

# **LAND MANAGEMENT FOR URBAN DYNAMICS**

## **REDEFINING PLANNING GOALS TO IMPROVE LAND MOBILIZATION**

**Matej Niksic, Nuno Norte Pinto, Leah Tillemans**

Abstract: Gland is a small town located in the western side of the Canton de Vaud, in the French speaking Switzerland. It is positioned half-way between Geneva and Lausanne, the first one an important decision making center at a global scale and the second one an important learning and research center with a high degree of specialization. The city is planning its expansion for the next planning period of fifteen years through a planning process that is running imbedded in the strategic plan for the Vaud state. The state plan identifies Gland

as an important centre for future development and estimates an increase of more than 2500 inhabitants and a similar increase in jobs. There are several problems regarding the implementation of a local plan mainly concerning the issue of land mobilization. The present study tries to devise a new strategy for the city plan in order to create the proper framework to mobilize land towards the proposed solution. The approach starts from a new strategic perspective that refocuses the planning solution in order to allow the plan to make better use of some Swiss land mobilization tools that are considered in the state and national law.

Keywords: Land management, urban planning, planning tools, land mobilization, property rights

## **Introduction**

Land mobilization is a key issue for planning in general and urban development in particular, especially when considering the recent trends of urban renewal in built-up areas, using brown and greyfields. European planning systems are more or less equipped with legal tools to address these issues. However, practice is much more complex than that provided by those tools and planners must make use of that complexity to reach the goals stated in their plans in rational and pro-active ways.

This paper presents the work of one of the five workgroups, formed by a Swiss geographer, a Slovenian architect/urban designer and a Portuguese civil engineer/planner. This diversity helped to promote a multi-disciplinary approach to

a problem grounded on multiple issues that must be addressed with flexibility and with sound legal basis.

The paper has two main parts. In the first part, we present the strategic approach to the problem of Gland after a new interpretation of the existing expectations and plans. A new development goal is stated and a new development site is identified. The second part is dedicated to presenting three different approaches for tackling the land mobilization problem, considering the national frameworks of Switzerland, Slovenia, and Portugal. The point we wish to illustrate is that successful land management depends both on the quality of planning and on a judicious use of the tools offered by the legal framework, and that these two aspects must be appraised simultaneously.

## **A New Strategic Approach**

Gland's location is one of the main factors that have influenced the development of the municipality in the past decades and will surely continue to play a key role in its future expansion. Not only is Gland subject to natural pressure due to the strong development of the two main urban settlements of western Switzerland, Geneva and Lausanne, but it is also a pole that the regional authorities wish to develop. Gland's expansion plan is a local initiative that encompasses and translates the regional (Nyon Region) and state (Vaud Canton) views for the future development of the area. The combination of the opportunity generated by upper level plans and the local context fostered a strong municipal will to push the plan forward towards a new city of Gland. However, the institutional structure of both planning agents and local agents is very com-

plex, slowing down the process by creating several problems at the land mobilization level. On the planning side, there is some reluctance from the administration (at all levels) to impose the enforcement of the plan. On the owners' side, there is a very complex situation, with more than thirty land owners of different types – individuals, companies, local, state and national administration – with unbalanced institutional capacities.

Taking into account these two aspects – namely, (1) Gland's strategic position within the whole regional system, and (2) the current difficulties to implement the planning goals – leads us to propose a redefinition and a precision of the key planning goals. Our diagnosis takes place on two levels. Firstly, we examine Gland's location within the regional context, in order to identify its current strengths and weaknesses and the future role it could play in the region. Secondly, based on these observations, we propose a new planning vision for an area comprised within the master plan. This planning vision not only translates the development objectives, but is also designed in order to make the implementation of the plan feasible, with respect to the landownership situation.

