



# Land Administration and Management in Ulaanbaatar, Mongolia



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# Contents

- Acknowledgments .....vii
- Executive Summary..... ix
- Abbreviations and Acronyms ..... xv
- Glossary .....xvi
- 1. Introduction ..... 1**
  - Overview of Report ..... 2
  - Urban Expansion and Population Density..... 4
- 2. Regulatory Framework and Practice of Land Management ..... 19**
  - Laws on Land and Property Relations ..... 20
  - Planning Standards and Regulations ..... 32
  - Land and Property Fees and Taxes ..... 33
  - Discussion of Constraints and Obstacles to Land and Property Administration ..... 37
- 3. Managing City-Owned Land ..... 39**
  - Land Shortages in UB..... 39
  - Missed Opportunities in Land Value Capture ..... 44
  - Inventorying and Registering Municipal Assets ..... 46
  - Valuation and Pricing of Land and Real Property Assets ..... 49
  - Discussion of Challenges to Public Land Management ..... 52
- 4. Urban Land and Property Markets ..... 55**
  - Land and Property Markets in Urban Development ..... 55
  - Existing Land Use Patterns in Ulaanbaatar ..... 57
  - Constraints to Urban Land Markets ..... 59
  - Discussion..... 62
- 5. Conclusion and Recommendations ..... 65**
  - Recommendations: Public Land Administration and Land Value Capture ..... 67

**Appendixes**

A. The Evolution of Land Laws in Mongolia..... 77  
B. Forgone Past and Potential Land-Based Revenues in UB ..... 83  
C. Land Value Zones for Determining Land Fees in UB ..... 91

**References ..... 93**

**Boxes**

2.1: Case Study: The Challenge of a Dual Property Registry in UB..... 25  
2.2: Case Study: Improving Revenue Collection through Integrating Information Systems:  
The Case of Arusha, Tanzania ..... 26  
2.3: Case Study: Cadaster Database Tampering in UB..... 27  
2.4: Case Study: Problems with Inheriting Property in UB ..... 29  
2.5: Case Study: Land and Property Transfer as a Commercial Transaction ..... 30  
2.6: Case Study: Successful Land Administration in Georgia ..... 31  
2.7: Land Fee Assessments in UB ..... 35  
2.8: Case Study: Missing Revenue from an Alternative Property Value Assessment in UB..... 36  
3.1: Additional Corruption Allegations Concerning Public Land Allocation in UB..... 42  
3.2: Densification and Commercialization of Land Use in Central UB: The Case of the Mongolian-  
Indian Joint School ..... 43  
3.3: Unpermitted Development on Public Lands in UB ..... 44  
3.4: Berlin’s Experience in Managing Surplus Property: Liegenschaftsfonds Berlin ..... 46  
3.5: International Debate and Lessons on Market Valuation of Government Land ..... 50  
3.6: Examples of Successful Land Auctions in Turkey and Egypt ..... 52  
4.1: Zaisan: The Cost of Illegal Fringe Development ..... 59  
5.1: Development Fees as a Source of Municipal Revenue ..... 66  
5.2: Using a Land Task Force in Establishing Strategic Land Management..... 67  
5.3: Prerequisites of Successful Land Auctions ..... 71  
5.4: Property Valuation for Taxation Purposes: Area-Based Valuation ..... 72

**Figures**

E.1: Road Hierarchy, Surface Area Coverage, and Population Density, UB and Selected Cities,  
2003–12..... x  
1.1: Population Growth in Ulaanbaatar, 2001–11 ..... 4  
1.2: Changes in Built-Up Areas of UB, 2000–10 ..... 5  
1.3: Population Densities across UB, 2000–12 ..... 7  
1.4: Density and Population Gains in UB by District, 2000–13 ..... 7  
1.5: Change in Total Area of Urban Expansion in UB by Type, 2000–10 ..... 8  
1.6: Road Hierarchy, Surface Area Coverage, and Population Density, UB and Selected Cities,  
2003–12..... 10  
2.1: Organizations Involved in UB’s Land Privatization Process ..... 21  
2.2: Procedures for Obtaining Land Use, Possession, and Ownership Rights in UB..... 24  
2.3: Procedures, Times, and Costs in the UB Land Privatization to Ownership Process ..... 28

3.1: National Drama Theatre Parcel and Commercial Building under Construction in UB .....	40
3.2: Nontransparent Carving Out of Public Land for Commercial Use in UB before 2012 .....	41
3.3: Preventing Unauthorized Use of City-Owned Land in UB .....	43
5.1: General Classification of Urban Land Controlled by the Government of UB .....	70
5.2: Classification of Vacant Land in UB .....	70

## Tables

2.1: Land Tenure Typology in UB .....	22
2.2: Land Use Zones for Regulation in UB .....	32
2.3: Property Tax and Grants from Upper Government as Shares of Local Government Revenue, UB and Selected Countries and Cities, 2007–09 and 2013 (percent) .....	34
3.1: Estimated Forgone Revenues from Land Auctions in UB, 2011–12 .....	45
3.2: Progress of Inventorying and Registration of Municipally Owned and Controlled Assets in Ulaanbaatar (to end-2013) .....	47
3.3: Balance of Government-Owned Land, Ahmedabad, India.....	48
3.4: Nonfinancial Assets on Warsaw Balance Sheet, 2008 .....	49
3.5: Estimated Revenues from Annual Land Use Fee by Type of Land Holders, 2014.....	51
3.6: Starting Prices and Auction Revenues of Land Sales in UB, 2003–10 (MNT thousands).....	52
4.1: <i>Khashaa</i> Plot Prices from <i>Khoroo 26</i> , Songinokhairkhan .....	58
5.1: Potential Revenue Modifications for UB Budget .....	74
B.1: Scenario 1 of Forgone Revenues from Past Land Allocations .....	83
B.2: Scenario 2 of Forgone Revenues from Past Land Allocations .....	84
B.3: Scenario 3 of Forgone Revenues from Past Land Allocations .....	84
B.4: Potential Future Revenues from Auctioning Surplus Land from Various Possession Holders.....	85
B.5: Potential Annual Revenues from Property Tax Based on Market Value .....	85
B.6: Area of Commercial and Service Land, 2012 (m <sup>2</sup> ) .....	86
C.1: Type of Land Use under Possession, and Use Rights for Land Value Zones, and Land Fees under Current Practice .....	92

## Maps

1.1: Basic Land Use Categories, Ulaanbaatar, 2010 .....	6
1.2: Public Transport Routes in UB, 2013.....	12
1.3: Fire Risks across UB, 2013.....	13
4.1: Average <i>Khashaa</i> Prices in UB, 2013 (million MNT/m <sup>2</sup> ) .....	57
4.2: Projected Distribution of Land Use Zones in UB through 2020 .....	60
C.1: Boundaries of Zones to Be Used for Determining Land Fees in UB .....	91



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The study was carried out by a task team led by Meskerem Brhane (Lead Urban Specialist) and comprised of David Mason (Consultant, Urban Planner), Geoff Payne (Consultant, Urban Planner), Olga Kaganova (Consultant, Land Specialist), Chinzorig Batbileg (Consultant, Land Specialist), Erdene Ochir Badrach (Operations Officer) and Rumana Huque (Senior Urban Specialist). David

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# Executive Summary

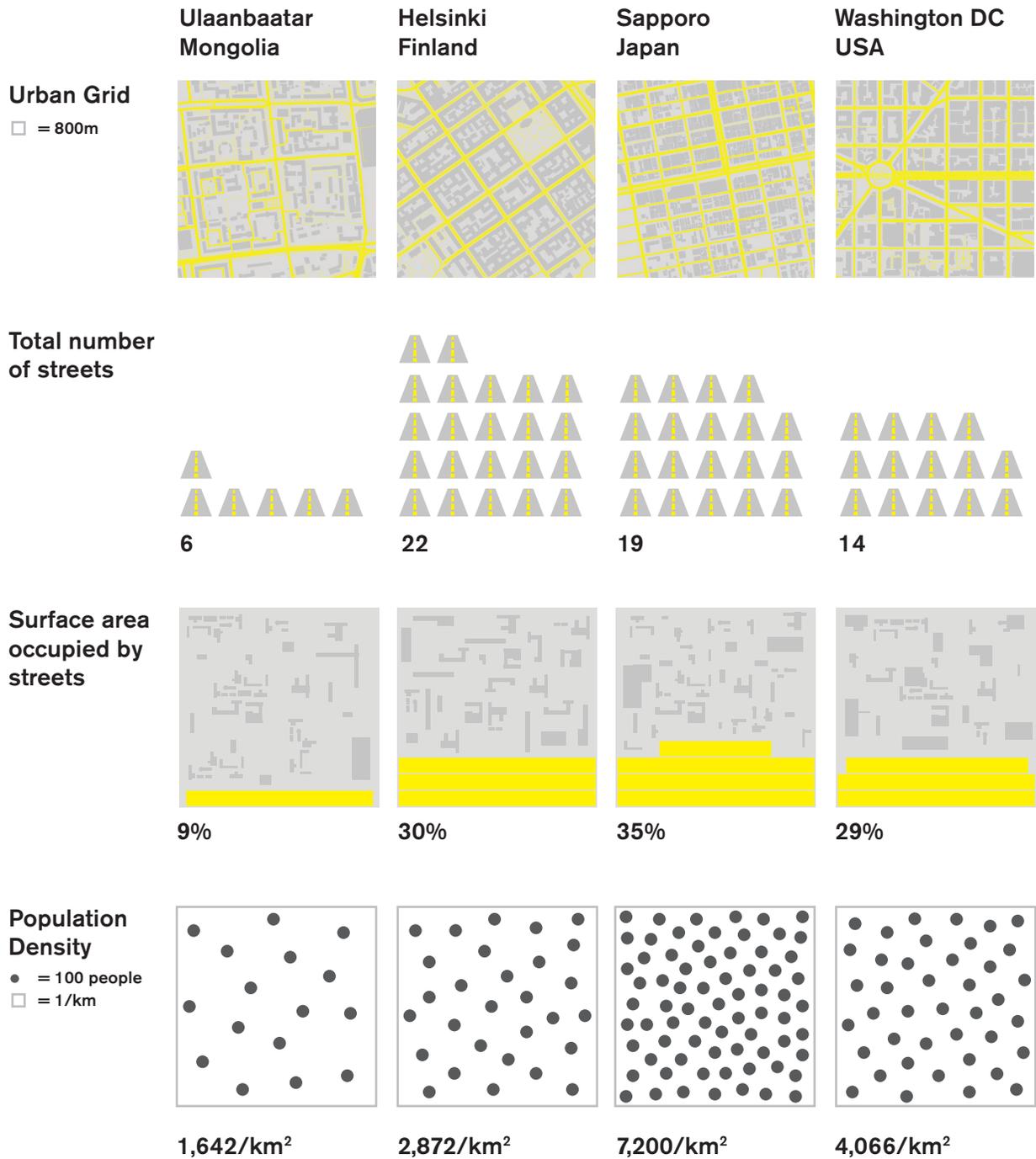
**The City of Ulaanbaatar (UB) is undergoing a historic transformation toward market-driven urban development. This growth remains strongly influenced by city policy decisions that affect the supply and location of land for public and private uses.** Private investment is concentrated in well-serviced land located in the central portion of the city and along major transportation corridors, which represent a small part of the total built area of the city. Mongolian law allows UB residents free access to land for residential use, which is commendable because it can reduce a substantial portion of the overall cost of housing. Due to these land allocations, however, low-density urban expansion has occurred along the urban fringes, which imposes heavy costs on transportation and the provision of basic utilities for city residents and omits an important possible source of revenue for financing these improvements.

**The current city administration clearly recognizes that urban land represents one of the most important assets under its guardianship and management.** In particular, the administration is making a systematic effort to proactively manage land in the public interest. Notable achievements include: (i) a nearly complete, current accounting inventory of city-owned capital assets; (ii) surveying, mapping, inventorying, and auditing public-use land; and (iii) decisive administrative measures to stop and correct past practices of nontransparent and sometimes unlawful land allocations to private sector actors, and to protect public land from informal occupation.

**However, such reforms are incomplete, and the city administration's efforts are constrained by existing national laws and regulations and conflicting perceptions about land as a designated public entitlement for residential use.** There are several outstanding challenges the city faces in improving the administration of land and supporting the function of urban land and property markets to support investment and economic growth.

**Low-density urban expansion and lack of infrastructure combine to reduce residents' quality of life and the city's overall economic competitiveness.** Moreover, the fact that large expanses of urban territory do not have infrastructure weakens the city's attractiveness for employers and workers among the highly competitive international metropolitan areas in the region. Out of 869 cities in the East Asia region with a population greater than 100,000, only 182 (21 percent) have a lower population density than UB. The low-density urban form of the city increases the need for private automobile use, which escalates traffic congestion and commute times, costing workers and firms time and money (see figure E.1). For example, one third of *ger* area residents have a round trip daily commute of between two and four hours. Higher density significantly reduces the costs of public service provision. For example, Bayangol has the greatest population density and highest number of streetlights in the city, but also has the lowest per-resident expenditures on street lighting: one third less than Songinokhairkhan District and three times lower than Sukhbaatar District. By

**Figure E.1: Road Hierarchy, Surface Area Coverage, and Population Density, UB and Selected Cities, 2003–12**



Sources: Graphic: Mongolia Ministry of Economic Development. Data: Population Register of Finland 2012; Barter, Kenworthy, and Laube 2003; U.S. Census Bureau 2012.

Note: Population density is measured using administrative rather than built-area boundaries due to data constraints of comparable cities. km = kilometers; m = meters; km<sup>2</sup> = square kilometers.

contrast, low-density growth of *ger* areas makes the costs of public infrastructure, such as roads, high, while heating and sewerage to these areas would require public capital and ongoing operating expenses at a level so prohibitive that they often cannot be provided at all.<sup>1</sup> The resulting lack of central heating and sewerage leads to increased air pollution and water contamination and the attendant public health risks. Importantly, these disadvantages of the low-density urban expansion fall disproportionately on the urban poor who live in these areas.

**The city’s street system and land use plan, not population density, contributes to traffic congestion.** Compared to other major cities in the region, UB has a comparatively high vehicle ownership rate and a low overall supply of road space.<sup>2</sup> Existing street networks do not alleviate traffic congestion and do not support pedestrian activity. Figure E.1 compares 0.64 square kilometer (km<sup>2</sup>) sections of central city areas in UB and three other cities of comparable populations collected from 2003 to 2012. The figure shows how downtown UB consists of large streets and superblocks with very few connections. By contrast Helsinki, Sapporo, and Washington, DC have a hierarchy of large streets for rapid movement and smaller streets for internal circulation around smaller blocks. This improves vehicle and pedestrian mobility, especially if land uses are coordinated with road and transportation investments.

**Urban planning regulations and approaches are outdated and contribute to sprawl and land market distortions.** Current land use regulations in UB are rigid

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1. For example, a 2009 World Bank study estimating infrastructure costs found that water connections would cost between US\$4,500 and US\$11,500 per household with heating connections between US\$2,000 and US\$8,000 per household (World Bank 2010). A more recent World Bank survey estimates that 52.3 percent of *ger* households earn US\$3,243 (MNT 6 million) or less per year (World Bank 2014a), suggesting the connection costs for these two services alone are far out of the ability of many *ger* households to pay.

2. UB has 378 registered vehicles per 1,000 inhabitants; nearly twice that of Cebu City, Seoul, and Shanghai and more than five times as many as Hong Kong SAR, China. A measure of the proportion of urban area for road space reveals that Manila, Shanghai, Ho Chi Minh City, Singapore, and Hong Kong SAR, China have between 4 and 9 times more road space as a proportion of total urban area (World Bank 2014c; 2015).

and encourage segregated, rather than mixed, land uses. International best practice suggests that monofunctional land use should not consist of more than 10–15 percent of overall urban land areas (UN-Habitat 2013:28). By contrast, the current UB Master Plan (MCUD 2013) designates a total of just 1.7 percent of land in the city for mixed uses, reducing to 1.39 in future. Single-use residential zones are planned for 30 percent of the city, but these zones do not allow for commercial activities, which residents must reach by traveling to other parts of the city. These restrictions on land use also inhibit investment in uses that markets could otherwise support, raise the cost of development, and discourage the economic and social benefits that cities accrue through density and efficiency of land use.

**Current laws and practices on land change frequently, which results in uncertainty for developers and inefficiencies in administration.** Frequent changes in laws and regulations have resulted in inconsistencies between them, which creates uncertainty among potential investors and anomalies in land administration such as leases that require frequent renewal. The use of the tenure distinction between “possession” and “ownership” rights for residential use is not clear in practice as both afford holders very similar rights. Firms and legal entities cannot own land and must obtain possession rights, which can be subject to frequent discretionary renewals because of the possibility that they can be terminated after only 15 years. This creates unnecessary confusion and uncertainty and can distort investment decisions in land due to perceptions that use certificates will not be renewed.

**Land administration systems need to be more efficient and transparent.** There are numerous city and national government organizations involved in land administration, which leads to fragmentation and duplication of tasks for government organizations, as well as extra costs and confusion for land service users. For example, privatization of a land plot involves nine organizations and 113 days for completion. Further, some administrative processes are duplicated by the Property Relations Department (PRD) and General Administration for State Registration (GASR), increasing the time and costs for both

government and land users. As a result, most users do not register their land ownership in GASR. The Tax Department and PRD have unclear responsibilities in assessing and administering property-related taxes and fees, which reduces their efficiency in collecting them. The quality of service to the public of various land-related offices varies substantially across the city: some offices provide clear guidance through one-stop-shops while others may have absent or unqualified staff and require applicants to visit multiple times.

**Management of government land in UB has not yet reached its full potential, technically or strategically, despite steady progress.** Most importantly, the city has no transparent, coherent land policy to guide public land management for the next decade, which risks the misallocation and undersupply of land for public uses. Complete and accurate registry and cadaster records of all publicly owned land parcels will help ensure that decisions to allocate all or part of these parcels for private uses are well planned and coordinated. Data on public land locations and availability should be widely available to both the public and the city government.

**UB forgoes significant public revenues that could be derived from private investment in land due to the current weaknesses in land administration and management.** The public broadly understands that land and property in UB have a market value, as suggested by the active real estate market. However, the city has yet to adopt international practices that allow government to capture a part of this value through property/land taxation and other value-capture instruments. Such revenues could be used to finance much-needed basic infrastructure and amenities such as public parks. Instead, government attention has been narrowly focused on reducing evasion of the transaction tax on property (where sellers and buyers under-report transaction prices to avoid paying) through a proposed Land Exchange, rather than identifying other sources of revenue from property and improving the land registration system.<sup>3</sup>

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3. This form of tax evasion is well documented internationally. The issue can be addressed at least partly by reducing the tax rate. However,

There is a greater and yet unrealized potential for increasing the land/property revenues for the UB budget than the existing transaction tax. Even a modest land and property tax (on apartments, nonresidential properties, and land plots with houses) based on their market value, could generate an annual sum equivalent to *35 percent* of 2012 budget revenues. Auctioning surplus land held by budget organizations, NGOs, utility companies, and other entities could generate additional funds equivalent to *25 percent* of the 2012 budget each year for the next 20 years.<sup>4</sup>

**Land fee and tax policies along with land allocation practices provide little revenue because they do not reflect the market value of land and property.** The city collects little revenue from residential properties and apartments due to exemptions and substantial tax rate discounts. Property taxes make up only 2.9 percent of the city's budget revenues, which is low compared to cities in both transition and developed economies (World Bank 2011). For example, owners of nonresidential properties pay a tax based on property book value, which is substantially lower than market value. Additionally, the previous city government's practice of directly allocating—rather than competitively auctioning—valuable land in UB, including the central part, deprived the city of revenues estimated in a range of *24–77 times* the annual city budget for 2012, depending on assumptions. As a result, municipal revenues to meet basic public needs are well below the city's revenue generation potential.

**UB should take a proactive approach to improve the function of land markets and its own land management and to capture a fair share of land market value.** Although some progress has been achieved, important improvements to land administration and management practices could be made by the city itself in the near future. Other efforts require a longer-term engagement with other stakeholders, including ministry and legislative representatives. For example, the national law per-

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introducing the proposed Land Exchange would not solve this problem.

4. Such “true revenues” would substantially exceed any amounts that UB could borrow and would need to repay later.

mitting every citizen to obtain land for residential use in the city at no cost and without any significant land tax, or the practice of not taxing apartments, cannot be addressed by the city government alone despite the significant impacts these laws have on UB. The city needs to partner with other agencies and ministries involved in this sector such as GASR, the Administration for Land Affairs Geodesy and Cartography (ALAGaC), the Ministry of Finance, and others to reassess how land tenure and taxation laws can improve the function of urban land markets and provide a source of public revenue in line with international norms. The recommendations below highlight specific actions that are within the city's purview, and others that require a more strategic commitment with other stakeholders.

## IMMEDIATE ACTIONS UB CITY CAN TAKE

- Finalize the surveying and registration of publicly owned land. Conduct legal documentation and on-the-ground audits of land held by all city government entities, including budgetary organizations and municipal enterprises, as well as land allocated for possession to individuals, NGOs, and similar enterprises. This will help the city account for available public land resources, and could improve public land management decision-making.
- Create an interdepartmental Task Force (including representatives from districts) to develop a comprehensive, city-wide land management policy. The plan would be used to guide decisions on retaining or releasing public lands using the completed inventory of publicly owned land and properties and a consideration of public need. Should public lands be released for private activities, a system of competitive and transparent land auctions would allow the city to capture higher revenues than through direct allocation.
- Review zoning and development standards in order to allow more flexibility in accommodating demands for different land uses and to increase

the areas that allow for mixed land uses. Land use regulations should be used as a means to encourage density levels that make the provision of infrastructure more affordable through the efficient use of urban land, rather than supporting development through allocating vacant land in fringe areas or satellite towns far from infrastructure and services.

- City agencies responsible for developing both land use plans and public transportation planning need to closely coordinate ongoing activities and partner with ongoing street improvement projects aimed at enhancing capacity and connectivity. This would improve mobility by reducing the time people spend moving through the city and could support alternatives to private car use, including public transportation and walking.

