PLANNING LAW AND PROCESSES IN SINGAPORE

I. AN HISTORICAL REVIEW

Until 1856, there was practically no legal control over the development of land in Singapore. In that year, an act[1] was passed by the Legislative Council of India to provide for the conservancy and improvement of Calcutta, Madras, Bombay, Penang, Singapore and Malacca. Under the act, private persons who wished to erect houses or other buildings were required to give notice of their intention together with a plan showing the levels of foundations and the lowest floor of the house, to the Municipal Commissioners of Singapore.

In 1879, Act No. XIV of 1856 was amended by Ordinance XIV of 1879. The principal amendments prescribed rules regarding the thickness of walls and the nature of foundations, and added to the plan of the levels of a new building, sections of the front wall and of all pillars. Up to this point, the Municipality lacked power to control the planning of a building, its width, depth or height.

In 1887, the Municipality was given power to prohibit the erection of any particular building on payment of compensation.[2] It was also empowered to make building by-laws and to give instructions regarding the space to be left about a building to secure circulation of air and facilitate scavenging.[3] A new requirement was added to the law in 1896[4] requiring that every new building erected upon a site not previously built on shall have an open space. The rule was not to apply to a house abutting on a lane in the rear. The application of this rule was enlarged in 1907[5] to include buildings erected upon a previously built site.

The Municipal Ordinance[6] was amended on three occasions in 1919. The first amending ordinance[7] increased the tax on undeveloped land capable of being used for building. The second[8] gave the Commissioners

1. Act No. XIV of 1856.
2. By Section 13 of Ordinance No. IX of 1887.
3. Section 138.
4. Section 155 of Ordinance No. XV of 1896.
5. By Section 18 of the Municipal Ordinance 1896 Amendment Ordinance 1907, No. XXXVII of 1907.
6. Ordinance No. VIII of 1913 which amended and consolidated the law with regard to Municipalities.
7. Ordinance No. 12 of 1919.
8. Ordinance No. 18 of 1919, s. 4.

control over the class, design or appearance of buildings intended to be erected in particular areas and also enabled the Commissioners to compel the connection of houses near to sewers when these shall have been constructed and to control the number of conveniences installed and their condition. The third amending ordinance[9] enabled the Commissioners to recover betterment to the extent of one-half thereof where they make a new street.

Until 1927, there was therefore only a minimum of legal control over the use of land in Singapore. A person who proposed to develop his land was only required to give notice of his intention to the Municipality, his building plan needed only to comply with some very rudimentary requirements as to foundation, space for ventilation and for the construction of back lanes. It was not until 1919 that the Municipality had the power to control the design and class of buildings intended to be erected. The decisions of the Municipality were uncoordinated as they were not guided by any overall physical plan for the development of Singapore.

In the absence of such a plan, the Municipality resorted to the enactment of by-laws to control the type of development that would be allowed in any specific area. In 1926, for example, the Municipality made a by-law prohibiting the erection of buildings along Paterson Road of any class except dwelling houses.[10] In the same year, another by-law was adopted reserving Haig Road as an area for the development of compound houses only.[11]

The pre-occupation of the period was with roads. Should the Municipality build new public roads or should it acquire for public use private roads that were already made at the expense of the frontagers? This was the question that was repeatedly discussed in the Annual Reports of the Municipality during this period. The policy generally followed by the Municipality was to take over streets already in existence and to declare them public streets under the provisions of sections 129 and 130 of the Municipal Ordinance.[12] Section 125 of the Ordinance which gave the Commissioners power to make new streets and acquire land for that purpose was rarely invoked.[13]

An important landmark in the history of planning legislation in Singapore was the enactment in 1927 of the Singapore Improvement Ordinance.[14] The purpose of the Ordinance was to provide "for the Improvement of the Town and Island of Singapore". A new statutory body, "The Singapore Improvement Trust" was established to implement the provisions of the Ordinance. The "improvement" of Singapore was

9. Ordinance No. 27 of 1919.

10. See the Administration Report of the Singapore Municipality for 1926 at p. 2.

11. *Ibid.*

12. See the Administration Report of the Singapore Municipality for 1900 at p. 10.

13. *Ibid.*

14. No. 10 of 1927, cap. 134, Laws of the Straits Settlements (1936).

to be accomplished in the following manner. A general Improvement Plan of the whole island was prepared by the Trust. The Plan consisted of a series of cadastral maps of various scales recording all decisions of the Trust about the disposal and use of land, and of planning schemes and layouts approved by the Governor-in-Council and by the Trust.

No person was allowed, without the written permission of the Trust, to erect any building or lay out any land or use any land or building in any manner which was contrary to the general Improvement Plan. Every person who intended to make or lay out any new street or backlane or to lay out any land in lots for building purposes was required to seek the prior approval of the Trust. The Trust was also to prepare detailed schemes of improvement for specific areas of land, including, in particular, slum clearance and road improvements.

Did these measures succeed in achieving the orderly and planned growth of Singapore? The consensus of opinion is that they did not. Why did they fail? They failed because:—

> ". . . . the Trust is little more than an authority for devising road improvements. It has certain powers for approving or disapproving what are termed 'lay-outs', a phrase unknown to planning law elsewhere. But these powers are essentially futile. As long as certain elementary requirements for access (such as prescribing a 36 ft. road, which is expensively wide considered as access, but too narrow for a traffic route) are complied with, the Trust has no power to control development. This is not planning, and cannot provide for a Master Plan. What is required is a plan for the whole island, showing not only roads, as at present, but what land is to be developed, and how it is to be developed, and what land is not to be developed."[15]

The Singapore Government in 1947 appointed a committee to inquire into the housing shortage. The committee's report *inter alia,* recommended that Singapore should have a Master Development Plan. The report was presented to the Singapore Legislative Council on the 17th August 1948. On the 15th of March 1949, the Council adopted a resolution approving the immediate preparation of a diagnostic survey. The Singapore Improvement Ordinance was amended two years later to require the Board of the Singapore Improvement Trust to carry out a diagnostic survey of Singapore and to submit to the Governor-in-Council a report of the survey together with a Master Plan indicating the manner in which land in Singapore should be used and how, and what land was not to be used, and why.[16]

To execute the survey and prepare the Plan, a diagnostic survey team was recruited mainly from the United Kingdom. The team commenced work in January 1952 and completed its work towards the end of 1955. The Master Plan submitted consists of a series of maps and a written statement. The first map indicates broadly the manner in which it is proposed that land in Singapore should be used. The

15. The Report of a committee appointed in 1947 by the Singapore Government to inquire into the housing shortage at para. 42.

16. Singapore Improvement (Amendment) Ordinance, No. 41 of 1951.

second, the Town Map, shows proposals for the City of Singapore and suburban areas. The third, the Central Area Map, shows proposals for development and re-development in part of the central area of the City. There is, finally, the Programme Map which indicates the stages by which it is expected that certain proposals for future development shown on the above maps will be carried out. The written statement contains a description of the proposals shown on the maps, and the regulations designed to give effect to the proposals in the Plan regarding use and density zoning.

The Master Plan was exhibited and subjected to public inquiry. It was finally approved by the Governor-in-Council on the 8th August 1958. The Plan apparently began to make its impact felt even before its formal adoption. The Annual Report of the Singapore Improvement Trust for 1956 stated that the publication of the Plan has had a pronounced effect on the work of the Planning Department. "Amongst private applicants for permission to develop land there is now a marked appreciation of the planning issues: the use zoning and density proposals on applications accord with the Master Plan . . . ."[17] The adoption of the Master Plan meant that, for the first time, all development proposals were judged against an overall plan for the physical development of the island.

The following year, 1959, saw the enactment of the Planning Ordinance[18] the first comprehensive planning legislation in Singapore. A new Planning Authority was established to exercise the planning functions of the Singapore Improvement Trust, which was abolished. At the same time, another authority, the Singapore Housing and Development Board[19] was established to deal with the implementing functions, particularly the housing functions formerly exercised by the Singapore Improvement Trust.