### **Regional Context and opportunities**

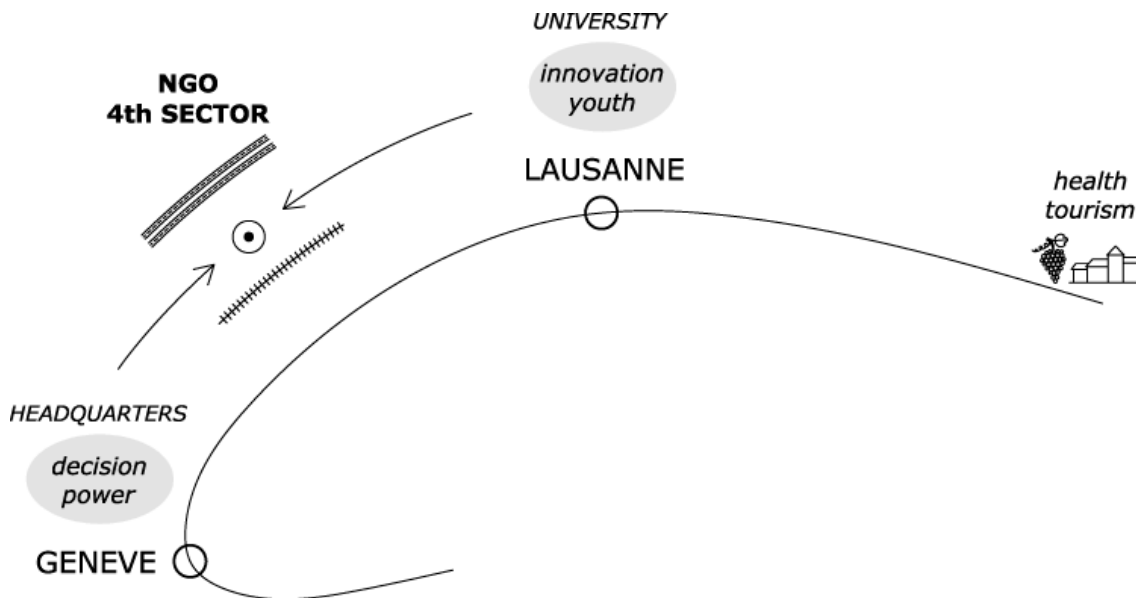
On the regional level, the main feature of the town of Gland is its location in an urban system that runs South-West/North-East, parallel to the lake of Geneva. The geographic location of Gland is at a middle point between Lausanne and Geneva. Even if the study of daily commuters tends to indicate that Gland is slightly more turned towards Geneva, this situation means that Gland is a strategic location for people working in both cities, which are accessible in about twenty minutes by public or private transportation. Therefore, the municipality

is a very sought after location for housing. Furthermore, the municipality is ideally located with respect to the transportation system. The highway bordering on the north side, the cantonal road on the south side and the train station in the center facilitate the access to the perimeter. In addition, the international airport of Geneva is only twenty minutes away. The attractiveness of Gland is increased by the quality of life that it offers. The town possesses a village-like atmosphere and a human scale, which means that most services are accessible within a 1km range. Moreover, the landscape and natural surroundings (Jura Mountains, vineyards, Lake of Geneva) offer exceptional views and numerous possibilities for recreation. From an economical point of view, Gland can benefit from the proximity to its two neighboring cities, which each possess certain economic specializations. Geneva is a largely international city and decision center, notably in the banking sector and with respect to international organizations. Lausanne on the other hand has developed a strong science and innovation cluster.

However, the rapid development of Gland has also produced a series of nuisances that the municipality must address. Notably, the urban structures have had difficulty in adapting to the change of scale. The increased population has for example created heavy traffic congestion on some of the town's main axes, which in turn has put pressure on public spaces.

At the more detailed level, the area covered by the master plan is located on a North-East/South-West axis perpendicular to the lake. This makes it a privileged location in the lake-hinterlands system. The site could notably play a role as a regional sub-center and transport hub, and contribute to linking an area com-

posed mainly of separate small villages. Because the site covers a large area, the possibility exists to make important improvements to the existing settlement, through the addition of new structures.



**Figure 1: Gland's strategic location**

### **Strategic Goal**

Following these observations, the general strategic goal we wish to pursue on the site is that of **optimizing Gland's regional location.**

This goal is to be implemented through the following objectives. First, population growth is to be promoted and associated with an increase of density. However, the increase should be reasonable to avoid a radical transformation of Gland's identity. Secondly, the urban character of the area should be improved. Moreover, in order to reinforce Gland's economic strengths the conditions for the location of Fourth sector and NGO institutions should be promoted. Finally, the urban design must take into consideration future urban development in order to create the conditions for a sustainable expansion in the next planning period.