## ACTIONS THAT NEED INVOLVEMENT OF OTHER STAKEHOLDERS

- The city needs to lead efforts to improve the efficiency and transparency of land administration services, including titling and registration. However, since titling and registration procedures involve national government ministries, the city needs to partner with these organizations to establish a set of activities to improve the quality of these services to city residents. A review of existing procedures and requirements could help to identify steps that could be consolidated or eliminated. Public outreach and information campaigns would clarify the benefits of titling and registration and the associated requirements. This streamlining would reduce the costs and uncertainty of acquiring, developing, and transferring land within the city and would encourage private investment.
- The practice of land valuation needs to be revised so that taxes and fees better reflect market values of land and property, as is international practice. This will require significant changes in current laws

and the city will have to cultivate long-term strategic partnerships with other government ministries and parliament in order to develop and support these reforms. There are two areas where reform is most needed: (i) introducing taxation of property types that are not taxed at all (such as apartments), and (ii) basing land/property taxes on approximate (then individually assessed) market values rather than the present practice of applying the 1997 value assessment for land and book value for properties. For example, modest (less than 0.40 percent) tax rates based on market values of nonresidential properties would have increased the 2012 city budget by 23 percent; a tax on apartments would have increased the budget by 20 percent.

- Current land tenure classifications should be consolidated to improve clarity and support for investment. For residential uses, possession is an unnecessary category that could be discontinued and replaced by directly issuing an ownership tenure designation. This would reduce the time and costs currently required for residents to obtain ownership title by eliminating the requirement to first obtain a possession certificate. Legal entities should also enjoy some form of secure, medium-term rights or long-term land leases rather than the more circumscribed possession and user rights they are currently afforded. This would stabilize private investment because it could provide more robust and longer-term protections for commercial and legal entities.

# Abbreviations and Acronyms

ALAGaC	Administration for Land Affairs Geodesy and Cartography	MPD	Master Planning Department
ASRT	Administration of State Registration of Titles	MUB	Municipality of Ulaanbaatar
DLO	District Land Office	NAPR	National Agency for Public Registry
DPLRD	District Property and Land Relations Department	NEMA	National Emergency Management Agency
GASR	General Authority for State Registration	NGO	Nongovernmental Organization
GDP	Gross Domestic Product	NSO	National Statistical Office
GUSIP	Ger-area Upgrading Strategy and Investment Plan	PRD	Property Relations Department
MCA	Millennium Challenge Account	PUMA	Platform for Urban Management and Analysis
MCUD	Ministry of Construction and Urban Development	SPC	State Property Committee
MNCCI	Mongolian National Chamber of Commerce and Industry	TF	Task Force
MNT	Mongolian New Tugrik	UB	City of Ulaanbaatar
		UK	United Kingdom
		UN	United Nations
		USAID	United States Agency for International Development

## CURRENCY EQUIVALENTS

### Exchange Rate Effective July 2014

Currency Unit = Mongolian New Tugrik (MNT)

MNT 1 = US\$0.00054

US\$1 = MNT 1,845

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# Glossary

***Aimag:*** An administrative district equivalent to a province. There are 23 aimags in Mongolia.

***District:*** This report discusses municipal districts (*düüreg*), which are a second-level administrative district that is separate from rural districts (*soum*). There are nine districts in UB, six of which are contiguous.

***Ger:*** A portable tent structure traditionally used by herders for shelter. A *ger* has a collapsible circular wooden frame that is covered with felt and heated by a small stove.

***Khashaa:*** A parcel of land allocated for private residential use.

***Khoroo:*** An administrative unit a level below the municipal district. There are 152 *khoroos* in UB.

***Soum:*** A rural administrative subdivision of an *aimag*. There are 331 *soums* in Mongolia.

# Chapter 1

## Introduction

**Urban growth is strongly influenced by the function of private land and property markets, along with the set of property rights and land use regulations that underpin these markets** (Feder and Feeny 1991; Payne 1997). Land markets have a direct and long-term influence on urban form, transportation networks, access to employment, and commercial centers as well as the location and supply of housing. When land markets are poorly or opaquely regulated, information on prices is limited or exclusive to certain interests; they can perpetuate and accentuate existing disparities of wealth, mobility, and access to services among urban residents (Deininger 2003). City governments have an important role to play in administering land, managing publicly owned and controlled lands, supporting land-based financing strategies, and regulating the type and intensity of land uses through zoning and planning standards.<sup>1</sup>

**Mongolia is one of the world's fastest-growing economies, with GDP growth surpassing 12 percent in 2013** (World Bank 2013a). In recent years, the population of the capital and largest city, Ulaanbaatar (UB), has grown significantly, due primarily to migration of nomadic pastoralists from across the country seeking opportunities

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1. *Public land management* refers to government decisions and activity related to acquiring, holding, and disposing of publicly held land. *Land administration* refers to powers afforded to governments to define property and tenure rights, maintain registry and cadaster records, impose taxes and fees, and set zoning and development standards over public or privately held land.

for employment and an improved quality of life. The city is home to 40 percent of the country's population and generates 65 percent of its economic activity (World Bank 2012).<sup>2</sup>

**UB public authorities control a large amount of land.** The Capital City's nine districts are comprised of 470,000 hectares, of which only about 10 percent, or 50,000 hectares, is built land.<sup>3</sup> About half of the city's 1.3 million residents live in low-density ger areas or unplanned settlements that are characterized by improved residential plots (or *khashaas*) that contain *gers*,<sup>4</sup> detached single family homes, and uninhabited ancillary structures. These settlements form 83 percent of the city's *built* area but lack basic services such as paved roads, water, heating, and sewer connections, though nearly all residents in ger areas have some form of tenure security (World Bank 2015). These areas are also typically home to recent migrants that have moved to the city in search of eco-

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2. This also includes the economic activity of firms headquartered in the city but which have operations in rural areas, such as the mining sector.

3. By comparison, the area of UB Capital City is more than 11 times the size of the U.S. city of Denver, Colorado; 5.6 times the size of Calgary, Canada; and 6.4 times the size of Astana, the capital of neighboring Kazakhstan. Each of these cities are landlocked, located at a comparable latitude, and are situated in steppes or plains.

4. A *ger* is a portable, single-room, tent-like structure composed of a felt or cloth covering and a collapsible wooden frame. It is similar in form and shape to a *yurt*, which is found in other parts of rural Central Asia.

conomic advancement. From 2000 to 2010 the number of households living in *ger* areas increased 149 percent, accounting for 68 percent of all new households formed in UB over this period (Affordable Housing Institute 2014).

## OVERVIEW OF REPORT

This report examines the status of land administration and markets in UB. It complements previous economic and sector work and technical assistance that provided guidance to the city to improve the reporting of budget data. The passage of the Integrated Budget Law in 2011 has given the city greater latitude to explore new sources of revenue, including borrowing and bond issuance. As a result, the city is also considering use of municipal debt financing for infrastructure improvements. Recent economic and sector work (World Bank 2013b) has provided assistance for the city to prioritize these goals; this report builds on that work by examining how existing land resources and tax instruments can be used as a possible alternative to debt finance. This work is also in line with the current Country Program Strategy for Mongolia (World Bank 2012). The strategy proposes improvement of the country's capacity to (i) equitably and transparently manage public revenues and expenditures, and (ii) improve the extension of basic services while reducing exposure to natural hazards and pollution. This report demonstrates how UB's urban growth and expansion and its current land administration and management policies present opportunities for the city government to address both of these areas.

The purpose of the report is to critically assess how land, and by extension investment in land, is structured through a discussion of existing legislation, regulations, and administrative procedures, and practices. Mongolian law<sup>5</sup> assigns the city land management responsibilities as a core service function. These responsibilities also include the development and maintenance of cadaster re-

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5. These powers are delegated specifically the 2002 Law of Mongolia on Land, the 2006 Law on Territorial and Administrative Units, and the 2011 Budget Law.

cords and the power to assign and enforce tenure rights for land within the administrative boundaries of the city. The city government can also use land as a means to influence urban expansion and as a source of revenue through its powers to tax both private transfers of land and a portion of the value assessed to it. Securing claims to occupy and improve land is a key government service, because it allows and encourages residents and firms to invest, exchange, and collateralize property with assurances that tenure and exchange activities will be protected by the law. Similarly, the city can improve its investment planning with an accurate record and valuation of publicly owned land and buildings. This information can be useful both for investment planning and for prudent dispossession of these city-owned assets.

This report is composed of five chapters. This chapter reviews recent trends in urban expansion and population growth in the city, including the extent of public network infrastructure coverage, variation in population density, and the extent to which urban growth has encroached into areas that present a natural hazard risk. Chapter 2 outlines the regulatory framework and the current practice in land administration. Chapter 3 assesses practices in managing city-owned land. Chapter 4 surveys urban land and property markets, including a discussion of prices, existing constraints, and the influence of infrastructure on demand. Chapter 5 concludes with a summary of the key findings and recommendations drawing on the findings of this report and lessons from international experience.

## Historical Shift in Land Regimes

**Mongolia has experienced profound changes to the urban land sector since it began a shift from a command economy to a market economy in 1991.** Traditionally, Mongolia was a largely nomadic society of pastoralists moving frequently across large areas of the country. The country experienced a dramatic transition under a socialist political and economic system (1924 to 1991), which was characterized by heavy state involvement in the economy and public ownership of all land (USAID

2004). During the Soviet period, land development occurred through direct state investment in property development and construction. The provision of apartments and the proliferation of state-owned enterprises precluded the development of urban land and property markets because ownership rights were exclusive to the state and all transactions occurred under the guidance of master planning. This negated the need for land valuation, pricing mechanisms, or transparent and competitive allocations of public land.

**Legal and regulatory reforms have posed a new set of challenges for land management practices and the function of urban land markets.** Since 1991, a series of constitutional reforms have moved the country toward a market-based economy, which has expanded access to, and ownership of, land. The 1992 Constitution confers the right of fair acquisition, possession, and inheritance of movable and immovable property.<sup>6</sup> It also specified that foreign citizens could not own land. Subsequent legislation in 1994, 1996 and 2009 clarified property rights and the procedures for securitizing land property through mortgage instruments, respectively.<sup>7</sup> After 1997, public rental apartment units were transferred free of charge to their residents, who were free to buy and sell on the open market. The 2002 Land Law privatized, free of charge, plots of land that were already occupied and allowed by right new plots of land for all registered UB residents up to 700m<sup>2</sup>. These rapid changes have supported the densification of the central city area and sustained a growing construction and real estate sector in the city.

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6. However, private ownership of pastureland is forbidden.

7. The revised Civil Code of 1994 contains articles on property-related matters. It governs the creation, termination, and transfer of property rights and also the provision for contract and inheritance. The Civil Code is also the framework for equal rights possession, use, and disposal of family property. A 1996 amendment allows for mortgage of immovable property and includes land when it is transferred to private ownership (USAID 2004:11). The Land Law of 2002 (Articles 35 and 38) allows for the mortgage of land possession rights among the Mongolian entities. The Law on Collateral of Immovable Property of 2009 regulates issues related to the use of immovable properties and related rights as collateral to secure the pledge, conclusion of mortgage agreements, and relations concerning the fulfillment of the obligations.

These measures have also enabled UB to achieve what few other cities worldwide have managed by providing easy access to secure land for all, irrespective of income.

**The city's land policy has contributed to its expansive urban form and related problems of infrastructure coverage deficiencies and pollution.** Since the transition to a democratic government and market economy, rapid per capita economic growth and a relaxation of restrictions on in-migration to the city have outpaced the city's ability to effectively administer land.<sup>8</sup> The allocation of what in other countries would be extremely large residential plots has generated low-density urban sprawl. This urban form has imposed such high unit costs of infrastructure provision that only central areas are connected to basic public utilities. All other areas have poor road access, negligible public transport, no water or sewerage connections, and use coal for heating.<sup>9</sup> All of this causes intense air, soil, and underground water pollution. While secure tenure has allowed the urban poor to invest in housing improvements, the city has been unable to supply complementary public investments in many *ger* areas.

**The city also lacks the tools and capacity to effectively manage public land assets and to capture the value gained from the improvement and use of urban land.** Prior to recent actions by UB's elected leadership that came to power in 2012, management policies and practices largely failed to represent and protect long-term public interests during this unique transformation of urban space. Prior to 2012, public land was being allocated

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8. Before the early 1990s, Mongolians needed official permission to move from rural to urban areas and obtaining such authorization was difficult. A constitutional provision now allows Mongolians to choose where to live. The 1992 Constitution of Mongolia states that the citizens of Mongolia shall be guaranteed the privilege to enjoy the following rights and freedoms: freedom of movement within the country, freedom to choose the place of one's residence, the right to travel or reside abroad, and the right to return to home country. The right to travel and reside abroad may be limited exclusively by law in order to ensure the security of the nation and population and to maintain public order (Chapter 2, article 16.18).

9. A World Bank survey (2014b) found that less than 4 percent of *ger* households used flush toilets and had access to the centralized, piped water supply.

for commercial or private sector use which promoted the inefficient distribution of valuable property and invited patronage and corruption. This in turn undermined the city's ability to direct land use planning and urban growth. As a result, the city is now experiencing a shortage of land for public use, not only in central built-up areas, but also in *ger* areas. Furthermore, the city lacks the needed tax instruments and policies and is hence forgoing substantial land-related revenues it could have collected for investing in infrastructure, especially in *ger* areas.

## URBAN EXPANSION AND POPULATION DENSITY

**UB's urban growth mirrors regional trends in East Asia and the Pacific.** Cities across the world are growing both in terms of population and physical area (Angel et al. 2011) and in the East Asia and Pacific region in particular (World Bank 2015). UB is no exception. Since 2001, the population of the city has nearly doubled from 790,000 to more than 1.2 million residents according to estimates by the National Statistical Office (NSO) shown

in figure 1.1. Of the nine districts, six are contiguous and together compose the administrative boundaries of the urban core. These six districts comprise the administrative division of UB and are the area of reference for discussion of urban growth in this chapter.

**Density is an important and desirable component of urban growth.** The close spatial proximity of people and different land uses gives cities economic dynamism, improves mobility, and supports social integration. Furthermore, segmented land uses, where only certain uses such as residential or commercial are exclusively concentrated, increase the time and distance required to travel to and from these areas. Mixed land uses encourage a concentration of residential, retail, and public services, which improves access and enhances property values.

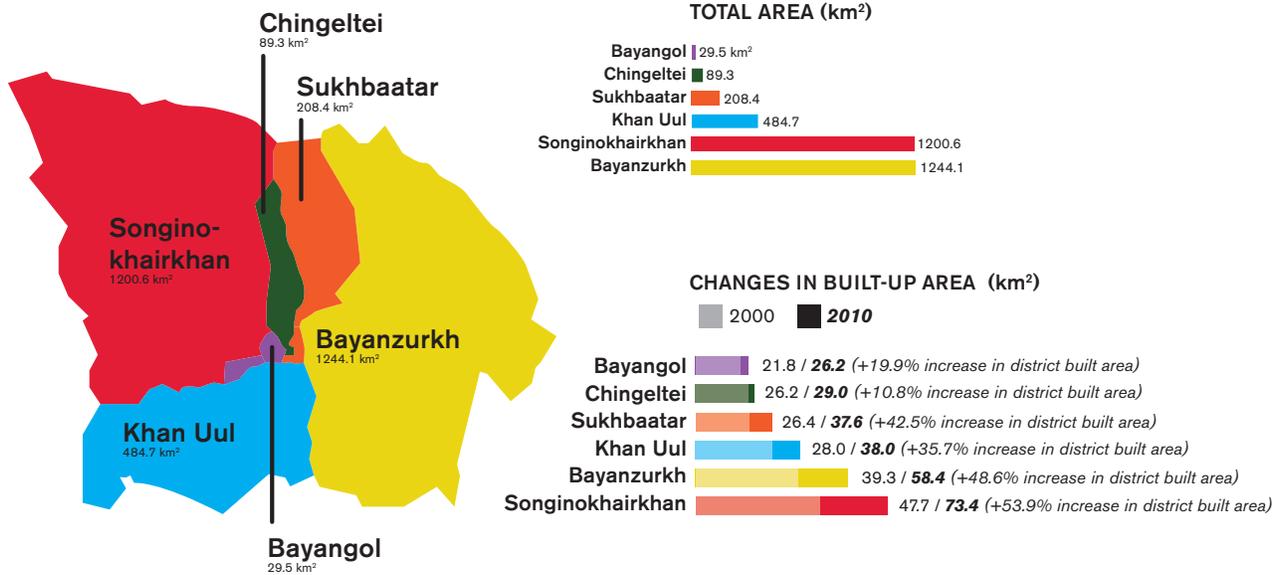
**Satellite data reveal that the city's built form has grown substantially since 2000.** UB is composed of nine districts of varying sizes and population densities, summarized in figure 1.2. The city's most densely populated districts, Bayangol and Chingeltei, are also the smallest districts

**Figure 1.1: Population Growth in Ulaanbaatar, 2001–11**



Source: National Statistical Office.

**Figure 1.2: Changes in Built-Up Areas of UB, 2000–10**



Sources: Compilation drawing on data from National Statistical Office (NSO), Property Relations Department (PRD), and PUMA.  
 Note: km<sup>2</sup> = square kilometers.

by area in the city. The other, much larger districts are at least partly in the central urbanized area of the city, but each extends far beyond UB’s urban footprint. They are composed largely of low-density *ger* settlements or unimproved vacant, forest, or pasture land (see map 1.1). As the total land areas of each district vary widely according to administrative boundaries and not built settlements, the traditional measure of density as persons per square kilometer (km<sup>2</sup>) of land is misleading. This report uses an analysis of satellite imagery from the World Bank’s Platform for Urban Management and Analysis (PUMA) tool to detail the expansion of the built environment of the city in order to describe changes in both population density and built up land coverage (World Bank 2015).<sup>10</sup> Figure 1.2 summarizes changes between 2000 and 2010, and shows that the city has added a total of 73 km<sup>2</sup> or about 39 percent more built area over the 10-year period.

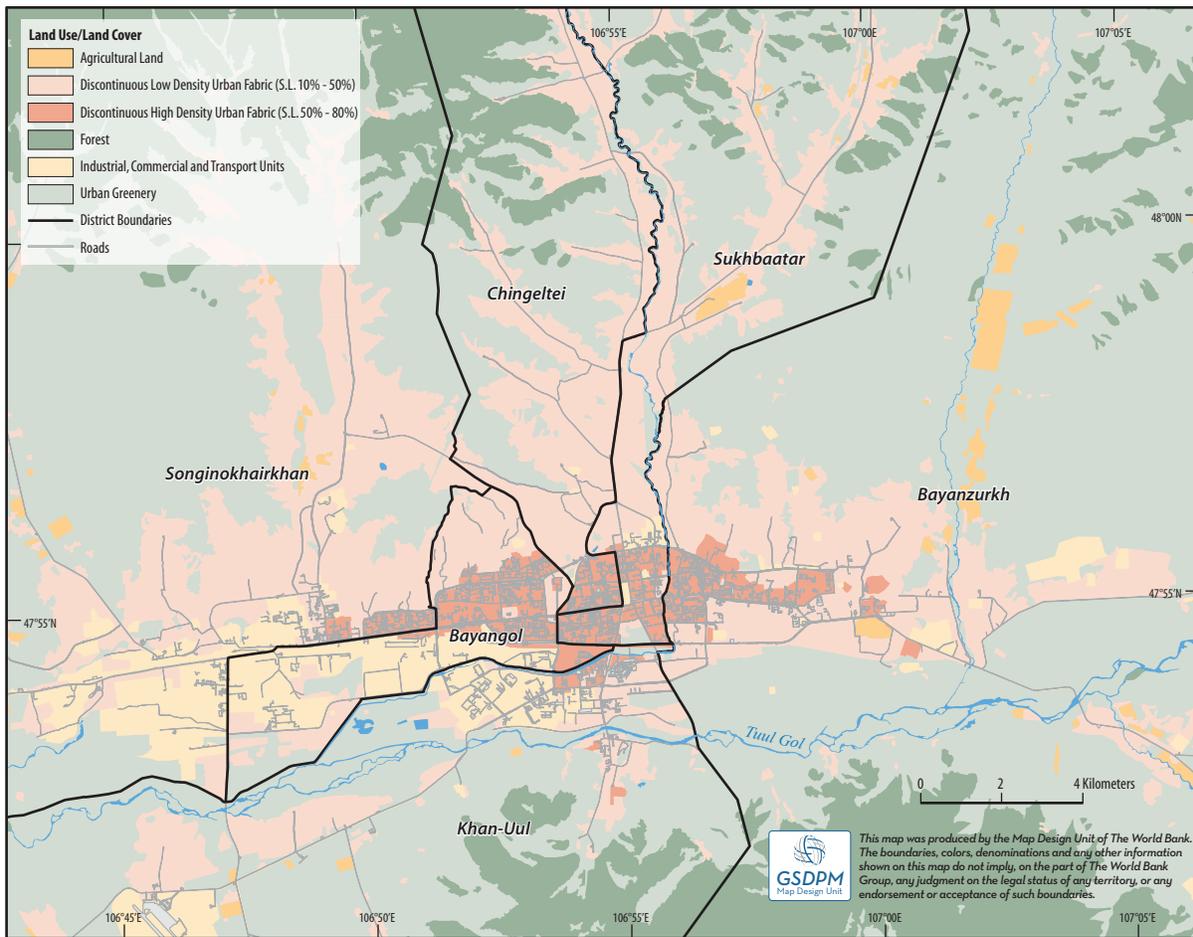
It also shows that the largest districts also have the largest gains, likely due to the availability of land for expansion.

**UB has a low population density compared to other cities in the region and other capital cities across the world.** As figure 1.3 shows, the city’s overall density is low (ranging from 7,351 people/km<sup>2</sup> in Bayangol to 3,516 people/km<sup>2</sup> in Sukhbaatar), with the most populous districts, Bayanzurkh and Songinokhairkhan, being both the largest and least densely populated. Bayangol, the most densely populated district, still has population densities only comparable to older U.S. *suburban* communities of comparable areas and populations that surround New York City and Los Angeles.<sup>11</sup> Other East Asian cities are much more dense; Seoul has an average density of 5,920 people per km<sup>2</sup>, Singapore with 8,446 people per km<sup>2</sup>, and Kuala Lumpur 3,306 (World Bank 2015). Other cit-

10. PUMA—the Platform for Urban Management and Analysis—is a tool that compiles demographic and land cover/land use data obtained through both statistical databases and analysis of satellite imagery from 2000 to 2010.

11. These include El Monte, California (area 24.7 km<sup>2</sup>; density 4,500 people/km<sup>2</sup>) and Patterson, New Jersey (area 21 km<sup>2</sup>; density 6,697 people/km<sup>2</sup>) (U.S. Census Bureau 2012).