In order to understand the post-war pattern of development and urban growth, it is essential to take into consideration the fact that all premises built or completed on or before 1947 are subject to rent control. The law does not exempt business premises and it takes no account of the rent or of the rentable value of such premises.[20] It is appreciated that the Ordinance was introduced to meet the housing shortage arising from World War II. The continuing existence of the Ordinance has however, distorted the natural location of property development and land value, especially in the urban areas. It has also resulted in considerable loss to the State of revenue from property tax and has affected the proper programming and control of the physical development planning process. The Government has since introduced a bill in Parliament to partially decontrol the urban premises by allow-

17. At p. 39.

18. Ordinance No. 12 of 1959.

19. By the Singapore Housing & Development Ordinance 1959.

20. Control of Rent Ordinance No. 25 of 1947, Cap. 242 Revised Laws of Singapore (1955). For a discussion, see T.T.B. Koh, "Rent Control in Singapore," (1966) Vol. 8 Nos. 1 and 2, pp. 32, 176. Malaya Law Review.

ing the recovery of possession of controlled premises in certain locations for development purposes with stipulated compensation to existing tenants.[21] This bill was sent to a Select Committee of Parliament.[22] It was reported out of the Committee and passed in an amended form by Parliament on 15th October 1969.[23]

II. PRESENT LAW, PRACTICE AND EVALUATION

(a) *No Development without Permission*

No person in Singapore, whether landowner or developer, may "develop" or "subdivide" any land without the written permission of the Competent Authority.[24] The term "develop" is defined as "to carry out any building, engineering, mining or other operations in, on, over or under any land, or the making of any material change in the use of any building or land".[25]

Development, which requires planning permission, is therefore of two types. It is first, any building, engineering, mining or other operation in, on, over or under land. It is second, the making of any material change in the use of any building or land. Development can of course, and frequently does, involve both building operations and change of use.

The Ordinance does not define "building, engineering, mining or other operations in, on, over or under land". The Ordinance does however, exclude certain operations from the ambit of development. The excluded operations do not require planning permission and it is therefore very important to know that they are. First, the carrying out of works for the maintenance, improvement or other alteration of a building which do not materially affect the external appearance or the floor area of the building.[26] Repairs or renovations to the interior of a building which do not materially affect the floor space of the building, do not require planning permission. Likewise, repairs or alterations to the exterior of a building which are not "material" e.g. the painting of the exterior of a building otherwise than for the purpose of advertisement, do not require planning permission. The application of this rule is not, however, free from difficulty. The use of the phrase "materially affect the external appearance or the floor area of the building" to differentiate building operations which require planning permission from those which don't is highly unsatisfactory. This is because the divider is a shifting point on a continuum.

21. Recovery of Possession of Controlled Premises (Special Provisions) Bill 1968.
22. For a critique of the bill by the Singapore Planning and Urban Research Group, see Report of the Select Committee on the Recovery of Possession of Controlled Premises (Special Provisions) Bill, No. Parl. 3 of 1969.
23. Controlled Premises (Special Provisions) Act, No. 10 of 1969.
24. By subsections (1), (2) and (3) of section 9.
25. Section 13(1). This definition is similar to the definition of the term in the British Town and Country Planning Act, 1947, s. 12.
26. Section 13(1) (a).

Secondly, works carried out by any statutory authority, for the maintenance or improvement of a street, for the purpose of laying, inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus including the breaking open of any street or other land for the purpose do not require planning permission.[27] Also exempted are acts carried out under the authority of the Destruction of Mosquitoes Ordinance.[28]

Does the demolition of an existing building constitute a building or engineering operation which requires planning permission? In England, the answer seems to be that demolition does not of itself involve development although it may form part of a building operation or lead to the making of a material change in the use of the land upon which it stood.[29] In Singapore, it is explicitly stated that demolition constitutes development.[30]

An interesting question concerning the definition of the term "mining operation" has arisen in England. The same point could arise under our ordinance. The question was 'whether the removal of dolomitic sand, known as "marl" from spoil heaps adjacent to a limestone quarry and covered over the period with grass and other vegetation is a mining operation constituting development? The issue was whether the heaps ought to be regarded as chattels or as part and parcel of the freehold. If they were chattels then their removal constituted neither a material change in the use of land nor mining operations. If, on the other hand, they were part of the land, then the operations of removing material from them were in the nature of mining operations.[31]

The second category of development, "the making of any material change in the use of any building or land" is also not defined by the Ordinance. The Ordinance however, specifically excludes "the use of any existing building or land within the curtilage of a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such",[32] land, "the use of any land for the purposes of agriculture or forestry (including afforestation), and the use for any of those purposes of any building occupied together with the land so used",[33] from the category. On the other hand, the following are specifically stated to fall within the category.

First, the use as two or more separate houses of any building previously used as a single house.[34] Second, the use as a dwelling house

27. Section 13(1)(b) & (c).
28. Section 13(1)(d).
29. See Lionel A. Blurdell & George Dobry, Town & Country Planning, London, 1963, p. 60 at para 107; and Desmond Heap, Encyclopedia of the Law of Town & Country Planning, London, 1959, p. 2129.
30. Section 13(2) (d).
31. Blurdell & Dobry, *op. cit.* at p. 61. See also Heap, *op. cit.* at p. 2129.
32. Section 13(1)(e).
33. Section 13(1)(f).
34. Section 13(2) (a).

of any building not originally constructed for human habitation.[35] Third, the use for other purposes of a building or part of a building originally constructed as a dwelling house.[36] Fourth, the use for the display of advertisements of any external part of the building which is not normally used for that purpose.[37] Finally, the deposit of refuse or waste materials on land not previously used for that purpose or where the height of the deposit exceeds the level of the land adjoining such site.[38]

Apart from these specific cases the general rule is that there must be a material change in the use. When a private dwelling-house is turned into a shop, there has clearly been a material change of use. It is also clear that the change of use of a building or land from one to another within the same class does not constitute a material change of use for the purpose of the Ordinance.[39] Thus, changing the use of a building from a hostel to a hotel does not require planning permission.[40]

Does the fact that lodgers are taken privately in a family dwelling-house constitute a material change of use? The answer is probably no, so long as the use of the house remains substantially that of a private residence. The change from a private residence with lodgers to a declared guest-house or boarding house would constitute a material change of use.[41] Even using a part only of a dwelling-house for other purposes would constitute a material change of use.[42] This prohibition probably doesn't extend to the case of a professional person, such as a doctor, who uses one or two rooms in his private dwelling for the purpose of consultation with his patients. It has been held in England that the intensification of an existing use could, under certain circumstances, amount to a material change of use.[43]

It will have been seen from the above that the concept of development in the Planning Ordinance is a very broad one. Let us now turn to examine the term "subdivision" which also requires planning permission. First, a person is said to subdivide his land if he disposes of any part of such land so that the part disposed of becomes capable of being registered under the Registration of Deeds Ordinance. The

35. Section 13(2) (b).

36. Section 13(2) (c).

37. Section 13(2) (e).

38. Section 13(2) (f).

39. Rule 3(1) of the Use Classes Rules 1960, No. S. 70 of 1960 as amended by the Use Classes (Amendment) Rules 1963, No. S. 24 of 1963 and the Use Classes (Amendment No. 2) Rules, 1963 Sp. S. 32 of 1963.

40. Both uses fall within class VII of the Use Classes Rules.

41. Encyclopedia of Planning at 4 — 033.

42. Section 13(2) (c) of the Planning Ordinance.

43. See *Guildford Rural District Council* v. *Fortescue* [1959] 2 QB 112; Samer Penny (1959) 10 P. & C.R. 232, *Brooks* v. *Flintshire C.C.* (1956) 6 P. & C.R. 140; *Washington U.D.C.* v. *Gray* (1958) 10 P. & C.R. 264; *Marshall* v. *Nottingham Corporation* [1960] 1 W.L.R. 707.

nature of the interest in the disposed part of the land may be either leasehold or freehold. If it is leasehold, it must be for a period exceeding seven years or, if less, with an option of renewal or purchase. Second, in the case of registered land, a person is said to subdivide his land if he disposes of any part of such land so that the part disposed of becomes capable of being included in a separate folium of the land-register under the Land Titles Ordinance, 1956. The sale of flats therefore comes within the meaning of the term sub-division.