## Local Strategy

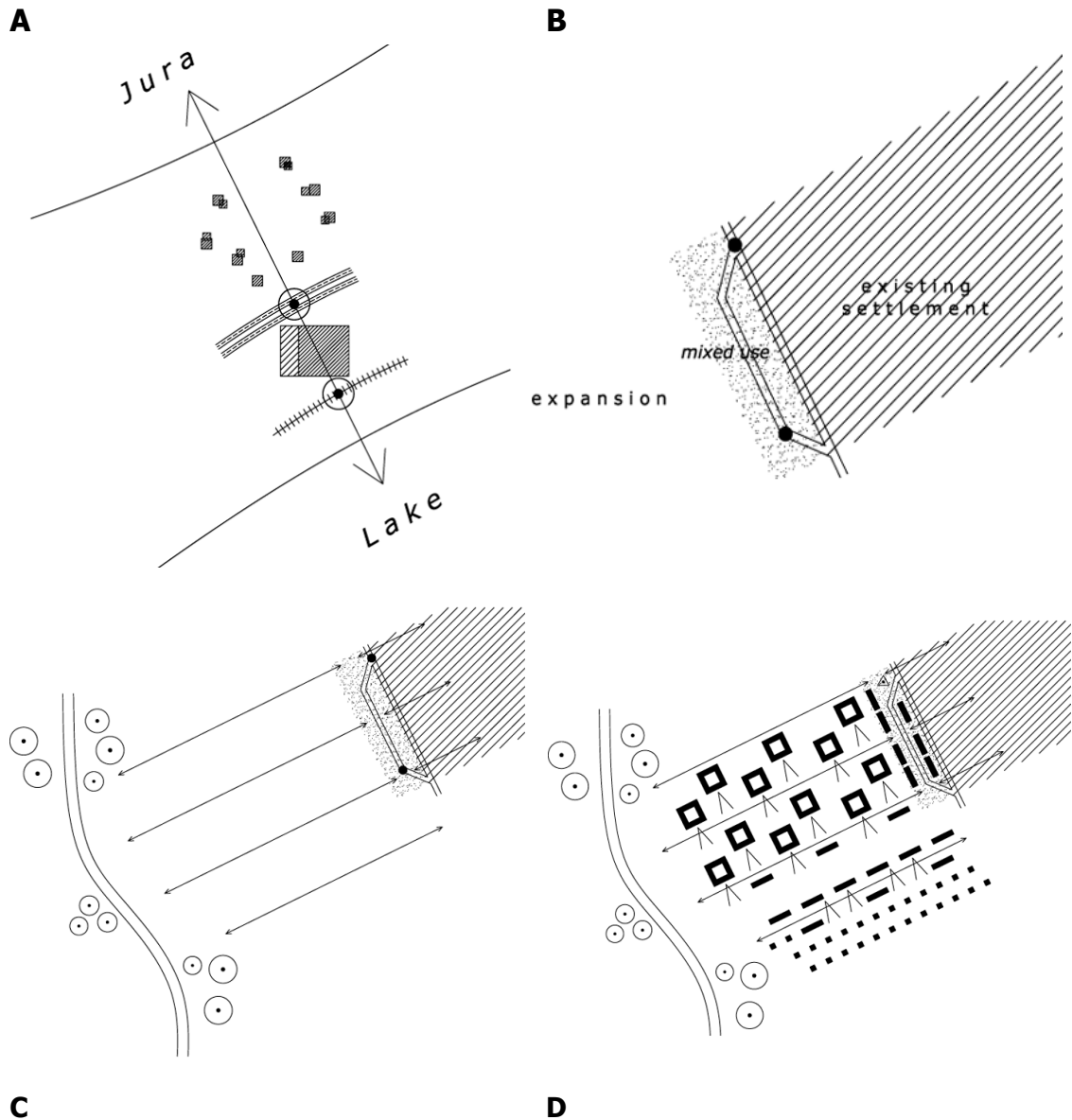
These objectives are integrated into the project through a series of measures. Two functional centers on the north and south side of the site are to be developed, creating a new strong axis through the perimeter. Mixed land uses are to be promoted along this axis. Moreover, different urban morphologies and densities should be proposed in order to offer a real choice of living environment and create a variety of urban atmospheres. The higher densities are proposed along the main axis, namely in its southern end which is in a proximity of the regional train-stop, while the densities decrease towards the outskirts of the settlement. The location of the site is reinforced by the opening of views and by the creation of multiple connections between the new and existing urban elements and the natural elements.



