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The Land Market in Denmark

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Introduction

In most parts of the world land is normally "owned" by some humans. Either by individuals or by people in communities or, e.g. by legal bodies owned by shareholders. The legal background for ownership might be unwritten traditional laws or laws given by the head of the family, the head of the village/county/state or by Parliament.

Ownership might provide right for the owner to benefit of the land (and its belongings) totally or partly. He might sell the land or parts of it, sell or lease some tangible or intangible rights on it (e.g. hunting, gravelling, a view etc.) and mortgage it. His actions might be restricted to some extent regarding society's interest.

The traditions and rules of buying and selling land are probably caused by the nature, the structure of industries, the social standards, and the population density.

However, in most developed countries a so-called free market for land depends on tight regulations and restrictions on how land should be used. It further depends on public available information from the Cadastre, the Land Registry, valuation information, information concerning buildings and landscape and a smooth running banking and financing system.

The land market in Denmark

Denmark's area is 43,080 km² with a population of 5,3 million inhabitants. Some 65 per cent of the area are farmed and 12 percent is covered with forest. The remained area of 23 per cent is used for roads and urban areas. Some 48 percent of the Danes live in towns or urban settlements and the average population density is 125 persons per km².

The participants in the market need public access to information from the Cadastre and the Land Book (unique parcel number, boundary demarcation, a name of the owner, address, sizes of area, mortgage, deeds, easements and former sales price). Also, public and reliable information concerning buildings and dwellings are important as well as valid public information on land valuation. Finally access to capital and a smooth running banking and financing system is required. Nearly all of this information is now in digital form. Together these instruments provide facts and clearness for the buyer as well as the seller and are supposed to prevent disagreement between the two parties. Due to that it is supposed that a large number of cases are avoided for court.

Existing properties and holdings can be bought and sold free with a few exceptions (special provisions for Summer cottages and non Danish residents, restrictions on purchasing farmland etc.), while sale of parts of properties and holdings are controlled by the provisions of the Act of Parcelling Out.

The Act of Parcelling Out ensures properties to be clearly identified and registered. When a part of a property is sold, mortgaged separately or leased for more than 30 years, this part must be parcelled out. The provisions of parcelling out include all public control concerning the objective of the land use.

The Mortgagee (bank, financial institute, individual) finds his basic guarantee in the registration in the Cadastre and the Land Book, that safeguard the real property against third parties claims of right. The owner finds his basic guarantee in the Constitution and other legislation that protect ownership.

Figures of the land market

Number of parcels and their value (1997)

In 1997 13,356 new parcel numbers derived. The number of parcels is now 2,1 million and the total land value is estimated to 75,000 million USD while the values of the buildings are app. 300,000 million USD. The land and the buildings are mortgaged for a value of 145,000 million USD.

Activity of property trades (1996)

	<u>Numbers sold</u> <u>DKK</u>	<u>Average price in 1000</u>
Residential homes	56,222	753
Condominiums	21,233	514
Summer cottages	10,132	381
Farms	5,287	73 (per hectare)
Houses with 2 dwellings	2,243	720
Houses with 3 dwellings	324	801
Houses with 4-8 dwellings	503	1106
Houses with 9 dwellings	282	4713
Living houses with store	2,819	1523
Trade buildings	1,153	4311
Industrial buildings	965	4078
Parcels - area below 2000 m2	6,433	144 (per m2)
Parcels - area above 2000 m2	1,753	56 (per m2)

Activity of the Land Registry

Over the last four years an average of 50.000 documents per week concerning title deeds, mortgages, easements, etc. in real property are being dealt with by the Land Register.

Who offers service to the land market?

As well private as public industry play important roles in the land market. In general the public industry collect information and produce facts (data) for use in another part of the public administration or for use by private counselling by Real Estate Agents, lawyers, surveyors etc. The private industries are in general advisors for the individual who wants to sell and buy land and manage the land market. Quite a few specialists and public authorities are playing parts in the land market, but in the following the most important are mentioned. It should be noticed, that the notary system does not exist in Denmark.

