid by the respective public body. Smaller forms of public space (for example libraries, schools, squares, parks, city streets) mostly the municipalities will pay

for this kind of public space, the 'bigger' kinds of public space (like highways, railways etc.) are paid by higher public bodies. Next to this compensation, a certain percentage (at least 10 per cent) of the total building rights must be paid by the landowners for affordable housing or other social purposes (Munoz-Gielen, personal communication, July 24, 2012).

Public facilities are standardized in planning law, and landowners are obliged to transfer between 50 and 75 per cent of the total area to municipalities for infrastructure provision and public facilities (Munoz-Gielen, 2010).

5.1.4. The Valencian model reviewed

The Valencian model is a model that worked very well for many years. Due to the market oriented character of the organization, parts of the model are very effective and successful but other parts are not always social accepted. This paragraph will discuss the flaws en successes of the model, the pros and the cons.

Benefits of the Valencian model

The Valencian model has a lot of benefits. The benefits of this model are benefits for the municipalities, the big landowners and also developers. This part will discuss the benefits of this system.

The first benefit is a big benefit for the municipalities. Municipalities do not have to carry the risk of the development site. Investments are done by the landowners on the one hand and by developers (the 'urbanisator') on the other hand. Besides de investments in the project, the landowners invest in the creation of land for public space and also contribute financially (10% of the increase in value of their property by the development of the land) to the development of the public space.

Another important benefit of the Valencian model is the fact that the amount and sort of contribution that must be paid to municipalities is very clearly established in the law. Besides this clarification of this contribution, it is also very clear what the municipalities develop with this money. The money can only be used for urban or rural development, not for other purposes of the municipalities. Municipalities have a strong negotiation position, which is also been established by the clear set of criteria stated in the law.

A third benefit is the benefit for landowners. Not only municipalities or developers can request for a development in their area but also landowners and non-landowners can request a development that should take place. Also landowners profit from the development of their land because a big part of the profit is for the landowners.

The final benefit of the model is very much a benefit for the municipalities and also, to a lesser extent, for the developers. When a project is accepted landowners are obliged to take part in the reparcelling. This obligation ensures that a project is being developed and also long procedures are being avoided.

Flaws and the economic crisis

Until this point the Valencian model seems to be a very effective model for high quality urban development. This is true for many cases and it has worked for many years, but since a couple of years the system is showing some flaws. This part will discuss these flaws in combination with the ongoing economic crisis.

The first problem with the Valencian model was that the model did not correspond fully to the laws of the European Union. The EU stated that the procedure of the procurement did not abide to the rules of international procurement. There were mainly problems with issues like the selection criteria's, deadlines, procurement rules, public participation etc. Also the way the amount of compensation that must be paid was determined, did not correspond with the EU-rules. The reaction of the Spanish government to these objections was a slight change in the process of Valencian urban development. Changes were made in the LRAU: The public participation period was extended and the European procurement rules were introduced by the selection of the 'urbanisator'.

Next to the problems with the process there were other objections from out of the European Union with the Valencian model. A petition against the Valencian model was sight by more than 15.000 people. The petition stated that the Valencian model infringed the rights of the property owners (EU, 2009). Especially foreign landowners with a summer house in Spain did not want to change their quiet manor into a busy twenty floor apartment. The foreign landowners do not read the local or regional news and did not receive their mail in their own country so they did not protest against the development in their region. The petition was accepted and changes had to be made in the LRAU. As a reaction to this petition the LRAU was again slightly changed into the LUV: The claims to owners of small manors were mitigated. When these landowners are not interested in intensifying their development opportunities, the urbanization costs are reduced and the land that they have to hand in is reduced.

A third problem with the Valencian model is the fact that municipalities saw the system of 'reparcelacion' as a cash machine (De Wolff, personal communication, July 17, 2012). Municipalities kept developing and this led to massive urbanization of the region. The complaints of environmentalists kept growing and kept getting stronger. The environmentalists stated that popular coast of Alicante was being transformed from a beautiful nature reserve to a massive grey apartment area. Also a petition against the extensive urbanization in Spain was signed in the EU by more than 15.000 people, as a result of this petition urban development plans were abandoned in Alicante (EU, 2009).

The extensive urbanization is the cause of another problem in Spain. As mentioned above, the municipalities saw the system of reparcelacion as a cash machine. The municipalities kept urbanizing the region and this did not only affect the environment. Since the start of the economic crisis, unemployment rose, purchasing power decreased, the demand dropped, the willingness to invest in urbanization projects decreased and banks wouldn't give bank guarantees for possible buyers. All these consequences of the economic crisis have a major impact on the reparcelacion. A big problem occurred: massive vacancy of developed sites.

The beauty of the Valencian model is that the landowners pay for their own public space. When their land is being developed they have to pay for the development of public space. Landowners took out a loan by the banks to pay this contribution and eventually this loan would be paid back by the increase of the value of their land: no governmental interference was needed. But now since the developed apartments can't be sold anymore, the loans can't be paid back and the banks collapse. Now the government has to invest in the banks to save the banks from bankruptcy. So now, indirectly, the government is still paying for the public space.

5.2. Great-Britain: Urban land readjustment

5.2.1. A short history of British land policy

The planning system that was formalized in Britain in the 1947 Town and Country Planning Act is distinctive for the way in which it explicitly nationalized the rights to future development and distinguished between physical development and land-use change (Booth, 2000). Although the planning act has changed a lot, the basic principle of the nationalization of the rights of development has always been the base for the Town and Country Planning Act. The distinction that is made between physical development and change of use is also unique for the British planning act.

The main reason for this distinction is ‘the intention that both should be the subject of planning control through the granting and refusing of applications for planning permission’ (Booth, 2000).