**Map 1.1: Basic Land Use Categories, Ulaanbaatar, 2010**



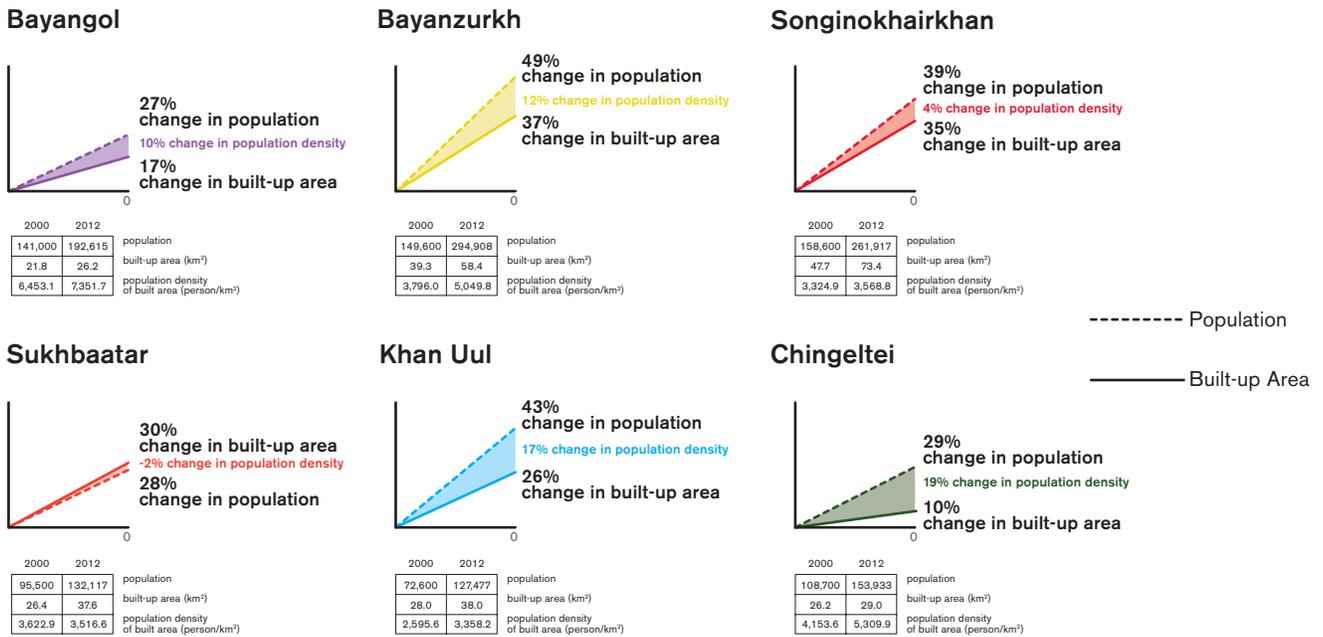
Sources: Data from PUMA, MPD.

ies in comparable economies such as Hanoi and Da Nang in Vietnam have very dense urban cores. A World Bank study estimates that of the former at 18,800 people/km<sup>2</sup> and the latter at 8,800 people/km<sup>2</sup>—densities that exceed that of Bayangol (World Bank 2011).<sup>12</sup> Only Bayangol, the smallest and most centrally located district, has a population density approaching that of major regional urban centers.

12. These estimates are based on average density of built-up urban areas, rather than using administrative boundaries. Average density excludes water and open spaces that are contained within municipal boundaries, which can distort comparisons of density between cities.

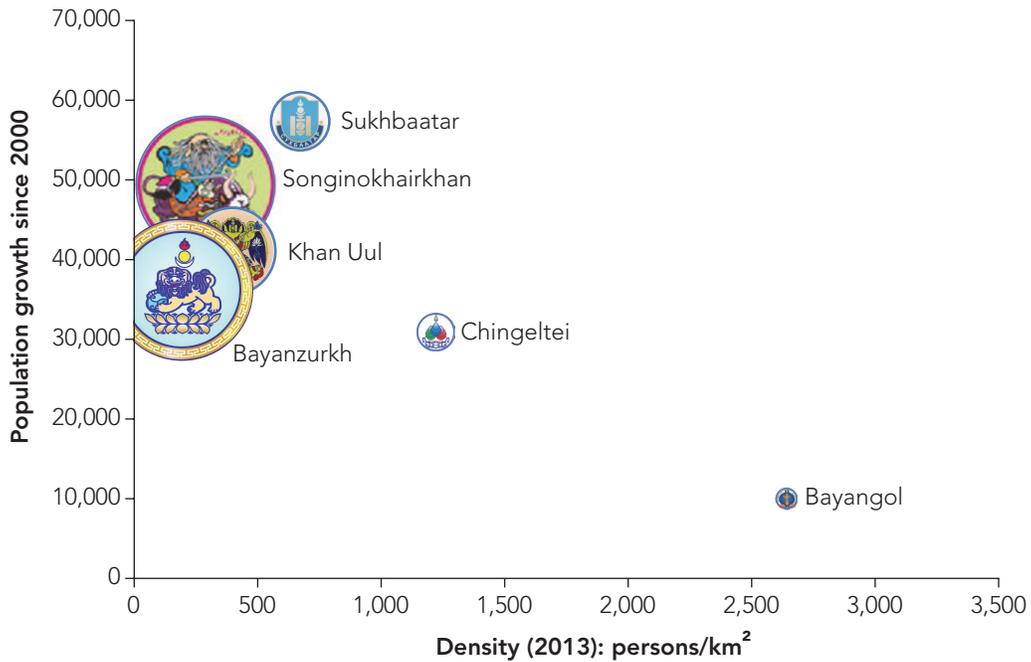
**Recent urban growth in Ulaanbaatar has followed a pattern of low density.** The largest districts by land area have also seen among the greatest absolute population gains. Figure 1.4 shows urban districts as bubbles based on their land area plotted according to their population increases since 2000 and their population density (by administrative, not built-up, area) levels in 2013. It shows that while Bayangol and Chingeltei are smaller and more densely populated, the greatest share of population growth since 2000 has occurred in the larger, comparatively less dense districts, particularly Songinokhairkhan, Bayanzurkh, and Khaan Uul. The smallest districts have also seen the

**Figure 1.3: Population Densities across UB, 2000–12**



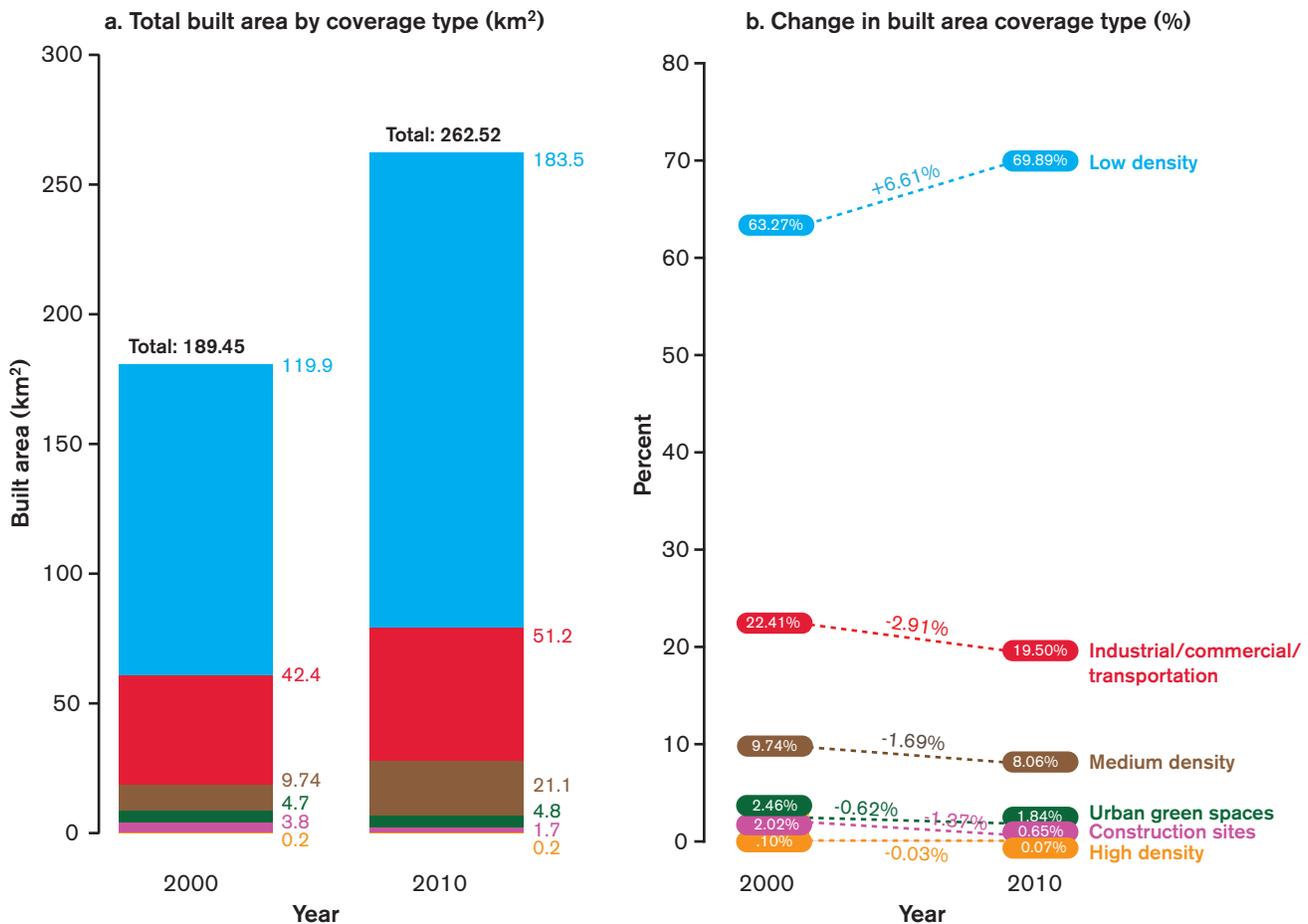
Sources: Compilation drawing on data from NSO 2012, PRD internal document, World Bank 2015.  
 Note: km<sup>2</sup> = square kilometers.

**Figure 1.4: Density and Population Gains in UB by District, 2000–13**



Sources: NSO, PRD.

**Figure 1.5: Change in Total Area of Urban Expansion in UB by Type, 2000–10**



Source: PUMA.

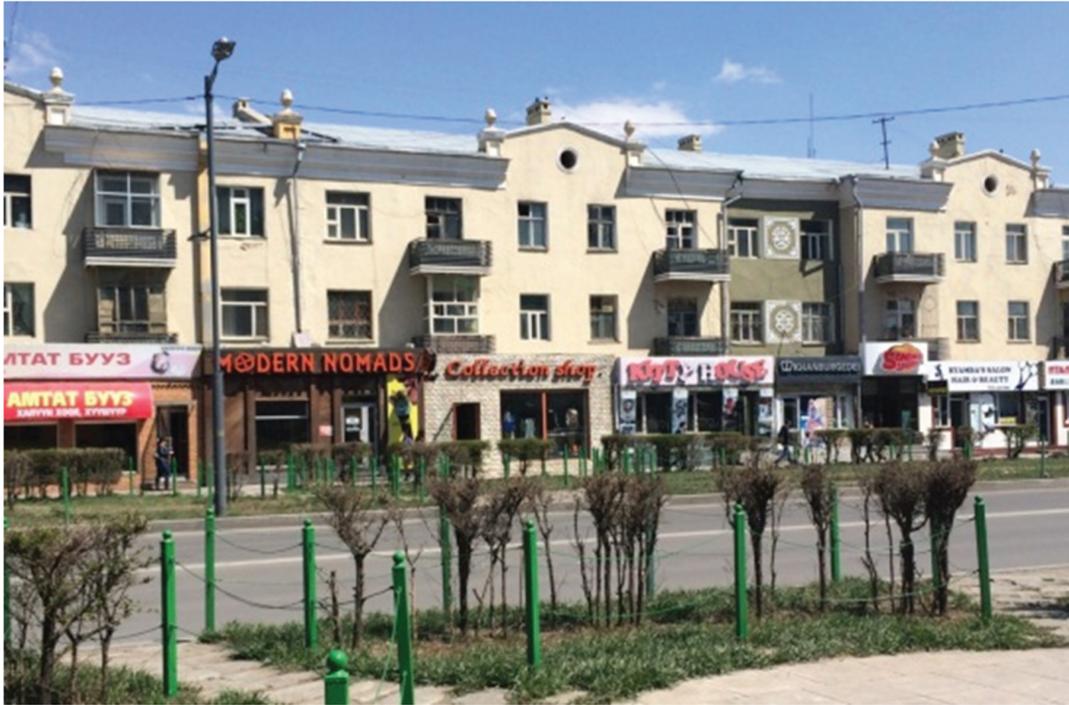
lowest amount of absolute growth, while Sukhbataar, Songinokhairkhan, Khan Uul, and Bayanzurkh have had the largest absolute gains in population over this period.

**This pattern of population growth is likely due to the availability of land and housing options in fringe areas.** Land and housing is scarcer and more expensive in central neighborhoods of the city that have already been built out. Land is more abundant and less costly on the urban fringes and it is easier for urban migrants to find more affordable housing in these areas. Options include newly constructed government housing projects, such as those near Chinggis Khaan Airport, or obtaining a plot of land for a *ger* or to construct a detached house.

## Land Use Changes

Since 2000, most of the urban growth of the city has consisted of low-density peripheral expansion. The density and distribution of urban population growth has important consequences for both public investment priorities and the quality of life of urban residents. Drawing from data from the World Bank’s PUMA tool, the report finds that from 2000 to 2010 the UB urban fabric has grown by approximately 73km<sup>2</sup>, though the majority of this growth (on average 87 percent of all new built-up area in this period) has occurred in the form of low-density development. Figure 1.5 shows the changes in urban land area based on different types of urban land use

## Example of Mixed Land Use in UB



Source: World Bank.

categories, including high- and low-density fabric and large industrial- and transportation-related land surface modifications.<sup>13</sup> The figure shows that the vast majority of this change comprised low-density development consistent with *ger* areas. The largest districts, Bayanzurkh and Songinokhairkhan, also had the largest increase in built area, more than 88 percent of which consisted of low-density expansion. No district grew in a manner consistent with measures of high-density urban form;

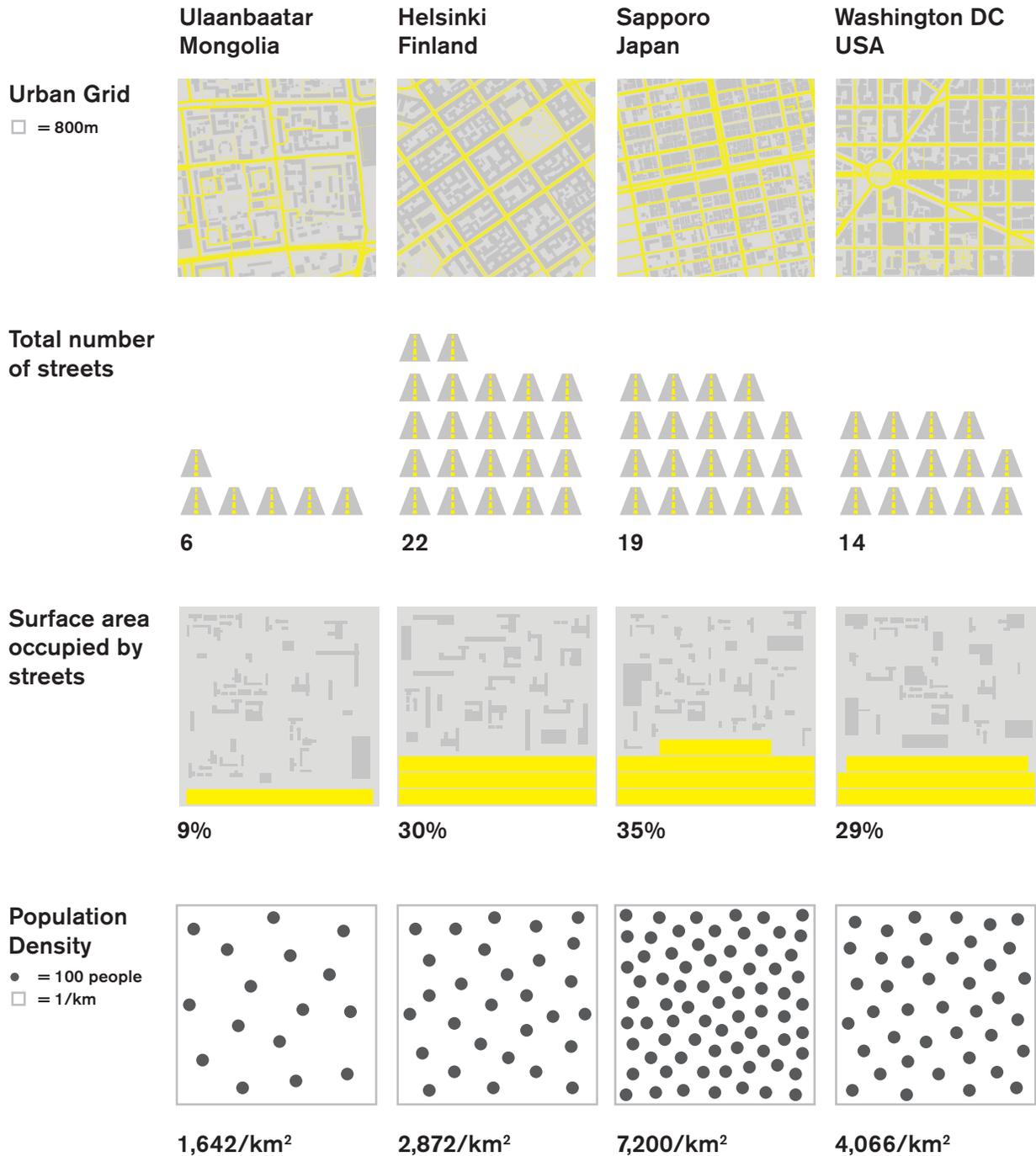
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13. Land use classifications are based on estimates derived from the analysis of satellite imagery. PUMA classifications include “Continuous Urban Fabric,” where more than 80 percent of the surface is artificial (buildings, pavement, etc); “discontinuous high density urban fabric,” characterized by 50–80 percent artificial surface coverage (the rest consisting of gardens, parks, trees, and exposed earth); and “discontinuous low-density urban fabric,” with 10–50 percent artificial surface coverage. Supplementary analysis of the land uses classification this category estimates found that it closely matches what has previously been defined as “*ger* areas.” “Industrial, commercial, and transport” refers to large halls and warehouse-like structures in addition to multilane highways and airports.

rather, the proportion of medium- and high-density built form actually *declined*.

**Segmented land uses and low-density urban form contributes to traffic congestion.** The density and form of urban street networks can improve access and mobility for vehicles and pedestrians. Figure 1.6 compares the street networks for a sample area measuring 800 by 800 meters drawn from Ulaanbaatar, Helsinki, Sapporo, and Washington, DC. The figure shows that given the same area of urban land, the other cities have a greater number of streets, intersections, and surface area designated for ground transportation. As UB expands outward from the central city area, the existing road network must accommodate longer trips by automobiles and buses. This is because the city center holds important government offices, along with employment and commercial centers. As commuters converge on one location—the city center—the entire road network is susceptible to delays from traffic accidents, signal malfunctions, and a lack

**Figure 1.6: Road Hierarchy, Surface Area Coverage, and Population Density, UB and Selected Cities, 2003–12**



Sources: Graphic: Mongolia Ministry of Economic Development. Data: Population Register of Finland 2012; Barter, Kenworthy, and Laube 2003; U.S. Census Bureau 2012.

Note: Population density is measured using administrative rather than built-area boundaries due to data constraints of comparable cities. km = kilometers; m = meters; km<sup>2</sup> = square kilometers.

of alternative routes. Without a comprehensive cost-benefit assessment of the existing road network, land use patterns, and alternative transit options, the current efforts at street widening will likely induce more traffic without improvement of service (Cervero 2003; Hansen 1995; Hansen and Huang 1997).<sup>14</sup>

**The efficient use of land promotes density and circulation throughout the city.** Density is encouraged with regulations that allow for the efficient use of land according to market values and where a multitude of uses such as residential, commercial, and offices are within close proximity to one another. This reduces the time needed to reach trip destinations, and for some residents, the need to use automobiles. The proximity also encourages people to make more trips, including by walking, cycling, taxi cabs, or public buses. There are some good examples of efficient use of land with mixed uses,<sup>15</sup> green space, and proximity to pedestrian traffic and public transit access in UB, as indicated in the photo here. Traffic congestion occurs when land is used *inefficiently*. Inefficiency happens when different land uses are separated by long distances that require commuting through private automobile or through multiple transfers on public transportation systems (Brueckner 2000; Wheaton 1998).

**Urban land use patterns influence travel behavior and can contribute to congestion.** Land prices are lower on the urban fringe of the city, which reduces the cost of housing for poorer residents. However, residents face comparably higher costs to reach the city center's commercial and administrative services because they must travel farther. A World Bank survey of UB residents found that those living in sub-districts or *khoroos* that are com-

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14. Induced demand refers to the finding that investments in over-all road “supply”—in terms of road space—do not necessarily reduce congestion. As drivers usually do not pay for the use of road space, any increase in the supply simultaneously lowers the cost (in terms of time spent in traffic) to drivers to consume the additional space through more driving. People who would not drive otherwise may decide to drive, or people may change their typical commute route to make use of the additional space; both are seeking to reduce their commute time.

15. Commercial and residential are illustrated in the photo, but other uses can also be accommodated with this form.

posed of a majority of *gers* and detached houses are more likely to have a commute to work that is longer than a half hour than are apartment residents.<sup>16</sup> Those who live in *ger* areas in particular face the longest commutes: 32 percent of respondents report a single-direction commute of between one and two hours, representing a total commute of up to four hours. By contrast, 45 percent of apartment residents report single-direction commute times of between 20 minutes or less. *Ger* area residents are also less likely to have a car or report being able to walk to work and rely more often on public transportation for their commutes than those who live in apartments (World Bank 2014a). This spatial mismatch of residential locations from places of employment and consumption adds to the cost of mobility for *ger* residents, who must either purchase an automobile or rely on public or informal transportation systems.

