Part 2 Chapter 9

# Urban Land Policy

## 9.1 Introduction

**9.1.1** Some of the crucial problems that the MMR faces today like extremely inadequate shelter opportunities, inadequate land for provision of social facilities and lack of resources for local infrastructure are ingrained in the present land policy (or the lack of it). Although provision of infrastructure helps increase the land values, the private land market tends not to provide adequately for infrastructure like roads, parks, schools, hospitals etc. This leads to "inefficient" land use patterns. Further the legal private land market for variety of reasons tends not to cater to the low income sections resulting in "inequitable" distribution of land and shelter opportunities. Thus on account of both efficiency and equity goals of urban development it is imperative to intervene in the private land market.

**9.1.2** However, before discussing possible ways of intervention, it is useful to note some characteristics of urban land.

1. Every parcel of land has unique location and because of this characteristic it is not possible to produce identical parcels of land,
2. Though quantity of land per se is finite, it is possible to increase the supply of urban land by providing urban infrastructure,
3. But for provision of infrastructure, land itself is one of the essential inputs,
4. Urban land cannot be treated as pure public good. This implies that market in urban land cannot be eliminated, and
5. Because of these characteristics the economic and environmental externalities reflect in the land price.

## 9.2 Objectives of Urban Land Policy

**9.2.1** The Urban Land Policy Committee (Ministry of Health) appointed by the Government of India in 1965, articulated the following Land Policy Objectives (Planning Commission, 1983);

1. To achieve optimum social use of urban land;
2. To make land available in adequate quantity, at right time and for reasonable prices to both public authorities and individuals;
3. To encourage cooperative community effort and bona fide individual builders in the field of land development, housing and construction;
4. To prevent concentration of land ownership in a few private hands and especially to safeguard the interests of the poor and under - privileged sections of the urban society.

   In addition, a commonly held objective is,

5. To use land as a resource for financing urban development by recouping the unearned income which otherwise accrues to private land owners. (Fifth Five Year Plan)

**9.2.2** The Task Force on Planning of Urban Development appointed by the Planning Commission in 1983 (Planning Commission, 1983) rephrased the objective 4 mentioned above in the following words:

"to widen the base of land ownership specially to safeguard the interests of the poor and under - privileged sections of the urban society";

and proposed following two objectives;

6. To encourage the socially and economically efficient allocation of urban land such that urban development is done in a resource conserving manner and that the magnitude of land used is 'optimal';
7. To promote flexibility in land-use in response to changes resulting from a growing city.

**9.2.3** The report of the Committee on Land Policy observed that to realise the objectives "there is no escape from large scale public acquisition if the question of guiding urban development or the provision of adequate housing and other facilities is to be tackled effectively". Further "large scale advance acquisition of land would really be in the interests of the society as a whole. It is by far the best and perhaps the only way to put an end to speculation in land and to capture subsequent increases in land values. These surpluses, where realised by the public authorities, should benefit the community in more ways than one" (Menezes, 1982).

**9.2.4** The most important experiment of large scale public acquisition of land for urban development has been that of Delhi Development Authority (DDA). However the results have been quite contrary to the expectation. It is generally observed that (Planning Commission, 1983);

1. It has not been possible for DDA to provide land at affordable prices to low income beneficiaries resulting in large scale jhuggi jhopadi colonies.
2. In the absence of price signals land has been sub optimally used, resulting in over provision to powerful groups, and
3. DDA's policy to auction very few plots at a time and treating the maximum price quoted in such biding as the real market price has in fact meant artificially increasing the land price through deliberate scarcity.

The rephrasing of the objective identified by the Urban Land Policy Committee in 1965 by the Task Force in 1983 is therefore indicative of the realisation of sev ere limitations of large scale public ownership of land as a means of achieving the land policy objective.

## 9.3 Land Development Strategies proposed in the Regional Plan

**9.3.1** The Regional Plan 1973 (BMRPB, 1974), did not explicitly spell out a comprehensive land policy. It considered the l and policy issues as a part of housing and new town development strategies. The recommendations of the Plan summarised below also reflect the dominant thinking of the period:

1. In the absence of any land use zoning, every piece of land competes with every other for claiming the floating value for the most remunerative use. Land use zoning must therefore be strictly resorted to, to localise floating values for different purposes and to ensure that adequate and suitable lands would be available for housing at the price level of housing lands.

2. The price of residential land must somehow be maintained at a level at which it would be suitable for middle and low income housing. The only way in which this could be done would be by taking resort to public control of lands by their bulk acquisition. Short of acquisition, no other measures are possible to make available adequate supply of land for low income group housing at the right price.

3. The entire development value of all lands would have to be frozen. But until that is done, bulk acquisition of large areas by a public authority would be the only course available within the framework of the existing laws. This would ensure that land required for the housing of low income group people can be subsidised from the profits realised from the sales of other types of land, namely, industrial and commercial lands and housing lands sold for higher income group housing, and

4. Leasehold tenure is preferred to freehold tenure as leasehold tenure enables effective control on use of land through restrictive covenants and provides rights of revision of lease rent.

## 9.4 Policy Instruments

**9.4.1** Although the objectives have been neatly formulated, the policy measures which can achieve these objectives in practice still remain to be sharpened and coordinated. The measures can be classified as a) direct government investment b) legal and regulatory; and c) fiscal. Examples of these are;

1. Direct government investment in land development for provision of infrastructure, housing or overall town development through large scale compulsory land acquisition.

2. Statutory provisions for compulsory acquisition of land at less than market price, regulations regarding land use zoning, development control and building codes for health and safety.

3. Fiscal measures in the form of appropriate taxation that can help achieve the land policy objectives.

### 9.4.2 Legal Framework

Although a variety of policy instruments are available, the emphasis so far has been on using legal interventions. This section therefore briefly reviews legal framework with reference to compulsory acquisition of land and related compensation provisions.

**The Land Acquisition Act, 1894**

The Act enables compulsory acquisition of land needed for public purposes and for Companies. After the amendment of 1984, the expression public purpose includes, the provision of village sites, land for town planning, for planned development, residential purposes, schemes sponsored by government and for locating public offices.

The Act requires that the market value of land be awarded as the compensation for compulsory acquisition. Market value of the land is determined on the rates prevailing at the date of the publication of the notification under Section 4.

In addition to the market value of the land, an amount of 12% per annum on such market value for the period commencing on and from the date of the publication of the notification under Section 4, in respect of such land to the date of the award or the date of taking

possession of the land, whichever is earlier and a solatium of 30% on such market value in consideration of the compulsory nature of acquisition is also payable.

Declaration of Intended Acquisition under Section 6 has to be made within one year from the date of the publication of the notification under Section 4. The award has to made under Section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period the entire proceedings for the acquisition lapse.

The amount of compensation to be awarded for the land acquired under the Act is principally based on the market value of land at the date of the publication of the notification under section 4 (section 23(1)). However Section 24 clarifies that while awarding the amount of compensation, increase to the value of the land likely to accrue from the future use is not to be taken into consideration.

**Changes in the Constitution affecting Land (1949-1978)**

Article 19 (f) of the Constitution recognised 'to acquire, hold and dispose of property' as one of the fundamental rights. While the Directive Principles of State Policy (Article 39 (b)) require that the 'ownership and control of the material resources of the country are so distributed as best to subserve the common good; that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment'.

The 25th amendment of 1972 made any legislation claiming to subserve the Directive principle non-justiciable. 'Notwithstanding anything contained in Article 13, no law giving effect to the policy of the State toward securing all or any of the principles laid down in Part IV shall be deemed to be void on the ground that it is inconsistent with, or abridges any of the rights conferred by Article 14 or 19, and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it dose not give effect to such policy.' This amendment further replaced the word 'compensation' by the word 'amount' in Article 31 (2) and the adequacy of the amount was made non-justiciable.

By the 44th Amendment of 1978, Article 38 (2) has been added which states that, 'The State shall, in particular, strive to eliminate inequalities in status, facilities and opportunities, not only amongst individuals, but amongst groups of people residing in different areas or engaged in different vocations'. The amendment also deleted the fundamental right 'to acquire , hold and dispose of property' and reduced it to only a legal right.

The 25th amendment of 1972 is of crucial significance, as legislation enacted thereafter provided for taking over of land, at less than market price or at a nominal 'amount'. According to Section 32 (1) of the Maharashtra Industrial Act, 1961, the State Government can acquire the land required for the purpose of development by the MID Corporation. Provisions for land acquisition are same as in LA Act, 1894.

**Maharashtra Regional and Town Planning Act, 1966**

Under Section 125 of this Act it has been clarified that "any land required, reserved or designated in a Regional Plan, Development Plan or town planning scheme for a public purpose or purposes including plans for any area of comprehensive development or for any new town shall be deemed to be land needed for a public purpose within the meaning

of the Land Acquisition Act, 1894". Under the Act, after the publication of a draft Regional Plan, a Development or any other plan or town planning scheme, acquisition of land can proceed under the provisions of the Land Acquisition Act 1894. On receipt of application from the Appropriate Planning Authority, the State Government has to make a declaration in the Official Gazette, in the manner provided under Section 6 of the LA Act, 1894. The declaration so published is deemed to be declaration under Section 6 of the LA Act, 1894. However, such declaration should not be made after the expiry of three years from the date of publication of the draft plan.

