

Using LVC for the development of affordable housing:

Examining the use of DOs for the development of affordable housing in a negotiations based system in the Netherlands



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Ilias Bentoumya

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Colophon

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Author

I.R. Bentoumya (Ilias)

Student number: s1129628

Email: Iliasbentoumya@gmail.com

Supervisor

Supervisor & first reader: Dr. D.A.A. Samsura (Ary)

Second reader: Dr. Klaas Kresse

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Abstract

While land value capture (LVC), developer obligations (DOs) specifically, and their potential to finance public investments has received much attention in recent years, affordable housing is often not included in its scope. Although not universally applied, affordable housing is being regarded as a public good in a plurality of contexts. Interestingly, while the Netherlands comprises of one of these contexts, and has been known historically for its large affordable housing sector, it has experienced a significant affordable housing shortages recently. By researching this context, this research has set out to provide further understanding in the potential developer obligations have for the development of affordable housing. As the Netherlands is known for a large use of negotiations in the implementation of LVC, this research does not only make a policy implementation assessment, but also regards the role of negotiations, and the related negotiation skills. It does so by researching three Dutch municipalities: Amsterdam, Utrecht and Nijmegen, in a mainly qualitative manner. In addition, it provides an analysis of the new Dutch spatial planning law, the 'Environment and Planning Act', and its potential for the accumulation of LVC.

Preface

Dear reader, I present to you my master's thesis on the use of developer obligations for the development of affordable housing, based on data found in the Netherlands. This research marks the end of my master's at the Radboud University Nijmegen, where I followed the Land and Real Estate specialization in the urban planning field. The finalization of my thesis has been prolonged by some time, as I had the pleasure to kick off my professional career at the same time. But here it finally is!

My thanks go out to the many people that helped me on my path. Firstly, Ary Samsura, my lecturer and supervisor, who gave me guidance along the way. Secondly, the interviewees, who took their time and effort to provide the data for this research. Lastly, I want to thank my family, girlfriend, friends, and fellow students for their support through thick and thin!

Summary

Financing public investments with the use of Land Value Capture (LVC) has received much attention in recent years. Interestingly, while LVC is often related to public investments for developments such as infrastructure, the development of affordable housing is not standardly regarded as such. Importantly, studies on the relation between LVC and the development affordable housing are still insufficiently covered in academic debates. As this research has set out to provide further insights into the workings between LVC, developer obligations (DOs) specifically, and affordable housing, the Netherlands was used as a national context to do so. While the Netherlands is known internationally for its substantial affordable housing sector, it is currently facing significant challenges in its provision of affordable housing. Arguably contributing to these developments, is the Dutch governance system reform which has shifted its approach from a more government involved development of affordable housing, to a more market led system. However, this market based approach has shown to insufficiently deliver affordable housing. While the Dutch system makes use of LVC to finance the development of affordable housing, the Dutch have generally not been successful in the past. An important factor herein, is that the Dutch legal system does not offer a strong legal basis to do so. Furthermore, LVC has largely been applied through the use of ‘voluntary contributions’, which are agreed upon through negotiations. Consequently, while this research looks to add to the LVC and affordable housing literature, it makes use of theories and concepts from the field of policy implementation and negotiation literature to analyse its data and develop arguments.

It does this by answering the following research question:

To what extent can land value capture tools in the form of developer obligations be used to achieve policy goals for the development of affordable housing in municipalities in the Netherlands, and how do policy implementation and negotiation processes play a role in this?

By researching three municipalities, namely: Amsterdam, Utrecht and Nijmegen, in a mainly qualitative manner, this research has delivered substantial insights on the potential to develop affordable housing with the use of LVC, and what factors in relation to policy implementation and negotiation may affect its use. In addition, as the legal system significantly impacts the use of LVC, the new planning law, that has been introduced in 2024, was also analysed.

While the newly introduced legal framework was found to be based on the same indirect rationales as the old one, and offers relatively similar possibilities to apply LVC, while still limited, the legal backing of implementers was shown to be slightly increased. Consequently, while slightly improved, the Dutch legal system limits the accumulation of land values.

Interestingly, the three researched municipalities showed to all apply LVC in a different manner. Amsterdam mostly used temporary ground lease contract, Utrecht mainly used recently re-introduced indefinite ground lease contracts, as well as a facilitative approach, and Nijmegen makes the most use of either selling land in full ownership, or using facilitative land approaches. In addition, the mentioned use of municipal, and national subsidies seemed to differ. However, importantly, all municipalities showed to make frequent use of negotiations to reach agreements. Therefore, this research has confirmed the importance of negotiation processes in the implementation of LVC for affordable housing in the Netherlands. Besides the legal framework, other factors within the institutional contexts were shown to be a major influence to the process of accumulating DOs, as national and local political- and economic factors were shown to be influential to the accumulation of

LVC. Especially the local political context, through the political agenda, was shown exert much influence on the policy implementation process. Importantly, the organisational structure within the municipalities, was shown to strongly determine the influence of the political actors, versus that of the implementers that are more directly involved in negotiations. Consequently, due to the organisational structure in all municipalities, and the political importance of affordable housing, individual implementers' influence was found to be limited. Within the economic contexts, the municipalities were intriguingly shown to be able to reduce the influence of local economic factors through the use of local subsidies.

The use of policies, and the manner in which these were applied in general, but also in negotiations, was found to be majorly important. Not only are these important in terms of the policy requirements for affordable housing, and the applied rigidity or flexibility towards them in negotiations, but also as general communicative tools. Crucially, this research points to the value of integral policy evaluation, as policy requirements are interrelated.

Coordination was found to be impactful in the process, wherein not only communication, but also collaboration was found to be significant. Interestingly, not only did this advocate the Dutch tradition in which partnerships between the government and non-profit housing corporations are sought, so did it for a wider collaboration with developing actors.

Finally, as all the previously named factors were found to come together in negotiations within the Dutch context, negotiations themselves, but also factors within them were indicated to significantly influence the potential to apply LVC. While the research shows that influence of negotiation skills is arguably overemphasised within the literature, actor recognition and involvement, inter-organisational relations, and transparency of information are shown to be largely influential in the process.

In conclusion, while still being limited by law in the Netherlands, this research advocates the significant potential for the use of DOs to develop affordable housing, and the large weight of the negotiations process, in which policies, contexts and instruments are crystallised. Moreover, this research argues that essentially, a balance between control and collaboration needs to be sought to achieve public goals. Furthermore, two general considerations are crucial to the success of policy implementation in the application of LVC for the development of affordable housing. The first is between the standardisation of processes e.g. through policies, to offer security, transparency and stability, versus the flexibility to make room for mutual benefit and feasibility. The second is exerting control versus facilitating. As market forces that are driven by profit might not make the most socially beneficial propositions, exerting control to achieve public goals, through e.g. land positions, while not making collaboration come to a halt, is crucial.

Importantly, as the affordable housing production in the Netherlands is currently insufficient, and the benefit of government intervention is underlined by this research, an argument can be made to advocate increased active government involvement, compared to the current nationally endorsed facilitative approach.

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1 Introduction

This chapter will introduce the research. First it will discuss the contextual background of the research. Secondly, it makes a problem statement, where it will position this research into the already existing literature. Thirdly, it will state the objectives of the research, and accordingly, the research questions after that. Fourthly, the scientific and societal relevance of the research will be indicated. Lastly, this chapter will provide a reading guide.

1.1 Contextual background

The Netherlands, known around the world for its large affordable housing sector, has in recent times experienced a drastic decrease in its availability of affordable housing (Schilder & Scherpenisse, 2018). This development has mostly started after the Global financial crisis (GFC) hit the Dutch housing market in 2008. During the period around the GFC, the Dutch housing market was hit with a substantial decrease in housing values (Özturk et al., 2019). However, since 2014, Dutch housing prices have strongly increased (ibid.). While the economy got back up, global trends such as an increased degree of neoliberal ideals, and the related financialization of housing have had their influence on the housing market (Aalbers, 2019). These trends, combined with a shift in Dutch housing policy, have resulted in substantial housing price increases in the long term, making housing increasingly unaffordable, and even shrinking the countries affordable housing sector (Wijburg, 2021).

The Dutch tradition of a large affordable housing sector, that has mainly been established after the end of the Second world war (Hochstenbach & Ronald, 2020), has been primarily organised by the development of 'social housing'. In the Dutch context, social housing mainly encompasses rental units that are being put on the market below market prices (Schilder & Scherpenisse, 2018). Although the Dutch government has encouraged programs that sell affordable housing, as has been the case in multiple countries, like the UK (Musterd, 2014), a further decoupling of housing prices and wages in recent years (Nijskens & Lohuis, 2019) have made the rent regulated rentals the main category in terms of affordable housing in the Dutch context.

The adoption of neoliberal ideas in relation to housing, has had a plurality of implications for the housing sector that together form the aforementioned decline of affordable housing. One of these, is the loss of government support for, and a partial deterioration of, partnerships between housing corporations and the government (Musterd, 2014). Over time, the housing corporations, that had been the main large scale developers and managers of the Dutch social housing system, were forced to become to act like market parties (Hochstenbach & Van Gent, 2020). As a result of this transition, these corporations have had to implement new market based tactics to gain revenue to sustain themselves and develop new housing. This has transpired in the form of selling of their housing stock, and offering housing in the 'rent liberated sector' (ibid.).

Importantly, the recent increase of ground and housing prices in this new neoliberal environment, has also forced the Dutch government to change their development tactics, from the wide use of active land policy, to a more passive one. Whereas a passive approach looks at private parties to develop the land, with the government being a possible facilitator, the Dutch active land approach was geared towards buying land, making it ready for development and selling it to private parties that offered the most favourable conditions (Buitelaar & Bregman, 2016). However, under the circumstances caused by the new land prices, this endeavour proved to be risky, and therefore its use has been decreased (ibid.).

This transition has been important in two ways. The first is that an active land policy gives governments significant power to influence spatial developments, as they are the landowners (Hartmann & Spit, 2015). In relation to affordable housing, this tool could be used to set the conditions under which a developer can buy and develop the land, meaning it can steer the affordable housing supply. Consequently, the Dutch governments let go of its main spatial steering tool. Secondly, the Dutch government has been using active land policy to capture land value increases by owning and selling the land (Buitelaar & Bregman, 2016). Land value capture (LVC) does however not only have to contain a yield in a strictly monetary way, as this can also be done by other means, such as compensating land values by having a developer develop generally less profitable real estate in the form of affordable housing (Lord et al., 2022).

Consequently, the aforementioned factors have led to a relatively large scale restructuring of the Dutch development policies, and eventually, the affordable housing sector. Accordingly, the Dutch governmental actors have increasingly started to use different methods of LVC instead of active land policy to incentivize the development of affordable housing (Buitelaar & de Kam, 2012).

1.2 Problem statement

The Netherlands, has, and still is, both going through a significant increase in housing (Schilder & Scherpenisse, 2018) and land value increases (Nijskens & Lohuis, 2019). As housing prices are currently rising faster than income levels (Nijskens & Lohuis, 2019), the need for affordable housing is increasing. Meanwhile, and arguably contributing to the aforementioned transitions, the Netherlands is going through a reform of the affordable housing system. Importantly, although the reformed Dutch governance system started to rely on market parties to develop affordable housing, the development has decreased, and can currently not uphold the demand with its current supply (Geis, 2023).

Accordingly, the new market focused approach towards the development of affordable housing has not been achieving the results that were envisioned. Developing affordable housing in a market based housing system is however not impossible, as is shown in countries such as Spain (e.g. Muñoz Gielen et al., 2017). Coming in many forms, LVC has proven to be a useful instrument to enable the development of affordable housing by the market sector in multiple ways. The main way in which LVC enables this is arguably through ‘developer obligations’ (DOs), which entails a contribution by developers for the public good (Muñoz Gielen et al., 2017). It does this through the use of ‘Non-negotiable developer obligations’ (N-NDOs) such as ‘Inclusionary housing’ (IH) and, ‘Negotiable developer obligations’ (NDOs), two concepts that will be covered in depth in the theoretical framework in Chapter 2. In short, the former entails a framework in which a set contribution to the public good is required through legislation, the development of affordable housing in the case of IH (Hickey et al., 2014). The latter involves the creation of contracts with developers, where negotiations of the public contributions are involved (Muñoz Gielen et al., 2017).

The issue however, is that the Dutch have not been successful in using LVC in the past (Muñoz Gielen et al., 2017). An important factor herein, is that the Dutch legal system does not supply a good foothold for municipalities (ibid.). Furthermore, authors such as Buitelaar & de Kam (2012), argue that the outcomes of LVC through negotiable contracts, are highly dependent on the negotiation skills of the government officials who make the agreements. Consequently, the system does not secure success, and results could differ strongly between projects.

While the above stated conclusions about the Dutch housing case have been made in the field, academic literature does not yet offer sufficient knowledge on several of the workings behind the Netherlands' insufficient development of affordable housing. The knowledge to find a way out is limited. This includes: how the use of developer obligations may offer an instrument to achieve the development of affordable housing in the transformative governance climate in the Netherlands, and what factors may contribute to its success/failure, but also how the current legal system may influence the development process. While some researchers such as Lord, Cheang & Dunning (2022) have looked into the workings of LVC for affordable housing in a different national context, these workings will arguable not completely apply to the Dutch context with its unique historical approach towards the development of affordable housing. Furthermore, while Muñoz Gielen et al. (2017) have even looked into some of these factors in the Dutch context, governance and legal frameworks in the Netherlands have changed, and therefore knowledge is needed. Importantly, while the academic literature on the use of LVC in general, and LVC for affordable housing specifically, often describes the processes taking place at a higher scale, such as national institutional contexts, the workings 'on the ground' are understudied. Therefore, the literary frameworks is largely missing the analyses of the smaller scale workings of governance systems, which are often brought to practice on a municipal scale. As these practices on the municipal level are formed in local policies, and carried out by (groups of) individual implementers, insights on the possible workings of negotiation processes, and how implementers negotiation skills may the achievement of policies for the development of affordable housing are still missing.

1.3 Research objective and questions

This research will look to provide a deeper understanding in the way the Dutch governments tries to deliver affordable housing within a transforming housing approach. This will be done by looking into the Dutch municipalities' approach to make affordable housing policies, and try to implement them by incentivizing market parties to develop it. Furthermore, as developer obligations (DO's) are an important tool to accomplish LVC in a market based approach, this research will look into the way that these are being put to practice by municipalities to realise their affordable housing goals. Importantly, as the Dutch LVC approach is largely marked by the use of NDOs (Muñoz Gielen & Lenferink, 2018), this research will emphasise on the use of this tool. In addition, as earlier research has pointed out (e.g. Buitelaar & de Kam, 2012), the use of NDOs and the negotiation skills of the planning professionals, can lead to case specific outcomes. Therefore, this research will look into the way that outcomes are being shaped by negotiations between municipalities and market parties.

It will carry this out by asking the main research question:

To what extent can land value capture tools in the form of developer obligations be used to achieve policy goals for the development of affordable housing in municipalities in the Netherlands, and how do policy implementation and negotiation processes play a role in this?

To help answer this research question, six sub questions have been developed:

- 1. How are Dutch municipalities making use of DOs to develop affordable housing?*
- 2. What are Dutch municipalities' policy goals in relation to the development of affordable housing, and how does policy content influence the implementation process?*

3. *How do national and local contextual factors, in the form of the national legal framework, political and economic aspects, influence the use of DOs?*
4. *How is commitment of implementers affecting the negotiation processes?*
5. *How is coordination affecting the negotiation processes?*
6. *How are factors in the negotiation process affecting the accumulation of DOs for the development of affordable housing?*

1.4 Relevance of the study

By looking into the way that land value capture tools in the form of developer obligations are delivering affordable housing in the Netherlands, this research aims to offer a contribution to both a scientific body of literature, and also a practical use for society.

1.4.1 Scientific relevance

The topic of land value capture is not new in academia. Many academics have researched various forms of LVC, such as DO's (Muñoz & Lenferink, 2018) and land readjustment (Davy, 2007), in various national contexts such as Spain, England, but also the Netherlands (Muñoz Gielen et al., 2017). However, research on LVC and its mechanisms in various contexts are far from being saturated. This research will provide an addition to the currently existent literature in a plurality of ways.

Broadly, three main types of theories have been developed that influence the potential use of LVC. Firstly, strongly influenced by planning culture and path dependency, is the importance of institutional contexts, rules and regulations (e.g. Muñoz Gielen & Lenferink, 2018). Secondly, national and especially local, economic circumstances (Lord et al., 2019). Lastly, the negotiation phase and planners skills herein (Muñoz Gielen & Lenferink, 2018). Since these factors all influence each other in relation to the contributions that governments are able to gain, developers are willing to contribute, and therefore the final implications for policy outcomes, it could be argued that they are all part of the larger negotiation process. However, research on these topics is incomplete in a number of ways.

Firstly, although research has been done on the Dutch legal system in relation to LVC (e.g. Muñoz Gielen & Lenferink, 2018), the Netherlands has introduced new spatial planning legislation in 2024. Some authors including Altes (2016) have researched this legal system. However, this has not been done in relation to LVC. In relation to the explained relevance of the legal system in relation to LVC, these are important insights that are needed in the field. Secondly, authors such as Lord et al. (2019) argue that financial circumstances, through the demand of areas, are highly important to the feasibility of a development, and therefore the potential to capture land values. By researching the use of LVC in the Dutch housing context, a market that has experienced some of the highest price increases in Europe in the last decade and a half (Nijskens et al., 2019), this research could provide major insights into the potential of LVC. Thereby it can confirm or contest the notion of authors such as Whitehead (2007), that express the limitation of LVC to fund affordable housing. Thirdly, as Wyatt (2018) argues, while developer contributions are largely believed to be a tool to 'mitigate' developments' effect on the spatial environment, affordable housing is often not regarded as a contribution to do so. However, as the Netherlands have viewed affordable housing in the past as a public good, that was essentially not developed by the state, it is important to discuss how these government ideals might pertain or have faded in this new, more market based environment. While research on the use of LVC in the Netherlands has been done in the past, it has mainly been focused on LVC in general, or inclusionary housing through land-use plans. Importantly, Muñoz Gielen

& Lenferink, (2018) argue that LVC is often accumulated through negotiation processes in the Netherlands, even before the inclusionary housing is applied. However, no research has yet looked into the way that these negotiation processes give shape to LVC for affordable housing. In addition, it is often argued that individual planning professionals have a large influence on the outcomes of negotiation processes (Muñoz Gielen et al., 2017). An in depth analysis of how DOs come to be, and how planning professionals and other factors may play a role in this, is therefore needed. Finally, as the named aspects are arguably influencing each other in practice, it is important to research how these relate to each other, and importantly DO outcomes. However, no research has brought the three named factors together yet to analyse how these influence policy outcomes in the negotiation process.

This research also offers further important, and not yet offered, insights into the unique Dutch affordable housing setting. This context is unique because it offers insights into a process where the country with one the largest affordable housing sectors in Europe (Schilder & Scherpenisse, 2018), has gone through some fundamental governance restructuring, and how these arguably have resulted in absolute affordable housing shortages (Nijskens et al., 2019; Schilder & Scherpenisse, 2018). Significantly, by making affordable housing a topic of governmental focus again, e.g. through the reestablishment of a ministry of housing, further large restructurings are taking place to regain affordable housing, but within a transforming governance framework. However, researches on the use of LVC for affordable housing in the Netherlands are relatively scarce, and do not mainly focus on the practical implementation process. Therefore, by supplying this knowledge, this research would be able to offer detrimental additions to the LVC literature in relation to governance (e.g. Muñoz Gielen et al., 2017) and path dependency (e.g. Lord et al., 2019), amongst other facets of the literature.

1.4.2 Societal relevance

Since the Dutch government transitioned towards a market approach to development affordable housing, the affordable housing and development hereof has significantly declined (Schilder & Scherpenisse, 2018). Consequently, changes in the governance system have led to a shortage in affordable housing in the Netherlands (Schilder & Scherpenisse, 2018). Moreover, as housing prices in the Netherlands have risen significantly over the past years (Öztürk et al., 2019), the society's need for affordable housing is ever more prevalent.

As the development of affordable housing mainly takes place between public and private actors in this governance system, LVC is an important tool to research, as it has been proven to be able to provide for affordable housing in this governance system (e.g. Muñoz Gielen et al., 2017). Accordingly, there is a need to research how LVC is currently being exercised and what aspects might influence the current underperformance of the system in relation to the public need. By looking deep into these practices, this research could provide valuable information and tactics for municipalities to achieve policy goals in this market oriented environment. More importantly, in a broader societal perspective, this research offers not only a possibly explanation for the current underperformance of the system, but could also provide possible lessons to fuel a way out of the current societal issue.

1.5 Reading guide

Chapter 2 will start off by presenting the theoretical framework. This will be done by offering theories on land value capture and affordable housing, the use of land value capture for affordable housing in the Netherlands, presenting the relevant frameworks for the conceptual framework, and finally, presenting the conceptual framework. Thereafter, this research will present the methodology in Chapter 3. Chapter 4 will present an overview of the Dutch legal framework that is related to LVC. Chapter 5 will present how implementers in Dutch municipalities make use of DOs for affordable

housing. Chapter 6 will present the researched municipalities' policy contents, goals, and how these may influence the process to develop affordable housing with the use of DOs. Chapter 7 will present the influence of the institutional context on the process, which entails the legal framework, national political context, local political context, and local economic context. Chapter 8 will present the influence of implementer's commitment on the process. Chapter 9 will examine this influence for the internal and external coordination. Chapter 10 will examine which factors in the negotiations process, and among developers' negotiation skills may influence the process and how. Chapter 11 will answer the main research question and the sub questions through concluding the research. Chapter 12 will offer a discussion of the research in relation to the earlier presented theories, offer a reflection on the research, and will make recommendations for future research.

2 Theoretical framework

This chapter will present the theoretical framework. The theoretical framework will go over the most fundamental theories and frameworks for this research. It will start off by giving an overview of the international LVC and affordable housing literature, whereafter it will also offer insights into the literature that links the two. Thereafter, it will follow the same structure for the Dutch context. Lastly, it will touch upon the policy implementation and negotiation literature, which will be used to develop the conceptual framework.

2.1 Land value capture and affordable housing

2.1.1 General use of LVC

The financing of public goods in spatial developments is a matter that has shown to require constant attention by governments. This is especially prevalent as governments face increasing financial constraints globally (Crook & Whitehead, 2019). In the face a global trend of increasing land value prices, land value capture by governmental actors has become a popular, and formerly underused, planning tool to finance public goods (Kim, 2020). Land value capture (LVC) is the process in which land value increases caused by governmental efforts, such as the development of infrastructure or a change in land use plans, are being captured by the government in the form of cash payments and/or contributions by developers (Lord, Cheang & Dunning, 2022). The reasoning behind the application of LVC is that the 'unearned increments' that accrue to landowners, due to government intervention, should be accredited to the public sector (Crook & Whitehead, 2019).

Some of the most referenced LVC tools include the use of developer obligations (DOs), either non-negotiable (N-NDO) or negotiable (NDO) (Muñoz Gielen et al., 2017), land readjustment (Davy, 2007), tax increment financing, and leasing of publicly owned land (Kim, 2020). Detrimental to the use of LVC tools are both government ideals and spatial governance approaches, with the two being intertwined factors. Spatial governance approaches, in relation to LVC, can in a broad view mainly be categorized in two, namely: the active approach and the passive approach. The former entails the active involvement of public bodies in spatial development, meaning that they make plans, regulate the use of land, purchase and assemble land, provide infrastructure and eventually sell the land to developers who construct the buildings (Muñoz Gielen et al., 2017). In the latter, the governmental body makes plans and regulates the use of land, but allows private actors to carry out the rest of the process (Muñoz Gielen et al., 2017). Notably, governance approaches also determine when land value capture is being exercised in the development process (Lord, et al., 2019). More state led development will most likely apply it earlier in the process, while development led approaches will apply it later. This also holds significant implications for aspects such as the willingness and financial feasibility of developers in negotiations, and possible land value captured. Developers can negotiate a lower price when buying the land earlier in the process, and therefore calculate charges through to the landowner, while this is not possible later in the process (Alves, 2022). Furthermore, government ideals are reflected in the use of rationales. The direct rationale entails the ideal that all land value increases are perceived to belong to the public, while indirect rationales stem from the idea that only the impact of the development should be internalised by developers, but other value increases accrue to the landowner (Muñoz Gielen et al., 2017).

Interestingly, Lord et al. (2019) point towards the importance of path dependence in the establishment of LVC patterns in governance approaches, especially through the use of DOs. They argue that economic investments, both in terms of public investments and agreed developer contributions are highly path dependent. Central to this mechanism, is the development viability at the starting point. Low demand areas will accumulate less private contributions than their higher counterparts. The amount of contributions then, impact the amount of investment in an area, creating a circle. This process results in the establishment of 'virtuous' or 'viscous circles' (Lord et al., 2019). Importantly, in their research conducted in the UK, Lord et al., (2019) found out that outcomes can strongly diverge because of the negotiation skills of planners in this process. Therefore, planners have an crucial role in creating or breaking through these cycles. In addition, authors such as Muñoz Gielen et al. (2017) further enforce the importance of planners skills in establishing developer contributions. To build further on this, Muñoz Gielen & Lenferink (2018) argue that legal frameworks determine largely how successful the negotiations will be, as they provide an amount of legal bargaining power to the government official. Therefore, legal systems that have incorporated the possibility of land value capture by the public body, are generally more successful in capturing developer contributions, than legal systems that strongly protect private property and its accumulated land value increments (Muñoz Gielen & Lenferink, 2018).

2.1.2 Definitions of 'Affordable housing'

The concept of affordable housing does not contain one general definition. What is grasped by the concept, strongly differs between, and even within national frameworks. Abelson (2009) for example, notes that even within the national context of Australia no consensus can be reached to define affordable housing. In Israel the concept does not contain a consensus either, and largely differentiates per ministry (Friedman & Rosen, 2019). The difficulty to construct a definition of 'affordable housing' lies in the subjective nature of 'affordability'. While the term implicates a universally applicable standard, affordability will differentiate based on the perceiver. Therefore, it entails a conceptualisation of what is deemed affordable and has to appoint a target population to base this assumption on (Friedman & Rosen, 2019).

Nonetheless, some general trends can be deducted from the housing literature. In many countries, affordability of housing is based on a classic affordability definition, wherein affordability is determined by expenditure-to-income ratios, with a threshold percentage deemed as acceptable (Hulchanski, 1995). The U.S. Department of Housing an Urban development for example, defines a maximum of 30% of the annual household income as affordable for housing (Friedman & Rosen, 2019), whereas the U.K. defines affordable housing as a ratio between local housing prices and income, that is often based on a threshold of 25% of the household income (Stone, 2006).

Although countries might adopt a preference for either supporting homeownership or 'social rent', both housing tenures can be regarded as affordable housing, as long as housing costs are deemed 'affordable'. In Ireland and Australia, affordable housing is often presented as relatively low-cost home for first-time buyers, while the U.K. and Netherlands, it mostly refers to 'social rental housing' as the main form of affordable housing (Paris, 2007; Musterd, 2014).

Importantly, while not only governments, but also researchers in the field of housing studies have adopted the approach of determining affordable housing based on an expenditure-to-income ratio, critics of this approach argue that it neglects changing incomes and costs over time, differences in housing quality (Paris, 2007), as well as disregarding the impactful difference a set percentage of a household income might make when comparing different income categories (Friedman & Rosen, 2019).

Interestingly, the concept can also differ in the believe of who should provide for affordable housing. In countries with primarily free-market economies, housing is generally supplied by market actors. Although countries which follow this approach often look at private actors to provide affordable housing, governments such as the U.S., often offer subsidies to the developers for the supply of affordable housing (Wallace, 1995). On the other hand, there are governance systems which perceive affordable housing as a task of the state. Countries such as the U.K and the Netherlands, have a long history with the development of affordable housing through direct or indirect government developments. In the U.K. for example, municipal actors were largely involved in directly constructing affordable housing through ‘social housing’ programs (Malpass & Victory, 2010). The Dutch government has a long history of providing affordable housing through a public-private partnership between the government and housing corporations (Musterd, 2014), which will be further elaborated on in Chapter 2.2.2. However, as the U.K. and Netherlands have adopted more neoliberal ideals, they have also shifted their approach in relation to affordable housing development (Malpass & Victory, 2010; Paris, 2007; Van Gent & Hochstenbach, 2020).

2.1.3 LVC and Affordable housing

One of the contributions that can be made in the LVC process, is the development of affordable housing. Inclusionary housing, as it is also often referred to in the international literature, can be described as “land use regulations that require developers of market-rate residential development to set aside a small portion of their units, usually between 10 and 20 percent, for households unable to afford housing in the open market. Alternatively, they can choose to pay a fee or donate land in lieu of providing units” (Calavita & Mallach 2009, p.15). Researchers have looked into a diversity of aspects that are involved into the production of affordable housing with the use of LVC including: how governance approaches affect its deliverance (Wijburg,2021), how land value uplifts can provide for affordable housing (Wyatt, 2017), how the deliverance of affordable housing interacts with urban land values (Metcalf, 2018), but also the empirical implications of policies (Lord, Cheang & Dunning, 2022) and LVC instruments (Nzau & Trillo, 2019).

In the broader discussion surrounding the success of LVC tools to recoup public funds, affordable housing somewhat occupies a unique position compared to other developer contributions. Whereas developers and governments regard contributions made to public services, such as infrastructure, as a direct way of mitigating the negative externalities of a development for the public good, affordable housing does not contain this legitimacy (Wyatt, 2018). Therefore, LVC policies, such as the Community Infrastructure Levy (CIL) in England, do not often cover this aspect of LVC, and result in affordable housing being incorporated in NDOs. Consequently, as negotiations offer variable results, the success realising affordable housing may strongly differ (Ibid.). In relation to these results, Lord, Cheang & Dunning (2022) conclude in their empirical research on the use of LVC for affordable housing the English context, which has been using LVC for some time, that the successful development of affordable housing strongly relies on the market conditions in an area. Additionally, Whitehead (2007) even dares to express that the development of affordable housing in the UK, is very unlikely to be completely funded by the land-use planning system.

In contrast, in their empirical research, Nzau & Trillo (2019) conclude that LVC for affordable housing can be an effective tool when coupled with upzoning practices. Further going into the potential of the instrument, the Kam, Needham & Buitelaar (2014) plead for the importance of the land-use system to develop affordable housing. According to the authors, the land-use system, has by constraining the market provision of housing through land-use planning, the power to increase the demand for developable land. By increasing the potential surplus, it therefore offers possibilities to negotiate more affordable housing. From her comparative research in Portugal and England, Alves (2022)

confirms this notion, adding that a combination between an active land policy strategy in combination with using DOs may offer the best yields.

2.2 The use of land value capture for affordable housing in the Netherlands

2.2.1 The use of LVC in the Netherlands

The Dutch LVC approach is largely known for its active land policy (Hartmann & Spit, 2015). This land policy approach started after the second World War (WWII), as the municipalities bought land for development, provided public infrastructure and sold the serviced plots to developers (Muñoz & Lenferink, 2018). Through this method, the Dutch municipalities were able to gain capital needed for public necessities. Whereas many plots were sold to social housing corporations before the 1990s, the government went through some reforms in later years, as will be elaborated in Chapter 2.2.2. This led to municipalities selling more land to private parties. In this period, increased profitability of land development made private parties more interested in buying land, making municipalities not the only parties who developed raw land (Muñoz Gielen & Lenferink, 2018). Consequently, land prices started to rise over time, especially in the period after the 1990s, making the active land approach still profitable, but more risky for municipalities. However, as land prices kept rising, the possibilities of municipalities to use their profits for public service financing became limited (Muñoz Gielen & Lenferink, 2018). Consequently, debate started to reconsider the Dutch land policy approach from active to passive land policy (Van der Krabben & Jacobs, 2013). As public funds were still needed in this new system, the Dutch have adjusted their approach by including LVC through developer contributions for public services in the 2008s Dutch planning act. Furthermore, after the introduction of the Dutch planning act, affordable housing could be included in LVC through inclusionary housing requirements in the form of housing categories. These could then be legally required in a development (Buitelaar & De Kam, 2012).

Important however, as Muñoz Gielen & Lenferink, 2018 argue, most LVC in the Netherlands occurs through NDOs. This is because the Dutch Civil code strongly protects private property, and legislation that gives the government the right to capture increased value on private land is not present (Muñoz Gielen & Lenferink, 2018). Therefore landowners are generally the ones that benefit from land value increases (Needham, 2007, pp. 154–155). However, the Dutch legislator has in some cases regulated the possibility for ‘cost recovery’ for public services at the cost of developers that benefit from it (Muñoz Gielen & Lenferink, 2018).

The planning law has changed in January of 2024, with the introduction of the Environment and Planning Act. Currently, the possibility to LVC in the new Dutch legislative framework, has not been researched yet. Therefore, this research will include an analysis of the use of LVC in this new framework in Chapter 4. Furthermore, as the law includes a transition period, in which the old law is still largely active, this old law will also be discussed in Chapter 4. Importantly however, some authors have already elaborated on the main changes the new legislation brings.

The overhaul of the Dutch legislation, called the ‘Omgevingswet’, came to practice in 2024. Although the government has tried to introduce it for several years, it was postponed due to the need for more practice and testing (Rijksoverheid, 2022). The motivation behind the new legislation is the idea that

there are too many laws involved in development projects, which makes the process too complex. The new system should create processes that are simpler, cheaper, lighter and more flexible (Korthals Altes, 2016). By combining many laws that are important for the spatial domain and their individual procedures into one, this system aims to resolve the previous pertaining complexity. Furthermore, a cornerstone of the new system is the idea of 'planning-by-invitation'. In this ideal, planning should be used to facilitate developers and cause organic developments. In this more passive planning approach, the government mostly doesn't take an active role, but encourages developers to put plans forward, whereafter the governmental evaluates the proposals (Korthals Altes, 2016). Korthals Altes (2016, p.429) argues: "In short, the idea is that players in the area are invited to contribute to the planning processes by providing them with a more open local land-use plan". Importantly, the new legislation system, has replaced the former legal Contribution Plan with the new 'Cost Recovery Settlement'. The implications of this transition will be further elaborated on in Chapter 4.

2.2.2 Affordable housing developments in the Netherlands

To understand how significant the developments that have occurred in affordable housing sector in the Netherlands are, historical fundamentals of these developments need to be substantiated. It can be argued that the Dutch affordable housing sector has undergone three major phases: the period between the second World War (WWII) and 1989, from 1989 until the global financial crisis (GFC) and the period from the GFC onwards.

The period from WWII - 1989

The infamous Dutch affordable housing sector, constructed mainly of good quality and affordable rental housing, was largely developed after WWII. Before this time, people in need of a house mainly had two options: homeownership, or for the less financially abled, the deprived private rental sector (Musterd, 2014). After the WWII left behind much destruction, the country got left with economic difficulties, and housing shortages (Boelhouwer, 2002). In line with other countries across Europe, the Netherlands adopted more social, 'universalist' ideals (Musterd, 2014). As the government viewed housing as a 'merit good' (Boelhouwer & Priemus, 1990), and the owner occupied and private sector rentals were not delivering enough housing (Boelhouwer, 2002), large 'social housing' schemes were developed (Van der Heijden, 2002). Interestingly these housing programmes were not being developed by the government, but by state subsidised housing corporations. With this strategy, affordable housing was able to be mass produced. Furthermore, while many countries went through a welfare restructuring later in the 20th century, the Netherlands was able to keep its percentage of affordable housing relatively high, even up until now (Boelhouwer, 2002). Importantly, the development of the Dutch affordable housing system, has also had its effect on housing prices in other sectors. As good quality, affordable housing was widely accessible, the private rental sector and the owner occupied sector, had to maintain low prices to compete (Hochstenbach & Ronald, 2020).

The period from 1989 – GFC

In line with the broader Western European trend, the Netherlands started to adopt neoliberal ideals towards the 90's, which became apparent in its housing policies (Musterd, 2014). Housing policies got more market oriented, and moved away from the idea of social housing being a broadly available good (Boelhouwer & Priemus, 1990), to a product only aimed at 'the needy'. Furthermore, policy got developed to stimulate homeownership (Van Gent & Hochstenbach, 2020; Hochstenbach & Ronald, 2020). As a result, housing corporations got detached by the government from their special, and subsidised role, and had to transform into self-sustaining market actors (Van Gent & Hochstenbach,

2020). As their previous business model was not sustainable under new circumstances, housing corporations had to bring the rents closer to market prices, convert some of their housing stock to private sector housing, and sell some of their stock (Hochstenbach & Ronald, 2020). Although some cities, such as Amsterdam, were still able to grow their affordable housing stock, it generally resulted in a decline in affordable housing nation wide (Hochstenbach & Ronald, 2020).

The period after the GFC – now

The period that has seen the largest increase in housing prices, and decrease in affordability, has been the period after the GFC. During the GFC, the housing sector was hit hard financially (Öztürk et al., 2019). Neoliberal policies were further implemented during this period (Van Gent & Hochstenbach, 2018), with market recovery initiatives being sought in market functioning (Scanlon & Elsinga, 2014). These conditions offered a window of opportunity for small and large scale investors to make profits, through the financialised product that housing had become as a consequence of neoliberal processes (Aalbers, 2020). These processes, over time, resulted in housing prices outgrowing incomes (Van Gent & Hochstenbach, 2020). This in combination with an increased difficulty to acquire mortgage debt, made the formerly promoted owner occupied sector less affordable (Van Gent & Hochstenbach, 2020). Meanwhile, the social housing sector was experiencing difficulties. Not only did the corporations have to deal with the financial crisis, they also dealt with mismanagement and pressure by market parties. A complaint to the European commission was made by market actors that, by receiving government aid as a market party, the corporations received a preferential treatment in the market. An accusation that goes against European market legislation (Van Gent & Hochstenbach, 2020). This led to the introduction of new taxation against housing corporations, making them financially weaker. Furthermore, means-tested restrictions were introduced to make the social housing sector less accessible, giving more freedom to the private sector to grow, mainly to private rental sector (ibid.). Importantly, while the Netherlands had strong rent-regulation policy in the past, this system based on a point system assigned by certain attributes of the housing, was relaxed. This made it possible for affordable housing to get converted to expensive 'rent liberated' housing (Hochstenbach & Ronald, 2020).

2.2.3 LVC for affordable housing in the Netherlands

The Netherlands has a strong tradition of using active land policy, as was mentioned in Chapter 2.2.1. With the use of this active land policy, the Dutch government was, and in some cases still is, involved in land assembly and -development, whereafter it sells the land to developers (Needham, 1997). Using this method, Dutch municipalities were able to exert significant influence in the provision of public goods, such as affordable housing, steer spatial developments and recover costs (Buitelaar & De Kam, 2012). Furthermore, by having the power to direct developments, the government was able to provide land at a discounted price in order to develop a significant amount of affordable housing, while still covering the costs for the land assembly and development (Buitelaar & De Kam, 2012). In practice, this happened through a partnership with housing corporations (De Kam, 2007). However, as the government and housing- and land markets have gone through a restructuring in the last decades, as was mentioned in Chapter 2.2.1 and 2.2.2, the government's approach to the development of affordable housing has shifted (Buitelaar & De Kam, 2012). Although active land policy is still being practiced in some cases, the mentioned changes have led many municipalities to reconsider their active approach towards a DO based approach for the use LVC, mostly in the negotiated form (Muñoz Gielen et al., 2017). Furthermore, Buitelaar & De Kam (2012), substantiate that the Physical Planning Act, introduced in 2008, also allowed for the legal provision of affordable

housing through measures in the planning system, also known as inclusionary housing. When making a land-use plan, the law made it possible for municipalities to determine the percentage of affordable housing for areas that are designated for housing. However, in practice this instrument is not often used up front, but rather to confirm and formalize agreements made between the municipality and developer, even though the order of these actions could be swapped (Buitelaar & de Kam, 2014). Therefore, the use of NDOs are currently a more commonly used instrument to arrange affordable housing, as was mentioned in Chapter 2.2.1.

2.3 Relevant frameworks

The theories and frameworks that will be presented hereafter, offer the foundation of the empirical research.

Firstly, policy implementation literature is presented. This literature will offer a more insights into the factors that could attribute to an (un)successful implementation of the policy process related to the development of affordable housing with the use of DOs, and are therefore critical to assess. Secondly, negotiation theory will be presented. Multiple authors such as (Muñoz Gielen et al., 2017) have indicated the importance of individual planner's skills in the negotiation process, and the influence it may present for implementation outcomes. Therefore, it is essential to assess what factors are important in negotiations, and how these may affect outcomes.

2.3.1 *Policy implementation literature*

To examine how the goals of the policy for affordable housing are being achieved with the use of LVC tools, the policy implementation literature will be applied. This literature gives an approach to how policies come into being, evolve and importantly, how their success in practice might be assessed.

Policy implementation could be defined as “the carrying out of a basic policy decision, usually incorporated in a statute but which can also take the form of important executive orders or court decisions” Mazmanian and Sabatier (1983, p.20). The policy decision “identifies the problem(s) to be addressed, stipulates the objective(s) to be pursued and structures the implementation process” (Sabatier and Mazmanian, 1980, p.540). Burger (2018) gives an overview of how generations of policy implementation scholars have developed the field, wherein a distinction can be made between three generations. The first generation of thought has mostly looked at policy implementation as a rational top-down process, an approach often criticized for not acknowledging the complexity of policy implementation. The second generation, was mainly focused on bottom-up policy making, in which policy implementation is a complex political process of among other things, negotiation, persuasion, coordination and bargaining. However, this approach was criticized because it did not take power differences into account. Lastly, the third approach mainly involves a method which is situated between the compliance based first, and bargaining and compromise based second approach. This approach is more centrist based, mainly emphasising the importance of the way different role players influence the policy implementation process, and rather focuses on the policy process, than solely on the outcomes. The aim of the approach is to explain how policy is observed as a product of bargaining and negotiation between different interests. It combines a top-down and bottom-up approach, by stating that it is an ongoing, non linear process of bargaining and compromise, where input is given from the top, and innovation is supplied from the bottom (Jordan, 1995). The ‘interactive model’, as it is named, regards policy implementation as a process of decision-making and

implementation, where interaction between stakeholders decides if implementation will continue, or if policy will be reevaluated and reformed. Furthermore, Political, financial, managerial and technical resources are detrimental for policy makers (Brynard, 2005).

