



Redefined Horizons
3938 Kimball Lane
Stockton, California 95206

Land Tenure
Study Notes By Landon Blake
Tuesday, April 14, 2020

Chapter 2 – Study Notes

Key Terms

Territoriality

Attachment to and defense of a specific geographic area.

Land Tenure

An institution (or system of rules) among a group of people that control how land rights are allocated and how the cadastral system operates.



Key Concepts

Land Tenure is an institution (or system of rules) among a group of people that control how land rights are allocated. It is the “rules” part of the cadastral system.

- Land tenure literally means “holding land” or “how land is held”.
- Land tenure determines who gets land (how land is allocated among a group of people).
- Land tenure determines how long people get rights to land.
- Land tenure determines what allowed uses of the land are.
- Land tenure determines how we know who owns what parcel of land.
- Land tenure sets rules for how parcels can be subdivided, merged, and adjusted.

As land use becomes more intense, it becomes more important to delineate parcels of land and protect land rights.

- The value of land rights go up as intensity of land use goes up.
- The likelihood of disputes over land ownership and land rights goes up as land values go up.

Land tenure often defines several types of land rights.

- *Sovereign rights* are the rights that the government holds over land. (For example: The right to tax land ownership, the right to regulate use of land, the right to govern the subdivision of land, and the right to take land for public use (eminent domain).)
- *Rights in common or communal rights* are the rights a particular group or community have to a parcel of land. (For example: All the owners in a land subdivision may have access to a private park within the subdivision.)
- *Rights held in trust for the public (all members of a society)*. (For example: The beds of navigable streams and rivers of the United States are held in trust by state governments for all citizens. Lands held in trust usually have special protections and restrictions on government disposal.)
- *Open access rights* are the rights of a large group to access a parcel of land. (For example: In the United States all citizens can access National Forests and other types of public land.)
- Land rights may overlap each other. (For example: One person may own surface rights, while another owns mineral rights and another owns airspace rights, all in the same parcel.)
- Land rights may complement each other. (For example: Members of a family may share ownership of the same parcel.)



- Land rights may compete with each other. (For example: Two different people may claim exclusive coverage to the same parcel of land.)

Land rights can be grouped into 5 basic categories.

- Rights to the use of land.
- Rights to transfer land.
- Rights to control the use of land.
- Formal rights (recognized by the legal system).
- Informal rights (recognized by cultural norms but not protected by the legal system.)

The United States legal system recognizes several specific types of land rights.

- An easement is for a specific land right in another person's land held without ownership of the land.
- A fee simple absolute is a special term used to describe the person that owns the land and has the right to sell or transfer either the ownership of the parcel or individual land rights.
- A lease provides a land right to occupy without ownership.
- A lien is a claim against a parcel of land for payment of a debt.
- A mortgage is a conditional transfer of land ownership to secure payment of a debt.
- Rights to use a common allow people to use common areas, like the right-of-way for public roads and streets.

The conveyance (or transfer) of land ownership and land rights can be willing or unwilling.

- The willing transfer of land can be achieved with a deed, a dedication to the public, or by inheritance through a will.
- A deed is a written transfer of land or a land right.
- There are two primary types of deeds. Warranty deeds imply a guarantee of ownership in the land or land right being sold. Quitclaim deeds carry no guarantee and only transfer whatever right might be held by the seller in the land. Patents are a special type of quitclaim deed from the government.
- Unwilling transfers of land or land rights can be forced through condemnation (land taken by the government through the power of eminent domain), adverse possession (squatter's rights), and prescription (legal right to continue an unauthorized use of another person's land).

In the United States, there are several types of legal restrictions on the use and transfer of land.

- The common law doctrine of nuisance can prevent use of land that harms neighbors.
- The government controls the use of land through land use planning and zoning.



Redefined Horizons
3938 Kimball Lane
Stockton, California 95206

Land Tenure
Study Notes By Landon Blake
Tuesday, April 14, 2020

- The government controls the creation and sale of new parcels of land through land subdivision regulation.
- Sellers of land can control future land use through deed restrictions.
- The government controls the use of land through government regulations (like building codes and flood protection).



Unanswered Questions and Things Left Unsaid

Why is the protection of land rights so important for economic growth and the wealth of societies?

- Strong land rights give land-owners the incentive to invest in and maintain their property. In places without strong land rights, it is too risky to invest in land as your investment may be taken by the government or other private citizens. Poorly protected land rights also hinder lending. (Land is the most common collateral for commercial lending.) The lack of investment in societies with poor protection of land rights results in lower long-run economic productivity. This means a society produces less goods and services. (To visualize this, imagine a modern society where everyone had to live in tents and were frequently moved of any land they occupied by external forces like storms or bandits.)

What is land use intensity?

- Land use becomes more intense as density increases and the investment in physical improvements becomes for expensive. For example: It is much more expensive to build a skyscraper in an urban downtown than it is to house the same number of people in a suburban tract of single-family homes. Why? The density is higher and the cost to build the skyscraper is much more than the cost to build single family homes. The least intense land use is land in its natural state. (For example: The rolling and lightly forested grasslands of the lower Sierra Nevada Foothills of Central California.) Next up on the ladder of intensity is agricultural uses like grazing and orchards. The middle of the land use intensity ladder is suburban housing. It is followed by more dense multi-family housing, commercial uses and light industrial uses. The most intense land use is heavy industrial and urban cores (with multi-story buildings).