Compensation is determined on the basis of the market value prevailing on the dates as described below;

1. where the land is to be acquired for the purposes of a new town, the date of publication of the notification constituting or declaring the Development Authority for such town;
2. where the land is acquired for the purposes of a Special Planning Authority, the date of the publication of the notification of the area as an undeveloped area; and
3. in any other case, the date of publication of interim or the draft plan or town planning scheme.

If a declaration is not made within three years of publication the draft plan, then fresh declaration has to made and that date is to be used for determining the market value and compensation.

Section 127, allows the owner to serve a purchase notice to the Appropriate Planning Authority, if land is not acquired within ten years from the date of the final Plan. If lands are not acquired within six months from the date of the service of such notice, the reservation, allotment or designation is deemed to have lapsed and the land is deemed to be released from such reservation, allotment or designation. The land then becomes available to the land owner for the purposes of development permissible in the case of the adjacent land under the relevant plan.

Under Section 128, lands can be acquired for purpose other than the one for which it is designated in any plan under the provisions of the LA Act 1894 under certain conditions.

**The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971**

Execution of any work of improvement of any slum area or building in such area or redevelopment of clearance area is deemed to be a public purpose in this Act.

The State Government on representation of the Competent Authority can acquire the land for such purposes. The amendment of 1984, allows the State Government to transfer the lands so acquired by way of lease to Co-operative Housing Societies of the slum dwellers.

The compensation under Section 17, is 60 times the net average monthly income actually derived from such land during the period of the five consecutive years immediately preceding the date of publication of the notice under Section 14.

**Mumbai Metropolitan Region Development Authority Act, 1974**

According to Section 32 (2), discharging any of Authority's functions or exercising any of its powers or carrying out any of its projects or schemes or development programmes are deemed to be public purpose; and on receipt of representation of the Authority, State Government can acquire the land.

For land in urban areas acquired under this Act, the amount of compensation under Section 35, is 100 times the net average monthly income actually derived from such land during the period of the five consecutive years immediately preceding the date of publication of the notification under Section 32. When the amount of compensation for acquisition is not paid on or before possession of the land, the Competent Authority has to pay interest at the rate of 4% for first six months and thereafter at the rate of 9% per annum.

In case of rural areas the compensation is to be determined as laid down in the Land Acquisition Act, 1894.

**Urban Land (Ceiling and Regulation) Act, 1976**

Section 3 of the Act specifies that persons are not entitled to hold vacant land in excess of the ceiling limit. Section 4 (1) specifies the ceiling limits applicable to different categories of urban agglomerations as shown below:

The agglomeration is defined to include an area within a radius of 8 km. in case of Mumbai and 5 km. in case of Thane and Ulhasnagar respectively.

After the notification under Section 10(1) by the Competent Authority the land in excess of the limit is deemed to have been acquired by the State Government under Section 10(3). In case of lands, (Section 11(1)(a)) where there is income, compensation is paid equal to 8-1/3 times the net average yearly income of last five years preceding the date of notification under Section 10(1). In case of land, (Section 11(1)(b)) which has no annual income, the maximum compensation is Rs. 10 per sq.m. for lands situated in categories A or B and Rs. 5 per sq.m. for categories C and D. The competent Authority is entitled to fix the amount lower than the above. In no case the total amount of compensation exceeds Rupees Two lakhs under Section 11(6). Furthermore the land owner is entitled to get only Rs. 25,000 in cash or 25% of the total amount whichever is less. The balance amount is payable by negotiable bonds redeemable after 20 years duration carrying 5% interest from the date on which the vacant land is deemed to have been acquired under Section 10 (3).

**The Maharashtra Housing and Area Development Act, 1976**

The State Government by Section 41, is empowered to acquire land to enable the Authority to discharge its functions or to exercise its powers or to carry out any of its proposals, plans or projects. The provisions related to compensation are same as in MMRDA Act, 1974.

### 9.4.3 Experience of Public Land Development in MMR

It would thus be seen that the legislation for taking over land under public control, including the constitutional framework has moved away from the concept of compensation at market

rate and has provided stronger means of intervening in the land market (except the amendments to the Land Acquisition Act 1894 which made provisions more just from the land owner's point of view). A review of actual performance of various agencies in acquiring and developing land over the last two decades would therefore be useful.

**Bulk Land Acquisition in Navi Mumbai**

Following the recommendation of the Regional Plan in 1970, planning and development of Navi Mumbai was started on 34,400 ha. (including 1,237 ha. subsequently transferred to Nhava Sheva Port Trust) of land across the Thane Creek. Out of this 10,137 ha was government land, 16,567 ha private land, 2,720 ha salt pan lands and 4,976 ha of other types (MIDC, Gaothans and Others). The State Government in 1970 notified 16,567 ha of private land and 2,720 ha of salt pan land for compulsory acquisition. Till May 1992, 14,600 ha. of notified land was acquired (76%) and State Government had transferred 5,289 ha of government lands (50%) to CIDCO. However, only 934.68 ha of developed land was leased by then.

**Selective Acquisition in Greater Mumbai**

In Greater Mumbai compulsory land acquisition is resorted to on a selective basis for land designated in the Development Plan for public purpose. The experience of implementation of the 1967 Development Plan in this respect has however been dismal. The revised Development Plan therefore adopted a more market oriented strategy of allowing the land owner to retain and transfer the development rights to other location on the condition that the designated land is handed over to MCGB free of cost and free of encumbrances (GOM, 1991). It is too early to evaluate the outcome of this policy. But indications are that where the land has occupied buildings, the TDR is unlikely to succeed in getting the land for public purpose.

**Acquisition under MHAD Act**

MHADA as a State level housing agency implements housing schemes on lands made available by government. These can be excess lands under ULC or lands acquired by the government on behalf of MHADA. After the amalgamation of various boards and introduction of MHAD Act 1976, MHADA has not acquired any lands in Greater Mumbai District and Mumbai Suburban District. However, 87.83 ha of land has been acquired in Thane and Raigad Districts of MMR.

**Acquisition under Slum Act**

Under the Bombay Urban Development Project (1985 to 1995) it was agreed that at least 10% of the programme of upgrading 100,000 slum households would be implemented on private lands by acquiring the land under the Slum Act and transferring the land tenure to the slum dwellers' cooperatives. However in spite of concerted efforts not a single scheme could be implemented by acquiring private lands.

**Acquisition under MMRDA Act**

With a view to implementing the recommendations of the Regional Plan, MMRDA had identified New Growth Centres and promoted various Area Development Schemes in the Region. For this purpose MMRDA initiated several acquisition proceedings. The current status of these initiatives is summarised in Table-9.1 given below:

**Land Acquisitions for Industrial development**

MIDC is a State level corporation responsible for promoting industrial development. The corporation acquires land under the MIDC Act and develops by providing basic infrastructure like water supply, roads and sewerage disposal etc. In the MMR, MIDC has planned to develop 5,507.96 ha. of land. Out of which 3,919.44 ha. is private land and remaining government land. Till March 1989, 4,840.90 ha. of land was in possession of MIDC. Out of this 3571.06 ha. is private land acquired by MIDC. 1,884.59 ha. (38.93%) out of the total area in possession of MIDC has been sold. However MIDC's efforts to acquire land at Bhiwandi (200 ha.), Wangni (200 ha.) and at Virar (800 ha.) could not succeed.

**Surrender under UL (C&R) Act**

Till January 1990, about 27,105 statements declaring 13,917.63 ha. as excess land has been filed under Section 6(1) of the Act with the respective Competent Authorities in the MMR. Of the total land declared, 4836 ha. (35%) of land has been notified under Section 10(1). 876 ha. (18%) of the notified land is deemed to be acquired under Section 10(3) of the Act (H&SA Dept., GOM). It may thus be seen that the nationalisation efforts have not been successful.

## 9.4.4 Alternative Practices

In order to successfully implement the plans the designated authorities have resorted to alternative practices. Opposition to compulsory land acquisition and low compensation has compelled the authorities to adopt collaborative approaches within the existing legal framework. Though the modus-operandi and scope have been different, in principle, all

**Land Acquisition by MMRDA**

| Sr. No. | Project | Area in Ha | Year of Notification | Present Status |
|---|---|---|---|---|
| 1 | Kalyan Area Development Scheme | 60 | 1985 | Acquisition abandoned in 1991 |
| 2 | Kalyan Growth Centre | 1683 | 1984 | Acquisition lapsed |
| 3 | Pen Industrial Area | 15 | 1982 | Final notifiction not yet published |
| 4 | Khopoli | 50 | 1979 | Acquisition initiated for Khopoli MC. Compensation still under dispute. |
| 5 | Powai Area | 102 | 1983 | Guided Development |
| 6 | Oshivara District Centre | 65 | | Guided Development |
| 7 | Chitalsar Manpada | 45 | 1982 | 76000 sqm obtained 1988; but no decision on utilisaion |

**Table-9.1**

these approaches are similar. They allow land owners/builders to develop land and gain returns on their land under certain terms and conditions. This is not only evident in MMR but also in other parts of the country. The practices in MMR are briefly described below;

**CIDCO's 12.5% scheme of land return**

Compulsory acquisition of 2500 ha. of land from Uran Tehsil for Nhava Sheva Port was severely opposed by the villagers. The Government was impelled to declare payment of ex-gratia. Higher compensation of Rs. 75,000 per ha. was agreed instead of Rs. 37,500 per ha. proposed earlier. It was also agreed to return 12.5% of the developed land to the original land owners at a price of Rs. 5 per sq.m. plus double the acquisition cost.