(b) *Planning Enforcement*

Any person who develops or subdivides any land without planning permission commits an offence.[44] The offender is liable to a fine not exceeding $1,000/- and in the case of a continuing offence, to a fine of not exceeding $50/- a day.[45] Where the planning permission is granted subject to certain conditions, the failure to comply with any of those conditions carries a penalty of a maximum fine of $3,000/-.[46] In addition, the planning permission granted may be cancelled.[47]

Complementing the above, the Competent Authority has the power to issue "enforcement notices". Where any development of land has been carried out without planning permission or in violation of the condition for such permission, the Competent Authority may issue an enforcement notice to the owner or occupier of the land or whoever is responsible for such contravention to take measures directed by the enforcement notice.

Failure to comply with any direction in an enforcement notice is an offence which carries a maximum fine of $3,000/- and $100/- a day for the duration of the offence.[48] In addition, the Competent Authority may enter upon the land and take any measure directed by such enforcement notice. If any person, after the directions of an enforcement notice have been complied with, commits a fresh offence, he is exposed to a more severe penalty.[49]

Any person who objects to any direction given in an enforcement notice may appeal to the Minister. The Ordinance declares that the form and manner of such appeals shall be prescribed by rules. The Minister has failed to make any such rules.

Let us now turn to see if the existence of the law is matched by the existence of an administrative capacity to enforce it. Reading the annual reports of the Planning Department one cannot help being

44. Planning Ordinance 1959, s. 9(9).

45. *Ibid.*

46. *Ibid* Section 9(10).

47. *Ibid* Section 9(11).

48. *Ibid* Section 14(7).

49. *Ibid* Section 14(12).

afflicted by grave doubts. It appears that not until 1962 was any attempt made to form the nucleus of an enforcement staff.[50] The staff consisted in 1962 of only two enforcement inspectors and dwindled to one solitary person in 1965. In 1962, action was taken against only 11 unauthorised uses. Of these 11, 6 complied with the enforcement notices and 3 were referred to other government departments for action under other laws.[51] In 1963, 52 enforcement notices were served and there were 34 appeals to the Minister against enforcement notices. There were also 9 prosecutions for the carrying out of development without planning permission. In 1964, only 17 enforcement notices were served. The reason was not because the situation had improved so radically, but because "Enforcement action was greatly curtailed by staff shortage".[52] There were 9 appeals to the Minister. 1965 saw no improvement. There were 18 enforcement notices. Again, we are told that "The drop in the number of enforcement cases was due mainly to staffing difficulties in the enforcement section which had only one enforcement officer in 1965 as against the approved establishment of 3".[53] There were only 5 appeals to the Minister. In 1966, a total of 39 enforcement notices were served.

It must be obvious from the above that whereas the law controlling development in Singapore is a very comprehensive and tight one, the enforcement is very weak. There is a very real danger that unless the enforcement resources are strengthened, the law will be, to a very large extent, a dead letter.

(c) *Planning Applications, Approvals and Appeals*

The procedure for making applications for permission to develop or subdivide land is prescribed by the Development Rules.[54] Applications must be made to the Competent Authority. Since the beginning of 1966, the Chief Building Surveyor has been the Competent Authority. The office of the Chief Building Surveyor is located in the Ministry of National Development and has two divisions, the Development Control Division and the Building Survey Division. All applications for planning permission are processed by the Development Control Division. Prior to 1966, the Chief Planner was the Competent Authority. His department was located in the Prime Minister's Office from 1959 to 1964 and from 1964 and from 1964 to 1966, in the Ministry of National Development.

In dealing with any such application, the Competent Authority is required to act "in conformity with the provisions of the Master Plan

50. See the Annual Report of the Planning Department 1962 at p. 7.

51. Local Government Integration Ordinance No. 18 of 1963, and Minor Offences Ordinance Chapter 117.

52. Annual Report of the Planning Department 1964 at p. 6.

53. Annual Report of the Planning Department 1965 at p. 8.

54. 1960, No. S. 71 as amended by the Development (Amendment) Rules 1964, Sp. no. S. 26.

and any Certified Interpretation Plan".[55] The Competent Authority may also consult with any authority, department, body or person upon the application.[56] To control and regulate development by the private sector, the Development Control Division is set up under the Chief Building Surveyor's Department. It is staffed by planners and its main functions are to check and process applications for private development, ensuring that the applications generally conform to the intentions of the Master Plan and its amendments thereof. There has also been continuous close consultation with other development agencies, especially the Public Works Department, Public Utilities Board and the Urban Renewal Department of the Housing and Development Board. The Minister has appointed a committee called the Development Control Committee to assist the Competent Authority in processing applications from the private sector. The Committee has seven members, five of whom are public officials and two representatives of local engineering and architectural professional organisations. Before an application comes before the Development Control Committee, it would have been the subject of consultation with all interested Government departments. The Committee meets regularly once every fortnight.

Reports on the applications embodying the comments of the department consulted are then prepared and submitted for the consideration of the Committee or the Minister where appropriate. During these meetings, the officers of the Development Control Division will present their views to the Development Control Committee on each of the applications, together with their recommendations. The Committee can usually decide on matters within the terms of reference of the Master Plan and amendments thereto. In special instances such as change of use, increase of density or plot ratio, as well as other special building types, such as hotels[57] and petrol stations, the Committee can only make its recommendation to the Minister for decision. If an application is turned down, an applicant may appeal to the Minister to present his case for hearing either by himself, his lawyer or his architect. A senior officer is appointed to hear the presentation from the applicant and from the officer-in-charge in the Development Control Division. His report and recommendation will be forwarded to the Minister for re-consideration.

Landowners and developers who wish to know whether or not the type of development they propose would be allowed on a particular site before proceeding to prepare detailed plans for formal approval, or before proceeding to complete the purchase of the land, can, however, submit an in-principle application. No consultations are carried out with other Government departments on in-principle applications, and the advice given on such applications are therefore subject to the detailed requirements of the Government departments concerned when a formal application is submitted. As a general rule, developments such as markets, cinemas, hotels and petrol stations, which are likely to impinge on or

55. Section 9(5) of the Planning Ordinance 1959.

56. Rule 9 of the Development Rules 1960.

57. "New Procedures for Dealing with Hotel Applications" by the Development Control Division (No. 1/68 — ref: D.C. (Cf)957/57 dated 18/4/68).

affect the work or policy of other Government departments are not accepted by the department as in-principle applications. A formal application is required for such types of development.

The Chief Building Surveyor, as the Competent Authority, may deal with an application in three ways.[58] He may grant permission to develop or subdivide land unconditionally. Secondly, the permission may be conditional. Thirdly, he may refuse such application. His decision must be made within three months of the receipt of the application.[59] If he gives conditional permission or refuses to give permission, he must state his reasons in writing.[60] Are the reasons couched in generality and routine jargon or are they sufficiently specific to enable a meaningful response to be made?

Prior to 1964, the validity of a planning permit was unlimited in duration. It was found that "many of the written permissions granted were never in fact implemented as many of the landowners and developers were only interested in the speculation of the script".[61] This resulted in the wastage of the time of the planning officials and in freezing the use of land for the future. To end this abuse, an amendment to the Ordinance was passed limiting the life of a planning permission to two years.[62]

Where an application is refused or granted subject to conditions, the applicant may appeal to the Minister.[63] The appeal must be made within twenty-eight days of the date of the notification of the decision. The Minister is empowered to make rules to govern "the manner in which appeals may be made and determined .... and the information to be supplied by the Competent Authority in connection therewith".[64] To date, no rules have so far been made. The absence of gazetted rules does not, however, mean the absence of a set procedure. The present procedure for appeals is as follows.

The appellant is required to submit a written statement setting out the grounds of appeal together with all the relevant correspondence and documents relating to the application. A copy of this is served on the Competent Authority which then submits a written statement, including replies to the appellant's grounds of appeal. A copy of this is served on the appellant. A hearing is then fixed.[65] At present, the hearing is

58. Section 9(5) Planning Ordinance.

59. Section 9(12) Planning Ordinance.

60. *Ibid.*

61. Tan Jake Hooi, "Metropolitan Planning in Singapore" Australian Planning Institute Journal (Oct. 1966) at p. 113.

62. Section 9(8). The Competent Authority is empowered to renew the permit if considered necessary.

63. This refers to the Minister for National Development.

64. By Section 28(h) of the Planning Ordinance.

65. Prior to 1963, no hearings were held and the appeal was determined by the Minister based on written representation alone.

conducted by an official of the Ministry of Finance.[66] This person was formerly in the Ministry of National Development. When he was transferred to the Ministry of Finance, he continued to deal with appeals on a part-time basis. It is therefore by chance, and not by design, that the official conducting the hearing is from a different Ministry than that of the Minister determining the appeal. We can only hope that what happened by chance will become accepted as a desirable policy to maintain.