After the nationalization of the development rights, every proposal for a development needed a valid planning permission. According to Crow (1996), development plans after 1947 indicate only a likely future uses but offered no guarantee that such a use would in fact be permitted. The plans are indicatively, they give a presumption not a certainty; the planning permission not a legal permission for a project, it is only a prerequisite.

The Town and country planning act (1947; 1990) requires local authorities to ‘have regard to the development plan, so far as material to the application, and to any other material considerations’. This means that the development plan may not be specifically adjusted to one case. The development plan can therefore not define the totality of criteria for the use of determining a planning permission. Next to these general indications for a planning permission other considerations may inform the local authority’s judgment.

The second unique part of the British planning system is the distinction between physical development and the use of land. Essential in this part of the Town and Country planning act is the definition of the word ‘development’ (Booth, 1996). The town and country planning act (1947; 1990) defines development as being both ‘operations’ and ‘any material change of use of any buildings or other land’. By using this definition the government can include not only buildings but also engineering, mine work and ‘other land’ (Booth, 2000). The underlying reason for this definition probably is the effort to control the polluting industries and the desire to control the pollution of land and buildings of private owners.

The two discussed central characteristics of the British planning system can be explained in terms of the history of the preceding 100 years. The growing concern about diseases and disorder that fuelled debates in cities in the 19th century led to the first public health acts and the desire to control the spatial development (Szreter & Mooney, 1998). After these regulations were put in law, local authorities immediately started to protest for 'a wider and more flexible scope of control' (Booth, 2000). Subsequently the rules started to get a bit looser; a freedom to extend control and to exercise that control with a minimum of legalistic constraints (Booth, 1996). In Great-Britain the municipalities developed local administrations; this might be another reason for the 'loose' planning act. The common-law tradition of case law fits well with the willingness of the local government to set up their own planning rules.

Until the eighties, the British municipalities used active land policy (just like the Dutch municipalities) as a common policy (Ladd, 1982). Since the eighties, active land policy is no longer allowed in the UK. The British municipalities now use a different land policy (Muñoz Gielen, D., Brouwer, P. and Winsemius, J., 2004).

Since 1992 a new form of contracting was developed. The British government wanted to intensively involve the private sector in the development of roads and, later, other governmental projects. In 1992 the Private Finance Initiative (PFI) was created. The minister of Transport announced that private parties were given the possibilities to design, build, finance, and maintain roads for a longer period of time.

In 1993, the PFI was formalized into contracts. These contracts were called DBFO-contracts (Design-Build-Finance-Operate). The main principles for DBFO-contracts are published in a document called 'Paying for better motorways' (Cullingworth & Nadin, 2006). In the next paragraph, inter alia, the benefits of these DBFO-contracts will be discussed.

A short explanation of the British administrative levels within the system

Quoted from Munoz-Gielen, 2010, p. 171-172.

England is subdivided into nine regions. Regions are subdivided into metropolitan counties (including Greater London), and non-metropolitan counties. Counties are often subdivided into districts or boroughs. This leads sometimes to a double tier of local government, with a County Council and a District Council (Cullingworth & Nadin, 2006: 64-65). In this case, both the county and the district are Local Planning Authorities (LPA).

The *planning policies* of regional and local governmental bodies are subordinated to the law and policies of the UK government. Subordination of *planning legislation* is guaranteed through the 'parent acts': the laws of the UK Parliament that delegate legislative powers to other bodies and set out the principles, rules and procedures under which delegated legislative powers can be exercised.

5.2.2. The functioning of the British model

Now the urban policy in the United Kingdom is a very complex system of initiatives and programs. The cause of this complexity is that different legal, economic, social and demographic conditions of each area in the UK (England, Northern Ireland, Scotland, and Wales) require variety and flexibility in the policy response.

The British model has changed from a hierarchal mode of organization to a more market based organization (Munoz-Gielen, personal communication, July 24, 2012). Previous the model could be characterized by a separated commissioning and contractor; basically the public party decides what should be developed and the private party mostly develops these assignments (Cullingworth & Nadin, 2006). Current, initiatives for development is taken by private parties.

Public-private partnership is very common in the British development model, standards and criteria are being put by the government and the financing and development is done by private parties. In Britain, Private Finance Initiative is mostly used. The land exploitation and development is done by private parties (Cullingworth & Nadin, 2006). The government mainly has influence on the planning part of the project but when the concession is closed, the government does not longer have a say in the project. The risks are fully or at least partially placed with the private parties that may develop the area. The DBFO (Design Build Finance Operate) principle is the base for this policy.

The DBFO was drawn in 1993 in the document *Paying for better motorways*. This document shows two important benefits of DBFO contracts (Cullingworth & Nadin, 2006). The first benefit is the length of the contracts. Because of the fact that contracts are entered for an extended period, private parties can experiment with new ways to develop and maintain the area. The possible benefits of these experiments will also come back to the developer. Another benefit is the fact that a maintenance and management industry is created in the private sector. These DBFO contracts have now been succeeded by Local Asset Backed Vehicle (LABV). In a LABV, a 50-50 partnership is concluded for a longer term of 10 till 25 years.

Developers (landowners or project developers) take the initiative for the development of the projects. This market based organization gives private parties the opportunity to take initiative. In Great Britain, developers propose (unsolicited) to develop an area. The developers do not wait for the government to take initiative for the planning of the area. This asks for an early and sustained involvement of the developer in the process (Nadin, 2007). Developers must assure that they are always ahead of the local government in the field of strategic thinking about the region.

The British developer initiates the plan but also organizes the participation and support for the initiative (for both civilians as civil society organizations). The results of the participation and the formation of support are then presented to the municipalities as support for their request for the development of the area (Booth, 2000). The developer has gathered evidence for the necessity or desirability for the area development. This evidence is needed to convince the local government to agree with the plans of the development of the area.