**MMRDA's guided land development at Powai**

It was decided to acquire and develop land at Powai in January, 1977. Subsequently, the landowners approached the Authority with a request to allow them to develop the notified land as per MMRDA's layout. A tripartite agreement was reached between the Government of Maharashtra, MMRDA and the landowners to develop 86.04 ha. As per the guidelines prescribed in the agreement, a development proposal was prepared by the developers/ owners for the notified area.

**The salient features of the tripartite agreement are as follows;**

The land holders to deliver possession of the land to the State Government for nominal price of Re. 1 per ha.

The Authority to lease the land to the land owners for a period of 80 years for nominal premium of Re. 1 per ha.

The landowners to develop the entire infrastructure in the land within a period of 10 years and hand over the same to the MMRDA free of cost.

15% of the entire built up area will be surrendered to the State Government/ Authority for a fixed price of Rs. 135 per sq.ft., which was subsequently increased to Rs. 150 per sq.ft.

The entire land to be exempted under Section 20 of the ULC Act. However, land holders to build 50% of the flats less than 40 sq.m.. in terms of FSI and remaining 50% of the flats not to exceed 80 sq.m..

The land holders were required to offer 50 ha. of developed land to Central Government Departments who had initiated acquisition proceedings for the land before the execution of the tripartite agreement. However if the Central Govt Departments did not respond within a period of three months the landowners were free to use the land. In practice therefore the Govt. Dept. got less than 10 ha of land

**Guided Land Development Scheme at Oshiware District Centre**

Realising the limitations of land acquisition, an alternative scheme of guided development promoting participation of land owners was approved by the Government by its Notification dated 28th January 1992. The scheme envisages allowing the landowners to develop the land. The lands will be acquired by the MMRDA for nominal acquisition price of Rupee one. The acquired lands will be released to the same owners for a period of 60 years for undertaking development as per MMRDA's planning proposal on payment of lease premium ranging between Rs. 750 per FSI sq.m. to Rs. 300 per FSI sq.m. depending on the land use. The lease premium will be utilised for meeting the cost of providing the off site infrastructure. The premium can be revised periodically. The land owners are responsible for carrying out all on site infrastructure developments at their cost and the land owner will be free to sell the buildings in the open market (GOM, 1992).

**Kalyan Growth Centre - Guided Land Development (Please see para 9.5.2 )**

All these practices use the legal framework of compulsory acquisition as the 'stick' to compel the land owners to accept the alternative package. This can succeed only when the threat of acquisition is perceived to be real. For this reason such schemes can succeed on a smaller scale. In fact the guided development scheme of MMRDA for Kalyan could not succeed as the acquisition proceedings themselves lapsed.

## 9.5 Alternatives to Compulsory Land Acquisition and Development

**9.5.1** Alternatives to compulsory land acquisition have to be considered in the three types of planning situations viz.

1. acquisition of an individual plot reserved in the Development Plan e.g. school, garden
2. bringing about planned development of land that is about to acquire urban potential over the next decade, but which is currently largely undeveloped, and
3. areas in need of comprehensive redevelopment on account of obsolete pattern of development and buildings

### 9.5.2 Acquisition of reserved plot

According to the Development Plan, 1967 and the Development Control Rules of Greater Mumbai the development right on the land reserved for roads could be transferred by the land owner to his remaining land, if agreed, to hand over the land to MCGB free of cost and free of encumbrances. This principle has been extended further in the Development Control Regulations 1991 in the form of Accommodation Reservation and Transfer of Development Rights.

**Accommodation Reservation**

The land owner can develop the facility for which the land is reserved (such as a library), hand it over to the BMC free of cost and then utilise the development right equivalent to the full permissible FSI for his own purposes. In case of Mumbai, this measure is likely to succeed as land prices are several times higher than construction cost. But where land prices are not that high or are less than construction cost such a measure is unlikely to succeed.

**Transfer of Development Rights**

Where the land has to be exclusively put to reserved use or where no building construction is possible, the DCR 1991, allow the land owner to transfer his Development Rights elsewhere in Mumbai if the land in question is surrendered to BMC free of cost and free of encumbrances.

In both these cases, if the land owner dose not come forward, the right to compulsorily acquire the land is retained by the Planning Authority. In fact for this reason the land owners are expected to agree to transfer their development rights from high value area to generally low value area on one to one scale, without any weightage for the price differential.

## 9.5.3 Planned Development of undeveloped areas

**Town Planning Schemes**

The oldest method of bringing about planned development by reconstitution of large agricultural plots into serviced urban plots with minimum of compulsory acquisition is the Town Planning Schemes. The Bombay Town Planning Act, 1915 provided for the "Town Planning Schemes" (TPS). Though these provisions have continued in the MR&TP Act, 1966, in the recent past such schemes have not been promoted on any significant scale. The basic rationale of TPS is that with the reconstitution of plots and provision of roads and open spaces the land price considerably appreciates. The total value of the land therefore increases even if some land is lost for roads and open spaces. The land owners are therefore expected to join the scheme. According to the provisions of the MR&TP Act 1966, TPS can be prepared by the planning authority for the purpose of implementing the proposals of a final Development Plan. The cost of the TPS is to be financed by recouping 50% of the "betterment" which is defined as the difference between the value of Final Plot after TPS implementation and value of Original Plot before TPS implementation.

Despite being conceptually attractive, TPS has proved to be procedurally very cumbersome. Average time taken for completion of a TPS in Maharashtra has been 15 years. Moreover as they are essentially plot reconstitution schemes they do not ensure land for the poor (Keskar & Kopardekar, 1984).

**Land Readjustment Schemes**

Land Readjustment (LR) is based on the same rationale as that of TPS. In LR land assembly and development is carried out by the public agency. But unlike in TPS, cost recovery is through sale of part of the land retained by the development agency. This is possible because land values increase significantly after provision of urban infrastructure. The increase is of such a magnitude that, if a small proportion of land is sold, it recovers the cost of infrastructure and the remaining land can command an attractive rate of return over the original land value to the land owners even after foregoing land for infrastructure and for sale by the developing agency. (A slight variation would also be possible for the public agencies to retain some percentage of developed land for low income shelter.) This technique has been widely used in Japan, Taiwan, Australia, Hawaii and Germany (Shoup, 1978).

Land Readjustment schemes, however have the following problems:

1. land assembly has to be done by the public agencies, which may be difficult;
2. valuation of property before and after the implementation of the scheme can be a complicated matter, often subject to litigations; and
3. equitable distribution of ‘value added’ amongst landowners can be a complicated business.

**Guided Land Development Schemes**

MMRDA had prepared a Guided Land Development (GLD) Scheme for Kalyan Growth Centre which was a variation of LR Scheme. It's main objectives were to ensure;

1. fair return on investment to the private owner/developer;

2. a relatively large proportion of serviced sites for allotment to low income families; and at the same time,
3. recover at least part of off site infrastructure cost for the public agency.

The responsibility for assembling land, preparing the layout and developing the on site infrastructure according to the guidelines is cast on the private developers. Further the developers are required to make available certain number of small plots for low income beneficiaries at a fixed price to public agencies. In this process the question of recovering the cost or of equitably distributing the betterment are totally circumvented. Such a scheme was considered to be possible as the land was notified for compulsory acquisition and the GLD was seen as an opportunity offered to land owners to develop their land in a manner that assures reasonable return on land.

However as the Land Acquisition proceeding itself was abandoned the GLD could not be put to practice. Similar scheme has been adopted in the Tamilnadu Urban Development Project under the framework of Urban Land (Ceiling and Regulation) Act.

### 9.5.4 Redevelopment of already developed areas

**Land Sharing**

This technique is used in already developed areas or lands which have been encroached. The principle behind this has been that the land is shared equitably between the land owner and the tenants (quasi). The land owner develops the land in such a manner that the original inhabitants in that area are given shelter in the very same area, lands for public facilities is made available to the planning agency, and the remaining area is developed and sold freely in the market. This technique is widely used in Thailand and Indonesia to deal with relatively low density squatter settlements.

**Slum Redevelopment**

The Development Control Regulations for Greater Bombay, 1991, became effective in March 1991. Regulation 33 (10)-Appendix IV allows rehabilitation of the slum dwellers through owners/ developers/ co-operative housing societies. A total floor space index of upto 2.5 is granted with a condition that existing slum dwellers are rehabilitated at stipulated prices. The scheme is also applicable to land reserved for public purposes on the condition that land on reduced scale is made available for the reserved purpose.