The interval between the submission of the statement of appeal and the hearing varies from two to four months. The hearing is held in private and the atmosphere is an informal one. The appellant may, however, be presented by his architect or lawyer or both. A representative of the Competent Authority is always present at the hearing of an appeal. The hearing commences with the appellant or his representative putting forward his case. He can add new points as well as amplify points contained in his statement of appeal. When the appellant or his representative has finished, the representative of the Competent Authority may question him. The Competent Authority's representative will then state his case. The chairman, may, of course, put questions to both parties. The appellant is given the privilege of making a final submission. Third parties are not allowed to intervene in such hearings. After the hearing, the official conducting the hearing may visit the site in the company of the appellant and a representative of the Competent Authority. Within the period of two to three weeks after the hearing, the chairman will submit a report to the Minister. The report will contain a specific recommendation. About a fortnight later, the appellant will be informed of the Minister's decision. This takes the form of a letter from the Permanent Secretary of the Ministry of National Development. No reason will be given for the Minister's decision, and no reference will be made to the report which is not made available to the appellant.

There are two aspects of the appellate procedure which are undesirable. First, the report of the Inspector of Appeals should be made available to the parties. Second, the Minister should give reasons for his decision. The reasons for these suggestions are that those concerned "want the relevant facts to be established and considered; they want a clear explanation of the reasons for a final decision; and they want the policy underlying particular decisions to be made reasonably clear so that whether or not they approve of the policy, they can understand the issues involved."[67]

The Minister's decision is "final". What is the effect to such a provision? This particular "finality" clause has not been tested in the courts but under the general law, the matter seems to depend upon whether the Minister's decision-making process will be characterised as administrative or judicial. If the latter, the "finality" clause will

66. Mr. Chan Sik Kwan.

67. Charles M. Haar, Law and Land, Anglo-American Planning Practice (1964) at p. 266.

have no effect in restricting the power of the courts to issue certiorari to quash for either jurisdictional defects or error of law on the face of the record.[68] Neither would the courts be deprived of their power to award a declaration that a decision is invalid.[69] These remedies are, however, of little value to the appellant because what he is interested in obtaining is a planning permit and this the courts are unable to grant him.

The present arrangement for processing applications has not been satisfactory. We wish to recommend that the officers in the Development Control Division should be given more responsibility in making decisions relating to planning applications, especially in matters which are generally regulated by the Master Plan and its amendments. In this way, the decision to accept or reject planning applications can be decided by the Development Control Division after consultation with other departments. If the applicant is dissatisfied with the decision, an appeal may be made to a Board of Appeal consisting of members of the public, allied professions, officers of ministries other than the Ministry of National Development. The Chairman of the Board should be a senior administrative officer. This Board will enable the aggrieved applicant to present his case against the decision made by the Development Control Division. In matters where the Development Control Division has no jurisdiction, such as change of use and increase in density or plot ratio, the Permanent Secretary of the Ministry of National Development should be empowered to make the necessary decisions and reply accordingly. Similarly if the applicant is dissatisfied, he may present his case to the Board of Appeal. However, in this instance, the Board of Appeals has no authority to make decisions, but can only make its recommendation for the consideration by the Minister. In order to avoid frivolous appeals, a stipulated fee may have to be charged for such appeal.

(d) *Planning Standards and Practice*

Applications for permission to develop land must not only comply with the Master Plan, but also with planning standards and practices. They are not subsidiary legislation, but are rules which have been formulated by officials in the process of controlling development. Some of the rules are handed down from the Singapore Improvement Trust, e.g. minimum plot sizes for different housing types, open space requirement, car parking standards for cinemas, multi-storey flats etc. However, in recent years, many of these rules have been amended, modified and improved to suit present day conditions.

In the control of standards for residential development, various minimum plot sizes are stipulated for terrace houses, semi-detached and detached house. In the case of terrace houses, a minimum frontage is also stipulated. In certain residential areas, restrictions have also been imposed against the development of certain housing types.

68. See S.A. Smith, Judicial Review of Administrative Action (1959) at pp. 226-227.

69. *Ibid.*

For example, flats and terrace houses are usually not allowed in more exclusive residential districts. However, the Development Control Division has, in recent years, amended its rules to permit development of flats and terrace houses in the more exclusive residential areas, provided these developments offer higher standards, both in layout and building accommodation. The applications of building types which cannot normally be classified under the simple heading of flats, terrace houses, semi-detached or detached houses has posed new problems. In this instance, the Authority has been prepared to be flexible and has considered each case on its own merits.

The Master Plan has stipulated maximum, permissible and average densities. In certain areas, density has not been allowed to exceed the permissible, in order to safeguard and conform to the general standard and plot sizes in the surrounding areas, although generally, the maximum density is permitted. A few years ago, development of flats was permitted to have double the maximum density. This has since been changed and only maximum density is now permitted. The reasons for the earlier decision as well as the reasons for abolishing it are not known.

In the case of comprehensive development by one developer, the whole area is taken into account for the purpose of density computation. In other words, if a portion of the land is developed below the maximum density, then it is possible to develop the remaining portion of the land to a higher density, provided that the total development does not exceed the maximum density permitted. This flexibility has been useful. However, the Planning Authority should consider more carefully, whether the development of the high density area is sufficiently integrated to take advantage of the environment created by its surroundings of low density development. In relation to this, it is also possible to argue that, if a particular project is developed below its permitted density, the Authority may be more flexible to allow a higher density exceeding the maximum permitted in an immediately adjacent development.

Recently, the Development Control Division has introduced certain guide-lines to control what is stipulated "open form" requirements, that is, to provide not only the necessary number of car parks, but also sufficient open spaces where lawns can be kept and trees can be planted. This is considered necessary to provide for higher environmental standards especially in the construction of multi-storey flats.

Provision of roads by developers in housing estates has been a standard practice. Until recently, the requirements were to provide roads of 36 ft. standard width and backlanes of 20 ft. standard width for services. Recently, there has been more awareness of the necessity to provide for varying standard widths of roads to cater for the projected traffic volume. The requirement of standard road widths has also been marginally increased to 40 ft. in order to provide for wider pavements and the planting of trees.

Provision for open space is now required for housing estates developments. The requirement is based on 1,000 persons per acre.

The land allocated for open space will have to be transferred to the Government without compensation as a condition for planning approval. Several questions need to be raised: first, is it necessary to enforce a provision of open space in the suburban housing developments, where every house has already been provided with a garden?

Secondly, who is likely to use the open space? Thirdly, is it appropriate to insist that planning permission will only be granted conditional on this land being transferred to the Government without compensation?

For commercial development, a minimum frontage stipulated by the Singapore Improvement Trust is still applicable. However, in certain special circumstances, this requirement may be waived. In the case of a property having a backlane frontage, certain allowance to increase the area for computation is permitted. In the computation of plot ratio, the standard practice has been to include in plot ratio calculation of circulation and service areas. In recent years, where shopping centres have been developed comprehensively and in a more sophisticated manner, large circulation spaces are being provided to form pedestrian streets within the shopping complex. In this instance, the Authority has yet to formulate a clear policy in computing these circulation areas. If the present rules of computation of plot ratio are applied, the developers will be penalised for providing more generous circulation spaces which should form a necessary and integral part of sophisticated shopping facilities. One possibility is to amend the existing basis of computation of plot ratio to exclude all circulation and service areas, even if the present stipulated plot ratio would have to be adjusted accordingly.

The "building line" requirement to allow for a set back from road frontage along main roads has been enforced, particularly in commercial areas, in order to provide for more open spaces and to cater for possible future road widening. In some cases, this is required even after road widening lines have already been provided for. In this instance, it is not clear whether the Authority is envisaging further road widening at some future date, or merely providing for a more open-type of development. It should be recognised that in a built-up urban situation, especially along shopping streets, it is not necessary or desirable to set back the buildings from the road line other than for the provision of pedestrian walkways.

