LINCOLN INSTITUTE OF LAND POLICY

Talking Points

VALUE CAPTURE

Value capture refers to the recovery of increases in the value of private land resulting from public investments or administrative actions. Because values typically increase from actions not performed by the landowner, the resulting value increase is considered unearned income for the owner.

Private property rights: Private property rights are not unlimited; they are balanced by land policies designed to protect the **public interest**.

Public investment: Investments close to the property in urban infrastructure and services.

Administrative actions: Changes in land use norms and regulations, such as zoning for use or density of development. These policies often influence the value of property.

Value increases: Value capture usually pertains to increases in the **value of land**, not buildings and other structures.

Recovery: Tools to recover value increases include fees (ex: betterment contributions), regulatory measures (ex: inclusionary housing), and negotiations for the provision of community benefits (ex: adding public space to developments).

TOP THINGS TO KNOW

1. High-density land uses are only possible with **properly scaled** urban infrastructure and services.
2. New infrastructure investment usually leads to **land value increases for owners that far exceed the cost** of the investment, especially when the city's coverage of service was previously incomplete (e.g. adding water service for the first time).
3. Value capture simply **recovers** a portion of the value that is created by the public sector.
4. Charges for changes in building or development rights, conceded by the public, **are not taxes**.
5. Charges are only collected after the owner actually realizes a gain in land value, for example when a license for additional building rights is granted, or a property is sold, so that **payment capacity is always insured**.

WHY VALUE CAPTURE?

IT SHOULD BE DONE

> Municipalities need new sources of revenue to finance critical urban infrastructure.

> Value capture distributes the costs and benefits of urbanization more equitably.

> When value capture is an ordinary component of land markets, speculation in advance of public investments is reduced.

IT CAN BE DONE

> Most national constitutions and legal systems allow for some form of value capture.

> Implementation is technically feasible and no more difficult than other public charges.

> Does not require monetary transactions, but can be negotiated as land readjustments, or the development of public spaces or other obligations such as affordable housing.

IT HAS BEEN DONE

> It has a long history, from Roman times through 19th century Europe to modern times.

> Most municipalities already impose value capture under different names, such as exactions.

> Big recent history of do's and don'ts from growing number of international experiences.

IT COULD BE DONE BETTER

> We need to address key barriers to value capture: ignorance, inertia, and ideology.

> We can enact better legislation to make value capture clearer and more predictable.

> Should fit into broader efforts to monitor land markets to gain a clearer understanding of local land market dynamics.

Common Misunderstandings

- In some models, municipalities use tax increment financing (TIF) to subsidize urban development using additional property tax revenue. However, it is not a direct form of value capture because it does not allow the public to recover the owner's unearned land value increases.
- Allowing for urban density beyond the current zoning is not costless for the public. Doing so requires new infrastructure, for example. Failing to account for these costs de-legitimizes the underlying urban planning process.
- Transferring development rights without charging for the portion that exceeds basic development rights applied to all is insistent with the legal principles underlying value capture and planning throughout the city.

An Emblematic Experience

Brazil has found an ingenious solution for selling additional building rights by auctioning tradable development permits in a competitive market. Municipalities issue Certificates for Additional Construction Potential, or CEPACs (a Portuguese acronym) for large-scale urban redevelopment projects where land use and density restrictions have been redefined. The total amount of CEPACs for a project is set according to the density that present and future infrastructure can support. In two Urban Operations (large-scale public investments involving land use changes within a well-defined area) from 2004–2013, the city of São Paulo raised more than US$2.5 billion through the sale of CEPACs. The municipality used these revenues to defray the costs of major transit improvements, slum redevelopment, and other public investments in the area.

DOs

- Customize existing tools that are already in use to address local problems.
- Build in a transitional period before fully institutionalizing new value capture tools.
- Promote dialogue between all fiscal, planning, and judicial entities and stakeholders.

DON'Ts

- Adopt a new tool simply because of its success in another jurisdiction.
- Introduce new tools disregarding existing land market conditions.
- Treat landowners and developers as a single interest group at the negotiation table.

CLAIMS AND FACTS ABOUT VALUE CAPTURE

Claim: Value captured by the public is embedded in housing prices and paid by the final occupant.

Fact: Developers bid for land based on the residual value (net of costs & profits) set by the housing market - conditions having nothing to do with whether we charge for building rights. Thus the costs tend to be absorbed by the landowner.

Claim: Development (building) rights are acquired with the purchase of property.

Fact: Development rights are conveyed by the public. They do not adhere to the property but they are conveyed when a permit is requested and a license is issued.

Claim: Value capture represents double taxation.

Fact: Municipalities only tax what is already owned; the landowner is not the owner of the value generated by building rights or public investment. Value capture is a charge on this value, not a tax.

Claim: Charges on building rights distort the market and encourage gentrification.

Fact: Charges for building rights promote market transparency and mitigate the land speculation that often leads to gentrification.

Claim: Land value increases cannot be accurately assessed.

Fact: Effective methods for calculating land value increases are already in use.

For more information on our up-coming policy brief on value capture, visit www.lincolninst.edu/publications/policy-briefs/value-capture