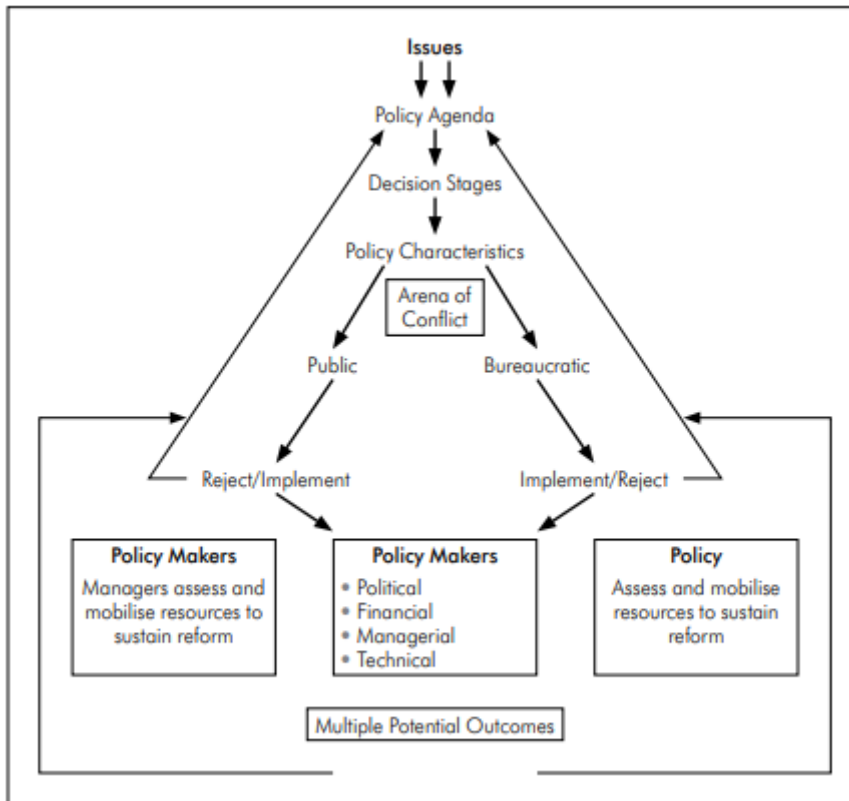


Figure 1: Interactive Model of Policy Implementation. Source: Brynard, 2007, in Burger, 2018)

Although policy implementation is a complex and multi faceted process, it could be argued that it strongly depends on political, economic and social contexts (Cerna, 2013), managerial, and technical resources (Brynard, 2007). Payne (2008) further elaborates on the importance of contextual factors when implementing a policy, stating that when neglected, they can lead to incoherent policy implementation. These statements align with the LVC literature, which stresses the importance of contextual factors such as government ideals (Muñoz Gielen et al., 2017) or national legal frameworks (Muñoz Gielen & Lenferink, 2018) for the use of LVC for developer contributions.

According to Ingram and Schneider (1990), successful policy implementation is finally reached when actors agree with directives, can be held accountable for indicators of success, statute, and finally, local goals are achieved or the political climate around the program is improved. In addition, van Meter & van Horn (1975), offer one of the most renowned frameworks to analyse the policy implementation of public policy. According to the authors, the policy implementation has six dimensions:

- **Policy standards and objectives**, which can be interpreted as goals and standards for achieving the objectives of public policy implementation
- **The resources and incentives** , which can be interpreted as resources and incentives for the implementation of public policies.
- **The quality of inter-organisational relationship**, which can be interpreted as the quality of relations between agencies involved in the process of implementing public policies.

- **The characteristics of the implementation agencies**, which can be interpreted as the position, authority and function of each agency involved in the process of implementing public policies.
- **The economic, social and political environment**, which can be interpreted as the socioeconomic living conditions of the community in the area of public policy implementation.
- **The ‘disposition’ or response of the implementers**, which involves three elements: their cognition of the policy, the direction of their response to it and the intensity of that response. These can be interpreted as the responsibility for implementing the policy, which includes awareness, direction and the intensity of responsibility for implementing public policies.

A more recent acknowledged theory is that of Brynard (2005), who proposes a theory to unravel the complexity of policy implementations, by deducting variables for its successful use. The author’s theory makes use of 5, or rather 6 variables, in the so called ‘5-C protocol’. Furthermore, Burger (2018) further underlines the importance of the variable of coordination to make it the ‘7-C protocol’ which includes:

Content

According to Lowi (1963) policies can be *distributive*, by seeking to create general welfare, *regulatory*, by creating rules of conduct along with sanctions for those that do not comply, and *re-distributive*, by setting out to change the allocation of power and/or wealth of one group at the expense of another. Furthermore, content is important to the determination of the ends need to be achieved, the means it employs, and how it chooses those means to achieve the end results (Brynard, 2005).

Context

Academics in the field of implementation theory usually agree that context needs to be taken into account to produce strong explanations and accurate predictions (Berman, 1980). In this framework, the factor context is mainly focused on the institutional context. According to Brynard (2005), this is being shaped by larger economic, social, legal and political realities of the system, which is primarily being impacted by the institutions it passes. Brynard (2005, p. 659) notes that “Effective working relations typically result from bargaining, cajoling, accommodation, threats, gestures of respect, and related transactions”. These relations can be established by agencies with no formal connection. Finally, bureaucratic contexts that are favourable to implementation often stem from human interactions than hierarchical regulation (Warwick, 1982).

Commitment

According to Warwick (1982) successful implementation cannot take place without proper commitment of its actors. Furthermore, commitment should take place on all scales of the policy implementation process (Brynard, 2005). From a top-down perspective this can be controlled from the ‘top’ by the policy content and capacity, therefore adapting the contextual and capacity factors would be seen as a solution to make up for a lack of commitment. However, Warwick (1982) argues that true commitment exists when implementers are committed to carry out the policy out of their own choice. A bottom-up view would argue that commitment is being influenced by more than the institutional context, but also through clients and coalitions (Brynard, 2005). Therefore, it is a critical variable, which ties together, and strongly influences, the other variables in the ‘5-C protocol’.

Therefore, when lacking commitment to successfully implement the policy, the other factors should be adjusted accordingly (Brynard, 2005).

Capacity

Capacity has to do with the allocation of resources and is therefore strongly influential to the other variables in the framework (Burger, 2018). Resources are the structural, and cultural functional ability of the government to implement the policy (Brynard & De Coning, 2006), and are both tangible (e.g. financial, technological) and intangible (e.g. leadership, endurance and motivation) (Burger, 2018).

Clients and coalitions

The implementation success of a policy not only depends on the governmental or bureaucratic mechanisms that deliver the policy, but equally on the target groups to whom it is delivered. These are not only non-state actors, but also interest groups and opinions leaders (Burger, 2018). Therefore, the government should identify the actors that are influential in the process (Brynard, 2000).

Communication

Communication can be seen as the sixth C in this framework, and could be seen as an integral part of the mentioned variables, while also being a variable that needs to be analysed by itself (Brynard, 2005). Burger (2018, p. 77) argues that “better public policy communication contributes to transparency and good governance in terms of increasing stakeholder engagement, which could directly enhance organisational legitimacy”. As policy formulation and implementation are both considering great extents of stakeholder engagement, they are mutually dependent in nature. Furthermore, when communication is insufficient, it may lead to disapproval and resistance from stakeholders, resulting in negative results for the policy implementation (Burger, 2018).

Coordination

The seventh C, is added by Burger (2018). The author argues that intra- and inter-organisational coordination and cooperation in policy implementation is of critical importance. The variable refers to the working relationship within and between organizations, and happens through the variable of communication, while also being strongly linked to the other variables.

The main frameworks proposed in this part by Meter & van Horn (1975) and Burger (2018), both offer variables that are of influence in the implementation process, and its success. Furthermore, although the presented frameworks propose different variables in some regard, they are in essence also largely overlapping. As these frameworks offer insights and concepts in the functioning of policy, they offer a structure that can be used in research in the spatial planning field in general, in this case particularly on the process regarding the development of affordable housing with the use of NDOs. The use of these aspects will be presented in the conceptual framework (Chapter 2.4) and the operationalization (Chapter 3.4)

2.3.2 Negotiation theory

In negotiation theory literature, a great diversity of definitions on negotiation exist. Some authors view it as a tool (Akinlua, 2020), while others see it as a time based process (Caputo, 2013). Furthermore, in some of the literature, it is proposed as a tool by one party to gain something from

the other (Fisher, Ury, and Patton, 1991), while in others, it is more of a cooperative process for joint decision making (Lax & Sebenius, 1986), or a process of trade to ensure outcomes (Ruming, 2012).

The negotiation literature mainly makes a general distinction between two forms of negotiation, namely, integrative and distributive negotiation (Baarveld, Smit & Dewulf, 2015). Integrative negotiation is a more collaborative approach, or as Baarveld, Smit & Dewulf (2015, p.365) argue, a strategy to create more overall value. When explaining the workings of this strategy they state that: “a ‘creating value’ strategy, is a mutual process of discovering the other actors’ interests, developing new and often wider problem definitions, employing problem-solving behaviour and searching for ways to increase the total benefit”. Distributive negotiation are of less collaborative nature, and refer to the claiming or division of scarce and fixed resources among parties (Thompson, Wang, & Gunia, 2010).

Importantly, in his article that elaborates on negotiating skills planners should possess, Bobot (2008) underlines the importance for integrative, unconflictual negotiation, that leads to win-win situations. Whereas standard strategies often leave people dissatisfied, worn out, alienated or a mix between them, Bobot (2008) argues that negotiations that lead to compromise, otherwise known as ‘positional bargaining’, should be the norm. In line with the literature outlined before (e.g., Lord et al., 2019), the author perceives negotiation to be a process of divergent outcomes, largely determined by the skills of the planner. Fisher and Ury (1981) present distinct ‘modus operandi’ in their ‘principled negotiation approach’, which planners should be able to follow to get to an integrative bargain:

- Separate the people from the problem
- Focus on interests not positions
- Invent options for mutual gain
- Insist on objective criteria

Compared to their approach Bobot (2008) further adds two important traits for a planner in the negotiation processes namely:

- recognising time as a resource
- effective preparation

Importantly Barrett and Fudge (1981) and Barrett and Hill (1984) stress the importance of negotiations in the implementation process. Therefore, linking the importance of negotiations and the named skills, to the earlier proposed policy implementation criteria. Importantly, they argue that if one party seeks to influence another through policy, but only has limited control, it is necessary to think in terms of negotiation and compromise. Consequently, as Dutch government actors often possess limited legal control over outcomes, it makes the negotiation literature and qualities for assessment significantly important to evaluate. Therefore, this literature will be used to assess how planners skills are involved in the negotiation process, and take into account how these may influence policy implementation outcomes.

2.4 Conceptual framework

The conceptual framework has been derived from the proposed theoretical frameworks. The main aim of the framework is to illustrate, in a simplified manner, what factors may influence the development of affordable housing through the use of LVC tools in the form of negotiated developer obligations. This will be done by constructing a framework based on the earlier introduced LVC and affordable housing literature, frameworks in the policy implementation literature and negotiation theory. This model is presented in Figure 2. Importantly, a further elaboration of the framework through its operationalization will be offered in Chapter 3.4.

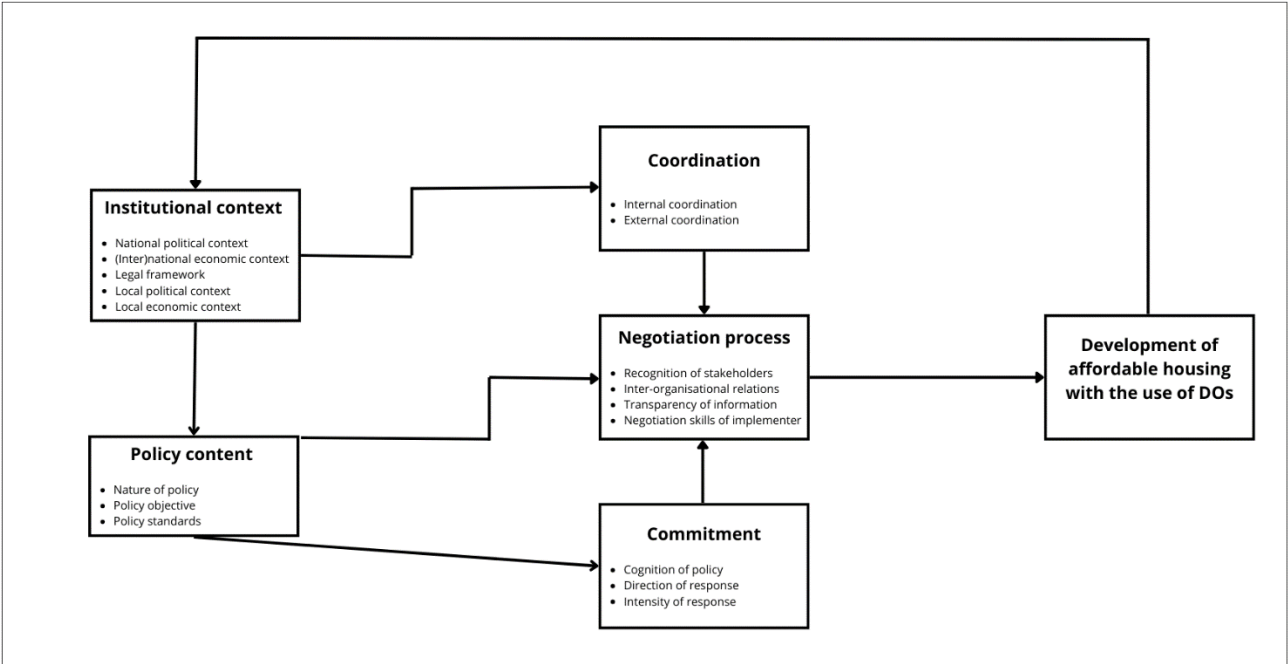


Figure 2: Conceptual framework, Source: author

Because this research’s aim is to research how Dutch municipalities make use of DOs for the development of affordable housing, the main concept of the framework is the development of affordable housing with the use of DOs. In the proposed framework, factors of the policy implementation, which are inspired by van Meter & van Horn (1975), Brynard (2005) and Burger (2018), along with negotiation processes and skills inspired by Fisher and Ury (1981) and Bobot (2008) are argued to be affecting this main concept. Interestingly, while van Meter & van Horn (1975), Brynard (2005) and Burger (2018) all argue that resources are an individual variable that influence the final outcomes, this research argues that resources, both tangible and intangible are rather a incorporated component of each variable, than a separate one.

In relation to the policy implementation literature, the important factors indicated by the above mentioned authors, are distilled and partially combined into new variables, which are more applicable to the research topic.

The second concept is institutional context. As authors in both the LVC literature (e.g. Muñoz Gielen et al., 2017) and policy implementation literature have mentioned (e.g. Brynard, 2005), contexts are important in forming outcomes. The conceptual framework combines the Brynard’s (2005) focus on national contextual factors, such as national political and economic contexts and national legal frameworks, with van Meter & van Horn’s (1975) attention for the attention these same factors on a local scale. This variable mainly directly influences the variables of policy content and coordination. For the former, this is the mainly case as the national and local political agenda determine the development of policy, while economic factors and the legal framework determine what policy is

feasible. For the latter, this influence is largely caused by the fact that governance and organizational structures, often determined by political actors, shape the way in which coordination takes place within, and between organizations.

The third concept is policy content. The policy content formulates what the nature of the policy is: distributive, regulatory or re-distributive (Brynard, 2005), what the goals of the policy are, how they need to be achieved and what means are used. By determining these factors, this concept largely influences outcomes. Policies influence implementers' commitment, and the negotiation process. For the former this is the case, as policy contents contain information and guidelines with which an implementer has to work. Accordingly, an implementer can comply with them, or negate them to an extent. The negotiation process is influenced by the policy content, as it determines the policy frames in which negotiations can take place.

The fourth concept is coordination. As this concept regards the internal- and external coordination and cooperation in policy implementation (Burger, 2018), it structures both the inner and outer workings of the organisation. Furthermore, this coordination applies a communication structure to within, and between organisations and therefore determines the involvement of other actors, but importantly, and influences the role of the individual implementers, and their skills in the negotiation processes.

The fifth concept is commitment of implementers. Negotiation processes are largely influenced by individual implementers, as authors (e.g. Lord et al., 2019) have mentioned. As implementers are carrying out the negotiations, their commitment to reaching policy goals is detrimental. Therefore, it is not only important what the policy contents are that need to be carried out, and the implementers stance towards these contents, but also the intensity of their response. As implementers' commitment is important to their approach in negotiations, it affects the negotiation process.

The last concept is negotiation processes. This research argues that when using NDOs to develop affordable housing, the aforementioned concepts all materialize in the negotiation processes, before resulting in the outcomes. Therefore, all named concepts (in)directly influence these processes. The negotiation processes themselves, entail a communicating process between stakeholders, that is influenced by the way actors are recognised by the implementer to be part of the process, how they are involved, how transparent the supply of information is to the other actors, and finally the implementers negotiations skills. Therefore, while Brynard (2005) and Burger (2018) regard clients and coalitions and communication as separate variables, this research argues that these factors could be argued to be parts of a larger communicative process, the negotiation process in this case. Furthermore, as authors have pointed towards the importance of individual implementers and their skills in DO outcomes (e.g. Lord et al., (2019), this concept is further developed with the use of negotiation theories by Fisher & Ury (1981) and Bobot (2008). This will be further elaborated on in the operationalization in Chapter 3.4.

3 Methodology

This chapter will elaborate on the methods used for this research. It will do this by following Saunders, Lewis (2016) 'research onion' for business and management.

3.1 Research philosophy

The design of a research is largely dependent on the researcher(s) conducting it, as the researchers beliefs and decisions form the approach it takes. By looking at the world through a set of basic beliefs, philosophical paradigms influence a researchers worldview and therefore, their assumptions and approach (Guba & Lincoln, 1994). The research paradigm is made up by two major beliefs: ontology and epistemology. Ontology concerns the form and nature of the 'reality' that can be perceived. On one end of the ontological spectrum, this reality can be believed to be an objectively and possibly universally observable construct, while the other end it can be viewed as a highly subjective construct with strong differentiation between perceivers. Epistemology relates to how knowledge can be constructed about this 'reality'. This also concerns the relationship between the subject and/or researcher with the knowledge that needs to be obtained, in the sense that it is of an objective or subjective nature. On the one hand of the spectrum, this consists of knowledge being gained through objective research without having to understand the subject, while the other end concerns subjective perceptions and experiences (Guba & Lincoln, 1995).

Saunders, Lewis & Thornhill (2018) distinguish five paradigms in business and management, namely: positivism, critical realism, interpretivism, postmodernism and pragmatism. This research argues that the usage of LVC for the development of affordable housing is not an objective process, but largely influenced by the role of individual actors through factors such as their beliefs, responses and negotiation skills. Therefore, although the final result in terms of affordable housing can be observed objectively, the process leading to it, is highly impacted by individual and subjective factors, through which not just one 'reality' exists. Furthermore, these factors also make that not just one 'truth' can be distilled. However, by conducting this research, it is possible to retract some general findings in the process of the development of affordable housing with the use of DOs, that offer somewhat replicable results. Consequently, this research would be categorized as critical realism in Saunders, Lewis & Thornhill's (2018) categorization of paradigms. However, as this research also look at internal social interaction and coordination in organizations, it could also be argued that it encompasses aspects of interpretivism.

3.2 Approach to theory development

Saunders, Lewis & Thornhill (2018) distinguish three approaches to develop theory: deductive, inductive and abductive. This research applies a existing theoretical body in its framework, and tests if these factors actually contribute to the main concept of the research, namely the development of affordable housing with the use of DOs. By making use of theory as the basis of this research, this research makes use of a deductive approach. By making use of this approach, the research has a strong theoretical basis out of which its fundamentals, such as the conceptual framework and operationalization, are developed, therefore strengthening its validity (van Thiel, 2014). Furthermore,

as the research is based on an existing body of literature, it can develop findings which fit directly in the discussions surrounding the topics of LVC and affordable housing. However, as it seeks to add new insights to existing theories, it also contains aspects of inductiveness.

3.3 Research design

The research design is the general plan of how a researcher will go about answering the research questions (Saunders, Lewis & Thornhill, 2018). The research design contains the methodological choices made, the strategy used, and the time horizon.

3.3.1 Methodological choices

The methodological choices are in twofold, namely, the purpose of the study, and whether it is qualitative, quantitative or a mixed method design.

3.3.1.1 Purpose of the study

Saunders & Lewis (2016) distinguish three possible purposes in business and management studies. These are exploratory, descriptive and explanatory studies. This research aims to offer insights into the way Dutch municipalities are making use of DOs to achieve policy goals, which factors might influence this process, and how negotiation processes play a role in this. As mentioned in Chapter 1, this knowledge is largely missing in the field. Therefore, this research would be categorized as having an explanatory nature.

3.3.1.2 Mixed method approach

Through using experiences of experts in the field, while also making use of quantitative data on the amount of affordable housing being built, this research uses a mixed methods approach. However, it does apply a stronger use of qualitative methods for several reasons. As this research is explorative into the way that affordable housing is developed with the use of DOs, it seeks in-depth understanding of the factors that may influence this process. These factors are not strictly uncovered by either qualitative data or quantitative data. However, through the use of qualitative methods, an understanding of the experience of experts can be more efficiently gained, thereby stimulating its explorative goals. Furthermore, as mentioned in both Chapter 1 and 2, the role of individual implementers through aspects such as their own ideals and negotiation skills are important factors in the process. As these are subjective factors, related to elements such as meanings and interpretations, a qualitative method is most fitting. Lastly, although some of the mentioned factors could be researched, and perhaps more could be discovered with the use of additional quantitative data, Dutch municipalities do not often openly share development contracts, their yields, and quantitative negotiation data. However, as quantitative data on the housing stock the housing being developed, and housing prices is important to this research to indicate general trends, this quantitative data will be used to substantiate the arguments made in this research.

3.3.2 *Research strategy*

The research strategy is the overall design or logical procedure that is followed to conduct the research (Van Thiel, 2014). The research strategy used in this research is the case study. Van Thiel (2014, p.86) defines the case study as “a research strategy in which one or several cases of the subject of study are examined in an everyday, real-life setting”.

As mentioned, this research takes an exploratory approach to investigate the main research question. Furthermore, it aims to go largely in-depth into these factors to give a detailed description on the topic. Therefore, it seeks to investigate a small number of units in an in-depth way. The case study is, according to Dubois and Gadde (2002) the method which is most fitting of this goal, and can be designed to identify what and why a given phenomenon is occurring and possibly help understand the effects and implications of actions.

Answering the research question, is mainly based on the questions how factors affect the use of DOs and therefore the development of affordable housing, why this is possibly the case, and what other factors which haven't been foreseen might play a role in this process. According to Saunders, Lewis & Thornhill (2018), the case study offers a specifically good instrument to supply explorative researches with data and could give insightful answers to mainly “What”, “How” and “Why” questions. Furthermore, Yin (2018) notes that case study research is often used when boundaries between the studied phenomenon and the context within it is being studied are not always apparent. This is detrimental to the research, as authors in the field (e.g. Muñoz Gielen et al. 2017) have emphasised the importance of contextual factors to the use of LVC.

By comparing multiple cases, the research aims to further strengthen its reliability, while also being able to highlight how the differentiation in the presented factors might result in different outcomes. The cases which are chosen and its characteristics will be presented in the subsection hereafter.

3.3.2.1 Case study selection

This research makes use of multiple cases, namely: the municipality of Amsterdam, Utrecht and Nijmegen.

These cases are chosen mainly based on a combination between general size and size difference. As these contain some of the largest cities in the Netherlands, it makes the availability of data and analysable policy larger. Although they could all be regarded as large municipalities in the Netherlands, their sizes strongly differ. Amsterdam is the largest municipality, with a inhabitant count of approximately 931,300 in 2024. Utrecht is the fourth largest municipality with approximately 374,200. Nijmegen ranks as the tenth largest city with approximately 187,000 (CBS, 2024). This difference in size could offer interesting insights, as the organizational structure and approach taken by implementers may differ.

Amsterdam is a specifically interesting case to this research, as it has been highlighted in the literature to be a city that has experienced some of the most significant housing price rises and affordability issues (Wijburg, 2021). Furthermore, it is a city with a long history of affordable housing and is therefore more likely to develop a distinct approach to counter the affordability issues experienced in the housing market currently. Therefore, it could be argued that it does not offer a good representative case, since it does not represent the common Dutch city, but a more extreme or

unique case (Bryman, 2016). This unique case is interesting as an addition to the literature, as it might offer new paths into the way that LVC may be used for affordable housing.

3.3.3 Time horizon

Multiple researches have looked into the development of the usage of LVC in the Netherlands, but also affordable housing on a longitudinal scale, as mentioned mainly in Chapter 2. As this research is concerned with the factors that might influence the development of affordable housing in an explorative sense, and has to deal with time constraints, it rather aims to give an overview of factors contributing to the main concept, than it is describing or explaining how these changes have come to be. Therefore, the cross-sectional research design is best applicable to this research. By using this research design, it will take a 'snapshot' of the current practices (Saunders & Lewis, 2016).

3.4 Data requirements

In accordance with the conceptualization, the operationalization further develops the researches' framework into researchable variables. The operationalization indicates what concepts are central to the research, how these concepts can be measured, and what data is needed to measure them. The operationalisation table can be found in Appendix 8.3.

The main concept of the research is the development of affordable housing with the use of DOs. To measure this concept, it is important to research how DOs are being used for the development of affordable housing, how often the tools are being used, and if implementers deem them a successful tool. Furthermore, as this research argues, with the use of literature surrounding LVC, affordable housing, implementation theory and negotiation theory, that the main concept contains other concepts which exert influence on it.

The second concept is the institutional context. This variable concerns both contexts on a national- and more local level, in accordance with van Meter & van Horn (1975) and Brynard (2005). By measuring the context in a economic, political and regulatory sense, this research aims to grasp the most relevant factors that contribute to the main concept. As both the national political and economic context have been thoroughly researched by authors such as Muñoz & Lenferink (2018), this research uses their literature to supply the data for this part through the theoretical framework. To research the national legal framework, it will look into the new Dutch planning laws, as mentioned in Chapter 2.2.1. For the local political context, it makes use of policy content and interviews, while local economic context are deducted from open data on housing prices, provided by the Dutch Central Bureau for Statistics (CBS), but also interviews to see how implementers think this factors influences the process.

The third concept, is the policy content, based on Brynard (2005). Through a content analysis and interviews, the nature of the policy, the policy objectives and policy standards are researched.

The fourth concept, is commitment. Through interviews it is researched how well implementers are aware of the policy, if they agree with the policy and how these responses and their intensity play a role in the larger process regarding the main concept.

The fifth concept is coordination, based on Burger (2018). This variable is measured by researching how both internal- and external coordination is structured. This variable can be researched through the experienced coordination of implementors, with the use of interviews.

The last concept is negotiation processes, based on Brynard's (2005) variable of clients and coalitions, and communication, while also largely involving same author's variable of capacity. Clients and coalitions are researched by looking into the recognition of actors, while communication is assessed through the engagement of actors and transparency of information. As capacity in this process is strongly linked to the resources that the negotiation processes can accumulate, it is not explicitly involved as a variable, but is rather an implicit part of the process. In addition the concept is supplemented with the use of Fisher and Ury's (1981) and Bobot's (2008) theories to research negotiation skill, as authors in the LVC literature such as Lord et al., (2019) have pointed to their importance in LVC processes. All earlier named dimensions will be researched through interviews (see Appendix 8.3).

3.5 Data collection

3.5.1 *Methods used*

This research makes use of three different types of data, namely: semi-structure interviews, secondary data in the form of national legal documents and municipal policies, and descriptive data on local housing prices, the housing stock and the developments of housing.

3.5.1.1 Semi-structured interviews

Interviews are a flexible way of collecting data, in which a better and fuller understanding about a topic can be gained (Van Thiel, 2014). Since this research needs in-depth data, and a full understanding of the use of the LVC instrument in the form of NDOs for affordable, and their related factors such as negotiations processes, interviews are fitting for this purpose. However, unstructured interviews do not always ensure that the right information is gathered, as they might divert from the factors that need to be measured as a result of their flexibility (van Thiel, 2014). Therefore, this research makes use of semi-structured interviews to make sure the right data is being collected. Before conducting the interviews some questions and topics were noted down in a semi-structured form (see Appendix 1), to ensure the right information is collected, but interviewees had the flexibility to add unforeseen information to the conversation.

3.5.1.2 Secondary data

This research makes use of both qualitative and quantitative secondary data.

The qualitative data is used for two variables in the operationalization, namely: the institutional context and the policy content. This is done by analysing two types of documents: Dutch laws that are related to the usage of LVC, and municipal policy documents regarding affordable housing. The laws that are researched are the 2008 Physical Planning Act (Wet Ruimtelijke Ordening), and the in 2024 introduced Environment and Planning Act (Omgevingswet). Within the new planning law, the Cost Recovery Plan (kostenverhaal) describes how developer contributions are legislated in the Netherlands. The policy documents that are researched are the 'Housing agenda 2025' (De Woonagenda 2025), which is the guiding document for housing policy in the city and the 'Housing development plan 2022-2028' (Woningbouwplan 2022-2028 in Dutch). In Utrecht, these are 'Housing vision' (Woonvisie) and the 'Land policy' (Utrechts grondbeleid). In Nijmegen, the 'Implementation plan housing 2020-2025' (Uitvoeringsagenda Wonen 2020-2025), and the 'Letter for land policy' (Nota grondbeleid).

By researching these documents, insights could be offered on the rules and regulations on LVC on the one hand, and policy contents, including its nature, objective and standards on the other.

As the literature surrounding the use of LVC, affordable housing, but also regarding policy implementation all mention the importance of economic contexts, the economic context are examined by conducting a secondary data analysis. As the national economic context and its recent developments have been largely covered by multiple authors, which are mentioned in Chapter 2, only

the local factors are empirically researched. To conduct this analysis both land- and housing values are assessed. By making use of publicly available data by the Central Bureau for Statistics (CBS) on housing prices (WOZ waarde in Dutch), and interviews for the effect of land prices, an analysis can be made on the local economic context, and the effect hereof.

3.5.2 Respondent list

For the interviews, a sample is made, based on the unit of analysis. The units of analysis are municipal workers in municipalities in the Netherlands, who are (in)directly involved in the development of affordable housing, and their related negotiation processes. The interviewees have been conducted with project managers and feasibility analyst, who were involved in programs to develop affordable housing, as shown in Table 2. Furthermore, the project managers were also involved in negotiations. The conducted interviews approximately lasted 60 minutes, to make sure they had enough timeframe to go in-depth.

Table 1: Respondent list

Municipality	Interview	Interviewee number	Profession
Amsterdam	1	#1	Project manager
	2	#2	Economic feasibility analyst (planeconoom)
	3	#3	Project manager
		#4	Project manager
	4	#5	Project manager
Utrecht	5	#1	Economic feasibility analyst
	6	#2	Project manager
Nijmegen	7	#1	Project manager
		#2	Economic feasibility analyst
	8	#3	Project manager
		#4	Economic feasibility analyst

3.6 Data analysis

3.6.1 Content analysis

A content analysis is the research of content in existing data sources, often in written materials or documents (Van Thiel, 2014). This research will make use of two types of content analysis: content

from the interviews, and a content from secondary sources in the form of national legal documents and municipal policy documents .

In order to analyse the interview data, three steps were taken. First, the interviews were recorded, with the approval of the interviewees. Secondly, the recordings were transcribed. Thirdly, the transcribed interviews were coded and analysed with the use of the software 'Atlas.ti'. The codes were used in two ways. On the one hand, codes were made that correspond to the variables that are shown in the operationalization also known as 'structural coding' (Saldaña, 2009). By making groups regarding certain topics, also known as 'nodes', the research will measure these variables (Bryman, 2016). Secondly, as the research does not only use a deductive approach to formulate its framework and test variables, but also looks to add theory to the existing literature by using an inductive approach, the data were also 'open coded'. In contrast with structural coding, open coding does not test the variables that are mentioned in the proposed framework, but allows for additional codes to arise, based on the data provided in the interviews (Saldaña, 2009). To do this, mentioned topics which are indicated by interviewees to be linked to the main concept were coded.

The other types of secondary data that was analysed through a content analysis are the legal- and policy documents. These are analysed in the same manner.

3.6.2 Quantitative secondary data analysis

A secondary data analysis, is an approach where (parts of) existing datasets, which are often statistical, are combined with each other, after which the new data set is analysed (van Thiel, 2014).

The research uses a descriptive analysis of local land and housing prices to present a broad overview of the quantitative data.

3.7 Ethical considerations

During the research, mainly during the interviews, a plurality of ethical issues can arise, that have to be taken into consideration. Diener & Grandall (1978) have identified these for social and behavioural sciences, which can be applied to this research. According to the authors these ethical considerations come in fourfold:

1. Whether there is harm being done to participants

Harm can entail a number of facets including: physical harm, stress and loss of self-esteem (Bryman, 2016). This research concerns the use of sensitive data, as the interviews aim to capture the factors such as the functioning of the policy implementation process, but also implementer and organizational functioning at multiple levels. Importantly, improper use of the data might harm respondents as it may be tracked back to them. Therefore, it is essential that participants are well informed about the use of their data and that the confidentiality of the research is being safeguarded (Bryman, 2016). Hence, respondents were be informed about the use of their data, and will have to agree to the use- and publication of the data. Furthermore, to ensure that confidentiality is being applied, respondents will be anonymised with the use of pseudonyms.

2. Whether there is a lack of informed consent

Informed consent entails that a participant is given enough information to be able to make an informed decision about whether or not they would like to participate in a study (Bryman, 2016). To make sure that there is enough informed consent, participants will be informed about the research process, use of data, and information regarding the publication of the research, prior to the interviews. However, this too can be impactful to the results of the research, as too much information may influence the thought process of respondents (Bryman, 2016). As this research seeks to find out factors related to organizational and implementers functioning, full disclosure of these goals may influence the respondent. Therefore, it is important to provide the respondent with basic information regarding the research topic, use of data, and publication details, without specifying how these results will play a role in the answering of the research question. The informed consent was arranged face-to-face and will be recorded in the interview recordings.

3. Invasion of privacy

This factor is concerned with the degree to which invasions of privacy can be condoned (Bryman, 2016). To make sure respondents feel secure, this research will, as mentioned in the last two points, anonymize the respondents as well as possible, inform them what information will be used, and how it will be used. Furthermore, respondents were able to indicate their boundaries and when they are being crossed at all times during the interview.

4. Whether deception occurs

“Deception occurs when researchers represent their work as something other than what it is” (Bryman, 2016, p.133). In relation to the aforementioned factors, this research aimed to sufficiently inform respondent on the topic and aims of the research, without influencing their thought process, as mentioned before.

3.8 Reliability and validity

Reliability and validity are concerned with the trustworthiness of the study. Since this research is using a case study, it is using a small n. The small n however, can endanger the reliability and validity of the research. Therefore, it is important to use triangulation, the use of multiple methods (Van Thiel, 2014). As this research makes use of multiple research methods, it accomplishes triangulation. By doing this, the researcher gathers more data, and therefore improves these factors.

3.8.1 Reliability

Reliability concerns accuracy and consistency with the variables measured (Van Thiel, 2014). This is important to make results are trustworthy, and less coincidental. Accuracy is mainly concerned with the measurement instruments used in the study. Therefore, it is important to realise what needs to be researched and if the way the research aims to do that is achieving its goal. The main concern for this factor is with the interviews, as their flexible format can often compromise reliability (Van Thiel, 2014). By creating an operationalization based on existing theoretical frameworks, and basing the questions of the semi-structured interview on the operationalization, this research aims to ensure reliability. The second element is consistency, which is based on repeatability. As this research is based on a case study which incorporates interviews, it is largely dependent on the context of the case and individual input of respondents, Therefore, it is difficult to ensure its repeatability.

3.8.2 *Validity*

Validity in a research concerns two factors: internal and external validity (Van Thiel, 2014). Internal validity entails if the researcher is measuring the effect they intended to measure. To make sure the validity is ensured, the research makes use of a well defined operationalisation and renowned theoretical frameworks as its basis, along with the application of an interview guide. External validity is the extent to which a study can be generalized. As this study is a case study, which makes use of a content analysis, secondary data and interviews, it needs to be taken into account that not all data will be generalizable, as it is subjected to contextual and individual inputs. The analysis of regulation for example will be generalizable for the Netherlands, while the interview results, might not be.

4 Land Value Capture in the Dutch legal framework

To understand how and why municipalities in the Netherlands apply LVC instruments, it is important to have an overview of legal possibilities and how to apply them, through studying the main workings of the national legal framework. The Dutch legal framework for spatial planning has, as mentioned in Chapter 2, seen the introduction of new legislation since January 2024. However, this law has a transition period, as will be mentioned in paragraph 2.1 of this chapter. Consequently, while municipalities may already use the new framework in developments, so could (some) workings of the old framework. Therefore, this chapter will not only present an overview of LVC under the new Environment and Planning Act (*Omgevingswet*), but also under the old Physical Planning Act (*Wet ruimtelijke ordening*). Furthermore, while the use of LVC in the 2008 Physical Planning Act has been elaborated on by authors such as Muñoz Gielen and Lenferink, (2018), the new Environment and Planning Act has rarely been examined yet. Therefore, this chapter will more briefly go over the former legislation, while more extensively covering the latter. To do this, this chapter will make an outline of the DOs that can be used under the old and new planning system.

4.1 LVC under the Physical Planning Act

The Physical Planning Act was introduced in 2008. Under this act, LVC is mostly used to recover costs, as the direct capture of land value increases has repeatedly proven to be rejected in court (Zeilmaker & Hagelaars, 2016). Under this system six forms of LVC can be distinguished (Muñoz Gielen & Lenferink, 2018).

4.1.1 *Municipalities as landowners*

When (partially) owning the land, municipalities have the right to decide under which conditions they want to sell or lease their land to a developer. By doing this, the municipality is able to apply LVC. The only condition however, is that the municipality has to make sure that all interested parties have a chance at buying the land, that selection criteria are known in advance, and that the assessment is openly published.

When the municipality is not yet the landowner but wants to acquire the land, the municipality can make use of three instruments: voluntary acquisition (*vrijwillige verwerving*), a pre-emption right (*voorkeursrecht*), and expropriation (*onteigening*).

4.1.2 *Property tax (onroerende zaak belasting, OZB)*

This tax charges the owner of a property for a share of its market value of the built property. It is an important instrument for municipalities as it currently provides approximately 8% of the municipal incomes. However, the instrument has limited optionality for LVC as it can only use limited maximum, revenues cannot generally be labelled for specific public expenditure (with rare exceptions), it cannot be differently applied for specific properties to sufficiently apply LVC (Muñoz Gielen & Lenferink, 2018).

4.1.3 *Profit tax (Baatbelasting)*

The Profit tax, is a tax through which municipalities can charge landowners when public infrastructure is constructed that directly benefits them. The tax only applies to local, site-specific infrastructure, and cannot be charged for off-site infrastructure. The tax has no direct link with the any decisions related to land-use regulation, and has to be paid by every developer (Muñoz Gielen & Lenferink, 2018).

4.1.4 Property tax in Business Investment Zones

This instrument is based on the Experimental Act on Business Investment Zones ('Experimentenwet BI-zones), which allows the property tax to be increased in a specific area (Muñoz Gielen & Lenferink, 2018). Muñoz Gielen & Lenferink (2018) however, argue that this tax has not often been applied in practice, possibly because of the majority support it requires of the businesses in an area.

4.1.5 Development Contributions Plan (Exploitatatieplan) (N-NDO)

The Development Contributions Plan was introduced in the 2008 Physical Planning Act. When land-use plans are being rezoned from one use to another, and/or building possibilities are increased, provided that the public sector has to contribute capital for investments that have not been covered yet, such as infrastructure, the municipality must approve a Development Contributions Plan together with the regulation decision (Muñoz Gielen & Lenferink, 2018). The costs that can be charged on the landowner are regulated by the 2008 Physical Planning Act and 2008 Physical Planning Decree (Besluit ruimtelijke ordening), and mostly contain local, site-specific, infrastructural interventions. Large public infrastructure, especially located off-site, can only be charged to a limited extent. Furthermore, under the 2008 Planning Act and – Decree, set regulations for costs that can be charged, further decreases the possible contributions, sometimes even forcing municipalities to grant subsidies to landowners (Muñoz Gielen & Lenferink, 2018).

Once the costs have been calculated and the Development Contributions Plan, along with the change in land-use plan have been prepared, the contribution is mandatory for the developer in order to get a building permit. Furthermore, municipalities can demand the payment without a negotiation between the government and developer. Interestingly, the use of this instrument has been the first introduction of a mandatory contribution for a building permit in the Netherlands (Muñoz Gielen & Lenferink, 2018).

Significantly, Muñoz Gielen and Lenferink (2018) note that the Development Contributions Plan in practice does not deliver a generally large cost recovery, as it offers a limited optionality to actually recover costs, and municipalities do not make use of it very often.

4.1.6 Development agreements (NDO)

The last option to employ LVC under the Physical Planning Act is through a Development agreement. The Development agreement makes use of negotiations between the developer and municipal body, to decide who is going to pay what public costs. These voluntary negotiations mainly take place through private law, and are solidified through a contract that can be before (anterior agreement), or after (posterior agreement) the developments are allowed to commence, and the land-use plan is altered (Muñoz Gielen & Lenferink, 2018). Interestingly, although the agreements mainly take place through private law, they are to some degree regulated by public law through the 2008 Physical Planning Act- and Decree. This regards the scope of contributions, and which sort of policy the municipality should use this instrument to justify its use (Muñoz Gielen & Lenferink, 2018). These legal indications however, are relatively vague.

Importantly, this instruments leaves much room to negotiate about ways to apply LVC, that would not be available through the Development Contributions Plan. This includes, large infrastructure projects, or importantly, the incorporation of certain types of housing, with their related price segments.

Although not much certainty is given over the requirements that need to be met for incorporating these factors in the mentioned contracts, interpretations of the legislative and parliamentary framework suggest that local policy should at least prescribe in a transparent way what the charged costs are for, how much it costs and how these costs are allocated in an equal way to each

development (Muñoz Gielen & Lenferink, 2018).

Whereas the Development agreements offer an increased potential to apply LVC compared to the earlier mentioned instruments, its regulatory backing is largely weaker than some other tools, as the governmental body is not able to require developers to contribute through Development agreements. Furthermore, they also do not have the statutory power to refuse modifying the land-use regulations only with the argument that developers are not willing to negotiate (Muñoz Gielen & Lenferink, 2018).

Interestingly, the Development agreement is the most often used instrument to carry out LVC by municipalities (Muñoz Gielen & Lenferink, 2018).

