

Impact of Planning on Land Value in Urban Renewal Practice: The Case of Istanbul- Fikirtepe

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Keywords: Flexibility, regulatory planning, urban renewal practices, value capture, Turkey

SUMMARY

Planning systems are divided into plan-led regulatory planning systems and project-led discretionary planning systems. The plan-led planning system is designed to lead the development of space in accordance with the decisions of the plan. In Turkey, urban planning and development control is performed through the regulatory planning system. However, since 2000s, significant changes in the planning system have led to the flexible planning system in practice, which is defined as the regulatory planning system in theory. Especially, factors such as the balance between neo-liberal policies and public and private sector actors in urban planning, and also the investment demands of the private sector affect the flexibility of planning system. The discussions between planning systems are about the dilemma of flexibility versus certainty. Depending on planning system structure such as flexibility or certainty, affects the increase in land value which is formed by planning decisions. That is, planning systems affects directly value capture mechanisms that try to balance the winner and losers as a result of property rights defined by the plans. The purpose of this paper is both to demonstrate flexibility in the planning system with the latest legislation on urban renewal, Law No. 6306 and to analyze the land value capture in the project-based approach resulting from the flexibility provided.

ÖZET

Planlama sistemleri, plan bazlı düzenleyici planlama sistemleri ile proje bazlı takdire dayalı planlama sistemleri olarak ikiye ayrılmaktadır. Plan bazlı planlama sistemi, mekanın gelişmesini plan ile getirilen kararlar doğrultusunda yapan, bu kararları da uygulayabilmek için arazinin yeni kullanım kararlarının imar planına aktarıldığı ve bu uygulamaya ilişkin de kesin bir sonuç içeren planlama sistemi olarak açıklanmaktadır. Türkiye’de, kentlerin planlaması ve denetlenmesi, düzenleyici planlama sistemi ile, sağlanmaktadır. Ancak, 2000’lerden itibaren planlama sistemindeki önemli değişiklikler, teoride düzenleyici olarak tanımlanan planlama sisteminin, pratikte esnek planlama sistemine doğru evrilmesine neden olmuştur. Özellikle ülkenin ekonomik politikaları sonucu inşaat sektörünün etkinliği değerlendirildiğinde planlama sisteminde esneklik bulunduğu ortaya çıkmaktadır. Planlama sisteminin kesin veya esnek olması, planlama yoluyla oluşan arazi değer artışını etkilemektedir. Bu bildirinin amacı, kentsel yenileme ile ilgili son yasal düzenleme olan 6306 sayılı kanun ve yönetmeliği ile düzenleyici planlama sisteminde yapılan esnekliği ortaya koymaktır. Ayrıca sağlanan esneklikler sonucunda proje-bazlı yaklaşımda artan arazi değer artışının kamuya kazanımını analiz etmektir.

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1. INTRODUCTION

In the planning literature, there is a reoccurring pair between the concepts of ‘regulatory planning’ and ‘strategic planning’ (Rivolin, 2008). In fact, many planning systems demonstrate a combination of the features of regulatory and strategic planning systems. This two-way trend suggests that the ideal planning system is somewhere in between deterministic and flexible (Steele and Ruming, 2012). Generally speaking, flexibility has developed both as a reason and a consequence of the legal change in the political, institutional-administrative, and plan-making processes (Özkan, 2012). While Turkey has a plan-led regulatory planning system (Özkan & Turk, 2016), a project-led strategic planning system is adopted with laws relating to urban renewal. Especially, factors such as the balance between neo-liberal policies and public and private sector actors in urban planning, and also the investment demands of the private sector affect the flexibility of planning system.

The discussions between planning systems are about the dilemma of flexibility versus certainty. Depending on planning system structure such as flexibility or certainty, affects the increase in land value which is formed by planning decisions. That is, planning systems affects directly value capture mechanisms that try to balance the winner and losers as a result of property rights defined by the plans. There are different approaches in the literature on classification of value capture instruments. Alterman (2012) propose a distinction among three sets of policy instruments that relate to value capture: macro, direct, and indirect instruments. Differences in the planning system also affect the instruments of value capture. For example, in regulatory planning systems, direct instruments are obtained by means of tax, while in project based systems captured the value with indirect instruments.

The purpose of this paper is both to demonstrate flexibility in the planning system with the latest legislation on urban renewal, the Transformation Law for Areas at Risk of Natural Disaster (Law No. 6306) and to analyze the land value capture in the project-based approach resulting from the flexibility provided. For these aims, Fikirtepe case was used as a case study area. Fikirtepe, which is one of the first *gecekondu* areas of Istanbul, was declared a special project area in 2005, and then was declared as a risky area by Law No. 6306 in 2013.

In the first section of the paper, literature review on the effect of flexibility and certainty in planning systems; and land value capture instruments. In the second section, how flexibility has increased in Turkey's planning system and urban renewal practices from past to present, and how change the approach of value capture in urban renewal are examined. In the third section, flexibilities and consequences provided in the planning process of the Fikirtepe Urban Renewal area, are discussed in the sharing of land value increases, and examine the value capture after

urban renewal. Finally, in the fourth section, the structure of the flexibility and its results provided by Law No. 6306 in Fikirtepe urban renewal area, have been evaluated.