On forehand the developers and the municipalities will discuss and negotiate about the financing of the project, the distribution of the profit and the demands of the project, set by the municipalities. If and

when the developer and the municipality come to an agreement the developer can start the realization of the project. These agreements are called planning performance agreements, these agreements between the developer and the local government contain agreements about the products that both parties can expect of each other, deadlines for the 'products' and the quality of the services (Szreter & Mooney, 1998). Developers sometimes pay the local government to realize these services.

A slightly different version of planning performance agreements is a version in which the local government and the developer agree on the information that is needed to review the development and continue the development. Both parties must agree on which information is gathered by which party also certain deadlines for this information are set. (Booth, 2000) Examples for this kind of information are an environmental impact report, archaeological report, housing need research, traffic and infrastructure research etc. Research that is traditionally done by the government can now be done by the private parties. This distribution of information gathering provides a faster procedure. A premises for this distribution is that governments do not give orders to the developers otherwise (as seen in the Valencian model) the European procurement law is in dispute.

Next to this variant of the planning performance agreements are two other variants. One is a variant that is a little more extensive than planning performance agreements; the other is actually an informal variant. The slightly more extensive variant implies that agreements are made about the level of service given by the municipality. Municipalities must for example react on question from the developer within a certain period of time. Another example might be that the municipality designates a person as a permanent point of contact for the developer.

The informal variant, according to Nadin (2007), is called co-operative partnership or enabling partnership. This informal partnership will try to create a common vision on the development of the area and how to develop the area. This classification of 'informal' means that the co-operation is not based on legal agreements or on legal entities. Co-operative partnership can provide for the formation of a joint policy or a joint vision on a certain area. Agreements about goals and policies can be reached with several governments but also with private parties and non-profit parties. These co-operations do not only ensure a common vision or policy but can also ensure the realization of this vision. Such partnerships can make sure that governments provide crucial investments in the area that must be developed. This investment can create a bond of trust between the government and the developer.

When the developer and/or landowner and the municipalities negotiate about the demands of the project, they will discuss the so called 'section 106 agreements'. Section 106 is a section of the 'Town and country planning act 1990'. It allows a local planning authority (LPA) to enter into a legally-binding agreement or planning obligation with a landowner in association with the granting of planning permission. The obligation is termed a Section 106 Agreement (Gibson, 1995). These agreements are a way of delivering or addressing matters that are necessary to make a development acceptable in planning terms. They are increasingly used to support the provision of services and infrastructure, such as the public space, highways, recreational facilities, education, health and affordable housing. Matters agreed as part of a S106 must be (Gibson, 1995):

- Relevant to planning
- Necessary to make the proposed development acceptable in planning terms
- Directly related to the proposed development
- Fairly and reasonably related in scale and kind to the proposed development
- Reasonable in all other respects.

When all the matters are agreed on, the project can start. The land acquisition, and in some cases the land readjustment, is done by the developers and they can be helped by the municipalities. Municipalities can legally disown people from their land. Eventually the profit that is made by the development of the land is distributed to the rightful owners as agreed on in the section 106 agreements.

5.2.3. Financing the public space

The public space is paid by the profit of the development of the land. The developer and the municipality can negotiate beforehand about the financing of the public space (Munoz-Gielen, personal communication, July 24, 2012). With the most common outcome: the developer pays the municipalities with the profit. Another way of developing and financing the public space is by developing the public space by the developer. The developer can in this matter even be financed by the municipalities (Briffault, 1999). A third option is a less common way of financing the public space. The prospect of increasing taxes by the development of the project can provide a loan for the payment of the development of the public space. The loan will be paid back in the next twenty to thirty years by the income of the increasing taxes. In this matter, the developer will carry the risks of the loan. If the project is unsuccessful, the profit of increasing taxes will not be made. The loan must be paid back with profits of other projects (Atkinson, 2003).

5.2.4. The British model reviewed

The British model has many forms, but most forms have many similarities. Therefore the 'British model' as a complete standalone model does not exist but common guidelines do exist. Since the economic crisis, the British way of development has changed. From a more hierarchical mode of organization to a market oriented mode of organization. But does the crisis have as much effect as in, for example, the Netherlands and Spain? First the benefits of the common form of British development will be discussed, and then the flaws and the effects of the economic crisis will be discussed.

Benefits of the British model

The British model has a lot of benefits. The first benefit is the form of cooperation. Both parties gain 50 percent of the yield; this is especially a great benefit for the public party as they do not have to inject capital in the project. The yield is paid in the form of property or other capital. This capital can be used for the development of public space or other public facilities.

Another benefit of the model is especially for the developer. When a reasonably detailed plan is presented (so with the support of the residents), the municipality is almost obliged to react to the plan.

Especially when the proposal responds to the existing problems on the field of housing and office locations, the municipalities have to react and discuss the proposal. The major benefit of this is the fact that when a private party sees a possible profitable project in an area, they can 'force' it on the agenda of the public parties.

A final major benefit is the fact that municipalities can impose very detailed requirements for the project. When these demands are clear both parties can negotiate about the demands. The major benefit of these agreements is that it is clear for both parties what they are obliged to and also what they can expect of the other party. These agreements are legally binding and very detailed on each point so that there is almost no room for discussion during the process and/or after the process.

Flaws and the economic crisis

Since the bankruptcy of Lehmann Brothers bank in 2008, the value of real estate has dropped with 30 to 50 percent. Public and private money is kept in reserve. The Regional Development Agencies (RDAs) were abolished and then followed by Local Enterprise Partnerships (LEPs). All these developments mean that restructuring and development must be financed in a new way. This is done with LABVs (as earlier discussed). There are a lot of possible flaws in the British system but most of them are (as also seen in the Valencian model and the Dutch model) indicated by the policymakers. In the British model, merely seen, the municipalities set the demands. Developers can take initiative but the high demands set by the municipality, can be too high for the developers. Developers may be deterred by the high demands and therefor initiative will come to lack. This difference in demands and capability can create friction between the policymakers and the developers. Municipalities often tend to work out the design too explicit. This means that the developers are too much bonded to requirements to develop efficiently and of high quality.