**Figure 2: The designated planning site with its new functional centers**

Finally, the development of the site should contribute to maintaining habitats for wildlife through their connection and integration in the network of public spaces and through the elaboration of a sustainable drainage system.

**Figure 3: proposed strategy**



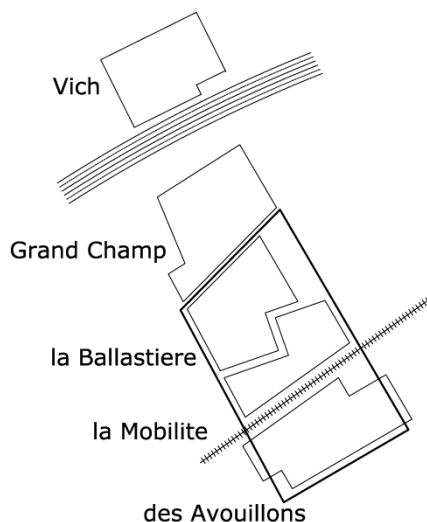
- A:** Location of the planned site
- B:** Reinforcing the urban character by placing mixed uses between the two new functional centers
- C:** Connecting existing and new urban elements with the natural elements
- D:** Offering choice by creating different urban morphologies while opening views to surroundings



## Land Management Process

The new planning perspective presented in the last section was designed in order to promote a successful implementation of the plan. The proposed plan will focus on the large site along the rails, merging the two sides of the railroad into a single development site. This will facilitate the process of land mobilization by promoting the role of the new rail station and by merging the interests of different actors.

**Figure 4: The new development site, composed of three of the original “chantiers”**



From our analysis of the current situation, it is clear that authorities at all levels see Gland’s expansion as crucial for the development not only of the city but also of the region and of the state. These official expectations are well-known by the public and by the land owners, creating new development perspectives that increase significantly the land value within the plan area. The conjugation of these two factors ensures that this development can benefit both public and

private interests creating promising possibilities for negotiation between public and private actors of all types.

In the following section we lay out the land mobilization difficulties that have so far blocked the successful implementation of the official master plan. Subsequently, we will present three approaches for tackling the problem considering the Swiss (more specifically the Canton of Vaud), the Slovenian, and the Portuguese legal frameworks for land management. This trans-national review can be useful for understanding and opening new horizons on how local actors can handle the problem by presenting new perspectives of the use of the tools that are already considered by the local legal system.

### **Diagnosis of the land management problems**

Three main problems can be listed with respect to the implementation of the original master plan. Firstly, the complexity of the property structure on the site, which means diverging, interests among the existing landowners. In particular, one large piece of land belongs to a gravel company who's activities are clearly in contradiction with the planned development of the site but who does not plan to dislocate unless the municipality can offer it an alternative site for its activities.

This situation would perhaps not be so difficult to manage given a different institutional context. However, and this is the second difficulty, the Swiss legal framework couples strong individual property rights with fairly few instruments that the authorities can use to enforce planned land use. The Swiss planning system is tightly linked to the federal political system. The federal authorities mainly propose spatial planning guidelines. The Cantons are the institutional

level in charge of planning, but they usually delegate decisions on land use to the municipalities. . Land use plans are binding for the landowners, however in a mainly restrictive way. Zoning limits what the land can be used for in the future. But the authorities have few options make an owner develop his land in the way stated by the plan. The constitutional guarantee that ownership benefits from means that expropriation – or the threat of expropriation – is not an option unless predominant public interest can be justified. Even so it is seldom used. Equally the authorities rarely put pressure on the owners by threatening to retrieve unused development rights. Indeed, there is an important chance that is operation would be considered to be *material* expropriation<sup>1</sup> and call for important financial compensation. Yet the small municipal administrations often lack the financial resources to be able to lead proactive land management, especially given that, in most cases, they cannot or do not retrieve the added value gained from the zoning process.