Similar strategies need to be developed to encourage recycling and urban renewal of old office and commercial districts in Mumbai including some of the heritage conservation areas.

## 9.6 Fiscal Measures

**9.6.1** The emphasis of land policy has been on large-scale public acquisition of land. The potential of land and property taxation for achieving land policy objectives has not been given due importance. The objectives of land taxation could be -

1. revenue generation for infrastructure investment. Although local authorities charge user fees for many services, in certain types of services it is not possible to charge a user fee. A general tax is therefore important.

2. levy of such tax should cause equitable and progressive incidence on the tax payers.
3. capturing land value gains (or so called unearned income) that accrue on account of public investment, infrastructure, and
4. the tax should help optimal allocation of urban space - a particularly scarce resource in Mumbai.

### 9.6.2 Property tax

Property tax has been the principal tax related to land and buildings. This tax according to provisions of municipal acts is levied on the annual rateable value which is to be determined on the basis of annual rent for which the land or building might reasonably be expected to let from year to year. However, this principle has been grossly distorted because of the provisions of rent control legislation and none of the objectives of the land taxation mentioned above can be achieved by the present practice of property tax.

**Revenue Generation**

The revenue generation on account of property tax in Greater Mumbai is given in Table-9.2. It would be seen from this data that despite phenomenal increase in property prices during this period, the income from property tax has been virtually stagnant in real terms (Figure-9.1).

**Inequitable incidence**

The rateable value is linked to standard rent which cannot be revised. This has meant that the new properties in distant locations which have a lower market value pay more taxes than those older properties having higher market value.

Furthermore, as the rateable value (the tax base) is stagnant and distorted, the policy has been to impose additional levies. Table-9.3 gives the data on changes in tax rates since 1936. With the recent addition of Street Tax the total property tax incidence comes to over 108.5 % of the rateable value (Figure-9.2). But for the frozen rateable values these rates of taxation would be considered expropriatory.

However it needs to be noted that with frozen tax base, every increase in tax rate makes, the incidence of tax in absolute terms more inequitable.

**Capturing Land Value Gains**

If the rateable value truly reflects the market rent, property tax can capture the land value gains. However, due to linkage of rateable value with standard rent this has not been possible. But, this does not mean that land value gains are not realised. The 'key money' shared by the owner and tenant, the rents charged by tenant to sub-tenant are all forms of realising the land value gain by private owners and tenants. However, none of this accrues to the State. Property tax related to true market rents also acts as the moderator of real estate market (Dusansky, 1981). The buyer would tend to deduct the discounted present value of expected tax payments from the price he is prepared to pay for real estate. This may keep the real estate prices under check. However, with frozen taxes such consideration does not affect the real estate prices in Mumbai and rise in prices is fully captured by the developers.

**Optimal allocation of land**

The frozen property tax has provided an incentive for some obsolete land uses to continue in the high value areas. Where changes in users have occurred, the benefits have been fully shared between the owner and the original tenant. Although distortions in property tax have prevailed for over four decades precious little has been done to correct the distortions. The municipal finance commission (Municipal Finance Commission, 1974) had recommended "delinking or rateable value from standard rent". Various committees and commissions (for example Economic Administration Reforms Commission, Govt. of India, 1982 and National Commission on Urbanisation, Govt. of India, 1988) have concentrated on rent control reforms for improving housing market but very little attention has been paid to property tax reforms with a view to using it as an effective instrument of land policy. There is no dearth of proposals for rent control reforms, what is required is early action.

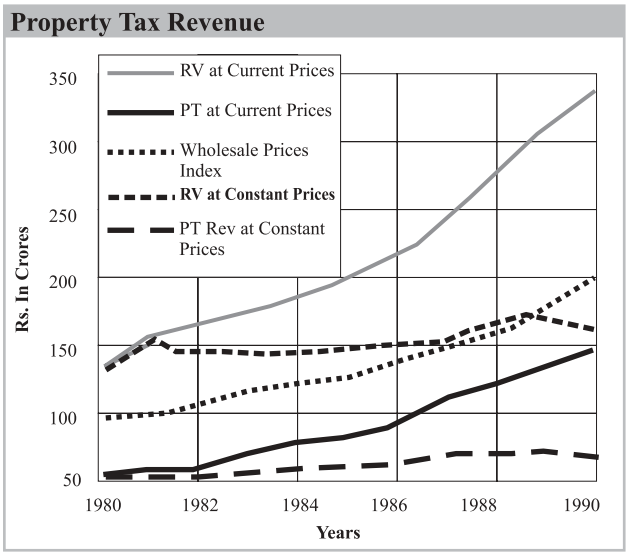


**Figure 9.1**

Concomitant with rent control reforms, improvement in property tax management is also necessary. It should however be noted that common opposition to realistic assessment of rateable value is based on the assumptions that tax rates will continue at existing (expropriatory) level. Any systematic reforms will therefore involve both correct assessment of rateable value and rationalisation of tax rates.

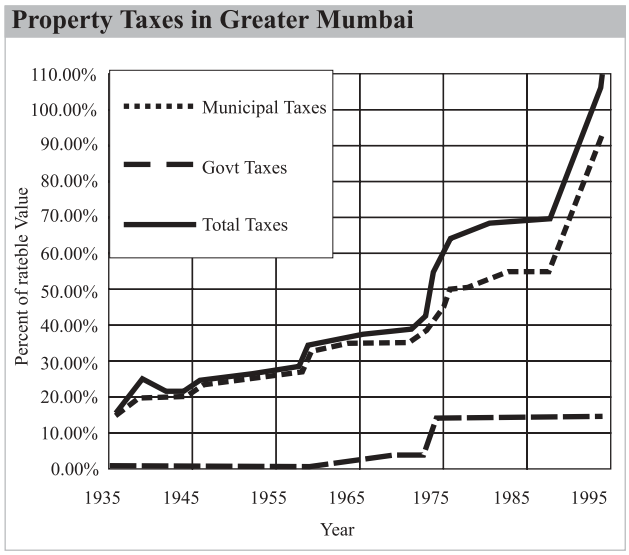


**Figure 9.2**

## 9.6.3 Betterment Levy

Public investment in infrastructure causes appreciation in the value of land. This rise in value entirely accrues to the land owner as "unearned income". Efforts have been made to recoup such land value gains by charging a betterment tax or levy. Following Acts enable levy of betterment charge;

The Mumbai Municipal Corporation Act, 1888, (as part of Improvement Schemes)

The Mumbai Highways Act, 1955,

The Maharashtra Regional and Town Planning Act, 1966, (as a part of Town Planning

## Property Tax of MCGM Tax Revenue

Rs. in Crores

| Major Source of Income | 1980-81 | 1981-82 | 1982-83 | 1983-84 | 1984-85 | 1985-86 | 1986-87 | 1987-88 | 1988-89 | 1989-90 | 1990-91 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| General Tax | 33.9 | 36.9 | 38.9 | 40.2 | 44.1 | 46.3 | 52.8 | 54.7 | 57.0 | 65.5 | 70.4 |
| Fire Tax | 2.1 | 2.3 | 2.5 | 2.5 | 2.9 | 3.5 | 3.3 | 3.5 | 3.6 | 4.2 | 4.5 |
| Water Benefit Tax | 7.5 | 7.5 | 7.9 | 11.1 | 12.1 | 12.8 | 14.3 | 21.6 | 22.9 | 25.5 | 28.4 |
| Water Tax | 2.5 | 2.5 | 2.6 | 3.6 | 3.8 | 3.8 | 3.7 | 5.3 | 5.6 | 6.4 | 6.7 |
| Sewerage Benefit Tax | 4.5 | 4.7 | 4.8 | 7.5 | 8.1 | 8.5 | 9.5 | 13.6 | 15.3 | 16.1 | 17.8 |
| Sewerage Tax | 3.3 | 3.4 | 3.6 | 4.6 | 5.5 | 6.5 | 6.9 | 9.3 | 11.2 | 10.0 | 10.1 |
| Education Cess | 5.9 | 6.3 | 6.5 | 6.9 | 7.6 | 7.8 | 8.8 | 10.1 | 11.0 | 12.0 | 13.4 |
| Tree Cess | | | | | | | | 1.1 | 1.3 | 1.5 | |
| Totat at Current Prices | 59.6 | 63.6 | 66.6 | 76.4 | 84.1 | 89.2 | 99.3 | 118.0 | 127.8 | 140.9 | 152.7 |
| Total at Constant Prices | 59.6 | 62.1 | 60.1 | 63.6 | 66.3 | 66.7 | 69.9 | 76.6 | 77.7 | 78.6 | 75.0 |
| **No. of properties in 0 00** | | | | | | | | | | | |
| City | 61.6 | 64.4 | 61.5 | 61.6 | 62.0 | 62.2 | 62.5 | 62.8 | 63.0 | N.A. | 61.8 |
| Eastern Sub* | 86.6 | 91.4 | 132.6 | 156.8 | 160.4 | 60.3 | 61.4 | 62.0 | 63.0 | N.A. | 63.3 |
| Western Sub | 49.8 | 54.0 | | | | 102.2 | 103.4 | 105.2 | 107.1 | N.A. | 103.1 |
| Suburb Total | 136.4 | 145.4 | 132.6 | 156.8 | 160.4 | 162.5 | 164.8 | 167.3 | 170.1 | N.A. | 166.4 |
| Total | 198.1 | 209.8 | 214.1 | 218.4 | 222.4 | 224.7 | 227.3 | 230.0 | 23..1 | N.A. | 394.5 |
| **Rateable Value : Rs. in Crores** | | | | | | | | | | | |
| City | 76.2 | 82.4 | 85.7 | 88.7 | 92.9 | 97.0 | 100.3 | 107.5 | 124.8 | 133.3 | 141.8 |
| Eastern Sub* | 43.5 | 50.3 | 83.4 | 89.7 | 97.3 | 32.2 | 36.1 | 41.2 | 45.7 | 50.2 | 54.7 |
| Western Sub | 21.5 | 26.5 | | | | 75.0 | 84.7 | 95.1 | 114.5 | 129.7 | 144.9 |
| Suburb Total | 65.0 | 76.8 | 83.4 | 89.7 | 97.3 | 107.1 | 120.8 | 136.3 | 160.1 | 179.9 | 199.7 |
| Total at Current Prices | 141.2 | 159.2 | 169. | 178.4 | 190.2 | 204.1 | 221.1 | 243.9 | 284.9 | 313.2 | 341.4 |
| Total at Constant Prices | 141.2 | 155.3 | 152.6 | 148.7 | 149.9 | 152.6 | 155.6 | 158.4 | 173.3 | 174.8 | 167.6 |
| WPI 1970-100 | 278.4 | 285.3 | 308.5 | 334.0 | 353.3 | 372.2 | 395.7 | 428.6 | 457.7 | 498.9 | 567.2 |
| Defiation Index | 100.0 | 102.5 | 110.8 | 120.0 | 126.9 | 133.7 | 142.1 | 154.0 | 164.4 | 179.2 | 203.7 |