Another problem with the LABVs and the DBFOs is the fact that both parties have a fifty percent interest in the development. This has many benefits but has also a major disadvantage. Because both parties have the same amount of participation; negotiation and the whole process can take a lot of time. Both parties must negotiate about demands, financing, development, deadlines etc. The fact that there is no deciding vote can make negotiations go on for a very long time. The process costs can be high and also the establishment of a LABV costs at least 500.000 pounds. Therefor a LABV does not seem fit for small projects.

A last problem is the fact that parties sign contracts for a very long time; 10 till 25 years. These long contracts have a lot of benefits but can also mean potential drawbacks. First of all the contracts can only be terminated against high costs. This means that when it is better for the public or the private party to step out of the project it will cost them big amounts of money. Private parties do often not exist 10 years, not to mention 25. Bankruptcy of the private partner can result in high obligations, both financially and executive/maintenance work.

5.3. Germany: Umlegung

5.3.1. A short history of German land policy

After the Second World War, West- and East Germany had their own style of developing the housing stock. In West Germany the free market principle was applied and different sustainable houses were created. During that time, in East Germany they created a housing stock by developing unilateral, low quality houses.

In both parts of Germany the government had an important influence on spatial planning of their state (Reinhardt, 2008). The spatial planning was organized by the municipalities and mostly developed by the municipalities. In both parts of Germany a hierarchal mode of organization was implemented. The main difference between the West and the East was the difference in division of tasks. In the East part of Germany the development of the land and the estate was a governmental task. The houses were built commissioned by the government instead of the private parties (Schloffer, 2000). These houses remained property (all this according to communism) of the state; houses were mostly rental houses.

After the unification of the West and the East a couple of changes have been made, but still important parts of the process have stayed the same. The municipalities still have an important role in spatial planning. The biggest change that is made is the extra attention (mostly money) for the east part of Germany, to reduce the difference between the east and the west (Dieterich, 2006).

The German law and rules for 'Umlegung' are already pretty old. Besides reparable in rural areas, different states use reparable for urban purposes since the end of the 19th century or the beginning of the 20th century. After the Second World War, rules for reparable were used in rebuilding laws. In 1960 the Umlegung became part of the Bundesbaugesetz and was included in to the Baugesetzbuch (BauGB) in 1986 (Reinhardt, 1999).

5.3.2. The functioning of the German Umlegung

The German Umlegung is regulated at a federal level and finds its basis in the 'Baugesetzbuch' (BauGB) (Dieterich, 2006). Umlegung in short comes down to the following. During 'Umlegung', all the land in an area is put in a big virtual collective bowl (Muñoz Gielen, D., Brouwer, P. and Winsemius, J., 2004). The municipalities now can readjust the existing plot layout. This is usually done in accordance with the land owners. By readjusting the land, a new land plot is created that fits with the new plan. During this land readjustment (Umlegung), public space is also embedded in the plan. The original landowners will still be the landowners but with the main difference that the parcels have changed (Bregman & de Wolff, 2011):

The rules have not been changed a lot since the including in the Baugesetzbuch in 1986, only a few adjustments were made (Bregman & de Wolff, 2011):

- The tight linkage with the Bebauungsplan has been abandoned; this creates an extra possibility for Umlegung within the urban area without a Bebauungsplan.

- The possibility to use the land for other purposes than traffic or green zones, like compensation land.

The legal framework for Umlegung is mostly organized by the central government. States can give their own interpretation on the matter. This option is limited to the administrative organization of the factual Umlegung; the states can therefore not change the fundamental characteristics (Ernst et. All, 2009).

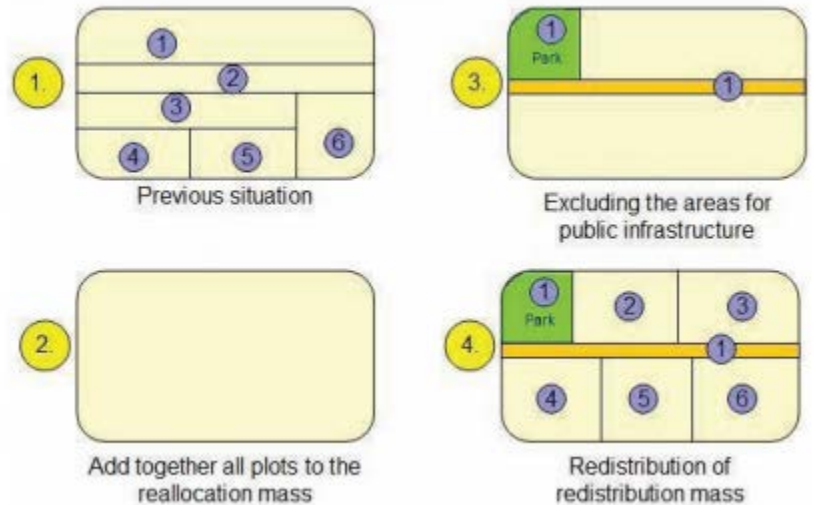


Figure 4: Basic idea of German Land Readjustment

Umlegung is a complementary tool that the states can use (Bregman & de Wolff, 2011). In practice the majority of the states use Umlegung. There is a big difference between the different states in the way and the matter they use this instrument. Eventually it is the responsibility of every city or state whether to use the instrument of Umlegung. Often the instrument itself is not even used during the development of an area. Basically there are two sorts of Umlegung: Formal Umlegung and informal Umlegung (de Wolff, personal communication, July 17, 2012). States often prefer the informal way of Umlegung above the formal way.

