



## Newsletter, Volume 2, no. 1, January 2010

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### Letter from the President and EXCO

Dear PLPR members,

We are pleased to present the second PLPR Newsletter. In about 2,5 weeks many of us will meet in Dortmund. Just like the first three, PLPR's fourth conference promises to be interesting and successful! We look forward meeting you again.

An important event during the General Assembly in Dortmund will be the elections of new officeholders. Our Statutes say that there are four elected ExCo positions (the other positions are either appointed or are derived from hosting the annual conferences). The elected positions are: President, Vice President, Secretary General and Ph.D. Coordinator. We have candidates for all four positions. Leonie Janssen-Jansen decided to run for President, Ben Davy for Vice-President, Thomas Hartmann for Secretary, Michelle Oren for PhD coordinator. They distributed their mission statements in October and November, after my approval as the Chair of the Election Committee (Rachelle Alterman, as outgoing President). We will also decide on the location for the 2012 PLPR conference. It is still possible to apply for hosting the 2012 conference.

Please feel free to submit relevant items for the newsletter, such as announcements of your important new publications, prizes and events. We will include them in our Members' News section. Further, we would like to encourage all members to subscribe (and use) our List-serve (see our website: <http://planning-law.socsci.uva.nl>). Those who have recently started to use it, have found it very useful for their research. Also, you may post your publications on our web site, thus increasing both our collective knowledge base and your own "Citation Index" count.

Kind regards, also on behalf of the other ExCo members: Leonie Janssen-Jansen (Vice President), Mirek Gdesz (Secretary Treasurer), Thomas Hartmann (PhD, Coordinator), Michael Sorensen (Past Local Conference Chair), Ben Davy (Dortmund Conference Chair), Dick Norton (North America Liaison) and John Sheehan (Pacific Rim Liaison),

*Rachelle Alterman*

President - International Academic Association on Planning, Law and Property Rights

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## **Information on Upcoming Activities**

### **Fourth Conference, Dortmund, Germany, 10-12 February 2010**

We are proud to welcome over 120 academics from the field of planning, law, and property rights from 10 to 12 February 2010 in Dortmund! The Ruhr, as you certainly have already heard, is the European Capital of Culture 2010. We are happy that you will find many exciting opportunities for sightseeing before and after the PLPR conference.

The abstracts that passed through rigorous double-blind review show the wide scope of PLPR. Therefore, papers will deal with land use regulation, theories of property rights, expropriation, land use control, poverty, or management of natural resources. All presentations will have in common a strong interest in spatial planning issues, law, and property rights. The Book of Abstracts will be available on the conference website [www.plpr2010.tu-dortmund.de](http://www.plpr2010.tu-dortmund.de) by the end of January. The presence of academics from Australia, Asia, Africa, North and South America, and from all over Europe demonstrates the demand for our annual conference.

Conference delegates expect not only over 90 vibrant presentations in 21 sessions, but also the poster exhibition "Faces of Land Policy". Professor Michael Wegener, Professor Harvey M. Jacobs, and Professor Ali Madanipour will deliver inspiring keynote speeches. The founding president of PLPR, Professor Rachelle Alterman, will launch a roundtable on land use regulations and compensation rights. Thomas Hartmann will chair a special PhD-roundtable continuing PLPR's commitment to young academics' achievements. On Tuesday 9 February 2010, a pre-conference tour in the evening will take us to some of Dortmund's highlights. Also, there will be a welcome reception, a conference dinner and a lot of opportunities to schmooze and network (check dates, times, and locations on our website).

Benjamin Davy, Gabi Zimmermann, Heinz Kobs, Kathrina Schmidt, and Thomas Hartmann (Local Host Committee 2010)

### **7-10 July 2010, Group meeting during the 24<sup>th</sup> AESOP Congress, Helsinki, Finland (<http://aesop2010.tkk.fi/>)**

### **Fifth Conference, Edmonton, Canada, 25-27 May 2011**

The fifth PLPR conference will be held at the Faculty of Law, University of Alberta. More information (including the call for papers) will follow during the Dortmund conference. Russell Brown and Eran Kaplinsky will be our hosts.

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## Future Activities

### Call for hosting the 6<sup>th</sup> PLPR-Conference (REMINDER)

Our Association has already had three successful congresses: The inaugural one in Amsterdam (2007), the second in Warsaw (2008), the third in (2009). Next February the 4<sup>th</sup> congress will be held in Dortmund. ExCo has already decided on the venue of the 2011 conference in Edmonton.