Private industries:

Real estate agents publish property for sale on the behalf of the individual owner. They act on the provisions in the Act on Trade of Real Property. They are obliged to provide information to potential buyers concerning the property and its belongings (buildings, forest etc.). The information should regard suggestions how to finance the property, and it is a duty to produce information stating whether there is leaks or rots etc. in the building. Due to liberalisation in legislation real estate agents in recent years increasingly complete deeds, which they in former times legally were prevented from. Real estate agents are not monopolised. People are free to arrange the property trade themselves. There are 3,877 real estate agent firms employing 13,282 people (1996-figures).

Lawyers primarily look after the legal interest of a buyer and/or seller by completing the deeds. They deal with the interests of the mortgagees and often take care of the financing situation and work together with licensed surveyors and real estate agents, when the situation demands specialists, e.g. by subdivision. Finally they mostly bring the deed to final registration in the Land Registry. As for real estate agents, lawyers are not monopolised in the field of selling or buying real property, completing deeds and register them. There are 1,663 private lawyers firms in Denmark with 11,338 employees. (1996-figures).

Contrary to real estate agents and lawyers, *licensed surveyors* are monopolised in their field of work with subdivision, transferring of land from one holding to another, amalgamation of properties and demarcation of parcel boundaries. The monopoly is stated in the Act of Subdivision and Land registration and further regulated in the Surveyors Act regarding qualifications, duties and responsibilities. Licenses are granted by the Minister of Housing to surveyors who have completed a five-year degree as M.Sc. in Surveying and Cadastral Science, and who furthermore worked with a licensed surveyor in private practice for three years. In the field of cadastral work, people are obliged to apply for, e.g. subdivision and change of property boundaries at licensed surveyors. The surveyor carries out the necessary legal survey and prepares documents needed for submission of an application to the National Survey and Cadastre for updating the cadastre. There are about 160 private licensed surveying companies with 1000 employees. (1997-figures).

Public authorities and industries

The National Survey and Cadastre is a state agency in the Ministry of Housing and Building. It is centralised in Copenhagen and runs and updates the national cadastre (register and maps). Besides it provide the public with topographic maps and sea charts.

The cadastre is updated on the basis of information from the private licensed surveyor. The Land Registry and the Municipality administration are supplied with updated day-to-day register information from the cadastre, e.g. concerning new parcel numbers and their area or change of area. As well the register as the cadastral map is fully digitised. Everyone - including the private surveyors - has access to the register and map. An Internet service allows you to get information provided that you subscribe to an access.

The Land Registry is decentralised to the local courts. The land Registry runs and update the Land Book on the basis of information from lawyers, the National Survey and Cadastre, real estate agents, banks, finance associations and individuals. The Land Registry supplies the same parties with updated, valid information of the name of the owner, easements and mortgage on every single property. From the year 2000 the Land Book will be fully digitised. There are 100 local courts keeping the Land Books. Some 40 local Land Books or 60% of the total real properties were digitised by the end of 1997. Information is sold from the Land Book Database directly or via the Internet provided one subscribe to an access.

The County Administrations keep records concerning gravel pits, landscape information, water resources, waste disposal sites etc. The extent of digital information differs from county to county. Information is available for the public.

The Municipalities keep registers concerning sales prices of every property and holding, valuation of the properties, and a register of buildings and dwellings. The sales information derives from sales declarations that every buyer of a property must submit to the municipal authorities, stating the sales prices, details about payment and the nature of the transfer (open market sale, heritage, family transfer, auction). The deed cannot be registered in the Land Book unless it is proved that the sales declaration has passed the municipal authority.

The object of the Valuation Register is to record each valuation on the single property and by that assist authorities in calculating and collecting property taxes, and provide information to consultants. The register content information concerning identification of the property (cadastral number and property number), land area of each parcel and furthermore all results of each valuation. The Central Customs and tax Administration of the Ministry of Taxation set the guidelines for the maintenance of the register.

The Building and Dwelling Register was established in 1977-79 and consist of information on three registration levels:

- Property (comprising one or more buildings)
- Building (comprising one or more units)
- Dwelling unit / Trade units

The National Survey and cadastre set the guidelines for maintenance of the register.