## Infrastructure Coverage and Vulnerability to Hazards

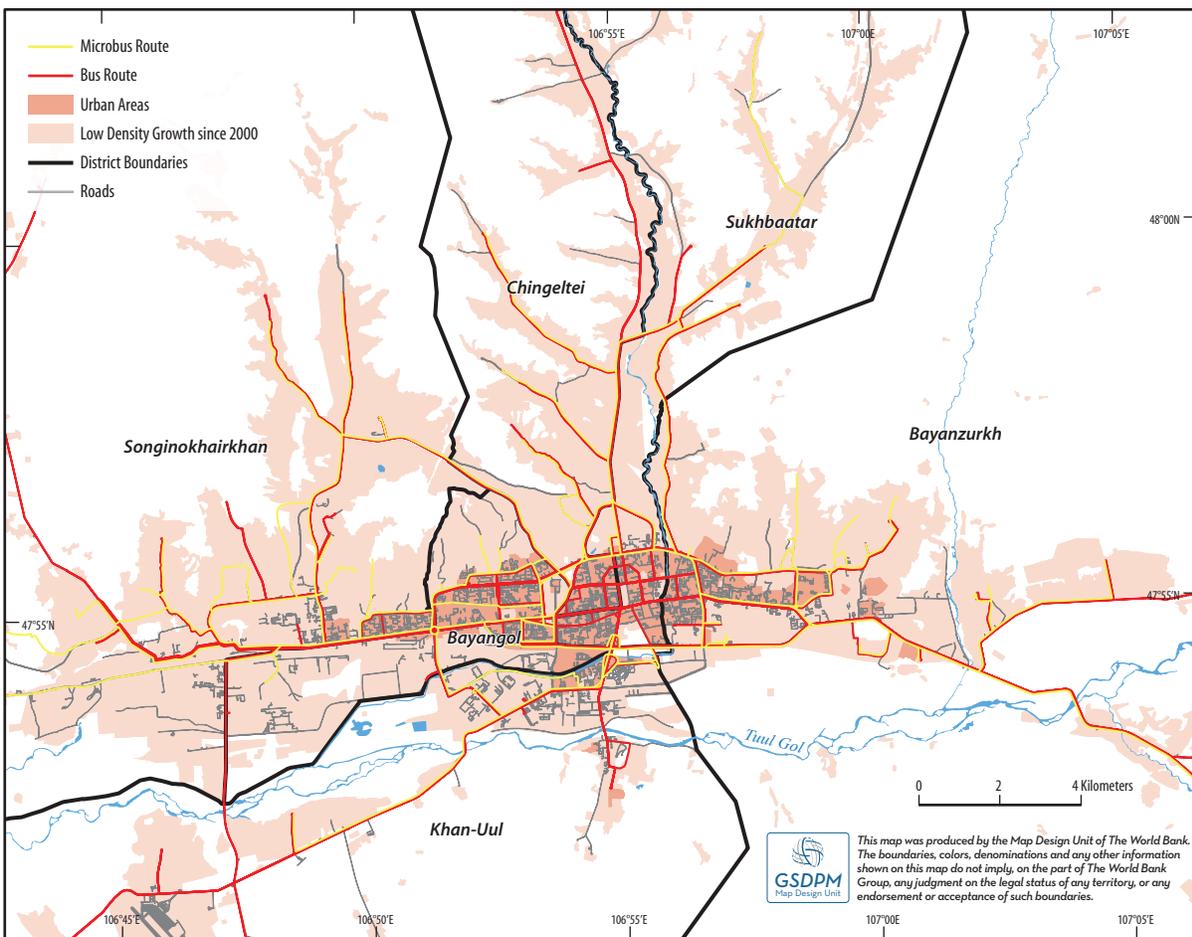
**Inappropriate urban land management has contributed to uneven access to basic infrastructure, including water, street lighting, paved roads, clinics, and schools.** Spatial analysis illustrates that schools and clinics are primarily clustered around the central city area and coverage tapers off as the distance from the city center increases (map 1.2). Water service in new *ger* areas is delivered primarily through truck-supplied kiosks rather than piped water kiosks. Streetlights tend to follow major thoroughfares, with much less coverage in newly developed fringe areas. Property with close proximity to these services commands a higher market value, which can make it difficult for poorer residents to move close to where these services are provided.

**Infrastructure is an important determinant of land value, along with tenure and development rights afforded to land parcels.** The lack of even coverage of infrastructure across the city has a direct impact on sustain-

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16. The survey is based on a representative sample of 3,000 households (World Bank 2014a).

**Map 1.2: Public Transport Routes in UB, 2013**

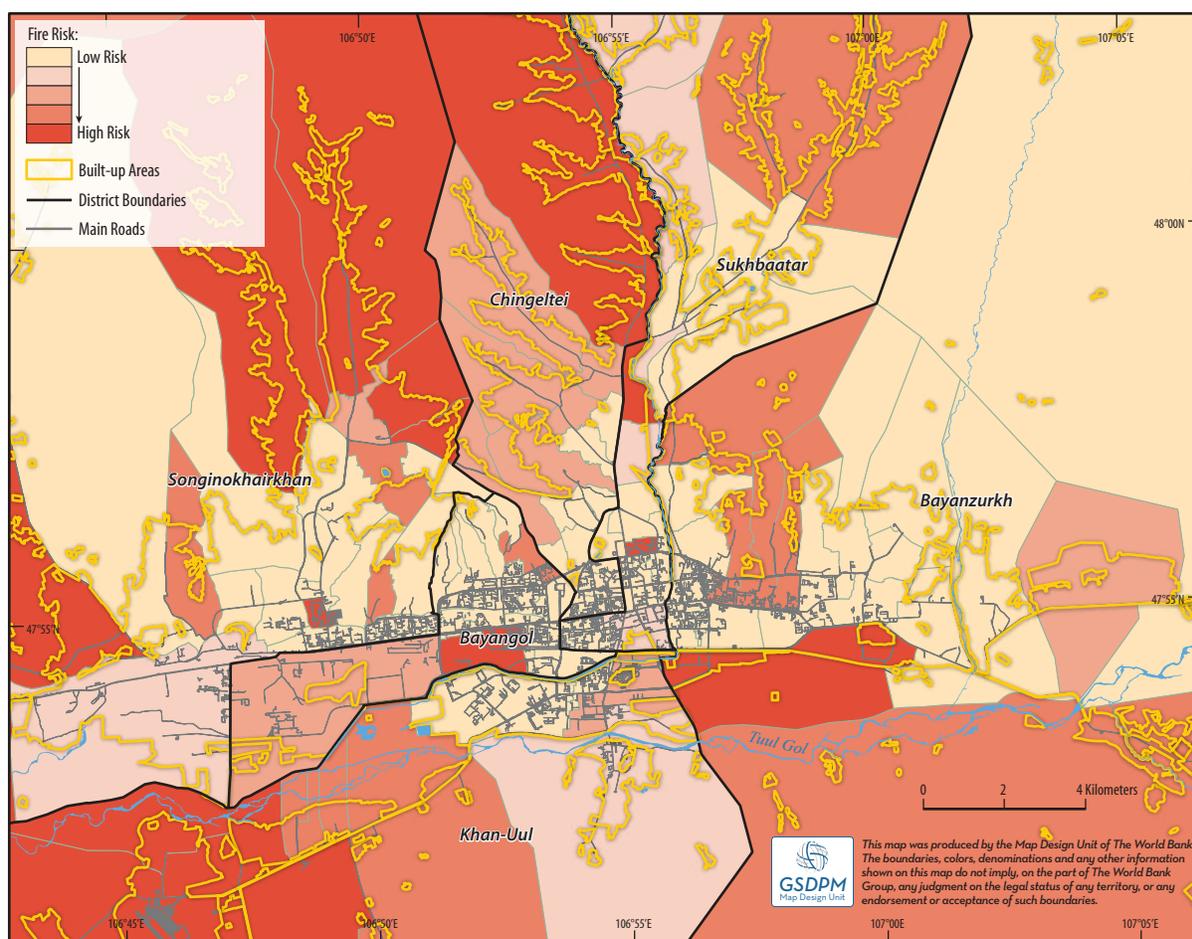


Sources: Data from PUMA, MPD.

ing economic and social inequality. Streetlights improve a neighborhood’s sense of security and can reduce the incidence of crime or vehicle accidents. For example, the cost in time and expenditures to reach schools, clinics, or water kiosks represent a significant burden to urban residents living in the urban fringes. These residents are also likely newly arrived and comparatively poorer than residents who live near the city center and enjoy proximity to these services. The disparity in access to services will contribute to concentrating poverty in areas that lack access to quality schools, health care facilities, or reliable water service, for example.

**Unequal access to services imposes time and cost burdens on city residents, especially the poor, elderly, and disabled.** The concentration of clinics and schools away from fringe areas makes it more difficult for residents to reach these services, especially those who use them frequently, such as students and elderly or ill people. As map 1.2 shows, bus and microbus routes have limited service coverage in fringe and mid-tier *ger* areas, especially Songinokhairhan, Khan Uul, and Bayanzurkh districts. This raises the costs and time necessary to move throughout the city because commuters must transfer either between routes or change modes (such as from minibus to public

Map 1.3: Fire Risks across UB, 2013



Source: PUMA and NEMA.

bus) in order to reach their destinations, especially if trips originate far from the central city area.

**Poor land management practices have allowed land allocation to occur in hazardous areas.** Urban expansion has occurred in areas subject to flood, fire, and chemical exposure risks. This will have the most serious impacts on poor residents who are not able to move from these places. Khan-Uul, a growing residential area, is also exposed to airborne hazardous chemicals from industrial and power-generating facilities. Besides wide exposure to this risk across the western portion of the city, there is a general public health concern about air pollution from

coal-burning stoves in *ger* areas. Spatial analysis shows that flood risks are especially pronounced along the washes that drain into the Tuul River, particularly along *Khoroo*s 4, 5, and 7 in Songinokhairkhan and along the Selbe River drainage in Sukhbaatar and Chingeltei Districts. Map 1.3 illustrates fire risks throughout the city, and that they are noticeably higher in peripheral areas that have developed since 2000.<sup>17</sup> The most common response activity of National Emergency Management

17. Interviews with National Emergency Management Agency (NEMA) staff revealed that the agency has limited authority to effectively evict squatters that illegally occupy city-owned land in flood zones.

Agency (NEMA) is responding to fires in *ger* areas, of which there were more than 70 major incidents in 2013. Fire risks in *ger* areas are raised due to residents' reliance on coal stoves for heating, poor connections to the power grid, haphazard construction, and the lack of proper road networks to facilitate rapid emergency response. These risks are exacerbated by the piecemeal and uncoordinated planning in these areas.

## Master Planning to Guide Urban Growth

The city submitted a master plan document,<sup>18</sup> the “Ulaanbaatar City Development Master Plan 2030,” that was approved by parliament in 2013 as the authoritative document governing urban and regional growth plans. “**The Ulaanbaatar City Development Master Plan 2030**” is a detailed guide for future land use, economic development, and transportation planning. The document aims to direct future urban growth in the city through land use plans and controls. It also provides numerous recommendations related to regulatory (including zoning), legal, and financial reforms necessary to implement the plan across the nine districts of the city by 2030, by which time the population is projected to be 1.7 million.<sup>19</sup> The plan also includes detailed projections of population and economic bases of future satellite cities. While it contains a detailed evaluation of existing demographics, land use, and environmental and economic conditions, there are several weaknesses that could limit its use as an effective urban planning tool. Key concerns include the following:

- A proposal to relocate large sections of the population to satellite towns with very low density (4–14 persons per hectare) more than 50 kilometers from

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18. This discussion pertains to the English language version of the document entitled “Adjunct to the Master Plan to Develop Ulaanbaatar City Till 2020, Development Trend Till 2030, Ulaanbaatar City Development Master Plan 2030, Summary Report Volume IV,” dated 2013 and authored by the Ministry of Construction and Urban Development, the City Governor’s Office, and the Urban Planning and Drawing Institute.

19. There is anecdotal evidence that the total population of UB had already reached 1.5 million in 2013.

the city. The proposal is likely to further exacerbate limited access to basic public utilities by large sections of the city’s population. In addition, the costs of providing access roads, water, and sanitation connections would likely be prohibitive.

- The proposal to decentralize Ulaanbaatar runs counter to the need to minimize transport costs. Density levels outside the city center areas are already too low for the economic provision of public utilities. However, the proposal to develop sub-centers within the existing urban area is sensible and may facilitate linking northern *ger* areas to the main East-West public transport system.
- The proposal to impose mono-functional land uses on all except 1.7 percent of the urban area (falling to 1.39 percent by 2030) insulates existing commercial activities from potential competition. This undermines choice and diversity of services and jobs realistically accessible for people, increases commute times and costs, worsens road congestion, and discourages future investment in the city. Cities gain economic strength through a density and diversity of different land uses. Internationally, it is recommended, as a good practice, to allow up to 40 percent of floor space to be used for economic purposes and gradually decrease mono-use zones to 10–15 percent of urban land (UN Habitat, 2013: 28).
- Maximum permitted residential densities in UB are currently set at 460 people per hectare,<sup>20</sup> which is low for high-value land in central locations.<sup>21</sup> Commercial developers are pressing for a relaxation of this requirement. Density standards in primarily residential areas need to be based on realistic assessments of land prices.

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20. Ninth appendix of Mongolian “City and Settlement Planning and Construction Code” (CCM 30-01-04).

21. For example, densities in Shanghai, China range from 1,500–3,500 people per hectare. Even Calgary, Canada, which has a similar overall population density to UB, has a downtown population density of 672 people per hectare (City of Calgary 2011).

- The extent to which land available for development is put to efficient use within a given use zone leaves considerable scope for improvement. For example, gardening and open spaces in city and settlement areas are required to constitute at least 40 percent of total urban apartment area and 25 percent of apartment district area. Public green areas must be a minimum of 2 m<sup>2</sup> and a maximum of 5 m<sup>2</sup> per person. These standards are more generous than required. Valuable productive land is being lost and many areas in proposed new developments lack a strong amenity value for residents and are not suitable for recreational use.
- The estimated cost of implementing the plan is US\$16 billion (more than US\$10,000 per person), far more than the annual resource base of only US\$420 million. This suggests that adequate financial and economic analyses were not carried out to align the Master Plan proposals with available resources.

**The current land administration system will pose significant challenges to implementing the Master Plan.**

As a statement of intent, the Master Plan currently lacks a sound economic and social basis for projected investments. It also does not provide the ability to respond to diverse and changing needs and opportunities in the wider economy and society. This inflexibility in the face of changing needs will likely result in major land market inefficiency. In addition, the Master Plan's restrictive zoning regulations are intended to limit the area for construction via a "green belt," beyond which new development would take place in peripheral settlements. Some of these settlements will be planned and developed by private developers based on competitive tenders. The plan also proposes to relocate the universities to new campuses about two hours from their existing sites in UB, though the rationale for this cost and disruption is not clear. A more practical approach might be to identify specific land uses that require integration with, or isolation from, other land uses (for example, isolating power generating stations or other polluting uses). A more flexible, demand-driven and market-based approach can be permitted elsewhere.

**International experience suggests that detailed master plans often require regular and substantive amendments, or are replaced or abandoned** (Sutton and Fahmi 2001; World Bank 1992). Comprehensive master plans are too detailed, expansive, and cumbersome to adjust to changing political and economic conditions that mediate urban growth and expansion. Thus, master plans are likely to lose necessary public support and investment for completing them in their original proposed forms (Flyvberg 2005; Giezen 2012). The fact that the UB master plan has been amended to designate an additional 10-year time horizon (2030) suggests initial difficulties in coordinating and executing the plan.

**The current plan is overly optimistic about the likelihood that new, planned satellite cities will be completed and will attract residents and employers from the city to them.** The planned decentralization of people and economic activity through direct policy interventions will likely prove costly and incomplete without consideration of local labor and housing markets, among other factors. Cities generate economic and social benefits from the physical density and the agglomeration effects afforded by the close spatial proximity of people and firms to one another (Glaeser 2010; Storper and Venables 2004). Agglomeration in cities provides advantages for job seekers or workers wanting to acquire new skills, as well as for companies looking to hire from a diverse and concentrated labor pool. Agglomeration also places firms from different but complementary industries in close proximity, creating investment opportunities.<sup>22</sup> It is not clear how dispersing and segregating industries and specializations across the satellite cities as proposed in UB's master plan will support agglomeration.

**The efficacy of master plans is reduced without public participation.** Without appropriate regulatory support and the flexibility to respond to future changes in markets

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22. For example, the headquarters of a large firm may regularly do business with financial service providers, accountants, law firms that can write and review contracts, couriers, office supply wholesalers, catering companies, and cleaning and janitorial services, among other businesses. Each business benefits from close proximity to the others.

and investment priorities, master plans alone are inadequate tools for growth planning. New directions in urban planning practice emphasize more extensive and ongoing involvement of stakeholders in setting needs and goals (UN-Habitat 2009). This “strategic spatial planning” approach emphasizes continuous consultation with civil society and private sector groups to identify key priorities in particular sectors or geographic areas of the city over time, rather than completing and implementing a single authoritative master plan document.

In South Africa and the United Kingdom, local agencies participate in and help coordinate public sector planning regarding land, housing, infrastructure, and the environment (Harrison, Todes, and Watson 2008). Similarly, spatial planning can be used to confer a special status and protection for residents of areas that face threats of displacement or eviction. For example, Belo Horizonte and Recife (Brazil) have designated “Special Zones of Social Interest” in low-income neighborhoods. These zones provide legal and regulatory tools for residents to secure access to land and housing, improve environmental conditions, and reduce the threat of evictions (UN-Habitat 2009).

**Master plans should also include appropriate tools for land market regulation.** For example, the Republic of Korea developed a similar series of master plans for Seoul in the 1980s. The goal was to more evenly disperse industrial and residential land uses by identifying areas that were suitable for development and those that were not. However, because the plans were too specific and inflexible in zoning and development standards and were applied by authorities unevenly, they largely failed to achieve their goal (Kim and Gallent 1998). More recent plans, such as the revised Capital Region Rearrangement Planning Law, have attempted to steer growth through the use of fees and levies on new development. The proceeds are used for public investments, which offset the costs of additional infrastructure, the future burden of additional traffic, and other negative externalities. Under this approach, firms are able to use land markets to make location decisions, but the government can intervene by passing on additional costs for public investment in certain areas to the private sector.

**Typically, cities and public agencies use master plans as informational and policy statement documents.**

These plans *do not* include legal or technical specifications for accomplishing specific projects. Instead, more specific planning and regulatory instruments are either developed through the city’s own specific zoning and land-use codes and special area plan designations, or through other existing supralocal laws (such as land subdivision procedures, establishing special tax districts, and so forth). All of these instruments are intended to reflect the direction articulated in the master plan (Fulton 1999; Bell 2005). In the United Kingdom, master planning organizes the development of specific sites or small neighborhoods and includes economic and social analyses of predicted development impacts (Bell 2005). The purpose of these approaches is to allow city policy makers more flexibility in identifying and responding to specific urban development issues that the general plan could not otherwise possibly predict, or provide appropriate policy or financial guidance.

**UB’s master plan mischaracterizes urban density and its effects.**

The plan includes multiple references to “overcrowdedness” and “population centralization.”<sup>23</sup> These concerns are at odds with observed urban growth patterns, which suggest that the city’s population is growing fastest along the urban periphery and in settlements which are sparsely populated—likely due to inexpensive land prices. These terms are more appropriate characterizations of *congestion*, which as discussed is due in part to a *lack* of population density. Second, the plan suggests that in the future the city will “intensely develop ... in the western and southwestern part,” (pg. 126) which roughly corresponds with the location of Khan Uul and Songinokhairkhan districts, even though most recent population growth has occurred in Sukhbaatar and Bayanzurkh, which are located in the north and east. This is possibly due to large public investments in apartments in these areas. However, development is more likely to occur in places where public investments in infrastructure will increase land values, not simply where public housing is built.

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23. See Master Plan Report (2013), pp. 13, 28, 41, 44, 166.

**The plan's proposal of establishing of city subcenters and its emphasis on alleviating traffic congestion are laudable.** In light of the recent urban expansion trend, the approach of identifying and supporting urban subcenters as points for supporting public and private investment are an important way to balance the population density and diversity of land uses. The plan is also right to raise the issue of traffic congestion, which, given the concentration of economic activity and desirable land and real estate in the central city area, presents a tremendous barrier to adequate mobility and access within the city. Given the comparatively low density of the city overall, there is ample opportunity to consider how land markets and land administration practices can be linked to transportation and housing policies. These could be adjusted to encourage a greater level of average density along major transit corridors, along with more evenly distributed access to transportation and employment across the city.

## Urban Development Trends

**UB has grown rapidly, but much of this growth has taken the form of low-density *ger* areas.** Based on comparison of population changes and land use types in the city from 2000 and 2010, the report finds that UB is not a dense city in absolute or relative terms. Migration to the city has been rapid in recent years. However, based on current and future nationwide demographic trends, it is unlikely that the city will ever much exceed a population of two million people—a modest size compared to other cities in the region. Furthermore, the districts with the largest absolute and highest rates of population growth are also the largest in area and the most sparsely populated.

**The quality of urban service coverage in newly urbanized areas is poor.** Mid-tier and fringe *ger* areas have fewer and more widely dispersed health clinics and schools than the central city neighborhoods. Water service in these areas is provided through truck kiosks, which are less reliable and efficient than piped kiosks. Street lighting and public transportation coverage is also much less

available to residents of new urban settlements. To some extent, the low-density development has been driven by the city's land allocation and administration practices. Also, land prices are less expensive than comparable-sized central locations. However, as the city expands outward, the unit cost of providing infrastructure in more distant areas will rise.

**Urban expansion has also increased the residents' risk of exposure to both new and existing hazards.** The city's uneven infrastructure coverage influences where people will decide to settle, which may include areas with known hazards. Major urban hazards include water scarcity, damage and loss of life from structure fires, flooding, and earthquakes. In addition, air pollution is worse in low-density areas composed of detached buildings and *ger* dwellings, which rely on burning coal for heat. Urban land policies and regulations should be based on a principle of public safety, including reducing the threat of death or harm from natural and manmade hazards to both people and property (World Bank 2013c).