2. LITERATURE BACKGROUND

The concept of planning has changed through the impact of transformations and dynamics created socially, economically and politically, on a national and international level. Also, decision-making systems are affected by macro-level structural changes, such as globalisation and neoliberal policies (Munoz Gielen & Tasan-Kok, 2010). Town planning is an enormously complex field which must take into account the interaction of a multiple actors so a plan cannot account for all contingencies which calls into question how can one can attempt binding plans for 5 or 10 years into the future (Timlin, 2011). The discussions between planning systems are about the dilemma of flexibility versus certainty. In the planning literature, there is a reoccurring pair between the concepts of regulatory planning and strategic planning (Rivolin, 2008). In a comparative study, the European Commission found a two-way trend in planning practices: countries with regulatory planning systems actually tend to be flexible. On the other hand, countries with strategic planning systems are seeking greater certainty (European Commission, 1997). In fact, many planning systems show a combination of the features of regulatory and strategic planning systems. This two-way trend suggests that the ideal planning system is somewhere in between deterministic and flexible (Steele and Ruming, 2012).

Over the past 30 years, more flexibility and less rigid rules have become a common trend in planning practices (Munoz Gielen & Tasan-Kok, 2010). Legal certainty concerns the degree to which rightful claimants are certain of their defined rights, including the predictability of government actions in respect of these rights. A distinction should be made between procedural and material legal certainty. Material legal certainty including the certainty provided by land-use plans refers to the amount of certainty regarding the content of the right of ownership. Procedural legal certainty refers to how much certainty people have that they will have a say when restrictions on these rights of ownership change (e.g. during a land-use plan revision) (Buitelaar & Sorel, 2010).

Generally speaking, flexibility has developed both as a reason and a consequence of the legal change in the political, institutional-administrative, and plan-making processes (Özkan, 2012). There are two traditions related to the degree of flexibility and certainty in urban planning. The ‘plan-led’ traditions like the Dutch planning system are supposed to provide at early stages certainty about the future development possibilities through the approval of legally binding land use plans. The ‘development-led’ tradition like the British planning system, although there might be some indicative zoning plans in early stages, is assumed to give less certainty and leave more room for negotiations with developers and landowners. These differences are the consequence of historic differences: the plan-led system rests on the centrality of the rule of law and the development-led system on situation specific and discretionary responses (Munoz Gielen, 2010). Nevertheless, this has become more evident when local governments turned towards a more entrepreneurial and participatory approach. Inclusion of the partnership between the public and the private sector at each stage of the supply and development of

services on the urban land to the processes of plan making and implementation has affected the concept of flexibility. In this respect, factors such as the balance between neo-liberal policies and public and private sector actors in urban planning, countries' unique planning approaches, economic processes, financial strength of the public sector and the investment demands of the private sector affect the tendency towards the concept of flexibility (Özkan, 2012). Also different actors are involved in urban regeneration: public and private, with regulatory powers or not, with or without land, with a direct or indirect interest. All of them interact with each other within a complex set of variables to finally shape the degree of captured value increase (Munoz Gielen, 2010).

The idea that the value of land is created by society and should therefore be reaped for the public is by no means new. The brief survey reported here first looks at the evolution of the notion of the “unearned increment” in land in general, and then specifically at the idea of capturing increments created by land-use regulation (Alterman, 2012). There is agreement that ‘land value capture’ refers not to the capture of value created by the efforts of the landowner. Land value capture refers thus first to the capture of the value created by efforts of public. There is agreement too that land value capture refers to the capture of land value increase, excluding thus the capture of the increase in value of buildings (Munoz Gielen, 2016; Smolka, 2013; Ingram and Hong, 2012). Public value capture refers to a government capturing part or all the economic value increase of land and real estate. With this goal, governments can use different sorts of instruments (Alterman, 2012; Munoz Gielen, 2016).

There are different approaches in the literature on classification of value capture instruments. In this study Alterman (2012)’s classification is used. Alterman (2012) propose a distinction among three sets of policy instruments that relate to value capture: (1) macro, (2) direct, and (3) indirect instruments (Alterman, 2012).

Macro value capture instruments are not freestanding. They are embedded in some overarching land policy regime, motivated by some broader rationale and ideology. In theory four major types of land policy regimes have value capture embedded in them. Smolka and Amborski (2007) regard these macro land policies as value capture instruments. Alterman (2012) listed the major types in declining order by degree of intervention with private property: (1) Nationalization of all land, (2) Substitution of private property by long-term public leaseholds, (3) Land banking, (4) Land readjustment. In all these land policy regimes, value capture is only one among several motivating rationales and objectives (Alterman, 2012).

Direct instruments seek to capture all or some of the economic value increase of property under the explicit rationale that this increase belongs to the community and not to the landowner. Direct instruments are considered wealth redistribution instruments and are thus often considered as a tax that needs explicit and detailed legislative base at the regional or national level. However, direct instruments might also take the form of a developer obligation. As long as instruments are exclusively motivated by the rationale that the increased value belongs to the

community, and provided they support on a regional or national legislative authority, they belong to this category of direct value capture instruments (Munoz Gielen, 2016).

Indirect instruments are more pragmatic and seek to capture some of the economic value increase under the rationale that landowners and developers should internalize the costs of mitigating the impacts of their building plans. The value of these impacts represents the social costs or compensation that can be exacted by the community that bears such costs. Indirect value capture tools are introduced often by local authorities and can support on regional or national legislation. However, they can also operate without almost any legislative authority. This makes indirect tools flexible and their introduction relatively easy. Because of their variety and local character indirect instruments have increasing popularity in practice. The need for innovative funding sources for public services has stimulated the last years a plethora of locally inspired ways of agreeing contributions of landowners and developers in money, land or construction services in exchange of land-use regulation decisions of any kind (rezoning, additional development rights, etc) (Munoz Gielen, 2016).