The information registered on each level are:

- Property: Type of ownership, water supply system, sewage disposal system.
- Building: Purpose(s) for which the building is used, accessibility from roads, numbers of dwellings, the year of construction, the year of reconstruction or extension, reinforced concrete structure or not, materials of outside walls, material of the roof, floor area, site area, number of stories, attic area, basement area, heating installation, sources of heating, elevator.
- Unit: Purpose for which the dwelling / business premises are used, type of dwelling, condemnation (premises to be demolished or closed), areas of the dwelling, area used for habitation, number of rooms, bathroom facilities, kitchen facilities, tenure, rent.

Legal system and regulation supporting the market

Provisions for buying and selling land differ a lot between certain types of land. They are of historical reasons in close connection with industrial policy. Regarding provisions on sale and acquisition of land it seems reasonable to concentrate on three types of land:

- farm land
- land for residential housing (and industry)
- land for summer cottages

Farm land

The major part of the land in Denmark is of high agricultural value. This is reflected in the fact that nearly 65 per cent of the total is utilised agricultural area. The majority in Parliament always possessed fundamental opinion for protection of access to ownership of farmland. Besides there are of historical reasons rules and regulations on farmers right to amalgamate farms and farmland. It is a fundamental political aim in Denmark to balance the numbers of small and large farms, to limit the total area of the single farm and to limit the number and the total area of farms that the individual farmer is allowed to grow.

It is normal that farms are in freehold and in addition farmers often possess one or two farms or parcels of farmland in leasehold. Restrictions on sale and purchase (and cultivating) of farmland is not in first hand based on the ability of the lands quality as soil for farming. The restrictions are based on whether the holding is registered as an agricultural holding in the cadastre. Most farming area is registered as agricultural holdings in the cadastre, but there still remain some pieces of farm land that are not included in the registration. These pieces of land can be sold free, unless preemption for the Ministry of Food, Agriculture and Fisheries is registered in the Land Book.

In *rural areas* the County council primarily is responsible for as well the protection of nature and environment, as the development of the countryside industry (e.g. agriculture and exploitation of raw material). A regional plan comprises the most important framework and form the basis for administering the provisions concerning preservation of nature and protection of beaches, lakes, watercourses, forests and ancient monuments.

The object for the Country Council is to avoid uncontrolled building and construction in the countryside. It is the basic rule, that the countryside should be reserved for buildings

and constructions necessary for farming, forestry and fishery. Ownership, use and size of the agricultural holdings are administered by a local Agricultural Commission.

Land for residential housing and for summer cottages

As in many other countries, urban development accelerated between 1945 and the mid-1980's. New large districts were created outside the historical city centres. These urban districts that include residential and commercial areas, now encompass 75 per cent of the developed urban land and cover half the population of Denmark.

Land for housing is managed by the spatial planning system. The content of a plan is decisive in every planning decision, including where and what may be build, where roads are to be located and where existing urban qualities or landscapes are to be protected. The spatial planning system is based on the principle of a framework control, in order to avoid contradiction between plans prepared on one administrative level and plans prepared on the following administrative level.

The state level (the Ministry of Environment and Energy) provides the national planning which only aims to make sure that central government viewpoints and directives are incorporated in the spatial planning, e.g. EU directives. The county council prepares and manages the regional planning. The regional plan provides the guiding directives for development in the county - mainly outside the urban areas - within a 12 years period. At the Bottom of the planning hierarchy one find the municipal plans and the local plans prepared and adopted by the municipal councils. The municipal plan determines the general structure of the municipality and creates the framework for the local planning. The local plans consider the detailed regulations in a certain district of the town and on the individual property concerning the present and future development of the area.

By parcelling out the Act of Parcelling Out ensure municipal authorities to be involved and regard considerations concerning environmental questions, road access etc.

