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A CLASSIFICATION OF INCENTIVE BASED LAND ACQUISITION POLICIES AND STRATEGIES DEFINED FOR GENTRIFICATION PROCESS

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Introduction

Land Acquisition refers to land obtained or acquired through purchase, transfer, donation or exchange from a state or private ownership, usually for dedication to a particular use (Law and Legal Definition, U.S. Legal, Inc.).

Land Acquisition can take different forms depending on the situation. Land Acquisition might include few small parcels which needs minimal planning effort and documentation (Reclamation Lands Handbook, 2013). Acquisition of hundreds parcels of land require more planning and coordination and is called "a major acquisition". Land Acquisition is implemented through four methods: (1) Acquisition through purchase or condemnation. Condemnation or "Eminent Domain" is compulsory land acquisition which usually takes a private property for a public property for a public purpose (Reclamation Lands Handbook, 2013). (2) Acquisition through donation. (3) Acquisition through transfer and (4) Acquisition through exchange.

This paper is a compilation, classification and brief explanation of "non-compulsory land acquisition", and focuses on a classification of incentive based land acquisition policies and strategies in gentrification process.

Classification

1- Types of Land Acquisition
    1-1-Compulsory Land Acquisition
    1-2-Non-Compulsory Land Acquisition
2- Compulsory Land Acquisition or "Eminent Domain"
3- Non-Compulsory Land Acquisition
    A- Regulations
        A-1- Zoning Laws and Regulations

A-1-1- Rezoning

A-2- Subdivision Laws and Regulations

A-2-1- Variance

- As of Right Uses
- Non-Conforming Uses
- Special Permit Uses

Variance Types

- Area Variance
- Use Variance

A-3- Site Plan Regulations

A-3-1- Building Codes

B- Direct Financial Incentives Policies

B-1- Tax Exemption

B-1- 1-For the Developers Involved

- Low Income Housing Tax Credit
- Local Tax Abatement
- Tax Credit Syndicators

B-1-2- For the Owners Involved

- Tax Abatement
- Mortgage Interest Deduction

B-2- Tax Exemption Bonds

B-2-1- Tax-Exempt Private

B-2-2- Private Activity Bonds

B-3- Tax Incremental Financing

B-4-Concession

B-5- Fee Waivers and Reductions

B-6- Mortgage Interest Deduction

B-7- Qualified Allocation Plan

C- Incentive- Based Land Use Policies

C-1- Outright Purchase of Land Policy

C-2- Land Conservation Easement Policy

C-3- Purchase of Development Right Policy

C-4- Transfer of Development Right Policy

C-5- Incentive Themselves Policy

C-5-1- Community Benefits Agreement

C-6- Incentive Zoning Policies

C-6-1- Density Bonuses

C-6-2- Incentive Land Use

C-6-3- Incentive Based Inclusionary Zoning

C-6-4- Flexible Zoning and Design Standards

C-7- Facilitate the Reuse of Abandoned and Vacant Land

C-7-1- To eliminate Barriers to Transfer the Property For a New Owner

- Clear Title
- Reforming Existing Laws
- Tighten Code Enforcement Practices
  - Receivership Law
  - Strengthen Nuisance Abatement Law

C-7-2- To Improve Local Use Practices

- Comprehensive Planning
- Conservation Development
- Storm-Water Stream
- Floodplain and Wetland Protection
- Compact Development
- Source Water Protection
- Natural Area Establishment

C-7-3- Reform Tax Foreclosure Laws

C-7-4- Land Banks

C-7-5- Exercise Eminent Domain

D- Acquisition of Tax Delinquent Properties

E- Ease of Transfer of Title for Property Acquisition and Redevelopment

E-1- Land Banks

F- Clear Title
G- Demolition Fee
H- Reverter Clause
I- Publicly- Owned Land
J- Quick Plan Review
K- Land Banks
L- Joint Development
M- Create Enforceable Rights
N- Expedited Permitting
O- Exaction
P- Land Trusts

Q- Land Banks/ Land Trust Partnership

Explanations and Definitions

Land Acquisition types are divided into two major categories: (1) Compulsory Land Acquisition. Compulsory Land Acquisition is defined as the right of a government or its agent to expropriate private property for public use with the payment of compensation. The process of "expropriation occurs when a public agency (for example: The provincial government and its agencies, regional districts, municipalities, school boards and utilities) take private property for a purpose deemed to be in the public interest. (2) Non-compulsory land acquisition can be defined as using incentive-based policies and strategies to obtain the land. Non-compulsory land acquisition policies can be divided into: (A) Regulation Based Policies, (B) Financial Based Policies,(C) Land Use Based Policies. The definition of all the suggested strategies are referred to (Wikipedia, Investopedia, Free Dictionary and other dictionaries).