This informal way of Umlegung means that the states and the landowners conclude a private agreement on the development of the land of the landowners. The states start with a declaration to the landowners containing the intention to develop their land. The state and the developers subsequently discuss the possibility to reorganize the land plot. Often the plot layout is unfavorable for the development of that area; states will try to negotiate a reorganization of that area with the additional purpose of creating an area of land for the public space. States often negotiate with landowners to donate parts of their land for a fee of changing the land use (de Wolff, personal communication, July 17, 2012). This informal way of Umlegung is called 'Freiwillige Umlegung' (voluntary re-parcelling).

The government can also use formal Umlegung to unilateral adjust the existing plot layout. The states walk through the entire formal process. By adjusting the plot layout new parcels are created that are suitable for the created plans (usually cultivation). In this, land is cleared for the development and the realization of the public space and public facilities. All plots have to be evaluated twice: before and after land readjustment. By land evaluation the land contribution rate as well as the entitlements of the landowners and financial adjustments has to be determined. The original owners will still be the owners but now they are owners of a new formed parcel (Ernst, Zinkahn, Bielenberg & Krautzberger, 2009). In accordance with the purposes of land readjustment landowners receive as far as it is possible, plots out

of the so called redistribution mass with an equivalent location to the plots which have been contributed.

With the consent of the landowners (and in some special cases without their consent) as a settlement may be provided (Müller-Jökel, 2001):

- Money,
- Property outside the project area or
- The establishment of joint ownership of a plot

The land readjustment department is able to withdraw, alter or re-establish all real property rights as well as any other entitlements to a plot (de Wolff, personal communication, July 17, 2012). In the end of the process the states close the Umlegung with registration of the new plot in the land register.

There are many similarities between Umlegung and the Valencian model. Though there are also a lot of subtle differences. First of all, the main difference is the fact that during Umlegung, an independent expert commission will be in charge of the whole technical process (Bregman & de Wolff, 2011). Secondly a big difference is the valuation of the parcels. The Germans value the parcels on quantity and quality, the Spanish only on quantity (Golland, 1996). A third difference between the land policies is the developer of the land. During the Umlegung the development is always done by the municipalities or the landowners usually in consultation with the expert commission (de Wolff, personal communication, July 17, 2012). In the Valencian model, not only the municipalities can develop the land but it can also be done by private parties. Eventually, both in Germany as in Spain, the municipalities have the final decision on the different propositions.

In order to make the steps of Umlegung a bit more clearly, the steps of Umlegung in general will be listed on the next page (Davy, 2005):

		The Land Readjustment Committee
Step 1	Commencement of Land Readjustment	<ul style="list-style-type: none"> • Define the area selected for land readjustment according to the recent land use planning • Freeze changes of present land use and transfer of rights • Map all properties, and list all landowners • Indicate in the land register that land readjustment has commenced
Step 2	Preparation for Land Readjustment	<ul style="list-style-type: none"> • Merge all properties into one large land designated for readjustment • Assess the present market value of land • Subtract all land designated for public use (e.g. roads) and allocate this land to municipality or development company • Select relative value or size as the standard for the redistribution of readjusted land • Determine the share of each individual owner
Step 3	Value Capture and Reallocation	<ul style="list-style-type: none"> • Determine the value of the readjustment gain that owners have to pay to the municipality (standard of relative value) or that may be retained in land (standard of relative size) • Consider the present and proposed uses of the land as well as the needs and suggestions of landowners • Allocate readjusted plots of land to each owner • Determine the compensation of landowners who have not received their full shares
Step 4	Readjustment Plan	<ul style="list-style-type: none"> • Issue a formal decision on land readjustment • Determine the rights and obligations of each party, including municipality • Include a map of new property boundaries
		<ul style="list-style-type: none"> • Make legal remedies available to all parties • Issue a public notice when upon exhaustion of all legal remedies, the readjustment plan has become legally binding
Step 5	Implementation of Readjustment Plan	<ul style="list-style-type: none"> • File the readjustment plan with the land register • Monitor the legal and actual implementation of the readjustment plan

Figure 5: Steps of Umliegung

5.3.3. Financing the public space

The public space is in practice, often paid by the 'Erschliessungsbeitrag' (de Wolff, personal communication, July 17, 2012). Normally landowners must pay contributions to the states because of the increase in value of their land. The new plots are more practical, and mostly therefor, worth more. A part of this increase in value must contribute to the states so they can develop public space and in fact the realization of public facilities.

In 'freiwillige Umlegung', these payments are often already negotiated in the private agreements between the parties (de Wolff, personal communication, July 17, 2012). This means that parts of the development of public space and public facilities can be determined very detailed. When the state chooses 'freiwillige Umlegung' other sorts of compensation by both parties can be negotiated (other than in the normal official Umlegung). The state's insertion of these negotiations is that they can finance the complete development of these public facilities from the results of the Umlegung. Project's landowners may have to contribute up to 90 percent of the total costs of providing local roads and open space. But no more than 30 percent of the market value of the land or the land itself can be taken for public use and cost-equivalent land. Landowner contributions most often are in cash rather than in cost-equivalent land. Umlegung helped municipalities to control growth, and plan and implement balanced urban development.

5.3.4. Umlegung reviewed

The German model is a model that worked very well for many years and doesn't seem very susceptible to the economic crisis. Private ownership is on the other hand not very much protected by the German law. How effective is this model? Does everyone profit from the model or do often problems occur for certain interested parties? This paragraph will first discuss the benefits and secondly the flaws of the German model.

Benefits of Umlegung

The system of Umlegung has a lot of benefits. A first important benefit is the fact that, when we look at formal Umlegung, the expert committee that guides the process is an independent party. This independence enlarges the support of the landowners and also of the states for the project. Both parties feel their interests are considered, discussed and perhaps supported (Bregman & de Wolff, 2011).