3. THE IMPACT OF FLEXIBILITY ON LAND VALUE CAPTURE IN TURKEY

Planning systems are divided into plan-led regulatory planning systems and project-led discretionary planning systems (Özkan and Türk, 2016). The plan-led planning system is designed to lead the development of space in accordance with the decisions of the plan. It is transferred to the development plan of the new use decisions of the land in order to apply these decisions which have definite results (Rivolin, 2008). Rivolin (2008) defines the planning system in his study as being based on "hierarchy," and technically "legally binding," characterised by "certainty" and "rigidity." However, today's planning processes are evolving towards a more project-led approach, which is becoming increasingly preferred as an alternative (Munoz Gielen & Tasan-Kok, 2010).

Turkey's planning system is a regulatory plan-led system that depends on precision in Reconstruction Law no. 3194. To manage the change in urban space, the planning system offers a perspective based on plan-led approaches. "Local spatial plans" at the urban scale are inflexible and rigid (Ersoy, 2000; Tasan-Kok, 2006; Özden, 2008; Keleş, 2012, Özkan and Türk, 2016). In this sense, in the process of change management in the urban space, it was far from providing the necessary flexibility, potential for interpretation or opportunities for contribution (Ünlü, 2006). However, significant changes in the planning system since 2000 have started a shift in the planning system which is defined as regulatory in theory, towards a flexible planning system in practice (Özkan and Türk, 2016). Urban renewal practices in particular stand out with project-led approaches.

3.1. Characteristics of Urban Renewal in Turkey

In Turkey, the most significant transformation particularly for the big cities was through the immigrations in the 1950s, resulting in housing, employment, and transportation becoming the main problems of the metropolitan areas. Cities began to transform horizontally and vertically at a fast pace (Özden, 2008). The increasing emergence of *gecekondus* in the suburban areas

also took place in this period. These *gecekondu* areas are among the first areas where a need for urban renewal in Turkey emerged (Kütük İnce, 2006).

With the influence of neoliberal policies at the end of the 1970s, urban development was increasingly shaped by private sector dynamics. As the private sector settled into a more and more influential role, the public sector became more and more passive (Tasan-Kok, 2008). Consequently, an illegal urban texture emerged during the 1980s due to general building amnesty legislation that aimed to solve the issue of *gecekondu*s; while destructions also took place on a large scale and functional transformations began (Özden, 2008). For example, in Istanbul's Başibüyük District, 48% of the area benefited from the amnesty law and received 'land allocation certificates' (*tapu tahsis belgesi*). *Gecekondu*s that received land allocation certificates began transforming into apartment blocks (Şen & Türkmen, 2014). Furthermore, legal and institutional structures of urban planning were deregulated with the introduction of neoliberal policies (Gür & Türk, 2014). So that a new era emphasising local administrations began with the help of institutional regulations during the neoliberal economic transformation process that started in the 1980s. (Tasan-Kok, 2006). To manage the change in urban space, the planning system offers a perspective based on plan-led approaches. "Local spatial plans" at the urban scale are inflexible and rigid (Ersoy, 2000; Keleş, 2012, Özden, 2008; Tasan-Kok, 2006; Özkan and Türk, 2016; Famous, 2006).

In the 1990s, changes in the urban space began with the influence of globalisation, and large office buildings and shopping malls led to extensive transformations in the urban space (Özden, 2008; Güzey, 2016). For example, several changes were made in the residential areas in Istanbul and their usage: With the construction of the second bridge over the Bosphorus and peripheral highways, financial centres were built on these axes (Ergün, 2006). In addition, during this period faulty urbanisation policies and partial implementations have increased in urban areas, whereas central and local governments failed to develop urban spaces and construct residences. As a result, this horizontal one-storey illegal housing turned into a vertical multi-storey illegal configuration (Köktürk & Köktürk, 2007).

Moving towards the 2000s, urban renewal was emphasised again as a risk mitigation tool for natural disasters following the sensitivity after the Marmara and Düzce earthquakes. For this reason, urban renewal has been an important component of urban development. Special urban renewal projects were introduced by the local administrations, and developed through a cooperation between the public and private sectors. These projects were implemented in high-rent areas and considered as the only alternative for the improvement development plans (*ıslah imar planları*) for squatter settlements (Genç, 2014). However, open negotiation processes in the relations between local administrations and the private sector, as is the case in countries with discretionary planning systems, did not emerge here. At this point, urban renewal projects have progressed on project-led approaches, developing a dynamic structure in contrast to the static local spatial plans. This situation was also supported by new legislation concerning some special urban renewal projects.

In the recent years, Turkey's planning system has adopted an approach that makes decisions based on fragments of the cities instead of considering the city as a whole. This situation encompasses an increasingly flexible and project-led approach. For this reason, planning becomes an implementation tool that can accommodate different and flexible applications according to market demands. New land use decisions that are requested in fragments across the urban land, or changes to the existing land use decisions, spread rapidly and create differences across the city (Tasan-Kok, 2006). Bektaş (2014) reveals that an 80,000-hectare residential area of Ankara includes about 45% urban renewal zones (Bektaş, 2014). This shows that in a city as important as Ankara, half of the city is under a regulatory planning system whereas the other half is under a discretionary planning system. This is because these plans have been made in a fragmented fashion. Moreover, authorising only one institution throughout the process, starting with planning of any type and scale until the end of the building license procedures causes a lack of supervision (Tarakçı and Türk, 2017).

3.2. The Approach of Value Capture in Urban Renewal

Urban renewal practices are excluded from the regulatory planning system due to the project-led approach instead of a plan-led approach. Urban renewal practices since 2004 are applied with special purposed laws. These special laws bypass the hierarchy that exists within the regulatory planning system. Especially, in 2012, the Transformation Law for Areas at Risk of Natural Disaster (Law No. 6306) entered into force as an important and controversial legal tool for urban renewal. The purpose of this law is to identify risky areas for disaster, as well as other urban and rural lands in which risky structures outside these areas are located, and to specify the procedures and principles of improvement, liquidation, and renewal. According to this definition, risky areas are those that bear the risk of causing loss of life and property due to the ground structure or the construction on the ground. These areas are determined by the Ministry or the Administration and later confirmed by the cabinet upon the proposal of the Ministry.