** Figure for 1982-83 to 1984-85 include figures for Western Suburbs*

**Table - 9.2**

| | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2 | **Structure of Propery Taxes** | | | | | | | | | | | | | | | | |
| 3 | Year Tax | General Tax | Fire Immov-able Pro-perty Tax | Urban Tax | Water Benefit Tax | Water Tax | Sewerage Benefit Tax | Sewerage Cess | Education Cess | Tree Tax | Street Munici-pal Taxes | Total Educati onnal Cess | State Statement Education Cess | Additio-Govt. Guarantee Cess | Employ-Propery Taxes | Total Taxes | Total |
| 8 | 1936 | 11% | 0.50% | | 0.75% | | 3.0% | | | | | 15.25% | | | | | 15.25% |
| 9 | 1939 | 11% | 0.50% | 10% | 0.75% | | 3.0% | | | | | 25.25% | | | | | 25.25% |
| 10 | 1941 | 11% | 0.50% | 8% | 0.75% | | 3.0% | | | | | 23.25% | | | | | 23.25% |
| 11 | 1942 | 11% | 0.50% | 7% | 0.75% | | 3.0% | | | | | 22.25% | | | | | 22.25% |
| 12 | 1944 | 11% | 0.50% | 7% | 0.75% | | 3.0% | | | | | 22.25% | | | | | 22.25% |
| 13 | 1945 | 12% | 0.50% | 7% | 0.75% | | 3.0% | | | | | 23.25% | | | | | 23.25% |
| 14 | 1946 | 14% | 0.50% | 7% | 0.75% | | 3.0% | | | | | 25.25% | | | | | 25.25% |
| 15 | 1947 | 14% | 0.75% | 7% | 0.75% | | 3.0% | | | | | 25.50% | | | | | 25.50% |
| 16 | 1952 | 17% | 0.75% | 5% | 0.75% | | 3.5% | | | | | 27.00% | | | | | 27.00% |
| 17 | 1958 | 17% | 0.75% | 5% | 0.75% | | 3.5% | | 1.5% | | | 28.50% | | | | | 28.50% |
| 18 | 1959 | 19% | 0.75% | 5% | 4.50% | | 3.5% | | 1.5% | | | 34.25% | | | | | 34.25% |
| 19 | 1962 | 24% | 0.75% | 5% | 4.50% | | 3.5% | | 1.5% | | | 35.25% | 2.0% | | | 2.0% | 36.25% |
| 20 | 1963 | 24% | 0.75% | | 4.50% | | 3.5% | | 2.5% | | | 35.25% | 2.0% | | | 2.5% | 37.75% |
| 21 | 1967 | 24% | 0.75% | | 4.50% | | 3.5% | | 2.5% | | | 35.25% | 2.5% | | | 2.5% | 37.75% |
| 22 | 1971 | 24% | 0.75% | | 4.50% | | 3.5% | | 2.5% | | | 35.25% | 2.5% | 1.5% | | 4.0% | 39.25% |
| 23 | 1973 | 24% | 0.75% | | 7.00% | | 3.5% | | 2.5% | | | 37.75% | 2.5% | 1.5% | | 4.0% | 41.75% |
| 24 | 1974 | 24% | 0.75% | | 7.00% | 3% | 3.5% | 2% | 2.5% | | | 42.75% | 12.0% | | | 12.0% | 54.75% |
| 25 | 1975 | 24% | 0.75% | | 7.00% | 3% | 3.5% | 2% | 4.0% | | | 44.25% | 12.0% | | 3% | 15.0% | 59.25% |
| 26 | 1976 | 24% | 1.50% | | 7.00% | 5% | 4.0% | 3% | 5.0% | | | 49.50% | 12.0% | | 3% | 15.0% | 64.50% |
| 27 | 1983 | 24% | 1.50% | | 9.00% | 6% | 5.0% | 4% | 5.0% | | | 54.50% | 12.0% | | 3% | 15.0% | 69.50% |
| 28 | 1987 | 24% | 1.50% | | 9.00% | 6% | 5.0% | 4% | 5.0% | | | 54.50 | 12.0% | | 3% | 15.0% | 69.50% |
| 29 | 1988 | 24% | 1.50 | | 9.00% | 6% | 5.0% | 4% | 5.0% | 0.5% | | 55.00% | 12.0% | | 3% | 15.0% | 70.00% |
| 30 | 1993 | 26% | 2.00% | | 20.00% | 10% | 10.0 | 6% | 5.0% | 0.5% | 5% | 84.50% | 12.0% | | 3% | 15.0% | 99.50% |
| 31 | 1994 | 26% | 2.00% | | 26.00% | 10% | 13.0% | 6% | 5.0% | 0.5% | 5% | 93.50% | 12.0% | | 3% | 15.0% | 108.50% |
| 32 | | | | | | | | | | | | | | | | | |
| 33 | *Note : Rates shown in columns I, M, N, amd O are graded. Values shown here are maximum rates.* | | | | | | | | | | | | | | | | |
| 34 | *Rates shown in Cell No. E29 to E31 are for residential property. For non-residential the rates are 15%, 45% and 55 respectively.* | | | | | | | | | | | | | | | | |
| 35 | *Rates for non-residential properties in Cell No. F29 to 31 are 10%, 8% and 6%, Cell Nos. G29 to 31 are 20%, 15% and 12%, and for Cell Nos. H29 to 31 are* | | | | | | | | | | | | | | | | |
| 36 | *20%, 20% and 12% respectively.* | | | | | | | | | | | | | | | | |
| 37 | | | | | | | | | | | | | | | | | |

**Table - 9.3**

Schemes)

The Mumbai Metropolitan Regional Development Act, 1974, (for recouping land value gains occurring due to schemes executed by the Authority)

The Maharashtra Housing and Area Development Act, 1976.

The content, form and basis of these acts differ. However, the basic logic is that any improvement and action by the public authority increases the value of the land and the benefit of the increment in the value of the land has to be shared between the land owner and the public authority. In all the acts, there is a provision of recovering half of the value of the increase in the value. The Highways Act offers the owner an option of paying the betterment charge in terms of land equal to the value of the betterment charge.

The experience of recovering such betterment charges has however not been particularly encouraging. This particularly on account of the difficulties in attributing the rise in land value to a particular cause and inevitable litigation that follows.

### 9.6.4 Comprehensive Legislation for Taxation of Land Value Gains

Despite these experiences, recoupment of land value gain has been a favourite theme. In 1988, Government of Maharashtra had prepared a draft legislation to tax land value gains accruing on account of -

1. infrastructure investment (betterment)
2. permission to convert land use, and
3. grant of excess FSI.

The draft legislation had also proposed taxation of vacant land. However, the legislation could not even be introduced in the legislative assembly.