Areas for *summer cottages* are parts of the municipal planning object and are managed by a local plan. Existing residential homes can without permission be used as summer houses, while the opposite change demands permission from the Country Council. Owners of summer cottages are limited to let their houses for a maximum of one year and companies are not permitted to acquire land for summer cottages, except a special permission from the Minister of Environment and Energy. Except for short-term holiday use, etc., a dwelling in a summer-cottage-area may not be used for overnighting from 1 October to 31 March, unless the dwelling was used for permanent residence when the area designated as a summer cottage area. There are some exceptions for retired people who want to live in their summer cottage throughout the year. Cases are frequently brought for court by owners of summer cottages, in order to sway the principle of the law in a more liberal direction.

Non-Danish residents

In the terms of Denmark' s membership of the European Union, exception has been made for *foreigners acquisition* of real property (land, houses and condominiums). Individuals or companies not registered as permanent residents in Denmark at least for a five-year period, are only allowed to acquire real property on a permission from the Minister of Justice.

There is an exception concerning permanent residence for citizens from other member states of the EU or EEA, who are legally employed in Denmark, or who establish their own company in Denmark. The exception does not comprehend summer cottages.

Financial instruments

Financing of sales price

A person who wants to buy a house, normally do not have all the money needed himself. He must usually pay some 25 per cent cash of the sales price himself. Moreover, special credit associations were established for years with the only purpose to borrow on mortgage for real property purposes. They provide buyers with bonds that are sold on the stock market. The profit from the sale should be within a determined limit of 80 percent of the valued price - that is the price paid by a reasonable buyer. For living houses the limit is 80 per cent with a pay-back maximum of 30 years. For summer houses it is 60 per cent and with an equal pay-back limit. The remaining necessary capital comes from banks, mortgage deeds, private investors etc.

Taxes

But the land market is of public interest too concerning taxation. Immovable property is subject to a number of taxes:

- *Property tax* to counties and municipalities is based on the market value of the land and a building tax based on the market value of the buildings used for residence, business or for public use. The rate of the land tax to the counties is fixed by central government. Further more central government have decided maximum rates for the service tax. The average rate was in 1992 2.4%. The decision of the municipal land tax rate within the prescribed limits is considered to be an important element for local fiscal discretion. Owner-occupiers of dwellings and summer cottages must include an *imputed rental* of the property in their declaration of income for personal income tax. The imputed rental is fixed by law as 2% of the total value of the house or apartment and is increasing for values beyond 1.5 million DKK (app. 230.000 USD).
- *Development gain tax* occurs for land, transferred from rural to an urban zone and is based on the difference between the land value after rezoning and the land value for agricultural use.
- *Property transfer tax* is a stamp duty that must be paid to the Land Registry whenever a property is sold or transferred to another owner.

Furthermore the values of properties are parts of the basis of *net wealth tax, inheritance and gift duty and capital gain tax*. The national Survey and Cadastre collect 785 USD as a *subdivision duty* for each new parcel created. The money goes directly to the Treasury.

The role of the Land Registry and the Cadastre

The Cadastre

The Danish cadastre derives from the results of the enclosure movement, and was established in the year 1844. From the very start, the cadastre consisted of two parts: The cadastral register and the cadastral maps, Both of these components have been updated continually ever since.

As a result of the enclosure movement, the former feudalistic society was changed into a society based on private ownership of land. Even if the primary purpose of the cadastre was to levy land taxes, the cadastral identification was also used to support the land ownership and land transfer system.

Over time the Danish cadastre has changed from being primarily a basis for land valuation to a legal cadastre supporting an efficient land market.

The cadastre is maintained by a state agency, the National Survey and Cadastre, while cadastral surveys are carried out by the private licensed surveyors, with some exceptions.

The main provision in the Act of Subdivision and Land Registration is the obligation of the land owner to apply to a licensed surveyor. The apply is needed in order to start the process that lead to the updating of the cadastre whenever a part of a real property is either sold, mortgaged or leased for a longer period (30 years). This main provision must be fulfilled due to the need and benefit of the land owner to get the legal rights of ownership and mortgage secured through registration in the Land Book. Therefore, subdivision must be carried through prior to registration of the title deeds for land parcels being a part of a property. These land parcels are then identified as individual properties in the cadastral register. The interaction between the cadastral system and the Land Book has proved to be basically secure and effective.