4.2 Land Value Capture under the Environment and Planning Act

The introduction of the new Environment and Planning Act has brought forward a new system for governmental actors to arrange contributions for public investments in spatial developments. However, although the proposed system is 'new', many aspects of the former system are rebranded and/or re-used, therefore the difference has yet to be experienced.

This part will look into the main workings of this system, and how contributions for the public sector can be gained in the development process, mainly based on the guideline document that has been created by the national government (Ministerie van Buitenlandse zaken en Koninkrijksrelaties, 2022). Under this system eight forms of LVC can be distinguished.

4.2.1 The main workings of the LVC system under the Environment and Planning Act

Under the Environment and Planning Act, municipalities can make use of active, passive or a mix between the two to acquire developer contributions. The government describes that active land policy is favoured in places which are important to society, but are less attractive to market parties, because the market will not provide the publicly needed developments. Passive land policy is a good option in places that are doing well in the market, as market parties will want to develop the locations, which will allow the government to set requirements and apply the 'Cost Recovery Plan' (Ministerie van Buitenlandse zaken en Koninkrijksrelaties, 2022).

Within these approaches, the term cost recovery and the concept of the 'Cost Recovery Plan' are important in the Dutch approach. The 'Cost Recovery Plan' is, as the name suggests, a value capture tool that can be used to retrieve costs made by the public sector in, or related to, a development process. It therefore makes use of an indirect rationale to achieve DOs by internalizing costs. To justify this, the government argues that initiating parties in a development unproportionally benefit from public investments, compared to the general public, both through the development of services (e.g. infrastructure) and the change in land-use plans (Ministerie van Buitenlandse zaken en Koninkrijksrelaties, 2022). Interestingly, the usage of the Cost Recovery Plan is mandatory by governmental actors when a development takes place, and requires a change in the land-use plan through either a change in the plan itself, or a permit for an 'external land-use activity' (buitenplaanse omgevingsactiviteit, BOPA in short). However, this can be circumvented when sufficiently motivated by the municipality. The costs that are deemed justified to be recovered from developers are limited, and noted down in the cost type list (kostensoortenlijst). Furthermore, they should comply to three criteria: that the calculated costs have to be in relation to a public investment for the spatial benefit for the developer (benefit), that the developer is accountable (accountability) and that the costs are proportional (proportionality). To internalize costs, the 'Cost Recovery Plan' can roughly be secured

through two paths: through the private law track or through the public law track, of which the former is generally preferred by the government.

Interestingly, the Environment and Planning Act introduces a new system, where the 'Cost Recovery Plan' can be used in an 'integrated' way, which entails that all agreements are made before the plan commences, while also being able function in an 'organic' way, arranging general agreements at the start of the process, but further specifying them later on.

Essentially, the LVC procedures are often coupled with the possibility for developers to commence their development. A prohibition to commence activities can go into effect when a developer has not paid a contribution imposed by the governmental body. However, this only counts for the Cost Recovery Plan, and not for additional contributions. Consequently, the governmental body only has the legal power to refuse a plan that does not offer financial contributions, by arguing that cost recovery does not take place. Critically, the named prohibition is not related to arrangements regarding 'voluntary agreements' (see Chapter 4.2.8) or the 'Forced financial contribution for improvement of quality' (see Chapter 4.2.7). It is however possible to incorporate further arrangements in the contracts, that state that supplementary costs need to be paid before the development can commence.

Importantly, the new system also contains a transitional arrangement from the old, to the new system. This entails that some old decisions or procedures, that have been made before the Act has gone into effect, such as a land-use plan or 'Development Contributions Plan' (see Chapter 4.1.5), stay in effect. Depending on the matter, the new system can go into effect at a certain point, for example, when the land-use needs to be altered, or when a deadline expires. The current format for land-use plans for example, will expire after the 31st of December 2029, and the new format for these plans under the Land Value Capture under the Environment and Planning Act has to be in place.

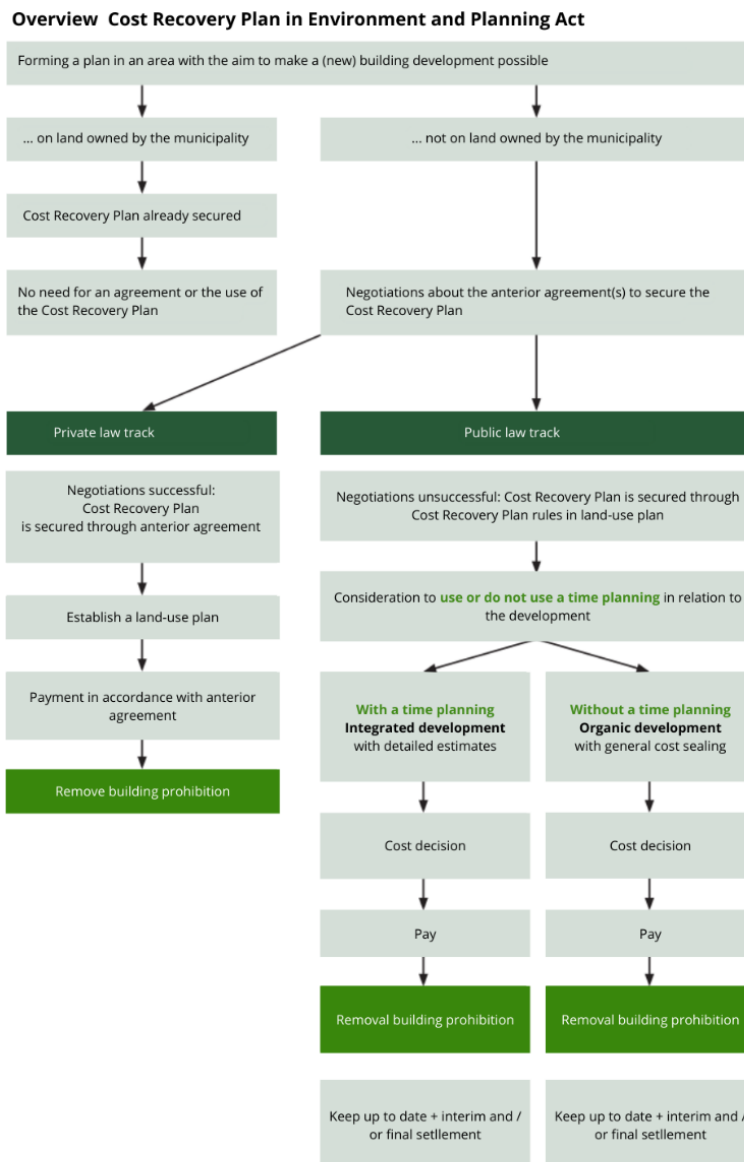


Figure 3: Overview Cost Recovery Plan in Environment and Planning Act, Source: Ministerie van Buitenlandse zaken en Koninkrijksrelaties (2022)

4.2.2 Municipalities as landowners

The workings under the new legislation are similar to those under the old legislation. Therefore, the workings named in paragraph 1.1 of this chapter also apply under the new legislation.

4.2.3 Property tax (onroerende zaak belasting, OZB)

Under the new legislation, municipalities can still make use of this tax. Therefore, the same principle applies as stated in paragraph 1.2 of this chapter.

4.2.4 Profit tax ('baatbelasting')

The Profit tax, is a tax that existed under the old system, and is still being used under the Environment and Planning Act. Therefore, the same workings as mentioned in paragraph 1.3 of this chapter apply. However, the government has made some statements regarding this tax in relation to other manners to make use of LVC. The government notes that arrangements for the 'Cost Recovery Plan' have priority to this tax. Furthermore, Municipal law, states that this tax cannot be implemented when the use of a 'Cost Recovery Plan' is possible. However, the tax can be applied in combination with 'Development agreement' (see Chapter 4.2.8).

4.2.5 Property tax in Business Investment Zones

While this instrument is not used through the aforementioned Experimental Act on Business Investment Zones, but is under the Law 'Business Investment Zones' (Wet op de bedrijveninvesteringszones), workings under the old legislation, as mentioned in paragraph 1.4 of this chapter, are still applicable.

4.2.6 The public law track: Cost Recovery Settlement ('kostenverhaalsbeschikking') (N-NDO)

While it was mentioned earlier in this chapter that the government shows a preference for securing cost recovery through private law agreements, it is also possible to impose Land Value Capture through public law. This is mostly done when actors cannot reach an agreement. Under the new Environment and Planning Act, this path called the 'Cost Recovery Settlement' ('Kostenverhaalsbeschikking'), is embedded in the land-use plan.

The new format for the land-use plans (Omgevingsplan) under the Environment and Planning Act, presents them as a more encompassing tool than under the previous Planning Act. Under the new Act, the land-use plan does not only incorporate more environmental aspects, such as air quality, in its' regulation, it also incorporates the LVC function of the previously known Developer Contributions Plan. Crucially, land-use plans are now the vessels to regulate activities that can (in)directly influence the physical living environment, present rules to secure the Cost Recovery Plan through public law, but also set locational rules, such as the development of public spaces, phasing of projects, and importantly, the incorporation of housing standards, such as the type of housing, required percentages thereof, and what target groups it should be for, e.g. young adults. For the latter facet, the land-use plan can indicate for how long these houses should remain in a certain price category, before they can be transferred to another.

The Cost Recovery Settlement is mandatory payment to commence with the development, which is calculated by a standardized method that could be seen as a sort of fee. As mentioned, the new system under the Environment and Planning Act offers two paths, namely the 'integrated' and 'organic' path. Importantly, the land-use plan, which is the regulatory vessel to accommodate this LVC, also differs according to the path chosen. Whereas the 'integrated' path requires a detailed cost assessment in the land-use plan, the 'organic' path only requires a 'cost sealing' of the expected costs that need to be, and can be recovered.

After the municipality has made use of the Cost Recovery Settlement in a development process, a final settlement has to be calculated after the plan is developed. This is to see if the government has not charged too many costs. If the final settlement shows that the actual costs for cost recovery have been lower, the governmental body has to refund the developer close to the complete difference in costs. However, the refund can only occur if the costs are more than 5% lower than the before calculated costs, wherein the municipality can keep the 5%.

4.2.7 Forced financial contribution for improvement of quality (N-NDO)

The Environment and Planning Act has also brought forward a new instrument: the ‘forced financial contribution for improvement of quality’. Whereas most other tools secure LVC in the area of the land-use plan that applies to the development, and do so through the Cost Recovery Plan, this tool on the contrary, is used to secure LVC in the areas outside the local land-use plan. It aims to secure funds that are needed to make interventions elsewhere, as a consequence of the development. In relation to affordable housing, the municipality can agree that the developer can build more free market housing, at the cost of a lower amount of affordable housing in the area than the target percentage. However, the developer then has to pay a compensation to fund more affordable housing in another area. A criteria for this, is that the local land-use plan in another area allows the increased amount of affordable housing.

The type of activities that it can be used for, are determined by law. Furthermore, it acts separately from the Cost Recovery Plan, and can provide additional LVC on top of the Cost Recovery Plan. However, while securing a Cost Recovery Plan is permitted by law, this contribution is not. Therefore, it is the municipalities’ decision to apply it or not. If they do want to use the tool, financial regulation to secure the fee is mandatory to be incorporated in the land-use plan, just like the Cost Recovery Settlement.

This tool however, is not applicable without consideration. The municipality needs to substantiate the correlation between the development and the charged costs. One of the factors that needs to be regarded, is the financial carrying capacity of the project. If the project however, is not able to financially support the envisioned fees, the municipality cannot charge the developer. Importantly, if the municipality makes use of an anterior agreement, the fee has to be included in the contract, since a municipality cannot decide to collect it after the agreement is made. Furthermore, if the envisioned fees are, or are able to be, achieved through a form of the Cost Recovery Plan, for example through Development Agreements, the Forced financial contribution for improvement of quality cannot be applied.

4.2.8 The private law track: Development agreements (NDO)

To ‘recover costs’ from developers, the national government openly emphasizes the preference of a mutual agreement through private law. Value capture is secured through the private law track in the form of Development agreements. The agreements are based on negotiations between municipalities and the other involved actors in the development, and established through a contract between the two. They regard both the cost recovery of public expenses which benefit a developer, such as the development of infrastructure, but can also entail additional contributions made by the developer on top of the ‘cost recovery’. The latter are also referred to as ‘voluntary contributions’. These additional contributions do not only have to be in a monetary form, but can also contain agreements on the execution of the project on factors such as architecture, timeframe, phasing, locational factors, such as the development of public spaces, and importantly, housing requirements such as types, amounts, who they should be for, and pricing. Consequently, as they are not limited to ‘cost recovery’, Development agreements can contain a larger spectrum of contributions compared to the earlier mentioned Cost Recovery Settlement or Forced financial contributions. The agreements can be both prior to the municipal approval for the development to commence (‘anterior agreement’) or after the develop is permitted to commence (‘posterior agreement’). Importantly, although different instruments to capture developer contributions can overlap, the development agreements usually

have legal priority over other procedures, meaning that other forms, such as a contribution contained in the land-use plan, might not be enforced when a Development agreement has been made prior to it.

Although a Develop agreement makes it possible to apply value capture in a wider form compared to the other legal instruments, and does not have a prescribed form, it does contain limitations (Ministerie van Buitenlandse zaken en Koninkrijksrelaties, 2022). It can only make use of cost recovery to recover costs named in article 13.11 of the Environment and Planning Act and the Environmental policy (Omgevingsbesluit). Furthermore, when applying a Development agreement, the municipality has to take regulations in other legal documents, such as the Housing Law (Huisvestingwet), into account.

The contract can, as mentioned, come in two forms. The ‘anterior agreement’ is an agreement made before the development is permitted by the municipality, and is the most frequently used. While the above mentioned description of the Development contract is largely applicable to both forms, the ‘posterior agreement’ has a somewhat more restricted usage.

The ‘posterior agreement’ is an agreement made after the development is permitted by the municipality. Although the agreement can contain ‘voluntary contributions’, in practice, the probability of developers to agree to these after their permit has been given is rare. Therefore, this agreement mostly further specifies how earlier agreed cost recovery will take place. Herein, the posterior agreement is not able to increase or decrease costs. Furthermore, as the land-use plan has gone into effect at this point, limited changes can be made without having to revise the plan at this stage of the development. Therefore, the ‘posterior agreement’ will largely only be able to fill in the details in relation to land-uses.

4.3 Comparison

As the above presented data has shown, the old Physical Planning Act, and new Environment and Planning Act show large similarities. The first of these similarities is the main essence of the laws, as these are both mainly aimed at cost recovery. Furthermore, both laws present a ‘cost type list’, which limits the costs that can be recovered. In addition, both laws are using ‘macro capping’, a cap that limits accumulation of contributions based on the yields that are acquired by the developer. As the use of LVC through public law still entails the many limitations under the new legislation, acquiring contributions with the use of agreements through private law still offers the largest potential to capture land values. Public law instruments therefore remain mainly aimed to offer a solution when actors cannot reach an agreement. Importantly, the refusal of plans based on their extra-legal contributions also remains limited, as refusal based on ‘additional contributions’ is not legally supported.

However, some changes in the new legal system have allowed for a slightly increased legal power in relation to LVC. While the refusal of plans based on ‘additional contributions’ is still not legally supported, the increased legal reach of the newly formatted land-use plan, offers municipalities an increased opportunity to demand contributions. While this is not directly applicable to monetary contributions, it could be used to accumulate contributions based on developmental requirements such as the implementation of affordable housing. Noticeably, the new legislation has also brought a new instrument to acquire LVC. While the old legislation only aims to recover costs in the land-use plan area, the new ‘forced financial contribution for improvement of quality’ allows a legal tool to acquire LVC outside this range. Furthermore, the new legislation also introduced a building prohibition before cost recovery payments are made, a legal assistance that did not exist under the old law. Lastly, the new legislation has introduced the use of different development paths in either an ‘integrated’ or ‘organic’ form. However, while the latter offers increased flexibility to make

development arise, it can be argued to decrease the potential to capture land values, as costs that are unforeseen at the start of the process may not be captured.

In conclusion, while the new legislation offers some increased legislative backing of LVC, mainly through the new land-use plans and 'forced financial contribution for improvement of quality', changes are arguably marginal, and so is the increased potential for LVC.

5 Results and Analysis

This Chapter will present the results and analysis based on the interviews, policy documents, and descriptive quantitative data. These results will be structured by the concepts and dimensions that were mentioned in the conceptual framework and operationalisation. In addition, by organising them per municipality, this Chapter will provide a clear overview. Furthermore, at the end of each subchapter, it also offers a compact summary and comparison between the researched municipalities.

5.1 Institutional context

This chapter presents the results of how institutional contextual factors may play a role in the accumulation of DOs for affordable housing. As the operationalization in Chapter 3 has presented, these consist of a national- and local political context, (inter)national- and local economic context, and the national legal framework. However, as Chapter 2 has largely presented the trends in the national political- and economic context, through the work of scholars in the field, this chapter will mainly focus on the other factors, that are currently missing in the literature. Furthermore, although the legal framework has been analysed in Chapter 4, this Chapter will go further into the way that the new legislation may influence other factors in the conceptual framework, and eventually the development of affordable housing with the use of DOs.

For the analysis of the local economic context, some remarks need to be made. To analyse this dimension, it is first important to have an overview of what the local economic circumstances are per municipality. As the average local land prices are not publicly available, this overview is given through average property values per municipality. Thereafter, the interview data will present how this, and other local economic factors may be influential in the larger process.

Importantly, this chapter will offer a concise overview of the data collected. Appendix 8.4 contains a more extensive presentation of the data.

5.1.1 Amsterdam

While having some knowledge about the new Environment and Planning Act, interviewees indicated not being elaborately exposed to it. Nonetheless, some differences between the 2024 Environment and Planning Act and the 2008 Physical Planning Act, were noted. New legislation was indicated to offer increased legal authority, as the new legislation was mentioned to offer implementers a larger basis to refuse development initiatives, mainly through the legal incorporation of factors related to spatial qualitative requirements.

The local political context in Amsterdam was indicated to largely influence the use of DOs, especially those involving negotiations, in a few ways: in the way that policy goals were prioritized, by structuring how much decision power on a project level is with the implementing department, and by introducing a municipal subsidy. Importantly, the main instigator behind these factors, was mentioned to be the political recognition for the need to develop affordable housing.

Interviewees indicated that in terms of policy goals (see Chapter 5.2), the development of housing was priority number one on the political agenda. Therefore, it was noted that the municipality was strictly maintaining housing and affordability demands in negotiations with developers. In addition, political influence was further emphasised by the introduction of a municipal subsidy called the 'equalisation fund'. This was, as the name implies, a fund used to balance out the capturing of land

values between parts of the city with differing LVC potentials. Areas that were accumulating much financial capital, were used to compensate the decreased LVC in less financially yielding areas. Therefore, this fund could make developments of affordable housing commence in less financially yielding areas. Consequently, the political power within the municipality of Amsterdam exerted relatively much influence on the development of affordable housing with the use of DOs in development projects.

According to the interviewees, the local economic circumstances were important in a number of ways. Firstly, market conditions were indicated to largely affect developers and their financiers. Market volatility, the risk involved to develop in a location, e.g. a well-developed versus developing neighbourhood, were mentioned to decrease actors' security, and therefore contributions. To counter this issue, it was noted that the municipality used the earlier mentioned 'equalisation fund' to encourage developers to develop and contribute. Furthermore, when the land belonged to the municipality, this was also stimulated by calculating a lower residual land value that would be charged when affordable housing was developed, as is mentioned in Chapter 5.2.1.1.

Secondly, the type of development area, either brown or greenfield, was also indicated to be important, as the former is more expensive to develop, and more difficult to combine with the municipality's relatively ambitious affordable housing goals (see Chapter 5.2.1.1). Therefore, offering an extent of policy flexibility in this regard was indicated to be detrimental to make developments commence. In Amsterdam this was done by allowing for an increased amount of 'free market' housing, at the cost of social housing.

Fundamentally, while local economic contexts were indicated to be influential in the process, Amsterdam's land policy, was indicated to stimulate the development of affordable housing, as it gives a financial incentive to develop affordable housing by offering a lower land price for affordable housing, and allowing housing corporations to acquire land at a standardized and more favourable land price.

A more detailed elaboration of the results can be found in Appendix 8.4.1.

5.1.2 Utrecht

Interviewees in Utrecht did not have a much experience with using the new legislation. However, the essence of the new system was labelled relatively similar, as it is aimed at 'cost recovery'.

Interestingly, the introduction of another law: the Law Affordable Rent, on the 1st of July 2024, was mentioned to provide a large impact on developers. Its alterations to the Dutch point system, which determines a dwelling's maximum rental price category, was argued to move many 'free market rentals' into the rent regulated rental sector, and offered much financial insecurity for market actors leading up to its introduction. Utrecht #1 indicated that due to this insecurity, land prices, especially for middle priced rentals decreased, and that developers were unable to get funding for their developments. Consequently, developer contributions for affordable housing decreased.

Interestingly, the pre-emption right, was deemed to be positively influential to securing DOs, as it gives the municipality more control, and reduces the amount of speculation that takes place.

While the development of affordable housing would ideally be financed with the use of LVC, interviewees in Utrecht indicated that this was not always possible, and the national subsidies were needed for some developments to commence. Because of the need of these subsidies, national prioritization was deemed influential on the process.

In Utrecht, the type of influence that was exerted on the use of DOs by the local political arena, was mainly indicated to be based on the political focus on the development of affordable housing, and structuring how much decision power on a project level is with the implementing department. Interestingly, according to the interviews, the municipality of Utrecht did not make use of local subsidies.

In Utrecht, a strong political influence was noted, as housing requirements in negotiations were often relatively strictly maintained due to its high position on the political agenda. Interestingly, the political importance of the development of affordable housing did not only lead to the strict pursue of the housing policy, but even led to the implementation of stricter norms in some cases, as some developments had to incorporate more affordable housing than stated in the policies. Crucially however, Utrecht appeared to be slightly more flexible in their affordable housing demands than Amsterdam. The municipality was willing to accommodate developers by adjusting ownership demands, to allow more incorporations of owner occupancy.

Importantly, these last two points indicate that the local political pressure could influence the external coordination in developments.

According to the interviewees, the local economic circumstances were important in a number of ways. Building costs, and the interest rates on loans were named as important factors, as their increase in the last years was indicated to have had a negative impact. Secondly, land prices in relation to the unprofitability of the development of affordable housing were indicated to follow a similar trend. Utrecht #2 noticed that areas with high land prices were difficult to incorporate affordable housing into.

Interestingly, while the municipality generally did not adjust requirements based on market actors' financial circumstances, such as acquiring a plot at an unprofitable price, this was revised in some cases to stimulate the development of affordable housing and decrease the municipality's housing shortage. These were mostly related to a relaxation of middle priced rentals requirements, in exchange for an increased amount of middle priced owner-occupied housing. Furthermore, to counter the unfeasibility of developer contributions, as land prices increased, land prices were taken into account in the municipal demands for affordable housing. In practice, this meant that housing requirements would be less strict in some regards, in areas with a high land price. In addition, the municipality of Utrecht was indicated to mitigate the influence of local economic contexts on DOs through basing the land prices based on land price and use, and offering housing corporations a submarket and standardized land price when 'giving out' land.

A more detailed elaboration of the results can be found in Appendix 8.4.2.

5.1.3 Nijmegen

5.1.3.1 National legal framework

The interviewees in Nijmegen were mostly unfamiliar with the use of the new Environment and Planning Act, as they were mostly working under the old regime. In addition, market actors were also thought to be inexperienced with it. While Nijmegen #3 foresaw changes through the new legislation, it was argued that it would take time for them to become apparent.

However, interviewees were still able to share some influential factors of the current and future law. Although interviewees were not sure how this would unfold in practice, an increase of legislative power under the new law, as mentioned in Chapter 4.3, was primarily mentioned. In addition to the new Environment and Planning Act, the 'Law Affordable Rent', was also noted to be influential, as

Nijmegen #1 and #2 foresaw a stimulating effect for the use of LVC through the law. It was argued that the law made LVC demands more easy to make, as increased legislative power of implementers, and that regulations would simplify negotiations .

The need for subsidies to make developments commence, was especially apparent in Nijmegen. Interviewees indicated that in many cases, the development of affordable housing, solely with the use of DOs, was limited. Interestingly, interviewees indicated to be able to set affordable housing requirements, DO requirements for the development of infrastructure needed to be limited. Government subsidies were eventually used to fill up this financial gap. According to Nijmegen #4, it was especially difficult to develop inner city developments with the use of DOs, as costs in this area were higher. Therefore, the national political attitude was influential in the process.

In Nijmegen the local political arena exerted influence in a few manners, namely on the basis of: the political importance of the development of affordable housing, and by structuring how much decision power on a project level is with the implementing department.

Interviewees indicated that affordable housing was the most important topic on the political agenda. Importantly, Nijmegen #1 indicated that the priority of affordable housing development had strong implications, as other policies that would require public costs would possibly be sacrificed. Interestingly, Nijmegen was also planning to introduce a local subsidy to stimulate the development of affordable housing, which further highlights its political priority, and the influence of local politics in the wider process.

According to the interviewees, the local economic circumstances were important in a number of ways.

Interviewees noted that profitability of the land for developers, mainly through the price for ‘free market housing’ was largely important, as it was more difficult to get contributions on land that was less profitable. Importantly, Nijmegen #3 argued that larger cities would generally accumulate developer contributions more easily compared to smaller cities, as they experience a larger housing demand. In addition, local building costs were indicated to be important when demanding contributions. Importantly, interviewees indicated that compensation measures for these costs, especially allowing developers to build more volume through increasing the permitted building height, were not always applicable because building costs would rise exponentially.

As a solution to stimulate the development of affordable housing, interviewees in Nijmegen noted that, when they were the landowner, the municipality sold land for a lower land price if developers were willing to develop affordable housing. Furthermore, housing corporations were able to acquire land at a standardized and more favourable land price.

A more detailed elaboration of the results can be found in Appendix 8.4.3.

5.1.4 Summary and comparison

The above presented data has shown several similarities and differences between the researched municipalities.

In general, the collective of institutional contexts that form organisational structures were shown to largely influence all municipalities, as organisation structures were shown to play a large role within many aspects of the implementation process.

In relation to the legal framework, all municipalities indicated that they did not make elaborate use of the new Environment and Planning Act, as municipalities largely still used the old system during the transition period (see Chapter 4.2.1). However, some general takeaways can be distilled from the results. The data mainly vocalised two general perspectives. On the one hand, implementers in all

municipalities believed that the new legal framework would have a limited influence on the ability to accumulate developer contributions. On the other hand, The data underlined the importance of the legislations ideals in relation to LVC, namely, whether it should be used to solely recover costs, and if so, what costs it could recover, and even if its use should be broadened. As was shown, basing legislation primarily on the recovery of costs, may limit the potential to capture LVC for affordable housing. Furthermore, the ability of municipalities to control the outcomes is also largely reliant on the judicial ability to reject developments based on developer contributions and the ability to expropriate developers. As the former has been strengthened under the new Environment and Planning Act, implementers indicated that this would positively influence their position in negotiations.

However, some differences could also be noticed within the data. Interestingly, the way that the national legal framework was influential on the process, was also largely reliant on municipalities' approach to acquire LVC. In relation to this, Amsterdam's more unique method in which it applied LVC by leasing out the land, while staying the landowner, showed to make acquiring of LVC less reliant on public law instruments. The mentioned laws also differed between municipalities. While the topic did not come up in interviews in Amsterdam, both implementers in Utrecht and Nijmegen mentioned the effects of the Law Affordable Rent on the process. Interestingly, whereas implementers in Utrecht highlighted the negative implications of the law, by mentioning developers' financial insecurities leading up to the implementation, implementers in Nijmegen showcased how increased standardization and legal support for their affordable housing goals stimulated contributions and eased the negotiation process.

While public investments would in theory ideally be largely funded by LVC, the interviews however, exposed that this was not always the case in practice. In addition to local subsidies, state subsidies were mentioned by interviewees as a means to stimulate developers to develop of affordable housing. Interestingly, while the topic was mentioned in Utrecht, and even more elaborately in Nijmegen, it did not come up in interviews conducted in Amsterdam.

The local political context was shown to be largely influential on LVC contributions for affordable housing. In the implementation process, this influence was mainly exerted through the decision making power structured between politicians, higher management and implementers, the way in which the development of affordable housing was on the political agenda, and the tools politicians pressed to use to stimulate the development of affordable housing. While many of these factors seemed to overlap between municipalities, some also differed. All municipalities showed that much decision power on the implementation of affordable housing policies laid with politicians, as the topic was high on all political agendas. The political attention for housing policy goals largely influences the willingness of the municipality to adjust policy goals, and therefore, influence the outcomes. Importantly, not only was this shown to be impactful on the direct policies related to the development of affordable housing, so was it to the willingness to adjust other policies within negotiations. As implementing these policies also demands public investments, adjusting related policy goals also affects contributions for the development of affordable housing. Interestingly, political influence was also shown to be exerted through applying local subsidies that fit the political agenda, as Amsterdam and Nijmegen have shown. Especially in Amsterdam, the 'equalisation fund' was indicated to improve the process, as it helped to lift local economic constraints, and balance LVC yields out across the municipality. Interestingly, in Utrecht, political input resulted in the ad-hoc implementation of stricter housing requirements compared to the current policies. While these increased policy requirements could aim to achieve better yields for affordable housing, they decrease internal and external coordination and may result in unclarities, misunderstandings and possible miscalculations in developers' investments.

Local economic contexts were shown to be influential in the process in a few manners: the type of development area, being either green- or brownfield, local building costs, the price volatility in the area, and the general land and/or housing value.

The factors that showed the largest implication in the ability to accumulate DOs between municipalities were the average housing price. Appendix 8.4.4 provides a comparison between the average local housing prices between the researched municipalities. While the average housing prices in Amsterdam and Utrecht also showed differentiation, implementers in Nijmegen, the city with the lowest average housing prices among the three researched, indicated to be able to charge less contributions compared to cities with more housing demand. Crucially, according to the results, implementers indicated that as the housing demand decreases, the ability to charge DOs decreases simultaneously.

As expected, in all municipalities, brownfield areas were indicated to be more challenging to acquire LVC, as these are more expensive to develop in. Interestingly, it was shown that reducing the financial burden for developers caused by developer contributions, could not universally be mitigated by increasing the building volume through building height, as this could make development costs rise exponentially, and would therefore not always lead to increased profit. Crucially, it was shown that while higher land prices can compensate the financially unprofitable development of affordable housing through the production of more valuable 'free market' housing, this could also largely work adversely, as higher land prices could also increase the financial burden of the sector. Furthermore, risk for developers, caused by the local economic context through low land prices and price volatility, was shown to have a negative influence on the process. Importantly however, the provision of a municipal fund, as shown in Amsterdam and Nijmegen, could improve the process by reducing risks for developers and offer them security. Moreover, all municipalities indicated to offer an increased form of security, and incentive, to develop affordable housing by (partially) basing the municipally calculated land value on the land use, resulting in submarket land prices for affordable housing, and offering land to housing corporations for a standardized submarket price.

5.2 Policy content

To answer the research question, it is important to get an insight into the policy goals in of the municipalities in relation to affordable housing. This chapter looks into the policy goals that are set by the researched municipalities, how these development goals may take shape in practice, and how the policy framework may influence the wider process to develop affordable housing with the use of DOs. To do this, the housing and land policy are first analysed per municipality. Herein, the nature of the housing policy, objectives and policy standards (means) are discussed. Importantly, while this chapter offers a brief analysis of these policies, the complete analysis can be found in the Appendix (see Appendix 8.5). After that, the data from the interviews is presented to illustrate how these policies may play a role in practice.

5.2.1 *Amsterdam*

5.2.1.1 Policy goals

The municipality of Amsterdam has 3 main policies that need to be regarded in relation to this research: its main housing policy, the 'Housing development plan', and its land policy.

According to Amsterdam's housing policy, "Housing agenda 2025", the city has three ambitions: to offer enough, affordable, and good quality housing in 2025 (Gemeente Amsterdam, 2017). As the aim of this housing policy is to offer general housing welfare to the broader society in Amsterdam, but also regulates the amount of housing that has to be incorporated in projects, it would be categorized as a distributive and regulatory policy.

Within the Housing agenda's ambitions, Amsterdam regards the development of housing as an important goal. The ambitions include several implementation objectives. The housing policy mentions these as: The city wide housing policy that 40% of the built housing should be regulated (social) rentals, 40% middle priced rentals and owner-occupied, and 20% expensive rentals and owner-occupied ('40-40-20 policy', in short), to develop 1500 middle priced rental units annually, and for housing corporations to build at least 75% price regulated housing. Interestingly, it mentions that housing categories usually contain a set period in which they should remain in the segment. While these are the general guidelines, it can be diverged from under set circumstances, as is mentioned in Appendix 8.5.1.

The municipal land policy forms an important tool to reach these goals. While the municipality can make use of either active or passive land policy, its land policy approach can be distinguished by the broad use of ground lease contracts to apply LVC. Additionally, when it sells the land, it maintains standardized land prices. Interestingly, the municipality of Amsterdam also makes use of an 'equalisation fund' in its policy to balance out the profitability of areas, as mentioned in Chapter 5.1.1.3.

Furthermore, the municipality of Amsterdam collaborates strongly with social housing corporations to reach affordable housing goals. To do this, 'collaboration agreements', containing agreements between the two actors have been made. These agreements contain unique circumstances, such as a sub-market land price for housing corporations that buy land from the municipality.

5.2.1.2 Influence of policy content

According to Amsterdam #3 and #4, the affordable housing policy was the most influential factor in the process to development of affordable housing, with the land policy coming in second place. They noted that although the municipality is possibly willing to diverge from their '40-40-20 policy' when a business case is not feasible, it is usually set in stone. Importantly, this could have two possible influences on the process. On the one hand, it could increase the development of affordable housing, as developers have to commit to the municipalities goals for housing development, and will be less likely to get away with less affordable housing. On the other hand, this may prevent developments from taking place.

Interestingly, there is however some flexibility in the system, as the municipality sets development requirements per area, instead of per plot, and can be diverged from under set circumstances.

Importantly, as the municipality maintains a preferred partnership with housing corporations on the development of affordable housing, the system is made more secure, stabile, and eased negotiations according to interviewees. Furthermore, Amsterdam's land policy was indicated to be strongly beneficial when it came to the development of affordable housing with the use of DOs. Especially the use of the ground lease system gives the city the possibility to exert a strong control over the process of capturing land values, while the ground valuation system, along with its lowered land prices for affordable housing, further stimulates the development thereof according to Amsterdam #5.

Crucially, not only the housing policy was indicated to affect the financial feasibility of projects. Other policies in relation to sustainability or local social amenities, were also mentioned to require either direct or indirect contributions. This larger bundle of policies was indicated to be influential on the feasibility for the developer to achieve the desired development, and therefore on the negotiations. The interviewees mainly indicated that when this bundle of policies made developments not feasible, steps could include the further increase of the allowed square meters to be developed in the land-use plan, or the use of the 'equalisation fund'. Decisively, while a municipality may be able to increase the profitability of the project, by for example increasing the FSI, Amsterdam #5 indicated that this aspect of the project was also recorded in local frameworks, meaning that an increase in developable square meters was also out of the question sometimes. Interestingly, while implementers in Amsterdam mentioned that policies besides the housing policy might be more tailored to the projects, it could be noticed that Amsterdam also has a strict policy approach in these areas.

5.2.2 *Utrecht*

5.2.2.1 Policy goals

In its housing policy, the 'Housing vision', Utrecht indicates that it wants sufficient housing in the municipality, with a financially accessible housing market (Gemeente Utrecht, 2019). Furthermore, there is a strong emphasis on increasing the amount of affordable housing in the social and middle priced segments. In addition, it seeks to provide a well spread distribution of this housing, with a sufficient mix in the housing supply, including appropriate higher segment housing in areas with relatively much affordable housing. As the aim of this housing policy is to offer general housing welfare to the broader society in Utrecht, while also offering regulation for developments, it would be categorized as a distributive and regulatory policy.

Utrecht's housing policy aims for sufficient affordable housing in 2040, including 35% of its stock consisting of social housing and 25% of middle priced housing, while maintaining a rapid pace.

Especially the middle priced category is a point of interest for the municipality, as it has clear ambitions to increase the development thereof.

The municipal land policy forms an important tool to reach these goals. The municipality can make use of either an active or passive land approach. When it sells the land, it maintains standardized land prices. Interestingly, the land policy mentions the general preference of giving out land in full ownership, in comparison to giving it out through ground lease contracts, except for some categories such as social housing.

Furthermore, the municipality of Utrecht collaborates strongly with social housing corporations to reach affordable housing goals. To do this, 'collaboration agreements', containing agreements between the two actors have been made. These agreements contain unique circumstances, such as a sub-market land price for housing corporations that buy land from the municipality.

5.2.2.2 Influence of policy contents

The municipality of Utrecht strongly focuses on the development of affordable housing. Interviewees in Utrecht also indicated that the municipality relatively strictly maintains its housing policy when negotiating with developers. Furthermore, Utrecht imposed a plurality of wider policies on a new development. However, interviewees in Utrecht seemed offer a relatively increased amount of flexibility to negotiate policy targets, as flexibility on policy ambitions was argued to be needed to improve feasibility and allow for developments to take place. Interestingly, this flexibility was indicated to often be tailored to individual developments. For the development of affordable housing, Utrecht #1 indicated that these revaluations could entail negotiations about the requirements for the middle priced rental sector, or social housing, such as housing percentages in areas with a relative oversupply. However, usually the overabundance of policy led to a decrease in requirements for other policy goals, such as demanding less contributions in relation to large scale implementations, e.g. for sustainability.

The land policy was also indicated to have an influence on the development of affordable housing, through affecting negotiations. According to the interviewee, this flexibility in policy offered a positive influence on the affordable housing development. This was for example the case when the municipality used less strict qualitative requirements in areas with high land prices, as affordable housing was increasingly unprofitable there. Besides this factor, the interviewees from Utrecht also noted that their land value calculation method, and collaboration with housing corporations, including their exclusive land prices, were beneficial to the development of affordable housing.

5.2.3 *Nijmegen*

5.2.3.1 Policy goals

Nijmegen's housing policy, 'Uitvoeringsagenda Wonen 2020-2025' emphasizes that it aims to support all target groups (Gemeente Nijmegen, 2020). As the aim of this housing policy is to offer general housing welfare to the broader society in Nijmegen, while also offering regulation for developments, it would be categorized as a distributive and regulatory policy.

Interestingly, Nijmegen's housing and land policies could be regarded as relatively undetailed.

In regard to the development of its housing segments, the city explicitly mentions that it seeks to increase the development of social and middle priced rentals, as well as middle priced owner occupied housing. The municipality explicitly expresses the goal to develop 30% social housing, and

15% middle priced rentals, while also increasing the amount of middle priced owner occupancy. Importantly, while not specified in the above mentioned document, interviewees mentioned the availability of a standardization document for developers that contained development requirements of 30% social rent, 15% middle priced rent, 15% affordable home ownership housing, and 40% free market housing. In addition, the municipality mentions a conservation in the affordable sectors for set periods.

The municipal land policy forms an important tool to reach these goals. The municipality can make use of either an active, facilitative or cooperative approach. When it sells the land, the land price is usually based on the market price, but room is offered in rare cases for exemptions. Interestingly, Nijmegen does not give it out in ground lease or general lease. Importantly, to finance unprofitable developments, the municipality can fund developments with the use of the 'Housing fund', a financial reserve. This can be for either active or facilitative developments.

5.2.3.2 Influence of policy contents

Nijmegen maintains a strict housing policy in relation to the interaction with developers. Furthermore, the municipality also brings other policies into negotiations for developments, such as sustainability. Importantly, interviewees underlined the argument that the amount of policies and the requirements set by the policies have a strong influence on the feasibility of the projects, and eventually may prevent developments from taking place. In relation to this, the interviewee indicated to that make sure affordable housing could be achieved, the focus on this policy needed to be emphasised over others. The rest of the policy fields were indicated to be largely flexible in relation to LVC contributions by the developer, or even fully discarded. This however, highlighted the importance of the municipality's policy to develop affordable housing largely with the use of corporations, as these actors do not aim to make a profit, and are willing to make contributions to projects that might not be profitable.

In relation to the land policy, the approach taken by the municipality was also deemed of influence to the negotiations process. Nijmegen #3 indicated that having the tradition to use active land policy in strategic locations, made the municipality able to achieve societal goals that would not be able through a facilitative approach. Therefore, the importance of a flexible land approach was deemed to be influential on the process. In addition, according to Nijmegen #3 and #4, their policy of offering housing corporations set land prices below a market rate was also deemed beneficial to the process of developing affordable housing.

5.2.4 *Summary and comparison*

The above mentioned data has shown that all researched municipalities apply a mix between distributive and regulatory policy, as they seek to apply general housing welfare, while also incorporating regulation in its policy. The nature of the policy laid the foundation for its contents, and would therefore be deemed largely influential. In addition, while the exact distribution of affordable housing differed between municipalities, all were shown to explicitly focus on the development of affordable housing. Between the three, Amsterdam had the most strict affordable housing policy, followed by Utrecht and finally Nijmegen.

Regarding policy objectives, the data has pointed to various influential factors.

Firstly, the policy structure was shown to be important, as it offers clarity and consistency to stakeholders, and eases the negotiation process. Data has shown that proposing clear affordable housing targets is largely impactful to develop affordable housing, as developers can take these into account at an early stage, and therefore improve coordination and transparency. Therefore, these goals will be less likely to form an obstacle in negotiations. Interestingly, this factor strongly differentiated between municipalities. Amsterdam was the clearest of the three, with a housing policy that contained its development goals, both in terms of numbers and categories. Furthermore, the land policy gave a concrete method by which land prices were calculated. While Utrecht also had a relatively clear housing and land policy, implementers indicated that it offered more flexibility in practice. Offering more flexibility could offer two implications. On the one hand, maintaining policy goals may become more difficult as developers get used to a relaxation of policy, along with possible negative implications caused by a decreased coordination. On the other hand, offering more flexibility may allow for a consideration that better fits the circumstances. In relation to the other municipalities, Nijmegen offered the least clarity, as its housing and land policy offered the least clear goals, land policy approach, and offered relatively much flexibility.