### 9.6.5 Infrastructure Impact Fees & Development Charge

Inadequacy of tax revenues to finance capital investment in public infrastructure has been a common problem even for American cities (JAPA, 1988). The American cities particularly in California have adopted a scheme of infrastructure impact fee. In this the infrastructure impact of proposed development is assessed and fees to recover such cost are charged. Appropriate legislative backing has also been obtained. MCGM has however been informally recovering such infrastructure fees. For example, the D.C. Rules allow FSI on land for road widening if it is surrendered free of cost and encumbrances, but MCGM has been asking the land owner to build the roads too. Similarly, despite the levy of Sewage Benefit Tax, the experience of BUDP shows that MCGB demanded the cost of sewage pumping station or future cost of laying sewers from MHADA for its low income sites and services schemes. The 1992 amendment of MR&TP Act has now imposed a general development charge related to area of development to be paid at the time of obtaining development permission. Recovery of development charge implies initial up front cost for new establishments and households. In the absence of property tax reforms this means further regressive burden on the new properties as compared to the old but expensive properties.

**9.6.6** From the above discussion, it could be concluded that capturing land value gain is very difficult from the point of view of political acceptance as also from the point of view of measuring the gains (or betterment) particularly where the gains are not realised through transaction of assets. Moreover, serious enforcement of such capturing of gains could

be counter-productive as land owners may defer development and restrict supply of serviced land.

## 9.7 Need for New Approach

**9.7.1** It is obvious from the above discussion that a new approach to achieving land policy objectives is necessary. Regional Plan is mainly concerned with bringing about planned development of land which is going to acquire urban development potential over the next two decades. Other problems viz. of procuring individual plots of land for public purposes and redevelopment of obsolete areas need to be handled by the detailed Development Plans of individual towns. Further discussion therefore concentrates on the land that has urban potential but which is currently undeveloped. (Such land is being designated as Urbanisable Zone 1 (U1) and Urbanisable Zone 2 (U2) in the revised land use plan.)

### 9.7.2 Development of Currently Undeveloped Land

In these zones the emphasis should be on increasing the supply of serviced land in an equitable manner. The present land use planning practices also need to be reviewed in this regard. In the current practice, land is allocated for various uses in finer details responding to the assumed requirements of population 20 years hence. The land designated for public purposes like roads, schools, gardens, hospitals, cremation and burial grounds, police and fire stations is supposed to be compulsorily acquired. Although land owners appreciate that such infrastructure is necessary and would in fact enhance the land values, individual land owners are not prepared to surrender their entire land holding at 'legally' determined prices. In fact, higher the expected rise in land value, greater is the resistance to compulsory acquisition.

These difficulties can be overcome basically by land assembly where land requirement for public purposes can be shared by the group of land owners and not by a single land owner. Similarly, the benefits (betterment) can equitably accrue to all land owners. The land use planning and development control system therefore needs to be reoriented to achieve the following :-

1. the burden of providing land for public purposes should be equitably cast on all land owners and not only on them whose land happens to be reserved in the development plan.

This could be achieved by providing incentives for assembling land in larger parcels and stipulating scale of reservations. The actual uses of such land can be determined dynamically through a process of development application review.

In this process, the long term land use allocation need be determined only for arterial road network and major transport inputs like suburban railway stations.

2. to keep the interest of landowners alive by avoiding land use allocations that reduce the price of their land.

This could be achieved by limiting land use allocations as mentioned above. Provisions of arterial road network in fact increase the land values.

3. to minimise the resistance of land owners to part with a fixed proportion of land for roads, services and other facilities and provide incentives for additional discretionary requirement of facilities or low income housing.

This could best be achieved by controlling the allocation of development rights (by way of FSI) without directly affecting the ownership of land. The basic FSI may be defined for a small undeveloped plot of land (say less than 5000 m2), which could be relatively low (say 0.25 or 0.2). Larger plots assembled from smaller plots would facilitate proper layout, local roads and open spaces. In order to promote such land assembly higher FSI may be permitted. Mandatory provisions for local roads open space and some social facilities should not cause loss of development rights as FSI is defined as gross FSI. Furthermore as provision of local roads, open space and basic social facilities would increase the land value, it may not be necessary to provide any incentives. However for land required for arterial roads, higher level social facilities or locally undesirable but otherwise necessary land uses incentive in the form of bonus FSI could be provided.

As brought out in Chapter-8 the main thrust has to be on increasing the land supply. In a market oriented strategy directly controlling the price may not be appropriate. But for land used for small plots (less than 35 m2 with minimum allocation of 0.75 FSI) it may be possible to grant incentive FSI. This could be subject to the condition of right of preemption to MHADA at prices declared every year.

A broad simulation of this approach is shown in Table-9.4, 9.5 & 9.6. In the proposed land use plan it is proposed to have two "urban" land use zones U-1 and U-2, U-1 will cover all the existing municipal areas where detailed statutory Development Plans are required to be prepared, whereas U2 covers non-municipal areas. The proposed scheme could be applied in U1 zone only where large undeveloped tracks of land are to be brought under development.

Table-9.4 shows the base gross FSI of 0.25 and 0.20 respectively for U1 and U2 zones for plots of less than 5000 sq.m. The land assembly incentive allows gradual increase in FSI upto 0.43 and 0.34 respectively for U1 and U2 zones for plots larger than 15 hectares. With the mandatory provision of local roads, open spaces and area for social facility, the Net FSI may range between 0.29 to 0.71 in U1, and 0.23 to 0.57 in U2 (Figure-9.3).

Table-9.5 shows the bonus FSI available for making provisions for arterial roads and additional social facility area stipulated by the planning agency. If the proportion of such land is 15%, resultant gross FSI may range between 0.30 to 0.51 in U1 zone, and 0.24 to 0.41 in U2 zone. The corresponding range of net FSI will be 0.41 to 1.13 and 0.33 to 0.90 (Figure-9.4 & 9.5).

Table-9.6 shows the incentives for setting aside small plots for low income group. The implications shown are based on the assumption that 10% of the area is allocated to arterial roads and additional Social Facility Area and FSI allocated to small plots is 0.75. If area set aside for small low income plots is 20% of total area, the gross FSI can range between 0.35 to 0.59 in U-1 zone, and 0.28 to 0.47 in U-2 zone. The corresponding net FSI on plots excluding the low income plots will be 0.60 to 1.97 in U1 and 0.48 to 1.57 in U2 zone (Figure-9.6 & 9.7). Net FSIs beyond 1.5 may not be acceptable to market as marginal cost of construction would be higher than the marginal revenue (equivalent to real estate price). In such cases the proportion of land set aside for low income plots may reduce. But the decisions could be left to the market.

It would be interesting to visualise how land market would react to such a growth management mechanism.

1. In remote areas where land owners wish to build true farm houses for their 'use value' they would accept the low gross FSI stipulation.

2. When the area begins to urbanise the 'exchange value' of land would also begin to increase. At this stage the land owners would like to have higher FSI, but this could be granted only if land is large enough or assembled into a large enough parcel. This is important as at this stage proper layout including provision for local roads, open spaces and social facilities will also become crucial.

3. However, the response of all land owners will not be similar. Some will anticipate quicker appreciation of real estate prices (or implicitly use lower discount rate in perceiving the present value) and therefore may wish to develop their land early, by participating in land assembly. Others may still like to hold on their parcels and develop at the lower FSI. The land assembly incentive therefore has to be attractive enough to induce large number of land owners to join assembly efforts.

4. In the initial stage of urbanisation the requirement of city level facilities will be less, and planning authority can insist only upon the mandatory provision. As the urbanisation progresses the requirement for city level facilities will increase and prices of real estate will also increase. As the land taken for such facilities will be compensated by a bonus FSI, land owners may not resist such allocation of land.

5. This will enable planning authority to avoid freezing of land uses for a twenty year period, and dynamically respond to changing patterns of growth. This however would require a more informed review of development applications including developments in the surrounding area unlike the present system which is based on the rigid checklist derived from the regulations.

6. In this process it would be possible to transfer the responsibility of infrastructure development on the private developers with only city level trunk infrastructure remaining with the public organisation.

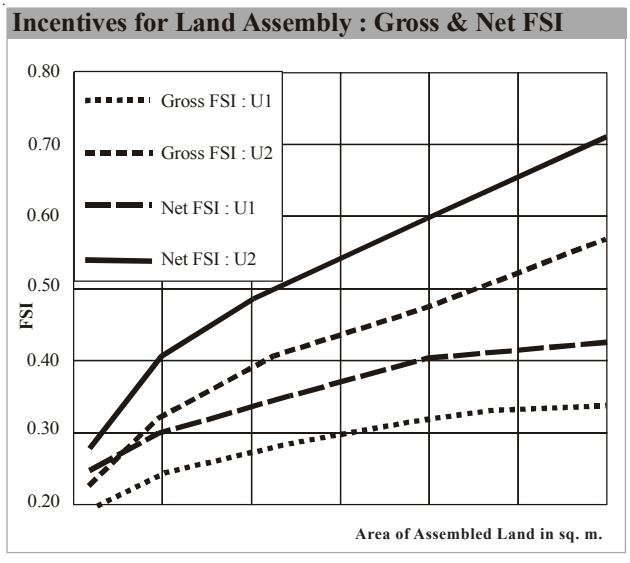


**Figure 9.3**

Land assembly and development may be done by a cooperative (formal or informal) of land owners or by a developer holding power of attorney. Land owners could also be given a choice to approach the Planning Authority for planning and development of land on their behalf at a fee. Appropriate enabling provisions may have to be made in the MR&TP Act 1966, if found necessary.