The cadastre consists of four elements:

- The parcel register (2.5 mill parcel numbers with area, number of plots, names of cadastral zones, names of cadastral maps, obligations concerning farming and foresting etc.) - computerized.
- Measurement sheets related to parcel boundaries (one million sheets) - not computerized.
- Register of control points used for cadastral surveys (approx. 360.000 points) - computerized.
- Cadastral maps (15.000 sheets, mostly in scale 1:4000) - computerized.

The Land Registry

In the year 1845 the land registry system was established by the local district courts for recording and protecting legal rights of ownership, mortgage, easements and leases for land.

There is no notary system present in Denmark. The Land Registry Act states that legal

rights of ownership and mortgage must be registered in the Land Book to be secured against any third party rights. Also, it is stated that the legal rights of ownership and mortgage must include the total area of the property in order to ensure the priority rights, e.g. by forced sale. The Land Book is based on the cadastral identification. Each property has a sheet showing the cadastral information (cadastral number(s) and areas), a name of the land owner and information on the mortgage and easements.

The Land Registry consists of the following information:

- Titles to land
- Mortgage (the nature and priority)
- Easements
- Limitations or obligations (according to private agreements or public regulation)
- Other areas of legislation (e.g. condominium apartments)

The Land Registry is run by the district court. It is based on the parcel numbering system derived from the cadastre and is regularly kept updated with information of subdivisions, amalgamations of parcels etc. from the cadastre. The Land Registry is under computerisation and will be fully computerised by the year 2000.

Integrated land management in Denmark

The land management in Denmark is organised as a network of interactive subsystems containing the information that is used very often. E.g. the Cadastre and the Land registry are placed in two Ministries, two separate databases and run by two very different organisations. For the land market purpose an automatic linkage between the subsystems is achieved, by establishing the "Cross Reference Register" which contains all key identifications within each subsystem (e.g. the cadastral parcel number, the building number, the postal address) and the cross reference between these identifications. Therefore it is possible to obtain all available information on a specific property or building by knowing only one of the keys. Furthermore, the identification-keys aim to be linked into the relevant physical element represented in the maps, e.g. the parcel, the building. Unique links exist, e.g. between the Parcel Register, the Digital Cadastral Map, the Land Registry, and the Building and Dwelling Register caused by the cadastral parcel number.

Further there are links between the Building and Dwelling Register and the Central Population Register due to the unique postal addresses of the buildings. By linking a set of X,Y- co-ordinates and thereby establish a list of geo-coded addresses, it should be possible to link any address related information to a map database, which will create a multipurpose information tool for analysing and administration purposes.

Bottlenecks and problems

As the information concerning the land market these years becomes more accessible and open to the public due to information technology, discussion concerning prices on data increases. Particularly data produced by the public sector are in focus. Most of the public institutions are based on some revenue from sale of data, but there are some opinions claiming that public produced data should be sold only for the delivery costs.

Future developments

The most obvious challenge for the future is to gain from the digitalization of all the registers and maps completed over the last decade in order to provide cheap and quick information to the parties, who are playing a role in the land market. It is a challenge that of course is of technical nature, but first demands political awareness and flexible and open organisations as well in the private and public sector. Demands from customers will increase in order to get reliable and quick facts concerning the single property. Now 20 per cent of all families have access to the Internet from their homes. In the year 2000 this number is expected to increase to 50 per cent.

Cadastral, Land Book and other public and private information sources are necessary services to a smooth running land market - not stand-alone-development-factors in the land market. Information will be in great demand in a simple and sufficient form, regardless of the sources that produce it.

While labour forces, business and capital in the European community can move free from one country to another, the demand of national taxation increasingly aim at taxation of immovable property and consumption by using the property. These years new kinds of tax on waste, drinking water, sewage, electricity, heating and CO₂-outlet have appeared while taxation on labour is moderated. The development is intensified by the strong political demand for a better environment. There are therefore strong signals that call for future needs of reliable data concerning land and its belongings.

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