The second impactful factor is the incorporation of, and collaboration with, non-profit housing corporations in the policy. By standardizing collaborations, coordination gets strengthened. Interestingly, all municipalities made use of standardized agreements with housing corporations, which included the sale of land at submarket prices, when the municipality was the landowner. Aiming to develop the affordable housing stock in collaboration with housing corporations was shown to be impactful, as it simplified negotiations by decreasing the amount of developers involved, and involving trusted actors. Importantly, standardizing negotiations with these actors further improved the negotiation process. Additionally, not only does this result in an easier negotiation process, and arguably more developments of affordable housing, but it also proved to boost the durability of housing in the sector. Therefore, it would decrease the need for new developments on a longer term. Thirdly, not only do policies that are directly linked with the development of affordable housing, such as the land and housing policy, influence the process, so do other policies that affect the larger financial feasibility of the project. Incorporating a plurality of policies on different factors, such as sustainability, further influences the feasibility of the project. Importantly, an overabundant accumulation of policies and requirements was therefore indicated to limit the potential to achieve contributions for the development of affordable housing.

Lastly, flexibility in land policy approaches was shown to potentially improve the process. Important herein, is that implementers are able to apply different land policies, and have the optionality to assess what land policy would offer the greatest yields. Mainly the optionality to apply active land policy in formerly facilitated areas can be of great use to stimulate developments. All municipalities made use of an approach in which the municipality can acquire land for active land policy when it is deemed necessary to realise municipal goals in an area.

In terms of policy standards, all municipalities were shown to incorporate the use of LVC as a means to develop affordable housing. However, municipalities did show a differentiation in approach. Amsterdam seemed to have the strongest focus to accomplish its goals through land financing, with Utrecht aiming to use the tool, but offering flexibility, and Nijmegen indicating that although land financing was a desired tool, it was unlikely to be the only financing method.

5.3 Commitment

This chapter presents how commitment to the policy, by implementers, may influence the development of affordable housing with the use of DOs. This is done through assessing how the cognition of the policy, direction of response and intensity of the response influence the implementation process.

While this chapter offers a brief analysis of these policies, the complete analysis can be found in the Appendix (see Appendix 8.6).

5.3.1 *Amsterdam*

In Amsterdam, the influence of implementers' commitment in implementation processes was shown to be mitigated by the power structures in the organisation, through which the direct implementers can only advise the city council to adjust its policy. Therefore, commitment to policy was shown to be limitedly influential. However, commitment was indicated to still carry importance to the accumulation of LVC for affordable housing in two regards. Firstly, by achieving improved yields by sticking to policies. Secondly, by influencing the adjustment of the broader policy package, in line with Chapter 5.2. Therefore, it may be the case that in developments, a strong commitment to one policy, may be at the cost of the policy goals of another.

According to the interviews, all implementers in Amsterdam were highly aware of the applicable policy documents, such as the housing- and land policy documents that were presented in Chapter 5.2. Furthermore, interviewees indicated that their projects contained an 'investment decision', established by the city council, in which the policy guidelines for the development area were determined. As they often used this guideline for the implementation of the project, implementers were also aware of other policies that might be of importance in the development area, such as sustainability.

Generally, the interviewees showed a positive response towards the housing- and land policies. Interviewees seemed to largely enforce the policy goals, and did not quickly diverge from them in negotiations. However, in some cases the universally applied '40-40-20 policy' was deemed to be too general and not financially feasible, especially in brownfield developments. Nevertheless, this resistance was solved by the room for flexibility incorporated in the policy.

Crucially, some interviewees also indicated that the intensity of response could be affected by the willingness of the developer to accommodate the municipal goals. It was noted that if a developer wanted to contribute to the spatial quality of the city, compared to a developer that was solely developing to make a short term profit, implementers were more willing to come to an agreement.

5.3.2 *Utrecht*

In Utrecht, the influence of commitment was also largely mitigated by power structures. However, implementers' commitment was still indicated to maintain some influence.

According to the interviews, all implementers in Utrecht were aware of the directly important policy documents related to the development of affordable housing with the use of DOs.

Although the interviewees were generally agreeing with the housing policy, some concerns were discussed surrounding the implementation of affordable housing and the respective requirements for the middle priced housing development, in relation to the feasibility of the projects. This concern was especially present with the implementation of a relatively large affordable housing segment in the new housing policy. Interestingly, implementers seemed relatively willing to adjust the housing mix, especially the conditions in the middle priced rental sector, to accommodate developments to

commence. However, amidst this flexibility, the possible divergence from the housing policy was marginal due to organisational power structures. Consequently, the commitment of the interviewees in relation to the policy was shown to be less influential.

5.3.3 Nijmegen

In Nijmegen, the same importance of power structures in relation to commitment was found. Therefore, the influence of commitment was found to be limited

According to the interviews, all implementers in Nijmegen were aware of the directly important policy documents in relation to the development of affordable housing with the use of DOs.

Interestingly, implementers in Nijmegen appeared to be relatively critical of policies in relation to their feasibility in developments. As was mentioned in Chapter 5.2.3, Nijmegen #3 noticed that implementing the affordable housing policy would already be financially complicated, and therefore implementing more policies, such as the aim for cost recovery for other public investments would be difficult. Interestingly, while interviewees expressed somewhat critical notes towards the accumulation of policies, they did show a commitment towards achieving the housing policy. However, as the development of affordable housing was prioritized, this was largely at the expense of cost recovery in other policy areas.

5.3.4 Summary and comparison

As the results have shown, implementers' commitment to policy contained overlaps between municipalities, but also distinct differences.

In general, the results presented that the general influence of implementors' commitment is largely reliant on the power structures within the municipality, and the mandate of individual implementors to adjust policy implementation. As the researched municipalities showed, implementers are arguably less equipped with this mandate on topics that are of political importance, and often have to rely on the higher management's decisions. Consequently, as affordable housing was high on the political agenda in all municipalities, the commitment of individual implementers in relation to the housing and land policy was less influential on the process, and implementers largely had to apply policy frameworks approved by higher management. Nonetheless, although the influence of individual commitment could be less prevalent, it is still influential to the negotiation process to some extent. Important herein, is that not only the housing and land policy are influential to the development and negotiation processes, but also the larger policy package. Therefore, commitment may play a larger role in policy areas that are less prevalent on the political agendas.

In all municipalities, implementers cognition of policies seemed sufficient. Interestingly, the direction of response seemed to diverge between municipalities. In Amsterdam, implementers showed to have the strongest response in favour of policies. Notably however, implementers showed that the direction and intensity of response could be related to the intentions of the developer they dealt with. Compared to Amsterdam, in Utrecht, implementers' direction of response towards policies was less accepting, as they seemed to be more willing to adjust the housing mix, especially the conditions in the middle priced rental sector, to stimulate developments. Accordingly, in Utrecht, feasibility concerns caused by strict policy were the main factor influencing implementers' commitment. In Nijmegen interviewees were the most critical of the development feasibility while implementing all the involved policies. Interestingly, whereas Amsterdam mainly showed a strict stance towards adjusting its policies, interviewees in Nijmegen indicated that they often took priority in making a development commence.

5.4 Coordination

This chapter looks into the way that coordination may affect the use of DOs for affordable housing. Herein, it looks at how internal coordination within the examined municipalities, and external coordination between the municipalities and developers/investors may influence the development of affordable housing with the use of DOs.

5.4.1 Amsterdam

The internal coordination in Amsterdam, was indicated to be largely supplied by its strong policy structure, as was indicated in Chapter 5.2. This policy structure, provides the municipality with clear frameworks for implementers. Furthermore, the uniformly strict approach towards maintaining policy frameworks, and frequent municipally wide, meetings with their peers from the department were also indicated to further strengthened the internal coordination by interviewees. While the relatively large organisation size of the municipality was noted by Amsterdam #3 to decrease coordination, the organisational structure, in which a large part of the control is often with the higher management, was indicated to be able to counter this, as it offered structure.

Importantly, Amsterdam's coherent approach, and well organised internal coordination, was indicated to be of positive influence, as Amsterdam #3 mentioned that less coordination and coherence could be exploited by developers, and potentially decrease the development of affordable housing (see Appendix 8.7.1).

For the external coordination, interviewees also indicated the importance of policy. By offering clear and accessible policy documents for development requirements, developers were able to expect development requirements, and negotiations were possibly eased. This was especially the case for housing corporations, as agreements regarding developments had been made collectively. In addition, organising stakeholder meetings with updates regarding the surrounding developments in an area, and the municipal stance towards them, was further indicated to boost external coordination according to Amsterdam #3.

5.4.2 Utrecht

Interviewees in Utrecht highlighted the importance of policy documents, and decision making on a project team basis for securing internal coordination. However, as the higher management at the municipality were indicated to impose requirements that diverged from policy guidelines (see Chapters 5.1.2 and 5.3.2), internal coordination could be decreased. Nevertheless, as higher management imposed much implementations power, it could be argued that although this the new policy was not officially established yet, if applied consistently, higher management control over the policy implementation in developments could still offer the coordination needed to mitigate the previously named negative implications.

Importantly, applying unestablished policies did not only influence internal coordination, it also decreases the external coordination with developers, as the new, and not yet public policy, cannot be accessed by developers. This could lead to incorrect financial calculations, and investments by market actors, which are not compatible with the goals stated by the municipality.

5.4.3 Nijmegen

In Nijmegen, interviewees also noted the importance of policy in coordinating the development of affordable housing with the use of DOs. In addition, an ambition document was set up for every development, increasing both the coordination internally and externally. Furthermore, implementers in Nijmegen also indicated that plans were developed with a team, and had to pass through the

aldermen to be approved. Therefore, the internal coordination was strengthened. Importantly however, interviewees in Nijmegen indicated that while there were guidelines in projects, different implementers were not always going for the same results. While this usually was the case for affordable housing with the use of DOs, other LVC measures would be largely reliant on the course taken by the team of implementers. This would result in different factors being incorporated in projects, such as contributions to sustainability or mobility. Consequently, this both decreases the internal and external coordination.

Interestingly, interviewees mentioned the importance of the Development Contributions Plan as an impactful tool for coordination. Since it offers a set of rules and calculations, structured by law, it is clear to both implementers and developers what costs and incomes they can expect. However, it was also indicated that although it would increase the coordination, this uniform 'one size fits all' principle, might not offer the best results to develop affordable housing. Therefore, although coordination in this case could be increased, it could also come with negative consequences. On the other hand, lesser coordination and more flexibility through anterior agreements was indicated to offer a more case adjusted approach. However, as the boundaries are less set, more negotiations, along with their respective costs are needed.

5.4.4 Summary and comparison

The above presented results all illustrated a relatively similar importance of coordination in the process.

Internally, coordination is important to make sure that implementers are applying the same principles. Importantly, applying these principles is fundamental to the negotiation results, as developers may look to find the most financially beneficial circumstances by exploiting implementation inconsistencies. Consequently, the amount of internal coordination influences outcomes. Crucially, although trying to apply the exact same approach in different projects is not realistic, maintaining a strongly structured policy framework, and establishing supervision for the policy implementation of projects on a wider scale, could strengthen this coordination. Interestingly however, while this supervision could apply further consistency and coherence, case specific interference of a supervising authority could also decrease coordination, and therefore influence the process.

External coordination is also influential in the process, as it shapes expectations and structures the negotiation process. To accomplishing external coordination, communication through personal contact, but importantly, through policy documents is crucial. In addition, forming more fundamental partnerships, in this case mainly with housing corporations, and establishing general development arrangements in agreements, could further be used as a tool to improve external coordination, shape expectations, ease negotiations and improve results.

Importantly, while rigidity could be perceived as a tool to accomplish both types of coordination, too much rigidity may limit the outcome potential. Consequently, a balance should be found between rigidity and flexibility, which offers transparency and coherence, while also being able to adjust to contextual needs.

Amsterdam was shown to arguably have the strongest internal and external coordination, as the municipality offers the most structured policies (see Chapter 5.2), works with development documents, and has a relatively uniformly strict approach towards. Compared to Amsterdam, Utrecht showed to contain an arguably decreased amount of coordination, by using a more divergent policy application by implementers, and the ad-hoc application by higher management of not yet established policy guidelines onto developments. As Nijmegen was shown in Chapter 5.2 to contain the most flexible and most ambiguous policies in relation to the development of affordable housing,

while also indicating to apply policy guidelines divergently, it arguably contained the least amount of coordination, both internally and externally.

Importantly however, all municipalities showed to offer a relatively coherently structured organisational structure, in which higher management had to agree to the policy application in developments. Therefore, a baseline of internal coordination was established. Furthermore, all municipalities strongly increase external coordination by implementing agreements with housing corporations. As municipalities made agreements with these housing corporations, and were in frequent contact with them regarding topics such as the municipal housing goals, and the corporations' stock, trustworthiness was boosted. This was believed to have a beneficial effect on the collaboration and the eventual development of affordable housing.

5.5 Negotiation process

This chapter will go into the influence of the negotiation process, and its accompanying factors, on the development of affordable housing with the use of DOs. As the last chapters have shown negotiations to not only be part of the process surrounding passive/facilitative land policy through Development Agreements, but also in active land policy, negotiations were indicated to be largely important.

To do this, this chapter will firstly go into the factors which have been argued in the policy implementation literature to be of influence on the policy implementation process (Brynard, 2005). The first one includes what actors are recognised by the municipality to be part of the process (recognition of actors involved).

The second is how the municipality involves other stakeholders in the process (inter-organisational relations), and how transparent the supply of information is to other actors (transparency of information).

Thirdly, this chapter will assess the role of negotiation skills. It will start off with the recognition of actors and interorganisational relations. Then it will go into the transparency of information. After that it set out an additional aspect to the framework. Before presenting how different factors of implementers' skills could influence the negotiation process, it needs to be analysed if, and where, implementers could employ these skills to influence the process. Therefore, this this paragraph will go into the influence of individual implementers on the process, while also assessing their preparation. Afterwards, this chapter will go combine two indicators from Bobot's (2008) framework, by looking at the ability to separate people from problem and centralise objective criteria, as these appeared to be largely connected in the data. Importantly, as explicitly structuring and questioning respondents about these indicators in interviews would have influenced them, they were often implicitly involved. After that, the chapter will again combine two indicators from Bobot's (2008) framework, by looking at the amount of focus on interests and positions of stakeholders and the ability to invent options for mutual gain, as this research argues that the ability to invent options for mutual gain strongly correlates with the implementer's focus on the interests and options of stakeholders. Lastly, it will look at the way time is recognized as a resource and how.

Importantly, while this chapter presents a brief presentation of the results, the extended version of these per municipality, can be found in Appendix 8.8.

5.5.1 *Amsterdam*

5.5.1.1 Recognition of actors involved in the development process and inter-organisational relations

Interviewees in Amsterdam indicated that there were three 'sides of the table' that needed to be recognised: the municipal actors, actors that are executing the actual development, and society.

As was mentioned in earlier chapters, the municipality of Amsterdam maintains a relatively strict policy approach. Therefore, it applied relatively much focus was on the involvement and coordination of internal actors. Interestingly, it was shown to be influential on the development process who and how municipal workers that were more involved in the actual negotiations with developers, recognised and involved other municipal actors. Intriguingly, this does not only show that the negotiation process starts at 'the table', but that there is also an internal negotiation process going on.

Importantly, as municipal policies were shown to be largely unnegotiable, external actors were limitedly involved. Especially involvement in adjusting implemented policies was relatively marginal, as actors were mainly involved through being informed about policy goals. Furthermore, the amount of actors was also limited. In relation to this, Amsterdam #2 indicated that involving too many actors could make the negotiation process increasingly complex. Importantly, while little external actor involvement took place, interviewees argued that the land positions of the municipality and the type of LVC instruments used, contributed largely to the acceptance thereof. In spite of this, interviewees argued that involving actors to some degree, in this case by informing them, can offer clarity, mutual understanding, find outcomes, and possibly ease the negotiation process. Therefore, interviewees advocated the involvement of actors to at least some degree.

Importantly, housing corporations were, again, taking in a special role in this regard. As mentioned in earlier chapters, the municipality works in strong collaboration with housing corporations. Significantly, the municipality did not only recognise these corporations as involved actors in separate developments, but also involved them as influential actors in the policy process, as was mentioned in Chapter 5.4.1. This high amount of involvement in the policy process, and the forthcoming agreements, eventually led to a standardized and simplified negotiation process.

5.5.1.2 Transparency of information

Interviewees in Amsterdam indicated that providing transparency was important to ease negotiations. Interviewees indicated to mainly provide the developing actors with transparency through policies. Furthermore, this was also done with the use of specific development related frameworks. Commonly, this information was publicly accessible online. Furthermore, developers were also supplied with a development area-based bundle containing the applicable documents, referred to as the 'starters package'. According to interviewees, the transparency of policy was therefore high, and developers could take these into account when acquiring the land or approaching the municipality with a plan. However, according to Amsterdam #1, this transparency was decreased due to an increase complexity of information in the policy. Consequently, this lowered the transparency of the policy, could lead to unforeseen outcomes for developers, difficulties in the negotiations and eventually, a possibly negative impact on outcomes.

Regarding the transparency of market actors, interviewees indicated that the process was often relatively untransparent, and that they often had to rely on own estimations, especially in relation to financial circumstances. Importantly, Amsterdam #1 noted that getting transparency in this regard was influential to the negotiations, as the municipality often wanted to collaboratively find solutions to make developments commence, but needed financial data to do so. Controversially however, financial transparency by a developer was not always indicated to be beneficial. Interviewees revealed that the substance of the financial data could often be moulded by providers to underline aims, and steer negotiations into the wanted direction. This was indicated to be often done by showing a negative business case. Amsterdam #3 pointed towards the importance of implementers to recognise if data is actually a transparent representation of reality.

5.5.1.3 The influence of individual implementers and effective preparation on the process

Implementers in Amsterdam indicated that their influence was limited in a few regards. As the previous chapters have highlighted, Amsterdam applies a relatively strict policy regime and relatively top-down power structure, through which adjustments of policies are largely overseen by the city council and higher management. This limits the individual influence of implementers. Furthermore,

not only were policy adjustments in negotiations stated to be based on the judgement of higher management, it was also reliant on the project team, and other teams (in)directly related to the project, such as those making policy. This further reduces the amount of influence exerted by individual implementers. However, implementers were able to exert influence in a plurality of ways: through knowledge of policy, through advising, by adjusting quality requirements, and by communicating.

As many actors were involved in the implementation process, interviewees indicated that effective preparation was not only the skill of one individual implementer, but that of the collective. Significantly, internal preparation, communication and coordination to form a plan were indicated to be the most important factors to effectively prepare negotiations.

5.5.1.4 Ability to separate people from the problem and centralise objective criteria

As was mentioned in the last paragraph, a relatively strict policy regime and relatively top-down power structure, gave structure to the interaction between implementers and market actors. Accordingly, these structures were shown to provide some standardization and decreased the need for individual implementers to be able to separate people from the problem and centralise objective criteria. However, as negotiations involve more fluidity and interaction, relationships were still shown to affect the process. Importantly, Amsterdam #2 indicated that the way actors at the 'table' viewed each other was crucial to the negotiations.

5.5.1.5 The amount of focus on interests and positions of stakeholders, and the ability to invent options for mutual gain

Amsterdam's strict policy framework, and the indication that developers largely have to comply with these policies, would suggest that the municipal implementers emphasize their own interests, compared to those of other actors. However, this was not completely the case. Although there was relatively much focus on internal interests, interviewees also recognized the impact that these policies had on the profitability of developers.

Crucially, interviewees stated that collaboration was essential in the negotiations process, as both actors needed each other to make the development happen. Therefore, searching for mutual gain was essential to establish this collaboration. Here, an in Chapter 5.5.1.5 mentioned aspect was stated to be detrimental, as trust and imagery were fundamental to a good collaboration. Furthermore, not only did focussing on the interest and positions at the 'negotiation table' enhance the negotiation process, so did thinking along with the indirectly involved stakeholders, as was mentioned in Chapter 5.4.1. All these factors were indicated to ease the negotiation process. However, stating a limit and focussing enough on own goals was indicated to also be influential on outcomes. Interestingly, Amsterdam's landownership positions, and use of LVC allowed for a stronger position to make demands and accomplish its own objectives.

Interestingly, focussing on interests and positions of developing actors did not only entail understanding the process and process circumstances that these developments were involved in, it also meant understanding what kind of actor they were dealing with, and what their goals and aims were, to determine a strategy from both sides.

One exemption on the explained municipal workings were, again, housing corporations, as their goals largely aligned, and elaborate time was spent on achieving mutual gain. The outcome of this was the before mentioned 'collaboration agreements', which were seen as a cornerstone by respondents for the affordable housing development in the municipality.

5.5.1.6 If time is recognized as a resource and how

According to Amsterdam #3 making a planning and setting the framework was important to ensure (financial) clarity. Furthermore, Amsterdam #4 noticed the importance of time in making these agreements and planning, as a developer could take it into consideration for the financial calculations of the development. Furthermore, time was indicated to play another role, as market circumstances were able to change with time. This could both enfold positively or negatively for the municipality and/or developer. Therefore, the importance of timely adjustments to the land prices were emphasised, as this would prevent the municipality from missing out on the capture of increased values, while ensuring more financial security for developers when prices moved either way. Lastly, taking time in negotiations was indicated to be labour intensive, expensive, and possibly able to reduce the feasibility if much time was taken.

Consequently, it was stated to be important to timely make clear, time-based frameworks, with expected completion times. This can deliver a balance between giving financial security and maximizing LVC.

5.5.2 *Utrecht*

5.5.2.1 Recognition of actors involved in the development process and inter-organisational relations

Interviewees in Utrecht mainly recognised the involvement of four actors: the state, the municipality actors that are executing the actual development, and society.

As Utrecht maintains a relatively strict policy framework, the focus was shown to be relatively heavily on internal actor involvement. However, although the municipality largely maintained their policy goals relatively strictly, it did offer an amount of policy flexibility. This seemed to entail a larger role, and need for, the involvement of external parties.

Utrecht #1 pointed out the importance of a external actor involvement. According to the interviewee, a decreased involvement of developers into housing policy adjustments, could lead to dissatisfaction, and had a negative effect on the collaboration between the two. Importantly, housing corporations in Utrecht fulfilled a special role, as was mentioned in Chapter 5.4.2, and were involved in an increased manner.

Interestingly, according to Utrecht #2, the importance of landowner positions and LVC tools used, along with their respective power position for the municipality, were indicated to be an important factor in relation to the accepted form of involvement by actors.

5.5.2.2 Transparency of information

Utrecht provided developing actors with transparency through publicly available policies. However, as was mentioned in Chapter 5.4.2, the municipality occasionally made use of the not yet established housing policy, leading to a decreased transparency for developing actors.

Interviewees in Utrecht also noted the importance of transparency in the negotiation process in relation to possible collaborative solution finding. Interestingly, Utrecht #2 noted that trying to

simplify negotiations, by decreasing the amount of stakeholders at the 'negotiation table', through arranging multi actor representatives, may shift communication behind close doors, and therefore limit transparency, and the capacity to find solutions (see Appendix 8.8.2.2). Furthermore, interviewees in Utrecht also indicated that subjectivity, through the idea of trust, and distrust was largely influential in the negotiation process.

5.5.2.3 The influence of individual implementers and effective preparation on the process

Implementers' influence in Utrecht was limited in a few regards, as the municipality applies a relatively strict policy regime and relatively top-down power structure, through which adjustments of policies are largely overseen by the city council and higher management. In addition, decision making was stated to mainly take place in project teams.

Although their individual influence appeared limited, implementers were able to exert influence in some ways. This was mainly through being able to advise the municipal actors that made decisions, to adjust policies in relation to affordable housing, such as implementing more affordable owner-occupied housing instead of rental houses.

As was indicated in the aforementioned part, many municipal actors were involved in the development process. Therefore negotiations were largely prepared collaboratively. Furthermore, as these negotiations often take years, it is not a one and done preparation, but an iterative process, which is adjusted constantly. Consequently, interviewees indicated that this was not only the skill of one individual implementer, but that of the collective.

5.5.2.4 Ability to separate people from the problem and centralise objective criteria

As was mentioned at the introduction of the paragraph regarding this dimension, actively questioning interviewees about the use of these indicators would have influenced the answers given. Therefore, this was not done, and answers were often more implicitly given. In Utrecht however, these indicators were not brought up.

5.5.2.5 The amount of focus on interests and positions of stakeholders, and the ability to invent options for mutual gain

Utrecht maintains a relatively strict and rigid policy framework. Hence, a relatively strong focus persisted on the municipality's own interests. However, municipal workers were also shown to focus on the interests and positions of developers. Focussing on interests and positions by looking for collaboration through mutual gain was deemed inevitable to be able to achieve successful negotiations. Importantly, within this balance of interests, interviewees indicated that not only looking for mutual aim was crucial, so was guarding the own boundaries.

In Utrecht housing corporations were the exemption to municipal procedures with market actors, as the municipality and the corporation had a bond of trust, and spent elaborate time on achieving mutual gain.

5.5.2.6 If time is recognized as a resource and how

In Utrecht, interviewees indicated that in the development process, the factor of time was important in two ways. On the one hand, keeping the pressure on a project was thought to stimulate the progression of negotiations, as a deadlines had to be met. On the other hand, taking time was believed to make sure the most contributions could be achieved, as the municipality would simply stall negotiations when prepositions did not meet expectations.

5.5.3 *Nijmegen*

5.5.3.1 Recognition of actors involved in the development process and inter-organisational relations

Interviewees in Nijmegen mainly recognised the involvement of four actors: the municipality, the state, actors that are executing the actual development, and society.

Nijmegen maintains a relatively strict housing mix policy. When aiming to achieve their affordable housing development goals, the municipality mainly involves market actors through informing them about the development requirements. However, in negotiations, developing actors were indicated to be involved in filling in the further details of the projects, such as housing size.

Importantly however, Nijmegen #1 and #2 both indicated that having strict policy, and being largely in charge of the frames of the project, could on the one hand make sure all aims and needs could be accomplished, while it could limit the feasibility of the project on the other hand. Furthermore, interviewees in Nijmegen also emphasised the influence of land positions on the implications of actor involvement (Appendix 8.8.3.1).

Furthermore, housing corporations fulfilled a special role in Nijmegen. Interestingly, while the strong involvement and collaboration between the municipality and housing corporations was shown to be beneficial in some development processes, their unequal involvement compared to other actors, could affect the relationship between the municipality and other actors negatively, as other market actors were mentioned to bring these agreements up for discussion in negotiations.

5.5.3.2 Transparency of information

Nijmegen mainly provided developing actors with transparency through publicly available policies. Land positions were shown to be influential herein, as transparency was mentioned to be increased when stating clear demands for land sales. In addition, negotiations seemed to be positively influenced by a standardization of requirements, as requirements became clearer.

Interviewees in Nijmegen noted that developers were usually not transparent, especially when it came to the financial motivation of their arguments. Significantly, it was argued that transparency was fundamental in solution finding between developers and the municipality, as the municipality had difficulties collaborating if financial motivations were insufficiently given. Furthermore, giving insights into the development process, and the progression thereof, was also indicated to be important, as this created more trust and willingness to cooperate.

5.5.3.3 The influence of individual implementers and effective preparation on the process

Implementers' influence in Nijmegen was limited in a few regards, as the municipality applies a relatively strict policy regime and relatively top-down power structure, through which adjustments of policies are largely overseen by the city council and higher management. Furthermore, as

developments were indicated to be organised by project teams, this individual influence further decreased.

Although individual implementer's influence was indicated to be limited, interviewees indicated their influence in a few manners. This was by being able to advise actors higher in the organisational hierarchy in their decision-making, being able to influence the physical design requirements of the development and their according contributions for e.g. public spaces, but also through communication. Herein, communication with actors was deemed to be especially important, as inter actor relations were indicated to possibly shape the willingness of an implementer to cooperate. However, as was stated in the last paragraph, interviewees indicated that subjective interpretations of situations were influencing their decisions. In addition, as implementers are able to advise other actors within the organisation, the emphasis of an implementer, such as the focus to make a development commence promptly versus the emphasis on achieving the highest contributions possible, could provide different outcomes.

As was indicated in the aforementioned part, many municipal actors were involved in the development process. Therefore negotiations were generally prepared collaboratively. Furthermore, as these negotiations often take years, it is not a one and done preparation, but an iterative process, which is adjusted constantly. Consequently, interviewees indicated that this was not only the skill of one individual implementer, but that of the collective.

5.5.3.4 Ability to separate people from the problem and centralise objective criteria

In Nijmegen, the policy regime and organisational power structure was shown to largely structure interaction between actors, and decrease the need for individual implementers' abilities to an extent. Interestingly, not only housing policy played a role, as Nijmegen #1 indicated the importance of land policies and the LVC tools that were being used. While the municipality could exert more control using active land policy, developments with many actors could sometimes be more easily shaped into an integrated project by market actors, with the use of facilitating land policy. Accordingly, the interviewee indicated that the land policy used, was based on the means to get the best results, not by the means in which the municipality could exert the most control. Consequently, focusing more on the final objectives, instead of the actor relations, was emphasized by the interviewee.

However, as was stated in the last paragraph, interviewees indicated that subjective interpretations of situations were influencing their decisions. Factors such as actor relations and transparency were indicated to affect the process.

5.5.3.5 The amount of focus on interests and positions of stakeholders, and the ability to invent options for mutual gain

Nijmegen maintains a relatively strict policy framework. The municipality applied a relatively large focus on its own interests, as housing goals were generally indicated to be a requirement for a developer to comply with. However, implementers also pointed to a focus on the interests and positions of developers, as they actively thought along with developers to make developments commence. Consequently, implementers applied a relatively large amount of policy flexibility. Interestingly, this depended on land positions, as the municipality applied a stricter policy approach on its own land.

In Nijmegen housing corporations were the exemption to municipal procedures with market actors, as the municipality and the corporation had a bond of trust, and spent elaborate time on achieving mutual gain, which resulted in the collaboration agreements.

5.5.3.6 If time is recognized as a resource and how

Interviewees in Nijmegen mainly indicated their attention for time to be related to politics. As a project takes relatively much time, it was recognised that the focus of politicians, could change on a local, but also national scale. This could make the project come to a halt and require renegotiations, along with the according financial implications. While time, and its effects were an important factor to recognise, it could be argued that this involves not only the skill of an implementer, but of the larger project team, and even the organisation.

5.5.4 *Summary and comparison*

The negotiation process is a complex process in which many aspect exert influence, as the previous paragraphs have shown.

In terms of actor recognition and involvement, this chapter showed that power relations, LVC and legal frameworks, but also the organizational structure were found to be largely influential on the negotiation process, and final outcomes in relation to the development of affordable housing with the use of DOs. Internally, the organisational structure largely determines how internal recognition and involvement influences the negotiation process, as power relations exist in the organisation. While not all of these actors are directly at the 'negotiation table', they can still largely exert influence on the process. Accordingly, it was found to be beneficial for negotiations when implementers recognise influential actors at an early stage. Importantly however, the amount of actor involvement that is required in the negotiation process is dependent on the legal framework, and LVC method used, as they largely determine actors' control over outcomes. The data showed that when Dutch municipalities held much authoritative control over the land, mostly through landownership or ground lease methods, external actor involvement was deemed less influential, compared to facilitative projects. Lastly, the municipal policy approach, in terms of goals and rigidity of their compliancy, is important to determine the possible flexibility in the process, but also the results of actor involvement. Crucially however, while control was shown in many cases to benefit accomplishing policy goals, it could constrain developments and their contributions. Interestingly, doing the opposite, namely strongly recognising and involving actors, proved to be largely beneficial to the negotiation process, as was shown by the collaboration between the municipality and housing corporations.

In terms of actor recognition, the municipalities had a relatively similar approach, apart from the fact that implementers in Amsterdam did not mention the involvement of the State in the process. While the municipality of Amsterdam offered the least actor involvement in relation to adjusting the frameworks, due to the focus on own goals, strict policy and its compliance, it did show to have the most elaborate system to engage with actors. This was mainly the case through the availability of policies, and actor communication. While Utrecht also used a relatively strict policy regime, its regime offered more flexibility, and therefore, more space for actor involvement to negotiate. However, while this form of actor involvement was increased, informing through policy and communication seemed to be slightly decreased in comparison to Amsterdam. Interestingly, these fundamentals were further

exacerbated in Nijmegen, as it offered the most negotiation flexibility, but the least clarity through policy.

Transparency of information was shown to be a large influencer in the negotiation process. From the municipal side of the process, offering transparency at an early stage, mainly through policy documents, was shown to make developers able to take municipal goals into account when anticipating their business case. Furthermore, staying in close contact with developers, and communicating about municipal intentions and desired outcomes, further improved this process. Some factors on the other hand, were shown to decrease the transparency of information and possibly make the negotiation process more difficult. Less clear policy, through the lack of publicly available policy, or the divergence thereof, was shown to be decreasing the transparency of information. Interestingly, while transparently presenting policy goals was indicated to be of positive influence to the process, it would only largely be the case when the contents of the policy were actually understandable. Importantly, presenting largely complex policies, makes them harder to understand, often requires expert knowledge, and therefore decreases transparency. From the developers' end, transparency was indicated to be a delicate aspect, as implementers largely indicated the absence thereof. In general, transparency, especially in a financial sense, was found to be often beneficial to the process, as it could improve collaboration. Remarkably, the importance of transparency from developers towards municipal actors, was often based on the softer aspects of sincerity and trust. While opening up information about a business case could improve the mutual understanding, and possible collaboration, it could also result in distrust. Crucially, transparency of information can, instead of improving the process, therefore also lead to distrust between actors, harden positions, and negatively influence the negotiation process. As was mentioned earlier, in this regard, Amsterdam offered the most publicly available and detailed policies, followed by Utrecht, and Nijmegen after that. However, Amsterdam's transparency was also decreased in some regards, as it provided the most complex policies, especially in terms of its land policy.

Through being able to apply implementers' own influence on the process, implementers' skills were deemed to be influential on the process. Exerting this influence however, was largely reliant on the organizational structure of the municipality, political attention for topics involved in the process, and strictness of policy application. Herein, it was shown to be important how the power balance for the decision power to adjust policies is organized. This involved emphasising a decision-making role for higher management or implementers, but also how power is balanced within a project team. Interestingly, political influence is largely involved in this structure. Furthermore, the municipal policy approach was also shown to be essential to regard. Importantly, while Bobot (2005) noted effective preparation as an implementers skill, the (in)direct involvement of many actors in a project, and project longevity, indicated that development preparations are not only reliant on implementers' skills, but of that of the collective, and are not measurable in a moment in time, but spread out over time. While these factors would point to the large reduction of an individual implementers' influence on the process, implementers' advise on the adjustment of policies, could direct projects into certain solution paths based on their assessment and prioritization. Furthermore, as policies are interrelated in the development process, implementers were shown to exert more influence on the process through policy adjustments that contained less political attention. Importantly, as implementers were shown to be able to influence the process, the importance of personal skills and decision making was highlighted.

As all municipalities used a relatively strict policy regime, and organisational structure with decision power regarding policies being relatively situated at the top, while also guiding developments with the use of a project team, individual implementers' influence was limited. However, as Amsterdam

showed to offer the most strict policy regime, implementers' influence there seemed to be the lowest, followed by Utrecht, and finally Nijmegen. The impact and structuring of preparation skills were found to be relatively similar across municipalities.

As individual implementers are able to influence the process, and implementers' subjectivity was shown to affect the process, the importance of the ability to separate people from the problem and centralise objective criteria was shown. Mainly structuring the process to negate subjectivity, largely through the use of policy, by making them transparent and sticking to them, was shown to be able to standardize objectives, structure negotiations, smoothen the process, and negate the influence of interactor relations. Furthermore, focusing on end goals and the means to get there was indicated to be important. However, importantly, while the data indicated that objectivity was efficient to reach results and negate undesirable aspects of subjectivity, an argument could also be made for the importance of subjectivity, as trust was also indicated to be able to stimulate collaborations and positively affect negotiations. Building further onto these relations, focusing on stakeholders interests and positions, and finding an option for mutual gain by implementers, was shown to be influential in the negotiation process. Herein, actor recognition by implementers showed its importance, as actors may contain different strategies and financing methods. While some of the data pointed to the benefit of objectivity through standardization, offering some form of flexibility to be able to think along with other actors was shown to ease the process. Interestingly, while collaboration was deemed influential to the process, so is guarding the own goals and boundaries. Interestingly, being able to enforce policy goals, was shown to be largely accommodated by legislative frames and LVC tools used. Remarkably, exerting control through the use of LVC tools, mainly ground lease, could be beneficial to achieving own goals, while exerting too much control, through for example expropriation, could offer negative effects on the process, and quality of the project.

The aforementioned strict policy and organisational structure in all municipalities resulted in a relative centralisation of objective criteria. However, as mentioned before, this structure was the most apparent in Amsterdam, and the least in Nijmegen. However, the organic nature of the results in regards to this indicator led to them not being mentioned in Utrecht. Importantly, while all municipalities mentioned their focus on the interests and positions of stakeholders, the mentioned structures also largely indicated the amount of flexibility that could be given in a municipality according to their interests. Interestingly, as Nijmegen offered the most policy flexibility, and was the most focused on making developments commence, compared to strictly following policy and the LVC contributions needed to realise them, showed that this municipality took the interests of developers more into account than other municipalities.

Time, and the recognition thereof by implementers, was also found to be influential. Time was found to be important in a financial sense, as land and development costs may change, but also in a political sense, as the political regime might change over time. In the former, offering financial security, mainly in terms of land prices, was indicated to be important in the process. However, while this is largely recorded in the land policy, and the role of the individual implementer here is limited, taking the timeline into account may still limit fluctuation and increases actors' security. In the latter, the same fundamental role of time in relation to fluctuations in the political process applies.

While in Amsterdam and Utrecht, implementers mostly related the importance of time in relation to financial implications, it was mostly related to the importance of the political agenda in Nijmegen.

5.6 The development of affordable housing with the use of DOs

To understand how the policies for the development of affordable housing are being achieved with the use of developer obligations (DOs), and what factors might be of influence in the process to develop affordable housing with the use of DOs, it is important to identify how they are put to practice. This will be done by presenting interview results on what DOs municipalities make use of to develop affordable housing, after which a comparison between the potential of the tools is also given. After that, this chapter will provide descriptive data on how affordable housing has been developed in the researched municipalities over time. This is done by presenting descriptive data for the housing stock and production per municipality over the last few years.

Importantly, while this chapter presents a brief presentation of the results, the extended version of these per municipality, sorted by the use per LVC form, can be found in Appendix 8.9.

5.6.1 *Amsterdam*

5.6.1.1 The usage of DOs

Amsterdam has a relatively unique approach to the use of LVC for affordable housing, as it the municipality owns a relatively high amount of own land (See Figure 4) compared to other Dutch cities. Importantly, whereas other cities might use the sale of land to accumulate income, the municipality of Amsterdam mostly makes use of ground lease contracts to ‘give out’ land, usually for a duration of 50 years. Appendix 8.9.1 contains further information on how the use of these ground lease structures are formed, also referred to by interviewees as the ‘Amsterdam method’. However, as some parts of the city are owned by private land owners, interviewees indicated that the municipality in some cases, also makes use of Developer agreements or Development Contribution Plans. Interestingly however, none of the interviewees had experience with working on areas with developers’ own land (see Appendix 8.9.1). Yet, although the municipal workers did not work on many projects with developers’ own land, and land prices within the ground lease system are determined by the land policy, implementers still indicated to be involved in negotiations, as additional, ‘voluntary’ contributions had to be negotiated before adjusting the land-use plan. Remarkably, implementers in Amsterdam indicated that N-NDOs in the form of Development Contribution Plans and Profit tax were rarely being used.

Additionally, as not all land exploitations were able to accumulate a sufficient amount of LVC to finance the desired housing requirements, the municipality made use of a local subsidy in this case, as was mentioned in Chapter 5.1.

Crucially, according to the interviewees, the ‘Amsterdam method’ was largely important to the perceived municipal success to develop affordable housing with the use of LVC. Being in control of the land was indicated to be beneficial to reach policy goals, as it offered more steering and persuading capacity. Furthermore, by keeping a grip on land prices after the land was ‘given out’, the steering capacity was indicated to continue, and contributions were able to be accumulated, even after the initial development of the land.

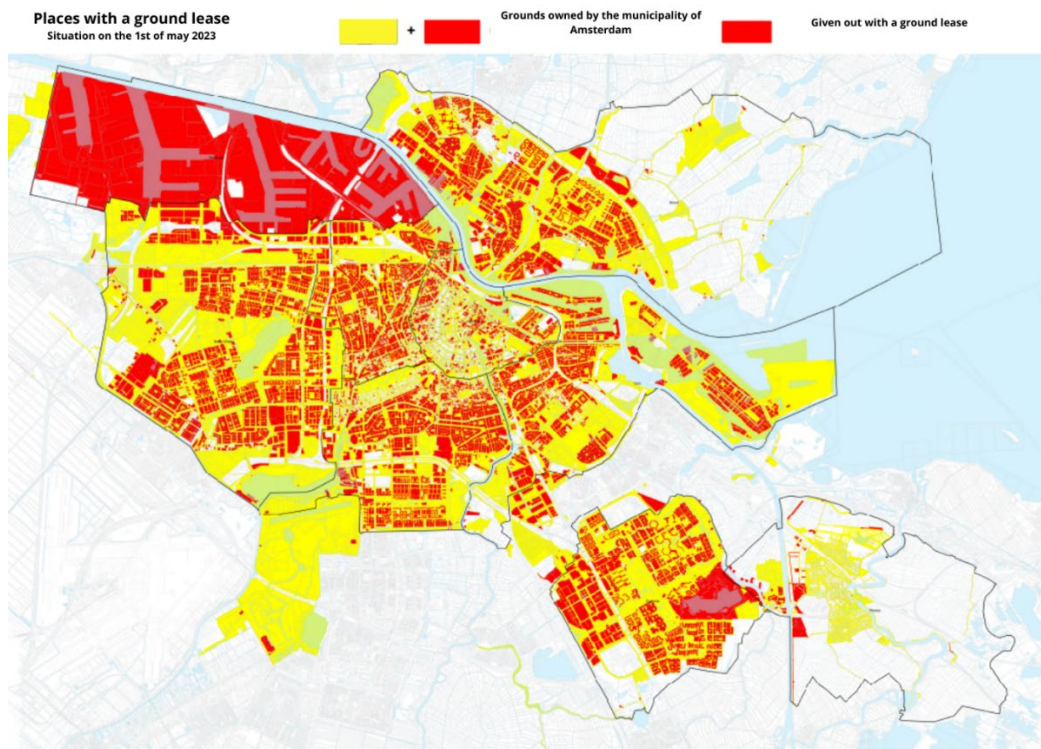


Figure 4: Land with leasehold in Amsterdam, Source: Gemeente Amsterdam, 2023

5.6.1.2 Affordable housing stock and housing production

Between the three municipalities, Amsterdam offers the most elaborate data for its housing stock and production, based on ownership and price segment, as is presented below.

