

# Real estate policy under pressure : the law on landed property - a long-lasting issue

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a serious effort. It has however happened time and time again that those parties that have been most vociferous in calling for such "liquefaction" of the market for building land have never been willing to provide the cash or other means needed for such measures as expropriation proceedings for zone creation, obligation to build in an approved manner, introduction of special taxes to discourage "hoarding" and so on.

### Internal expansion in depth

Area Planning cannot – and should not – have any function in connection with price regulation. Its contribution to the economy lies in a different sector. It complements or in some cases, replaces, the market if and when that market has failed to achieve a suitable apportioning of the land resources available. It helps to counteract the negative influences of the market such as the erosion of living space and of the natural environment, as well as unprofitable utilisation.

We find it difficult to come to terms with the finite nature of our ground resources, and cannot understand or imagine that further expansion of urban settlements and housing developments must some day come to an end. Area Planning must therefore endeavour to satisfy future housing requirements no longer in verdant settings of parkland and gardens, but rather in an inward-looking form of development based on the adaptation of existing accommodation in largely built-up areas. We should therefore aim – while taking town-planning and ecological requirements into account – at furthering the renovation and modification of existing buildings, at an optimal exploitation of the potential for conurbation projects, the search for alternative forms of utilisation of the land to meet changing needs, the study of possible multiple use of edifices, improving the use made of open spaces (particularly when these are favourably located in relation to public transport), and obtaining a better "mix" of housing and work-places inside existing built-up districts. Such objectives confront the planners with a challenge, as they demand capacity for innovation as well as creativity and flexibility. Many present-day zoning plans and building regulations are unsuitable because they are too rigid and need to be adjusted. Such changes call for a subtle approach, and could at times involve tight-rope walking and even brinkmanship if one is to instil a sense of well-being in the people who will be living in the built-up areas that have been subjected to renewal and concentration.

Area Planning can – and should – make a contribution towards the easing of the problems of the property market. Admittedly, its



*During the past 20 years the available unit surface of apartment per person has increased by more than 20 square metres. (Photos: KeyColor)*

direct contribution will be somewhat restricted in its scope. It can best help by fulfilling its original and fundamental tasks, that is to say by trying to ensure an economical and thrifty utilisation of our ground resources, and the creation in the long term of a favourable spatial environment for nature, population and economy. An enlightened fiscal policy,

precautionary legislation regarding real estate, measures in support of social welfare policy, and preferential treatment of owner-occupiers will all be able to make a greater contribution towards the calming down of the present trend in real estate prices.

*Fritz Wegelin, Head of Basic Section in the Federal Office for Area Planning*

### Real estate policy under pressure

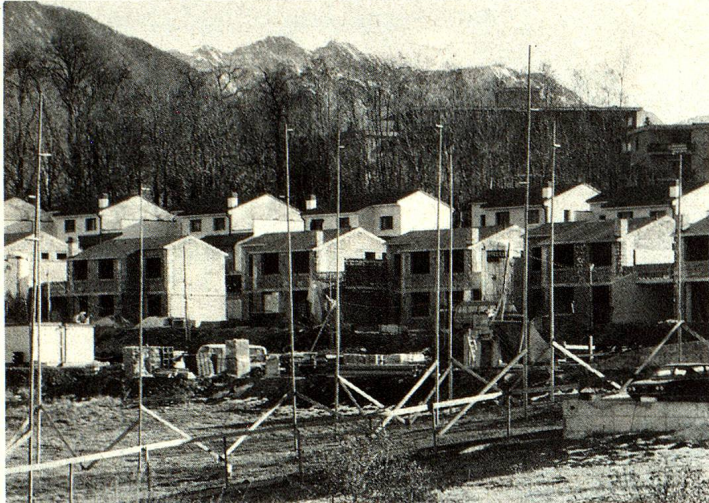
## The law on landed property – a long-lasting issue

*Many aspects of the laws governing landed property are currently under scrutiny. Public discussion on prices for land, on mortgages and on ownership rights shows no sign of slackening. Parliamentary attacks on these themes are increasingly frequent. The media do not tire of pointing out the shortcomings of the present legislation on landed property matters.*

We all know that the soil is an absolute essential to our existence, and furthermore that it is an essential which cannot be increased. The population of Switzerland has however increased perceptibly, even if not to a disastrous extent. And increases have also occurred in our incomes and our needs. The consequence is obvious: the growth of population and incomes leads to an ever-increasing utilisation of land. More per capita living space is needed, more space for increasing traffic (above

all, for the building of new roads), greater area for trade and industry, and for leisure activities – the list is endless. The demand for land increases continuously, especially in the urban agglomerations. A further factor is that the growth of the economy necessitates an evermore intensive commercial and industrial activity being concentrated on what is basically an unchanged area of ground. It means quite simply that on every square metre of ground, more and more money is earned and





*One of the many examples of speculative "hoarding" of building land. The introduction of a "blocking" period for the re-sale of property is considered as a useful immediate measure. (Photo: Keystone)*

spent. The result of this combination of rising demand for land with growth of the economy has been that the prices for real estate have shot up to dizzy heights in the last few years.