Urban renewal legislation gives discretionary power to both central governments and local administrations on various issues, such as determination of the renewal area or completion of the implementation, unlike the legal instruments of the regulatory planning system. The main actors of the urban renewal implementations are central and local governments. TOKI (mass housing administration) and the Ministry of Environment and Urbanization are the most important actors for urban renewal in terms of central governments. In 2004, TOKİ received significant authorisation in urban renewal areas with Law No. 5162. The Ministry of Environment and Urbanization has become the main actor of urban renewal projects with Law No. 6306 since 2012. The Ministry takes the authorisation for the determination of urban renewal areas, making and approving plans regarding these areas and certifying the constructions to be built on these areas. In short, the Ministry is the sole authority in the implementation of an urban renewal project from the beginning to the end (Gür & Türk, 2014).

Urban renewal practices are a tool of intervention that directly affects property rights. The 35th item of the Turkish Constitution states the entitlement to property rights by persons and these rights cannot be limited except for public benefit. Although the right to property is protected by the Constitution, establishment of healthy living spaces is enabled by the renewal projects that

aim to restore 'derelict' and 'obsolescent' areas economically, socially, physically and environmentally over the long term. From this point of view, the right to property, which is protected by law and can only be restricted for the public welfare, is interfering with the urban renewal projects (Tarakci and Turk, 2015). For this reason, the concept of "property rights" has been key since the beginning of urban renewal projects and determines the way in which urban renewal projects are managed by categorising the residents. Property rights are a concept based entirely on the document of property, and defines the extent to which the inhabitants are involved in the projects. Since Turkey's urbanisation policies depend on day-to-day politics, the periods during which the property documents were received have resulted in the formation of various types of properties even in the same neighbourhood. Urban renewal practices are constructed on a system based on the legal status of property (Şen & Turkmen, 2014), such as holders of land allocation certificates, holders of land titles and those without any certification. The land allocation certificates distributed in the 1980s with the amnesty building law allocate the right for actual utilisation to *gecekondu* owners. Thus, the owners of the *gecekondu*s have gained some legal rights. Those who have legal property are equipped with the power to refuse the offers of the municipalities. On the contrary, those who have no documents are more willing to participate in the projects by accepting offers in negotiations (Kuyucu & Ünsal, 2010). The existence of different property structures gives the power of discretion to authorities on important issues such as valuation and expropriation.

Additionally, flexibility in property rights occurs by using expropriation. It is stipulated by Law No. 6306 that such land can be urgently expropriated by the Ministry, TOKI or the Administration, if at least two thirds of the property owners cannot reach an agreement. Urgent expropriation in such cases has been included in the decision of the Constitutional Court, dated 27.02.2014 numbered E: 2012/87 K: 2014/41. It is stated in the court decision that the expropriation by the relevant public institutions and organisations of real estate at disaster risk not utilised by their owners at their own will, as part of the reorganisation of the real estate's residential status, is of public benefit.

Land value capture from the planning are transferred to the public as *macro*, *direct* and *indirect* (Alterman, 2012). As a result of the urban renewal project, the value capture determined by the public are macro instruments like as land acquisition for the public service facilities; direct instruments like as infrastructure participation fee; Indirect instruments like as value-added tax.

4. THE CASE OF FIKIRTEPE URBAN RENEWAL AREA

4.1. Methodology

There are three reasons for selecting Fikirtepe district as an area to be studied: First is that the area is one of the first squatter settlements in the 1950s. Second is that it was determined as the "Risky Area" in 2013. Third is that the projects were completed in a way to perform valuation. Fikirtepe urban renewal area covers a total area of 130 hectares and is made up of 61 plots. According to the information received from the Istanbul Provincial Directorate of the Ministry of Environment and Urbanization on 16.06.2017. 100% of Agreement between developers and landowners has been achieved on 31 of these plots. Within the scope of the declaration, the plot

No. 24, which is one of the firstly completed projects upon 100% agreement in Fikirtepe district, has been selected as the working area.

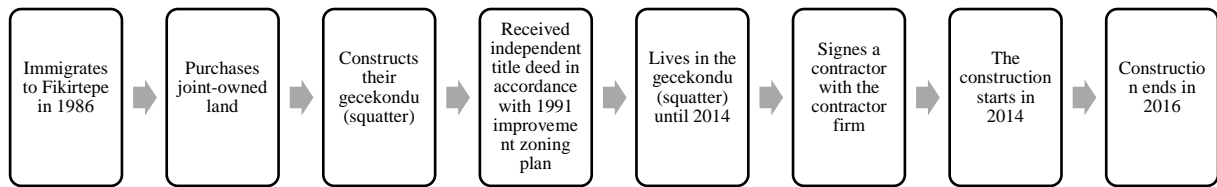
As part of the project, a scenario was drafted considering the real data in order to perform all these calculations. Some assumptions were made in order to calculate the value increase of the project-based urban renewal application.

The assumptions are as follows:

- 1 - The property owner purchased his/her joint-owned land in 1986.
- 2 - He/she received the independent title deed in 1991.
- 3 - He/she constructed the squatter on his/her own.
- 4 - He/she agreed with the contractor company by 55% in 2014
- 5 - The construction lasted 24 months.
- 6 - The construction was completed in 2016.

The actors in the process were identified as follows: The Ministry of Environment and Urbanization, Istanbul Metropolitan Municipality, The Contractor Company (developer), land owners.