A second benefit of the tool of Umlegung is (as well the formal- and the informal Umlegung) the quicker political process in the redevelopment process. This means the costs are lower the process risks are lower and the decision making process is much quicker.

A third and perhaps one of the most important benefits is the possibility to change the property situations and to break deadlocks in inconvenient ownership situations (de Wolff, personal communication, July 17, 2012). This can all be accomplished by the states without using any supplying instruments like the purchase of land, the establishment of emption, or compulsory purchases.

A final big benefit is the fact that states can choose for informal Umlegung. This is a huge benefit for the states and landowners as well. Private agreements between states and the landowners give a lot of opportunities for both parties to arrange agreements in detail. According to informal Umlegung parties can discuss and negotiate about the details of the new land plot, how to finance public space, how to compensate the landowners (financially and physically) and the states (also financially and physically) (de Wolff, personal communication, July 17, 2012). Even details can be negotiated that do not directly have anything to do with the land readjustment but still can help both parties to close a deal. A benefit of

Umlegung for the states, is the fact that they have the possibility to use formal Umlegung as a tool when informal Umlegung doesn't lead to an arrangement between the landowner(s) and the state.

Flaws and the economic crisis

Of course the system of Umlegung also has drawbacks. A major disadvantage of the Umlegung tool is that the functioning of the reallocation law is dependable on the amount of interested parties in the area. When there are too many contenders it will be hard to negotiate about agreements between all the interested parties. States then can reduce the exploitation area but this means more and smaller area's so there will be more processes and this means it will take a lot more time. The fact states can use expropriation to make sure Umlegung is possible does not per se have to be a positive point in this matter. When states decide to use expropriation of land from the landowners, the support for the project will be very low and landowners will not collaborate to make the project a success. Also the expropriation of land means, again, a longer process and therefor an expensive process (de Wolff, personal communication, July 17, 2012).

A second disadvantage of the tool Umlegung is that smaller parties (landowners with a small piece of land) do not always have as much to say as the bigger parties (landowners with bigger pieces of land). This means that the interests of these small parties are not always defended and they can be ignored when the big landowners and the state negotiate about the project in that area.

A third problem of Umlegung is occurring when the tool of Umlegung is used in urban areas. In urban areas the diversity of the value of land, real estate and infrastructure is very big. The interests of all parties are different and again the small parties can suffer of this imbalance. Discussions about the contribution value and the share of contribution in general will rise (de Wolff, personal communication, July 17, 2012). Again the freiwillige Umlegung (voluntary Umlegung) will be hard to succeed.

6. Conclusion

In this chapter the Dutch land policy will be concluded. The flaws from the past, the current flaws and the possible flaws in the future will be discussed. Also the opportunities of the Dutch land policy will be discussed. Then the three foreign models will be concluded. What are the key points that make these policies different from the Dutch and what are the successes of these policies? How do the policies make sure the public space is financed?

The Dutch land policy

Dutch land policy was for an important part equal to active land policy. This land policy did work very well, but in the past, policy makers made mistakes that are still noticeable at the present. Next to human mistakes, the model did not take some external factors in account and/or acted to these changing external factors. Finally the model in itself contains 'errors'.

The first consideration that led (indirectly) to active land policy was the target of the government to make sure houses were of high quality. Eventually after the Second World War, the government wanted to make sure that every Dutch citizen had a decent house for a decent prize. These 'mass production' targets were accomplished by a hierarchy mode of organization with the tool of active land policy. From that moment on, active land policy was a well working policy, even being worshiped abroad.

Active land policy became a useful way for municipalities to develop housing. The jump in value after land development was used for the development of the public space. In this way housing, the public space, infrastructure and public facilities were developed and were of a high quality. The main problem that arose was the fact that municipalities saw the revenues of active land policy as a default flow of income. Other tasks of the municipalities were paid by the revenues of active land policy. The main mistake of the policy makers that was made in the heydays of active land policy was the fact that almost none of the revenues were saved by the municipalities. Possible risks of active land policy could therefore not be absorbed. We still perceive these consequences today. Active land policy eventually went down on its own success.

Excessive programming is a mistake made by policy makers in the more recent history. A lot of land was bought by municipalities with the idea that they could and would sell it to developers. Since the economic crisis the demand dropped and now the municipalities can't sell the land. This is a risk of the policy and should have been absorbed by savings from the past. But since these savings haven't been made, the excessive programming creates major (interest) losses.

The last main problem of current active land policy is the unprofitable projects. This problem is on the one hand caused by changing conditions on the location development (the development went from expansion area's to transformation area's) but on the other hand is caused by errors in the system of

active land policy. The revenue of the increase of value is leaking away. As discussed in chapter 4, this leakage is caused in three ways:

- The creation of expected value in the area that should be developed
- Non-priced positive external effects for the surrounding areas
- And the non-priced positive external effects for future owners

This leakage could be addressed but this means that the system of active land policy should be changed.

The tool of active land policy was (and is) part of a hierarchal mode of organization for land development. This hierarchal mode of organization fits well with a growing economy where the demand for housing development is high. Since the economy has dropped, the demand for houses has dropped. The economy is shrinking. The mode of organization should be adapted to the current economic situation. As discussed in chapter 2.2 a freer mode of organization, a market oriented or network oriented mode, would fit better with the current economic situation.

The Dutch land policy is a system that arose from correct reasons and which acted correctly to the conditions of that time. The main flaws of the system were caused by human action, not by the system itself. The flaws of the system itself should be addressed. The most important change that has to be made is the reasoning of policy makers. To change the policy, the mode of organization should be changed to a freer mode of organization. The three foreign systems that are discussed give insight in possible changes that can be made in the organization, in the policy, in the system and in changes that should be made in the reasoning of policy makers. Whether or not conducted by a change in the system.