Lastly, the absence of strong legal tools makes negotiation with the landowners crucial. However the communication around the master plan was dealt with in a clumsy way. Indeed, the master plan was adopted before consulting the concerned owners.

Our approach seeks to propose ways of dealing with these difficulties. Negotiation and incentives are at the heart of the procedure. They are to be thought out with respect to the planning goals, which should be sufficiently flexible to

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<sup>1</sup> Material expropriation is similar to the American idea of a taking. It is defined as a restriction of the possibilities for the owner to use his property that is equivalent to expropriation (Swiss Constitution Art. 26; LAT Art. 5).

be adaptable during the negotiation process. Were willing negotiation to fail, the authorities could try to use more forceful measures in order to implement the plan. We shall now take a look at the institutional tools, which could be used.

### **The Swiss approach**

The first step in the procedure would be to produce a feasibility study, which aims precisely at defining the necessary steps to the realization of the plan, with regards to the property structure in the area and the financial costs and benefits. The planning vision we have designed aims to guarantee a high overall added value and therefore creates strong incentives for negotiation. The plan may also be revised during this step in order to include the possibility to develop synergies between the different actors of the development process. The point is that reluctant landowners may react to interests that go beyond direct financial benefits, such as the possibility for pursuing or developing their own activities. One simple example is the Swiss railway company (CFF) who owns one of the parcels of the site. Developing a project that increases the number of public transport users is clearly a supplementary interest for them. If the feasibility study produces an overall consensus, a convention may be signed between all the owners. If, on the other hand only a majority<sup>2</sup> of owners agree to the project, a voluntary land improvement syndicate may be created. The syndicate decides the different measures that need to be put forth on a majority basis. The perimeter of our site, which combines several of the sites ("chan-

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<sup>2</sup> It must be a double majority: >50% of the owner covering >50 % of the land.

tiers”) defined in master plan increases the number of owners and reduces the influence of large landowners such as the gravel company.

If a majority cannot be obtained for the creation of a voluntary syndicate, the authorities have the possibility to ask the canton for the authorization to create a mandatory syndicate. In this case clear public interest must be justified. Given that Gland is considered as a priority development area for the canton and fits in with the objective of developing the areas around train stations, a strong public interest exists.

The advantages linked to the land improvement syndicates are that land is pooled and the financial costs and benefits are determined globally. Therefore the added value of the entire site is a decisive element. The financing and schedule for the public equipment is decided jointly with the rest of the project. Finally, strong public intervention is not required for the implementation of the plan<sup>3</sup>.

### **The Slovenian Approach**

Similarly to the Swiss case, achieving a land mobilization process to implement the fixed urban development plan on a site owned by many and diverse (private, public etc.) landowners might be hard to achieve in Slovenia too. Although expropriation as a tool does exist in Slovenian legislation<sup>4</sup>, it is used in

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<sup>3</sup> Prélaz-Droux Roland (2008): “L'action de l'Etat dans les territoires de la campagne-ville”, in Monteventi et al.: *Campagne-ville le pas de deux*, PPUR, Lausanne, p. 305-316

<sup>4</sup> General conditions for expropriation were defined in Law on Spatial Planning (Zurep-1; National Gazette Nr.110/2002) as well as in various other laws defending a public interest by particular sectors (e.g.

specific cases only, mainly when the construction of a communal infrastructure (such as transport infrastructure, energy infrastructure, etc.) is in question. Therefore a (re)development of sites which are alike to Gland demands a strong consensus among different stakeholders to be successful in most cases - e.i. if they find their interest in the development, the land mobilization process is much more likely to start and be finished successfully.

Hereinafter this situation is illustrated by two examples - the case study of Smartinska Partnership, which is one of the biggest recent examples of regeneration schemes in Slovenia, and Sports Park Stozice, an example of newly built sports grounds, partly on the lands of the former gravel-excavation site and partly on the greenfields. The first one is an example of a pro-active approach of various stakeholders who have a common aim of raising their property values by regenerating a neglected city area. The second explains how the public interest was claimed over the private property rights in order to allocate new sports facilities of public interest. It shall be stated that none of the presented cases is regarded to be a well established approach in Slovenian practice, they are rather outstanding, but indicative in the relation to the Gland case study.