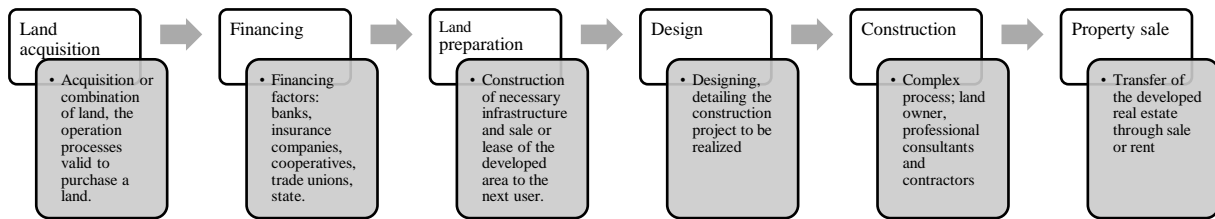
Accordingly, the property owner;



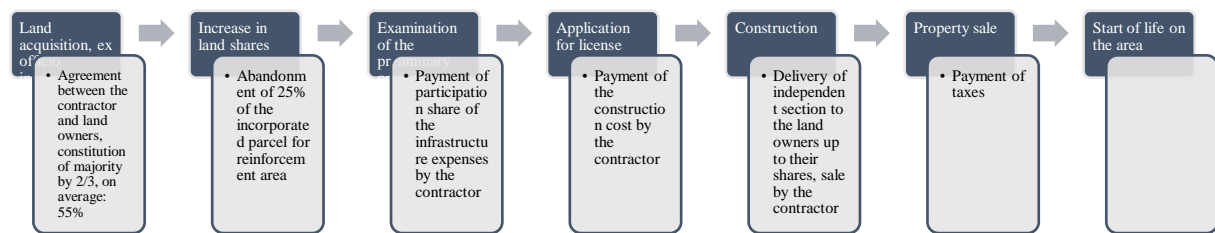
As the method, firstly, the construction costs, the fees and taxes paid and the land payables emerging during the construction process of a building were calculated. These were performed in forms of bilateral negotiations conducted with the construction companies, the Provincial Directorate of Environment and Urbanization, Istanbul Metropolitan Municipality and Kadıköy Municipality, obtaining data, obtaining the unit costs from the regulations, and making measurements on the plan.

The work process starts with carrying out the planning works on an area, continues with the land development process and comprises the process until completion of the construction and start of the life on this area. Alexander (2001) has examined the activities of the land development process in six stages.

The said six stages proposed by Alexander (2001) and accepted also by various researchers working in the relevant disciplines can be summarized as follows:



According to this process, it is possible to see the phases of the applications performed in Turkey on the following table.



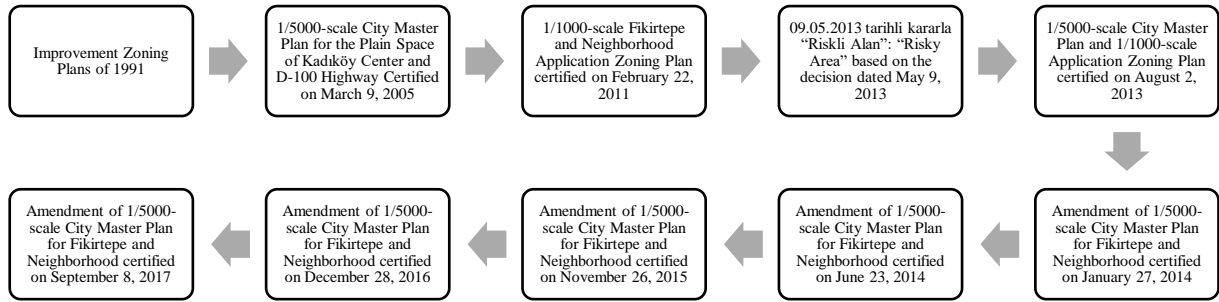
4.2. Characteristics of Fikirtepe Urban Renewal Project

Fikirtepe is located within the boundaries of Kadıköy district on the Anatolian side of Istanbul province. D-100 (E-5) State Highway on the north of the region, O-1 Connection Road going through the area and having Metrobus Line on it, and Fahrettin Kerim Gökay Street (Minibus Street) connecting the region to the center of Kadıköy are the important transportation connections. The entire area, which is composed of three quarters including Fikirtepe, Dumlupınar and Eğitim, is called Fikirtepe. In summary, the region has a strategic position in the Anatolian side.

The region that was established with the intensive migration from Anatolia since the late 1950s emerged as the first gecekondu area (slum settlement) of the Anatolian side. By virtue of the law numbered 2981 issued in 1984, the squatter settlements in Fikirtepe were legalized and the owners of the squatters obtained joint-owned title deeds. The individual title deeds were distributed based on the Improvement Zoning Plan issued in 1991. When the average parcel size (312-390 m²) in the region is quite small as compared to the average size of Kadıköy district (1030 m²). In Fikirtepe, the building density is high and the net population density is 613 people/ha. This value is higher than the average value of Kadıköy District (351 people/ha). It has developed as an unplanned and irregular residential area together with auto repair workshops on the ground floors and other small industrial areas (Gökşin, 2009).

The first planning studies in Fikirtepe region started with the improvement zoning plans. Later on, it was declared as a Special Project Area in 2005 and as a Risky Area in 2013. As it is clear from this process, a project-based approach has been developed on the area for the last twelve years.

The planning process of the Fikirtepe region is explained in the following table.