**Land Assembly Simulation**
**Incentives for Land Assembly & Development**

| Assembled A rea in m2 | | Weight | U1 FSI (gross) | U2 FSI (gross) | Local Roads % | Open Space % | Social Facility % | U1 Net area % | U2 FSI (net) | FSI (net) |
|---|---|---|---|---|---|---|---|---|---|---|
| Less than | 5000 | 1.00 | 0.25 | 0.20 | 8% | 5% | 0% | 88% | 0.29 | 0.23 |
| | 10000 | 1.05 | 0.26 | 0.21 | 10% | 5% | 0% | 85% | 0.31 | 0.25 |
| | 25000 | 1.20 | 0.30 | 0.24 | 13% | 8% | 5% | 75% | 0.40 | 0.32 |
| | 50000 | 1.35 | 0.34 | 0.27 | 13% | 10% | 5% | 73% | 0.47 | 0.37 |
| | 100000 | 1.60 | 0.40 | 0.32 | 15% | 13% | 8% | 65% | 0.62 | 0.49 |
| above 10 ha | 150000 | 1.70 | 0.43 | 0.34 | 15% | 15% | 10% | 60% | 0.71 | 0.57 |

**Table-9.4**

## 9.7.3 Redevelopment of Obsolete Development

Although the above approach appears to be more suitable for undeveloped areas that have gained urban potential or likely to gain such potential over next decade, with some variation similar approach can be used for redevelopment purposes. Redevelopment is currently being considered as reconstruction of old and dilapidated buildings in the Island City and redevelopment of slums. Redevelopment should not be confined to reconstruction of buildings alone but should include improvement in layout, provision of public facilities and recycling of land uses. Obvious example is the areas around suburban railway stations. These areas need redevelopment for providing adequate parking , grade separation of pedestrian movements, interchange facilities between rail and bus and IPT and above all hawkers. High real estate prices in these areas need to be exploited to bring about desired redevelopment. The planning approach that incorporates the land policy instrument of incentive FSI could be as outlined below,

**Incentives for Provision of Social Facility Area & Arterial Roads**

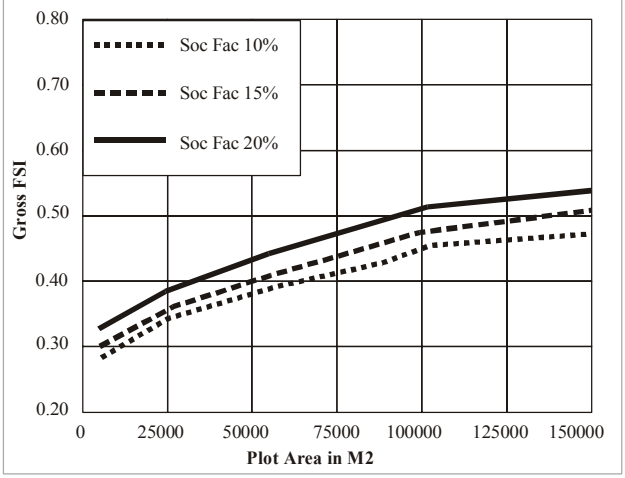


**Figure 9.4**

**Incentives for Small Plot provision**

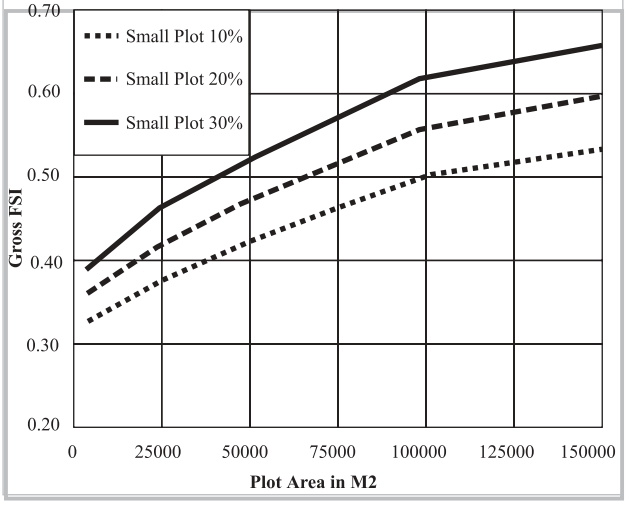


**Figure 9.5**

1. delineate the area of redevelopment

2. define the mean consumed FSI as the base FSI which will ensure rehabilitation of existing occupants

3. prepare an outline of three dimensional plan showing various public facility areas like parking, pedestrian areas road network and floor area uses. Integration with railway station area development including use of air rights will be a desirable feature of such a plan.

4. specify a scale of incentive FSI for land assembly and for provision for public facilities.

5. provide for substantive review of development proposals through a two stage development permission.

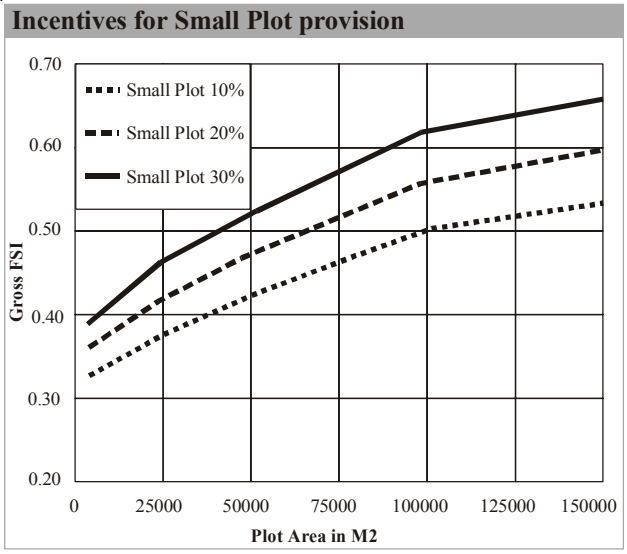


**Figure 9.6**

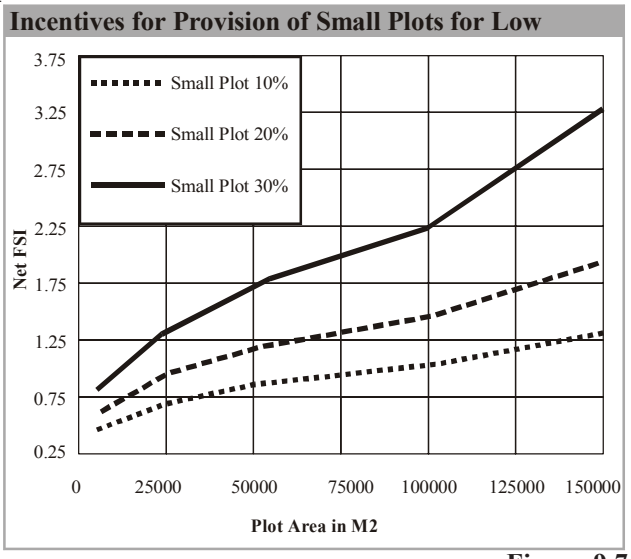


**Figure 9.7**

The land policy instruments, land use planning approach and development control procedure suitable for different types of land development are summarised below in Table-9.7.

## 9.8 Other Related Policies

**9.8.1** In order to adopt the land policy approach recommended above changes in other related fields would also be useful. These are;

**Maharashtra Regional & Town Planning Act, 1966**

The Maharashtra Regional and Town Planning Act, 1966 has been exclusively concerned with the orderly development and use of land and compulsory acquisition of land in conjunction with the Land Acquisition Act, 1894. The Act till the recent amendment was immune to other land policy objectives like resource mobilisation for infrastructure investment or imposing conditions of development for more equitable development of land. The 1992 amendment has provided for levy of development charge. Similar provisions are necessary to enable the planning agencies to stipulate conditions of development that help the poor. Furthermore, in view of the planning strategy described above, a two stage review of development

proposals will be necessary. Amendments to the MR&TP Act may be necessary to give effect to such a procedure.

**Urban Land Records**

For the efficient operation of market oriented land policy instruments proper and up to date land records is a prerequisite. Success of town planning schemes, land readjustment, guided land development and transfer of development rights depend upon efficacy of land records - cadastres and cadastral maps.

The National Commission on Urbanisation has recommended a national agency to set standard for urban records, introduce new technology and provide technical expertise to the State and Local Governments to organise urban land information system. It therefore recommended setting up of Settlement Survey of India and separate Directorates of Urban Land Records at the state level. This recommendation was also echoed in the approach to Eighth Five Year Plan of Maharashtra (State Planning Board, 1990).

Pending the creation of such institutions it would be prudent to initiate improvement and coordination in the databases of existing agencies. The maintenance of land records including cadastral mapping is the statutory responsibility of the District Collector. This also forms the basis of land taxation particularly the non-agricultural assessment. The responsibility of granting development permission is with the Planning Authorities where Development Plans or Proposals are prepared, this responsibility is also with the Collector. The local authorities have to use same data base for assessment of properties for property tax. It is therefore necessary to establish interactive data bases - cadastral and developmental - with the concerned agencies. (The technology for this purpose is discussed separately in the paper on Information System). It is a common knowledge that city surveys are not updated and many areas are not even covered by city surveys. This process will have to be quickened.