(A) :Regulation-Based Policies

A-1- Zoning Laws and Regulations: Broadly defined, encompasses the full range of Laws and regulations that influence or affect the development and conservation of land. Zoning Laws and regulations can be used as incentives. "Re-zoning", for example, can be used as a strategy and as a result an incentive for sellers and buyers of land. "Up-zoning", defined as re-zoning of land to a higher value can defined as a strategy. In general, zoning can be used as an incentive to increase property value (The Free Dictionary).

A-2- At macro level, subdivision laws and regulations can be used as strategy which is incentive based like zoning, but at micro level, "Variance" defined as change of land use at micro level can be used as an incentive for land acquisition (Real Estate Law). "Variance" or change of land use might be granted as "As of Right Uses". It means that the change of land use permit can be given immediately as it exist in comprehensive and detailed plan. Second, Change of Land Use (Variance) permit can be provided for "Non-Conforming Uses". Third type of "variance" can be granted with "Special Permit". For example, a residential unit can residential unit can receive

"Special Permit" for functioningas a Pansion. A permit for variance can be given on the basis of "Area", called "Area Variance" or on the basis of "use" called "Use Variance".

A-3- Site Plan Regulations can be used as an incentive-based strategy. For example "Building Codes" can be used as a "Sub-strategy or a mechanism and as an incentive.

Zoning codes, development regulations, subdivision regulations, water codes, building codes, and other codes and regulations can be used as incentives. Most communities will accept developments that raise the value of their major personal asset (land, or building units (Fischel, 2002).

(B): Direct Financial Incentives Policies

Financial incentives can be applied through following policies:

B-1- Tax Exemptions

Can be applied for the developers and owners.

B-1-1- For the developers, three mechanisms (subcategory) are presented. First strategy is "Low Income Housing Tax Credit" (LIHTC) often pronounced "lie-tech, Housing credit is a dollar- for-dollar tax credit in the United States for affordable housing investments. Tax reform Act of 1986(TRA86) has defined and gives incentives for using private capital for the development of affordable housing for low-income Americans. Tax credit is defined as a dollar- for-dollar reduction in a taxpayer's federal income tax, compared to tax reduction which is a reduction in taxable income (from Wikipedia, the Free Encyclopedia). Second strategy is "Local Tax Abatement". A tax abatement is "a reduction of taxes granted by a government to encourage economic development (Michael Roberts, 2017). Property Tax abatement is the most common type of tax abatement that is granted to a business to come to a part of city or expands its operation within a city. Third strategy is "Tax Credit Syndicators". A tax credit syndicator connects private investors seeking cash for a qualified "Low Income Housing Tax Credit" (LIHTC) project.

B-1-2- For the owners involved two mechanisms (sub-strategy) are used. First mechanism is "Tax Abatement". Tax abatement programs reduce or eliminate the amount of property tax that the owners pay on new construction, rehabilitation or major improvements. Second mechanism is "Mortgage Interest Deduction", allows taxpayers who own their homes to reduce their taxable income by the amount of interest paid on their loan (Wikipedia).

B-1-3- Tax Exemption: refers to monetary exemption which reduces taxable income. Tax exempt which reduces taxable income. Tax exempt status can provide complete relief from taxes, or a portion of items (Wikipedia)

B-2- Tax Exemption Bonds: A bond issued by a local or state government. Municipal bonds are usually used to raise capital for improvements in infrastructure or other aspects of the municipality. They are called tax-exempt bonds because they are exempt from federal income taxes and local taxes as well (The Free Dictionary).

B-2-1- Tax-exempt Private bonds issued by or on behalf of local or state government for the purpose of providing special financing benefits for qualified projects but tax-exempt private bonds are issued to finance a project for which at least 10 percent of the benefit will go to a private sector entity. Municipal bonds are usually associated with tax free income (Investopedia).