4.3. Urban Renewal Practices in Fikirtepe

The 1/1000-scale Fikirtepe and Neighborhood Land Use Plan that was certified on February 22, 2011 was canceled by the court. After that, the Ministry of Environment and Urbanization accepted the canceled planning area as a risky area. In accordance with the Law on Transformation of Areas Under Disaster Risk No. 6306, the area was announced as a "Risky Area" by virtue of the decision of the Council of Ministers taken on May 9, 2013.

In accordance with the provisions of the Law No. 6306 and of the Decree Law No. 644, the Ministry of Environment and Urbanization prepared a 1/5000-scale land use plan and a 1/1000-scale detailed local plan for the risky area in Fikirtepe and its neighborhood, and it was approved on August 2, 2013. The planning area is bordered by D-100 (E-5) State Highway to the north, Marmara University Campus to the south, Merdivenköy Quarter to the east and Kurbağalıdere to the west.

In the planning process, an approach was adopted depending more on the plan notes rather than the legal regulations. The planning note is the written explanations, which is an integrated part of the plan and details the plan. Determination of functional areas and densities, which is typical for plan-based system is not adopted for the land use plans made for this area. All these decisions were explained in the planning notes. Changes were made on the planning notes on various dates from the beginning of the process to this day.

The land use plan brings about the following changes:

January 27, 2014	The Building Coverage Ratio (BCR) value shall be determined with a preliminary project
	The public service areas may be established on a different area within the architectural preliminary project on the condition that it remains in the same plot.
June 23, 2014	An additional floor area ratio ranging from 15% and 100% shall be applied on the areas , according to their net parcel area sizes.
	The public service areas shall be left to the state free of charge, and registered in the name of State Treasury.
	The floor area ratio shall be calculated over the gross parcel area.

November 3, 2014	A public service area shall be separated on the areas up to 25% of their net parcel area sizes.
	If there are any roads, which remain within the plot and are subjected to construction, an area of total of these roads shall be separated as an additional public service area.
November 26, 2015	The density value, which is 500-1100 people/ha for High Density Residential Area (K), shall be "1000 people/ha".
December 28, 2016	This plan is a whole with plan sections, plan notes, plan explanatory notes and key map section.
	All road and infrastructure costs shall be borne by the property owners or the investor/contractor companies.
	Urban design project approval, Zoning status certificate, Construction License certificate shall be organized by the Provincial Directorate of Environment and Urbanization.
	The works and transactions related to land readjustment shall be realized by the Ministry of Environment and Urbanization.
	The functions of the public service areas and their locations within the plot shall be determined in the urban design project according to the key map section.
September 8, 2017	The setback distances of the construction plots shall be determined by the architectural license project.
	In the Grade 3 Archaeological Site Area, the application shall be carried out in accordance with the land use plan for protection.

4.4. Examination of Value Capture after Urban Renewal

The value increases on the urban spaces are calculated as a result of the infrastructure and the zoning decisions provided and taken by the public authorities (Tekeli, 2009). Land value capture from the planning are transferred to the public as *macro*, *direct* and *indirect* (Alterman, 2012). In the working area, the value capture on the area determined by the public as a result of the urban renewal project are summarized in the table below.

Macro instruments	Direct instruments	Indirect instruments
Land acquisition for the public service facilities	Infrastructure Participation Fee	Value-added Tax

Large-scale projects are conducted within the scope of the Project-Based Scenario.

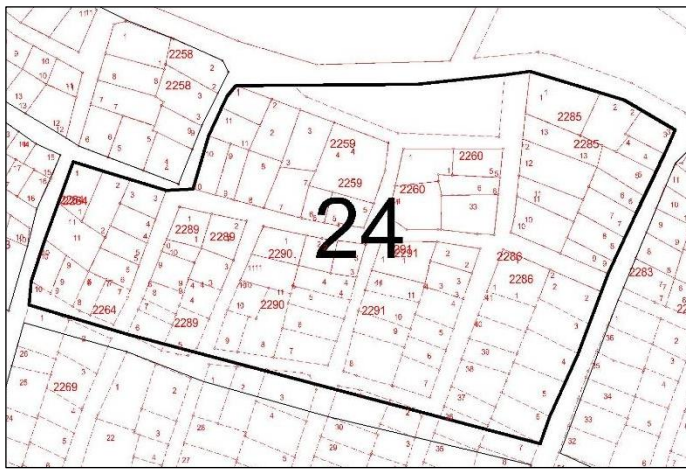
- a. The construction floor space, Building Coverage Ratio (BCR) is taken as 0.50, and calculated based on the net parcel.
- b. The area remaining outside the floor space used by the building constructed on the net parcel was taken as the landscape area.
- c. The total number of apartments were determined as a result of the interviews with the contractor company, the project introduction catalogues and examination of the floor plans.
- d. The floor area ratio was calculated as 4.00 since an agreement was made on the selected plot and the parcels formed a plot.

e. It is accepted that the basement floor at the lowest level of the basement floors constructed for the parking and non-floor area ratio areas were transformed into the trading function.

f. In the interviews with the contractor company that provided the information that the areas not included in the floor area ratio occupy the same size of area as the ones included in the floor area ratio.

Plot No	Construction Base Area	Landscape Area	Total Construction Area	Total number of apartments	Commercial Area	Areas Not Included in Floor Area Ratio	Gross Construction Area
24	3,822 m ²	3,822 m ²	48,514 m ²	580 m ²	7,645 m ²	40,869 m ²	89,383 m ²

Land acquisition for the public service facilities



Project-based scenario starts with incorporation of the parcels. As shown in the following figure, the new plot numbered 24 was established by incorporating 85 parcels. After the process of incorporation, first of all, the expropriation of land for roads is performed according to implementation of the detailed local plan. The road widths determined to be 7 m in the improvement zoning plan were increased to 15 m in the complementary development plan prepared for the urban renewal.