**UB's master plan is detailed and ambitious but not without issues that may undermine its effectiveness.** The plan forecasts future land use and economic development in the city, but without a clear consideration of the structure of local land and labor markets necessary to support these goals. Despite the planned list of large-scale housing, industrial, and infrastructure improvements, the criteria for siting and locating these improvements remain unclear. Furthermore, sources of financing for these improvements are not clearly identified. Since Mongolia's transition away from a command economy, land has been among the last sectors subject to legal and market reforms. This delay has contributed to the city's current built form and concomitant problems of congestion, lack of infrastructure coverage, sprawl, and segmented land uses. The master plan, or any other strategic plan, is unlikely to adequately address these problems without additional policy considerations related to land and property market reforms. This balance of this report considers these challenges and offers recommendations for action.



## Chapter 2

# Regulatory Framework and Practice of Land Management

**Ulaanbaatar's (UB) current system of land administration has supported rapid, low-density growth and attendant land challenges.** UB's land policies have succeeded well, relative to comparable cities that have undergone such rapid growth. The city has made secure and affordable land available at a scale and speed consistent with demand. However, the way land policies have been enacted has posed many challenges for the staff of central and local government agencies responsible for land administration. Similarly, those seeking access and rights for use, development, or transfer of land and immovable property have encountered difficulties. Meanwhile, legislation has been introduced at regular intervals (and revised in some cases) before the necessary regulations needed for efficient implementation and enforcement have been formulated. Not surprisingly, many activities take place outside this shifting formal structure.

**These legal changes have not improved the regulation of land and property markets in the city.** Current land administration policies create a distortionary effect on local land markets because they do not adequately restrict the supply of vacant land for private use; nor do they support incentives for private investment in land. All Mongolian citizens registered to live in UB<sup>1</sup> are entitled to a

free plot of land of up to 700 square meters (m<sup>2</sup>), even though many plots are in practice smaller (between 400–550 m<sup>2</sup>). This entitlement for each individual, not household, is possibly the most generous in any world city. It also means that households may possess several plots in different parts of the city. The low densities associated with this plot size impose extremely high unit infrastructure and transportation costs. Despite the large amount of land that has been privatized at no cost for private residential use, exemptions and discounts to land fees and taxes have reduced municipal revenues to a level that is insufficient to provide or maintain basic needs. Political commitment to this policy has generated an expectation that the entitlement will continue indefinitely, raising issues of urban management that need a multi-sectoral approach to resolve.<sup>2</sup>

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be decided as follows: (1) for the citizen who is a registered resident of Capital city in the Capital city and in any of the *aimags* and *soums*, (2) all citizens, except those specified in the clause 1 of this article, in any of the *aimags* and *soums*, except the Capital city." Article 2 of this law states that "Citizens of Mongolia, who were not registered with the administration of an administrative unit on the day the Law on Land Allocation for Mongolian Citizens for Ownership was approved, shall exercise its right to obtain land ownership once and free of charge for family use, after the citizen has solved his/her civil registration matters in accordance with the related legislation." This article stipulates that people shall not be discriminated against regarding land allocation for ownership based on when they were registered with the Capital City (Resolution No. 10/39).

2. Current policy includes a commitment to this entitlement until May 1, 2018, though the period has previously been extended every time there is an election.

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1. Article 3 of the Law on Procedures for Observance of the Law on Land Allocation for Mongolian Citizens for Ownership states that "the determination of the location of the land to be privatized, once and free of charge, to the citizen of Mongolia as per the article 19.1.2 of the Law on Land Allocation for Mongolian Citizens for Ownership should

## LAWS ON LAND AND PROPERTY RELATIONS

The management of urban development and land markets presents a major challenge to all countries, irrespective of their level of economic and institutional development. The structural changes introduced in the last 23 years in Mongolia pose particular challenges and have inevitably required a fundamental shift from control towards more indirect regulation. Other countries have undergone the transformation from state-controlled land and housing systems to market-based systems; their experience suggests it may take considerable time for UB's private sector entities to develop capacity to identify and respond to emerging opportunities. Some market entities will have short lifespans, while others will benefit from the highly politicized nature of city governance and expand faster than their capacity justifies.

**The legal framework for land administration in UB has changed rapidly and is inconsistent with the current administrative structures.** Many new laws (see Appendix A) relating to land administration, titling, and property valuation have been introduced since the 2002 Law on Land, which established the types of land tenure to be applied nationally (see table 2.1 for typology of land tenure types), and some of these laws have been amended more than once. For example, the 2003 Law on Allocation of Land to Citizens of Mongolia for Ownership has been amended as many as five times (in 2005, 2008, 2010, 2011, and 2012). This multiplicity of new and amended legislation has inevitably created some inconsistencies. For example, the 2013 Law on Investment (Article 12.1.1) now allows 60 + 40 years of land possession and use, which is also available to foreign entities, whereas Article 12.2 of the same law states that land issues shall be regulated by the Law on Land.

**The series of changes and revisions to the legal framework has led to considerable public confusion and uncertainty.** These changes and anomalies in the legal framework for land reflect the challenges facing central and local government in balancing the needs of two groups while protecting national sovereignty: (i) foreign

and local investors, who require sufficient security of tenure to justify investing in property development; and (ii) local groups, who need affordable access to land and housing. A recent proposal submitted to the Parliament in January 2013 to amend the Land Law together with four other draft and/or amended laws, namely the Law on Land Cadaster, Law on Land Fee, Law on Geodesy and Cartography, and the Law on Land Acquisition for Unavoidable Public Need in May and June 2014 generated a hostile response from civil society groups and other stakeholders, who portrayed it as permitting foreign ownership of land. Although this was not the intention of the proposed amendment, the passions aroused led to the amendments and drafts being withdrawn by the Prime Minister from the Parliament. In fact, proposed amendments to allow land possession rights for foreign entities and land possession rights for pasture land were leading reasons for the protest. The incident also demonstrated the need for greater public awareness and discussion about land issues, particularly proposed legislation and regulations.

Following the proposal for the amendments of existing laws and the adoption of these new laws, a Parliamentary Working Group was established in January 2013. The working group was dismissed following the withdrawal of the proposed legislation from Parliament. The purpose of the working group was to address the existing legislation regarding land administration, now that the principles and practices of a private land market system have been established. The Working Group planned to undertake a comprehensive review and is considering the following issues:

- *The legal definition of land.* At present, land is defined as an *intangible* asset, much like mineral wealth. A proposal is now under consideration to define it as a tangible asset for purposes of taxation and use.
- *Procedures for land allocation.* The wide degree of discretion accorded to governors at the city and district levels, makes land allocation subject to political influence. A proposal is under consideration for administrative entities such as the Property Relations Department (PRD) to be responsible for this function.

**Figure 2.1: Organizations Involved in UB’s Land Privatization Process**

	Selection of New Allocation Land →	Information & Demarcation →	Claim for Title
UB City Governor	●		●
MPD Master Planning Department	●		
ALAGaC	●	●	●
District PRD Office	●	●	●
UB City PRD Office	●	●	●
Mapping Company		●	●
Notary			●
Commercial Bank			●
ASRT (formerly GASR)			●

Source: N. Bolormaa, Land Administration Specialist.

Note: ALAGaC = Administration for Land Affairs Geodesy and Cartography; ASRT = Administration of State Registration of Titles; LO = land office; UB = Ulaanbaatar.

- How to improve coordination between urban and land development plans.
- How to protect public land in urban areas, and improve enforcement.

### Administrative Structure for Regulating Land and Housing Markets in UB

There are numerous city and national government organizations involved in land administration in UB. Figure 2.1 shows the key players in the land privatization for ownership process. Although UB is an intermediate-sized city by international standards, a multiplicity of central and local public sector agencies, departments,

and enterprises manage the land and housing markets. The land and privatization process, by which land is allocated into ownership, involves a total of nine organizations. At the local level, district and UB City PRD offices as well as the offices of the Governor of UB and Master Planning Department play critical roles. [National authorities involved include the Administration for Land Affairs Geodesy and Cartography (ALAGaC) and General Authority for State Registration (GASR).<sup>3</sup> Applicants must also make use of services from other providers in order to complete land privatization, including notaries, banks, and surveyors. This multiplicity of organizations

3. The 2003 Law on State Registration of Right to Ownership of Property and Other Rights Related to Property established the function and duties of GASR.

creates overlapping and competing interests between government agencies, which leads to fragmentation and adds substantially to costs for both the public and private sectors. This also creates powerful vested interests within the political and administrative groups involved in land allocation, which mitigate against efficient administration and needed reforms.

### Processes and Procedures

The administration of land certificates presents unnecessary challenges for residents and investors. The procedures for obtaining and occupying land in UB vary according to the form of land tenure involved. In Mongo-

lia, land is held under three tenure categories: land use, land possession, and land ownership. These may exist on different plots within a given area and at different times for the same plot of land. Table 2.1 summarizes the main characteristics of each, together with the procedures and costs involved. This complexity can present confusion and uncertainty for those who are unfamiliar with land certification and registration processes. International research has shown that the time (in working days), cost, and complexity of requirements to complete different land and property-related transactions are a major factor in determining the whether or not individuals or firms will invest, especially if decision outcomes are uncertain (World Bank 2014c).

**Table 2.1: Land Tenure Typology in UB**

	Land use	Land possession	Land ownership
<b>Eligibility</b>	<p>Mongolian citizens, companies, and organizations. Also foreign residents and stateless persons, foreign nationals, international organizations, foreign legal entities, and foreign investment entities.</p> <p>The Land Law specifies that land use rights are allowed for Mongolian entities, but in practice this tenure type is granted to foreign entities.</p> <p>Foreign residents and stateless persons (1) for family/household use up to 500 m<sup>2</sup> for housing and 0.1 hectares for vegetable/fruit fields; and (2) for foreign nationals, international organizations, foreign legal entities, and foreign investment entities for specific purposes, periods, and conditions.</p>	<p>Only available to Mongolian citizens, companies, and organizations.<sup>a</sup></p>	<p>Mongolian citizens only. Land cannot be owned by companies or nonprofit organizations. Land can be used for any approved purpose and can be sold on the open market. No air or below-ground rights apply.</p>
<b>Duration</b>	<p>Five years with possible five-year extension at a time for family/household use.</p> <p>The use period for a foreign national, international organization, foreign legal, or foreign investment entity shall be defined by Government Land Law 17.1.2.</p>	<p>In theory for 15–60 years; can be extended for up to 40 years at a time. In practice, possession rights often have been granted for only 5-year terms, though 15 years is becoming increasingly common following the requirements of the Land Law</p>	<p>Permanent.</p>

(continued next page)

**Table 2.1 (continued)**

<b>Procedures</b>	The procedures are the same as in the case of issuance of land possession rights for Mongolian entities. The procedure is as follows:  Applications submitted to DPLRD. Approval is issued by Capital City governor <sup>b</sup> in areas connected to infrastructure and in areas planned to be connected to infrastructure in accordance with existing plans and upon obtaining the opinion of the respective district governor. <sup>c</sup> District governors approve land allocation outside areas for which the Capital City Governor approved land allocations, usually areas lacking infrastructure or where there are no such plans.	Issued by Capital City governor in areas with infrastructure or where there are plans for infrastructure connection based on the opinion of the respective district governor. <sup>e</sup> District governors issue the “possessor right certificate” in areas lacking infrastructure or where these have not been planned. Commercial or industrial applicants obtain possession rights by PRD auction or tendering. Land was previously allocated for possession directly without tendering or auction before the end of 2012.	Applicants with possession rights submit full personal details at district level with details of the plot location, size and shape. UB City land privatization division reviews the application and the Land Ownership Certificate is signed by UB City governor. This Certificate is then recorded in the land title registry with GASR, which as a national agency operates independently of the PRD. Applicants then receive a “registered land title,” commonly referred to as the Pink Certificate.
<b>Time to process (in working days)</b>	DPLRD takes three months, GASR three days.	DPLRD takes three months, GASR three days.	PRD takes three months, GASR nine days.
<b>Costs</b>	<ul style="list-style-type: none"> <li>• Survey: MNT 50,000</li> <li>• Certificate: MNT 20,000</li> <li>• Certified cadastral map from PRD: MNT 2,500</li> <li>• Registration with GASR: MNT 10,000</li> </ul>	<ul style="list-style-type: none"> <li>• Survey: MNT 50,000</li> <li>• Certificate: MNT 20,000</li> <li>• Certified cadastral map from PRD: MNT 2,500</li> <li>• Registration with GASR: MNT 10,000</li> </ul>	No cost. The costs are paid in the process of obtaining the land possession certificate.
<b>Fees/taxes</b>	Land fees payable quarterly and collected from commercial entities.	Land fee payable quarterly though in practice they are not levied on <i>khashaa</i> plots of up to 700 m <sup>2</sup> in <i>ger</i> areas. The fees are also discounted by 95% and not always collected in practice.	Taxes payable, but are discounted by 98% and not collected in practice.

Source: Compiled from interviews with staff.

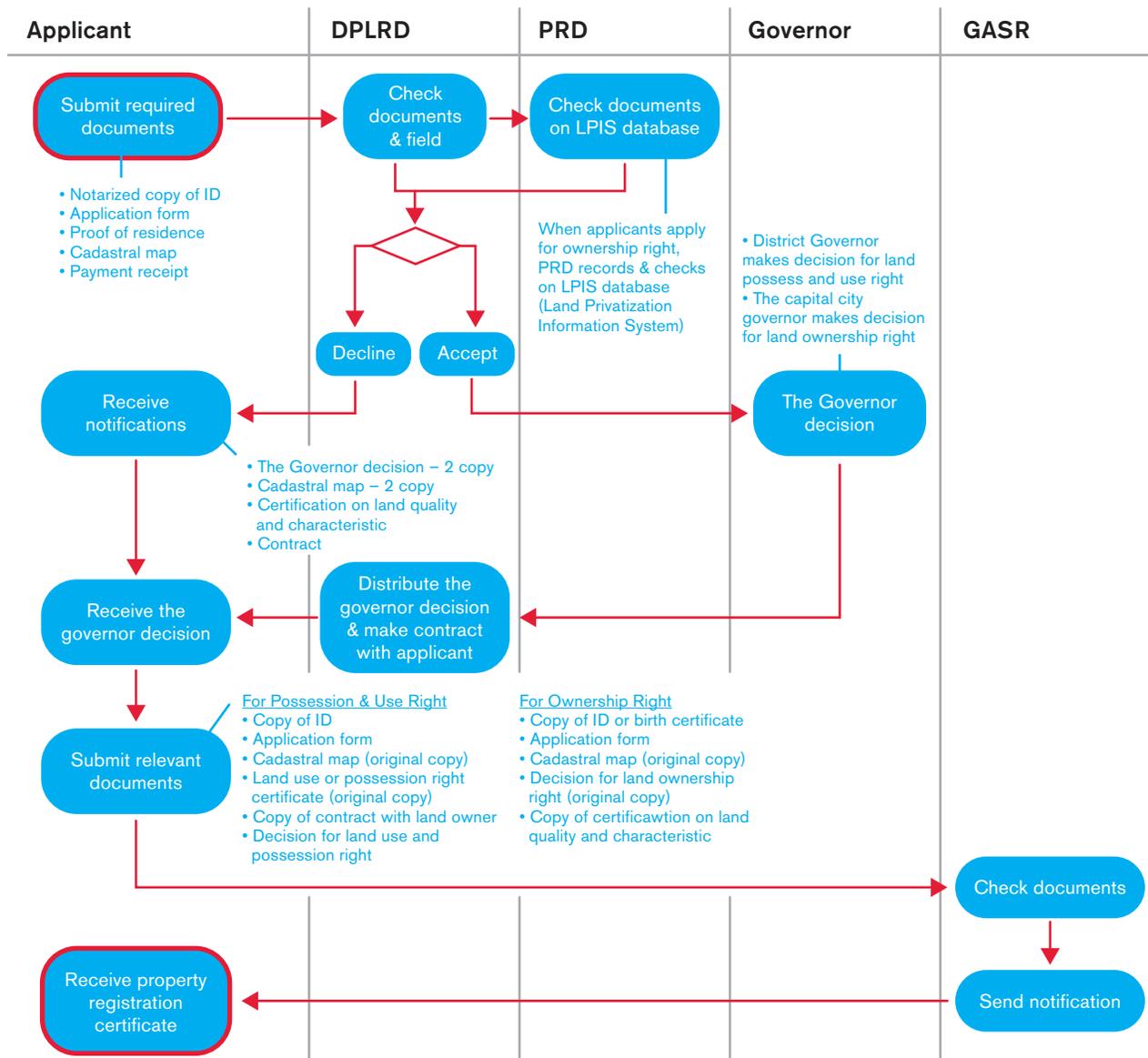
Note: a. Article 7 of the 2002 Law on Land Allocation to Mongolian Citizens for Ownership provided for the privatization of state land holdings in parcels of up to 0.07 hectares in the Capital City and along the main roads connecting the *aimag* centers with UB (except *soum* centers), up to 0.35 hectares in the centers of *aimags*, and up to 0.5 hectares in the *soums*.

b. Land use applications should be processed by the Citizens Representative Khural. As these are not working regularly, applications are processed by PRD, which collects relevant documents and passes them to the city governor for decision.

c. Law on Land, 21.2.3.

DPLRD = District Property and Land Relations Department; GASR = General Authority for State Registration;; PRD = Property Relations Department; UB = Ulaanbaatar.

Figure 2.2: Procedures for Obtaining Land Use, Possession, and Ownership Rights in UB



The relevant procedures for obtaining land use, possession, and ownership are shown in figure 2.2.

**Tenure rights available to legal entities<sup>4</sup>—domestic and foreign—are weakened because and term lengths**

4. The UB city government consists of a complex maze of 710 legal entities, which can be categorized as follows: city administration; 9 district administrations (as separate legal entities); approximately 60

are uncertain or too short. The procedures for obtaining land use certificates lack clarity, in terms of knowing what will be granted, certainty of outcome, consistency

industrial enterprises owned by the city; 8 limited liability companies (LLCs) operated as joint ventures with the private sector (including the stadium, national park, and hospital); and budgetary institutions such as schools. The number of legal entities constituting the city government is very fluid, as new entities are formed quite often.

### Box 2.1: Case Study: The Challenge of a Dual Property Registry in UB

Bold purchased a *khashaa* plot with a house on it from Nergui in 2004. The *khashaa* plot is located in Bayangol district in one of the prime *ger* area locations close to city center—the Zuragt area. After the purchase, Bold registered the *khashaa* plot/land parcel with the District Land Office (now the District Property and Land Relations Department—DPLRD) and received a land possession right certificate. Bold then registered the house on the *khashaa* plot with the Administration of State Title Registration (now General Authority for State Registration—GASR) and received the immovable property ownership title certificate. These processes were conducted and completed legally within existing procedures.

Bold left Mongolia shortly afterward to work abroad for an extended period. He returned to Mongolia briefly in 2014 and applied to the Property Relations Department (PRD) to transfer his land possession right into land ownership right. Bold was thereby exercising his right to obtain a land parcel once and free of charge for ownership according to the Law on Land Allocation to Mongolian Citizens for Ownership. To his surprise, PRD informed him that his land parcel had been allocated to Nergui for land ownership in 2006. Nergui was able to transform his already transferred land possession right into land ownership right with assistance of the Bayangol District Land Office and Land Administration Department of UB City (now PRD). He was even able to register it with the Administration of State Title Registration and obtain the immovable property ownership title certificate for this land. Currently, there are two immovable property ownership title certificates for property on the parcel: one is for the house on the land parcel under Bold's name and the other one is for the land on Nergui's name. The value and desirability of both the building and the land are now greatly diminished because improving, selling, or transferring either would require the consent of each certificate holder.

Source: WB Team discussions with a lawyer specialized in land disputes. All identities and locations have been changed for purposes of anonymity.

between the treatment of individuals and entities, and continuity in terms of changing requirements (see box 2.1). The procedures for allocating possession rights pose a number of problems, particularly for Mongolian companies. The stated period of 15–60 years for the allocation of the land possession certificate lacks clarity and consistency. Anecdotal evidence has shown that in practice many licenses are issued for periods as short as five years, imposing heavy costs for short-term benefits. Foreign investors face the same hurdles of uncertainty in obtaining and renewing “use” rights. An extension term of only five years is a further deterrent to investment for outsiders who are new or unfamiliar with Mongolian markets.

**Residents also face difficulties in navigating land certification and registration procedures.** The quality of service provided by different land offices to citizens varies.

Some provide clear guidance on requirements, including one-stop shops with Internet connections, but in others, staff may not be available or familiar with the processes that applicants need to fulfill (see box 2.2). As a result, the procedures lack clarity and many applicants are forced into making multiple visits to complete the procedures. Similarly, a World Bank survey of land office users carried out for this study found that they hire informal assistants who gather outside the office in order to help them collect and organize documents to complete land transactions. These assistants are not licensed or recognized by the city, which opens up the possibility that they can exploit or mislead applicants. Their presence highlights the perceived complexity of land office transactions among the general public. A related concern is that the outcomes of possession rights applications are far from certain; they depend upon the decision of the governor rather than explicit and transparent criteria.

## Box 2.2: Case Study: Improving Revenue Collection through Integrating Information Systems: The Case of Arusha, Tanzania

Tanzanian cities rely heavily on own-source revenues collected through local taxes, including a property tax. However, the database held by valuation and tax collecting authorities is often separate from cadaster, engineering, or other departmental records. With assistance from the World Bank and DANIDA, the city of Arusha developed the Land Government Revenue Collection and Information System (LGRSIS) to centralize land and property records held by different city departments with the intent of improving revenue collection from four main revenue sources: property taxes, service fees, business licenses, and billboard permits. These sources combined constitute 64 percent of the city's total revenue base.

LGRSIS is composed of a comprehensive GIS database that links cadaster maps to valuation and tax collection records. It is possible to “map” the city according to areas or individual properties that have or have not paid taxes. The Web-based format allows for the rapid generation of current reports on particular parcels. It also permits automatic updating of records based on new inputs, such as transfers of ownership through sales or inheritance, which reduces the incidence of filing errors from lost or mismatching paper records. The system not only allows the city to more efficiently locate and follow up with delinquent payers but also allows tax payers to file payments directly through commercial banks or mobile phones. Since the 2014 rollout, the total amount of property tax has increased by 327 percent, user fees 214 percent, business license fees 235 percent, and billboard permit revenue by 380 percent.

Source: World Bank team analysis from Tanzania Strategic Cities Program internal documents.