Smartinska Partnership was established in 2008 by the City of Ljubljana and partners who decided to undertake urban, economic, environmental and social regeneration of the area along *Smartinska cesta* road<sup>5</sup> in north-eastern Ljubljana. A gradual and spontaneous transformation of the area started in 1990's al-

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Law on Public Roads / Zakon o javnih cestah, National Gazette Nr. 33/2006; Law on Sport / Zakon o športu, National Gazette Nr. 22/1998; etc.)

<sup>5</sup> City of Ljubljana & Partners, 2009: Partnership Smartinska District, Ljubljana.

ready when the area with declining industrial, manufacturing and logistics activities started to transform into what has become so called "BTC city" - the biggest shopping and leisure area in the country.

During the years 2006 and 2007 several landowners in the district started to generate their own development projects for their parcels. The City of Ljubljana (which was at that time obliged to prepare a new generation of spatial development documentation for the entire city) recognized the possibility for a comprehensive regeneration of the entire district in cooperation with the land owners. A letter of intent for common and joined redevelopment actions was signed in May 2007 by the city and the landowners and as a result an international urban planning competition was organized to get an optimal proposal for the new urban layout of the area as a whole. The competition winner was commissioned to undertake the preparation of the detailed regeneration master plan and guidelines for future strategic and implementation documents.

The whole process as it was performed from 2007 on was of a big importance for setting up a momentum among various stakeholders. During this process they realized that the fulfillment of their singular needs shall come only second to the joined endeavors if a long-term prosperity of the whole area is to be achieved. It resulted in the situation where the partial interests of individual landowners did not take over the general redevelopment goals which also meant some land swaps among the landowners. This cooperative approach gained a full support of the city administration. It had treated the land-owners inputs with sympathy while still assuring the public interests. Besides the cooperative approach of landowners and potential investors a proactive and support-

ive role of the city played a very important role by providing a formalized ground for negotiation processes.

Unfortunately the process of implementation of Smartinska partnership has been hindered by the economic downturn in 2009 and the final implementation on the grounds is still foreseen. Nevertheless this case can be summed up as a successful example of the urban regeneration of an area with a complex land-ownership by negotiations. It shows that common goals can be achieved by a skillfully guided negotiation process that channels particular interest of individual landowners towards jointly agreed goals. Given a Swiss legislation framework, such a proactive approach might be appropriate here too, but a so called difficult landowner is obviously in a need for some more encouragement – the local planning authorities are definitely the body in charge to continue and work harder on understanding its points of view better and search for possible solutions.

The second example of the Sports Park Stozice is a very different case in terms of the (un)successful negotiation process. When a definite location for a new Football Stadium and other sports facilities was decided it became clear that, firstly, the parcels already owned by the city municipality were insufficient to implement the whole project, and secondly that when the location for the Football Stadion was chosen the speculations on the new land values arose. This resulted in the unfavorable conditions under which the land owners were willing to sell their parcels to the city. In such conditions the negotiation process was not successful at all.



As expropriation is rarely used in Slovenian planning practice since the country's independence in the 1990s (practiced almost exclusively for the biggest national projects such as highways system) and as expropriation procedures always mean great delays in the implementation of the projects it was unfavorable to use this procedure in this case. Nevertheless expropriation was the only realistic option for the process to go on. In order to be able to proceed, the stadium had to be proclaimed a public sports facility. That was not enough as such – the stadium as a public sports facility together with its exact location had also to be defined in (either national or) local detailed development plan.

By following such a procedure the municipality was given the right to expropriate the problematic landowners by paying the compensations measured out of the land price before the investment, i. e. according to the actual land use before the investment and not according to the speculated land price once the sports complex is built.