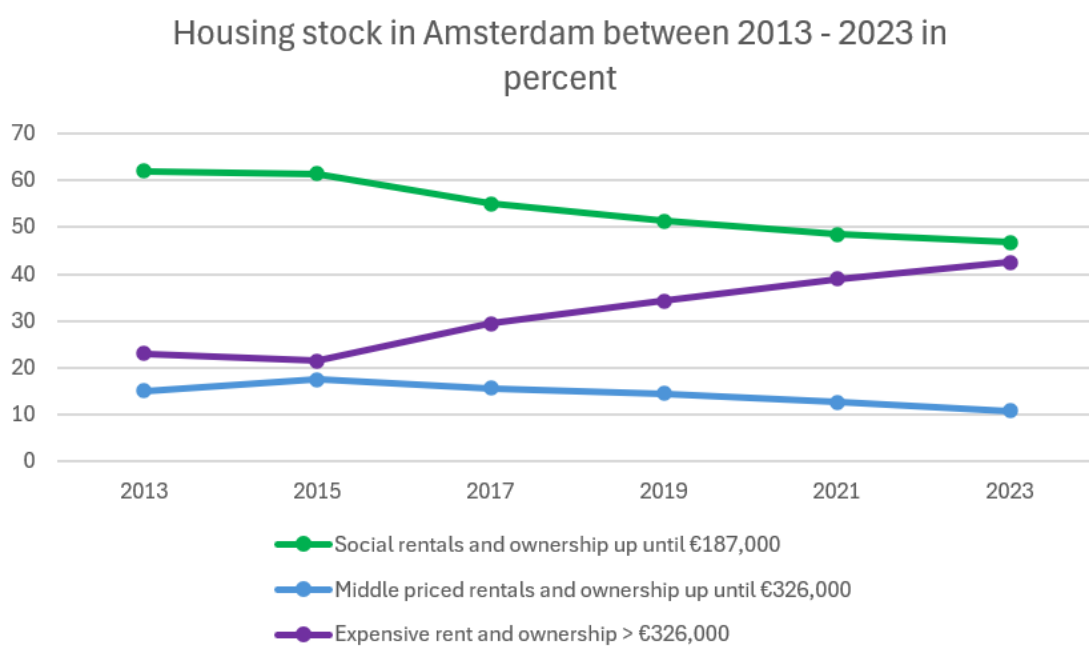


Figure 5: Housing stock in Amsterdam between 2013 - 2023, Source: Gemeente Amsterdam (2024)

Amsterdam has, as Figure 5 shows, seen a relatively steep decrease in its affordable housing stock, comprised of both social and middle priced dwellings, at the cost of the growing expensive housing sector. Furthermore, while the share of the middle priced housing stock has seen a decline, the lower priced affordable housing has experienced an even steeper one. Important to note, whereas the other municipalities' data makes a differentiation between affordable rent and ownership, Amsterdam's data does not. Therefore, it cannot be concluded whether this decline in affordable housing is based on the rental or owner occupied sector. While this wider trend is interesting to observe, housing stock developments entail many factors besides the development process, which is the focus of this research. Therefore, the development process is observed through the housing production data in Figure 6.

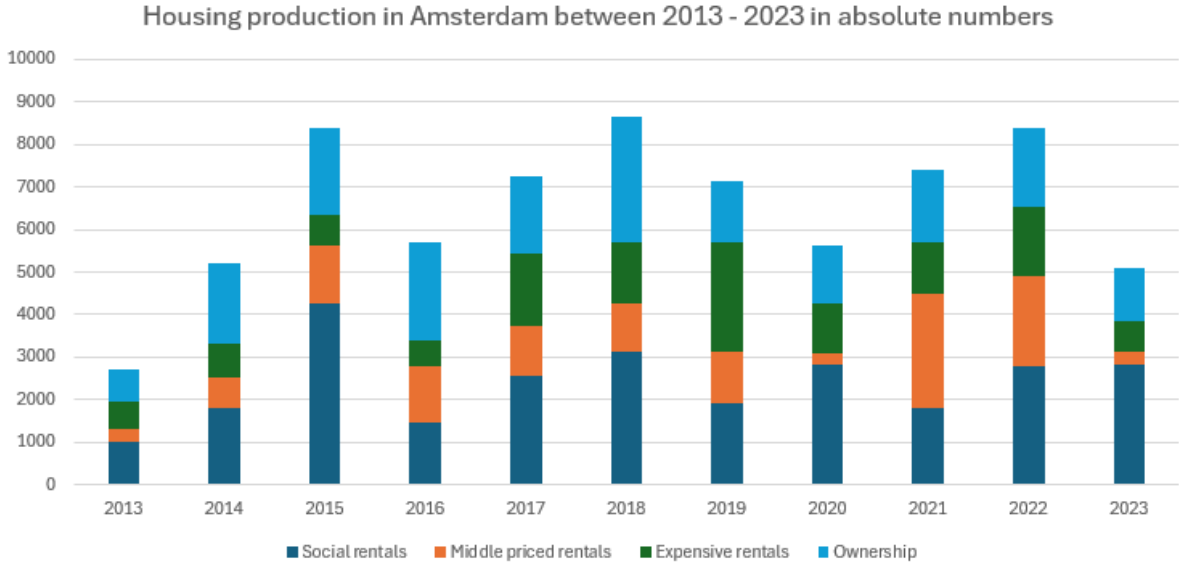


Figure 6: Housing production in Amsterdam between 2013 - 2023 in absolute numbers, Source: Nul20 (2024, August 8)

Figure 6 shows the housing production in Amsterdam between 2013 and 2023. Although the data offered by the municipality of Amsterdam does not offer a further substantiation of its ownership based on affordability, some clear trends can be observed. In general, it can be observed that Amsterdam has a relatively large housing production. Furthermore, while some fluctuations persist between years, and the ownership data is not specified by price category, it can still be noted that a relatively large share of the municipality's housing production consists of affordable housing.

5.6.2 Utrecht

5.6.2.1 The usage of DOs

Interviewees in Utrecht worked on projects with a different actor set, as their projects contained a mix of municipal- and privately owned land. Furthermore, the projects that the interviewees worked on were largely overlapping. Therefore, this needs to be taken into account when analysing these results.

Interviewees in Utrecht indicated to mainly make use of the 'sale' of land, and/or NDOs in the form of Development agreements.

While Utrecht used to give out land in full ownership in past years, interviewees indicated that Utrecht currently reverted back to their older use of ‘giving out’ land through ground lease structures. However, ground leases were indicated to entail an indefinite period. Appendix 8.9.2 contains information on the exact structure. Importantly, interviewees argued that working with own ground, and giving it out through a ground lease was perhaps more functional when capturing land values, as it was mentioned to provide more municipal steering power, and reduces complexity. This latter was mainly mentioned to be the case because financial factors, such as the buying price of the land, did not have to be separately taken into account in negotiations, and LVC is standardly applied through ground lease contracts, when the land-use plan needs to be altered to accommodate a development.

Interestingly, interviewees in Utrecht had much experience with the use of NDOs, as they frequently interacted with land that was owned by developers. Interviewee #1 noted that these agreements, especially in the anterior form, were the preferred way to apply LVC when working with non-municipal grounds. Although the anterior agreement was mentioned as the preferred one, interviewees noted that it was not out of the question to use a posterior agreement. However, it was indicated that this was usually only used to make further arrangements to an already existing Development Contributions Plan. However, none of the interviewees had experience making a posterior agreement. Furthermore, while N-NDOs, in the form of a Development Contributions Plans were mentioned to have been used in the past, none of the interviewees had experience with using them.

Crucially, as LVC was not always completely able to fund policy goals, interviewees indicated the municipality had to rely on national subsidies to some extent (see Chapter 5.1).

5.6.2.2 Affordable housing stock and housing production

In comparison to the other municipalities, Utrecht offers the least publicly available data on its housing production. However, some general trends can still be observed here.

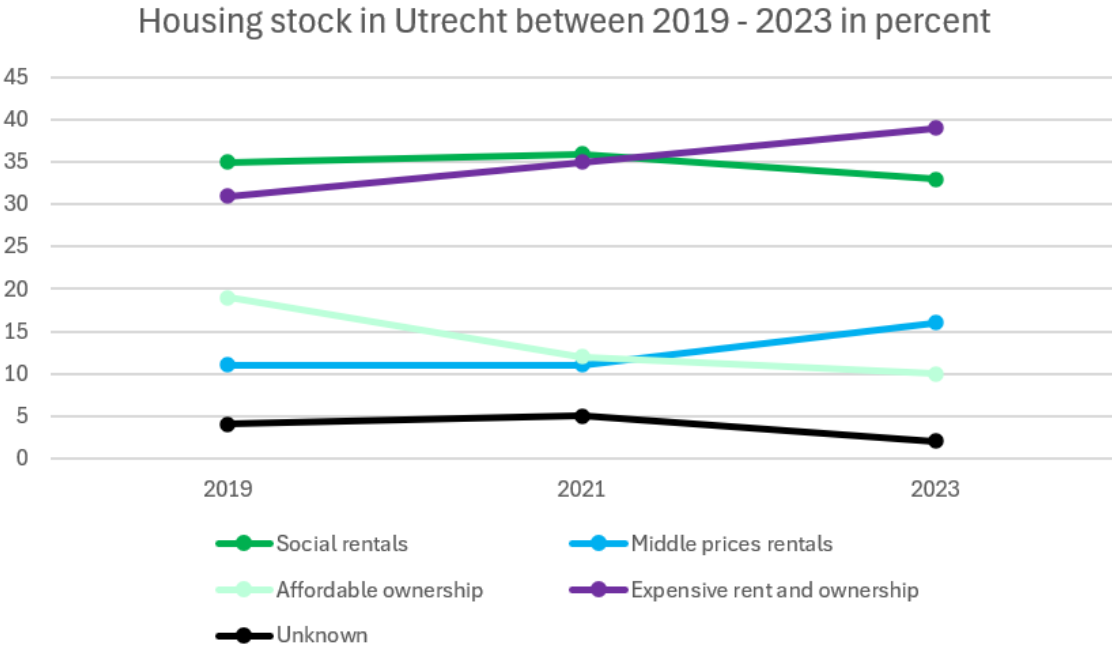


Figure 7: Housing stock in Utrecht between 2019 - 2023, Source: Gemeente Utrecht (2024, April 24)

Utrecht has seen an increase in its expensive housing stock, at the cost of its affordable sector. Herein, especially affordable homeownership has seen a steep decline over the years. Interestingly however, while the affordable housing stock in general has declined, the middle priced rental sector has increased.

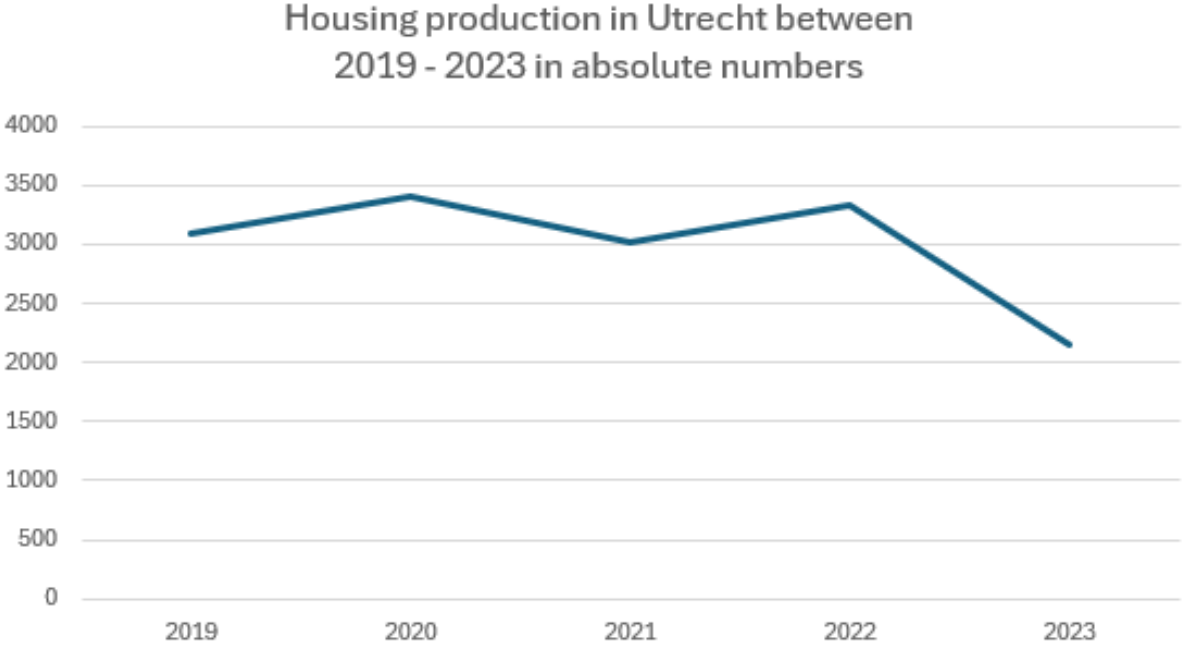


Figure 8: Housing production in Utrecht between 2019 - 2023 in absolute numbers, Source: CBS (2024, January, 19)

As the municipality of Utrecht does not provide open data on their housing production sorted by housing price, only the general housing production data can be analysed. When comparing the last five years, a slight general decline in housing production can be observed, with a steep low detected in 2023.

5.6.3 Nijmegen

5.6.3.1 The usage of DOs

It came forth in the interviews, that the city of Nijmegen marks its approach of LVC in general, and in relation to the development of affordable housing, by mainly selling municipal lands in full ownership and using a relatively large amount of NDOs to apply LVC. Interestingly, the use of ground lease in the municipality was found to be strongly limited. In addition, it was indicated that while the use of active land policy was initially thought to be the most beneficial to achieve contributions, it would be dependent on the actor set. Especially in developments with complex actor sets, the use of facilitative land policy was believed to be beneficial.

Interviewees in Nijmegen had relatively much experience with the use of NDOs, as interviewees, such as interviewee #3 indicated that all LVC through NDOs usually takes place in the form of Development contracts in the anterior form. Furthermore, interviewees indicated that the municipality did not generally steer towards the use of N-NDOs in the form of Development Contributions Plans, and that they were rarely being used. Moreover, the Contributions Plan was deemed to be the least useful LVC

instrument, as it offers less flexibility to accumulate contributions. The Contributions Plans was especially noted to be unbeneficial to accumulate contributions for the development of affordable housing, as it was indicated to mostly offer a method to acquire infrastructural costs. Crucially, LVC was not always able to finance all policy goals. Therefore, the interviewees indicated that in cases LVC could not take place, the municipality had to rely on local or national subsidies in order to finance the development of affordable housing (see Chapter 5.1).

5.6.4 Summary and comparison

As the presented data has shown, all municipalities make relatively much use of 'giving out' or selling land. Interestingly, compared to the other municipalities, Amsterdam owns a high amount of own land. The municipality mainly makes use of ground lease structures, often with a lease of 50 years. While Utrecht also makes use of ground leases, interviewees indicated to work more with developer's land, compared to Amsterdam. Furthermore, ground leases in Utrecht are contracted for an indefinite period. The most significant difference between the approach in Nijmegen and the rest of the municipalities, is that it only made use of ground lease in very rare cases. Furthermore, compared to the other municipalities, the interviewees in Nijmegen had the most experience with the use of NDOs on developers' own land.

Interestingly, all municipalities indicated to make relatively little use of N-NDOs in the form of the Contributions Plan under the old 2008 legislation, or Cost Recovery Settlement under new legislation. Crucially, in all municipalities, LVC was indicated to not always be able to finance the funds necessary to achieve policy goals. While implementers in Amsterdam emphasised the use of local subsidies, implementers in Utrecht only mentioned the use of national subsidies in order to finance the development of affordable housing. In addition, implementers in Nijmegen mentioned the use of both.

Essentially, the preferred method of LVC to finance the development affordable housing also seemed to differ between implementers across municipalities. Implementers in Amsterdam seemed to largely advocate the use of ground lease contracts, as being in control of the land was deemed largely important to the potential of LVC. As control puts developers in a position of dependency, implementers believed to have more power in negotiations, and be able to achieve policy ambitions better. Furthermore, as ground leases were indicated to allow the municipality to keep a grip on land prices after the land was 'given out', the steering capacity was indicated to continue and contributions were able to be accumulated even after the initial development of the land.

In Utrecht, the interviewees also argued that working with own ground, and giving it out through a ground lease was the most functional method for capturing land values. Own land was argued to give more control, and reduce complexity. Furthermore, the use of ground lease contracts, was indicated to make the control on the continuous capture of land values even more secure.

Interviewees in Nijmegen indicated that while the use of active land policy was initially thought to be the most beneficial to achieve contributions, it would be dependent on the actor set. Accordingly, the use of facilitative land policy, with the use of NDOs, was in some cases believed to be beneficial.

According to Nijmegen #1, getting a development to commence was more difficult as the project and actor set got more complex. Therefore, trying to municipally steer the development through active land policy was believed to make it potentially more difficult to get a development to commence, and therefore limit the ability to achieve contributions. Consequently, it was argued that the use of NDOs, through anterior agreements was possibly a more effective instrument as developments got more

complex. In addition, the Contributions Plan was deemed to be the least useful as it offers less flexibility to accumulate contributions. The Contributions Plans especially, was noted to be unbeneficial to accumulate contributions for the development of affordable housing, as it was indicated to mostly offer a method to acquire infrastructural costs.

Importantly, while the presented data on the housing stock and housing production was limited in nature, and contains serious implications for the manner in which it can provide conclusions, it was able to illustrate some general trends.

While the amount of affordable housing, in municipalities’ housing stocks cannot be completely compared, due to municipalities’ different categorisations, it could be concluded that all municipalities contain a relatively high percentage of affordable housing. Furthermore, all municipalities showed a decline in affordable housing stocks over the years. However, municipalities seemed to diverge in the manner in which this affordable housing was organised, as Amsterdam showed to offer the most social housing, the cheapest affordable housing category, followed by Utrecht, and Nijmegen coming in last. Furthermore, while Utrecht consists of a relatively high amount of affordable rentals, Nijmegen contains a relatively high amount of affordable homeownership. While housing production data in Amsterdam pointed towards a high percentage of rentals being built, housing stock data unfortunately did not specify the distinction between rentals and homeownership. Importantly, while both the owners of affordable rental housing and affordable homeownership may eventually lift housing out of the affordable segment after the preservation duration is finished, housing tenures may be largely important, as rental companies, such as corporations aim to keep their housing in the affordable sector. Therefore, in time, the affordability ratios may drift further apart.

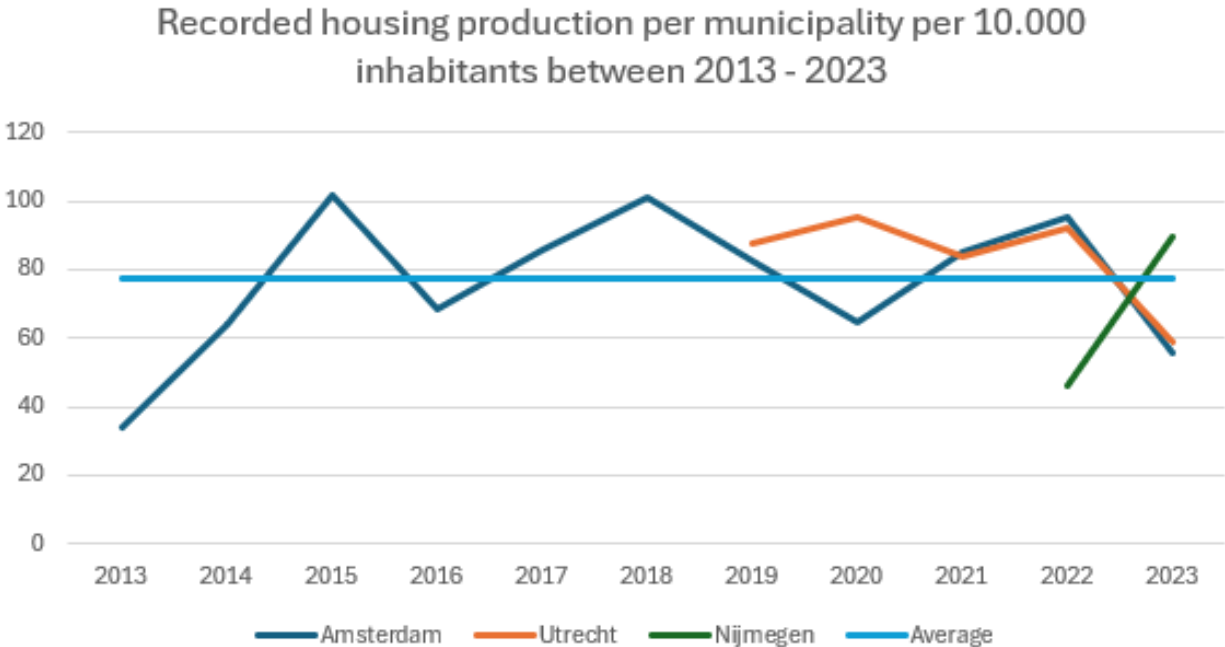


Figure 9: Recorded housing production per municipality per 10.000 inhabitants between 2013-2023, Source: Gemeente Amsterdam (2024); Nul20 (2024, August 8); Gemeente Utrecht (2024, April 24); CBS (2024, January, 19); Rijksoverheid (n.d.); CBS (2024).

The above presented data shows a comparison of generally recorded housing production numbers over the years. While Amsterdam and Nijmegen gave a further substantiation of these production number based on housing price and tenure, Utrecht did not. Furthermore, these substantiations also differed between Amsterdam and Nijmegen. Therefore, only general housing production numbers could be incorporated into the graph.

The graph shows that Utrecht generally has the highest housing production per 10.000 inhabitants, followed by Amsterdam, and then Nijmegen. However, when viewed longitudinally, this could diverge, as only Amsterdam offers more longitudinal data.

When comparing the segmented housing production of Amsterdam and Nijmegen, some conclusions can be made. While Amsterdam does not provide a distinction between affordable and expensive homeownership, it can be argued to produce a relatively high amount of affordable housing nonetheless, especially in recent years. Furthermore, a relatively high percentage of its housing production is located in the affordable rental sector. Nijmegen in comparison, produces a relatively lower amount of affordable housing. Furthermore, compared to Amsterdam, it produces a high percentage of owner-occupied housing, wherein a significantly high amount is situated in the expensive sector.

5.7 Summary of Results and Discussion

5.7.1 Summary of Results

The three municipalities were shown to offer different approaches, insights into the perceived workings behind the accumulation of contributions in relation to the policy implementation and negotiation literature. Appendix 8.10 contains a condensed comparative table, which mainly includes the most significant results and most noticeable differences.

To analyse the process to achieve the development of affordable housing with the use of DOs, the policy implementation literature has shown to offer a good basis for substantiation.

Within this framework, largely based on theories by Meter & van Horn (1975), Brynard (2008) and Burger (2018), broad actor profiles between the researched municipalities can be noticed. The municipality of Amsterdam was shown to offer the most structured policy implementation approach, which entailed detailed policies, and strict practical compliance. Within the data sets, Utrecht can be regarded as a moderately structured and strict governmental body. Lastly, Nijmegen can be regarded as the least structured and strict governmental body between the researched municipalities.

Interestingly, while exact housing production substantiations for the municipality of Utrecht were not available, there seemed to be a link between the approach used, and the affordable housing stock and housing production. However, as many factors are involved in this explorative research the causation could not be determined. Nevertheless, intriguingly, within this framework, some dimensions and indicators were noticeably influential on the ability to capture land values for the development of affordable housing.

Some of these factors such as institutional contexts, rules and regulations, which in this research are also incorporated in policy contents, economic contexts, and negotiation skills were expected to be influential as they have been mentioned by academics such as Muñoz Gielen & Lenferink (2018) and Lord et al. (2019). However, even within these aspects diverging results emerged, as Utrecht and Nijmegen for example, showed to experience different implications based on the same legislation. Furthermore, the strong influence of local politics became largely apparent, as local political aspirations indicated what policies would be prioritised, often at the cost of another. In addition, some surprising results have been produced, as communicative aspects, such as transparency, were also shown to be important. As municipalities have incorporated these aspects in different manners, implications for the negotiation process, and arguably developer contributions could be noticed.

The second literary body based on Fisher and Ury's (1981) and Bobot's (2008) theories for the negotiation skills, showed to be largely embedded within the broader framework of policy implementation. Interestingly however, an aspect in the institutional framework, namely the political influence, which was shown to be a determining force through the organisational structures, seemed to largely affect the influence of this aspect. Accordingly, a differentiation between the influence of implementers in general, and negotiation skills specifically, became apparent in practice.

6 Conclusion, reflection, recommendations and limitations

6.1 Answering research questions

This thesis has examined how LVC tools are used to achieve policy goals in relation to the development of affordable housing. In doing so, it has aimed to answer the main research question:

To what extent can land value capture tools in the form of developer obligations be used to achieve policy goals for the development of affordable housing in municipalities in the Netherlands, and how do policy implementation and negotiation processes play a role in this?

To dissect this research question, six sub questions were formulated based on the operationalisation and conceptual framework.

1. *How are Dutch municipalities making use of DOs to develop affordable housing?*

The researched municipalities in the Netherlands showed to make different use of LVC tools in the form of DOs to develop affordable housing. While some aspects overlapped between municipalities, such as the limited use of N-NDOs, the municipal land approach and use of LVC instruments differed between them. The municipality of Amsterdam was the most notable, as it exerts much control through a relatively unique land approach and LVC structure, in which it uses relatively short-term ground lease contracts. Utrecht has seen a change in its use of LVC in recent time. While it mostly focused on a facilitative land approach, in which land was given out in full ownership, it has seen a transition back to its former use of ground lease contracts with usually a limited duration. Nijmegen was shown to have the least active approach to LVC, as the municipality was shown to make the be the most frequent user of facilitative land policy, and does not apply ground lease structures. While all three make use of DOs, these come in different forms, depending on the land approach used. Furthermore, while not all tools are directly categorized as NDOs, many LVC instruments, such as the sale of land, or the use of ground lease contracts, still incorporate negotiations. Therefore, aspects affecting this negotiations process are largely detrimental to the ability to reach affordable housing goals with the use of LVC. Importantly, this research has shown that it may differ between municipalities to what extent affordable housing could be funded by LVC.

2. *How do national and local contextual factors, in the form of the national legal framework, political and economic aspects, influence the use of DOs?*

Institutional contexts, in the form of the national legislative framework, national and local political- and economic factors were shown to be influential to the accumulation of LVC. This was shown to influence the process in shaping policies, coordination, implementers' commitment, the use of LVC instruments, and eventually, the negotiation process.

While the influence of the current legislative framework on the process was largely not able to be deducted from the data, as it has recently been introduced, and the old framework is still being used in many cases, this research was still able to gather findings that suggest a large influence of the legal framework towards the potential to develop affordable housing with the use of DOs through negotiation processes. The legal framework was mainly pointed out to affect this process by legally

determining the amount of land values that are able to be captured, determining municipal authority and control when applying LVC, and offering developers financial security. In this regard, the Dutch law limits the accumulation of land values, as it does not offer municipalities' total autonomy to charge contributions, and does not offer municipalities the full ability to deny developments when extra-legal contributions are deemed insufficient. Interestingly, while the new planning legislation does not completely break with the stated principles of the old law, it does offer an increased optionality for municipalities to deny initiatives.

Within the planning legislation, a general distinction could be made between the LVC potential of public and private law instruments in the Netherlands. The public law track in the Dutch planning legislation, both under the old and new system, allows for limited use of LVC, through a restriction in the chargeable amount and investment categories, while also taking a lengthy process to apply. Therefore, this tool was rarely used. On the contrary, the use of own land, NDOs, ground lease, or a combination between them was found to be the preferred route, as it offered the most potential to apply LVC. Importantly, within the use of private law, authority and control was further indicated to be affected by the combination between land policy and LVC tools used. Using own land, was indicated to be largely affecting the ability to reach policy goals. Furthermore, as ground lease contracts offer a structure in which municipalities have more control over 'sold' land, this could arguably increase the LVC potential.

Lastly, the legislative framework, especially the newly introduced Law Affordable Rent, was also shown to be able to affect financial security, through which it influences investors' and developers' ability and willingness to contribute.

As the research showed that LVC was not always able to fully fund the development of affordable housing, the national political context was shown to affect the ability to developer affordable housing with the use of DOs, as it could offer developers a financial incentive to contribute to developments. Furthermore, as the national political agenda determined the granting of these subsidies, it shows the further influence of national politics.

The local political context was shown to be one of the most influential factors in the broader implementation process. Not only is the political context influential in the way the political agenda forms policies, so is it in determining a prioritization of policies in developments, determining how decision power is organised in the municipality, and deciding how government funds are used in projects, e.g. in the form of subsidies. In the examined Dutch cases, local politics were largely shown to contain a relatively large decision power. Importantly, this large political interference could therefore also be largely explanatory for the different approaches used between municipalities. The local political context also substantially determines the influence of implementer's commitment, as it shapes the decision-making power by implementers. Crucially, the political commitment to policies, in this case affordable housing, and their related application and prioritisation within the negotiation for DOs, will in many cases be at the cost of other policy implementations, such as sustainability, and housing quality.

Local economic factors were also shown to be influential as the type of development area, either green- or brownfield, the local building costs, the price volatility of an area, and the general land value were shown to influence the ability to accumulate DOs. Logically, less favourable land prices, and the more expensive to develop brown field areas, were indicated to be more challenging to acquire LVC. Interestingly however, is that contributions can still be made possible by adjusting development requirements, such as housing size, or numbers. However, incentivising developers by allowing for more volume was shown not to be a universally useable tool, as its use largely depends on the physical building conditions of a plot. A measure that was shown across the board to improve

contributions, was realising relatively stable land prices. Importantly, as local economic factors may result in diverging yields of LVC tools, the use of a municipal subsidies to balance out differing land yields, was shown to be beneficial.

3. What are Dutch municipalities' policy goals in relation to the development of affordable housing, and how does policy content influence the implementation process?

This research has illustrated that policy contents were largely influential on the development process with the use of DOs, as they were shown to influence coordination, commitment, the use of LVC instruments and eventually the negotiation process.

In the light of the current affordable housing crisis, Dutch municipalities have drawn up relatively high aiming development policies for affordable housing. Interestingly, while the intentions are largely similar, the research has shown that the examined municipalities take different approaches, not only to the applied requirement housing parameters in developments, but also for the LVC tools embedded in policy.

The nature, (accumulative) policy objectives and policy standards were all found to be influential.

In terms of the nature of policy, all municipalities showed to apply a distributive rationale, wherein affordable housing was thought to be something delivered by the municipality, instead of leaving it to the market. Policies were formed to cater to this ideal. Furthermore, the municipalities also incorporated a regulative nature in policies to offer more structure. This nature is influential on the coordination, use of LVC instruments and negotiations process, as they translate ideals into objectives, and the manner in which this occurs. This is largely influential on the process, as it determines what frames developments have to comply to. Policies in Dutch municipalities showed to incorporate relatively much government control in the process to achieve the development of affordable housing, compared to leaving it up to the market.

Policy objectives were found to be influential in multiple ways. Firstly, through the policy structure. Offering clear, and consistent policies, enables market actors to take goals into account. Consequently, negotiations can be smoothened. Interestingly, between municipalities these factors showed to largely differentiate. Secondly, through incorporations of, and collaboration with, non-profit housing corporations in the policy. By standardizing collaborations, coordination gets strengthened and negotiations processes get simplified. Thirdly, by setting the area requirement in which a policy goals needs to be realised. Using either a smaller area size, such as a development plot, or a larger general area, was shown to affect negotiation. Incorporating them in an area as a whole, allows for areas with a dense amount of affordable housing to compensate for areas that do not. The plots that do not incorporate affordable housing however, can offer more monetary contributions instead of affordable housing. This compensates the municipality for the decreased monetary yield the other development gives. Therefore, it allows for a implementers to align the use of LVC tools to better suit the developer, while still accomplishing their policy goals. Lastly, not only do affordable housing policies affect these processes, but so does the wider policy package. As policies are not individually applied in a development, but have an impact as a total package. This accumulation is largely influential on the feasibility of the project, and therefore impacts the negotiation process. Crucially, setting too many development requirements, which makes developments unfeasible, requires case-by-case adjustment in order to make developments commence, and negates the initial benefit of structure that is applied through policy. Furthermore, the feasibility of policy was also illustrated to influence implementers' commitment to these policies.

Policy standards were shown to influence the use of LVC, actor coordination and negotiations. While policy means were shown to differ per municipality, the incorporation of an LVC instrument, or not, largely indicated power dynamics and actor relations.

Importantly, in addition to the contents themselves, the enforcement of policy, through the municipal policy approach, was found to be largely influential. Strictness is the keyword here, as staying close to policy goals municipally wide may give developers more clarity to which requirements apply, may simplify negotiations, and increase contributions. However, this may come at the expense of developments being unfeasible, and halting contributions.

4. How is commitment of implementers affecting negotiation processes?

Interestingly, while this research has shown that implementers' influence in the examined Dutch cases was relatively limited, commitment could potentially still be influential, as an implementers' commitment to a policy will most likely determine the aspects on which they are willing to negotiate or not. Although the influence individual implementers may be reduced for the decision-making on politically urgent policies, exerting influence on less politically heavy policy implementations affects the process, as policies are interrelated in the broader feasibility of the project.

5. How is coordination affecting the negotiation processes?

Internal and external coordination was shown to be largely influential to the negotiation process and the accumulation of developer contributions. Through internal coordination, actors within the municipality can be aware of, and consistently apply policies. This decreases the risk that market actors search out, capitalize, and largely concentrate on the areas which offer the least demands, and most profits. To reach good internal collaboration, clear policies, a homogenic policy approach in negotiation, and solid organisational structure kept were shown to be beneficial. For the latter keeping an overview and coherence between different developments is detrimental. External coordination also affects the process, as it makes all actors aware of each other's positions at an early stage, makes it able to take them into account financially, and eases negotiations. To increase external coordination, clear and accessible policies, and frequent communication were shown to be positively influential. In addition, forming more fundamental partnerships, in the Dutch case mainly with housing corporations, and establishing general development arrangements in agreements, could further be used as a tool to improve external coordination, shape expectations, ease negotiations and improve results.

6. How are factors in the negotiation process affecting the accumulation of DOs for the development of affordable housing?

This research argues for the significant importance of factors involved in the negotiation process onto the development of affordable housing with the use of DOs. Especially, as the Dutch context involves many negotiation aspects within the application of DOs.

Recognising actors and involving them in the process both internally, and externally, has an effect on the application of LVC for affordable housing. Internally, the research has pointed to the large influence of internal power structures in the municipality, the importance of recognizing these structures, the significance of a timely involvement of not only actors with decision power, but also

actors that are involved in the internal negotiations surrounding policies. These were found to be largely influential to the negotiations process. Interestingly, the extent of influence that actor involvement directly exerted in the process, either in the form of actual policy negotiations or by solely informing actors, was indicated to be largely reliant on the municipal control through legal power, land positions, and LVC tools used. However, as collaborating was shown to be crucial in the development process, external actor recognition and sufficient involvement was shown to be influential. Furthermore, elaborately involving external actors was shown to ease the negotiation process. However, negotiating complexity also requires attention, as involving too many actors in the direct negotiations arguably negatively impacts the process.

Transparency is also a largely influential factor in the process. High transparency from the municipality towards market actors, offers the possibility for developers to calculate contributions into their strategy, and can ease negotiations. While communication and coordination can be a tool to provide transparency, accessible and clear policies can arguably be an even more efficient manner to achieve it. Importantly, the structure and the contents of the policies largely influences the amount of transparency. While easy to read and comprehensive policies may increase transparency, complicated and unclear policies, may decrease it. Interestingly, transparency from market actors to the municipality, especially in the financial sense, could make or break trust bonds, and consequently influence the negotiation process.

To assess the influence of implementers negotiations skills on the process, this research emphasises the need to first evaluate an individual implementers influence on the process. As this research has shown, policy implementation approaches, power structures, and political pressures are highly determinant of implementers' individual influence. Importantly, as mentioned above, mainly topics that carry much political attention were often managed from higher up in the organization. Furthermore, as many government actors are involved in the development framework of a project, individual implementers' influence is largely reduced. It could be argued that the adjustment of policies, and the preparation of negotiations is therefore largely organised on a broader level, instead of reliant of individual implementers. However, as not all actors are directly involved in the negotiations themselves, but direct implementers, in the Dutch case often project managers, are, influence can still be exerted. Herein, mainly communication skills, recognising actors and their agendas, knowledge of policy, the ability to centralise objective criteria and focus on mutual interests were of significance. Interestingly, the last two factors conclude both the importance of focusing on municipalities' own policy goals, but also the significance of collaboration between municipalities and developers.

To what extent can land value capture tools in the form of developer obligations be used to achieve policy goals for the development of affordable housing in municipalities in the Netherlands, and how do policy implementation and negotiation processes play a role in this?

In conclusion, this research advocates the significant potential for the use of DOs to develop affordable housing in the Netherlands. This research argues that in essence, institutional contexts are largely influential on the process, as they determine the frames in which individual implementers operate.

As indicated throughout this research, negotiation process are fundamental in the Dutch context, as these are a central process through which DO contributions are achieved. Importantly however, these are largely dependent on multiple factors included in the policy implementation process.

Furthermore, while arguably limited in the Dutch context, negotiation skills may still play a role in the accumulation of contributions for affordable housing.

When regarding the policy implementation process on a municipal level, control on the one hand, and collaboration between actors on the other, two factors that might seem contradictory in a way, are the most fundamental factors within this process. Within these fundamentals, two considerations are crucial. The first is between the standardisation of the process e.g. through policies, to offer security, transparency and stability, versus the flexibility to make room for mutual benefit and feasibility. The second is exerting control versus facilitating. As market forces that are driven by profit might not make the most socially beneficial propositions, exerting control to achieve public goals, through e.g. land positions, while not making collaboration come to a halt, is crucial. Finally, as this research has shown the importance of trust bonds, collaboration and related factors such as transparency, creating large scale arrangements, such as the 'collaboration arrangements' illustrated in this research, between municipal actors and housing corporations, could be largely beneficial to reaching goals.

Importantly, as the affordable housing production in the Netherlands is currently insufficient, and the benefit of government intervention is underlined by this research, an argument can be made to advocate increased active government involvement, compared to the current nationally endorsed facilitative approach.

6.2 Reflection on theory and theoretical frameworks

6.2.1 Discussion

This research has looked at the application of LVC in the form of DOs, in the transformative governance landscape as described by academics such as Van der Krabben (2013), Buitelaar and van der Kam (2012) and Muñoz Gielen et al. (2017).

Importantly, this research has offered a new perspective on theories that argue the influence of factors on LVC contributions such as governance (Lord et al., 2019), legal systems (Muñoz Gielen & Lenferink, 2018), local economic factors (Cheang & Dunning, 2022), and negotiation skills (Lord et al., 2019). Interestingly, this research has found all named aspects are influential on the process. Furthermore, it has emphasised the importance of negotiation processes in achieving LVC in the Netherlands, especially for the development of affordable housing. Crucially, this research has been able to shed new light on the complexity of these processes, and how they may play out in practice. To do this, it has incorporated a new approach for examining the use of DOs with the use of the policy implementation, and negotiation skill literature.

While the combination between the frameworks offered by Brynard (2005), Burger (2018), and Meter & van Horn (1975), are essentially holding the components for structurally assessing policy implementation, adjustments had to be made to fit sufficiently assess policy implementation of the use of DOs for affordable housing. As this research has pointed to the fundamental importance of collaboration and authority, many factors named by the mentioned frameworks, such as assessing the institutional context, policy content, intra and internal communication and coordination were found to be largely influential factors in achieving developer contributions for affordable housing. Interestingly however, capacity, as mentioned as a distinct factor in the by Brynard (2005) and Burger (2018), is argued to be contained in, and formed by different aspects of the implementation process, rather than being a stand alone factor.

Related to governance approaches, this research has confirmed the relatively frequent use of a more facilitative land policy approach in the Dutch context, in comparison with the approach taken in earlier years, as described by authors such as Buitelaar & de Kam (2012). Interestingly however, this research has also illustrated that municipalities in the Netherlands have not completely transitioned to this facilitative approach. The case of Amsterdam for example, shows how some municipalities still make use of active land approaches, in this case in combination with ground lease constructions. Interestingly, the case of Utrecht has even shown that municipalities are reevaluating their passiveness, and may in some regards transition back to a more controlling land approach. In addition, while examining these diverging governance approaches, this research has shown how negotiation results may differ per approach. Consequently, it reaffirms Lord, et al.'s (2019) notion that governance approaches and their accordingly different processes may have implications for developers' feasibility and willingness, and therefore the LVC process. This research has even offered further insights into the possible workings that are involved in this process. On a higher scale, it has highlighted the importance of national and local politics in establishing LVC contributions. On a lower scale, it has concluded that the amount of coordination, actor recognition, inter-organisational relations, and transparency play a large role in this.

Although the new legislation in the Netherlands is still young, this research has also shown that the new legislative basis is still based on indirect rationales, as it is mainly aimed at recovering development costs. Therefore, it offers municipalities with limited authority to capture land values. Importantly, as data from this research has indicated that affordable housing is often not regarded by legislation as cost recovery for the public good, it affirms the absence of legislative authority to acquire contributions for affordable housing, as Wyatt (2018) argues. Hence, this largely influences the potential to develop affordable housing with the use of LVC. Furthermore, as the additional costs are still largely not retrievable through legislative obligations, but rather through 'voluntary' contributions, NDOs are still the most common tool used by municipalities, while the legal possibilities for N-NDOs are often used to confirm and formalize agreements.

In regards to the impact of local economic factors on the process of acquiring LVC for affordable housing, this research has offered valuable insights to existing literature from academics such as Lord et al. (2019) and Lord, Cheang & Dunning (2022). While this research agrees to the argument made by all authors that the accumulation of LVC is largely reliant on the market conditions of a plot of land or an area, it only partially agrees Lord, Cheang & Dunning (2022) in their notion that the development of affordable housing strongly relies on market conditions. In regards to the latter, this research has shown that although local market conditions influence the ability to capture land values, this may, but does not necessarily, have to be apparent in the development of affordable housing. The Amsterdam case for example, showed that municipal subsidies or funds that balance out negative exploitations with the use of positive exploitations elsewhere, may negate these effects. Importantly, this notion is therefore also applicable to the establishment of 'virtuous' and 'vicious circles' made by Lord et al. (2019).