Generally, the density and plot ratio stipulated in the Master Plan have been enforced. Marginal increase has been permitted to allow for more flexibility of design for single buildings. From the economic investment point of view, it may be desirable, to encourage large-scale comprehensive projects, by permitting greatly increased density. However, it is important that basic planning objectives should not be adversely affected in the process. This is particularly obvious when permission is granted for excessive density to develop projects of special building types, such as hotels.

The requirement of car parks is computed on one car per dwelling unit and 1,000 sq. ft. per car for commercial usage. This requirement is usually enforced. When it is not possible to do so, a car parking charge of $4,000/- per car will be imposed. This sum will have to be paid by the developer to the Authority. However, the car parking requirement does not differentiate between a project which is located in the suburban area and one in the central area, neither does it differentiate between the various types of commercial usages. For example, car parking requirement is computed in the same way irrespective of whether it is a shopping centre or an office block or where these facilities are located. It is only very recently that the computation of parking requirement for hotel has been regulated on a different basis.[70]

It is obvious that the control of the planning process by setting rules and guide-lines is a difficult one. It requires a clear understanding of general planning objectives, in order to provide for the necessary flexibility. The rules and guide-lines have been used successfully to simplify the process of planning control. To-date, the Development Control Division, with the consultation of other departments and the assistance of the Development Control Committee has provided a reasonable degree of flexibility in the interpretation of its rules and guide-lines. However, in the coming years, as the central area in Singapore is likely to develop very rapidly with many large-scale projects of a higher level of sophistication, sufficient understanding of up-to-date theory and practice of the many complicated approaches to urban problems and building types will be required. Only in this way can the degree of flexibility in the control of the planning process be maintained on a sufficiently sophisticated level, to cater for, and even encourage development suitable to present day conditions.

(e) *Development Charge*

There are at least two ways in which community actions will benefit land in private ownership. The first and more obvious is the construction of new amenities such as roads, drains, or a new town. The values of land situated nearby usually rise. Two policy questions arise for decision. Should the cost of the construction of the new amenity be recovered, in part or in whole, from the owners of land and businesses who have been specially benefited by the availability of the new amenity? Apart from seeking to recover the cost of the new amenity, should the community seek to recover a part or the whole of the unearned increment from the landowner?

In some American cities, the cost of certain public amenities such as a car park, is recovered from the owners of land and businesses who are specially benefited by the availability of the new amenity. They are required to pay a special benefit assessment. There is however, much dispute about the assessment of the quantum of benefit and it is generally conceded that the imposition of a special benefit

70. The Planning (Provision of Car Parks) Rules, 1966, Sp. S. 155 of 1965.

assessment carries a high administrative cost. In Singapore, this device is not used except in the paving or repaying of private roads where the cost of the construction is recovered from the frontagers.

There is no general tax on increments in the value of land brought about by the construction of new amenities at public expense, such as sewerage lines although the case for one is not lacking. There is however, a provision in the Land Acquisition Act[71] which has the effect of taxing the incremental value of land advantageously affected by public improvements during the seven years preceding acquisition. The amount of the tax is simply deducted from the compensation payable to the landowner Arguably, the principle behind this tax should be extended to all assessment, for tax purposes, of land benefited by public actions.

There is another kind of community action which affects land values. When Singapore adopted a Master Plan in 1958, some landowners were advantaged while others were disadvantaged. Those whose land is zoned in the Master Plan for more economic or more intensive uses than the existing use, are benefited while those whose land is zoned for public use or in the green belt or whose existing uses were frozen, suffer a detriment. Should the community intervene in this situation to recoup a part or the whole of the windfall from the first category of landowners and pay some compensation to the second category of landowners?

Singapore did not do anything about this problem until 1964 when it instituted a development charge. What is the principle underlying the development charge? We are told that "The underlying principle of the development charge levy in the form adopted in Singapore is that landowners who would benefit from a written permission which permits development over and above that envisaged in the Master Plan should contribute to the State part of the benefit derived from the written permission".[72] More particularly, the circumstances attracting the imposition of the development charge are, any development permitted in excess of the average residential density prescribed in the Town Map or Central Area Map or the average density of fifty persons per acre in the Island Map of the Master Plan,[73] and any development on an alteration to the Master Plan[74] such as developing in excess of the prescribed plot ratio, or not in accordance with specific use zone.[75]

On whom is the development charge levied? It may be levied at the discretion of the Competent Authority, either on the owner of the land in respect of which written permission is granted, or on the person making the application for the grant of written permission.[76]

71. No. 41 of 1966.
72. Annual Report of the Planning Department 1965 at pp. 8-9.
73. Planning Ordinance 1959 s. 29(1) (a).
74. *Ibid s.* 29(1)(b).
75. See the Planning (Development Charge) Rules, 1965, Sp. No. S44 Rule 2(2).
76. Planning Ordinance 1959, s. 29(3).

How is the quantum of the development charge calculated? The Minister has made Rules[77] prescribing the manner in which the development charge is to be calculated. For development permitted in excess of the average density, the charge levied varies from $3,500/- for each excess dwelling, to $1,500/-, depending on the area.

Development permitted for residential buildings on an alteration to the zoning in the Master Plan is similarly assessed. For development permitted for commercial buildings on an alteration to the zoning in the Master Plan, the charge levied is calculated on the floor area. The rate varies from $10/- sq. ft. to $0/50 cts. depending upon area and type of development. In respect of development permitted in excess of the prescribed plot ratio, the development charge is calculated on the basis of the floor area in excess of the plot ratio. The rate varies from $5/- to $2/- depending upon location. A variable rate is also prescribed for development permitted for industrial buildings on an alteration to zoning in the Master Plan.

What proportion of the incremental value is the development charge designed to capture for the State? A high official of the Ministry of National Development has verbally stated that it is designed to capture between 25% and 50% of the incremental value for the State. It is, however, not apparent how he arrived at those figures.

The development charge imposed in 1964 is not a perfect solution to the problem of betterment and compensation. For one thing, it came too late. It would have been more logical to introduce such a measure along with the adoption of the Master Plan in 1958. Secondly, it is a one-sided solution, the problem of compensating landowners who have suffered detriment being completely ignored. Thirdly, there is also some doubt as to whether the development charge, as at present conceived, is not in conflict with an important planning objective. Having extremely scarce land resources, it may be argued that one of Singapore's planning goals ought to be to encourage higher density and plot ratio development than those prescribed in the Master Plan, whenever permissible in the context of the overall physical planning concept. If this is the case, wouldn't the pursuit of this goal be thwarted by the imposition of a development charge for developing at densities and plot ratio higher than those prescribed in the Master Plan? The Ministry has recently circulated a notice indicating the possibility to permit substantial increase in plot ratio for commercial development in the central areas with the exemption of a development charge.[78] This may indicate that this aspect of the problem is under review.

(f) *Compulsory Land Acquisition*

In a country whose total area is only 225 sq. miles and where an estimated 60%—70% of the total urban investment is by the State,

77. Supra, note 75 and the Planning (Development Charge) (Amendment) Rules 1966, No. S. 210.

78. "Plot Ratio Concessions for Modern Highrise Office and Commercial Buildings in the Inner City" by the Minister of National Development dated 25/11/68.

the need of the State for ample legal power to acquire land compulsorily is both necessary and legitimate. Singapore must be one of the few non-communist countries in the world whose public sector builds six times as many houses as its private sector. In addition, there is an extensive urban renewal programme in Singapore in which the State acquires land in blighted areas and reassembles it for comprehensive redevelopment by both the public and the private sectors.

The power of the State to acquire land is derived from the Land Acquisition Act, 1966.[79] As there is no constitutional protection of property in Singapore, Parliament has the ultimate say as to when the State may be permitted to acquire land and what compensation is fair. The law permits the State to acquire land beyond the confines of public use or public purpose.[80] Fears have been expressed that this could lead to abuse which cannot be checked by judicial review as judicial review would be ineffective. Some of the rules governing compensation have also been criticised. In Singapore, as in many countries of the region, large tracts of private land are often saddled with squatters or encumbered with rent-controlled property. A fire may destroy such property thereby clearing it of the squatters and the tenants. In such event, the law enables the State to acquire such land, and even adjoining land unaffected by such disaster, and pay to the landowners compensation not exceeding one third the value of the land, had it been vacant and not subject to an encumbrance. Another rule, which was adverted to the above, would authorise the deduction from the market value of the land acquired an amount equivalent to the increment in the land's value during the preceding seven years flowing from public improvements in the neighbourhood. Yet another rule ties the market value to the existing planning restrictions applicable to the land. In other words, any value which the market attributes to the land based upon the prospects of a change in the planning restrictions is to be ignored.