As presented through the indicative case studies above it is clear that the land mobilization process can also easily be blocked in Slovenia too but there are ways to avoid such a situation. In a case like that of Gland, ideally, the blocking factors could be abolished through a skilful pro-active negotiation process, which emphasizes common interests over the singular ones while not forgetting the exact and particular interests of any involved party. If this doesn't work, the public body shall have an opportunity to mobilize land through expropriation if it can prove that the development is of public interest. To be able to do so it is important to clearly define the public interest in the national/cantonal/local legislation, which can then serve as a basis for claiming public interest over the

private interests in the cases of non-cooperative landowners. The untouchability of private property rights and their superiority over the common interests shall be seriously questioned at the legislation level.

### **The Portuguese Approach**

The problem in consideration is very complex from the institutional point of view, involving several different actors with different institutional capacities. On the one hand, the planned expansion of Gland is a top down initiative reinforced by a strong resolve to implement the process at all levels of administration. On the other hand, the plan generates added value expectations for land owners that can be reinforced by the new development site proposed in this paper. The conjugation of these factors illustrates the public interest in the new development.

The premise of a solution for the case is the existence of an approved plan<sup>6</sup> for the new site. This plan is legally supported by public participation, which creates the possibility of negotiation of different solutions to implement it.

The public interest and the complexity of the case suggest the consideration of a cooperation system that involves public administration and private actors as stated on the planning lay currently in force<sup>7</sup>. A cooperation system reveals the importance that the authorities give to the implementation of a given plan and

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<sup>6</sup> The approved plan can be [either](#) a Municipal Master Plan or [a](#) Detailed Local Plan (which is the legal name for a local urban design project).

<sup>7</sup> Decree-Law 48/2009 of February 20<sup>th</sup>, Law for the Regulation of the Instruments for Spatial Planning, Portuguese Official Diary

is designed to ensure the institutional balance between small land owners and more important ones. That is the case of Gland, where there are important public national and local land owners (the Confederation or the State) and small and larger private landowners.

The law forces a plan approved within this cooperation system to include a proper perequation system. Perequation aims to guarantee the necessary tools to distribute urbanization benefits (added value generated by developments) and costs among land owners with different degrees of participation in the plan, that is, land owners that have different property rights. This way the plan is expected to maximize new property rights that are created by new developments or redevelopments among land owners, which is an important incentive for them to actively participate in the plan.

The implementation of the proposed system is based on the establishment of an urbanization contract that settles the terms for all the operations that requires the mobilization of land and the rules for perequation. All the operations must be done by public competition in order to ensure the necessary clearness to all land deals. For that, preference rights for the administration over commercial transactions of land within the plan site are devolved to the concessionaires of the urbanization contract. The same occurs with expropriation capacity, a fundamental tool to solve critical problems when the plan is trapped by land owners unwilling to participate in the proposed operations.

The Portuguese framework is well equipped with the necessary tools to mobilize land for plan implementation. The use of these tools is balanced with the capacity to negotiate solutions with landowners that do not collide with their rec-

ognized interests and, at the same time, preserve the public interest. The case of Gland is a good example of how these tools could be applied. However, the application of these tools is strongly constrained by the availability of financial resources for the public authorities to buy or expropriate land, a critical issue especially in periods of land market crisis.

## **Concluding remarks**

The expansion of Gland, as it is proposed by the local authorities, is an ambitious development plan that involves a large number of private and public agents. The complexity of the operation is characterized by significant differences between these actors in terms of both institutional capacities and property rights. This implies that authorities must give emphasis to negotiation, ensuring that the plan is a conjugation of common interests and that smaller landowners have their rights guaranteed. However, the clear public interest that this development has for both the city of Gland and for the Vaud Canton must be taken into account in order to reduce the administration's reluctance to pushing the plan forward. The plan can benefit from a new planning site as the one proposed in our paper that can help create incentives for negotiation and increase the success of the land mobilization tools available in the Vaud legal framework.

The cross-national survey of land management practices has presented several interesting methods for land mobilization. The three national perspectives all stress the importance of a good negotiation process that can channel private interests towards common goals. If negotiations can be coupled with a pe-

requisition system to balance out urbanization benefits and costs, the chances for success are higher. Finally, forceful tools such as expropriation are – when they are authorized by national legislation – mainly used as a last resort. They can nevertheless be crucial to move forward when the implementation of the plan is blocked by a small number of uncooperative landowners.

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