The foreign land use policies

In this part of the conclusion the three foreign land use policy will be concluded. Basically the positive points of three policies will be discussed related to the problems that occur(red) in the Dutch policy. Basically possible ways of financing the public space within their land policy context will be discussed.

To answer the main question of this thesis, *'How can the Dutch land use policy be changed and adapted to the current economic situation by studying Spanish, German and British land use models, in order to cope with the Dutch problem of financing the public space?'* the major benefits of foreign models will be listed. Eventually in the next chapter, as an answer to this question, definitive recommendations will be made.

The main benefit of the Valencian model and also Umliegung is the fact that the municipalities do not carry any investment risks. This is currently a major problem for the Dutch municipalities. In the Netherlands the municipalities first buy the land and then seek a developer to sell it to. In Spain and Germany this investment risk is not an issue. In Spain the investment risks lay with the developers (mostly financially supported by the banks) and for a smaller part with the landowners. In Germany the risks are limited because of the fact that there is almost no expansion during the development, the risk lies almost solely with the contribution of capital by the landowners. This switch in order of investing and

developing is an interesting option for the Dutch municipalities. When, in the past, this risk wouldn't have been for the municipalities, the big depth caused by interest losses, could have reduced or even avoided. This mode of organization is more market oriented; investments, risks, and a major part of the responsibility lays with the market parties.

A second benefit of the three foreign policies is the contract and agreements with the developer and/or the landowners. In all the three policies these contracts and agreements exist in their own ways but also have a lot in common. The British model assures a 50-50 percent interest in the project. This assures that the municipalities do not have to inject capital in the project. After the agreement of the 50-50 percent interest both parties start to negotiate on the demands for the project. In the German policy the states negotiate primarily with the landowners on forehand, detailed agreements can be made in the informal way of Umliegung in private agreements. In Spain the municipalities negotiate on forehand with developers and landowners about the demands of both parties. In Spain these points of negotiation are all detailed listed in the law. Only the points that are listed can be negotiated, it is on forehand clear to all the parties what the negotiation points are and what the room for negotiation is.

Finally the three models all have their own way of forcing the landowners to join the project. This possibility to force the landowners makes it easier to negotiate and much easier to accomplish a project. This ensures that the political process and eventually the entire process takes a lot less time and there for the entire process will be cheaper.

All the points mentioned above could contribute to a change in the Dutch land policy. When the Dutch land policy would adapt these points in their system the Dutch land policy would work more effectively. Next to the change in policy it is very important for the Dutch land policy makers to change their way of thinking. Big investments are not possible in this time of economic crisis. The policy makers should adjust to the current situation and customize their policies to that situation.

When these points are taken care of, the public space can be financed as it was financed before, but with the difference of negotiating on forehand through binding rules with developers and landowners. Developers and landowners will have to contribute to the payment of the public space when development is taking place. This contribution should be public to everyone, so it will have more support under the landowners. Clarity in this matter provides support.

7. Recommendations for Dutch land policy

In this chapter the findings of the previous four chapters will be discussed, compared and analyzed. The results of the foreign land use models will be compared with the Dutch case and finally recommendations will be made for the Dutch way of land policy. These recommendations will follow from the study about the foreign land use models. The recommendations will contribute to fulfill the goal of this thesis: *Contribute to the solution of the financing problem of the public space in the Netherlands by studying the Spanish, German and British way of financing the public space and eventually advice on possible implementations of the three foreign models into the Dutch land policy.*

As mentioned in the conclusion, two sorts of changes should be made. The first change is a change in the thinking of policy makers and the municipalities as a whole. The changes that should be made in thinking will be discussed in the first paragraph. The second change is a more technical change in the rules of Dutch land policy, this will be discussed in the second paragraph.

7.1. A mentality change

The mentality of the policy makers should change. As seen in the last twenty years the policy makers were too ambitious. Every project they had in mind would be developed, was their assumption. This assumption was the right assumption for a long time, but since the economic crisis this was no longer the matter. The main mistake of the policy makers was the fact that almost none of the revenues were saved by the municipalities. Possible risks of active land policy could therefore not be absorbed. The mentality must change and this should have happened much earlier. Since a few years we see the mentality already changing and this trend should continue.

When we look at the Valencian model, the same mistakes were made as in the Netherlands. A model that worked very well was overused. The Valencian model made very much possible, the public space and public facilities are of very high quality without the municipalities paying a lot of money for it. The development of rural areas to a more urban area was working nicely. Landowners got the money they deserved, developers made money out of the projects and the municipalities again could pay for the public space. But since the economic crisis the demand dropped and the projects were no longer successful. Investments did not pay out anymore; banks went bankrupt. The model was overused in the heydays.

Lessons should be learned by the Dutch municipalities from their own mistakes and also mistakes made in Spain. The municipalities should take the economic cyclical movements in account. When big projects are working fine, revenues are made. These revenues should be saved to carry the risks for a less productive period.

The change that should be made is the change in development policy. To change the policy, the mode of organization should change first. The Dutch land development would have to be based on a freer mode of organization. The hierarchal mode of organization should change in a freer mode of organization like a market based or network based organization. Initiative should be more and more taken by the market instead of the municipalities (save in exceptional circumstances). In practice the policy of land- and housing development, should change into a more project based approach.

A project based approach is already seen more and more within different municipalities. Herman de Wolff (personal communication, personal communication, July 17, 2012), Erwin van der Krabben (personal communication, June 29, 2012) and Demetrio Munoz-Gielen (personal communication, July 24, 2012) are all supporters of different forms of policies. They all see the 'problems' at the Dutch land policy different but they all give a project based approach as a part of the solution for Dutch land policy. Municipalities should react to the demand and not try to create a demand. Project should be developed when the demand for these projects is high enough. The British model is in this matter a good system to get an indication for the need of a certain project. As discussed in chapter 5.2.2.:

The British developer initiates the plan but also organizes the participation and support for the initiative (for both civilians as civil society organizations). The results of the participation and the formation of support are then presented to the municipalities as support for their request for the development of the area (Booth, 2000). The developer has gathered evidence for the necessity or desirability for the area development. This evidence is needed to convince the local government to agree with the plans of the development of the area.

