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**PUBLIC PARTICIPATION IN URBAN PLANNING IN LUHANSK: HOW TO KEEP
BALANCE BETWEEN ECONOMIC GROWTH AND PUBLIC INTERESTS**

Author: Yuliya Rashchupkina

Supervisor: Olga Napiontek

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Summary

Public participation is a necessary element at all stages of urban-planning. If it provides the public with objective information and enables all stakeholders to state their positions, it will strengthen positive effects for further decisions and decrease the scale of conflict in the community.

Public participation in urban planning should be based on and stem from the general objective and main strategic goals. Reviewing the current planning document (Luhansk Development Strategy), including public involvement in this process may significantly reduce the number of conflicts.

It is essential to disseminate information on urban planning processes, including the justification concerning the substance of the decision by means of posting relevant information online, holding public hearings, issuing newsletters etc.

Elaborating easy-to-understand forms of representative information, such as simplified maps, schemes and tables, enables and encourages people to participate in the urban-planning process.

Introduction

Large construction projects introduced in the last 5 years in the bigger cities of Ukraine lacked public participation. This created a number of conflicts between local authority, residents and investors. The risk of conflicts affects the price of dwelling, scares away potential investors, and prolongs the period of town planning. Lack of transparency and poor public participation in the process of urban planning can also contribute to the damage of the natural environment in the city.

The city of Luhansk¹ is not an exception. Therefore, this paper deals with considering and solving the issue of weak public participation during the process of urban planning in the city of Luhansk.

The benchmark for this research was the observation that, as a rule, the residents of long-standing housing areas always have to face problems concerning increased development of their neighbourhood when construction of multistoried buildings or additional business and industry centres is announced. Besides, the negative reaction from residents, it is virtually inevitable that

¹ Modern Luhansk is one of the largest industrial centers of Ukraine. The population of Luhansk city is about 500, 000. Luhansk's largest industry remains machine-building, diesel-locomotive-building factory, textile industry. Representatives of pro – Russian Parties of Regions, the Communist Party and the Progressive Socialist Party have the vast majority of seats in the municipal council.

when land lots assigned for development are taken away from community territories adjacent to greenbelts or banks of local rivers and lakes.

The purpose of this policy research is to provide policy recommendations for policymakers at the local level regarding the implementing of best practices of public participation in urban planning process.

The policy findings are presented in two chapters - conclusions from the Polish experience and general recommendations.

Problem Description

Symptoms of the Problem

The attitude normally expressed by the local residents is: “Let them play whatever they want, as long as it’s in the neighbor’s yard”. This perception of planned development can be overcome only by providing clear explanations from developers, project planners, and representatives of local authorities in the course of public discussions. The statistical data concerning the attitudes of public hearings participants to land development plans gives ground to optimism. Generally people tend to perceive a enlargement project as positive, provided they have been given detailed explanations of its necessity, and if provisions for a certain project are made in the general city plan and the detailed area development plan. If we examine the results of public hearings in the regions of Kyiv in the second half of 2006 and the first half of 2007, the ratio of the city residents who were positively and negatively inclined can be estimated as 50/50.²

Nevertheless, there have been cases when land development actually encroached upon existing housing complexes, disfigures historical sites or areas of cultural heritage, invading greenbelt zones, and violating state building regulations. In these cases it has been essential that competent professionals intervene in order to provide qualified situation appraisal necessary for reversal of erroneous decisions.

Reasons of the Problem

It is not customary for the Luhansk city council to hold public hearings or discussions on the decisions that concern land allotment for building purposes. As monitoring by local NGOs shows, local government representatives lack sufficient skills to hold public studies and hearings on the urban planning issues. The vast majority of the earlier public hearings had general problems on the

² Ukrainian Center of Independent Policy Research’s newsletter 12:359 (April 2007). (in Ukrainian)

agenda - such as development of the local transport system, prices of houses and communal services.