While this research emphasises the importance of negotiations for the accumulation of LVC, especially in the Netherlands, it critically reflects on the influence of negotiation skills on this process. Although this research partially agrees with Muñoz Gielen et al. (2017) and Lord et al., (2019) on the importance of these skills, their effects in the LVC literature may be overemphasised. As implementers do not exist in a vacuum, but are embedded in a plurality of contexts, they are often not the only actors that exert influence on the process. Therefore, influence of implementers' skills may be reduced. This is especially the case when policy goals become more politicised, and/or organisational structures either concentrate decision-making power among top officials, or spread it

out across municipal workers. Important to note however, is that while the results from this research were based on municipalities with a larger organizational structure, negotiation skills may be significantly more influential in municipalities in which this is smaller.

6.2.2 Revised conceptual framework

After the results have been presented and analysed, workings in practice have shown to diverge from the previously presented conceptual framework to some degree. Therefore, a new conceptual framework needs to be developed to analyse and explain the workings behind the development of affordable housing with the use of DOs.

Institutional contexts influence several factors within the process of developing affordable housing with the use of DOs. Firstly, they influence policy content, as the political agenda shapes the development of policy. Secondly, they influence coordination, as the wider set of institutions form the organisation structure. In addition, the local political context can influence coordination by organising how the political agenda will be carried out, for example by deciding to follow or diverge from current policies. Thirdly, they influence commitment. On the one hand, political pressure on implementers may pressure them to prioritise certain policies or goals over others. On the other hand, economic context determine feasibility of policies, and may therefore influence implementers' commitment. Fourthly, the institutional context determines the use of LVC tools, through the legal framework, local political approach, and economic contexts. Finally, institutional contexts also directly affect negotiation processes, as the construction of organisational structures determines power dynamics, such as the influence of implementers. Furthermore, within this interaction, the legal framework largely determines the legal basis for negotiations, local political contexts affect factors such as the prioritisation in negotiations, but also local subsidies, and local economic contexts are important to stakeholders aims and feasibility.

Policy content is also a large influencer in the broader process. Firstly, it affects coordination, as it may provide an extent of structure and clarity for internal and external actors, while also suggesting the amount of collaborative aims between actors. Secondly, it affects commitment, as the wider package of policy goals may determine an implementers commitment based on factors such as feasibility. Thirdly, policy affects the use of LVC tools, as policy approaches incorporate the use hereof. Lastly, Policy contents directly influence negotiation processes, as they offer clarity and consistency for actors, but can also affect stakeholders' project feasibility.

Commitment is argued to influence negotiation processes. Although implementers' general influence, and therefore the influence of their commitment, is largely dependent on organisation structures, they are at least to some degree able to influence negotiation processes.

LVC instruments are also argued to influence negotiation processes. The use of LVC instruments largely determines the amount of municipal control, and power relations in negotiations. Interestingly, while the choice and potential of LVC tools may be influenced by the institutional context, the use of certain instruments may on the other hand determine the influence institutional factors, such as the legal framework, on the negotiation process.

As all factors within the system come together in the negotiation process, it eventually influences the ability to develop affordable housing with the use of DOs. Furthermore, while many aspects of the negotiation process are dependent on the other workings in the system, distinct factors and skills related to the negotiation process further give shape to the final outcomes.

Lastly, while all named dimensions shape the development of affordable housing with the use of DOs, the results offered may lead to an influence on the institutional context, as political goals may or may not have been achieved, economic contexts may be affected, or legal frameworks need to be adjusted.

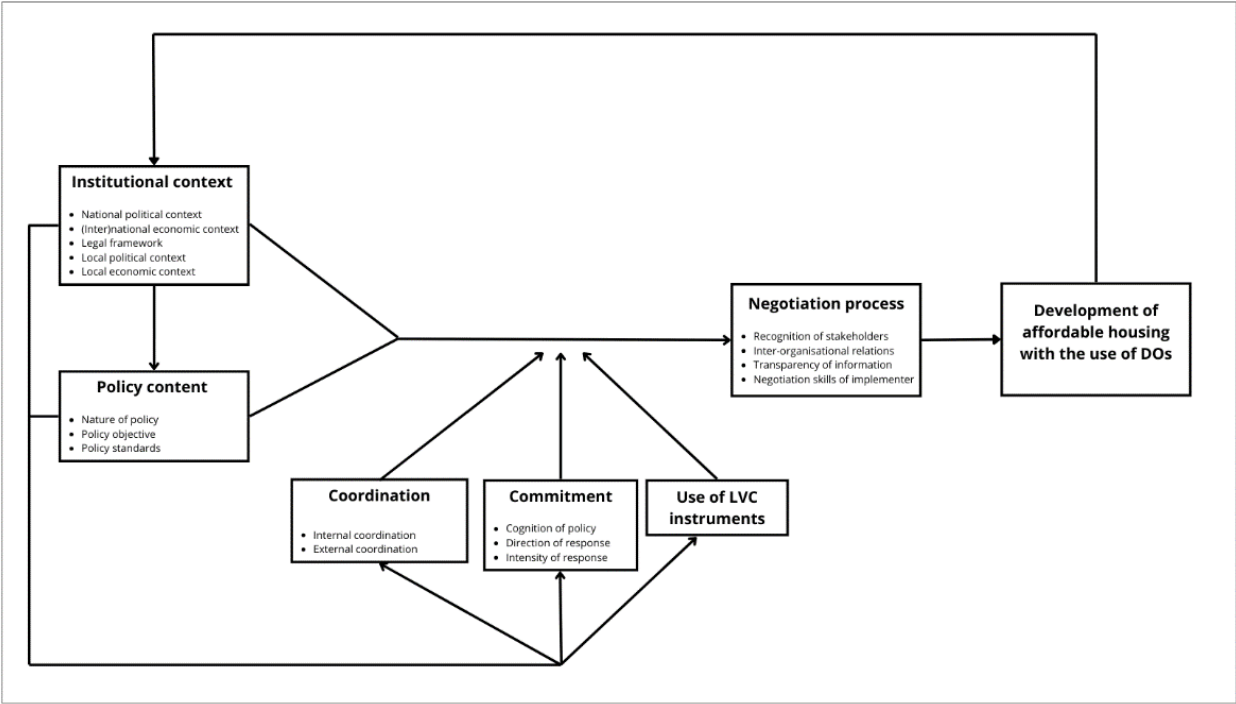


Figure 10: Reworked conceptual framework

6.3 Recommendations

Based on the research findings, recommendations for practice and future research can be made.

6.3.1 Recommendations for practice

While some factors related to the development of affordable housing with the use of DOs, such as the local economic context, are often driven by complex (inter)national working, and therefore difficult, if not impossible in some cases to influence on a smaller scale, some recommendations to stimulate the process can be made.

In the policy implementation process, municipalities should mainly look at offering a transparent, clear, secure process, in which the development of affordable housing is feasible, and optionally incentivised.

To realise this some fundamentals need to be realised.

Firstly, ensuring that the implemented policies are feasible within reason. A key factor herein, is an integral viewpoint. While policies goals and implementation methods may be feasible on their own, this research has found that often, the accumulation of policies is not taken into account in their

design phase. Therefore, as the accumulation of policies is often not feasible, the negotiation phase is increasingly complicated. Furthermore, policies frequently have to be adjusted or even disregarded, which has a negative influence on the general transparency, clarity and security of the process, and therefore project contributions. Consequently, local governments should not design policies as individual constructs, but in relation to the broader policy package.

Secondly, the policy structure. As factors such as transparency, clarity and security are largely indicative of the manner in which the negotiation phase takes place, municipalities should provide relatively standardized policies, that are not too complex, and can be easily understood. However, while rigidity largely improves the named factors, it is recommendable to incorporate some general flexibility within the wider boundaries. This makes sure that while the clarity of policies are not compromised, a fitting consideration can be made to fit the development. Among other facets, this largely increases the earlier named feasibility. Additionally, to ensure situational flexibility while safeguarding the wider achievement of policy goals, not only policy goals should be regarded in an integral way, but goals should aim for their achievement in a wider area, past that of single developments. Importantly, as the pursue policy goals with the use of LVC was shown in this research to be largely reliant on power positions, incorporating the use of LVC instruments that offer a stronger foothold in negotiations, such as the use of ground lease contracts, potentially offer improved contributions.

Thirdly, the execution of policy. To offer coherence and an objective pursue of policy goals, this research argues for the benefits of an organisational structure, in which central actors are responsible for the consistent implementation of policies. This entails that the monitoring of policies is situated at a central authority. However, as political fluctuations and interference may result in relatively sudden and incoherent shifts, resulting in a decrease of factors such as transparency, clarity and security, there should be an evenly structured collaboration between politics and the central authority. However, within the execution of policy, collaboration is essential to ease negotiation processes and achieve better outcomes. Therefore, strong collaboration, for example through standardized agreements with actors, are to be desired. Importantly, making sure time is taken into consideration in relation to both political and economic shifts is essential. More prompt negotiation, and the wider development process, is therefore arguably preferable. Consequently, following up the named recommendations to smoothen the negotiation process is therefore stressed.

6.3.2 Recommendations for future research

While this research has offered elaborate data on the use of DOs to achieve policy goals for the development of affordable housing, and which factors in the policy implementation and negotiation process may play a role in this, much research has still to be done to get a further understanding of the use of DOs, and their use for the development of affordable housing.

Although this research has produced takeaways that are applicable elsewhere, context was indicated to be largely important. Therefore, to get more knowledge on the workings of LVC systems for the development of affordable housing, it is important to do more research in other contexts. Through this, the general use of LVC in relation to the development of affordable housing, what approaches are used by (local) governments, and influential factors on the process can be further explored.

Importantly, this does not only entail conducting research in more countries, as this research has mainly focused on some of the larger municipalities in the Netherlands, further research has to be

done on differing contexts within the country. By researching more municipalities, and addressing the workings of the system in smaller municipalities, more knowledge can be added.

More research could also be done by involving the perspective of more actors in the field. Researching not only the perspective of municipal workers, but also actors such as developers and experts, would result in a more detailed understanding of the process.

Lastly, while quantitative data on the development prices and housing production was limited in the Netherlands, adding more quantitative insights into these factors, while also relating them to the researched qualitative aspects, could further improve the understanding of the researched processes.

6.4 Limitations

This paragraphs will reflect on the research and touch upon its limitations.

While the internal validity of the research was generally assured by using a well defined operationalisation based on a theoretical framework, it can be argued that the used data provided may reduce this validity. This regards mainly quantitative data. As the data on the housing production in all municipalities was limited, especially the substantiation between price segments and tenure, but also terms of longevity, it can be questioned if the research made sure it measured the achievement on policy goals in the way it set out to do this.

The limitation of the external validity of this research can also be argued. As this research has highlighted the difference between approaches used by municipalities to develop affordable housing with the use of DOs, and are based on many case specific influencers, it has shown that this research does not offer results that are unquestionably generalisable. Furthermore, as this research has only looked at the circumstances and approaches used by relatively large municipalities in the Dutch context, it has offered results that are possibly hard to relate to smaller municipalities. This is especially important as contextual factors, such as local economic factors, but also power structures, may largely differ based on municipal size. While this research on the use of DOs cannot be completely generalised due to its qualitative nature, and largely diverging approaches and contexts, examining a larger plurality of cases may still offer more structural insights. In addition, this research does not only take a general municipal approach into account, but also distinctive negotiation practices and views on the use of LVC tools. Although elaborate interviews have been conducted with implementers in all municipalities, the collected data between interviews was shown to differentiate to some extent, as a result of the mentioned personal traits and opinions. Therefore, as the data in Utrecht and Nijmegen was obtained in only two sessions, adding additional interviews may have offered an improved saturation.

However, due to time constraints, both of the mentioned improvements were not able to be incorporated.

Reliability is, as mentioned in Chapter 2, is a delicate topic in relation to the use of interview data, which is characterised by inconsistencies. While this research has aimed to increase its reliability by using a semi-structured format based on the operationalisation, and through using structured coding to analyse the data, reliability can inherently not be secured when using interview data. As this research regards specific personal traits and opinions, that are also effected by contextual factors, this research has not been able to fully assure reliability.

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8 Appendix

8.1 Interview guide

Date and time:

Location:

Interviewer:

Interviewee:

Introduction

Informing about the recording of interview, collection of data and publication

Asking confirmation

1. Introduction questions

- a) Can you introduce yourself
 - Name, team and position
- b) How are you involved with NDOs for affordable housing?

2. The use of NDOs for affordable housing

- a) How does the use of NDOs come back in your work, and how does this relate to affordable housing
- b) How frequently do you make use of NDOs as an instrument for affordable housing?
→ Could you describe a case?
- c) Does the municipality steer towards the use of DOs? And how do they do it?
- d) Do you think NDOs are a valuable tool for the development of affordable housing?
→ Why yes/no?
- e) What factors do you think influence the success of using NDOs for affordable housing?

3. Institutional context

As you know, the research is about the development of affordable housing with the use of NDOs. I'm firstly interested how factors on a possibly larger scale than the projects you're working on are affecting the processes to accumulate DOs.

National legal framework

The national legal framework has changed quite recently with the introduction of the Omgevingswet, I would firstly like to ask you some questions about your experiences with it.

- a) Have you experienced a large change since the introduction of the Omgevingswet?
→ If so, what changes have you experienced
- b) Is it clear what the Omgevingswet has to say about NDOs.
- c) How do these changes affect your work?
→ How does this affect the use of NDOs?
→ Does this have special effects on the development of affordable housing you think?
- d) What options and regulatory backing does the current legal system provide you in your work?
(LVC first, NDOs & N-NDOs after)

- How does this affect the use of NDOs?
- Does this have special effects on the development of affordable housing you think?

Local political context

- a) Do you think the development of affordable housing is high in the local political priority list?
- b) Are political ambitions also steering to the specific use of certain tools?
- c) Do you think this influences the usage of NDOs for affordable housing?
 - If so, how?

Local economic context

- a) Are local economic circumstances important to acquiring NDOs for affordable housing?
 - Why and how?
- b) Is it possible to acquire NDOs when housing prices and land values are low?
 - How do you do it?

4. Negotiation process

- a) Besides municipal actors involved in the process, what other stakeholders are part of the development process you think?
- b) How do you, and the municipality to your knowledge, interact with these stakeholders? (i.e. what role do they have in the process and how do you involve them)
 - How do you think the approach taken influences NDOs?
- c) How open is the process in terms of communication? Are all parties well aware of the others goals, motives and funds?
 - How do you think the approach taken influences NDOs?
- d) Is it often easy or difficult to reach an agreement with the other actors involved? (negotiation skills)
 - Why yes or not?
- e) How do diverging interest play a role in negotiation, and how do you handle these? (skill #1/#2)
- f) Is the process often one of concessions, or do actors stand by their point firmly? (skill #3)
- g) When negotiating do you also take the other actors interest into account, or are you mostly focused on the goals of the municipality? (skill #3)
- h) How do you prepare for negotiations? (skill #6)
 - Have you ever found yourself or the other party under prepared?
- i) How does time play a role in negotiations (skill #5)
- j) Do you think an individual implementer can have influence on the outcome of the negotiation processes?
 - If so, how?

5. Commitment & policy content

- a) What policies do you encounter in your work?
- b) Are you familiar with these policies and do you often use them?
- c) How do the formulated policies affect your work?
- d) What is your opinion about the active policies that are related to your work?

- e) Do you think that policy contents and implementers' opinions towards them, may influence how these are being achieved?
→ How could this influence the larger process?

6. Coordination

- a. How is the use of NDOs for the development of affordable housing structured and coordinated at the municipal level? (e.g. are there certain guidelines, methods and/or goals?)
- b. Are you in contact with fellow colleagues that practice the same process in other projects?
→ Do you learn from each other?
→ If yes: what?
→ Do you think having contact with fellow implementers is beneficial to the accumulation of NDO's? If so why?
- c. Do you think it's important to make a strategy and coordinate with external parties?
→ How does this influence the final outcomes of the process?

8.2 Code tree in Atlas.ti

Commitment

- Cognition of policy
- Direction of response
- Influence
- Intensity of response

Coordination

- External coordination
- Influence
- Internal coordination

Institutional context

- Local economic factors - Influence
- Local politics – influence
- Local politics – political agenda for affordable housing
- Local politics – LVC approach affordable housing
- National legal framework – influence
- National legal framework – use of N-NDOs
- National legal framework - use of NDO

Negotiation process

- Influence of individual implementer
- Inter-organisational relations
- Recognition of actors involved
- Transparency of information
- Negotiation process – influence

- Skills – ability to invent options for mutual gain
- Skills – amount of focus on interests and positions of stakeholders
- Skills – Time
- Skills – preparation
- Skills – separate people from the problem
- Skills – the way objective criteria are centralised

New factors

- New influential factors

Policy content

- Trade-off between policies
- Distributive, regulatory, or re-distributive
- Means that are employed to achieve LVC contributions
- Policy objective towards affordable housing

Use of DOs for affordable housing

- Ground lease
- Own land
- N-NDO
- NDO
- Usefulness of DO

8.3 Operationalisation table

Table 2 Operationalisation table

Concept	Dimension	Indicator	Source
The development of affordable housing with the use of DOs		<ul style="list-style-type: none"> - How NDOs are being used to develop affordable housing - How often NDOs are being used to develop affordable housing - Are NDOs are deemed a valuable tool to develop affordable housing 	Interviews
Institutional context	National legal framework	<ul style="list-style-type: none"> - The extent to which DOs are able to be used through regulation 	<ul style="list-style-type: none"> - Content study of legal documents - Interviews
	Local political context	<ul style="list-style-type: none"> - To which extent affordable housing is on the local political agenda 	Interviews
	Local economic context	<ul style="list-style-type: none"> - Average local housing prices 	<ul style="list-style-type: none"> - Open data on local average housing value - Interviews
Policy content	Nature of policy	<ul style="list-style-type: none"> - Is the policy distributive, regulatory or re-distributive 	<ul style="list-style-type: none"> - Content analysis of policy - Interviews
	Policy objective	<ul style="list-style-type: none"> - What is the objective in relation to the development of affordable housing 	
	Policy standards	<ul style="list-style-type: none"> - What means are employed to achieve housing policies 	
Commitment	Cognition of policy	<ul style="list-style-type: none"> - How well are implementers aware of the policy 	Interviews
	Direction of response	<ul style="list-style-type: none"> - Are the implementors 	

		accepting or rejecting the policy goals and means	
	Intensity of response	- How intense is the direction of response	
Coordination	Internal coordination	- How is the internal coordination to reach policy goals structured	Interviews
	External coordination	- How is the relation with the external stakeholder coordinated	
Negotiation process	Recognition of actors involved in the development process	- What actors are recognised to be part of the development process	Interviews
	Inter-organisational relations	- How does the municipality involve other stakeholders in the process	
	Transparency of information	- How transparent is the supply of information to other actors	
	Negotiation skills of implementer	- Ability to separate people from the problem - The amount of focus on interests and positions of stakeholders - To ability to invent options for mutual gain - The way objective criteria are centralized - If time is recognized as a resource and how - If the preparation has been effective	

8.4 Institutional context

8.4.1 Amsterdam

8.4.1.1 National legal framework

Although interviewees had some knowledge about the new system, none of them had been elaborately exposed to it. However, this did not mean that no influence of the new legislation, or changes between the old and new legislation were experienced. One of the large differences between the 2024 Environment and Planning Act and the 2008 Physical Planning Act, is that many environmental factors, such as air quality, which used to fall under different legislation, is now part of the spatial planning legislation. As under Dutch legislation municipalities cannot decline development initiatives based on the willingness of a developer to make 'voluntary' contributions that are not required by law, the assessment on 'spatial quality' is important legal leverage for a municipality to offer their cooperation or not. Amsterdam #1 indicated that spatial authorities, in this case the 'Commission Spatial Quality', a municipal body that used to mostly regulates the physical quality of buildings and their fit in the built environment, is now being transformed into the 'Commission of Environmental Quality'. According to the interviewee, this change was important, as one of the bodies that reviews a development initiative now had a broader and more integrated authority to make demands. *"Now, they have got an increased authority. So they also look at the liveability of presented plans. (...) That is now also taken into account when a permit application comes in. That is an advantage, because it did not use to be this way. If a party does not comply, you can send them back."* (Amsterdam, #1). As this shows, the increased authority of one of the departments that is included in the assessment process of developments, also made it easier to deny initiatives that do not contain enough 'spatial quality'. This increased authority, strengthened the position of the municipality to demand developer contributions, especially when applying NDOs. Interestingly, Amsterdam #5, who had some experience working with developers who owned land, indicated that in practice, the new N-NDO structure, through 'Cost Recovery Settlements' did not have a large difference in the capturing of land values compared to the older 'Development Contributions Plan'.

Interestingly, as is elaborated on in Chapter 5.6.1, Amsterdam's case was relatively unique. Importantly, as the municipality owns a large amount of, and was indicated to make large scale application of ground leases through private law, it made the 'Amsterdam method', as interviewees called it, less dependent on the national legal framework according to interviewees.

8.4.1.2 Local political context

The local political context in Amsterdam was indicated to largely influence the use of DOs, especially those involving negotiations, in a few ways: in the way that policy goals were prioritized, by structuring how much decision power on a project level is with the implementing department, and by introducing a municipal subsidy. Importantly, the main instigator behind these factors, was the political recognition for the need to develop affordable housing.

Interviewees indicated that in terms of policy goals (see Chapter 5.2), the development of housing was priority number one on the political agenda. Therefore, it was noted that the municipality was strictly maintaining housing and affordability demands in negotiations with developers.

Interviewees indicated that, although there was room to negotiate in developments, the municipal policy for affordable housing in a development, with the distribution of 40% social housing, 40% middle priced housing and 20% 'free market' housing, also known as the '40-40-20 policy' was a concrete demand given by the municipality. Deviating from this policy was generally not permitted by

the city council. *“You always have some space to negotiate. But in Amsterdam, there is also a lot solidified in policy. So when it comes to achieving those goals, there is limited flexibility. The policy is so absolute, that it is limited how much freedom you have to negotiate about it. It is possible sometimes, if you are able to ask for an exception.”* (Amsterdam, #5). Thus, although the policies related to affordable housing were generally absolute, an exemption could be made in rare cases. Interviewees indicated that redevelopments could optionally apply a mixture of ‘35-35-30’ or even ‘30-40-30’ to accommodate the financial difficulty accompanied with these developments, if the municipality thought it was a detrimental development. Furthermore, an exemption could also be possibly made if the neighbourhood was already consisting of a high percentage of affordable housing, and a more ‘mixed’ housing stock was deemed beneficial. *“It is then being prepared by civil servants that you would like to deviate from the policy, and has to be proposed to the politicians. The alderman has to agree to this. Then it is up to the city council to make a decision if they agree.”* (Amsterdam, #5). Interestingly, not only do local politicians have relatively much decision power when considering deviating from the affordable housing policy, it is also the case for a development plan in general, as plans have to be approved by the city council.

What further emphasized the political influence in the affordable housing development, was the availability of a municipal subsidy, made possible by the political urgency to develop affordable housing. The goal of this subsidy was to accommodate the development of affordable housing in areas that were financially less able to integrate the municipal housing policy. The subsidy, called the ‘equalisation fund’, was, as the name implies, a fund used to balance out the capturing of land values between parts of the city with differing potentials to capture LVC. Areas that were accumulating much financial capital, were used to compensate the decreased LVC in less financially yielding areas. Therefore, this fund could make developments commence in less financially yielding areas.

Consequently, the political power within the municipality of Amsterdam exerted relatively much influence on the development of affordable housing with the use of DOs in development projects.

8.4.1.3 Local economic context



Figure 11: Average property value in Amsterdam between 2015 - 2023, Source: Allecijfers.nl (2024)

In Amsterdam, average housing prices have risen relatively significantly in the last eight years. While the average housing price in the municipality was €231,748 in 2015, it has risen to €517,000 in 2023.

According to the interviewees, the local economic circumstances were important in a number of ways.

First of all, the market conditions were indicated to largely affect developers and their financiers. Importantly, especially market volatility was indicated to be important, as an increased amount of volatility would decrease developers' financial security. Interestingly, while developers could also benefit from market volatility, as it could potentially be profitable, Amsterdam #5 indicated that security was to be desired. Furthermore, it also weighed on the contributions if a risk had to be taken by a developer. *"The one area is very profitable, like in the city centre or at the 'Zuidas'. Then you get a lot of contributions. (...) But here, we still have to prove it. So the prices are not that high. Developers have to take a risk to develop here."* (Amsterdam, #2). To counter this issue, it was noted that the municipality used the earlier mentioned 'equalisation fund' to encourage developers to develop and contribute. Furthermore, when the land belonged to the municipality, this was also done by calculating a lower residual land value that would be charged, as is mentioned in Chapter 5.4.1.1. Secondly, the type of development area was also indicated to be an important factor. Interviewees indicated that developing in brownfield areas was more complicated and expensive than developing in greenfield areas. Furthermore, when combined with the municipality's relatively ambitious, strict, and sometimes financially complex affordable housing goals, as is elaborated on in Chapter 5.2.1.1, financial feasibility of the development was indicated to be more challenging. Therefore, offering an extent of policy flexibility in this regard was indicated to be detrimental to make developments commence. In Amsterdam this was done by allowing for an increased amount of 'free market' housing, at the cost of social housing.

Fundamentally, while local economic contexts were indicated to be influential in the process, Amsterdam's land policy (see Chapter 5.2), was indicated to stimulate the development of affordable housing, as it gives a financial incentive to develop affordable housing. This is the case, as it bases the asking price of land on its land use when 'giving out' land, meaning that developers that are willing to develop affordable housing, which holds a relatively unprofitable land use, can acquire land for a lower price. Furthermore, housing corporations were able to acquire land at a standardized and more favourable land price.

8.4.2 Utrecht

8.4.2.1 National legal framework

The interviewees in Utrecht did not have a much experience with using the new legislation. When comparing the old and new legislation in relation to LVC, Utrecht #1 argued that the essence of the new system is relatively similar in the sense that it is aimed at 'cost recovery'. Therefore, it is not designed for municipalities to recover more costs than there are public expenditures related to the development.

Interestingly, whereas the introduction of the Environment and Planning Act did not (yet) have a perceived impact to the application of LVC, Utrecht #1 argued that another new legislation did. According to the interviewee, the introduction of the Law Affordable Rent on the 1st of July 2024, had a large impact on developers. This is because of the structure of the Dutch affordable housing system. In the Netherlands the use of a point system decides if rental housing falls in the rent regulated, or -liberated sector, and what rents a landowner is able to charge. These points are granted based on the attributes a home does, or does not have, such as its size, the property valuation by the government, and if the property has a balcony or garden. Arguably one of the main

impacts of the law is that it introduced an expansion of the point system, resulting in the inclusion of more current 'free market rentals' into the rent regulated rental sector. Utrecht #1 indicated that the two years leading up to this law contained much insecurity for investors. Developers that wanted to work with investors, could not get cooperation for funding. Furthermore, the land values calculated by investors under the middle-priced rentals, the category that is broadened under the new rental law, were negatively impacted. *"The land values under a middle-priced rental were at 0 or even negative. So, if you're looking at the business case of a developer, and you want 25 or even 35% of middle rental homes to be developed in your project, it would not be financially feasible for a developer. So, what we would also do in that case, is that we would switch the middle-priced rent to middle priced homeownership homes in the project. That way, it is still affordable, but with a higher land value, thus improving the business case."* (Utrecht, #1). As this shows, the insecurity caused by the introduction of a new rental law, decreased land values for a category of affordable rental home, therefore reducing the possibility to apply DOs to develop these homes. Furthermore, to make sure the owner-occupied homes stayed affordable at a longer term, and would not be immediately sold at a premium by the new owner, Utrecht #1 indicated that an anterior agreement made sure the homes would stay affordable for 10 to 20 years. However, although the use of DOs for the development of affordable housing in this case were arguably not halted, it entailed that they had to take place in the form of owner-occupied housing instead of rental housing.

Utrecht #1 also indicated that one of the tools already offered under the old 'Law Pre-emption right Municipalities' (Wet voorkeursrecht gemeenten), and was now incorporated in the new law, namely the pre-emption right, is influential in securing DOs. According to the interviewee, being able to use the pre-emption right, gives the municipality more control, and reduces the amount of speculation that takes place.

8.4.2.2 National political context – subsidy

While the development of affordable housing would ideally be financed with the use of LVC, interviewees in Utrecht indicated that this was not always possible. In some cases, the needed affordable housing was indicated to lead to a financial deficit. Interestingly, national prioritization and financial assistance for the development of affordable housing, was in some cases indicated to be needed to partially lift developer's financial burdens, and make developments able to commence. While these financial contributions could be provided as a direct subsidy from the state to developers, along with a set of affordable housing requirements, subsidies could also attribute to covering public investments by the municipality in other areas. By financially subsidising facets of the development that were organised by the municipality, such as the development of public spaces, subsidies lifted the need for municipalities to ask more financial contributions in these areas from developers. Accordingly, the national political context, and the offering of subsidies made the development requirements by the municipalities more feasible, and helped developments commence.

8.4.2.3 8.4.2.3 Local political context

In Utrecht type of influence that was exerted on the use of DOs by the local political arena, was mainly on the basis of the political importance of the development of affordable housing, and structuring how much decision power on a project level is with the implementing department. Interestingly, according to the interviews, the municipality of Utrecht did not make use of local subsidies.

In Utrecht, affordable housing was indicated to be high on the political agenda. Furthermore, interviewees also indicated that the housing policy was a concrete demand in negotiations. *"Some policies you are just not going to sell to the higher ups, there is not really a use to giving away*

anything in negotiations. You will never get the approval from the higher ups. A very obvious one, is the housing program. That is just a hard fact.” (Utrecht, #2).

As this quote indicates, the political agenda had a strong influence on the negotiations, and the way DOs were acquired for affordable housing. However, Utrecht appeared to be slightly more flexible in the way the affordable housing demands should be executed. Utrecht #1 noted that, although it was not possible to deviate from the housing policy in terms of percentages in a certain price category, they were able to adjust the ownership form. “You can however, adjust the program by changing the amount of middle priced owner-occupied homes compared to middle priced rental homes (Utrecht, #1). Importantly, as the housing policy got much political attention, the performance on other policies were often looked at when feasibility was at stake. “Because the city council also saw that it was difficult during the crisis, we formulated the ‘Utrecht approach’, in which we said: in some areas we can offer some space in relation to our own policy.” (Utrecht, #2).

Interestingly, the political importance of the development of affordable housing did not only lead to the strict pursue of the housing policy, but even led to the implementation of stricter norms. While the current housing policy incorporates a benchmark of 55% affordable housing per development area (see Chapter 5.2.2) the newly, but not yet adopted developed housing policy, incorporates 75% affordable housing. “So, the city council told us that they understand that we incorporate the older housing policy, because of financial feasibility. However, they told us that we should try to incorporate the new one, because a development takes long and there are not yet any agreements in this project with developers and landowners. They told us it would be a shame if we would use the old policy, as there is a housing crisis in Utrecht.” (Utrecht, #1).

Importantly, this last point indicates that the local political pressure could not only largely influence the approach taken in developments, but could also influence the external coordination, and therefore have an influence on the development of affordable housing with the use of DOs in multiple ways.

8.4.2.4 Local economic context

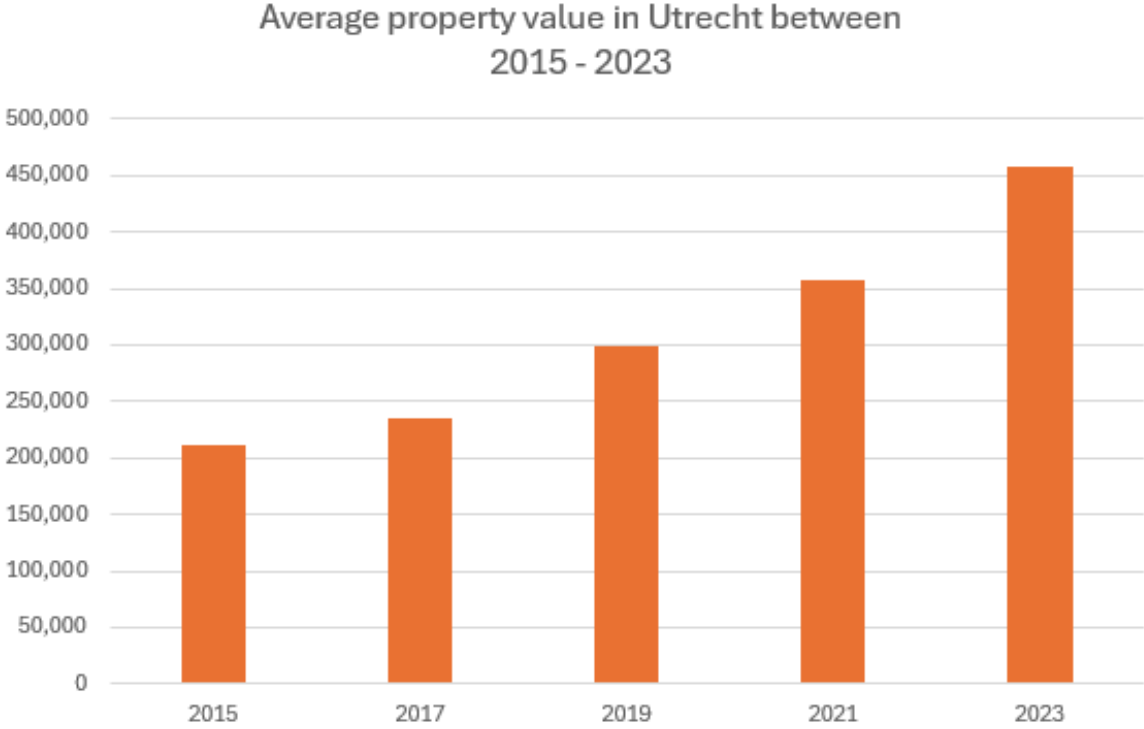


Figure 12: Average property value in Utrecht between 2015 - 2023, Source: Allecijfers.nl (2024)

Utrecht has also seen a significant rise in housing prices in the last years. While the average housing price was 211,000 in 2015, it has risen by an average of almost 250,000 in eight years, to a total of 458,000 in 2023.

According to the interviewees, the local economic circumstances were important in a number of ways.

Utrecht #1 indicated that the increased building costs, and the increased interest rates on loans in the last years were making developments less profitable for developers. Accordingly, it was indicated that these had a negative impact on developers' contributions to affordable housing. Crucially, in Utrecht, Utrecht #2 noticed that areas with high land prices however, were also difficult to incorporate affordable housing into, as increasing land prices and unprofitability of affordable housing followed a similar trend.

Interestingly, while the municipality's approach was generally one in which it did not adjust its requirements based on the financial circumstances of a developer, such as acquiring a plot at unprofitable price, this was revised in some cases. To make developments commence, and to be able to decrease the municipality's housing shortage, interviewees noted that the need to adjust development requirements persisted. To make developments less financially unfeasible, and allow them to commence, interviewees indicated that the municipality allowed for less strict affordable housing demands. These were mostly related to a relaxation of middle priced rentals requirements, in exchange for an increased amount of middle priced owner occupied housing. Furthermore, to counter the unfeasibility of developer contributions, as land prices increased, land prices were taken into account in the municipal demands for affordable housing. In practice, this meant that when land prices in an area would be high, and the development of affordable housing would be increasingly less profitable, adjustments were made on the demands for housing sizes, allowing for the development of smaller dwellings. In addition, the municipality of Utrecht was indicated to mitigate the influence of local economic contexts on DOs through basing the land prices based on land price and use, and offering housing corporations a submarket and standardized land price when 'giving out' land.

8.4.3 Nijmegen

8.4.3.1 National legal framework

The interviewees in Nijmegen were mostly unfamiliar with the use of the new Environment and Planning Act, and were mostly working under the old regime. *"I foresee differences, but I do not know how it will unfold. Forming a plan takes 3-5 years. It still takes quite some time before we get to that stage under the new legislation."* (Nijmegen #3). In addition, Nijmegen #3 argued that many market actors were also unfamiliar with the new legislation.

However, interviewees were able to share some influential factors of the current and future law.

Nijmegen #1 indicated that the new legislation offered a new approach to use terminology to deny cooperation with a development, when contributions were not met. Although the lack of 'voluntary' contributions of a developer could not be used to deny municipal cooperation, it was noticed that cooperation could be denied by making an argument for the plan capacity and market space.

"Sustainable urban development is a good argument if you ask us. Sometimes we indicate that we are momentarily at 140% of our plan capacity. In terms of sustainable development you could say that you do not wish to accept any new developments, as there is no need for it. (...) We do not really know any instances of lawsuits because we do not cooperate. I do not know them in the last 20 years" (Nijmegen, #1).

Importantly however, it was not yet known if this method was still applicable under the new law, and if it would become harder or easier to deny cooperation under the new system.

Interestingly, it was argued that the new Environment and Planning Act would in theory offer more

optionality to acquire LVC, but that it had to be experienced if they would use it, as tools in the former system were also often unused: *“In theory, it (the ability to get contributions) should be more. In theory, there were also some options under the past law that we have never used. (Nijmegen, #2).* In addition to the new Environment and Planning Act, the ‘Law Affordable Rent’, was also noted to be influential. Interestingly, Nijmegen #1 and #2 foresaw a stimulating effect for the use of LVC through the law. According to the interviewees the law regulates the demands that housing developments need to abide by in more detail. These standardized demands safeguard the quality of housing through legislation and decrease the need to negotiate with developers about the requirements for affordable housing. Therefore, according to the interviewees, this legislation made it easier to apply their demands for affordable housing.

8.4.3.2 National political context – subsidy

The need for subsidies to make developments commence, was especially apparent in Nijmegen. Interviewees indicated that in many cases, the development of affordable housing, solely with the use of DOs, was limited. Interestingly, interviewees indicated to be able to set affordable housing requirements, DO requirements for the development of infrastructure needed to be limited. Government subsidies were eventually used to fill up this financial gap. According to Nijmegen #4, it was especially difficult to develop inner city developments with the use of DOs: *“These costs (LVC) are especially difficult for inner city developments. The development in general is difficult, if you also try to recover costs for public developments, it makes it extra unprofitable.” (Nijmegen, #4).* Incorporating the municipality’s affordable housing program, was indicated to contain serious financial implications for the developers, and would therefore not always be financially feasible. However, when the plan was deemed to be crucial and the municipality still wanted to carry out the plan, subsidy was sought to partially accommodate the developer. Important in this process is the national political attitude. Nijmegen #3 noted that it was noticeable in developments where the government’s priorities were, as it was shaping the subsidies that were given out. *“Housing is not only priority one or two in Nijmegen, but also for the national government. You can see that in the way that the government is giving out a lot of subsidies for housing developments.” (Nijmegen, #3).* One of these subsidies was the national government’s ‘start building subsidy’. Through the program, developers could apply for a fund if they were facing a financial shortage, at the requirement of developing minimal percentage of affordable housing. Interestingly, as the government ought the municipality to be a better suited distributor of the fund, the municipality had to deem developments worthy of the subsidy. Furthermore, the national political agenda to develop certain areas of the country was also influencing the process. The project ‘NOVEX’, a strategy in which the current housing shortage in the Netherlands was trying to be tackled by appointing focus areas called ‘NOVEX’ areas, was largely determining where funds were going. Interviewees noticed that if a development took place in a NOVEX area, the DOs for the development of affordable housing would be easier to accomplish, as the national government would be more willing to cover the unprofitable infrastructural costs, and lift this financial burden from the developer and/or municipality. *“Normally we would calculate these costs through to the developer. That we do not have to do then, which is beneficial for the developer, and possibly makes him able to commence building. That is also how you see that priorities are taking shape in practice.” (Nijmegen, #3)*

8.4.3.3 Local political context

In Nijmegen the local political arena exerted influence in a few manners, namely on the basis of: the political importance of the development of affordable housing and structuring how much decision power on a project level is with the implementing department.

Interviewees indicated that affordable housing was the most important subject to the local political leaders. Interestingly, Nijmegen #1 indicated that the municipality was even willing to adapt their usage of LVC to achieve their policy goals: *“Affordable housing is an important goal. Also to use active land policy. It is very valuable to the municipality to keep the social housing going. Specifically the non-market share. It is an important subject, even more important than the others. If we have to adjust our policy goals to make a development commence, mostly the other policies get adjusted, which are also important, but maybe not as important as affordable housing”*. (Nijmegen, #1). As the interviewee indicates, the priority of affordable housing development in the local political arena, had strong implications on negotiations with developers, and the way LVC was implemented, as other policies that would require public costs would possibly be sacrificed to accommodate the development of affordable housing.

Interestingly, Nijmegen was also planning to introduce a local subsidy to stimulate the development of affordable housing, which further highlights its priority on the political agenda, and the influence of local politics in the wider process.

8.4.3.4 Local economic context

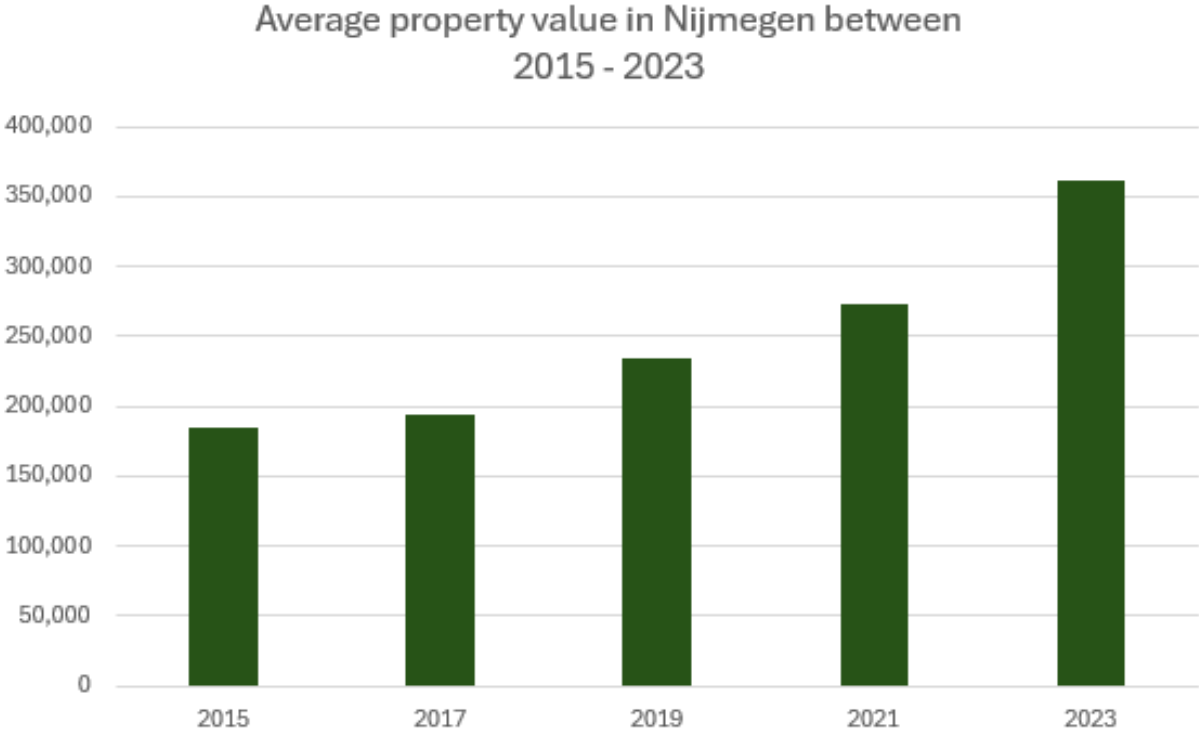


Figure 13: Average property value in Nijmegen between 2015 - 2023, Source: Allecijfers.nl (2024)

Average housing prices in Nijmegen have risen relatively significantly in the last eight years. Interestingly, this price increase has been relatively abruptly and steeply. While prices have increased between 2015 and 2017, housing prices between 2017 and 2023 have increased notably more.