Following the approval of our Association Statutes at the General Assembly meeting in Aalborg in 2009, the selection of future congress venues will be made through an open Call. We would like to invite our members to apply to host the 2012 congress. The preferred time of year is February 2012, but ExCo will consider other dates as well.

If you and your university (or other relevant academic institution) is interested in hosting the 2012 conference, please send a message to Leonie Janssen-Jansen (l.b.janssen-jansen@uva.nl) as soon as possible. Please include preliminary information about the location and the conference facilities. Please also suggest the members of the local organizing committee, the general time of year (month or even week), and type of support that your university would be willing to provide

ExCo will consider the proposals and may decide to recommend one or more venues. ExCo will bring the full set of proposals for a vote during the General Assembly in Dortmund, on February 12<sup>th</sup> 2009, along with its recommendation (if any).

We look forward to your proposal!

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## Members' news

*[This section is still in embryonic format, and includes only events and items that happened to come to our attention; a Call follows for the forthcoming Newsletters].*

- Barbara Havel obtained her PhD on December 4th 2009 at Helsinki University of Technology. Congratulations!
- Prof. Harvey M. Jacobs (University of Wisconsin-Madison, USA) traveled to Gabes, Tunisia in late November where he was the invited, keynote speaker to a week-long conference for young academic and professional researchers organized by a consortium of French and Tunisian research organizations; his talk was titled "Gouvernance Publique et Propriété Privée des Ressources Naturelles" (Natural Resources: Private Property and Public Governance). Also in November Prof. Jacobs was an invited participant as part of an expert panel meeting focusing on the problem of obsolete (so-called "zombie") subdivisions in the American west; the meeting was convened by the Lincoln Institute of Land Policy and the Sonoran Institute. In recognition of his overall body of work, Prof. Jacobs was selected to be included in the 64<sup>th</sup> (2010) edition of Who's Who in America.
- Evangelia Balla has been appointed as the Deputy Greek Ombudsman in the Department of Quality of Life, December 8<sup>th</sup> 2009. This Department investigates citizen's complaints in the area

of urban and regional planning and physical environment. The principal mission of the Greek Ombudsman is to mediate between the public administration and citizens, in order to help citizens exercise their rights effectively. As a mediator, the Greek Ombudsman makes recommendations and proposals to the public administration. Congratulations!

## Announcements of New Books by Members

**New book by Rachelle Alterman *et al*:**

**Takings International: A Comparative Perspective on Land Use Regulation and Compensation Rights. Chicago: American Bar Association Press 2010.**

Book abstract: Everywhere in the world, land-use law and regulation inevitably affects real-property values – either increasing or decreasing them. The downward side – known to Americans as “regulatory takings” and “partial takings” – is the potential raw nerve of land use regulation. Aimed to enable cross-national learning about laws and practices on this controversial issue, this book is the first large-scale systematic research entirely devoted to regulatory takings. It encompasses 13 advanced-economy countries around the globe, chosen to represent a variety of legal systems, institutional formats, planning culture, size and geography: the USA, Canada, Australia, the UK, Sweden, Finland, the Netherlands, France, Germany, Austria, Poland, Greece and Israel. Leading scholars from each of these countries – many of them members of PLPR – were invited by Rachelle Alterman to analyze their country’s laws and practices according to a shared, detailed format.

The findings show a surprising variety of approaches to regulatory takings. The comparative prism yields many counterintuitive observations that shed a new light on the cauldron of the “property rights debate” in the USA. Rachelle Alterman and her team have succeeded in making this book a “must” not only to legal professionals and academics, but also to urban and regional planners, real-estate developers, and civil-society groups.