B-2-2- “Private Activity Bond- PAB”. Tax-exempt bonds issued by or on behalf of local or state government for the purpose of providing special financing benefits for qualified projects (Investopedia). The financing is most often for projects of a private use, and the government generally does not pledge its credit. Interest on private activity bonds is not excluded from gross income for income tax purposes unless the bonds fall within certain defined categories (“qualified bonds”, or “qualified private activity bonds”), as described below. Most categories of qualified private activity bonds are subject to the alternative minimum Tax. The following categories of private activity bonds are qualified bonds under current federal tax laws:

*Exempt Facility Bonds: Private activity bonds issued to finance various types of facilities owned or used by private entities, including airports, docks and certain other transportation-related facilities; water, sewer, and certain other local utility facilities; solid and hazardous waste disposal facilities; certain residential rental projects (including multi-family housing revenue bonds); and certain other types of facilities (Internal Revenue Service). Enterprise Zone and recovery zone facility bonds are also considered exempt facility bonds.

*Qualified Mortgage Bonds: Private activity bonds issued to fund mortgage loans to finance owner-occupied residential property. Qualified mortgage bonds are often referred to as single family mortgage revenue bonds (U.S. Legal, Inc.).

*Qualified Redevelopment Bonds: Private activity bonds issued to finance certain acquisition, clearance, rehabilitation and relocation activities for redevelopment purposes by a governmental entity in designated blighted areas. Qualified redevelopment bonds are payable from general taxes or from tax increment revenues(Cornell University, Legal Information Institute).

*Qualified Small Issue Bonds: Private activity bonds issued to finance manufacturing facilities. Qualified small issue bonds may be issued on a tax-exempt basis in an amount up to 1 million dollar, taking into account certain prior issues, or an amount up to 10 million dollars, taking into account certain capital expenditures incurred during three years prior and the three years following the issuance of such bonds (Cornell Law School, legal Informal Institute).

B-3- Tax Incremental Financing

Tax incremental financing (TIF) is a public financing method that is used as a subsidy for development, infrastructure, and other community-improvement projects in many countries, including the United States. Future property tax revenue increases from a defined area or district are used for an economic development project or public improvement project in the community

(Wikipedia). Investments made insult in an area, for example public improvements trigger tax gains. Establishing a public or private project can result in an increase in the land value in that area, and as a result increases in tax revenues. The yearly increases in land value as a result of public and private investments, increases yearly tax revenues which is called “Tax Increment”. Tax Increment Financing devotes tax increments within an area to finance improvements in distressed, underdeveloped, or underutilized parts of a jurisdiction where development might occur. TIF creates funding for public or private projects by borrowing what will be gained in future through property-tax revenues.

B-4- Concession

Concession is defined as a thing that is granted, especially in response to demands, a thing conceded.

B-5-Fee Waivers and Reductions

The Fee Waiver and Reduction Program is designed to reduce or waive state fees.

B-6- Mortgage Interest Deduction

A home mortgage interest deduction allows taxpayers who own their homes to reduce their taxable income by the amount of interest paid on the loan which is secured by their principal residence (or sometimes, a second home). Most developed countries do not allow a deduction for interest on personal loans, so countries that allow a home mortgage interest deduction have created an exception to those rules. The Netherlands, Switzerland and the United States each allow the deduction (Investopedia).

C- Incentive-Based Land Use Policies

C-1- Outright Purchase of Land Policy: Is to facilitate the purchase of all land rights and to lift the restrictions.

C-2- Land Conservation Easement Policy:

Conservation easements are voluntary legal agreements between a landowner and a land trust (or other qualified organizations) such as the Merrill Linn & Waterways Conservancy in which the land owner, not some outside agency, places restrictions on the use of his or her property, in order to protect the natural values of the land. Donations of conservation easement protects your land permanently while keeping it in private ownership. A conservation easement, held by a land trust, provides permanent protection of the natural values of the site. The land owner retains ownership of the property and all rights and privileges for its use, except for the uses restricted under the easement (Land Trust Alliance).

C-3- Purchase of Development Rights Policy:

Purchase of Development Rights (PDR) programs are one viable approach that state and local governments are using to preserve farmland and open space. Gayle Miller and Douglas Krieger provide an introduction to PDR programs and discussion of some of the issues that community arise in their implementation (2004):

> PDR programs provide a way to financially compensate for landowners who are willing to develop their land but they do not. When buying development rights, the community obtains a legal right that is called conservation easement. The landowner, however, still owns the land and can use or sell it for purposes specified in the easement, such as farming, timber production, or hunting. Since PDR programs are flexible, program administrators can customize purchase of development rights to meet the objectives of both landowners and communities. For example, an easement designed to preserve agricultural resources might allow the landowner to build an additional home or two as long as their placement does not limit the property's long-term agricultural potential. Development rights are similar to mineral rights: they represent a portion of land's Total value. The value of development rights is the difference between the fair market Value of the land without easement and its value as restricted by the easement. For Example, an 80 acre farm may be worth 10,000 per acre if sold for home sites, but Only 2500 $ if restricted, by an easement, to agricultural use. This means the parcel's development value would be 7500 $ per acre that would be the cost to purchase the development rights.