**Land and Real Estate Price Data**

The officially registered prices of transaction are known to be notoriously under priced. For the purposes of stamp duty, the Town Planning Department has prepared property price zones for each city. However these are not widely known. To encourage land owners to come up for land assembly and development it may the desirable to widely publicise such data.

## 9.9 Summary

**9.9.1** The review of previous approaches to land policy indicates that the heavy reliance on intervening in the land market by empowering the state to accomplish large scale compulsory land acquisition, has not been particularly successful. The general approach to land policy therefore has to be market oriented with a view to manage the land resources in an efficient and equitable manner. In this regard, allocation of development rights instead of compulsory acquisition of ownership rights, could be used as an important instrument of land policy.

**9.9.2** The potential of fiscal measures of land policy has been generally overlooked. Under the pernicious regime of rent control legislation, the property tax neither serves the resource mobilisation objective nor the other land policy objectives. On the contrary it distorts land and real estate market and leads to regressive incidence of taxation. Reforms in the rent control legislation and property taxation are therefore imperative.

**Land Assembly Simulation**
**Incentives for provision of Arterial Road & Additional Social Facility Area**

| Assembled Area in m2 | | arterial roads & soc fac : % of area | | | | arterial roads & soc fac : % of area | | | | arterial roads & soc fac : % of area | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 0% | 10% | 15% | 20% | 0% | 10% | 15% | 20% | 0% | 10% | 15% | 20% |
| Bonus Weightage | | 1.00 | 1.20 | 1.30 | 1.40 | Net area percentage | | | | Resultant net FSI | | | |
| | | Resultant gross FSI for U1 | | | | | | | | | | | |
| less than | 5000 | 0.25 | 0.28 | 0.30 | 0.32 | 88% | 78% | 73% | 68% | 0.29 | 0.36 | 0.41 | 0.47 |
| | 10000 | 0.26 | 0.29 | 0.31 | 0.34 | 85% | 75% | 70% | 65% | 0.31 | 0.39 | 0.45 | 0.52 |
| | 25000 | 0.30 | 0.31 | 0.36 | 0.38 | 75% | 65% | 60% | 55% | 0.40 | 0.52 | 0.60 | 0.70 |
| | 50000 | 0.34 | 0.38 | 0.40 | 0.43 | 73% | 63% | 58% | 53% | 0.47 | 0.60 | 0.70 | 0.82 |
| | 100000 | 0.40 | 0.45 | 0.48 | 0.51 | 65% | 55% | 50% | 45% | 0.62 | 0.81 | 0.96 | 1.14 |
| above 10 ha | 150000 | 0.43 | 0.48 | 0.51 | 0.54 | 60% | 50% | 45% | 40% | 0.71 | 0.92 | 1.13 | 1.36 |

| Assembled Area in m2 | | arterial roads & soc fac : % of area | | | | arterial roads & soc fac : % of | | | | areaarterial roads & soc fac : % of area | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 0% | 10% | 15% | 20% | 0% | 10% | 15% | 20% | 0% | 10% | 15% | 20% |
| Bonus Weightage | | 1.00 | 1.20 | 1.30 | 1.40 | Net area percentage of high income plots | | | | Resultant net FSI for $U_2$ | | | |
| | | Resultant gross FSI for U1 | | | | | | | | | | | |
| less than | 5000 | 0.20 | 0.22 | 0.24 | 0.26 | 88% | 78% | 73% | 68% | 0.23 | 0.29 | 0.33 | 0.38 |
| | 10000 | 0.21 | 0.24 | 0.25 | 0.27 | 85% | 75% | 70% | 65% | 0.25 | 0.31 | 0.36 | 0.41 |
| | 25000 | 0.24 | 0.27 | 0.29 | 0.31 | 75% | 65% | 60% | 55% | 0.32 | 0.41 | 0.48 | 0.56 |
| | 50000 | 0.27 | 0.30 | 0.32 | 0.35 | 73% | 63% | 58% | 53% | 0.37 | 0.48 | 0.56 | 0.66 |
| | 100000 | 0.32 | 0.36 | 0.38 | 0.41 | 65% | 55% | 50% | 45% | 0.49 | 0.65 | 0.76 | 0.91 |
| above 10 ha | 150000 | 0.34 | 0.38 | 0.41 | 0.44 | 60% | 50% | 45% | 40% | 0.57 | 0.76 | 0.90 | 1.09 |

**Table-9.5**

**Land Assembly Simulation**
**Incentives for provision Small plots for low Income Households soual facility & road% 10%**

| Assembled Area in m2 | | % area under small plots | | | | % area under small plots | | | | % area under small plots | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 0% | 10% | 20% | 3.0% | 0% | 10% | 15% | 20% | 0% | 10% | 15% | 20% |
| Bonus Weightage | | 1.00 | 1.1 | 1.2 | 1.25 | Net area percentage of high income plots | | | | Resultant net FSI for high inc. plots With low income FSI of 0.75 | | | |
| | | Resultant gross FSI for U1 | | | | | | | | | | | |
| less than | 5000 | 0.28 | 0.31 | 0.35 | 0.39 | 78% | 68% | 58% | 48% | 0.36 | 0.46 | 0.60 | 0.81 |
| | 10000 | 0.29 | 0.33 | 0.36 | 0.40 | 75% | 65% | 55% | 45% | 0.39 | 0.50 | 0.66 | 0.90 |
| | 25000 | 0.34 | 0.37 | 0.42 | 0.46 | 65% | 55% | 45% | 35% | 0.52 | 0.68 | 0.93 | 1.32 |
| | 50000 | 0.38 | 0.42 | 0.47 | 0.52 | 63% | 53% | 43% | 33% | 0.60 | 0.80 | 1.10 | 1.60 |
| | 100000 | 0.45 | 0.50 | 0.56 | 0.62 | 55% | 45% | 35% | 25% | 0.81 | 1.11 | 1.59 | 2.46 |
| above 10 ha | 150000 | 0.48 | 0.53 | 0.59 | 0.65 | 50% | 40% | 30% | 20% | 0.95 | 1.32 | 1.97 | 3.27 |

| Assembled Area in m2 | | % area under small plots | | | | % area under small plots | | | | % area under small plots | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 0% | 10% | 20% | 30% | 0% | 10% | 20% | 30% | 0% | 10% | 15% | 20% |
| Bonus Weightage | | 1.00 | 1.1 | 1.2 | 1.3 | Net area percentage of high income plots | | | | Resultant net FSI for high inc. plots With low income FSI of 0.75 | | | |
| | | Resultant gross FSI for U2 | | | | | | | | | | | |
| less than | 5000 | 0.22 | 0.25 | 0.28 | 0.31 | 78% | 68% | 58% | 48% | 0.29 | 0.37 | 0.48 | 0.65 |
| | 10000 | 0.24 | 0.26 | 0.29 | 0.32 | 75% | 65% | 55% | 45% | 0.31 | 0.40 | 0.53 | 0.72 |
| | 25000 | 0.27 | 0.30 | 0.33 | 0.37 | 65% | 55% | 45% | 35% | 0.41 | 0.54 | 0.74 | 1.06 |
| | 50000 | 0.30 | 0.34 | 0.37 | 0.42 | 63% | 53% | 43% | 33% | 0.48 | 0.64 | 0.88 | 1.28 |
| | 100000 | 0.36 | 0.40 | 0.44 | 0.49 | 55% | 45% | 35% | 25% | 0.65 | 0.88 | 1.27 | 1.97 |
| above 10 ha | 150000 | 0.38 | 0.42 | 0.47 | 0.52 | 50% | 40% | 30% | 20% | 0.76 | 1.06 | 1.57 | 2.62 |

**Table-9.6**

| Planning and Land Policy Integration | | | | |
|---|---|---|---|---|
| **Sr. No** | **Objective** | **Land Policy Instrument** | **Nature of Land Use Planning** | **Development Control** |
| 1. | Obtaining individual plots of land for public facilities. | 1. Accommodation Reservation.<br>2. Transfer of Development Rights or Compulsory Land Acquisition | Development Plan designating land for public facilities. | Conventional Examination of development proposals against rigid Development control rules. |
| 2. | Bringing about planned development of fringe areas having urban potential. | Incentive based guided land assembly and development. | Broad land use plan with arterial road network. Scale of incentive FSI for land assembly, public facility provision and low income housing. | Substantive review of development proposals. Stipulation of social facility reservation considering the current assessment of needs. Two stage development permission. |
| 3. | Planned redevelopment | Incentive based guided land assembly and redevelopment | Broad land use plan (possibly three dimensional) with incentive FSI for public facility provision e.g. parking, pedestrian, walkways etc. | Substantive review of development proposals.Stipulation of social facility reservation considering the current assessment of needs.<br>Two stage development permission. |
| 4. | Planned new development in locations not having urban potential. | Compulsory acquisition of land. | Broad outline plan followed by detailed plans and their implementation by the planning agency. | Disposal of land and building on leasehold basis. |

**Table-9.7**