### Immediate measures are needed

The increase in land prices affects everybody, but is especially serious for tenants of rented property and for "small-scale" property owners. The situation became so acute in the winter of 1988 that our politicians came under strong pressure to take urgent steps to remedy it. The Federal Council and the Swiss Parliament hurriedly rushed through certain reforms to the existing legislation on landed property, so that as from the autumn of 1989:

- a new regulation has provided for a restrictive or "blocking" period of five years in respect of the re-sale of non-agricultural property (for land in use for farming, such a restrictive period had already applied);
- real estate may in principle be encumbered with mortgages up to 80% of its current value (normally, 10–15% below market value);
- pension funds and other institutional investors have been subjected to more stringent

regulations if they wish to invest in the property market.

Opinions differ as to the efficacy of these emergency measures. All the same, there is no doubt that inflationary price "gouging" – the speculative acquisition and re-disposal of landed property at intervals in quick succession – has declined somewhat thanks to the new restrictive measure. One could not anyway expect any fundamental improvement to result from these emergency reforms: such was not the purpose of the exercise. These immediate measures were aimed rather at discouraging the mentality and activities of the speculators, and at combating abuses and excesses of their practices. They aimed too at making it quite clear that the State was not prepared to tolerate undesirable trends and developments in the property market. Or in other words: the emergency measures were to have an effect at the *psychological* level – psychology plays a more important role in the economy than most people think!

### Wanted: "conceptual" thinking

The three immediate measures outlined above have yet a further objective in mind: that of creating a sort of "breathing space" for a certain period, to facilitate the development of a more penetrating and far-reaching causal therapy for the problems of land. What does it mean?

The emergency measures taken were for a limited period of validity, until the end of 1994: before then, an initial "connecting programme" to supplement existing legislation must be devised and put into effect. Our authorities have not been idle in their planning: by 1991 their proposals for a "concept for a further development of the law on landed property" should be ready. Radical and revolutionary changes are admittedly not to be expected, but the recommendations are to be much more than a mere patched-up job.

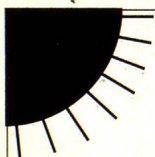
The Federal Council aims at a reform of the property laws on a broad front.

Measures to be adopted concern a wide variety of sectors: promotion of housing construction and of individual ownership thereof, area planning, fiscal aspects (tax laws relating to real estate) are just a few of them. The task often resembles the proverbial "squaring of the circle": a measure which is devised to help certain specific parties can turn out to be contrary to the interests of other groups. Measures to promote house ownership can threaten the activities of the area planners or the interests of existing property owners.

### New pressures from problems

Conceptual thinking has long encountered obstacles in Switzerland. How often has the policy of the day been dominated by the utilitarian thinking of sectors with their own interests! How often is the policy determined by the pressure of "urgent" problems! That's the way it goes: short term material interests are easier to organise and implement than longer-term and more idealistic and forward-looking concepts. This "law of nature" in the political field is particularly noticeable in the debate on a reform of the legislation on real estate. What we have called the "connecting programme" is already threatened by the risk of being "bull-dozed" by new problems. In parliamentary debates, there is already a vociferous demand for the immediate emergency measures to be withdrawn, even before the Federal Council has been able to prepare a preliminary draft of its "connecting programme". The dramatic rise in the rates of interest for mortgages has seriously worsened the plight of tenants of rented property and that of home-owners: in two years, the rate for "old" mortgages climbed from 5% to 7% (resulting for tenants in far higher percentage increases in their rents). This once again makes a call for emergency measures inevitable. And the prospects for European integration give rise to dark clouds on the horizon. Hitherto the domestic property market in Switzerland could, without great difficulty be protected from an excessive influx of foreign capital: our "Lex Friedrich" made such "screening" possible by imposing stiff limitations and restrictions on the acquisition of real estate by persons resident abroad. But in the more "open" Europe of tomorrow, such discriminatory measures will not stand a chance. Our legislators will have to rack their brains if the Swiss property market is to ride out this crisis unharmed!

*Pierre Tschannen,  
Federal Office for Justice  
(Land Registry Section)*



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