C-4- Transfer of Development Right Policy

Transfer of Development Right (TDR) is a zoning technique used to permanently protect farmland and other natural and cultural resources by transferring development that would otherwise occur on these resource lands to areas planned to accommodate growth and development. Transfer of Development Rights (TDR) enable landowners within valuable agricultural, natural and cultural resource areas to be financially compensated for choosing not to develop through transferring their development rights to other areas or selling their development right to another person (Conservation tools.org).

C-5- Incentive Themselves Policy

Refers to land use incentives that land owners or developers might offer to create for example amenities for the residents or businesses in a neighborhood.

C-5-1- Community Benefits Agreement

A community Benefits Agreement (CBA) in the United States is a contract signed by community groups and a real estate developer that requires the developer to provide specific amenities and/or mitigations to the local community or neighborhood. In exchange, the community groups agree to publicly support the project, or at least not oppose it (Wikipedia)

C-6- Incentive Zoning Policies

Incentive zoning uses incentives such as a relaxation in zoning restrictions for developers for providing public benefits like building a desired public improvement, or building in areas that requires economic development. It is also termed as bonus zoning (U.S.Legal.com).

C-6-1-Density Bonuses:

Is defined as an incentive - based tool that permits developers to increase the density in a unit of land on a property and instead help that neighborhood or area to have better environment or better urban services or public services. This strategy is usually used in areas where land value is high. Amenities provided in exchange for a density bonus are: Affordable housing; Housing for people with special needs; Child care facilities; Underground parking; waterfront walkways; Open spaces, public plazas and fishing piers; Landscaping; Preservation of historic structures; Preservation of historic structures; Preservation of sensitive and/or unique environmental areas; Guide development to preferred locations(UWSP).

C-6-2-Incentive Land Use

Receiving the permission to change land use, for example, changing land use from residential to commercial can be an incentive for sellers and buyers of land. Up-zoning can be used as an incentive for sellers and especially for developers as an incentive.

C-6-3- Incentive Based Inclusionary Zoning

Mixed zoning has been used as a strategy for incentive based inclusionary zoning. For example, issuing permission to convert a part of residential land use to commercial land uses is one type of inclusionary zoning which can be used as incentive for sellers and developers.

C-6-4- Flexible Zoning and Design Standards

Traditional zoning cannot be practical in case of lack of flexibility because of the changes that has happened as a result of economic and technological changes. Recognizing the shortcomings of traditional zoning, some cities have been using complementary approaches such as form-based codes. Flexible zoning is a concept that embraces the notion that individual land uses, neighborhoods, and communities are dynamic and constantly evolving as society, technology and preferences change (Planetizen, 2003).

C-7- Facilitate the Reuse of Abandoned and Vacant Land.

C-7-1- To Eliminate Barriers to Transfer the Property to a New Owner.

*Clear Title: “A clear title is a title without any kind of lien of levy from creditors or other parties and poses no question as to legal ownership. For example, an owner of a car with a clear title is the sole undisputed owner, and no other part can make any kind of legal claim to its ownership. For example, an owner of a car with a clear title is the sole undisputed owner, and no other party can make any kind of legal claim to its ownership” (Investopedia).

*Reforming Existing Laws: “Law reform or legal reform is the process of examining existing laws and advocating and implementing changes in a legal system, usually with the aim of enhancing justice or efficiency. Law reform bodies or law commissions, which are organizations set up to facilitate law reform. Law reform bodies carry out research and recommend ways to simplify and modernize the law. Many law reform bodies are statutory corporations set up by governments, although they are usually independent from government control, providing intellectual independence to accurately reflect and report on how the law should progress. Law reform activities can include preparation and presentation of cases in court in order to change the common law; lobbying of government officials in order to change legislation; and research or writing that helps to establish an empirical basis for other law reform activities. The four main methods in reforming law are repeal (get rid of a law), creation of new law, changing existing law and codification”(Wikipedia).