One of the persistent problems is how to speed up the time lag between the commencement of an acquisition proceeding and the vesting of the title in the public authority. Where urgency requires, the law permits the Collector of Land Revenue to take possession of any land before he has made an award, but at least 7 days after the notice.[81] The law also permits the Collector to take possession of any land even before any notice has been issued.[82] Another problem is how to speed up the machinery of appeals? The Singapore answer to this problem is to replace appeals from the Collector to the Court with appeals to administrative tribunals.

The Government has power under the Act, to acquire land from its owner for re-sale to a private developer.[83] The Minister of Law

79. No. 41 of 1966 which came into operation on 17th June 1967. For an exposition and critique of the Act, see T.T.B. Koh "The Law of Compulsory Land Acquisition in Singapore" [1967] M.L.R. ix.
80. Land Acquisition Act, 1966 Section 5(1).
81. *Ibid* Section 17(1).
82. *Ibid* Section 17(2).
83. *Ibid* Section 5(1) (c).

and National Development, speaking in the Select Committee on the Land Acquisition Bill, said that this power will be used by the Government in order to "ensure that private development considered beneficial to the community is not held up by obstructive owners of small bits of land which are incapable of development on their own".[84] However, there has been no indication to-date that this power has been exercised on behalf of a private developer. During the last two years, many pieces of land have been acquired under the Act for the government and statutory boards. In some instances, the sites are then offered for sale to the private sector for development.

Most of the sites are not vacant. They are occupied either by tenants on pre-war premises or squatters. A modest removal cost is offered to each tenant, sub-tenant and squatter. Compensation is very low or non-existent, and has no relation to the inconvenience caused and/or the loss of income and profit suffered in the case of commercial and industrial premises. The compensation is far below what the private developer is prepared to pay. Can it be argued that the Authority cannot afford to pay a higher rate of compensation, when the land is required for public purposes?

This may be acceptable, on the basis that the Authority has only limited available funds for public purposes such as schools and housing. Should the same argument apply to clearance of urban sites for sale to the private sector in meeting the increasing demand of commercial spaces in the central area? We think not. It will be difficllt to justify the low rate of compensation to clear urban land for re-sale to the highest bidder for development in the private sector. In this instance, the criteria for assessing the amount of compensation payable to all tenants, sub-tenants and squatters indicated in a bill[85] recently introduced in Parliament to encourage private development in the central area should also be applied.

(g) *Land Use Control through Taxation*

Land and structures erected thereon constitute an important part of the wealth of a country. In countries where a system of local Government exists, rates on property form the most important part of the revenue of local authorities. Singapore abolished local Government in 1959.[86] Since then, instead of rates on property imposed by the Municipality there is a tax on property imposed by the State Government.[87] The revenue-raising function of the tax is obvious. In 1967, it accounted for $79 million which is 13% of the revenue of the Government. What may not be so obvious is that property tax can

84. Report of the Select Committee on the Land Acquisition Bill, Parl. 9 of 1966,

85. Recovery of Possession of Controlled Premises (Special Provisions) Bill 1968, Section 7.

86. By the City Council (Suspension & Transfer of Functions) Ordinance 1959.

87. Property Tax Ordinance, No. 72 of 1960.

also have a planning function. It can be used to encourage the kind of development desired and to discourage undesirable activities in relation to land.

But let us see first how the tax on property is imposed in Singapore. The tax is imposed on the owner of any house, building, land and tenement.[88] It is worth mentioning that in some countries, the tax is imposed only on the value of land and not buildings, in order to encourage development. In Singapore, the tax is imposed on the annual value of the property. The term "annual value" is defined as the gross amount at which the property can reasonably be expected to be let from year to year.[89] Alternatively, "annual value" could mean *5%* of the estimated value of the property.[90] Thirdly, "annual value" of a property could mean the annual equivalent of the gross rent. In calculating the annual equivalent, consideration will be given to "any capital or periodical sums or any other consideration whatsoever, if any, which it appears to the Chief Assessor, may have also been paid". This would enable the Chief Assessor, to take account of any premium or "tea money" which the landlord may have collected from the tenant in respect of the tenancy. The collection of such premiums by landlords is prohibited in respect of rent-controlled premises[91] In respect of premises not subject to rent control the collection of such premiums is not prohibited. The Premiums on Leases Ordinance[92] however, requires that the particulars of such payment be furnished forthwith to the City Council. With the abolition of the City Council, this function has not been vested in any authority. Ambrose J. in a recent case came to the conclusion that the condition must "be regarded as suspended until statutory provision is made for the function in question to be exercised by someone".[93] It is hoped that the Government will lose no time to remedy this omission as it is an important measure to counter the evasion of property tax by landlords. There appears to be a widespread practice by landlords in Singapore to charge low rentals but to demand big "tea money".

The property tax levied is calculated on a percentage of the annual value of the property. The rates vary, depending upon location, whether the land is vacant or built upon, and if the latter, the type of construction of the building and whether occupied by the owner. The general rate within the previous City Council limit is 36% per annum of the annual value.[94] For owner-occupied dwelling-houses, a more lenient approach

88. *Ibid* Section 6(1).

89. *Ibid* Section 2.

90. *Ibid.*

91. Section 4 of the Control of Rent Ordinance Cap. 242, Revised Laws of Singapore (1955). For a discussion, see T.T.B. Koh, Rent Control in Singapore (1966) 8 M.L.R. at pp. 33-34 & 190.

92. Cap. 253, Revised Laws of Singapore (1955), s. 2(1) (b).

93. *Turquand, Youngs &* Co. v. *Yat Yuen Hong Co. Ltd.* [1967] 1 M.L.J. 291 at 293D.

94. Supra, note 87 Section 8.

to valuation is usually applied, although the rate remains the same. In respect of an owner-occupied dwelling-house mainly constructed of wood and attap, the tax payable is a flat rate of $6/- per annum.[95] The general rate of 36% is reduced to 27% and 18% for vacant land in certain stipulated outlying areas.[96]

For certain other outlying areas, the rates are further reduced to 18% and 12% for vacant land.[97] How can the instrument of property tax be used to encourage desired urban development? Has it been so used in Singapore? We have already seen above that some countries have attempted to induce greater development by taxing only the value of land. Another way is to reduce the rate of tax either generally or in designated areas only. Singapore is using this method to encourage greater participation by private enterprise in its urban renewal programme. Under the scheme,[98] a prospective developer of commercial or industrial properties and possibly including luxury apartments, in designated areas may apply to the Ministry of Law and National Development. If the Ministry is satisfied that the proposed project is of substantial economic importance and is in line with the comprehensive urban redevelopment, it will recommend for approval of the project to the Minister of Finance. An approved project enjoys two special tax concessions. First, during the period of construction of the building project, the property tax on vacant land, normally based on 5% of the capital value of the land will be completly waived for a period of six months plus one additional month for each storey of the building to be constructed. Second, and more importantly, after the building has been completed and occupied, the normal rate of tax of 36% will be reduced to 12% for a period of 20 years. These very generous (according to some, overgenerous) tax concessions have contributed to the increased participation of private enterprise in the urban renewal of Singapore. Unfortunately, redevelopment of properties within the designated areas has been restricted by the inability of the landlord to obtain vacant possession of the rent controlled premises.

95. The Property Tax Order 1963, Sp. No. S. 60. A reduced rate is also given for property whose annual value is not more than $240/-. The Property Tax (No. 3) Order, 1961.

96. The Property Tax Order, 1961, No. S. 43.

97. *Ibid.*

98. The Property Tax Order 1967, No. S. 80 as amended by the Property Tax (Amendment) Order, 1967 No. S. 262. See also the Explanatory notes on Property Tax Concessions for Approved Development Projects issued by the Chief Planner. These notes set out four guide-lines which will be adopted for the consideration of applications. They are: (1) Normally for land to be developed in the central city areas, the minimum frontage should be 60 ft. with an area of 5,000 sq. ft. (2) Projects should be of a reasonable size, preferably with a minimum built-in area of 20,000 sq. ft. (3) Buildings must be completed and the Certificate of Fitness issued between the period 1st Jan. 1967 and 31st Dec. 1972 as the concessions are being made available in circumstances that require fulfilment of the urban renewal programme within the next 6 years; and (4) buildings which are presently in the course of erection but not yet completed, may on application be considered for the concessions.