Besides, in the areas determined as Residence, Trade and Trade-Residence areas, a public service area shall be separated up to 25% of the total net parcel areas. In addition; an area equal to the total of roads, which were separated as road area in the land use plans prior to the approval of this plan but remain within the plot and were closed according to this plan, are separated as an additional public service area.

The data of the parcels related to the working area are as follows:

Plot No	After Incorporation	Parcel Area Based on Floor Area Ratio	Net Parcel Area	Public service area	Public service Type
24	19,113 m ²	12,129 m ²	7,645 m ²	5,209 m ²	Religious Area - Park

According to the data obtained from Kadıköy Municipality, the fair value of the streets in which the plot No. 24 is located is 809.89 Turkish Liras (2381-2850 USD) for the year 2016. Accordingly, the value of the land obtained is:

Plot No	Public service Area Land Value	Reclaiming Public Authority
24	4,218,717 Turkish Liras (12,412,309-14,846,508 USD)	The Ministry of Finance

Infrastructure Participation Price

One of the most basic features of the Law on Transformation of the Areas Under Disaster Risk Dated No. 6306 is the exemptions it has introduced with respect to charges, fees and taxes. Since the scenario generated in the working area covers the years from 2014 to 2016, the regulations that were valid during this period were accepted. For this reason, only "Infrastructure participation price" and "VAT payment" were calculated by taking into account the exemptions specified in the regulations in calculation of charges, fees and taxes.

In the planning notes, it is stated that all road and infrastructure prices shall be borne by the property owners or the contractor company. As a result of the negotiations, it was determined that the participation share of the infrastructure expenses were borne by the contractor company. As a result of the negotiations with the Istanbul Metropolitan Municipality, the Infrastructure Participation Price was decided to be determined by multiplying the unit cost with the gross parcel area making basis of the floor area ratio.

According to the data obtained from the Istanbul Metropolitan Municipality Infrastructure Directorate, the infrastructure participation unit cost for the year 2014 is 313,28 m²/TL. Accordingly, the Infrastructure Participation Price obtained is as follows:

Plot No	Infrastructure Participation Price	Reclaiming Public Authority
24	3,799,616 TL	Istanbul Metropolitan Municipality

Value-added Tax

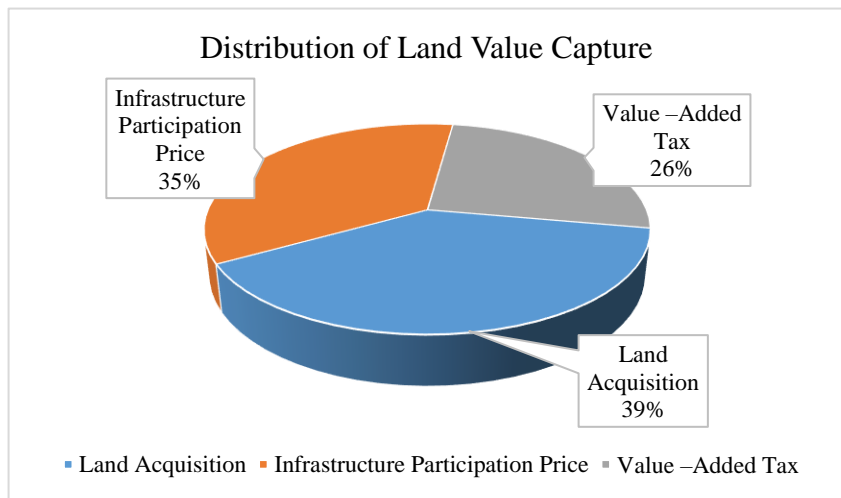
According to Article 1/1 of the Law on Value Added Tax (VAT) No. 3065, the deliveries and services, which are performed within the framework of commercial, industrial, agricultural activities and self-employment activities, are subject to VAT. The VAT rates are determined by the Decree of the Council of Ministers No. 2007/13033 published pursuant to the authorization granted to the Council of Ministers by virtue of Article 28 of the Law on VAT No. 3065. Accordingly, following the demolition of the mentioned buildings, in the case that the implementation is performed within the scope of the Law No. 6306, 1% VAT is applied during delivery to the land owners or third parties of the residences with a net area up to 150

m² among the independent sections to be constructed in accordance with the construction contract in return for flat.

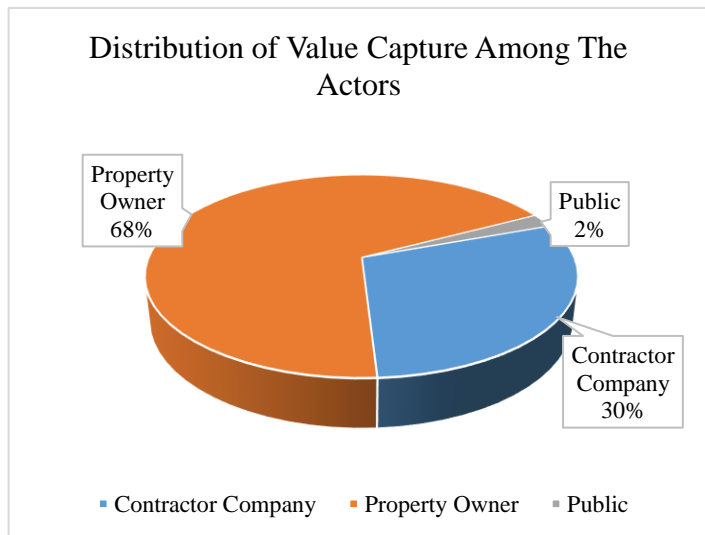
When the projects realized in the working area were examined, it was determined that the average size of the independent section is below 100 m². In this respect, this study assumes that the VAT paid in the working area is 1% and this was paid only by the contractor company at delivery to the third parties.