At the same time the questions of apportioning land lots for construction represent a significant share of the questions considered at sessions of Luhansk municipal council. A substantial part of these questions is deferred for further examination due to well-reasoned residents' complaints, protest actions, and critical publications in the media. The disputes mostly concern granting site development licenses to legal entities and natural persons in the areas of existing housing complexes.

Description of the Institutions

The executive and legislative bodies are responsible for formulating, providing and assessing state policy in the sphere of urban planning. A representative of the executive body, the Ministry for Regional Development and Building of Ukraine, is responsible for the general coordination of Ukrainian urban planning, producing vast majority of Ukrainian draft laws. The body demonstrates its readiness to interact with the public through posting information on its web-source.³ It has also established public advisory body – the Urban Planning Council, which consists of the members of Ukrainian NGOs as well.

On the part of the legislative branch, the Committee on Construction, Urban Development, Housing and Communal Services and Regional Policy of the Verhovna Rada is also concerned with the framing of the legislature addressing urban-planning. It consists of 17 members who represent different political forces. Representing a wide range of different interest this Committee tends to react slowly regarding modern challenges of public participation during urban-planning processes.

Local city councils have the main responsibility for conducting public discussions in the course of urban planning. The state administration has the authority to control the legality of local self-government decisions and the suitable use of financial resources, but does not otherwise have the power to control whether the local self-government made appropriate decisions within their competence. Most divisions of local executive committees are controlled by and accountable to both the local council and the respective division of local state administration.

As a rule, local governors have low capacity to design and implement citizen participation tools which are appropriate. Local government is not obliged to publish all local decisions. Therefore, the decisions taken by the Luhansk municipal council on questions of land assignment and development of municipal areas are not published either in local periodicals or on the internet site of municipal council.

³ <http://www.minregionbud.gov.ua/index.php?category=gromadska-rada>

Legal Framework

The basic regulatory instruments for public participation in urban planning in Ukraine are the “Territory planning and development Law of Ukraine”, “Architectural Activity Law of Ukraine”, “Local Government Law of Ukraine”. Under the conditions of these laws local authority is obliged to organize public discussions on the future construction. The investor should cover all the expenses required for conducting those. The procedure of public discussions is an obligatory part of getting the building permit.

Any local regulations on conducting public studies dealing with the urban-planning do not exist in Luhansk city. The Charter of the City of Luhansk covers some organizational aspects of public discussions in general but it is used rarely, only in those cases when the city council wishes to receive formal public support for its future decision.

Conclusions from the Polish Experience

General overview of the process of urban planning

The general local plans are the Study of the Conditions and Directions of the Spatial Management and the Local Spatial Management Plan. They are legally binding for the administration only. The main components of the general local plans are the strategy for development with a revision decision and general structure, the guidelines for land use, the framework for the contents of local plans and the municipal plan report. The maps attached to the plan show several main categories: housing, centre functions, services, work and production, recreation, transport, special areas, protection, agriculture and forestry, water areas. The general local plans do not have a limited time horizon. A formally adopted plan can not be challenged by the public.

Preparing the local plan is not compulsory. Some communes prefer to manage space through administrative decisions rather than local plans. However, this approach underestimates the advantages of flexibility, and usually leads to conflicts over land reallocation and unbalanced development.

Aggrieved groups can appeal against planning and building decisions. The appeal is considered by a higher/ another authority than the authority that took the decision currently appealed. Conflicts in planning and building matters are appealed before court. The conflicts are handled in administrative courts and in the Self-Governmental Appeal Board.

Overview of the main instruments for public participation during the preparation of plans

Public participation in urban planning is compulsory in Poland. It is required by the national legislation and is a condition for granting of the financial technical assistance from EU investors. Statutory requirements for public involvement in the planning process can't be limited or avoided.

The most popular procedures of the public participation involves an examination of the documents and future plans by local residents, public discussions and studies.