**Allocation procedures also give government officials wide discretion that could be misused.** Unclear procedures for obtaining the land possession certificates for household use provides staff in the District Property and Land Relations Office with opportunities for abuse, even if not all staff do so.<sup>5</sup> For example, applicants are required to hire a survey company as part of the application for obtaining a plot. The land officer may recommend a certain

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5. Prior to the passing of the Land Law, some *ger* areas were developed without formal approval and obtained ownership status later. At the same time, approval/permits were given on other *ger* area plots—in fact, the same official paper/possession right that *ger* area residents received when successfully applying for ownership. Such permits can now only be obtained through an official process. However, it is reported that some individuals with influence have acquired large areas of land or several smaller pieces of land (sometimes just one plot—0.07 hectares or a bit smaller) on the urban periphery. These plots are then subdivided for sale with a guarantee to the purchaser of eventual legal ownership. Under a code approved on September 20, 2012, individuals who occupy land without permission will no longer be eligible for ownership. However, occupants of land who can prove that they have been resident on their plots prior to this date are exempt.

company based on their own interests or connections. This then places the applicant at a disadvantage, because their decision to hire the recommended firm may influence the final approval of their application. Proposed online application procedures would be used to allocate land directly for ownership in 52 locations (some 160,000 plots) without the requirement to obtain possession rights first.<sup>6</sup> Lack of oversight and the anonymity of the online system could invite abuse. Land officers would have the ability to allocate some plots to online applicants while secretly retaining other plots for friends or relatives (see box 2.3). A more serious abuse occurred some years ago when a number of land parcels were illegally and directly allocated to individuals and legal entities without auction or tender.<sup>7</sup>

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6. This was the approach also adopted by a property rights project financed through the Millennium Challenge Account (MCA).

7. The current municipal administration has attempted to correct such abuses.

### Box 2.3: Case Study: Cadaster Database Tampering in UB

Sukhbat obtained a land possession right certificate for 1,300 square meters (m<sup>2</sup>) of land in Songinokhairkhan district in 1997. The land is desirable as it is located near urban infrastructure utilities and is included in the one of the ger area redevelopment sites. In 2003, he subdivided the land into two pieces of 700 m<sup>2</sup> and 600 m<sup>2</sup> each, transferred the 600 m<sup>2</sup> piece to his brother Boldsukh, and retained the rest for himself. As required for subdividing land, in accordance with the law allowing ownership of up to 700 m<sup>2</sup>, Sukhbat hired a surveyor to complete the map as part of his application. Then Sukhbat obtained a land ownership decision from the UB City Governor. Yet, like many other land owners, he did not apply to the General Authority for State Registration (GASR) to obtain the immovable property ownership title certificate for his land parcel, because his permanent residence is in another location.

In 2014, Sukhbat learned from his brother Boldsukh that someone had removed the fences surrounding his land parcel. He went to Bayanzurkh District District Property and Land Relations Department (DPLRD) to report this and learn what may have happened. The DPLRD informed him that Sukhbat's neighbor Itgel had obtained the land possession right certificate and then the land ownership decision of the UB City Governor. He then took the next step and received the immovable property ownership title certificate from GASR on Sukhbat's land. Then Itgel sold this land to someone else, who was the person that had removed the fences.

In the process of clarifying the circumstances, it revealed that the cadastral map, which had been completed done when the land was subdivided in 2003, was not recorded in the cadastral database. Also, it became clear that Itgel had persuaded an official to delete the parcel boundary in the cadastral database separating his and Sukhbat's land parcels.

*Source:* WB Team discussions with a lawyer specialized in land disputes. All identities and locations have been changed for purposes of anonymity.

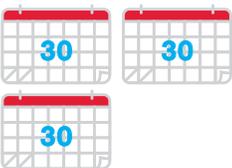
**The purpose for the distinction between “possession” and “ownership” tenure status is not clear.** The benefits obtained by the possessor rights certificate are virtually identical to those of full ownership. “Possessors” are entitled in theory, if not in practice, to obtain formal credit and are discounted from paying full land fees for residential use (full owners, by contrast, may be required to pay land taxes). At present, land ownership can only be obtained after obtaining the land possession certificate, a two-step process that increases costs and times unnecessarily for both applicants and government. Although the land possessor rights certificate does not entitle individuals to compensation in the event of land acquisition, this is generally not seen as a practical threat. They also know that they are able to complete the process to register their ownership with GASR if this becomes important, provided the land is for residential/household use.

**The time necessary to complete land property registration varies widely depending on the review body.** The time taken for the UB City Governor to make a decision is the longest segment of both the registration and transfer processes. This is reported (see figure 2.3) as taking 90 days, but additional days may be required in registering with GASR, resulting in a total registration period of up to 108 working days and costs MNT 62,800. GASR reportedly completes the process of first registration of land for ownership within an impressively short period of 9 working days at no cost.<sup>8</sup> In 2014, Mongolia was ranked by the World Bank as a commendable 27<sup>th</sup> in the world

8. Mortgage documents take three working days to be processed and issued. The cost is 0.05 percent of the mortgage amount for the service fee and MNT 5,000 (US\$2.8) for GASR registration of the mortgage. In cases of urgent registration, the cost is double and the documents are issued within eight working hours.

**Figure 2.3: Procedures, Times, and Costs in the UB Land Privatization to Ownership Process**

 = 10,000 tugrik    
  = 1,000 tugrik    
  = 1 day    
  = 30 days

Steps	Cost (tugrik)	Time Required	Organization in Charge
Cadastral map surveying	 50,000		Surveying Company
Take municipality letter	 100		Municipality
Print out cadastral map	 2,500		UB City Land Office, Bank
Take the application form from District PRD	 300		District Land Office, Bank
Certify documents	 10,000		Notary
PRD at city level and DPLRD at district level check application	No Cost		UB City PRD Office
UB City governor decision	No Cost		UB City Governor
Take the decision certificate	No Cost		District PRD Office
Register at GASR	No Cost		GASR
<b>TOTAL</b>	 62,900		

Source: Authors' compilation based on interviews

Note: DPLRD = District Property and Land Relations Department; GASR = General Authority for State Registration; PRD = Property Relations Department; UB = Ulaanbaatar.

## Box 2.4: Case Study: Problems with Inheriting Property in UB

Baatar obtained 150 square meters of land in Khan-Uul District and received a land possession right certificate legally in 2006. He built a five-story building for service/commercial use on that land. Unfortunately, he passed away before he managed to obtain the related immovable property ownership title certificate.

Baatar's widow, Khorloo, decided to make her youngest son Zorig the sole heir to the property and initiated the process to formalize the inheritance. Her decision was also supported by Baatar's daughters Naran and Saran. However, another son, Bat, wanted sole inheritance of the property. Two different notaries issued a total of three inheritance certificates. One notary worked for Khorloo and her son Zorig and the other notary for Bat. The land possession right certificate and subsequently immovable property ownership title certificate were issued to Bat by the District Property and Land Relations Department (DPLRD) and General Authority for State Registration (GASR) based on the inheritance certificate issued in Bat's name. Khorloo and Zorig submitted their inheritance certificates to DPLRD, but they were misplaced and eventually re-issued. Eventually, however, Bat managed to become the legal owner of the property, possibly through the support of the government officials involved in processing the certificate request. Khorloo and Zorig lost their claim to the property. The case demonstrates that the existing processes for transferring property through inheritance are not able to adequately distinguish legal and fraudulent claims.

*Source:* WB Team discussions with a lawyer specialized in land disputes. All identities and locations have been changed for purposes of anonymity.

in terms of the time taken to register a property.<sup>9</sup> However, this only captures the time for registration at GASR, which is the very last step after obtaining the certificate. Transferring land rights generally takes about 30 days, a very reasonable period by international experience. Officially, the UB City Governor or district governors must decide on the transfer of land possession rights within 15 days. Based on this decision, the PRD or DPLRD registers the transfer to make it effective. However, evidence suggests that in practice, registration and transfer takes up to three months, which costs time and elicits uncertainty for investors.

## Transferring Land and Property

**The current system of recording land transactions invites underreporting of sales and sales prices (see box 2.4).** Land with a possession right cannot officially be sold, but it can be “transferred,” which in practice means buying and selling within a large informal market because no sales transaction price is officially reported. All land

9. Though this is down from an impressive 22<sup>nd</sup> in 2013.

transactions are notarized in UB. In order to avoid under-the-table transfers made to avoid sales tax obligations, property can only be gifted to family members. The administrative system for processing transfers previously involved 26 steps, but has been reduced to 15 and the action is completed within five days.<sup>10</sup> In the case of sales contracts, a receipt for payment of the 2 percent tax on sales of immovable property must be attached to the application for registration. As official sales are subject to a tax on the value, there is the possibility the buyer and seller will either opt for a “transfer” or will agree to report a lower price to avoid the tax penalty.

**Finally, the multiple municipal agencies that applicants have to deal with, including PRD and GASR, raises the cost of government administration considerably and deters applicants from completing land tenure procedures (box 2.5).** Nevertheless, the processing

10. The service fee for transferring properties (sales contract) is MNT 20,000 (US\$11), including “gift transactions.” In urgent cases, the transfer can be done in eight working hours for double the service fee, that is, MNT 40,000 (US\$22).

## Box 2.5: Case Study: Land and Property Transfer as a Commercial Transaction

A property located in Sukhbaatar district, located on the ground floor of a multistory building with a built area of around 400 square meters (m<sup>2</sup>) and land area of 558 m<sup>2</sup>, was sold in September 2013. The titles for the property included an immoveable property ownership certificate issued by the General Authority for State Registration (GASR) for the building and a land possession right certificate issued by the Land Administration Department of UB City (now the Property Relations Department—PRD).

The parties negotiated the total sales price, payment conditions, who pays for the notary services, and other conditions. A “Contract for the Sale and Purchase of Immovable Property” was concluded and notarized. A fixed fee of MNT 300,000 (US\$166.6) was paid for the notary service. This was necessary as the contract amount was more than MNT 500,000,000 (US\$277,750). The contract concerned only the building. The contract was then submitted to GASR to register the change in ownership, which required submission of the following documents:

- notarized contract for sales and purchase of immovable property
- notarized IDs, company registration certificate, company statute (the notary fee for each ID and company registration certificate is MNT 2,500 [US\$1.4]; MNT 500 is paid for each page of the copy of the company statute)
- immoveable property ownership certificate—original
- receipt confirming payment of a 2 percent tax on the sale of immoveable property
- service fee of MNT 20,000 (US\$11); MNT 40,000 (US\$22) in case of expedited/urgent registration
- application for registration

The immovable property ownership certificate was issued in two working days in the name of the buyer. The company received the certificate on the third day after it submitted the request for transfer of ownership of the building. If the transaction had not involved “land or land possession right,” then it would have been completed in three to four days.

After the company received the ownership certificate, the parties entered into a separate contract to transfer the land possession right to the buyer. A notary service was used and a fee for 10,000 MNT (US\$5.5) was paid, the fixed rate for this type of contract. The process was finished only after the immovable property ownership was transferred to the buyer as advised by the notary.

The parties submitted the following to the Cadastral Division of PRD for the land rights transfer:

- official request to of both parties to PRD to transfer the land possession right
- notarized contract to transfer the land possession right
- a confirmation from the PRD that all land fees due were paid, obtained from the Land Fee and Payment Division of PRD
- original land possession right certificate and contract for land possession for citizens and legal entities
- notarized copies of IDs, company registration certificates, and the immovable property ownership certificate (for each, a notary fee of MNT 2,500 (US\$1.4) is paid)
- payment of MNT 35,000 (US\$20) to PRD for the land possession certificate

The land possession right certificate was issued by PRD after three months. The Law on Land requires that a decision on the transfer of the land possession rights be made by the UB City Governor within 15 working days after submission. However, in practice this took about three months.

Source: WB Team compilations based on interviews for this study.

## Box 2.6: Case Study: Successful Land Administration in Georgia

Georgia has markedly improved its land administration and management systems since the pro-democracy Rose Revolution in 2003 (World Bank 2011). The case of Georgia has particular relevance for the Mongolian experience because both countries have recently undertaken a series of market and institutional reforms following a democratic transition. Land reform has become key issue in both countries.

The goal of the reforms was to separate and streamline land management and administration tasks and to reduce the incidence of corruption in land certification and registration functions. To do this, Georgia:

- created a new agency (National Agency for Public Registry—NAPR) solely responsible for land administration that was charged with issuing titles, and maintaining the cadaster and registry records
- separated public land management responsibilities to other ministries
- reduced registration time by offering online services and information about parcels, waiving notary requirements in certain cases, and having a single caseworker in charge of applications
- introduced a fee-based financing structure for NAPR in order to ensure proper fees are collected in a timely manner for services offered, which has made the agency fully self-financed and even generating additional revenue for the national budget

As evidence of the success of these changes, Georgia has consistently ranked at the top of the World Bank/IFC “Doing Business” ratings, having the highest ranking (out of 183 countries) for property registration systems since 2012 (World Bank 2012:13).

Sources: World Bank 2011; 2012.

costs of applications for various forms of land tenure are considered affordable for applicants. Hopefully, proposals to expand one-stop shops will help reduce costs over time, but the entrenched interests within the existing organizations will not be easy to modify. More importantly, the current need to obtain a possession certificate before obtaining ownership adds to costs for both applicants and the government.

## Obtaining Construction Approvals

**Obtaining approvals for land development is costly and time consuming, and outcomes are uncertain (box 2.6).** Anecdotal evidence suggests that it takes between 6–12 months to obtain a building construction permit in

UB. In 2014, the World Bank<sup>11</sup> ranked Mongolia 74<sup>th</sup> in the world in terms of issuing such permits. While this is not impressive, and is a potential disincentive to investors and developers, it is an improvement from 132<sup>nd</sup> in 2013. One outcome of this slow processing is the payment of “commissions” in order to facilitate approvals. In a similar procedural improvement, it previously took 2–3 years and 700 signatures to obtain a permit to build. This was reduced to 35–40 days and 40 signatures in 2013 and has significantly increased the degree to which applicants complete the formal procedures. It is to be hoped that the proposed “one-stop-shops” e-governance program can streamline this process even further and for all applications within the city.

11. <http://www.doingbusiness.org/data/exploreeconomies/mongolia#registering-property>.

## PLANNING STANDARDS AND REGULATIONS

**Planning and building standards, together with regulations, exert a major impact on the costs, and therefore affordability and viability, of land development.** While planning and building standards specify the minimum acceptable quality of development, planning and building regulations determine the location, nature, and extent of permitted development. For example, inefficient or rigid land use zoning and development standards may result in developers refusing to invest in projects that are not commercially viable, or offering bribes to avoid conformity. Strict segregation of land uses may also impose higher transport costs and reduce the flexibility and diversity essential to a thriving and convivial urban environment. It is the possibility of close and frequent interactions between people that characterizes successful cities, and a broad mix of land uses can best achieve this.<sup>12</sup>

The key considerations in land use planning are to (i) maximize opportunities for generating synergies between compatible land uses, and (ii) prevent incompatible uses that create risks to public safety, health, or the environment. Building height limitations, floor area ratios,<sup>13</sup> and plot coverage regulations affect the cost and viability of developing a given site, including its market value. Within UB, there are 20 categories of land use zone for regulating the use, density, height, or shape of buildings (table 2.2).

**UB's ability to plan for land use and apply development controls is limited.** At present, most areas of the city include a wide range of different uses. Responsibility for

determining the acceptability of different uses rests with the Master Planning Department. Human and financial resources for determining and enforcing land use norms are modest, given the extent of the urban area and the rate at which it is changing. Moreover, some land use categories (such as semi-commercial and neighborhood commercial zones) are applied arbitrarily, which often leads to contestation between the city and landowners and developers. The Ministry of Construction and Urban Development (MCUD) is drafting a proposed Law on Zoning, to be followed by specific regulations and development standards. This presents an opportunity for the city to incorporate an alternative set of land use controls that allow for additional flexibility to respond to market demands and social needs in urban land.

**Table 2.2: Land Use Zones for Regulation in UB**

<i>Residential zones</i>	<i>Suburban zones</i>
RE-1 Single family housing zone	SU-1 Farmer zone
RE-2 Low rise residential zone	SU-2 Traditional agricultural zone
RE-3 Middle rise residential zone	SU-3 Natural conservation zone
RE-4 High rise residential zone	
RE-5 "Ger" zone	<i>Mixed use zones</i>
	MU-1 Semi-residential zone
<i>Commercial zones</i>	MU-2 Semi-commercial zone
CO-1 Central business zone	MU-3 Semi-industrial zone
CO-2 Satellite business zone	
CO-3 Neighborhood commercial zone	<i>Open space zones</i>
	OS-1 Green built
<i>Industrial zones</i>	OS-2 Avenue, road
IN-1 Danger industrial zone	OS-3 Restriction zone & area
IN-2 Heavy industrial zone	
IN-3 Light Industrial zone	

Source: Ministry of Construction and Urban Development (MCUD).

**Some development requirements are consistent with international standards, but these are difficult to enforce because they are not adapted to UB conditions.** The city's building height limit of 51 meters for residential developments is reasonable, given maintenance costs, seismic risk levels, and the capability of the construction industry. However, such developments are also required to have a 30-meter space around each side, 25 percent street level parking, and 50 percent underground parking, all

12. UN-Habitat (2013: 28) recommends that at least 40 percent of an urban area should be allocated for mixed land use and that mono-functional zoning should be reduced to no more than 10–15 percent of the overall urban land area.

13. The total permitted floor area for a given plot size, also known as the floor space index.

of which substantially add to the costs of construction.<sup>14</sup> Public and civic buildings are required to be planned in coordination with street and road networks and adjacent land uses that may not be readily available. The planning guidelines require that for every 1,000 residents living within a specified distance, there should be an adequately sized kindergarten, school, and clinic,<sup>15</sup> but in peripheral areas population densities are low, making it difficult to apply this standard. The permitted floor area ratio in UB varies between 3.4 and 4.7 depending on building floor heights, which allows for some level of efficient land use. But the maximum permitted plot coverage for buildings is 70 percent, which can also be too restrictive, depending on the use and location.

**Uncoordinated land plot allocation has increased the need for regulations supporting eminent domain.** Land plot allocation in UB has proceeded without appropriate set-asides for rights of way, easements, and public land for infrastructure, especially in *ger* areas. The proposed Law on Land Acquisition for Unavoidable Public Need is intended to provide the city with the tools to reacquire privatized land for public uses.<sup>16</sup> The law allows for compensation based on objective assessments of market or replacement value of the land and development on it. It also stipulates an allowance to cover the costs of relocation, transition, rehabilitation, and transaction. Another provision is that independent assessors are appointed by both the city and landowner in order to arrive at a fair

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14. There currently is a trend among planning practitioners to relax or remove minimum parking requirements for new development, based on the assumption that private developers are better positioned to estimate parking demand for the proposed use. Underground parking in particular is very expensive. In Washington, DC, for example, the cost of building a single underground parking space is US\$50,000. See Shoup (2011) for a summary.

15. These ranges are 300 meters for kindergartens, 500 meters for schools, and 1,000 meters for clinics.

16. The draft law allows compensation based on the market value or replacement value, whichever is higher, of the reacquired land and development on it, plus 10 percent of the value of the compensation for the land and immovable properties as an incentive for surrendering the property for public use, an allowance to cover the costs of relocation, rehabilitation, and transition. The draft law is consistent with international best practices and provides land owners, possessors, and users a high level of protection.

and transparent solution, which is largely in line with international best practices. The compensation amounts for property acquisition will vary widely according to market conditions, but the total commitment amount for private compensation could be very high. For this reason, the law should only be applied when absolutely necessary. Every effort should be made to ensure that adequate provision of public space is made in future land allocations and developments.

## LAND AND PROPERTY FEES AND TAXES

**Measures to increase land registration and capture revenue from taxation have not succeeded.** As stated above, many households, especially in *ger* areas, do not see the benefits of obtaining full land ownership as sufficient to justify the steps involved. As a result, the land market in UB still lacks formality and transparency, to some extent. Interviews with city officials and technical staff suggested that people were reluctant to pay the required taxes and fees after obtaining ownership rights, including the immovable property tax and land fees for possession rights. The fees discouraged buyers from completing procedures for registered ownership and hence undermined support of a formal land market. The revised Law on Immovable Property Tax (revision of January 9, 2004) was intended to overcome this reluctance by providing tax discounts on privatized residential land plots. This decision has yet to result in an increase in ownership registrations with GASR. However, it has resulted in a substantial loss of potential municipal revenues, since neither the property tax for land ownership nor the land use fees for possession rights for residential parcels are fully collected.

**Land taxes and fees in UB constitute a small portion of annual revenues by international comparison.** The property tax and land use fee are two different items in UB and Mongolia. However, together they constitute what in market economies is the property tax, which in most countries is assessed on land and improvements (buildings) together. In UB, the property tax and land use fee together made up 11.9 percent of the city's revenues in 2012. As table 2.3 illustrates by a comparison of property

**Table 2.3: Property Tax and Grants from Upper Government as Shares of Local Government Revenue, UB and Selected Countries and Cities, 2007–09 and 2013 (percent)**

Country	Property tax (% of local revenue)	Grants from upper government (% of local revenue)	Total local government revenues (%)
<b>City</b>			
Australia	39	14	53
Canada	38	42	80
<b>Toronto</b>	42	21	63
France	34	29	63
Spain	23	36	59
<b>Madrid</b>	12	39	51
Bulgaria	20	70	90
South Africa	17	25	42
<b>Cape Town</b>	25	25	50
Czech Republic	6	28	34
Germany	5	48	53
Russian Federation	4	58	62
Finland	4	32	36
<b>Ulaanbaatar</b>	<b>2.8</b>	<b>21.4</b>	<b>24.2</b>

Sources: Brhane et al. 2013; Garzon and Freire 2014.

taxes and transfers, land taxes and fees are much lower in UB than for local governments in many other countries. In several comparator countries, local governments receive a higher portion of grants from central government than does UB, which receives 21 percent of its revenues from central government transfers (World Bank 2013b). The tax on land in ownership for individual housing is so low that individual owners of 102,481 privatized plots that occupy more than 5,218 hectares enjoy virtually free

land. It is worth noting that this type of free ownership of urban land is practically unprecedented in market economies, where most property owners, including individuals, pay property taxes in one form or another. Free ownership of land in UB is another manifestation of the fact that government policies in UB (and Mongolia) are lagging behind the country's economic realities. Urban land in UB has high economic (market) value and many find ways to profit from this value.