In most countries a tax or fee is levied on land transactions. In Singapore, the stamp fee has recently been increased and is now quite substantial.[99] Japan has lowered or waived such fee on land transactions in designated areas. This is another measure to encourage desired development.

On the other hand, property tax can, and has, been used to deter socially harmful activities such as withholding vacant land from development. If the tax on vacant land is very low, and land values are rising rapidly, it is profitable for the owner of a piece of vacant land to wait for its value to escalate before developing or selling it. Such hoarding of urban land will accentuate the demand for urban land and push land values even higher. This appears to be the position in the Philippines where the effective tax rate is only 0.3% to 0.5%. An owner of a parcel of land worth say, $50,000 has to pay an annual tax of only between $150/- and $250/-.[100] It pays him to hoard the land.

In Singapore, the annual value of vacant land is taken as *5%* of the capital value of the land. The rate of tax is *36%* or 1.8% of the capital value of the land. Is this sufficient to deter the withholding of vacant land in the core city areas from development? If it is not, it would be desirable to increase the rate of tax, not generally, but in respect of land within certain core areas, which could be called "use areas" where the infra-structure has been completed and development should be encouraged, e.g. along Orchard Road.

The twin evils of tax policy to be avoided are, not taxing sufficiently and taxing too much. The situation in the Philippines is an example of not taxing sufficiently. It has been argued by a United Nation Mission[101] to Singapore that the tax levy of 36% of a property's income as valued by the tax assessor is excessive. The Mission's report stated that "strict conformity to the tax requirement would frustrate any new rental transaction for few ventures paying 36% of annual value would leave enough for operating expenses and mortgage interest and still justify an investment of fresh cash". Such an excessive levy has had the effect of discouraging the building of new rental housing and offices, and the formation of property investment company and depriving the public of its benefits.

III. THE MASTER PLAN

Singapore's Master Plan is a statutory plan and not an advisory plan. All private proposals to develop land must conform to the Plan. In theory, at least, so must all public sectoral development. A Govern-

99. Stamp (Amendment) Act. No. 38 of 1968.

100 C. Abrams, "Man's Struggle for Shelter in an Urbanising World" (paperback edition) at p. 55.

101. The Mission consisted of a team of experts — Dr. O. Koenigsberger, Prof. C. Abrams and Prof. S. Kobe. Their report was submitted to the Singapore Government in 1963.

ment report[102] states that "all proposals of Government Departments involving the development of land are required to be cleared by the Planning Department. . . . In dealing with such proposals, the department is required to act in consultation with" the Master Plan Committee which consists of the Chief Planner (as Chairman), the Commissioner of Lands, the Director of Public Works and the Head, Urban Renewal Department of the Singapore Housing and Development Board. One of the purposes of the Committee is to ensure that action taken by Government departments and other public agencies with regard to proposals for the development of land in Singapore should not conflict with the provisions of the Master Plan. In practice, however, some of the Government's housing and other development projects have been at variance with the provisions of the Master Plan. This is not to say that variance is not justified.

The proposals contained in the Singapore Master Plan, its modes of control and Singapore's experience with the Plan have been so ably expounded by the Chief Planner, Tan Jake Hooi that we can do no better than refer readers to him[103]

The Master Plan has many characteristics similar to the Greater London Plan,[104] such as provision of green belt, open space requirement, neighbourhood concept, new towns, etc. It has generally accepted the existing urban fabric of roads and services. It has defined and separated its usages for different parcels of land. It was inspired by many of the humanistic welfare orientated values of the British planners in the 1930's. It is therefore understandable that the two main weaknesses of the Master Plan are road transportation, as the great increase in private car ownership was not envisaged, and secondly, the intrinsic economic value of land especially in the central area. Many socialist orientated planners of the time considered urban land value to be wholly and artifically created by the capitalist system.

The Master Plan of Singapore must be considered historically as a very advanced piece of legislation to control the general land use and physical development process. In the early 1950's, very few major cities in the world had enacted legislation for comprehensive planning control in the physical development process. The Singapore Master Plan has introduced and regulated development with density control in residential areas and plot ratio in commercial and industrial usages. During the same period, most American cities had either no control at all, or only control by lot sizes and building types in residential suburban development. The provision of the green belt has certainly prevented the suburban sprawl in Singapore, though some sections of the green belt have now been occupied by squatters.

102. Singapore Year Book 1966 at p. 271.

103. Tan Jake Hooi, *Op. cit.* note 61, at p. 111.

104. "Greater London Plan 1944" by Prof. P. Abercrombie. Report prepared on behalf of the Standing Conference of London Regional Planning at the request of the Minister of Town and Country.

In 1965, the Master Plan had its first review.[105] This is in compliance with the requirement of the Planning Ordinance 1959 that the Master Plan be reviewed once in every five years. This revision has brought up to date major changes especially the development of public housing in Queenstown and Toa Payoh. The concept of self-contained low density new towns in Queenstown and Toa Payoh has been modified and developed to suit present requirements. With the growth and expansion of the urban areas, the two developments have inevitably changed their character from self-contained new towns into integrated expansion of the urban residential settlements. The area of the Toa Payoh project is approximately 600 acres and the population has been substantially increased to the projected figure of 180,000.[106] The gross residential density is therefore approaching 300 persons per acre. This may well create problems of maintaining reasonable environmental standards. The decision to increase the density so substantially is likely to have been caused by the shortage of available land within the terms of reference of the implementation agency, the Housing and Development Board. It is doubtful however, whether land shortage is so acute, when we take into consideration the land available for development on an island wide basis.

In the case of Jurong and Woodlands new towns, there have also been major revisions regarding population projection, area envisaged and intensity of usage. In Jurong new town, the projected population is now 300,000 - 400,000 on over 12,000 acres of land, as compared with the Master Plan provision of 85,000 persons on 3,000 acres of land.[107] Changes of the same magnitude are also envisaged in Woodlands new town. These revisions are realistic not only in the context of present theoretical analysis of the necessity for increasing the size of population in new towns, but they will also comply with requirements to cater for Singapore's population growth and economic development.

In 1968, the Jurong Town Corporation[108] was established to develop, co-ordinate and control developments in Jurong new town. The Chairman of the Corporation is a senior civil servant, and its members are appointed from the public and representatives from the Public Works Department, Public Utilities Board and the Housing and Development Board. The Department of State and City Planning not being represented on the Corporation, appears to be an omission. Generally, the Corporation has taken over the works and projects, which were previously managed by the Economic Development Board. It is understandable that a separate autonomous corporation should be set up to manage Jurong new town. However, it is doubtful whether the scope of the Corporation should include other development projects and industrial estates such as Redhill and Kallang Basin. It may be more effective and convenient to allocate the management of these areas to

105. Master Plan First Review, 1965 — consists of the Report of Survey and the Written Statement.

106. Annual Report of the Housing and Development Board 1965, at p. 23.

107. Tan Jake Hooi, *Op. Cit.*

108. Jurong Town Corporation Act, No. 5 of 1968.

the various existing departments and agencies. As Jurong new town will undoubtedly be developed at an increasingly rapid pace to accomodate 400,000 people, it will be necessary for the Corporation to recruit projects, notwithstanding the obvious necessity for close collaboration and co-ordination with the existing departments and agencies concerned with the physical development process.

Since the independence of Singapore in 1965, the Government has imposed strict immigration control and has successfully increased the effectiveness of the family planning campaign. For the purpose of physical development planning, the population projection for 1972 and 1982 can now be based on rapid fertility decline computation of approximately 2.3 million and 3.0 million respectively.[109] However, this is still substantially above the Master Plan projection at 2 million by 1972.

The Master Plan is now outdated. In order to evaluate the necessary corrective measures, it is essential to understand and take into account the political, social and economic conditions and the objectives of the Government. The economy of Singapore is generally based on private enterprise and initiative within a strong and active overall administrative and political framework. The physical development planning concept needs major revision arising from case studies, research and analysis since the Second World War on the nature and characteristic of urban and metropolitan growth.