According to the interviewees, the local economic circumstances were important in a number of ways.

Interviewees noted that profitability of the land for developers, was largely important, as it was more difficult to get contributions on land that was less profitable. Nijmegen #3 indicated that the price for ‘free market’ housing was highly important to compensate both the development costs and the unprofitable development of affordable housing. *“One of the large differences I notice in Nijmegen, in comparison to Amsterdam for example, is that the price for ‘free market’ housing, is much higher there (in Amsterdam). So, if you look at the development of these houses, they can get a lot more potential profit for the same building costs. You also see it in the quality they can demand, that we cannot.”* (Nijmegen, #3). Importantly, Nijmegen #3 argued that larger cities would generally accumulate developer contributions more easily compared to smaller cities, as they experience a larger housing demand. Consequently, it was argued that in larger cities, both municipal demands for the development of affordable housing, but also quality requirements, would be more easily applicable. In addition, local building costs were indicated to be important when demanding contributions. Importantly, interviewees indicated that compensation measures for these costs, especially allowing developers to build more volume through increasing the permitted building height, were not always applicable. *“If you want to build higher, the building costs also rise significantly. Above 70 meters, the profit capacity does not increase enough to compensate for the costs.”* (Nijmegen, #2). According to the interviewees in Nijmegen, this was especially the case in the inner city areas.

As a solution to stimulate the development of affordable housing, interviewees in Nijmegen noted that when they were the landowner, the municipality sold land for a lower land price if developers were willing to develop affordable housing. Furthermore, housing corporations were able to acquire land at a standardized and more favourable land price.

8.4.4 Comparison of the average local housing prices between municipalities

AVERAGE PROPERTY VALUE PER MUNICIPALITY BETWEEN 2015 - 2023

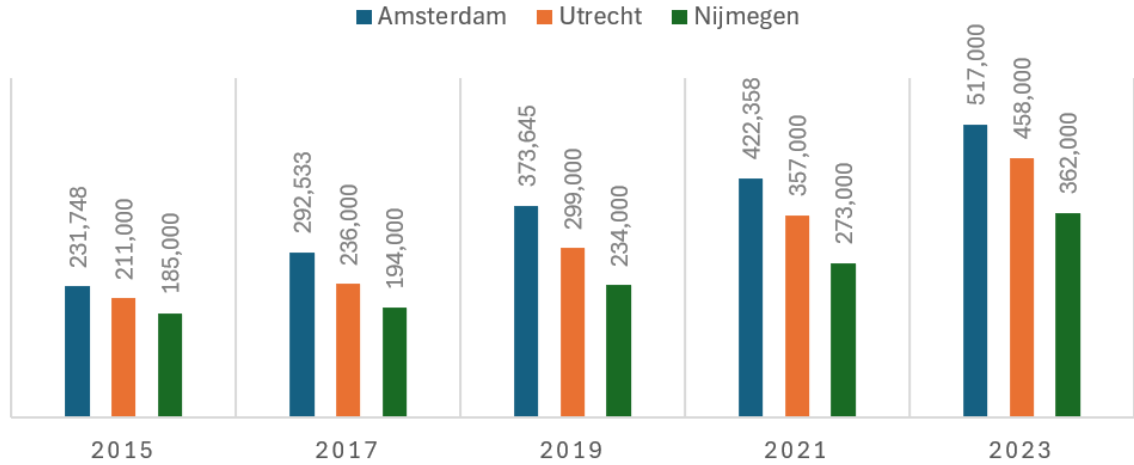


Figure 14: Average property value per municipality between 2015 - 2023, Source: Allecijfers.nl (2024)

In terms of local economic circumstances, Figure 7 shows that Amsterdam has had the highest average property values over the last 8 years among the researched municipalities. There is however a general trend visible in the presented valuations, which shows an increase in property values in every municipality over time. Interestingly, while these values have increased across the board, so has the absolute difference between municipalities in the presented period. Especially the difference between Amsterdam and Nijmegen has significantly increased. However, according to the data, the absolute or percentual difference between the municipalities is not a persistently increasing trend.

8.5 Policy content

8.5.1 Amsterdam

8.5.1.1 Policy goals

According to Amsterdam's housing policy, "Housing agenda 2025", the city has three ambitions: to offer enough, affordable, and good quality housing in 2025 (Gemeente Amsterdam, 2017). As the aim of this housing policy is to offer general housing welfare to the broader society in Amsterdam, but also regulates the amount of housing that has to be incorporated in projects, it would be categorized as a distributive and regulatory policy.

In addition to the general housing agenda, the municipality's 'Housing development plan' (Woningbouwplan) recognises the substantial shortage of affordable housing, and that current housing conditions may lead to the development of smaller housing. The municipality recognises difficulties for developers due to increasing development costs. Importantly, it also notes that because of this, municipal expenditures related to developments will increase, resulting in negative land exploitation. (Gemeente Amsterdam, 2021).

Within the Housing agenda's ambitions, Amsterdam regards the development of housing as an important goal. The ambitions include several implementation objectives. The housing policy mentions these as: The city wide housing policy that 40% of the built housing should be regulated (social) rentals, 40% middle priced rentals and owner-occupied, and 20% expensive rentals and owner-occupied ('40-40-20 policy', in short), the policy to develop 1500 middle priced rental units annually, and for housing corporations to build at least 75% price regulated housing.

The 'Housing Development Plan' further elaborates on the development conditions, and is the main document to analyse the municipalities' development goals. It names the main three goals as building 7500 units yearly, building a good housing mix, and fasten the process and make it simpler.

When achieving the first development goal, the in the housing agenda mentioned '40-40-20 policy' is one of its guiding principles. However, as the 'Housing development plan' recognises the difficulties that developments may face in the current market circumstances, it indicates that room for deviation can exist in specific cases. According to the policy, a deviation of this policy towards a 30-40-30 may occur, meaning that an increased amount of 'free market' housing may be developed, without the decreased amount of social housing having to be developed elsewhere. This is however mainly under the conditions that the affordable housing is managed by a housing corporations. Other reasons to divert from the '40-40-20 policy' are: if another goal of the municipality is being achieved, if the housing differentiation is needed in an area, if the surface of the development is too small to accommodate a mixed project (less than 30 houses), or if the developer proves that no housing

corporation is willing to manage the social housing stock. In this last case, it can build 0-80-20. However, the dwellings have to be developed for the target groups appointed by the municipality. Although the municipality mainly focuses on the development of affordable and middle price rental housing, they also offer the optionality to incorporate middle priced owner occupancy. Nevertheless, this is dependent on the size of the development. Decisively, a board determines what housing development program will be executed. Diverging from this policy is possible under circumstances such as: improving the housing mix in the direct area, the intensity of the densification task, or the financial effect on the land exploitation.

Furthermore, while the policy offers the use of a city wide fund, the 'equalisation fund', that balances financially profitable and unprofitable developments, it also emphasises that besides LVC, the need for state subsidies are essential because of the unprofitability of affordable housing.

For the second goal, building a good housing mix, the municipality aims to develop housing with a mix in living surfaces, that are sufficient in size, incorporate affordable owner occupancy in the middle priced segment, besides having a focus on rentals, and to offer quality rules for social and middle priced rentals.

The municipality proposes some key guidelines for both the social and middle priced sector.

An important point of interest to achieve policy goals in relation to social housing, is sought through collaborating with housing corporations. Notably, the municipality underlines that the preference for the development of social housing is with the housing corporations. One of the main ways in which this is stimulated, is through giving the corporations the priority, when the government 'gives out' its land. To structure these collaborations, the municipality has made 'collaboration agreements' with the housing corporations that contain actions from both sides regarding the development and maintenance of the public housing stock in Amsterdam. One of the factors that these agreements contain, is that whereas private developers have to pay a residual land price when developing the land, corporations have reduced price agreements. However, the policy also recognises that housing corporations are not the only developers of social housing. In its policy, the municipality recognises that when a private actor is the landowner, the municipality has less steering options. However, to safeguard the sector, the policy describes the option for developers to apply a '30-40-30' instead of the '40-40-20', if the social housing is managed by a corporation. In addition, the municipality notes the policy principle, that when social housing is developed, it cannot be sold or changed to another price category within 25 years according to the ground lease contract.

For the middle priced rentals, these time requirements also persist. Furthermore, a max rent is incorporated into the ground lease contract. Interestingly, the municipality has even introduced a never ending middle rent, which cannot be sold or rented out for a higher price than agreed in the ground lease contract. However, this is rare, as it impacts land prices according to the municipality. Lastly, the municipality makes requirements for the size of the developed housing, and the housing quality. Examples include the minimal floorspace for middle priced rentals of 40m² and the agreed average for housing corporations of 60m².

The third goal is to fasten the process and make it simpler. This is largely related to the complexity of developments, especially related to the increasing amount of brownfield developments. Importantly, the municipality argues that clear frameworks are detrimental to realise this, along with the collaboration between the municipality and the market actors that build the developments, as the municipality does not do this itself. Although many processual actions the municipality takes to improve the development speed are influencing the process, some are especially interesting for this research. These are mainly: the aim to give a clear development framework at the 'front-end', involving market actors at an early stage, making collaboration agreements with large market actors

to develop affordable housing, giving extra (temporary) financial impulses to market actors, and incorporating some sustainable development factors on a voluntary basis instead of being permitted.

The land policy ('Grondprijbepaling voor nieuwe erfpachtrechten 2023') proposes two main roles for the municipality in developments: active land policy, in which the municipality makes the ground ready to build and 'gives it out' through a ground lease, and secondly, facilitative policy, where it only makes the spatial framework (Gemeente Amsterdam, 2023). The former applies LVC through the ground lease contract, while the latter is mostly done through agreements, and mostly regards redevelopments.

If the municipality 'gives out land', this is usually done by following the market price. Land prices are always calculated in a 'functional' manner, which means that not the current cost price is used, but that it is based on the land-use that can be developed. This valuation includes the location, (possible) land-use, moment in time and its economic circumstances, and the restrictions caused by the ground lease legislation. To ensure LVC when land prices are deemed too low, the municipality uses a minimal land cost and does not compensate for negative land prices. Importantly, 'giving out' land to housing corporations is an exemption to this system, as the prices are agreed upon in the 'collaboration agreement', made between the corporations and the municipality. To ensure larger sized affordable houses are being built, the land policy for corporations includes a fixed land price for developments that are, or are larger than 73m², instead of calculating a price per square meter. Furthermore, to encourage the development of larger dwellings, housing smaller than 30m², with a few exceptions, also contains a fixed price which is significantly higher than the average square meter price. For private social or middle priced rentals, the land policy contains the requirement that the housing should remain in the respective price segment, and cannot be transferred to a different price segment or sold within 25 years. A 'free market' rental contains less regulations. The principle is however, that it should remain a rental for 15 years. If the landowner decides to sell it, this counts as a change in the land-use, meaning the owner has to pay according to municipal calculations. This system does however not apply to land that is already being leased by a private actor. When this occurs, the residual land price methods are used when land-uses are changed.

8.5.1.2 Influence of policy content

According to Amsterdam #3 and #4, the affordable housing policy was the most influential factor in the process to development of affordable housing, with the land policy coming in second place. They noted that although the municipality is possibly willing to diverge from their '40-40-20 policy' when a business case is not feasible, it is usually set in stone. In some cases this meant that the municipality would simply refuse a development to commence. Importantly, this could have two possible influences on the process. On the one hand, it could increase the development of affordable housing, as developers have to commit to the municipalities goals for housing development, and will be less likely to get away with less affordable housing. On the other hand, this may prevent developments, which could bring an increase to the already existing affordable housing, resulting in less being built. Interestingly, there is however some flexibility in the system. This is related to in what area the '40-40-20' program can be realised. As the municipality does not require this housing mix per development, but averagely per larger area, it offered the optionality to concentrate the development of affordable housing on some housing corporation plots, while leaving more room to manoeuvre for private developers. Consequently, increasing the feasibility of the projects. Important in realising this, is the municipality's policy towards housing corporations. Housing corporations possess, as mentioned, a preferred position, along with favourable land prices when land is 'given out'. According to Amsterdam #5 housing corporations were the ideal partner to develop affordable housing, as they gave more security and stability in the sector over time. Importantly, mainly dealing with housing corporations for the development of social housing, made

the development of social housing easier: *“Whatever it is, at the moment we ‘give out’ land ourselves, we usually give the plots that are meant for social housing to corporations. They are kept outside the rest. That probably makes it easier. Then you just have a 1-on-1 conversation with the corporation.”* (Amsterdam, #5).

According to interviewees, Amsterdam’s land policy was strongly beneficial when it came to the development of affordable housing with the use of DOs. Amsterdam #1 noted that Amsterdam’s land policy, and especially the use of the ground lease system, gives the city the possibility to exert a strong control over the process of capturing land values. Furthermore, the universally applied ground valuation system, in which a lower land price is calculated for affordable housing, and even contains a standardized land price for housing corporations, often below market pricing, also stimulates the development of affordable housing according to Amsterdam #5.

Crucially, while the housing policy influences the financial feasibility of projects, it is not the only policy which might affect these circumstances. Other policies in relation to sustainability or social amenities needed in an area, were also mentioned to require either direct or indirect contributions, such as a monetary contribution for sustainable developments in the area made by the municipality or making space for the development of a homeless shelter on the developer’s land. This larger bundle of policies was indicated to be influential on the feasibility for the developer. The interviewees mainly indicated that when this bundle of policies made developments not feasible, steps could include the further increase of the allowed square meters to be developed in the land-use plan, or the use of the ‘equalisation fund’. Decisively, while a municipality may be able to increase the profitability of the project by for example increasing the FSI, Amsterdam #5 indicated that this aspect of the project was also recorded in local frameworks, meaning that an increase in developable square meters was also sometimes out of the question. Interestingly, while implementers in Amsterdam mentioned that policies besides the housing policy might be more tailored to the projects, it could be noticed that Amsterdam also has a strict policy approach in these areas.

8.5.2 Utrecht

8.5.2.1 Policy goals

In its housing policy, the ‘Housing vision’, Utrecht indicates that they want sufficient housing in the municipality, with a financially accessible housing market (Gemeente Utrecht, 2019). Furthermore, there is a strong emphasis on increasing the amount of affordable housing in the social and middle priced segments. In addition, it seeks to provide a well spread distribution of this housing, with a sufficient mix in the housing supply, including appropriate higher segment housing in areas with relatively much affordable housing. As the aim of this housing policy is to offer general housing welfare to the broader society in Utrecht, while also offering regulation for developments, it would be categorized as a distributive and regulatory policy.

Utrecht’s housing policy aims for sufficient affordable housing in 2040, including 35% of its stock consisting of social housing and 25% of middle priced housing, while maintaining a rapid pace. Especially the middle priced category is a point of interest for the municipality, as it has clear ambitions to increase the development thereof. The municipality incorporates norms for new developments of these middle priced houses, to make sure not only enough affordable housing in the this category is built, but that it also lives up to the estimated needs for its users. This is done by steering towards the development of houses that are sufficient in size, when financially possible. In the development of social housing, the municipality gives priority to working with housing

corporations. Interestingly, as the municipality seeks for a balanced distribution of social housing, it indicates that some neighbourhoods may need an increase, while others need a decrease. Importantly, Utrecht also develops social housing in collaboration with housing corporations, through the use of 'collaboration agreements'.

Not only the development of affordable housing is a point of interest to the policy, so is quality. The municipality of Utrecht includes sustainable requirements for developments in the form of circular building, climate adaptivity, a contribution to green space and qualitative public (outdoor) spaces. To achieve this, it uses steering, regulating and stimulating. In practice, this is described to contain: offering transparency through municipal documents such as visions and frameworks (steering), working together with other actors (connecting), using (judicial) power to enforce its aims (regulating), taking a more active role (regulating), and reinvesting the accumulated funds through LVC (stimulating). Furthermore, it seeks to combine the development task with spatial development factors such as mobility, energy, amenities, green developments. The municipality incorporates all these factors preferably in anterior agreements, and might exert steering with the use of a housing ordinance, land (price) policy, or land-use plans if needed. Consequently, it aims to use private law instruments when available, and public law instruments when needed.

Utrecht is currently developing new land policy. However, as this has not gone into effect yet, the old land policy, 'Het Utrechts grondbeleid' is reviewed. The municipality indicates that it makes use of either facilitating or active land policy, and that the collaboration between itself and market actors strongly relies on its land position, the complexity of the development and the duration thereof (Gemeente Utrecht, 2017).

When it makes use of facilitating land policy it invests in plan costs, such as making a new land-use plan, adjusting public spaces and/or general amenities. When this is done, the municipality aims to retrieve the costs through Developer agreements or a Contributions Plan, of which the former is preferred. Interestingly, the municipality mentions that it aims to use a standard agreement for developers, to make the process more aligned and speed it up. This standard agreement does however only include the plan costs the municipality needs to make for the development. The basic principle is that a landowner should pay the necessary (public) investments that benefit them. These also include interventions at a higher scale than the development itself.

Within facilitative developments, the municipality aims not to be passive, but either orchestrating or to be a partner in developments. Importantly, the municipality notes that housing programs are not established through the land-use plan, but through contracts and agreements.

The municipality of Utrecht does not intend to use active land policy, but can do so if needed in a certain location. It will however, first explore the facilitative method. One of the reasons for this, is the financial risk active land policy brings. When a facilitating approach is not deemed the most optimal result for the public, it may use active land policy. Furthermore, it also applies this when a development involves aspects that have a strong public need, such as the development of public housing or sustainability. When the municipality has to acquire land to achieve these necessities, it does this by buying land, using the pre-emption right, or expropriating. Eventually, when the land gets 'given out', the municipality describes to do this at a market price. However, housing corporations are the exemption, as they are collaboration partners to develop affordable housing. Therefore, they get offered a discounted land price. Prices have been agreed over through 'collaboration agreements' with the corporations. These are partially based on the average development height of 4.8 storeys per building. However, this can be changed in special occasions, if for example a development is realised with more than 10 floors.

In the past land was often 'given out' via a ground lease construction. Nevertheless, the municipality aims to change this construction towards selling housing developments in full ownership, except for

some categories. These include social housing, investors rentals, if there is a shopping mall in the development, and land that is being used for multiple uses, if less than 70% is used for 'free market' owner occupancy.

Within the approaches of active and facilitative land policy, the municipality notes the use of four sub forms of land policy.

The first is passive land policy/self development. Herein, the municipality charges (a part of) the municipal costs, when that is financially feasible. It also makes the spatial framework. Interestingly, the municipality notes that a development with a negative calculation cannot offer the named contributions. Furthermore, it argues that the potential profit that is connected to the changes in the spatial frame, are staying with the landowner, and cannot be used by the municipality to contribute elsewhere. Importantly, the municipality even notes that it might offer a contribution to private developments in the form of a subsidy, if the development contributes to the desired spatial implementation and/or this contribution is needed for it to proceed.

The second is a public private partnership. This however, may come in three forms.

The first is a joined venture. This is used when the municipality only has a part of the land. In this approach the municipality shares both the say and the risk of the development with other landowners. The second is a building claim. Here, the municipality buys the ground from private party and makes them building ready for a set price. Hereby, the municipality has more influence on the development of public space and the program, but also shares the profit of the development. The last one is a concession. Here the municipality has an active role at the start, but selects a concession who performs set developments on the municipal land.

8.5.2.2 Influence of policy content

The municipality of Utrecht strongly focuses on the development of affordable housing. Interviewees in Utrecht also indicated that the municipality relatively strictly maintains its housing policy when negotiating with developers. Furthermore, Utrecht imposed a plurality of policies on a new development, including sustainability, spatial quality of the development, and the quality of the housing itself and housing size. However, interviewees in Utrecht seemed offer a relatively increased amount of flexibility to negotiate policy targets. According to Utrecht #1, offering flexibility on policy ambitions was needed to improve results. *"One of the subjects of discussion is the Housing vision, with a division of housing segments. Besides that, we have a lot of other demands. (...) Then we try to come to a result with the developer. The conversation we have is then if he has a feasible business case on the basis of the different ambitions. We also know that we cannot score a 10 on all ambitions, especially in the last couple of years."* (Utrecht, #1). Importantly, this does not only show that the policies themselves may offer an impact on the feasibility of a project, it also shows that too many policies may prevent a development from taking place. Furthermore, as a result, municipal workers have to review, and adjust policies case by case. For the development of affordable housing, Utrecht #1 indicated that these revaluations could entail negotiations about the requirements for the middle priced rental sector, but could also have an effect on negotiations for social housing. The second could include allowing a lower percentage of social housing, when there is a relative local oversupply. However, usually the overabundance of policy led to a decrease of requirements for other policy goals, such as demanding less contributions in relation to large scale implementations, e.g. for sustainability.

The land policy was also indicated to have an influence on the development of affordable housing, through affecting negotiations. Especially interesting, was the use of a mix between housing policy and land policy in the city centre. Utrecht #2 indicated that although housing prices are high in the city centre, so were the prices to acquire the land. Therefore, the financial unprofitability of

affordable housing increased to the point that it could not be balanced out by more profitable 'free market' housing. Consequently, the municipality used less strict requirements for housing sizes in these areas. According to the interviewee, this flexibility in policy offered a positive influence on the affordable housing development. Besides this factor, the interviewees from Utrecht also noted that their land value calculation method and collaboration with housing corporations, and their exclusive land prices, were beneficial to the development of affordable housing, similar to Amsterdam.

8.5.3 *Nijmegen*

8.5.3.1 Policy goals

Nijmegen's housing policy, 'Uitvoeringsagenda Wonen 2020-2025' emphasizes that it aims to support all target groups (Gemeente Nijmegen, 2020). In addition, it indicates that it aims to aid those who need extra help in society, and are in need of affordable housing, such as starters and students. This is because the municipality argues that there are enough opportunities for the higher incomes. As the aim of this housing policy is to offer general housing welfare to the broader society in Nijmegen, while also offering regulation for developments, it would be categorized as a distributive and regulatory policy.

In regard to the development of its housing segments, the city explicitly mentions that it seeks to increase the development of social and middle priced rentals, as well as middle priced owner occupied housing.

In terms of social housing, the municipality aims to have new developments comprise 30% of this category. To do this, it strongly seeks the partnership of housing corporations. Furthermore, the municipality aims to use the 'Housing deal', including the aims and agreements regarding the development of housing in the area of Nijmegen, which has been developed on a national level (Rijksoverheid, 2020), to seek collaboration with actors at multiple levels.

In relation to middle priced housing, the municipality aims for new developments to include 15% middle priced rentals, while also aiming to increase the amount of middle priced owner occupancy. For the former, the municipality aims to use (i.a. anterior) agreements with developers. Furthermore agreements contain the conservation in the sector for 15 years. While the focus is on housing corporations, the municipality indicates that this sector can also be developed by other actors. The incorporation of the latter is done on a project basis, and is thus not standardized. To achieve the development of this category, the municipality mentions to seek the support of the national government to stimulate the development of it.

Importantly, while not specified in the above mentioned document, interviewees mentioned the availability of a standardization document for developers, that contained development requirements of 30% social rent, 15% middle priced rent, 15% affordable home ownership housing, and 40% free market housing.

Interestingly, the land policy in Nijmegen, 'Nota grondbeleid 2024 Gemeente Nijmegen', does not contain spatial goals, such as housing segments (Gemeente Nijmegen, 2024). The city indicates that these are in the housing policy or ordinance. In relation to this research, the focus of this policy is on a sustainable use of space and varied housing supply.

The municipality notes that three approaches can be taken: active, facilitative or cooperative. Within active land policy, the municipality mentions that it has much control and can accumulate LVC

through being a participant in the land market. Interestingly, the policy mentions that profits may be used to cover for shortages elsewhere. When practicing active land policy, the municipality aims to acquire land on a voluntary basis. If that is not possible, it does it through the pre-emption right or expropriation. Active land policy is used when there is a clear importance and benefit of increased municipal control in an area, in relation to the results needed. Nijmegen mainly sells its land, and usually does not give it out in ground lease or general lease, due to administrative loads that these methods come with. When it sells, it happens through an open selection process, where the municipality presents its goals and developers can hand in plans. Importantly, while the land price is usually based on the market price, the municipality offers room for exemptions in rare cases. When this occurs, the final land price is based on a negotiated fee.

Within the facilitating land policy, the developer leads the development, and the municipality has less control over the development process. The municipality tests if a plan is reasonable compared to its own goals. If that is the case, the costs for public investments will be charged to the developer, by which the anterior agreement is the preferred method. If an agreement cannot be reached, the municipality makes use of public law, through the cost recovery rules in the land-use plan, under the new Land and Environment Act. Importantly, the municipality explicitly mentions that it only makes use of cost recovery and does not make profit.

With the cooperative approach, the municipality indicates that it makes use of active land policy, however, in collaboration with private parties. In this process both public and market actors share the control and financial aspect of the development.

The municipality weighs the use of the land policy for every development individually based on three criteria. The first one is impact. This means evaluating how a development contributes to municipal ambitions. The second is control. This entails if the municipality can steer enough to reach goals from its current land position, and to what extent market actors can reach the municipal goals. The last one is effectivity. This means the balance between municipal financial risks in comparison to the result, both in a financial and societal regard.

To finance unprofitable developments, the municipality can fund developments with the use of the 'Housing fund', a financial reserve. This can be for either active or facilitative developments.

8.5.3.2 Influence of policy contents

Nijmegen maintains a strict housing policy in relation to the interaction with developers. Furthermore, the municipality also brings other policies into negotiations for developments, such as sustainability. Importantly, interviewees underlined the argument that the amount of policies and the requirements set by the policies have a strong influence on the feasibility of the projects, and eventually may prevent developments from taking place. *"The whole point of cost recovery, if you relate it to affordable housing, is that there is a profit margin in the development. Through that, you can charge a developer to deliver a further contribution based on the return they have gotten from developing the housing. However, our experience is: it is already unprofitable. So how can you ask someone with a negative business case to contribute more. If it is a developer who is looking for profit, and that are most, they will only develop if they make profit. (Nijmegen, #3).* In relation to this, the interviewee indicated that to make sure affordable housing could be achieved, the focus on this policy needed to be emphasised over others. The rest of the policy fields were indicated to be largely flexible in relation to LVC contributions by the developer, or even fully supplied by government or local subsidies. This however, highlighted the importance of the municipality's policy to develop affordable housing, largely with the use of corporations. As housing corporations do not aim to make a profit, they are willing to make contributions to projects that might not be profitable. In addition,

according to Nijmegen #3 and #4, their policy of offering housing corporations set land prices below the market rate was also beneficial for the process of developing affordable housing.

In relation to the land policy, the approach taken by the municipality was also deemed of influence to the negotiations process. Completely applying a facilitative approach to developers to develop affordable housing was not always leading to the desired developments. When this happened, Nijmegen #3 indicated that Nijmegen had the tradition to use active land policy to acquire the land and get it developed in strategic locations. Therefore, the importance of a flexible land approach was deemed to be influential on the process.

8.6 Commitment

8.6.1 Amsterdam

In Amsterdam, it became apparent that the influence of implementers' commitment in implementation processes is mitigated by the power structures in the organisation, through which the direct implementers can only advise the city council to adjust its policy. However, commitment was indicated to still carry importance in two regards. Firstly, interviewees indicated that being committed to the policy, and sticking to the policies in negotiations, largely contributed to their perceived success to accumulate contributions. Secondly, although the housing- and land policy is directly important to obtaining developer contributions, it was also indicated in Chapter 5.2 that policy fields are interrelated, as implementing different policies in a project all have an influence on its feasibility. Therefore, it may be the case that in developments, a strong commitment to one policy, may be at the cost of the policy goals of another.

According to the interviews, all implementers in Amsterdam were highly aware of the policy documents that could be important to the development of affordable housing with the use of DOs, such as the housing- and land policy documents that were presented in Chapter 5.2. Furthermore, interviewees indicated that their projects contained an 'investment decision', established by the city council, in which the policy guidelines for the development area were determined. As they often used this guideline for the implementation of the project, implementers were also aware of other policies that might be of importance in the development area, such as sustainability.

Generally, the interviewees showed a positive response towards the housing- and land policies. Within the interviews the importance of Amsterdam's relatively ambitious affordable housing policy was often noted to be catering the needs of the city. Furthermore, the land policy was also believed to be well thought through. The result of this, is that the interviewees seemed to largely enforce the policy goals, and did not quickly diverge from them in negotiations. However, some cases were indicated in which the universally applied '40-40-20 policy' was deemed to be too general and not financially feasible, especially in brownfield developments. Nevertheless, as the policy offers a room to manoeuvre in terms of the housing mix, the interviewees were proponents of its workings, and therefore enforcing its approach. Interestingly however, if some adjustments needed to be made, this first needed to go by the city council. Therefore, the influence of the implementers that were the closest involved in the development, would have been mitigated, at least to some extent.

In their commitment to the policy, the responses given by implementers appeared to be relatively strong in protecting the city's policy goals, with all indicating that the policy goals were fixed. Furthermore, multiple interviewees indicated that if the developer did not want to comply to the municipalities policy goals, the development could not go through. *"We can also just say: if you do not want to cooperate, we will not cooperate with your transformation. That is the game that is played. Then you look for the optimal implementation for the municipal policy goals namely: more*

affordable housing, which the market will actually realise.” (Amsterdam, #4).

However, some interviewees also indicated that the intensity of response could be affected by the willingness of the developer to accommodate the municipal goals. It was noted that if a developer wanted to contribute to the spatial quality of the city, compared to a developer that was solely developing to make a short term profit, implementers were more willing to come to an agreement.

8.6.2 Utrecht

In Utrecht, the influence of commitment was also largely mitigated by power structures. However, commitment was still indicated to maintain some influence.

According to the interviews, all implementers in Utrecht were aware of the directly important policy documents related to the development of affordable housing with the use of DOs. Where interviewees in Amsterdam noted that the relevant policy aspects were noted in an ‘investment decision’, interviewees in Utrecht indicated that they had a ‘memorandum of principles’. Furthermore, interviewees were not only aware of the current policies, they were also aware of the development of new housing policy document, which included an increase in the affordable housing segment in the housing mix.

Although the interviewees were generally agreeing with the housing policy, some concerns were discussed surrounding the implementation of affordable housing and the respective requirements for the middle priced housing development, in relation to the feasibility of the projects. This concern was especially present with the implementation of a relatively large affordable housing segment in the new housing policy. Interestingly, implementers seemed relatively willing to adjust the housing mix, especially the conditions in the middle priced rental sector, to accommodate developments to commence. However, although implementers in Utrecht seemed willing to accommodate developers, the possible divergence from the affordable housing mix was relatively marginal, as municipal actors higher in the hierarchy, often the city council, made the final decisions on the adjustments of policies in development projects. Consequently, the commitment of the interviewees in relation to the policy was shown to be less influential. *“Politics are very important. If you know that certain topics are not up for debate by the management, it is no use to try to give something away in negotiations. You will never get the approval of higher management. (Utrecht, #2).*

8.6.3 Nijmegen

In Nijmegen, the same importance of power structures in relation to commitment was found.

According to the interviews, all implementers in Nijmegen were aware of the directly important policy documents in relation to the development of affordable housing with the use of DOs.

Interestingly, implementers in Nijmegen appeared to be relatively critical of policies in relation to their feasibility in developments. As was mentioned in Chapter 5.2.3, Nijmegen #3 noticed that implementing the affordable housing policy would already be financially complicated, and therefore implementing more policies, such as the aim for cost recovery for other public investments, would be difficult. Nijmegen #1 further underlined this argument: *“I think that our policy is strict to the point, that you have to compromise somewhere”.* (Nijmegen, #1). Interestingly, while interviewees expressed somewhat critical notes towards the accumulation of policies, they did show a commitment towards achieving the housing policy. However, as the development of affordable housing was prioritized, this was largely at the expense of cost recovery in other policy areas. In relation to LVC for the development of affordable housing compared to other cost recoveries, Nijmegen #3 underlined the direction of response in favour of the affordable housing policy: *“At the moment developers need to develop affordable housing, and also have to contribute for other costs*

such as public spaces, they need 'free market' housing to be able to finance it. When it becomes skewed, and they cannot develop the two thirds affordable housing, we say: "stop". Because even if they can contribute to public spaces, but they want to have 70% 'free market' housing and 30% social housing, we have not realised the plan we have envisioned, and think the city needs. So the contribution of market parties to public spaces, in addition to affordable housing, is generally small, if not nil." (Nijmegen, #3). As both the implementers and higher management believed that making a development commence was more beneficial to the city than achieving all policy goals, implementation of some policies would be reevaluated, rather than strictly maintaining all initial policies.

8.7 Coordination

8.7.1 Amsterdam

The internal coordination in Amsterdam, was indicated to be largely supplied by its strong policy structure, as was indicated in Chapter 5.2. This policy structure, provides the municipality with clear frameworks for implementers. Furthermore, as the municipality applies a uniformly strict approach towards maintaining policy frameworks in negotiations, the internal coordination is further strengthened.

Implementers also indicated that frequent, municipally wide, meetings with their peers from the department increased the coordination, as they were often sharing problem solutions and approaches. However, as the municipality of Amsterdam encompasses a relatively large organisation, Amsterdam #3 indicated that it was impossible to be aware of every development, and decision, being made. Yet, the organisational structure, in which a large part of the control is often with the higher management, was indicated to be able to counter this decreased coordination.

As higher management was often involved when decision or alterations are being made in a project, and individual implementers were taking in a more advising and implementing role, higher management was able to have an overview of more projects, and structure the internal coordination. Amsterdam #3 highlighted the importance of this coordination and coherence in approach, as market actors may scan their possibilities by exploring the boundaries in different development areas: "*(...) you of course also have parties that are going all around town. They can be looking for input in a project in which they are working on the other side of town. They can be having a conversation with you for this location, where they do not necessarily want to develop, but want to see how the municipal workers on this side think about it. They want to use the input they get here on the other side, to use it to their advantage in that development.*" (Amsterdam, #3). Consequently, less coordination and coherence, may be used by developers to their advantage, and may possibly result in less overall success to develop affordable housing with the use of DOs.

For the external coordination, interviewees also indicated the importance of policy. By offering clear and accessible policy documents of what the municipality expects from a development in terms of affordable housing and other requirements, these guidelines did not come as a surprise, and a basis was made for negotiations to commence. Especially in the case of housing corporations, as agreements regarding developments had been made collectively. Furthermore, interviewees indicated that when a developer approached the municipality with the intention to develop an area, the municipality handed out a 'starters package', with the relevant policy documents and the vision document for the area. After that stage, the municipality and the developer share their vision on the building. Finally, both parties go through several stages, including agreements about the plan for the building, sketches, and finally a development and usually a ground lease contract. Conducting these steps offered a clear and coherent process, and possibly decreased the need to renegotiate, which is

a time and cost intensive process.

Interestingly, Amsterdam #3 indicated that the area he oversaw, had a stakeholders meeting every 6 to 12 weeks. In these meetings new goals by the municipalities were presented, and developments that were taking place in the area were shared. Through this, developers were more aware of what was happening around them, and what the municipality was willing to cooperate with. This further boosted the influential factors mentioned above.

8.8 Data on the negotiation process

8.8.1 Amsterdam

8.8.1.1 Recognition of actors involved in the development process and inter-organisational relations

Interviewees in Amsterdam indicated that there were three 'sides of the table' that needed to be recognised: the municipal actors, actors that are executing the actual development, and society.

As was mentioned in earlier chapters, the municipality of Amsterdam maintains a relatively strict policy approach. Therefore, it became apparent that relatively much focus was on the involvement and coordination of internal actors. On the municipal side, the development team, including roles such as urban planners and city architects, were mentioned to be recognised as important actors, and directly involved in the development. Furthermore, interviewees also noted that actors outside the team, like policy makers on different topics, such as housing and sustainability, but also higher management, were important. As higher management, especially the city council and aldermen, were shown earlier in this research (e.g. Chapter 5.2) to have much control over the policy outcomes and implementations, involving them in the process was highly influential.

Consequently, it was shown to be influential on the development process who and how municipal workers that were more involved in the actual negotiations with developers, recognised and involved other municipal actors. Interestingly, this does not only show that the negotiation process starts at 'the table', but that there is also an internal negotiation process going on.

The developing actors that were recognised and involved in the process were mostly indicated to be landowners, developers, investors, but also housing corporations. As mentioned, the municipality of Amsterdam applied a relatively strict policy. As this policy was largely unnegotiable, involvement in adjusting implemented policies was relatively marginal, and actors were mainly involved through being informed about policy goals. This was mainly done by presenting openly accessible policies. Although market parties had limited say in the application of policies, interviewees mentioned that the municipal goals were not often opposed, as developing parties were aware of their strict enforcement. Significantly, according to interviewees, the land positions of the municipality and the type of LVC instruments used contributed largely to this acceptance: *"The advantage is that we have land, so they need us. They cannot develop something different than is in their ground lease contract. So there you have a strong negotiation position to achieve the municipal goals of that moment"*. (Amsterdam, #4). In addition, when owning the land, Amsterdam #3 argued that the influence of involvement was even further reduced when the municipality was 'giving out' land, as it could impose the rules under which developers could acquire the land. However, while the municipality has relatively strong control, it was indicated that the dependence on developers that were already leasing land, or even owned it, made collaboration more important, and therefore increased the influence of recognising and involving these actors. Amsterdam #1 indicated that involving market actors was extremely important, as both parties were benefiting from developments to commence.

Furthermore, as Amsterdam #3 noticed, it could also be beneficial to recognise and involve actors that were not directly involved in negotiation processes and their outcomes. As was noticed and mentioned in Chapter 5.4.1, recognising developers in the vicinity of a development as involved actors, and informing them on the made agreements and development aspects, can offer clarity and possibly ease the negotiation process. Therefore, recognizing and involving market actors in wider negotiation processes to create understanding and find solutions was deemed influential on the final outcomes.

Importantly, housing corporations were, again, taking in a special role in this regard. As mentioned in earlier chapters, the municipality works in strong collaboration with housing corporations.

Significantly, the municipality did not only recognise these corporations as involved actors in separate developments, but also involved them as influential actors in the policy process, as was mentioned in Chapter 5.4.1. This high amount of involvement in the policy process, and the forthcoming agreements, eventually led to a standardized and simplified negotiation process.

From the interviews came forward that societal actors, in the form of citizens and interest groups, were not directly recognised to be involved in the negotiations, but rather through goals and policies for the neighbourhood.

Amsterdam #2 emphasised that adding more actors, in this case from the municipal professionals, to the direct negotiations, would not always be beneficial to the process, as these are often already complex with a small amount of involved actors. While actors can be indirectly involved, restraining the amount of actors directly involved in the negotiation process, can there be beneficial as it simplifies the negotiations, and improves reaching outcomes.

8.8.1.2 Transparency of information

The municipality of Amsterdam was indicated to mainly provide the developing actors with transparency through policies, but also more specific development related frameworks. Commonly, this information was publicly accessible online. Furthermore, developers were also supplied with a development area based bundle, containing the applicable documents, referred to as the 'starters package'. According to the interviewees, the main policies in relation to the research topic, namely the housing- and land policy, were transparent, and could be regarded as general knowledge. This was especially the case as factors, such as land prices, were largely standardized. Importantly, by offering this transparency, developers could already take these policy measures into account when acquiring the land or approaching the municipality with a plan. However, as Amsterdam #1 indicated, the complexity of the policy framework was of importance in this process. The land policy and ground lease system was typified to be relatively complex, and therefore would need skill to be correctly interpreted. Furthermore, the interviewee indicated that because of this complexity, requirements often had to be independently reviewed. Consequently, this lowered the transparency of the policy, could lead to unforeseen outcomes for developers, difficulties in the negotiations and eventually, a possibly negative impact on outcomes.

In addition, as was mentioned in Appendix 8.8.1.1, the municipality was indicated to occasionally recognise, and inform developers about ongoing developments in their area, and the agreements made in them. Offering this increased transparency and clarity to developers about the conditions in which the municipality was willing to cooperate, resulted in an improved collaboration according to Amsterdam #1, and could therefore ease the negotiation process.

Regarding the transparency of market actors, interviewees indicated that the process was often relatively untransparent. Interviewees noted they never exactly knew what the developers' goals and motives were, and often had to rely on their own estimations. This was especially the case when money became the topic of discussion. While developers often claimed that projects were financially

difficult, or even unfeasible, interviewees noted that they could often not be sure if this was the case in practice. Reason for this was that it was often difficult, if not impossible, to get an insight into the developers' data. Importantly, Amsterdam #1 noted that getting transparency in this regard was influential to the negotiations, as the municipality often wanted to collaboratively find solutions to make developments commence, but needed financial data to do so. Controversially however, financial transparency by a developer was not always indicated to be beneficial. Interviewees revealed that the substance of the financial data could often be moulded by providers to underline aims, and steer negotiations into the wanted direction. This was indicated to be often done by showing a negative business case. Amsterdam #3 pointed towards the importance of the implementer to recognise if data is actually a transparent representation of reality: *"You can of course shape your business case to what you want it to look like. If you want to get a negative business case, you will make calculations to do so. It is up to us then to see through that"* (Amsterdam, #3).