## Box 2.7: Land Fee Assessments in UB

### Land fee assessments for a company

A company holding a land possession right, running a business activity in zone 1, and holding 400 m<sup>2</sup> of land pays as follows:

Land fee = value zone, type of use x land area

Land fee = 1<sup>st</sup> zone, business activity (352 MNT/m<sup>2</sup>) x land area (400 m<sup>2</sup>) = MNT 140,800 (US\$78) annual fee

### Land fee assessments for an individual

An individual holding a land possession right for citizens household use in the third zone and holding 400 m<sup>2</sup> of land pays as follows:

Land fee = value zone, type of use x land area x 90% discount

Land fee = 3<sup>rd</sup> zone, citizens household use (MNT 44/m<sup>2</sup>) x land area (400 m<sup>2</sup>) x 90% discount = MNT 1,760 (US\$1) annual fee.

Sources: Government Resolution 152 of 1997 and Resolution 5/39 of the Citizens Representative Khural of Capital City from 2010.

## Land Fees for Land under Possession and Use Rights

The methods used to assess land and property values for taxes and fees are inadequate for the city's land administration needs. Unlike most cities worldwide, most residents of UB are not required in practice to pay land fees or property taxes on land used for household/family purposes. Methods for assessing land values as a basis for determining relevant fees are complex and difficult to reconcile with property values or the ability to pay. There is no estimated market value used to assess land and property. The holders of land possession and use rights pay land fees in accordance with the 1997 Law on Land Fee,<sup>17</sup> which sets "value zones" and fee rates based on fixed land values determined by the Government (see box 2.7). (Also see appendix C for the land value zones that are used for determining land fees). The value of privately owned land is also assessed through similar methods, using a coefficient, base value, zone location, and measures of infrastructure, ecological, and socio-economic characteristics. In all *ger* areas, the coefficient is 0.3 and the base value per m<sup>2</sup> is MNT 44,000 (US\$23.85), and hence the m<sup>2</sup> value of land for privatization in *ger* areas is MNT 13,200 (US\$7.3). The total value of land that is typically being privatized—plots tend to be about 400 m<sup>2</sup>—is MNT 5,280,000 or US\$2,933. These represent static assessed values for land and properties across the city—not actual market values which tend to be far higher.

17. Government Resolution 152 of 1997 and Resolution 5/39 of the Citizens Representative Khural of Capital City from 2010.

## Land Tax (Immovable Property Tax) for Privatized Land Holdings

Much of the city's privately held land enjoys substantial tax discounts and exemptions that preclude it from being an important revenue source for UB. Even when fees or property taxes on residential property are payable, they are heavily discounted to the point where collection costs represent a substantial proportion of the revenues due. The Law on Land Fee (1997 Article 8.1.2), states that a 90 percent discount on the land fee is provided to Mongolian citizens who possess land up to 0.07 hectares for their household use. The land tax for the land privatized to Mongolian citizens for family/household use is 0.6 percent of the taxable value; this generates an annual tax rate of less than one U.S. dollar and is therefore more than the cost of collection, removing any incentive to collect. In UB a 95 percent discount is provided on the taxable amount, which is not actually collected on residential property. For example, if the value of land is MNT 5,280,000 (US\$2,933) then the land tax would be just MNT 1,584, an amount that is easy for people to avoid paying or for the city to commit to collecting.<sup>18</sup> Furthermore, the Law on Immovable Property Tax (Article 7.1) exempts residential dwellings (including apart-

18. The assumptions here are:

- a) MNT 5,280,000 x 0.6%: 100% = MNT 31,680 (US\$17.6) 0.6% tax)
- b) MNT 31,680 x 95%: 100% = MNT 30,096 (95% discount on 0.6% tax)
- c) MNT 31,680 – MNT 30,096 = MNT 1,584 (US\$0.9) (annual tax to be paid after deducting the 95% discount).

ments and houses), immovable properties of state and local budget-funded legal entities, public facilities and immovable properties located in industrial and technology parks from taxation. Residential dwellings comprise a large part of the city's built area.

**The legal basis for property taxation is unable to resolve anomalies in registration status.** The Law on Immovable Property Tax (Article 5.1) states that the taxable value of immovable property, other than land, is determined by the value registered with the immovable property state title registry (GASR). If there is no such registration, the value is determined by the value that is used for property insurance. If there is no property insurance, then the value will be established as the value that is recorded in accounting books. As stated in Article 5.1 of the Law on Immovable Property Tax, the tax rate is from 0.6 percent to 1 percent of the value. The rate is determined by the Citizens Representative Khurals of UB or *aimag*, depending on the location, use, market demand, etc. The tax is assessed annually based on the property value as of January 15 and collected on a quarterly basis. In most cases, the taxable value is the value recorded in accounting books, which is often much lower than the market value. Assessing this value deprives the municipality of substantial revenues (see box 2.8).

**The structure of land fee and tax administration is confusing to both citizens and public authorities.** The laws and regulations concerning land fees and taxes are

also confusing and variable in application. For example, apartment owners do not pay fees or taxes on land or their apartments. Yet, certain immobile assets are not exempt from taxation. Facilities and buildings owned by companies, NGOs, citizens, and foreigners are subject to a 0.6 percent annual immovable tax on the value of the asset; this increased on January 1, 2013 to 1 percent in central areas of UB. Land under commercial use is also taxed according to the type of business, of which there are over 50 different categories. In practice, there is a lack of clarity with regards to the responsibility and division of tasks between the PRD and the UB Tax Office in estimating and collecting land taxes. For instance, officials of the UB Tax Office maintain that UB PRD collects taxes, while PRD officials believe that they are only responsible for calculating the tax rate. However, the Law on Immovable Property Tax clearly states (Article 8.4) that land tax shall be assessed by UB PRD and the tax inspector—the UB Tax Office—shall collect the tax for local budgets. This demonstrates clear weaknesses in accurately assessing and collecting appropriate taxes and fees from private land.

**The rapid expansion of Ulaanbaatar in recent years has made it extremely difficult to establish an appropriate regulatory framework of planning and building standards, regulations, and administrative procedures for accessing, developing, and transferring land and property.** To address this challenge, the UB government is proposing the creation of a “Land Exchange,” report-

### Box 2.8: Case Study: Missing Revenue from an Alternative Property Value Assessment in UB

In September 2013, a private company located in Sukhbaatar District sold about 400 square meters of commercial immovable property at market value for MNT 1.1 billion (US\$611,000). However, the value recorded in the company's books was only about MNT 50 million (US\$27,750). The current rule of property taxation of commercial properties allows the use of the property's book value for taxation. Therefore, the company had been paying only MNT 300,000 (US\$166) annually in property taxes (MNT 50 million x 0.6%) instead of MNT 5,280,000 (US\$2,933), which would have been due to the city on a market valuation. Thus, for this property alone, the city has been forgoing close to 4,000,000 MNT per year.

Source: WB Team compilations based on interviews for this study.

edly through which all property transactions are to be processed. However, this will only add another layer of bureaucracy and cost to transactions without any apparent benefit to buyers or sellers.

## DISCUSSION OF CONSTRAINTS AND OBSTACLES TO LAND AND PROPERTY ADMINISTRATION

**The current system of land and property rights is extremely costly to both the public and private sectors and does not provide investors and property owners with good security.** The separation of land and building rights increases transaction costs and time, both for property holders and for the government. “Use” and “possession” rights are not transferable without the direct involvement of government. Public entities (such as state schools and kindergartens) are granted possession rights for only 5 to 15 years and hence need to update their land rights on a regular basis. There is also evidence of a significant mismatch between the records of the property registry and claims on land, which leads to frequent dispute: land-related conflicts currently represent a high proportion of cases brought before the administrative court. These factors combined present unnecessary time and cost burdens on administration, firms, and citizens.

**The regulatory framework for land administration allows for costly delays, uncertain outcomes, and opportunities for corruption.** In the past, land titling had been subject to political interference where titles were granted to hundreds if not thousands of residents prior to elections. However, the current city administration has decisively moved to address this problem.

**The current regulatory structure does not allow the city to draw adequate revenues from fees or taxes levied on privatized land.** At present, owners of apartments do not pay property tax, and land owners in *ger* areas pay such low rates that collection is not enforced. Revenues from land fees are based on 1997 values, though market values have since increased up to 20 times. The costs of collection are high relative to the amounts collected and

it was reported that some payees delay payment by up to five years without penalty. The revenues collected by the municipality are proving inadequate to meet the needs of urban management and need to be increased. Apartment owners should be taxed according to the value of their property, especially as values are increasing due to government subsidies on interest rates. Such options are politically difficult and would require a change in the current legislation, which will not be popular. However, the economic case is strong, especially since market values are increased by public sector investment that can only continue when revenues are adequate. For these reasons, a public debate is needed to raise awareness and explain how increased revenues would be used to improve the provision of essential services and public facilities and improve the quality of urban life.

### **Current land tenure designations need to be revised to attract and retain investment in land and property.**

For residents, possession and ownership rights carry few differences in what they grant the respective holders, but each requires an unnecessarily lengthy and confusing solicitation period. Firms are typically granted possession rights for only 5 to 15 years, despite the fact that by law they should be for not less than 15 years and up to 60 years. Such short durations are absolutely insufficient for long-term investment in any type of capital construction with long-term goals. Even if contracts stipulate a possibility for extension, such contracts are not considered secure enough by investors, who have the choice of taking their funds to countries with more secure property rights. Given the increased prices of land of certain areas of the city in recent years, there is a justifiable concern over foreign speculative investment in urban land. However, wholly owned domestic legal entities must also be afforded adequate protections for investment in land, especially if they are seeking financing from domestic lenders. Given the sensitivity of this issue, central and local government leaders need to undertake extensive public consultation and awareness programs outlining the issues and options. This will help ensure that the process of formulating and enforcing laws and the regulatory framework on land enjoys social legitimacy.

**In conclusion, the regulatory framework for managing urban development and the land market in UB has changed significantly in the last two decades. There has been a transformation from a state-controlled to a market-based political and economic system, but more needs to be done to maintain progress.** The experience of managing urban land markets available to the political and administrative leadership is relatively limited in time. Many challenges remain, but no country, irrespective of its level of economic development or length of experience, can yet claim to have succeeded in

regulating urban land and housing markets in ways that enable all income groups to gain affordable and secure access to land in locations where they need it. The key priority remains how to protect the public interest in ways that are responsive to changing market conditions. Realizing this will require focusing on the key issues of protecting public health and safety and seeking to attract private investment. At the same time, a reasonable proportion of the profit made possible by state action must be directed to meet the needs of existing and future citizens.

# Chapter 3

## Managing City-Owned Land

**Improving land management in the city of Ulaanbaatar (UB) will allow the city to both expand revenue capture from other sources and make more informed, strategic decisions about public land and property.** The city controls 16,096 hectares of urban land that is used for government facilities or public uses and is not subject to private allocation or up for sale.<sup>1</sup> Public land management refers to how UB makes decisions about its land, including whether it will be retained, transferred, or dispossessed. With effective public land management, UB can ensure that city-owned land is used to provide quality public facilities throughout the city and that the allocation of land is aligned with long-term planning goals. Detailed and accurate recording of public lands in the registry and cadaster is also essential. Registration, along with the use of market-based valuations of public lands and property, gives the city important tools for maximizing the revenue generated from land allocation, which can be used in turn to support other public investments.

**There are several weaknesses in the city's current public land management system.** The previous chapter demonstrated the obstacles related to land administration and the challenges faced by firms and individuals in accessing and transferring privatized land. This chapter will detail the challenges the city currently faces in managing its

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1. This does not include 3,969.5 hectares of land for road and infrastructure, 152,616 hectares of pasture and agricultural use land, and 71,829 hectares of forest area. All figures are totals from the six contiguous districts from data provided by the Property Relations Department (PRD) for 2012.

land, including land held by other budget entities (such as schools) and city-owned enterprises. Current weaknesses in the land management system discourage strategic planning and invite corruption or even debt financing, while in fact city-owned land could provide a more important revenue source than current practice allows.

### LAND SHORTAGES IN UB

**There is a shortage of land for public purposes, due in part to weaknesses with the registry and legal cadaster.** This is a typical challenge faced by many countries around the world: among property owners, governments tend to be the least concerned about getting their property rights registered in the legal cadaster. Indeed, data provided by the General Authority for State Registration (GASR) indicate that of a total of 76,598 buildings registered, only 22 are government owned. The primary reason government buildings are not being registered is that the cadastral parcels associated with government buildings are not fully surveyed and mapped and in some cases are not even accurate.<sup>2</sup> The lack of title/cadaster registration exposes

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2. From the cadaster viewpoint, government-owned real estate (or immovable property, such as land parcels and buildings/facilities) is for the most part not registered at GASR because of the large volume of technical preparatory work required. However, this technical issue can be easily addressed if the government decided to register its property. In fact, the PRD's division in charge of UB properties has suggested completing preparation of the cadastral information needed for title registration of properties held by all municipal entities. However, this work was not budgeted in 2014 and it is not clear when it will take place.

**Figure 3.1: National Drama Theatre Parcel and Commercial Building under Construction in UB**

**a. National Drama Theater parcel**



**b. Commercial building under construction**



Sources: PRD (map), WB Team (photo).

government-owned buildings and land to a number of risks. First, non-transparent transactions can result in the privatization of public buildings without the required deliberation and assessment, which can lead to loss of revenue for the city. At particular risk are buildings controlled by municipal enterprises and joint ventures. Second, private encroachment on government land can take place through shifting borders of parcels controlled by government entities—both on paper and on the ground. This results in an informal reduction of public land holdings.

**While UB has made several attempts to inventory public land, its approach lacks a strategic land management focus.** The two databases at the Cadastral Division of the Property Relations Department (PRD) that contain information on municipal land parcels are at best incomplete and at worst inaccurate.<sup>3</sup> It is also unclear if records are updated in a timely manner when land holdings change. There are delays in land registration and cases of encroachment on

3. The land parcels of 710 city and city-owned entities are partially included in these databases, and these organizations have possession rights over the land they occupy.

public land. For example, a sample cadastral map (figure 3.1) for the National Drama Theatre does not identify the parcel that has been carved out for a commercial tower currently under construction behind the theatre.

Open public land such as streets, squares, and vacant areas between buildings was surveyed and mapped in an aggregated way in six districts in 2013. However, this inventory lumps together two very different types of land: public-use land (such as streets) and the land that can be treated as vacant and potentially available for in-fill construction (such as large gaps between apartment buildings). An additional constraint is that these parcels are not clearly demarcated and there is no entity assigned to manage it. For instance, in the case of a public school, school management is responsible for the land; once a parcel is surveyed and demarcated, a land possession certificate is issued. However, in the case of public land like a square or space between apartment buildings, there is no land parcel and no entity is directly responsible for it. As a result, policy makers and land managers do not know the amount of buildable vacant land within UB's jurisdiction.

### Figure 3.2: Nontransparent Carving Out of Public Land for Commercial Use in UB before 2012

a. Twin Towers along Seoul Street built on a parcel carved from the Mongolian-Indian Joint School



Source: WB Team.

b. Commercial building under construction on a parcel that was initially a kindergarten but later privatized for use as a hospital. The two-story building is being demolished to build a new multistory commercial building.



**There are several weaknesses in the current practice that reduce the ability of the city to keep track of public land or generate appropriate revenue from its allocation.** Private development is driven through direct solicitation of land by a developer, who may promise to provide a minimal amount of public facilities (such as schools or clinics) in exchange for obtaining certificates and development permissions. Yet it is unclear whether any of these public facilities are completed as planned after the land is allocated. Concise data and information that could inform policy makers and the public on land allocations is lacking (except for the data on individual plots in *ger* areas),<sup>4</sup> and the data is

4. This includes (i) the amount of land allocated each year by direct allocations and by auctions, (ii) the amount land allocated for free ver-

fragmented across different organizations and previous mayoral administrations.

**The lack of strategy and coordination in the conversion of public land for private sector use may be creating a shortage of land for public purposes.** This is because during 2001 and early 2012 land was allocated for private construction by “carving” out parcels from bigger sites occupied by public buildings (see figure 3.2). The problem with this practice is that such “carve outs” were allocated on a parcel-by-parcel basis, rather than through a strategic and systematic long-term planning process that would preserve some land for current and future public

sus land paid for, and (iii) the total and per square meter (m<sup>2</sup>) revenue obtained through allocations each year.

### Box 3.1: Additional Corruption Allegations Concerning Public Land Allocation in UB

The daily news website [www.medee.mn](http://www.medee.mn) reported that in 2013 the Prosecutor's Office reviewed 14 significant cases that were filed with charges related to corruption and abuse of power. The cases were sent to Prosecutor's Office to initiate legal proceedings, but each case was eventually dismissed.

Examples of the dismissed cases include the following:

Transfer of 5,000 square meters (m<sup>2</sup>) land from the Mongolian National Chamber of Commerce and Industry (MNCCI) to the World Trade Center nongovernmental organization (NGO). The case was filed against possible abuse of power by the chairman of the MNCCI, who is also a member of parliament.

The director of the Mongolian-Indian Joint School was accused of selling land possessed by the school to third parties in parcels of 422 m<sup>2</sup>, 837 m<sup>2</sup>, and 450 m<sup>2</sup> (see figure 3.2 and box 3.2).

The examples highlight the regularity of allegations of corruption related to public land allocation in the city and demonstrate the need to support transparent land management practices.

Source: <http://medee.mn/main.php?eid=40901>.

needs.<sup>5</sup> As mentioned previously, it is also not clear how well the registry or cadaster documents the allocated carve-outs, leading to inaccurate records of amount and location of land for public purposes (see box 3.2).

**Public school properties have been common sites for land “carvings.”** The PRD's 2013 review of land held by state-owned schools and kindergartens<sup>6</sup> across the city's six urban districts found that of the 111 schools inventoried, 28 (or 25 percent) experienced reductions in their parcel size due to the carving of land for other functions.

5. For example, officials at one of the city's main districts who regularly deal with land issues were interviewed for this report in October 2013. They expressed a strong concern that while little land remains for public use, the city government continued to allocate the few remaining parcels to private holders.

6. This work was conducted according to the DecreeA/625 of the Governor of Capital City on “Inventory and registration of land possessed by the schools and kindergartens” of June 25, 2013. The work included verification of possession right certificates (and conducting registration if needed), exploration of adjacent areas for possible extension of the school/kindergarten land area, and clearing emergency exits for schools and kindergartens.

Another 9 schools either did not have proper land certificates or have had other problems associated with their land rights. Similarly, of the 169 kindergartens, 24 (or 14 percent) experienced a reduction in their land holdings, and 15 (9 percent) lacked adequate documentation for their land possessions. Anecdotal accounts indicate that not only schools and kindergartens but other public organizations (such as hospitals) have been routinely engaged in such conversions.

**UB's current approach is to preserve or even increase the land held by schools and kindergartens when feasible.** Although the conversion of publicly owned land for private use was done officially through governors' decisions, the current UB government has been reviewing the legality of allocations made prior to 2012 and in early 2012, especially those taking land away from public entities (schools, hospitals, parking lots, vacant publicly owned parcels, and so forth). This is commendable. For example, it canceled some previous land allocations carved from school/kindergarten grounds, if there had been no construction. Furthermore, as a part of im-

### Box 3.2: Densification and Commercialization of Land Use in Central UB: The Case of the Mongolian-Indian Joint School

A governor's decision issued in September 1999 allocated 10,000 square meters (m<sup>2</sup>) of land for a school located along Seoul Street, in Sukhbaatar District. By March, 2012, thanks to a series of decrees issued by governors, the grounds of the school were reduced to just 2,327 m<sup>2</sup>. Five companies and four individuals were recipients of these land parcels. Some of the declared land uses include education, garage, offices, apartments, and mixed-use. The Twin Towers shown in figure 3.2 are among these properties. All holders, including the school itself, have possession rights of 5–15 years.

Source: World Bank analysis based on data provided by PRD.

proving land management, the city government is also attempting to prevent unauthorized use of government owned land by mapping such land and posting warning signs (see figure 3.3).

**Furthermore, UB has improved its land management practices by stopping direct allocations and adopting auctions for future sales (see box 3.3).** The direct allocation of close to 1,300 acres (about 500 hectares) of

land in the central city for possession and use rights was stopped in 2012. The city council also issued a decision to allocate land only through auctions or tenders as stated in the Law on Land, although as of the writing of this report, no allocations have yet been made. The current city government has taken corrective action by requiring those who received land through direct allocation to pay the initial auction price, which would have been the minimum amount of revenue that would have been obtained

### Figure 3.3: Preventing Unauthorized Use of City-Owned Land in UB

a. Land that had belonged to a school was given to a private company, but the new city administration reinstated the land to the kindergarten.



b. Vacant land between apartment buildings in Chingeltei District. The sign reads "It is **PROHIBITED** to carry out any activity on state-owned land without permission. A criminal liability will be imposed."



Source: WB Team.

### Box 3.3: Unpermitted Development on Public Lands in UB

In September 2012 two teenagers, a school girl and a university student, were killed in separate incidents under similar circumstances; both cases highlight the problems of illegal development in Ulaanbaatar. In one incident, a girl returning home from school was struck by a cement pumper installed on a truck at a construction site Bayangol District near State Hospital No. 3. Later that month, a boy was walking past a construction area near the Tengis movie theater when he was struck by a falling iron fastening bar.

In each of these cases, the construction sites did not have approved building plans or appropriate permits for construction. The land occupied by State Hospital No. 3 had originally been allocated for the construction of a private hospital, but a 13-story apartment building with commercial and service facilities was carved out of the parcel and built instead. The first seven stories of the building were under construction without building permits. Similarly, the land near the Tengis theater had permits for the development of a 16-story commercial and office center. However, the development plans were changed without approval, increasing the land area and expanding the project to 22 stories.

These incidents underline the importance of the need for transparent and effective land management and administration for public safety and liability reasons. In each case, the developer sought to change the use of public land allocated for another purpose in order to maximize private returns. Development that occurs outside of official plans, approvals, and permits places the public at risk. With unpermitted development, there is no guarantee that the siting and layout of the buildings or the construction techniques and materials are appropriate and compliant with standards.

*Sources:* Mongolian Internet sites, including <http://www.zuuniimedee.mn/Show.aspx?category=11&code=490>; and <http://society.time.mn/content/42937.shtml>. Many more related stories can be found on the Internet using search engines for *Есүгэн охины хэрэг* (the case of the girl Yusugen near State Hospital No. 3) and *Барилгын осол тэнгис кино театр* (the construction site accident near the Tengis movie theater).

if the land was auctioned according to the requirements of the Law on Land. The government also revoked the possession titles of 91 individuals and legal entities and repossessed 246 hectares of land after giving the opportunity for them to pay the initial auction price.