Let us take the question of economic land value especially in the urban areas. We must first accept the fact that there is intrinsic economic value in land. This value differs from the one piece of land to another. It is necessary to take into consideration the structure of the real estate market and importance of location as a price determinant. The developer will be prepared to pay a high value for a particular piece of land to develop this piece of land to a maximum permissible density or plot ratio. On the other hand, another piece of land may have a much lower value to a developer and the incentive for high intensive development may not be present. In other words, it is not good enough in the planning process, to allow for just a specific area of land with a stipulated density or plot ratio to cater for projected requirements.

The plan must provide and make available land for development at the right place, density and plot ratio. This is not to suggest that we need to have a "free for all" land use development. Rather, the planner will need to understand sufficiently, the market forces of land values, before the framework, with built-in flexibility, can be satisfactorily provided.

Let us examine the planning bases relating to some of the present major re-development projects in the context of urban economic land use and development. We may question whether the strategic North

109. Master Plan First Review, 1965 — Report of Survey, Table 4. 2 at p. 23.

1 precinct and South 1 precinct[110] have been successfully planned as an extension to and integrated with the commercial usages of the present central area. The chances are that these projects will provide high density housing with reasonable supporting facilities for people in the lower middle-income group. Though it may be useful to build middle-income housing in the central area, it is doubtful whether we should attempt to displace the poor. In any case, there is nowhere for the poor to go. We may also ask whether usages such as hotels and luxury flats can be considered suitable and appropriate urban forms along major shopping streets, such as Orchard Road and Golden Mile, without the deliberate provision of continuous and intensive usages on the ground floor level. The lesson to be drawn from successful and intensive existing commercial development with corresponding high land value such as along Robinson Road and North Bridge Road will need to be taken into consideration in the planning process for the provision of future extension of major shopping facilities.

The Master Plan has obviously not paid sufficient attention to the problem and demand of transportation whether private or public. It has not become obvious that with the growing population and increasing demand of car ownership, we are faced with serious problems. On the one hand, we can assume that no positive action will be taken to minimize car transport and on the other hand, there will be an increasing demand for office spaces for trade, business and services in the central area. The planning authority will therefore have to tackle and resolve the problem of providing adequate means of transportation for an increasingly large number of people, travelling to and from the central area.

The experience in the advanced countries, particularly the United States, for providing more roads for more cars into the central area, has resulted in disastrous consequences — particularly in relation to pedestrian safety, physical environment and intimate urban atmosphere. The insatible demand of car owners cannot be met by constructing more and wider roads without destroying the city itself. The introduction of mass-transit system is the obvious answer, though it will involve very high initial capital cost. Existing means of public transportation such as buses, taxis, pirate taxis, will require closer study and co-ordination. Restriction to enter the central area by a special licensing system for essential vehicles and an expensive additional licence fee for private vehicles, should also be considered. Construction and improvement of roads and services together with the provision of car parks will no doubt be necessary. However, serious attention must be given in the process of carrying out these improvements, that they do not get out of control and thereby destroy the physical environment and basic urban fabric of the city itself.

110. North 1 precinct is the area bounded by Crawford Street, Beach Road and Victoria Street.

South 1 precinct is the area bounded by Outram Road, New Bridge Road and Havelock Road.

We should also re-examine the present basis of density and plot ratio control relating to a particular lot submitted for development. It may be necessary that the stipulated control for permissible development should apply to each sector,[111] notwithstanding the fragmented land ownership. This will mean that in each sector, a specific amount of accommodation for commercial, residential and even industrial development will be stipulated and controlled. In the first place, this will allow for more accurate projection in the physical development plan and the volume of traffic generated. It will also provide for greater flexibility in the type and scale of development in the different lots within the sector. No doubt, subsidiary rules to control the intensity of each separate development will both be desirable and necessary.

IV. CONCLUSION

At present, each of the various specialised implementation departments and agencies carries out the respective allocation of works directly within its specific terms of reference. The setting up of the Department of State and City Planning in 1967 with the assistance of the U. N. Special Fund is an encouraging sign to provide the necessary data, framework and co-ordination in the physical development process. It has been established to control, manage and re-valuate the Master Plan, which was previously the function of the Singapore Improvement Trust and subsequently that of the Planning Department. This new department is in the process of making intensive diagnostic social surveys. Naturally, it will not only have to take into account all development projects from departments and agencies such as the Public Works Department, the Public Utilities Board and the Housing and Development Board within the Ministry of National Development, but it will also be required to co-ordinate the work of all other development projects in other ministries.

The Department of State and City Planning should provide for a complete revision of the existing Master Plan, taking into account new conditions and requirements. The framework for physical development will be controlled, regulated and established, giving maximum flexibility and allowances for private development to operate. It will provide the framework for roads, and services, as well as regulating density, plot ratio and land use. It is essential to accommodate and understand the economic forces within an acceptable urban fabric, especially regarding value and demand of land and the impact of transportation. It is envisaged that up-to-date theories in city and metropolitan planning will be incorporated, whenever possible. The study is scheduled to complete in 1971. In the meantime, the provisions of the existing Master Plan to control land usage should not be drastically altered, as it has provided an enforceable set of rules to regulate development. The Master Plan has certainly prevented the worst features of uncontrolled development which has occurred in many major cities, especially in developing countries where no enforceable control in the planning process has been provided for.

111. "Sector" means the area of land surrounded and defined by main roads and/or natural boundaries.

In accordance with the British civil service tradition, the administrators generally control and co-ordinate the works within the Ministry on behalf of the Minister. In the present structure, the technical officers will generally have to present their ideas and problems to the administrators and not directly to the Minister of National Development. It has been obvious that in the last decade, the rush/crash programme in Singapore has been carried out with great energy and effort. Spectacular results have been achieved, especially in the construction of schools and public housing. A large measure of this is due to the determination and fore-sight of the political leadership. "Recent leadership in the metropolitan planning programme has come mainly from the political quarter. In close touch with the masses, it has formulated both bold and realistic development programmes to deal with the social and economic problems of the metropolis".[112] However, the achievement could only be possible with the assistance and collaboration of the administrators and the technocrats. Within the present structure, the administrators have provided the necessary momentum drive, energy, industry, expertise and decision making to meet this challenge.

With the impressive record of physical development during the last decade, we may be able to afford to pause and examine the structure of the physical planning and implementation process. Perhaps, it is because of the fact that the Government has so successfully, implemented its rush/crash programmes that we can now set our aims and objectives higher to achieve qualitative and environmental improvements in future development projects. As Singapore is likely to move towards a more sophisticated stage of development in the coming years, it will be too much to expect of the administrators from the Ministry of National Development to continue to shoulder the main burden and responsibility in the control and co-ordination in the vast physical development programmes. It is conceivable that some structural changes will have to be made in order to allow the senior technocrats to become increasingly more involved in the process of decision making, with a direct line of communication to explain and present the ideas first hand, not only to the administrators, but also to the political leadership. The capable and tolerant administrators, will continue to play a new and necessary role in co-ordinating and supplementing the work of the technocrats. The Department of State and City Planning should be elevated to the position of an overall physical planning and technical co-ordinating agency for not only the Ministry of National Development, but directly responsible to the Planning Authority.[113] Members of the Planning Authority consist of senior ministers of the key ministries. The composition of the present department of State and City Planning will have to be changed and strengthened to include some of the senior technocrats from existing implementation departments and agencies. Similarly, the Economic Planning Unit should also be taken out from

112. Tan Jake Hooi, *Op. Cit.* at p. 118.

113. This idea was worked out in 1967 (unpublished) by the Singapore Planning and Urban Research Group in collaboration with Dr. Robert Gamer, then a lecturer in the Political Science Department of the University of Singapore, and a member of the SPUR Group.

the Ministry of Finance and together with the Department of the Statement and City Planning, should form the Planning Commission. This will enable planning to take place on a national level, and the politicians to have continuous communications with the specialists and technocrats who are involved in the planning and co-ordination of the total economic and physical development process of the Republic. If this can be achieved, the works of the various ministries should then be more concerned with the implementation of programmes in accordance with the general policy of the Planning Authority on the advice of the Planning Commission.

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