The main tools of giving the information to the local residents are the following: Internet, local paper, opened to public sessions and meetings. For example, when the City council makes a decision on starting the process of designing the local plan, a proper advertisement is put in the local paper or the Internet. The whole project of the local plan is placed on a notice board so that local residents can come and choose what should be built. The city council also holds public debates, during which inhabitants can come and ask questions. When this period is over, two weeks are given for possible protests. On the whole, residents have five weeks to present their comments. The decision to accept or reject residents' comments are considered by the members of city councils.

Procedure of public discussions involves organizing meetings with the participation of concerned persons and institutions. Meetings are often demanded by the local community itself. Everyone concerned can participate, which includes only those who own or use the property located on the planned area but also local residents. There are formal requirements for representation from consultative bodies, organizations etc. They have to provide proof of their relation to the planned area. The rules of public participation are formulated in detail, e.g. the form and deadlines of announcements.

Polish officials admit that public discussions and debates are the most efficient; these instruments allow different people to air their comments in public. In order to avoid very personal and non-professional comments of public representatives, local residents are encouraged to receive recommendations in writing. Putting the residents' remarks on the paper is essential for including them in the final variant of local norm.

Natural and juristic persons, whose motions have been rejected, have the right to appeal to the National Appeal Court. Only the resolution of the Court allows for submitting the project of the plan for adoption.

At the same time fast-oriented economic policy requires prompt response, and public consultations in case of strong protest can damage city investments sometimes. For example, according to the Warsaw Development Strategy until the Year 2010⁴, the city recognizes that

⁴ Warsaw Development Strategy until the Year 2007 (Warsaw: 1999): p. 140.

protests by residents and environmental groups contribute to protecting the environment. However, such protests should not paralyze the city's socioeconomic development. The city should take steps to utilize rational legal means for example by making protest organizers and participants liable for the costs and losses they are causing. This can be put into practice via court rulings on the lack of legal foundations for the protests. This would require new legislation. (p. 140, Waste management).

The Polish experience shows us that there can be “contract problems” created for the developer by dishonest NGOs, when the protests disappear as soon as money changes hands. In these cases it is vital to collaborate with mass media in order to publicize the true information.

Final Recommendations

Summarising the results of the studies, it is possible to define the following recommendations which would contribute to minimizing the number of conflicts during the land allotment for construction purposes.

1. The Polish experience concerning public participation during urban planning represents a vital learning value for the city of Luhansk. Both Warsaw and Luhansk cities have experienced a lot of construction projects developed and conflicts between local residents, authority and investors emerged. A close study of the Polish experience in public participation during urban planning demonstrates the significance of regulating public procedures on the local level for the community of Luhansk.

2. Public participation in urban planning should be based on and stem from the general objective and main strategic goals. Public involvement in reviewing the current document The Lugansk Development Strategy may significantly reduce the number of conflicts

3. Drawing public attention to the issues of urban planning is mandatory. It is possible through elaborating easy forms of representative information such as simplified maps, schemes, tables.

4. It is essential to disseminate information about urban planning processes, together with the justification concerning the substance of the decision by means of posting relevant information on the Internet, holding public hearings, issuing newsletters etc.

5. The result-oriented management approach within the general local running process is an essential part of the practical involvement of NGOs in the urban policy. NGOs may serve as collaborators of local government in studying and summarizing public opinion, promoting their communities' image among potential investors, running districts and achieving strategic goals.

6. Developers need to express a maximum good will to the residents of the housing area where the development is planned. They should determine potential problems that their building might directly or indirectly cause for the vital functions of the housing area. They should also offer

complex development of the areas adjacent to the buildings and restoration of ruined access roads. They should consider, where necessary, building sports grounds, planting of greenery in the yards, and repairing house entrances. It is also important to report to the developer about the works that have already been completed “at the request” of the residents. This type of reporting generates trust to the developer and relieves the tension in the relations with the residents.