## Members’ announcements

**Proposed AESOP session: International comparison of discretion in planning and development determinations/assessments**

Dear PLPR members,

At the PLPR meeting in Aalborg earlier this year, expressions of interest for research on international comparisons of discretion and flexibility in planning and development assessment/determinations were sought (see annex for the proposal). To advance research on this subject, the organisers of the AESOP conference in Helsinki in July 2010 are being asked to arrange for a special session to be included in the Planning Law and Property Rights stream for papers on this subject. The types of research that might be included are outlined in the annex. Accordingly, I am inviting IAAPLPR members to submit abstracts on this subject to the AESOP organisers before 31 January 2010 for inclusion in the proposed session, and advise me ([g.searle@uq.edu.au](mailto:g.searle@uq.edu.au)) if you do so that papers can be grouped and the session organised. Papers that deal with discretion and flexibility in planning in only one country are as welcome as those that compare nations, as these can form the basis of ex post international comparisons, though they should as far as possible highlight distinctive features of their

planning systems that contribute to different levels of discretion. Depending on the number and quality of papers, it is intended to approach a quality academic journal after the conference to publish a special issue from these papers.

Best regards,

Glen Searle, Associate Professor, School of Geography, Planning and Environmental Management,  
University of Queensland, Australia

**PLPR members are encouraged to send us announcements of major  
new publications and events!**

## ANNEX

UTS: FACULTY OF DESIGN ARCHITECTURE AND BUILDING  
ASIA-PACIFIC CENTRE FOR COMPLEX REAL PROPERTY RIGHTS



### **Research proposal: International comparison of flexibility in planning and development determinations/assessments**

A central dimension that distinguishes different planning systems and resulting development outcomes is the degree of flexibility and discretion that is allowed in individual development determinations. Some systems, such as that for central Paris, allow little or no deviation from development controls. Other systems allow a high degree of variation from controls and standards.

A key research question here is why such variations in flexibility and discretion should occur. A number of possible reasons suggest themselves. At a meta level, national differences in the balance of private rights versus public interest are one potential contributor, with more flexibility given in those countries that favour private rights more. Related to this, ideological differences are potentially critical, such as the contrast between neo-liberal regimes (e.g. the US) and regimes with vestiges of the social welfare state (e.g. Netherlands).

At another level and potentially arising from the above, is the planning system structure itself. Questions here might include the role of legal tradition and international precedents (in the case of younger systems such as those in Australia) in setting the extent to which planning allows variation from standards and norms as expressed in controls, and the way in which this might have changed over time. An important area of potential research here concerns how different systems vary in the kinds of development characteristics that are controlled.

A further level concerns the way in which allowed flexibility is applied. In some cases, legal avenues allowing discretion under nominated circumstances might be applied de facto to a much greater extent than envisaged in the formulation of those avenues. Thus the permitted deviations from controls result in a much more flexible assessment of development applications than the clauses and controls in the planning system would suggest. This could be because of subsequent pressures to increase the rate of overall development, for example. Such increased flexibility might occur at the agency level and/or at the legal appellate level.

Expressions of interest to take part in an international research project are sought from researchers from countries that have planning systems that might be analysed in the above ways. The University of Technology Sydney's Asia-Pacific Centre for Complex Real Property Rights would contribute an analysis of flexibility in the planning system of the state of New South Wales, Australia. Other countries with planning systems that might make for appropriate comparisons could include The Netherlands, Denmark and Sweden, for example.

To set a basis for potentially productive comparisons, some critical aspects of Australian land use planning and its evolution can be mentioned here. In brief, Australian planning is structured around legal local and state plans that set controls over land uses (via zoning) and development within permitted uses. Major developments have greater environmental impact assessment. There is considerable discretion to grant or refuse development applications outside the controls set in plans,

via appeal rights based on broad conformity of developments with plan objectives and public interest considerations, for example. The legislation to enact such land use regulation dates from 1951, and was heavily influenced by the *Town Planning Act 1932* (UK) and the earlier *Town Planning Act 1925* (UK). While Australian planning legislation has drawn the UK legislation in significant aspects such as compulsory acquisition of land for public purposes, it departs from UK legislation in making zones and associated development controls the central basis for assessing development applications.

The research structure of the project is to be formulated, but could include some or all of the following elements:

- Comparative analysis of the influence of national characteristics on the degree of development flexibility built into planning systems: this might include interviews with senior officials and lawyers of their views on this;
- International comparisons of the extent and nature of flexibility in planning systems;
- Comparative international case studies of development variations in each planning system within particular types and locations of development.

Some funding for the project would be sought from international collaborative research project grants given by the Australian Research Council.

The contact on this proposal is:

Associate Professor Glen Searle, School of Geography, Planning and Environmental Management,  
University of Queensland  
[g.searle@uq.edu.au](mailto:g.searle@uq.edu.au)