This means that when there is a want to develop an area it can only be implemented when the support and the demand is big enough. A form of this 'evidence of support' should also be implemented in the Dutch land policy in order to prevent excessive programming.

These changes in mentality should be the base for the changes in the system of Dutch land policy.

7.2. Changes in the system of Dutch land policy

Next to the 'mentality change' changes should be made in the Dutch system of land policy. These more technical changes are inspired on benefits of the three foreign models (the Spanish, British and German model). The problem of the current Dutch land policy will be discussed and the foreign models will give possible answers to the currently existing problems.

A problem of the Dutch land policy is that the revenue of the increase of value is leaking away. This leakage is caused in three ways:

- The creation of expected value in the area that should be developed
- Non-priced positive external effects for the surrounding areas
- And the non-priced positive external effects for future owners

This leakage could be addressed but this means that the system of active land policy should be changed to face this leakage. As seen in the theory chapter, governments should adapt to changing circumstances. The Dutch land policy should change from a more hierarchy organization to a market or network organization whereby the initiative is with the market instead of the government.

To change to a more market organization and stop the leakage of the current Dutch land use policy conclusions are drawn from the three foreign models.

The main benefit of the Valencian model and also Umlegung is the fact that the municipalities do not carry any investment risks. This way of development should be adapted in the Netherlands. In Spain and Germany the investment risks are with the landowners themselves and for the (possible) developer. The Dutch land policy should adapt this policy in order to prevent excessive programming and prevent undevelopable land plots. The policy of the Valencian model as discussed in chapter 5.1.2.:

'Betterment and costs of development are proportionally distributed among all landowners according to the area of their original property (Munoz-Gielen, 2010). Betterment thus serves to compensate landowners for assuming responsibility for infrastructure provision and ceding the land that is required for this infrastructure (Munoz-Gielen, 2010)

And the policy of Umlegung as discussed in chapter 5.3.2.:

By adjusting the plot layout new parcels are created that are suitable for the created plans (usually cultivation). In this, land is cleared for the development and the realization of the public space and public facilities.

This means that municipalities do not invest in the project; the risk is carried by the landowners and the developers. The revenues for the development of public space are still made by a mandatory contribution to the municipality for the development of the public space. The Dutch policy should adapt this form of land policy so the municipalities do not have to carry the risks.

A second benefit of the three foreign policies is the contract and agreements with the developer and/or the landowners. The Dutch land policy should adapt this form of negotiation. The Dutch law should make sure that points that can be negotiated are listed in the law. This assures clarity for both parties and eventually it assures clarity to the outside world. As discussed in chapter 5.1.4.:

The amount and sort of contribution that must be paid to municipalities is very clearly established in the law. Besides this clarification of this contribution, it is also very clear what the municipalities develop with this money. The money can only be used for urban or rural development, not for other purposes of the municipalities. Municipalities have a strong negotiation position, which is also been established by the clear set of criteria stated in the law.

This negotiation is also part of Umlegung. The negotiations often start in the form of freiwillige Umlegung. When the negotiations are successfully, private agreements are closed. This is also seen to a small extent in the Netherlands. Sometimes private agreements are closed but mostly this happens arbitrarily. The Spanish model assures clarity as they have listed the rules for these negotiations and the

specific points of negotiation. The Dutch land policy should make a same sort list of negotiation points in order to avoid arbitrariness.

Finally the three models all have their own way of forcing the landowners to join the project. This possibility to force the landowners strengthens the negotiation position of the municipalities. The possibility to force the landowners also makes sure that project can be developed, the duration of the process will be shorter and cheaper and finally it helps to make sure that the public space will be developed. This kind of forces must be handled with care because of the rights of ownership are a high value in the Netherlands. The British idea of collecting support in the area is an effective way of making sure the development of the project is social accepted by the majority of the landowners. When this is the fact the decision to expropriate people from their land will be more accepted in general.

When the changes in the mentality and the changes in the policies and the law are made, many problems can be prevented. The five most important changes that should be made are summarized as followed:

1. The municipalities should take the economic cyclical movements in account. When big projects are successful, revenues are made. These revenues should be saved to carry the risks for a less productive period.
2. The Dutch land development would have to be based on a freer mode of organization. Initiative should be taken by the market instead of the municipalities. The policy of land- and housing development should change into a more project based approach.
3. Municipalities should not invest a lot in development projects; the risk should mainly be carried by the landowners and the developers.
4. Open negotiations about contracts and agreements with the developer and/or the landowners should be conducted, before any formal policy rules are followed. The Dutch land policy should make a list of negotiation points in order to avoid arbitrariness.
5. The tool of force should be strengthened. When local support for a development project is collected, municipalities or developers should be able to force landowners to join a project.

An important part of these changes is that the financing of the public space does still not have to be paid by the municipalities. The negotiations and rules will make sure that the developers and landowners still contribute to the development of the public space in the form of land and/or financial contributions.

Theory indicates that during insecure (financial) times and changing circumstances a network/market based organization is much more suited then a hierarchy mode of organization. Network- and market mode of organization move responsibility, initiative and risk to a greater or lesser extent to the market instead of the government. Therefore the government will very much benefit from this mode of organization.

Active land policy need not to be abandoned but should change in certain points. A freer mode of organization and active land policy in combination with land readjustment and private agreements (according to established rules and negotiation points) should be the future of the Dutch land policy.

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