*Tighten Code Enforcement Practices: “Sometimes encompassing law enforcement, is the act of enforcing a set of rules, principles, or laws. An authority usually enforces a civil code, a set of rules, or a body of laws and compel those subject to their authority to behave in a certain way. Various persons and organizations ensure compliance with the laws and rules including:
Building Inspector: An official who is charged with ensuring that construction is in compliance with local codes.
Fire marshal: An official who is both a police officer and firefighter and enforces a fire code.
Health Inspector: An official who is charged with ensuring that restaurants meet local health codes.
Police forces: are charged with maintaining public order, crime prevention, and enforcing criminal law.
Zoning enforcement officer: is an officer who is charged with enforcing the zoning code of a local jurisdiction, such as a municipality or county.
Parking enforcement: An official who is charged with enforcing street parking regulations”(Wikipedia).

*Receivership Law: is a situation in which an institution or enterprise is held by a receiver. Receiver is a person “placed in the custodial responsibility for the property of others, including tangible and intangible assets and rights – especially in cases where a company cannot meet financial obligations or enters bankruptcy (Wikipedia).

*Strengthen Nuisance Abatement Law: is a growing area within policing and code enforcement. The term refers to using building codes, fire codes, zoning, etc. in order to improve the quality of life and resolve life safety issues within neighborhoods. Nuisance abatement programs are most often a component of problem oriented or community policing programs (Nuisance Abatement Law).

C-7-2- To Improve Local Use Practices

- Comprehensive Planning
- Conservation Development
- Storm-Water Stream
- Floodplain and Wetland Protection
- Compact Development
- Source Water Protection
- Natural Area Establishment

C-7-3- Reform Tax Foreclosure Laws

C-7-4- Land Banks: Land banks are not financial institutions.

They are public or community-owned entities created

For a single purpose: to acquire, manage, and repurpose

Vacant, abandoned, and foreclosed.

C-7-5- Exercise Eminent Domain

D- Acquisition of Tax Delinquent Properties: This means your property may be offered

For sale at a public auction or acquired by a public agency if you do not pay the taxes

Before the date on which the property is offered for sale or acquisition and a tax sale

Is determined (City and County of San Francisco, Treasurer and Tax Collector, 2017).

E- Ease of Transfer of Title for Property Acquisition and Redevelopment

E-1- Land Information Banks

F- Demolition Fee: Receiving fees for demolition facilitates the process of demolition.

G- Reverter Clause: "Reverter, in the context of real property, means the return to the grantor or his/her real property after all interests in the property given to others have terminated"(U.S. Legal, Inc.) .

H- Publicly- Owned Land: Access to public lands facilitates land acquisition process for providing a broad range of public or private facilities and services.

I- Quick Plan Review: Checks if new construction/renovations are based upon the initial project.

J- Joint Development: Public-private partnership.

K- Enforceable Rights: "Enforce means to compel observance or obedience to. Enforceable means capable of being enforced. A right or obligation is enforceable if a party obligated to an act forced or ordered to comply with the legal process. In other words, enforceable is an action which can be made effective" (U.S. Legal, Inc.).

L- Expedited Permitting: "Expedited permitting is a cost-efficient and very effective way of reducing developer costs. Fast tracking review and permitting of affordable housing projects reduces develop costs at no cost to local jurisdictions" (Affordable Best Practices- Washington Area Housing Partnership).

M- Exaction: "An exaction is a concept in U.S. real property law where a condition for Development is imposed on a parcel of land that requires the developer to mitigate anticipated negative impacts" (Wikipedia).

N- Land Trusts:"A private nonprofit organization that as all or part of its mission, actively works to conserve land by undertaking or assisting in land or conversation easement acquisition" (Wikipedia).

Q- Land Banks/ Land Trust Partnership.

Conclusion

Paper presents a list of policies, related strategies and sub-strategies related to each policy. Each major policy is explained and analyzed in four papers published in this journal. This paper presents the whole outline for compulsory and specially non- compulsory land acquisition policies and strategies. As the paper presents a major framework and a guideline, major conclusions are as follows:

1- Consultation and coordination with regional offices is recommended by the literature. Also, having a regional planning approach has been recommended, which can happen as early as possible in the process of gentrification.

2- Piecemeal development cannot be applied. Comprehensive planning and plans, and coordinated efforts beyond one neighborhood is recommended (Fischell, William, 1994). There is an emphasis on role of regional planningand zoning.

3- Role of private sector has been emphasized too. "Private developers are capable of building large scale communities and are willing to accept neighborhood spillovers in order to maximize aggregate land values (Fischell, 1994).

4- Some historians of America cities have emphasized that municipalities have long been the vehicle for entrepreneurial development schemes (Monkkonen, 1988).

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