Plot No	VAT PRICE (1%)	Reclaiming Public Authority
24	2,161,085 Turkish Liras (6,358,344-7,605,290 USD)	The Ministry of Finance

In Fikirtepe Urban Renewal Project, the public value capture was realized as obtaining the public service areas free of charge through deduction, infrastructure contribution share and value added tax. The distribution of the land value capture is as follows;



As a result of the research carried out in the working area, it was determined that all the costs were provided by the contractor company. Accordingly, it is assumed that "land deduction of the public service area", "Infrastructure Participation Price, Value Added Tax", "demolition cost", "construction cost", "Construction Inspection Cost", and "rent cost" were borne by the contractor company. The property owner does not have any costs during this process. As a result of completion of the construction, the land owner receives his/her share at the ratio of 55%.



Distribution of the value increase among the actors as a result of the urban renewal is shown on the following graphic. Accordingly, while the property owner obtains the highest value capture with a share of 68%, the second place is occupied by the contractor company with a share of 30%. An examination of the distribution ratios showed that lowest value capture is achieved by the public with a share of 2%.

5. GENERAL EVALUATION AND CONCLUSION

Planning systems are divided into plan-led regulatory planning systems and project-led discretionary planning systems. The plan-led planning system is designed to lead the development of space in accordance with the decisions of the plan. While Turkey has a plan-led regulatory planning system (Özkan & Turk, 2016), a project-led system is adopted with laws relating to urban renewal. Especially, factors such as the balance between neo-liberal policies and public and private sector actors in urban planning, and also the investment demands of the private sector affect the flexibility of planning system. In addition, a discretionary planning approach becomes evident in the laws, with discretionary powers given to the central government but also to the local administrations. The flexibility resulting from the legal means of urban renewal has increased over time and has shifted from local administrations to the central government. Throughout the process, discretionary powers have been increased with every law. The purpose of this paper is both to demonstrate flexibility in the planning system with the latest legislation on urban renewal, Law No. 6306 and to analyze the land value capture in the project-based approach resulting from the flexibility provided.

The discussions between planning systems are about the dilemma of flexibility versus certainty. Depending on planning system structure such as flexibility or certainty, affects the increase in land value which is formed by planning decisions. That is, planning systems affects directly value capture mechanisms that try to balance the winner and losers as a result of property rights defined by the plans. Land value capture refers thus first to the capture of the value created by efforts of public. There is agreement that land value capture refers to the capture of land value increase, excluding thus the capture of the increase in value of buildings (Munoz Gielen, 2016; Smolka, 2013; Ingram and Hong, 2012). Public value capture refers to a government capturing part or all the economic value increase of land and real estate. With this goal, governments can use different sorts of instruments (Alterman, 2012; Munoz Gielen, 2016). Land value capture from the planning are transferred to the public with *macro*, *direct* and *indirect* instruments (Alterman, 2012).

Fikirtepe case was used as a case study area. There are three reasons for selecting Fikirtepe district as an area to be studied: First is that the area is one of the first squatter settlements in the 1950s. Second is that it was determined as the "Risky Area" in 2013. Third is that the projects were completed in a way to perform valuation. The first planning studies in Fikirtepe region started with the improvement zoning plans. Later on, it was declared as a Special Project Area in 2005 and as a Risky Area in 2013. As it is clear from this process, a project-based approach has been developed on the area for the last twelve years. Within the scope of the paper, the flexibilities and consequences provided in the planning process of the Fikirtepe Urban

Renewal area, are discussed in the sharing of land value increases. In conclusion, the structure of the flexibility and its results provided by Law No. 6306 in the urban renewal areas, have been evaluated. In order to be able to make these evaluations, a project-based scenario was developed in scope of the study.

In the planning process, an approach was adopted depending more on the plan notes rather than the legal regulations. The planning note is the written explanations, which is an integrated part of the plan and details the plan. Determination of functional areas and densities, which is typical for plan-based system is not adopted for the land use plans made for this area. All these decisions were explained in the planning notes. Changes were made on the planning notes on various dates from the beginning of the process to this day. In the field of urban renewal all applications as land acquisition, planning, and construction are made according to Law No. 6306. One of the most basic features of the Law No. 6306 is the exemptions it has introduced with respect to charges, fees and taxes. So that as a result of Fikirtepe urban renewal project, the value capture determined by the public are macro instruments like as *land acquisition for the public service facilities*; direct instruments like as *infrastructure participation fee*; Indirect instruments like as *value-added tax*.

Large-scale projects are conducted within the scope of the Project-Based Scenario. Even so analyzes show that the urban renewal project is the least winner public (2%). Land value capture for public is little. And public captured the most value with the macro instruments as land acquisition. Also it appears that all of the flexibility gained through both a project-led approach and discretionary power benefits the private sector. Most of the flexibility interventions seem to increase the profit of the private sector, accelerate the process, and provide the land. On the other hand, all the costs were provided by the developer. So that, value capture of the developer is always the same (30%). The property owner does not have any costs during this process. As a result of completion of the construction, the land owner receives his/her share, and captured 68% of the total value.

The research analysis demonstrates that the public have not got benefit from the planning flexibility that has done for value capture in urban renewal projects. The value should not be seen only as financial gain but also destroying of the cities from the flexibility. The public can not ensure enough benefit for urban sustainability, while at the same time it damages urban development with the dense population decisions. For these results it should be created new methods for ensuring value capture from increasing land value in urban renewal projects in Turkey.

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