8.8.1.3 The influence of individual implementers and effective preparation on the process

Implementers in Amsterdam indicated that their influence was limited in a few regards. As the previous chapters have highlighted, Amsterdam applies a relatively strict policy regime and relatively top-down power structure, through which adjustments of policies are largely overseen by the city council and higher management. This limits the individual influence of implementers. Furthermore, not only were policy adjustments in negotiations stated to be based on the judgement of higher management, it was also reliant on the project team, and other teams (in)directly related to the project, such as those making policy. This further reduces the amount of influence exerted by individual implementers.

However, implementers were able to exert influence in a plurality of ways. Firstly, through knowledge of policy. In Amsterdam, policy, especially the land policy was shown in Chapter 5.2 to be relatively complex. Therefore, interviewees indicated that the extent to which an implementer was aware of a policy and its workings was influential in negotiations, as it helped them judge situations, seek solutions, and shape outcomes. Secondly, through advising. While the actors that are higher in the municipal hierarchy are largely responsible for adjusting policies, interviewees indicated that they were responsible to advise them in their decision making. Thirdly, implementers indicated to be largely responsible for implementing quality requirements, such as housing size. As these factors have financial implications, they are also influential to the process. Fourthly, through communicating. As Chapter 5.4.1 illustrated, communication was deemed to be an important factor in the negotiation process. Therefore, by applying an communicative approach, implementers can affect the process. Fifthly, as Chapter 5.5.1.1 pointed towards the importance of actor recognition, by recognising actors and their agendas, and responding accordingly, implementers were mentioned to influence negotiations

As was indicated in the aforementioned part, many municipal actors were involved in the development process. As a plurality of municipal actors got involved in forming the development plans and their execution, a plan from the municipal side was collaboratively made, and brought into the negotiations. Furthermore, as these negotiations often take years, it is not a one and done preparation, but an iterative process, which is adjusted constantly.

Consequently, interviewees indicated that preparing negotiations was not only the skill of one individual implementer, but that of the collective. Significantly, internal preparation, communication and coordination to form a plan were indicated to be the most important factors to effectively prepare negotiations.

8.8.1.4 Ability to separate people from the problem and centralise objective criteria

As was mentioned in the earlier chapters, relatively strict policy regime and relatively top-down power structure, gave structure to the interaction between implementers and market actors. Accordingly, these structures were shown to provide some standardization and decreased the need for individual implementers to be able to separate people from the problem and centralise objective criteria.

However, as negotiations involve more fluidity and interaction, relationships were still shown to affect the process. Amsterdam #3 indicated that the willingness to cooperate with developers could differ, as negotiations with developers with a larger attention for municipal and societal interests, get more sympathy, resulting in implementers becoming less strict. Interestingly, Amsterdam #5 indicated that the feeling persisted that developers could sometimes be in a victim role to make negotiations go their way. The influence of these subjective beliefs, could have an effect on the negotiation process, as it could decrease the collaboration. Importantly, Amsterdam #2 indicated that the way actors at the 'table' viewed each other was crucial to the negotiations. It was indicated that when any of the actors could be convinced that the motives of the other were unjust, the collaboration could be harmed, and negotiations could break down.

8.8.1.5 The amount of focus on interests and positions of stakeholders, and the ability to invent options for mutual gain

As was stated in earlier chapters (e.g. Chapter 5.4.1), the municipality applies and maintains relatively strict policies, and development frameworks for development areas in the city. As interviewees indicated that developers largely have to comply with these policies if they want to develop the area, it would be expected that the municipal implementers emphasize on their own interests, compared to those of the developers. However, this was not completely the case. Although there was relatively much focus on internal interests, interviewees also recognized the impact that these policies had on the profitability of developers. Accordingly, implementers acknowledged costs that developers had to make to realise a development, and how current costs and market difficulties could impact their feasibility. These interests and positions were taken into account in the municipal policies. Furthermore, through the policy framework, implementers were sometimes able to decide whether they needed to offer some flexibility. This was for example done by offering the option for the housing mix to be somewhat adjusted from 40-40-20 to a 35-40-30-40-30, adjusting development related policy demands for other policies such as sustainability, and possibly being willing to negotiate about required housing sizes.

Crucially, interviewees stated that collaboration was essential in the negotiations process, as both actors needed each other to make the development happen. Therefore, searching for mutual gain was essential to establish this collaboration. Here, an in Chapter 5.5.1.5 mentioned aspect was stated to be detrimental, as trust and imagery were fundamental to a good collaboration. Furthermore, not only did focussing on the interest and positions at the 'negotiation table' enhance the negotiation process, so did thinking along with the indirectly involved stakeholders, as was mentioned in Appendix 8.8.1.1. This was indicated to ease the process, and stimulate developers to incorporate the desired aspects in their developments. Importantly however, interviewees indicated that focusing on the interests of the developing actors, and looking for mutual gain had its limits: *"Sometimes, they are small steps, but you have to reach back to where you are coming from. Then you realise that you have given a lot, and need hit the brake. Therefore, you have to be aware of your own boundaries."*(Amsterdam, #4).

Interestingly, the need to find mutual gain was also dependent on the land position and LVC tools that were being used. Amsterdam #4 mentioned that being the landowner (or using ground lease) gave

the municipality a stronger position to make demands, as they would hold more alternative options to make a development commence, compared to the developer, who was reliant on the municipality. Consequently, implementers in Amsterdam were often taking the lead in the development process, and put more focus on their own interest. Significantly, while expropriation was an optional tool when land belonged to market actors, taking over control, instead of looking for collaboration, was believed to have a negative impact on the balance of the projects. This is because it would achieve some municipal goals, but could negatively influence the liveability aspects that needed to be provided by market actors, such as economic activity and work. Therefore, implementers were hesitant to use this, and rather worked DOs out collaboratively.

Interestingly, focussing on interests and positions of developing actors did not only entail understanding the process and process circumstances that these developments were involved in, it also meant understanding what kind of actor they were dealing with, and what their goals and aims were. As Amsterdam #1 indicated, developers and the investors behind them, could be different. Such as developers that only make plans, developers that carry out the actual development, and those in between. Amsterdam #3 mentioned that it was also important what investor was behind a developer, as it would determine if they were aiming for a short term, or long term return, and what type of real estate they wanted to have in their portfolio. Accordingly, understanding these factors influenced negotiations, as interviewees indicated that their strategy largely dictated the extent in which these parties were willing accept the development affordable housing, the duration that these dwellings should stay in the tenure and price segment, and how many other spatial contributions they were willing to deliver. Lastly, Amsterdam #3 and #4 stated that knowing the agenda, goals and aims of actors was significant, as parties could have a secret agenda. Amsterdam #3 noted that developers could inquire about developing an area, just to affect their knowledge and chances in another.

One exemption on the explained municipal workings were, again, housing corporations. As housing corporations were important actors for the municipality to reach their goals in relation to the development of affordable housing, they largely had aligned interests, and as they had a bond of trust, they spent elaborate time on achieving mutual gain. The outcome of this was the before mentioned 'collaboration agreements', which were seen as a cornerstone by respondents for the development of affordable housing in the municipality.

8.8.1.6 If time is recognized as a resource and how

Interviewees in Amsterdam noted to have a distinct development structure with procedural checkpoints, in which agreements and actions were coupled to a moment in time. An example of this is the 'intention agreement' which entails the intention of both parties to work on a development, and usually ends with a development agreement and first version of the development design. According to Amsterdam #3 making a planning and setting the framework was important to ensure (financial) clarity. Furthermore, Amsterdam #4 noticed the importance of time in making these agreements and planning, as a developer could take it into consideration for the financial calculations of the development. As time elapsed, market circumstances were able to change. This could both enfold positively or negatively for the municipality and/or developer. When negotiations take longer, market prices for real estate or land can deviate, therefore having an impact on the feasibility of the project. Interestingly, while a drop in land prices would decrease the feasibility of the project for market actors, a rise would increase it. In relation to LVC, interviewees indicated the importance to timely adjust land prices to the current market conditions, to increase the feasibility of the project, but also apply the maximum amount of LVC. In addition, while updating these land prices was deemed important to capture LVC, so was it for giving developers financial security in a project. Lastly,

taking time in negotiations was indicated to be labour intensive, expensive, and possibly reduce the feasibility as time went by. Consequently, it was stated to be important to timely make clear, time based, frameworks, with expected completion times. This could make a balance between giving financial security and maximizing LVC.

8.8.2 *Utrecht*

8.8.2.1 Recognition of actors involved in the development process and inter-organisational relations

Interviewees in Utrecht mainly recognised the involvement of four actors: the state, the municipality actors that are executing the actual development, and society.

Interviewees in Utrecht recognised the involvement of several municipal actors, including the city council, aldermen, project team and policy workers. Furthermore, as Utrecht also maintained a structure in which the higher management had to approve of policy adjustments, and was even trying to apply a stricter, not yet established policy, their involvement was also highly influential.

Interestingly, in Utrecht, the involvement of the national government in the negotiation process was recognized. However, this was only related to the development of water and road infrastructure. Therefore, involving them in the negotiations for the housing development was less influential.

The developing actors that were recognised and involved in the process were mostly indicated to be landowners, developers, investors, but also housing corporations. The municipality of Utrecht applied a relatively strict land policy in terms of standardized land prices, and was relatively rigid in maintaining its housing policy. However, although the municipality largely maintained their policy goals relatively strictly, it did offer an amount of policy flexibility. This seemed to entail a larger role, and need for, the involvement of external parties. What is important however, is that both interviewees were active in a development that contained several landowners, of which the municipality was one. Crucially, Utrecht #1 pointed out that a decreased involvement of developers into housing policy adjustments, could lead to dissatisfaction under developers, and had a negative effect on the collaboration between the two. As the development the interviewee worked on consisted of multiple landowners, this dissatisfaction could bring developments to a halt. Therefore, Utrecht #1 indicated the importance of involving developers to make a development commence: *“A market actor could say: “this is not feasible for us, so we are not going to sign this agreement”. (...) So you are then continuously conversing with each other to make sure the project is feasible for both parties, and to get an agreement signed.”* (Utrecht, #1). In addition, Utrecht #2 further elaborated on how land positions could play a role in the importance of involving private actors: *“I think it has mainly helped us in the collaboration that we were the largest actor. I don’t think it matters as much when one actor has the landownership.(...) Sometimes it is useful to be the largest to keep everyone on board.”* (Utrecht, #2). These quotes further underline the influence of land positions, LVC methods used, and how these are related to a private actor’s involvement and influence in the policy and negotiation processes. In addition, it implicates the importance of municipal land positions in order to steer negotiations, as landownership positions get more complex.

Fundamentally, housing corporations in Utrecht fulfilled a special role, as was mentioned in Chapter 5.4.2.

Although citizens were recognized as an involved actor in this process, interviewees did not explicitly mention their direct involvement in the process.

8.8.2.2 Transparency of information

Utrecht provided developing actors with transparency through publicly available policies. However, as was mentioned in Chapter 5.4.2, the municipality occasionally made use of the not yet established housing policy, leading to a decreased transparency for developing actors.

Interviewees in Utrecht also noted the importance of transparency in the negotiation process, in relation to possible collaborative solution finding. Interestingly, Utrecht #2 noted the experience of a case in which actors had decided that a representative per actor at the 'negotiation table' would not be beneficial to the negotiation process. Therefore, a smaller number of representatives was chosen to represent the developers collaboratively. This however, led to communication lines behind closed doors between different developers, and made it less transparent to the municipality which exact actors were, or were not, agreeing to prepositions. Consequently, reducing transparency through this structure, was indicated to limit the capacity to find solutions within the negotiations. Furthermore, interviewees in Utrecht also indicated that the idea of trust, and distrust was largely influential in the negotiation process, as feelings of (in)sincere data and communication could be great importance.

8.8.2.3 The amount of focus on interests and positions of stakeholders, and the ability to invent options for mutual gain

Utrecht maintains a relatively strict policy framework. Furthermore, the municipalities' housing goals do not offer much flexibility to developers, and are also mostly a requirement for a developer to commence with. Hence, a relatively strong focus persisted on the municipality's own interests.

However, here, the municipal workers, were also shown to focus on the interests and positions of developers. Interviewees mentioned that the financial feasibility for developers was an important factor to take into account. This was done by assessing the financial implications of the relatively strict policies, together with the current market conditions. When these together were deemed unfeasible, the implementers, and other municipal actors, were willing to somewhat rethink their policy, and offer financial space. This had led to the creation of a new temporary policy approach named the 'Utrecht approach' (see Chapter 5.2.2).

Focussing on interests and positions by looking for mutual gain through collaboration was deemed inevitable to be able to achieve successful negotiations, and eventually the development of affordable housing.

Utrecht #1 indicated the importance of focussing on the interests and positions of developing actors, through understanding the actor, and what their goals and aims were. This was not only deemed influential to the individual negotiations, but could also affect others, as developers that were seeking to pull the areal profit towards them, through e.g. financial tricks, would disadvantage the other involved actors in the area. This would further influence the negotiations between the municipality and other actors, and eventually make the goal to develop affordable housing more difficult. Therefore, not only looking for mutual aim, but also guarding own boundaries was shown to be influential here.

In Utrecht housing corporations were the exemption to municipal procedures with other market actors, as the municipality and the corporation had a bond of trust, and spent elaborate time on achieving mutual gain, which resulted in the collaboration agreements.

8.8.3 *Nijmegen*

8.8.3.1 Recognition of actors involved in the development process and inter-organisational relations

Interviewees in Nijmegen mainly recognised the involvement of four actors: the municipality, the state, actors that are executing the actual development, and society.

Interviewees in Nijmegen recognised the involvement of several municipal actors, including the city council, aldermen and project team. Furthermore, Nijmegen also maintained a structure in which the higher management had to approve of policy adjustments, as was the case in the other two municipalities.

The market actors that were recognised and involved in the process were mostly indicated to be landowners, developers, investors, and housing corporations.

Nijmegen maintains a relatively strict housing mix policy. When aiming to achieve their affordable housing development goals, the municipality mainly involves market actors through informing them about the development requirements. However, in negotiations, developing actors were indicated to be involved in filling in the further details of the projects, such as housing size and how long the housing should be rented out in the affordable sector. In addition, it was indicated that the municipality's rigidity to apply its policy, was largely related to the development area size, as it wanted to achieve its vision in a larger area. Therefore, smaller developments were approached less rigidly compared to larger developments. Importantly however, Nijmegen #1 and #2 both indicated that having strict policy, and being largely in charge of the frames of the project, could on the one hand make sure all aims and needs could be accomplished, while it could limit the feasibility of the project on the other hand. In this regard, interviewees in Nijmegen also emphasised the importance and influence of involving actors on the basis of land positions.

Housing corporations fulfilled a special role in Nijmegen. Interestingly, while the strong involvement and collaboration between the municipality and housing corporations was shown to be beneficial in some development processes, their unequal involvement compared to other actors, could affect the relationship between the municipality and other actors negatively. Market actors in Nijmegen were mentioned to bring these agreements, and their included unequal treatment, up for discussion in negotiations.

Although citizens were recognized as an involved actor in this process, interviewees did not explicitly mention their direct involvement in the process.

8.8.3.2 Transparency of information

Nijmegen mainly provided developing actors with transparency through publicly available policies. Importantly, interviewees stated that landownership played a large role in offering transparency. Interviewees indicated that the municipality was able to translate their vision for an area more transparently when they were the landowner, as they would present the development requirements when selling land. Through this, developers were better informed when they wanted to develop an area. In addition, negotiations seemed to be positively influenced by a standardization of requirements. Furthermore, Nijmegen #1 and #2 stated that negotiations with developers were decreasing, as the municipality standardized the expected time developers had to keep affordable housing in the respective price segment.

Interviewees in Nijmegen noted that developers were usually not transparent, especially when it came to the financial motivation of their arguments. Significantly, here, it was also argued that transparency was fundamental in solution finding between developers and the municipality, as the

municipality had difficulties collaborating if financial motivations were insufficiently given. Furthermore, giving insights into the development process, and the progression thereof, was also indicated to be important, as this made the developer more dependable, and therefore would receive more understanding and cooperation from the municipality in the process: *“It’s important that a market actor can explain why something goes slower than you had imagined. Or where there are complications in the execution. So the more transparent an actor acts, the better we get an understanding of the situation, and support them.”* (Nijmegen, #3).

Crucially, Nijmegen #2 mentioned that a difference in calculations could also occur through the use of different methods. Therefore, showing transparency was indicated to not only include financials and motives, but also methods used.

8.8.3.3 The influence of individual implementers and effective preparation on the process

Implementers’ influence in Nijmegen was limited in a few regards, as the municipality applies a relatively strict policy regime and relatively top-down power structure, through which adjustments of policies are largely overseen by the city council and higher management. Furthermore, as developments were indicated to be organised by project teams, this individual influence further decreased.

Although individual implementer’s influence was indicated to be limited, interviewees showed a few manners in which it could take place. Firstly, implementers were indicated to be able to advise actors higher in the organisational hierarchy in their decision-making. Furthermore, as implementers are part of the project team, they indicated to influence the project requirements such as designs for public spaces, and their respective contribution by the developer. Interestingly, implementers also indicated that through subjective matters, implementers would in theory be able to influence processes. Herein, communication, as mentioned in Chapter 5.4.2, was deemed to be important. As implementers are sitting at the negotiation table, communication with other actors was indicated to possibly shape the willingness of an implementer to cooperate. This could for example entail the lack of communication by a developer when a development was not making the deadlines that were agreed upon. In addition, as implementers are able to advise other actors within the organisation, the emphasis of an implementer, such as the focus to make a development commence promptly versus the emphasis on achieving the highest contributions possible, could provide different outcomes.

As was indicated in the aforementioned part, many municipal actors were involved in the development process. Therefore negotiations were generally prepared collaboratively. Furthermore, as these negotiations often take years, it is not a one and done preparation, but an iterative process, which is adjusted constantly. Consequently, interviewees indicated that this was not only the skill of one individual implementer, but that of the collective.

8.8.3.4 The amount of focus on interests and positions of stakeholders, and the ability to invent options for mutual gain

Nijmegen maintains a relatively strict policy framework. The municipality applied a relative large focus on its own interests, as housing goals were generally indicated to be a requirement for a developer to comply with. However, implementers also indicated to focus on the interests and positions of developers. Herein, Nijmegen #4 pointed to the need to not only focus on the interests and positions in terms of feasibility, but also relate these to the actor profile. Importantly, interviewees in Nijmegen also pointed out that it was both their, and the developers’ goal to make the development commence. Consequently, the interviewee further highlighted the importance of

collaboration for this mutual cause. It was mentioned that if the feasibility got proven to be a point of difficulty for the developer, the municipality was possibly willing to adjust policy, but only if no other option, such as subsidies, was available. Crucially, Nijmegen #3 indicated that it was usually the municipality's aim to collaboratively get a development to commence, and not to simply stop the collaboration when municipal requirements were not fully met. Consequently, this flexibility could mean that some policy goals could be drifted away from. However, this was only the case when a developer was the landowner. When the municipality was the landowner, it was noted that the position of the municipality towards the policy requirements was more strict. In addition, while interviewees indicated to be willing to collaborate and think along with developers, applying the affordable housing mix, as described in the municipality's policies was a hard must. Interestingly, Nijmegen #1 indicated that the municipality was willing to force this mix by using an ordinance. Importantly, in Nijmegen, interviewees also pointed out the influence of land positions on the required amount of focus there on the stakeholders and mutual gain.

In Nijmegen housing corporations were the exemption to municipal procedures with other market actors, as the municipality and the corporation had a bond of trust, and spent elaborate time on achieving mutual gain, which resulted in the collaboration agreements.

8.9 The development of affordable housing with the use of DOs

8.9.1 Amsterdam

8.9.1.1 The usage of DOs

Amsterdam has a relatively unique approach to the use of LVC for affordable housing. Compared to other Dutch cities, the municipality owns a high amount of own land (See Figure 16). The reason for this is that, whereas other cities might use the sale of land to accumulate income, the municipality of Amsterdam mostly makes use of ground lease contracts. *"I think what makes Amsterdam unique in comparison to many other municipalities, is that we have a lot of leasehold land."* (Amsterdam, #5). However, although the municipality owns a vast majority of the land, Figure 16 also shows that some parts of the city are owned by other actors. Therefore, interviewees indicated that the municipality in some cases, also makes use of Developer agreements or Development Contribution Plans.

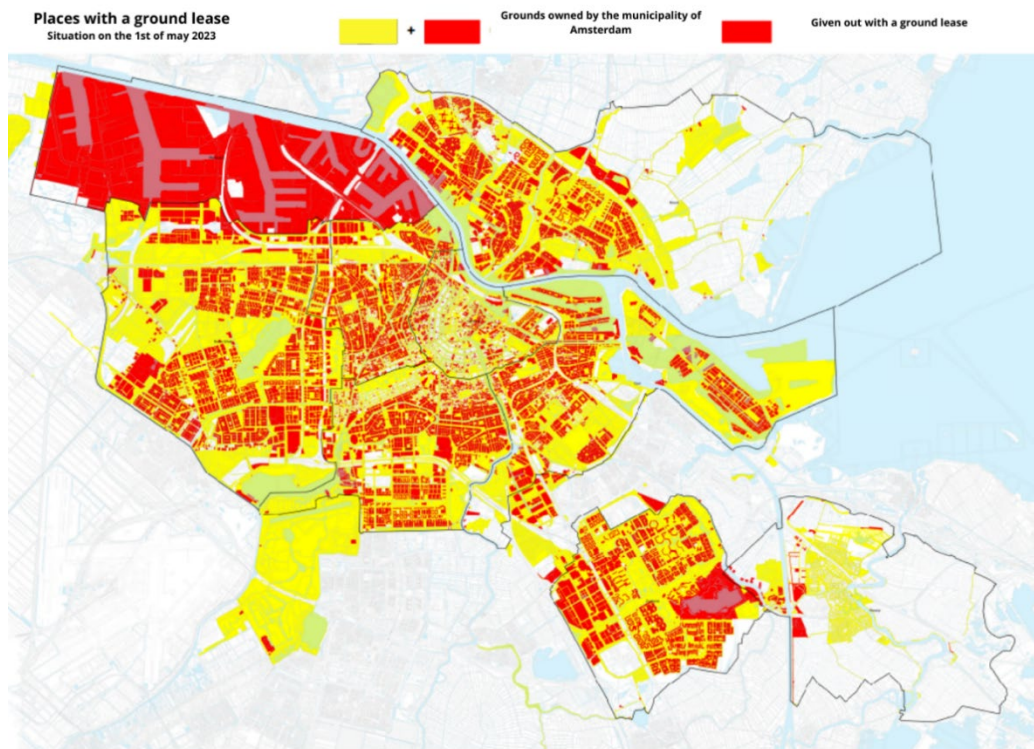


Figure 15: Land with leasehold in Amsterdam, Source: Gemeente Amsterdam, 2023

Ground lease

The ground lease contract is a tool which makes use of private law, and is roughly used in two ways to accumulate LVC: when the land is ‘given out’ to the developer, meaning that it is sold with a ground lease construction, or when the developer wants to adjust the land.

The ground lease contract, is a contract that contains the rights and obligations of both the owner (municipality in this case) and leaser. When making a ground lease contract, the municipality has standard guidelines to charge developers based on the land values: *“In Amsterdam, we have a residual land value for the ground lease contract. That means that you take the market value of piece of real estate, subtract the investment costs, and that gives the residual value. That is the price we charge developers.”* (Amsterdam, #2). The way this instrument is used slightly differs between ‘giving out’ land, in which land without an already existing contract is put in the market by the municipality, or land that is already in the hands of a private landowner. The former makes complete use of the above described procedure, while the latter takes multiple facets into account, and broadly offers two options.

The first, is a revision of the contract. With a revision, the current period of the contract is ended, and a new period (often 50 years) will go into effect, along with contracted specifics of the plan and a new land price. When this is performed, the developer gets back the sum they paid for the years that are left on the contract. The second option, is a land-use or building alteration, through which the ground lease period remains the same. In this case, the developer only pays for the expansion of land-use, which can occur for example when the land-use is changed from an office use, to office and housing. In this case, the developer pays for the difference in land-use value between the current use, and the new use.

Importantly, not only can this tool be used for the direct monetary capture of land values, it also offers a structure to compensate developers for building affordable housing. This is done by including different land values, and thus financial contributions, for different housing categories. *“The*

development of affordable housing is settled in the land prices. You have a set price for social housing, that is €200 per m² I believe. For rent liberated housing, the developer pays €800 per m². There is a huge difference between the two.” (Amsterdam, #1). Furthermore, through this tool, the municipality also steers to impact the development of larger units in the affordable sector: “We also try to stimulate that housing corporations develop larger houses. If you develop more affordable housing that is 70-75m², we calculate a set price, instead of calculating the price per m². That way, it is more favourable to develop it.” (Amsterdam, #5).

Through these measures, the municipality makes use of the ground lease contract to apply LVC for the development of affordable housing.

‘Giving out’ land

As mentioned, within this ground lease structure, the municipality also makes use of owning and ‘giving out’ the land to developers, which entails a selling like method, while still remaining the landowner through the ground lease system.

When ‘giving out’ land, the municipality has a plot of undeveloped land and puts it on the market. When using this method, the municipality develops a ‘program’ for the land to ensure that the developers deliver the public needs in terms of affordable housing, amenities, and public space, among other factors: “If we ‘give out’ land, that is not yet build on, we of course plan our ‘program’s’ starting point with the project team in advance: what type of housing do we want there. Then you put it in the market. In terms of negotiating, there is less activity there. You make a strategy in advance, give the development framework to market parties, to which they enrol to be able to develop the land.” (Amsterdam, #4). By using this method, the municipality can set requirement to acquire the land, therefore ensuring LVC.

Importantly, some of the interviewees noted that their work had strongly changed in the last 10 years, as they have experienced a shift in the nature of their projects from ‘giving out’ land, to redeveloping it: “I think that up until 10 years ago, 90/95% of our work consisted of ‘giving out’ land. You see a clear shift towards redevelopment projects. That is when there is already some real estate in place, that is in need of redevelopment or replacement.” (Amsterdam, #3). This shows that although the method is still being used, it has become less prominent.

NDO

While most of the land in the municipality is owned by the governmental body, some areas exist that are owned by private parties. However, although one interviewee worked with lands owned by a private party, none of them had experience with the use of Developer agreements on the developers’ own land.

Yet, although the municipal workers do not work on many projects with developers’ own land, they do encounter negotiations. When the municipality ‘gives out’ land, or a developer has ground leased lands and wants to redevelop, a negotiation takes place between municipal and market parties. Besides using LVC when land prices change, interviewees also indicated that they would negotiate about further contributions and/or developments that need to take place before agreeing to change the land-use plan. “We have written a development plan. When a developer or ground leaser wants something, they contact us. We then give them a starting package, which includes documents. It also includes our development plan, that indicates which way we want the area to develop. They can read it, and determine if our views align. After that, they come back and we start the conversation about what they want.” (Amsterdam, #2). Amsterdam #4 further added: “The advantage is that the land is yours, so they need you. They cannot develop something different than is drawn up in their ground lease contract. So then you have more space to negotiate to make sure the municipal ambition of that moment are realised in that project. That also relates to housing segmentation and affordable

housing." (Amsterdam, #4). Accordingly, NDOs were indicated to be used as a tool to acquire additional LVC besides the use of ground lease contracts.

N-NDO

Interestingly, interviewees indicated that N-NDOs in the form of Development Contribution Plans and Profit tax were rarely being used. Furthermore, none of the interviewees had experience with making a Development Contribution Plan. Lastly, interviewees indicated that they were reluctant to use this instrument, as these were complex judicial, and long lasting processes, compared to the other instruments mentioned.

Subsidy

Crucially, LVC was not always able to take place, as was mentioned in Chapter 5.1. Interviewees indicated that not all land was able to acquire a positive financial balance when it came to the interaction between financial yields of a (re)development and requirements set by the municipality. Therefore, the interviewees indicated that in case LVC could not take place, the municipality had to rely on local subsidies in order to finance the development of affordable housing.

Comparison of DOs

Based on the interviews, implementers in Amsterdam showed to almost solely make use of the ground lease system, wherein it stays the landowner. Importantly, interviewees broadly advocated the use of this 'Amsterdam method'. According to the interviewees, being in control of the land was largely important to the potential of LVC, especially in relation to achieving policy goals. Moreover, by being a large landowner, and staying the owner of the plot even after 'giving it out', interviewees indicated that the municipality had more steering and persuading capacity to get contributions in terms of affordable housing, and come to the desired developments. Furthermore, by keeping a grip on land prices after the land was 'given out', the steering capacity was indicated to continue and contributions were able to be accumulated, even after the initial development of the land. However, while the interviewees were largely advocating the method, none had experience with using other LVC instruments, and could therefore not compare the tools based on practical knowledge.

8.9.2 Utrecht

8.9.2.1 The usage of DOs

Interviewees in Utrecht worked on projects with a different actor set, as their projects contained a mix of municipal- and privately owned land. Furthermore, the projects that the interviewees worked on were largely overlapping. Therefore, this needs to be taken into account when analysing these results.

Ground lease

Currently, Utrecht mostly 'gives out' their land in a ground lease structure, when it is the owner. However, the interviewees indicated that Utrecht's approach to LVC when 'giving out' land, has differed when viewed historically: *"In principle, we 'give out' the land through a ground lease. However, that has differentiated in the last years. There has been a period, until now I suppose, in which the free market housing was sold in complete ownership. We have come back from that approach recently, so now, the new contracts that are constructed when 'giving out' land, are ground*

lease contracts again." (Utrecht, #1). When comparing the old, and 'new' system, the interviewee concluded that the use of ground lease was a valuable tool to: *"We see that ground lease is a valuable tool to keep grip on the development of the land, even when land has been 'given out' to a developer previously."* (Utrecht, #1). Furthermore, Utrecht #1 indicated that grounds were given out on lease at an indefinite duration. In this structure, ground leasers only have to pay once when they 'buy' the land. Although this meant that the ability to apply LVC after a set period has ended was not available, the interviewees highlighted that it did give an option to apply LVC when a redevelopment takes place: *"The developer has to get in contact with us when he wants to redevelop his land. We might want to cooperate as a municipality, but that would require a financial implication for the developer."* (Utrecht, #1). In this case, the developer would have to pay for the value increase that is caused by the municipal intervention.

'Giving out' land

The municipality 'gives out' the land with requirements for the development, including a price for the land, a percentage of affordable housing that needs to be build, and a contribution for infrastructure. Interestingly, the interviewees stated that when 'giving out' land, requirements are often stricter compared to other methods, as they have to give a good example and try to accomplish policy goals as good as possible.

NDO

The interviewees in Utrecht had much experience with the use of NDOs, as they more frequently interacted with land that was owned by developers. The NDOs used, were mostly in the form of Development agreements, which the interviewees called 'collaboration agreements'. Interviewee #1 noted that these agreements, especially in the anterior form, were the preferred way to apply LVC when working with non-municipal grounds. These agreements got shaped through a negotiating process. In this process, the municipality took into account to what extent the current situation is being changed due to government intervention, and what goals they wanted to achieve that needed funding: *"One of the first things that we look at is: what is possible with the land-use plan now. It is fine if the developer wants something that differs from the land-use plan, however, then they have to comply with our policies that we strive to accomplish. One of those is the Housing policy, which includes a division in housing categories."* (Utrecht, #1). As this shows, drawing up the contracts contained multiple arrangements including: how much affordable housing needs to be build, who builds it, the percentual distribution in terms of pricing, but also the monetary contributions for developments such as infrastructure. When making such agreements, interviewee #2 noted that it is always a search to reach the optimal use of LVC: *"Market parties had for example made a proposition with 20% social housing. If you make 30% of it, you're adjusting the factor social housing in the calculation model. That does something to your financial yields as well. That is what we constantly do. Eventually, we are looking for the line between what is feasible and what is not."* (Utrecht, 2#). Although the anterior agreement was mentioned as the preferred one, interviewees noted that it was not out of the question to use a posterior agreement. Interviewee #1 noted that, to his knowledge, this was used in combination with a Development Contributions Plan. After this plan was made, the posterior agreement was used to further arrange matters later in the process, therefore replacing the initial Development Contributions Plan. However, none of the interviewees had experience making such agreements.

N-NDO

Although the interviewees had no experience with the use of N-NDOs, and Development Contributions Plans in particular, they mentioned that they had been used in the municipality before.

Interviewee #1 indicated that the earlier mentioned Development Contributions Plan, which was followed by a posterior Development agreement, was the only case he was aware of in the municipality. However, as the posterior agreement was drawn up, the Development Contributions Plan went out of effect, therefore indicating that it was not a common tool of choice.

Subsidy

Crucially, LVC was not always able to take place. Interviewees indicated that not all land was able to acquire a positive financial balance when it came to the interaction between financial yields of a (re)development, and requirements set by the municipality. Therefore, the interviewees indicated that in cases LVC could not take place, the municipality had to rely on national subsidies in order to finance the development of affordable housing. How these subsidies took place, and how they influenced the process was mentioned in Chapter 5.1.

Comparison of DOs

In Utrecht, the interviewees argued that working with own ground, and giving it out through a ground lease was perhaps more functional when capturing land values compared to a structure that makes complete use of NDOs. *“In general you would say that using your own land is easier than working with a developer who has land, because you are in charge of your own land and terms. (...) That makes developing affordable housing on your own land a lot easier. Because you do not have to go into negotiations with a developer that has bought land for an X amount, and wants to get a certain yield.”* (Utrecht, #1). As Utrecht #1 indicates, own land gives more control on the land, and reduces complexity, as local profits can receive less focus. Furthermore, the use of ground lease contracts, makes the control on the capture of land values even more secure. When ground lease contracts have been constructed, ensuring a future possibility to capture land values is more solidified: *“If you ‘give out’ land through a ground lease, you have to negotiate as well, but it is already agreed upon through the ground lease contracts, that the developer has to pay the land value increase.”* (Utrecht, #2).

8.9.3 Nijmegen

8.9.3.1 The usage of DOs

It came forth in the interviews, that the city of Nijmegen marks its approach of LVC in general, and in relation to the development of affordable housing, by mainly selling municipal lands and using a relatively large amount of NDOs to apply LVC. Interestingly, the use of ground lease in the municipality was found to be strongly limited.

Ground lease

The municipality rarely makes use of ground lease contracts. Whereas other municipalities may ‘give out’ land through ground leases when they sell it, the municipality of Nijmegen usually completely sells the land rights to developers.

Selling land

When ‘giving out’ land, the land is usually not sold with a ground lease structure. The municipality sells the land with requirements for the development, including a price for the land, a percentage of affordable housing that needs to be build, and a contribution to infrastructure.

NDO

Interviewees in Nijmegen had relatively much experience with the use of NDOs. Interviewee #3 indicated that all LVC through NDOs usually takes place in the form of Development contracts in the anterior form. Interviewee #3 noted that the municipality of Nijmegen made a distinction between 'land exploitation', containing the development of real estate, and the 'investment plan', regarding developments such as infrastructure, public spaces. Furthermore, interviewee #3 argued that the municipality makes a calculation for the 'contribution of higher scale amenities', that contains a contribution for municipal interventions on a higher scale, that are (partially) outside of the development area, but positively affect land values of the development.

N-NDO

The interviewees indicated that the municipality did not generally steer towards the use of N-NDOs in the form of Development Contributions Plans, and that they were rarely being used. The interviewees indicated that a Development Contributions Plan's use was mostly to recover infrastructural costs, instead of applying LVC for affordable housing. Interestingly, when the municipality could not get to an agreement with the actors involved, it used a 'target group ordinance', to ensure the development of affordable housing and guarantee the period in which it should stay in a certain price bracket. This 'target group ordinance', is a local ordinance that is integrated in the land-use plan and determines the requirements a housing program should abide by. *"Usually we use the 'anterior' agreement. If we do not reach an agreement, we can use the 'target group ordinance'. That is not under the Environment and Planning Act, but we could use it up until Januari 1st. We have used it once (in my projects), but the rest was all 'anterior'."* (Nijmegen, #1).

Subsidy

Crucially, LVC was not always able to take place. Interviewees indicated that not all land was able to acquire a positive financial balance when it came to the interaction between financial yields of a (re)development and requirements set by the municipality. Therefore, the interviewees indicated that in cases LVC could not take place, the municipality had to rely on local or national subsidies in order to finance the development of affordable housing. How these subsidies took place, and how they influenced the process were mentioned in Chapter 5.1.

Comparison of DOs

Interviewees in Nijmegen indicated that while the use of active land policy was initially thought to be the most beneficial to achieve contributions, it would be dependent on the actor set. The use of facilitative land policy, with the use of NDOs, was in some cases believed to be beneficial. According to Nijmegen #1, getting a development to commence was more difficult as the project and actor set got more complex. Therefore, trying to municipally steer the development through active land policy was believed to make it potentially more difficult to get a development to commence, and therefore limit the ability to achieve contributions. Consequently, it was argued that the use of NDOs, through anterior agreements, was possibly a more effective instrument as developments got more complex. In addition, the Contributions Plan was deemed to be the least useful as it offers less flexibility to accumulate contributions. The Contributions Plans was especially noted to be unbeneficial to accumulate contributions for the development of affordable housing, as it was indicated to mostly offer a method to acquire infrastructural costs.

8.10 Condensed comparison of municipalities based on concepts, dimensions and indicators.

Figure 16: Condensed summary of comparative results

Concept	Amsterdam	Utrecht	Nijmegen
Institutional context	<ul style="list-style-type: none"> Influence of legal framework is limited by LVC structure and landownership. Local political context contains much political decision power, affordable housing is high on the agenda, and provides a municipal subsidy to stimulate affordable housing Local economic context is marked by high average land and housing prices, stabilised land price volatilities due to land policy. 	<ul style="list-style-type: none"> Law Affordable Rent was indicated to affect contributions <u>negatively</u>. DOs not always sufficient to finance policy goals and require national subsidies. Local political context contains much political decision power, affordable housing is high on the agenda, and policies may be diverged from because of political agenda. Local economic context is marked by high average land and housing prices, stabilised land price volatilities due to land policy, and municipality is willing to adjust policy goals to compensate negative local economic effects. 	<ul style="list-style-type: none"> Law Affordable Rent was indicated to affect contributions <u>positively</u>. DOs not always sufficient to finance policy goals and require local or national subsidies. Local political context contains much political decision power, affordable housing is high on the agenda, and provides a municipal subsidy to stimulate affordable housing. Local economic context is marked by high average land and housing prices. More difficult to get contributions due to comparatively decreased land and/or housing demand.
Policy content	<ul style="list-style-type: none"> Strict affordable housing policy with housing distribution of 40-40-20. Land policies aimed at LVC through ground lease (50 years), affordable housing at submarket price. Minimal duration to remain in price regulated sector for 25 years. Close collaboration with housing corporations, which includes standardized submarket land price agreements. Strict maintenance of policies in negotiations. 	<ul style="list-style-type: none"> Housing policy with moderately strict housing distribution of 35-25-45. Land policies aimed at LVC through anterior agreement with ground lease (indefinite duration), affordable housing at submarket price. No minimal duration to remain in price regulated segment. Close collaboration with housing corporations, which includes standardized submarket land price agreements. Moderately flexible with policies in negotiations. 	<ul style="list-style-type: none"> Housing policy less strict with housing distribution of 30-15-15- 40. Land policies aimed at LVC through selling land or anterior agreement. Selling in full ownership. Less specified stimulus of affordable housing in land policy. Minimal duration to remain in price regulated segment of 15 years. Close collaboration with housing corporations, which includes standardized submarket land price agreements. Flexible with policies in negotiations.
Commitment	<ul style="list-style-type: none"> Strong commitment to enforcing policies. 	<ul style="list-style-type: none"> Moderate commitment to enforcing policies, mostly rejecting policy due to strictness of accumulated policy package. 	<ul style="list-style-type: none"> Least committed to policies, mostly rejecting policies due to unfeasibility of accumulated policy package.
Coordination	<ul style="list-style-type: none"> Relatively strong internal coordination due to policy and organisational structure. Organisation size weakens coordination. Strong external coordination due to policy structure, development procedure and communication. 	<ul style="list-style-type: none"> Moderately strong internal and external coordination due to policy and organisational structure. Diverging from policies weakens coordination. 	<ul style="list-style-type: none"> Moderately strong internal and external coordination due to organisational structure. Internal and external coordination weakened by diverging from policies and offering a less elaborate policy framework.
Negotiation process	<ul style="list-style-type: none"> Limited involvement of market actors in policy implementation, mainly involved through informing. Moderately transparent, with detailed supply of information, but complex policies Limited influence of individual implementer in adjusting policies and preparing negotiations. 	<ul style="list-style-type: none"> Moderate involvement of market actors in policy implementation, mainly involved through informing and negotiation. Limitedly transparent, with a relatively detailed supply of information, but with divergence from policy in practice. Limited influence of individual implementer in adjusting policies and preparing negotiations. 	<ul style="list-style-type: none"> Relatively high involvement of market actors in policy implementation, mainly involved through informing and negotiation. Reduced transparency, with the least detailed supply of information, and most divergence from policy. Limited influence of individual implementer in adjusting policies and preparing negotiations.

	<ul style="list-style-type: none"> • Centralisation of objective criteria largely organised by strict policy regime and power structures. • Relative much focus on own interests, however, seeking for collaboration within own limits, mainly with housing corporations. 	<ul style="list-style-type: none"> • Centralisation of objective criteria largely organised by strict policy regime and power structures. • Moderate focus on market interests through willingness to negotiate, seeking for collaboration, mainly with housing corporations. 	<ul style="list-style-type: none"> • Centralisation of objective criteria largely organised by strict policy regime and power structures. • Strong focus on market interests through willingness to negotiate and seeking for collaboration. Mainly with housing corporations.
<p>The development of affordable housing with the use of DOs</p>	<ul style="list-style-type: none"> • Mainly uses ground lease structure with a 50 year lease, rarely uses N-NDOs in the form of the Contributions Plan or Cost Recovery Settlement. • Relatively large affordable housing stock. • Relatively high housing production, with a large percentage in affordable housing, and a high percentage of housing production in affordable rental sector. 	<ul style="list-style-type: none"> • Uses anterior agreement with ground lease structures, rarely uses N-NDOs in the form of the Contributions Plan or Cost Recovery Settlement. • Relatively large affordable housing stock, with high percentage of affordable rentals. • Relatively high housing production. 	<ul style="list-style-type: none"> • Mainly uses NDOs in the form of ‘anterior agreements’ or selling land, sells land in full ownership, rarely make use of N-NDOs in the form of Contributions Plan or Cost Recovery Settlement. • Relatively high affordable housing stock. • Relatively lower housing production, with a high production of owner occupied housing and a relatively low affordable housing production.