### MISSED OPPORTUNITIES IN LAND VALUE CAPTURE

**Under current allocation practices, the city is not capturing its fair share of the market value of the conversion of land from public to private use.** Instead of selling land rights via open, transparent auctions, public land has been primarily allocated through direct transactions, and apparently only some land recipients pay for land but

at below-market prices. When parcels are carved out of publicly owned land, it is not clear what prices, if any, the city charged as such transactions have not been disclosed or monitored. Interviews with private sector developers suggest that they have received public land free of charge, after identifying desired plots and preparing a land-use plan. A common way developers justify such an arrangement is to propose some small portion of the land be used for social purposes, while most of the obtained land is used for commercial development.

**Current land auction practices do not adequately capture market values of public lands being allocated.** The city previously used an “initial auction price” for direct land allocations, but even this amount is typically far low-

**Table 3.1: Estimated Forgone Revenues from Land Auctions in UB, 2011–12**

Sites	Estimated forgone revenues from land auctions
“Twin Towers” on the Mongolian-Indian school site (land allocated from 2010 to June 2012)	US\$4,349,502
The commercial tower behind the National Drama Theater (land allocated in 2009)	US\$8,450,328
On a comparative scale:	About 6% of total UB revenues in 2012
What could be built for this amount:	About 4.5 schools, 3,900 m <sup>2</sup> each

Source: WB Team estimates. Revenue estimates are based on assumed floor areas for each building.

er than final auction prices. Annual revenues from auctions exceeded revenues from direct sale prices by 50 to 300 percent, at least before the financial crisis, when payable demand for land collapsed. Furthermore, the higher auction revenues were captured in spite of the questionable quality of those auctions, suggesting that high-quality auctions could produce even more revenues. The commercial buildings carved out of public land (on Seoul Street and the National Theater—see figure 3.2) illustrate the magnitude of forgone revenues. These two sites alone, totaling less than 2,000 m<sup>2</sup>, could have produced close to US\$13 million in 2011–12 (or more than MNT 24 billion based on very conservative estimates.<sup>7</sup> Table 3.1 provides a comparative scale for these forgone revenues:

**This report estimates that the cumulative forgone revenues of about a 10-year period (from 2003 to early 2012) from commercial/service use allocations since 2003 and from land holdings for household use that exceed a standard plot size across the city are roughly 24–77 times the total city budget of 2012, depending on assumption.<sup>8</sup>** Similarly, UB does not capture land val-

ues in allocating or privatizing *ger* parcels for household use. As already discussed, UB residents may receive up to 0.07 hectares of land for residential purposes free of charge. When this public land becomes private, the city charges a tax of MNT 1,584 per parcel in *ger* areas, reflecting a base land value set by the government in 1997. However, even this price is not charged. The fixed value of these parcels without discount was set by the government at MNT 13,200 per m<sup>2</sup>. By contrast, current market prices of such parcels vary widely, from MNT 11,300 to MNT 38,400 (US\$6 to US\$21) per m<sup>2</sup>.<sup>9</sup> Therefore, in privatizing well-located parcels free of charge, the city forgoes up to US\$8,400 (equivalent to MNT 15,360,000) on a 400 m<sup>2</sup> parcel. Holders of the parcels capture this value when they resell their homes at market value or rent out parts of their land or homes to others.

The two processes discussed above—land conversion for private commercial uses and the city’s failure to capture land values during such conversions—are one-time actions and are usually not reversible. It is therefore important to understand the land management practices currently in place—such as inventorying and registration systems, valuation, and processes for land allocation—so that policy makers can take corrective action. See box 3.4 for an example of conversion for private commercial uses.

7. These estimates are not a formal appraisal. They are rough but conservative estimates made using the “residual land value” method and assumptions about market prices of real estate and construction costs as they were in 2011–12. The estimates also assume that the city exercises a reasonably unified policy that well-located sites under public control are allocated predominantly via auctions.

8. Details of this estimate and underlying assumptions are shown in appendix D.

9. According to a sample of sale prices in the Mongolian Central Bank database.

### Box 3.4: Berlin's Experience in Managing Surplus Property: Liegenschaftsfonds Berlin

Liegenschaftsfonds Berlin is a wholly state owned company responsible for marketing and managing city-owned properties no longer needed for public purposes. It aligns marketing with the state of Berlin's economic, urban development, and housing policy goals; and sells properties at market value. City boroughs receive a share of profits as an incentive to agree to property disposal.

The company employs a staff of around 120 people, whose scope of activity comprises the documentation, valuation, management, and marketing of over 4,500 surplus properties owned by the State of Berlin. Since it was founded in 2001, it has concluded contracts for a total of nearly 6,300 properties comprising a total area of almost 16 million m<sup>2</sup>, which generated over €2 billion for the State of Berlin. Its portfolio contains residential, commercial, mixed-use, industrial, special-use, and niche-properties, which it sells both to private buyers and project developers.

The company determines a portfolio for each year, and its Steering Committee participates in defining sales goals and sale procedures for each property, choosing from three forms of competitive procurement. Sale of properties for over €3 million or below market value requires approval of the supervisory board and Berlin's House of Representatives.

Sources: Liegenschaftsfonds presentation, 28 February 2011; and [http://www.mipim-berlin.de/mipim\\_13/partners/liegenschaftsfonds/index.html](http://www.mipim-berlin.de/mipim_13/partners/liegenschaftsfonds/index.html).

## INVENTORYING AND REGISTERING MUNICIPAL ASSETS

**Many city-affiliated legal entities have land and property that has not been adequately registered.** The complex city government comprises over 700 legal entities, including the administration, nine district administrations, 60 city-owned industrial enterprises, eight joint ventures with private sector interests, and budgetary institutions including schools.<sup>10</sup> The assets of all these entities are not entirely inventoried and registered because the city has not fully conceptualized and established such a practice, although it recognizes the importance of both accounting and property rights. However, the inventorying and registration along both lines is undergoing a very dynamic development in UB, though very substantial gaps persist.

10. The number of legal entities constituting the city government is very fluid, as new entities are formed quite often.

Overall progress to date is summarized in table 3.2 and detailed further in this section.

### Inventorying for Accounting Purposes

**Land held by UB or affiliated legal entities is not recognized as a fixed asset for accounting purposes.** The fixed assets of the city are subject to inspection and inventory at least once every four years, as part of a nationwide exercise, in accordance with the Law on State and Local Property (Article 70.4).<sup>11</sup> Each of the over 700 legal entities in UB submits its balance sheet to the PRD once

11. The government issues an order to the SPC and to governors of *aimags* and the Capital City to conduct a periodic inventory. The SPC then outlines the required regulations and procedures and establishes the Central Commission to carry out this work. In UB, the PRD is in charge of implementing this activity, which was last conducted in 2012.

**Table 3.2: Progress of Inventorying and Registration of Municipally Owned and Controlled Assets in Ulaanbaatar (to end-2013)**

Assets/property	Inventorying for accounting	Registration at cadaster databases
Land	<p>Land can be recorded and valued as part of inspection and inventory of state property (Law on State and Local Property, Art. 70)</p> <p>In practice, land held by government entities is not recognized yet as a <i>tangible capital asset</i> (or as a <i>fixed asset</i>) and has not been inventoried for accounting purposes.</p>	<p>Not registered in the state title registration system at the General Authority for State Registration (GASR), mainly for technical reasons. For title registration, “cadaster parcels” should be formed by surveying parcel borders and mapping them.</p> <p>Some of the land parcels held by the over 700 municipal legal entities are reportedly surveyed and recorded in various PRD databases.</p> <p>Public-use land (streets, squares) and vacant land that is not parceled was inventoried in aggregate in 2013; this data is managed by PRD.</p>
Building/facilities	Nearly completed and regularly updated in the special database initially developed by Property Relations Department (PRD), currently merged into the State Property Committee (SPC) system.	Not registered in the state title registration system at GASR because the associated land parcels are not ready for registration, which is a prerequisite for building registration.
Other capital assets (linear infrastructure, equipment, etc.)	Completed and regularly updated, similar to buildings	Not intended to be in the cadaster databases

Source: WB Team, collected at assessment interviews with city officials.

a year, which has led to development of a database for inventory of capital assets.<sup>12</sup> Although the Accounting Law requires that land be included in accounting inventory and valuation, implementation regulations (Ministry of Finance 2009) treat land as an *intangible asset* in the same vein as intellectual property or mineral resource licenses held by state and local organizations.

12. Until the end of 2012, the assets were recorded in a distributed database, designed in-house by PRD, with a central server and administrator housed at the PRD, and terminals in all districts of the city where some of the data is entered. However, starting from 2013, the SPC has introduced a nationwide computer system for state and local property information. This system is replacing the previous PRD in-house database and is being introduced by similar organizations in all aimags. It is maintained by PRD and is accessible by the SPC online, which can retrieve the information directly. When the database is finalized, the once-every-four-years inspections and inventorying will likely be replaced by audits.

## Registration for Legal Purposes

The national standards for reporting land uses according to the Law on Land are not helpful for modern, pro-active government land management because these classifications do not distinguish between land that is under government control and that which is under private entities. This information is important for public land management because it can guide the government on many critical issues, including potential shortages of land for specific functions or potential surpluses that could be mobilized for other purposes. For example, the standards stipulate a very detailed list of land uses for developed areas, such as “art and cultural organization,” “educational organization,” and so forth. However, these categories do not show how much land is occupied by “educational organizations” and how much of it is under public and private entities. Table 3.3 shows a detailed balance of government land registration in Ahmedabad, India that UB could emulate.

**Table 3.3: Balance of Government-Owned Land, Ahmedabad, India**

Registration	Municipal corporation		Central and state governments		Grand total by all levels of government		Share of grand total within study area (%)
	No. of plots	Area (hectare)	No. of plots	Area (hectare)	No. of plots	Area (hectare)	
Residential	2,370	1,579.15	1,120	1,358.95	3,490	2,938	26.6
Industry (general + special)	394	291.09	90	1,200.94	484	1,492	13.5
Commerce	90	29.63	129	11.67	219	41	0.4
Institution: education, health, research ISRO	17	17.16	9	54.03	26	71	0.6
Service	13	13.33	3	3.91	16	17	0.2
Utility: treatment plant	10	154.73	1	3.24	11	158	1.4
Park, open space + recreational, agriculture, forest	1,129	601.37	66	48.31	1,195	650	5.9
Cemetery	13	14.42	11	5.54	24	20	0.2
Airport	—	—	1	402.74	1	403	3.6
Cantonment	—	—	1	483.91	1	484	4.4
Wholesale market	1	0.43	—	—	1	0	0.0
Other, multipurpose	105	59.23	22	—	127	59	0.5
No defined use	593	341.00	52	—	645	341	3.1
Roads	—	3,111.80	—	—	—	3,112	28.1
Sabarmati River	—	—	—	480.47	—	480	4.3
Other water bodies	—	—	—	346.64	—	347	3.1
Railways	—	—	—	452.02	—	452	4.1
Grand total public lands by ownership	4,735	6,213	1,505	4,852	6,240	11,066	100.0

Source: Constructed from the data in World Bank (2013).

Note: — Not available. ISRO = Indian Space Research Organisation

The current system of land inventorying in UB does not provide decision makers with simple yet critical information such as the current balance of land possessed by government entities and its allocation for various uses, or the amount of buildable land still vacant within built areas. Furthermore, existing data on land holdings is not sufficiently analyzed, otherwise it would likely raise red flags about, for example, excessively large holdings of some land users (see a further

discussion in connection with table 3.5). In short, it appears that UB land inventorying has been beset by (i) fragmentation of responsibilities and (ii) the lack of a strategic approach to land management as a distinctive function of government. Further, PRD has been directed to focus on a range of issues (such as cadaster/property registration, IT/GIS solutions, and so forth), but has not been empowered to focus on land policy and strategic land management.

## VALUATION AND PRICING OF LAND AND REAL PROPERTY ASSETS

### Valuation and Pricing

Land valuation and pricing is an important component of good land management practice. There are three purposes for pricing and valuation of public property. This data informs, first, the accounting and financial reporting of capital assets owned and controlled by government entities, and second, the taxation of land and property and related recurrent revenues (such as land use fees) from the private sector. Third, pricing and valuation informs decisions on land and asset management, such as whether to dispose of or retain certain properties. Land valuation rules for financial accounting/balance sheet purposes are usually defined by national accounting standards. In most countries, accounting rules are set up by the ministry of finance or treasury in accordance with some international standards. However, market land valuation for financial accounting in the public sector is a highly debated issue among governments and experts. Some maintain that valuation and pricing do not ensure prudent decision making in the public interest (see box 3.5).

**Valuation and pricing of government land and property in UB rarely reflects market values.** The experience of other cities in post-socialist countries suggests that *government land, if appraised at market value, would comprise the largest share of all nonfinancial assets.* For example, in Warsaw, nonfinancial assets account for 94 percent of the total public assets, and the land alone accounts for 80 percent of the total assets (table 3.4). In many other countries, public “nonfinancial” (capital) assets, such as government land, buildings, infrastructure, and equipment, constitute the largest component of public wealth and exceed the value of financial assets (Bova et al. 2013). For example, in the Republic of Korea, the total stock of nonfinancial public assets amounted to 126 percent of GDP in 2011. Land and tangible fixed assets account for the lion’s share—95 percent—of these assets, with the land alone accounting for 54 percent of total public assets (Bova et al. 2013). Similarly, in Japan, total public non-

**Table 3.4: Nonfinancial Assets on Warsaw Balance Sheet, 2008**

Asset type	Share of GDP (%)
Total assets (financial and nonfinancial)	100
Nonfinancial (capital) assets, total	94
Including:	
Land	80
Building, improvements	8
Infrastructure	
Equipment	Not available

Source: Kaganova and Buczek 2010.

financial assets amounted to 120 percent of GDP in 2010, with land accounting for 22 percent of the total.

**In Mongolia, rules for valuation of capital assets for accounting purposes in the public sector are incomplete.**<sup>13</sup> Given that UB has not yet established a balance sheet that is in line with international norms, it is difficult to compute the value of its capital assets. However, qualitatively, one can assume that, like Warsaw, most of UB’s public wealth is concentrated in its public land. This

13. However, the national government undertook a nationwide revaluation and resetting of the initial values of state and local assets in 2009, according to the methods outlined in the “Methodology for revaluation of state and local property” approved by the Minister of Finance (Ministry of Finance 2009). The methodology provides detailed instructions for revaluation of (i) buildings; (ii) land possession rights; (iii) engineering infrastructure, roads, bridges, and public spaces; and (iv) movable properties (such as machinery, equipment, vehicles, and furniture). The value of “land possession rights” is defined per square meter. It depends on the type of land use (residential, services, and so forth) and is differentiated by five zones (see Appendix E). The method of valuation is based on the “Methodology to determine the starting price for auctioning of land possession and use rights,” approved by Resolution No. 136 of 2007 of the Minister for Construction & Urban Development. The reference value per square meter of land varies from MNT 1,060 to MNT 31,812. However, this land valuation for accounting purposes has not yet been done. Most importantly, this accounting methodology would value the land well below its current market value.

### Box 3.5: International Debate and Lessons on Market Valuation of Government Land

About 50 countries across the world either have adopted accrual accounting or are doing so, based on expectations that this transition would enable them to manage their finances better, including the production of balance sheets. While usefulness of balance sheets is broadly recognized, there is less consensus on the introduction of full accrual accounting and budgeting in the public sector.

There are two most common approaches governments use to valuing capital assets on the balance sheet: the historic cost and fair market value. Australia, the Netherlands, New Zealand, and the United Kingdom use fair market value for both buildings and land, while Canada, Denmark, Kyrgyzstan, Serbia, and the United States use historical costs, with depreciation (except land, which is valued at the original cost, without depreciation).

The debate over the pros and cons of both concepts of accounting valuation—historic cost versus market value—and their methodological implications continues. Opponents of market valuation argue that it wastes public resources to assess market value for land and property that is not marketable (such as national parks); opponents further argue that market valuations can be volatile due to changing market conditions and can also be manipulated. Opponents of the historic cost approach argue that such valuation leads to substantial undervaluation of government land.

The implications of land accounting at historic cost for former socialist countries are significant. The majority of municipal land was obtained by local governments free of charge, as part of property devolution from central governments that did not account for the land at any value. In Kyrgyzstan, for example, such freely obtained land is not recorded on the municipal balance sheet at all, despite the fact that land market values can exceed municipal budgets many times over, even by partial accounting. Hungary has recognized the fundamental distortion created by assigning zero value to local government land. In 2000 a compulsory revaluation of municipal land was conducted, following which approximate market values were assigned.

Source: Kaganova 2012b.

reinforces a central argument of this chapter: government land has to be managed prudently and strategically, so that its value can be captured for funding infrastructure.

**There have been efforts to integrate a market-based valuation approach into land management, but this work has not been sustained or completed.** It should be noted that in UB, total market-based valuation of government land is predominantly a policy issue, not a technical one. Indeed, the PRD has been monitoring the land market and land values since 2004. It attempted revaluation of municipal land, notably in 2010 and 2013, to reflect the five-fold increase of land market values in the zoning process, land use fees, land taxes, and starting pric-

es for land auctions. However, a complete market-based valuation of municipal land and recording of such values was abandoned, and at this time, the market value of municipal land is not recorded as part of the land inventory process. Qualitative data on the value of nonfinancial (capital) assets in UB also remain incomplete. As shown earlier, only “produced assets,” such as infrastructure and buildings, have their values systematically recorded in the inventory-for-accounting database. For municipal “produced assets,” the asset inventory database contains the initial value (at cost), the depreciated book value, and the depreciation. Apparently, market-based revaluation is also possible, but information on land values is not yet included in the database.

**Table 3.5: Estimated Revenues from Annual Land Use Fee by Type of Land Holders, 2014**

Type of land user	Number of payees	Land area (m <sup>2</sup> )	Annual revenue (MNT '000)	Average fee per m <sup>2</sup> (MNT)	Average fee per payee (MNT)	Average fee per payee (US\$)	Average plot size per user (m <sup>2</sup> )
Residential	2,498	14,819,549	546,601	37	218,815	132	<b>5,933</b>
Budget organizations	839	49,915,603	542,867	11	647,040	389	<b>59,494</b>
NGOs, political parties, religious organizations	155	1,939,692	125,645	65	810,616	488	<b>12,514</b>
Commercial and services	9,294	89,135,877	12,936,198	145	1,391,887	837	9,591
Public utilities and infrastructure	124	11,781,081	527,478	45	4,253,852	2,559	95,009
Manufacturing and mining	2,894	115,193,471	3,225,002	28	1,114,375	671	39,804
Total	15,804	282,785,272	17,903,790	n.a.	n.a.	n.a.	n.a.

Source: Calculated based on the data provided by the PRD.

Note: n.a. = Not applicable.

**The city stands to gain substantial revenues if market-based valuations are to be used to inform tax and fee schedules.** Table 3.5 provides a more detailed snapshot of the expected 2014 land fee revenues for six types of land users/possessors, based on the current rates. The table also presents basic characteristics of land holdings (such as average plot size) and fees (such as average fee per square meter and per parcel). The table shows that the city still has a potential to both (i) densify land uses and (ii) increase revenues from this land. For example, households possessing land for residential use hold large parcels (almost 0.6 hectares), which is more than is needed for individual residential use. A more fair and efficient management of land would either redistribute the land in excess of the parcel size that is stipulated by law or charge market rates for holding the extra land (if the latter was not done yet). Annex D provides estimates of potential revenues if such a policy was introduced.

**Improving the inventory of public land would allow for more strategic public land management.** Table 3.5

shows that budget organizations hold, on average, extremely large plots—almost 6 hectares each—while paying very low land fees. Many of the budgetary organizations do not need such large tracts of land. If this data is accurate, the excess could be identified and managed strategically. For example, some excess land can be cut off as separate parcels and marked as “golden reserve” for future public use or land swaps or sales, while other land can be auctioned to raise revenues for infrastructure investment. Potential revenues from auctioning such excess land are estimated in Annex D. It is also possible that budget organizations have formal or informal private land users on their sites that are not reflected in the data, which suggests that government land is used illegally and the city is not obtaining its rightful revenues. The data shown in the last column of table 3.5 indicate that the city needs to conduct an audit of land uses and users, starting with the first three categories listed. Such audits should be performed regularly and become a part of prudent land management.

**Table 3.6: Starting Prices and Auction Revenues of Land Sales in UB, 2003–10 (MNT thousands)**

	2003	2004	2005	2006	2007	2008	2009	2010
Total auction revenues	270,353	59,787	1,173,665	1,636,788	512,540	2,350,550	—	371,780
Total of asking prices	66,801	245,590	326,871	486,011	351,806	8,102,992	515,800	1,413,360
Increase of auction revenues over starting prices (%)	305	–76	259	237	46	–71	–100	–74

Source: Data provided by PRD.  
— Not available.

**Direct allocations of land provide substantially less revenue than do competitive auctions.** When land is properly inventoried and parcels are sensibly selected for auction, the returns can be much higher than set prices from direct allocations. Table 3.6 provides evidence that in normal market conditions (that is, when the market is not in distress as during the 2008 financial crisis), auctions produce substantially higher revenues than direct allocations at starting prices. The immense potential of land auctions as a source of budget revenues is illustrated by the examples from around the world in box 3.6.

## DISCUSSION OF CHALLENGES TO PUBLIC LAND MANAGEMENT

**As already noted, UB does not have an effective management system for its most valuable resource—government land.** This is a multifaceted problem that has a

number of manifestations, two of which were discussed above: the lack of a long-term, cohesive land management strategy or policy, and the lack of monitoring of the massive conversion of public-use land into private-use land, which has led to a shortage of land for public uses in built-up areas. Fragmentation also leads to duplication of functions, in particular between the central and city governments. For example, this is apparently the case with registration of public property. There is also insufficient cooperation between the city government and district administrations on land allocation to the private sector: parcels are often allocated without districts being consulted or involved in the decision making. Similarly, districts are not sufficiently involved in capital investment planning. Given that a clear and articulated land policy is lacking, it is unclear who decides on issues that become implicit, default policy (for instance, that land is allocated for not longer than 15 years). Regarding land invento-

### Box 3.6: Examples of Successful Land Auctions in Turkey and Egypt

In Istanbul in 2007, the auction of an old bus station and former administrative site produced US\$1.5 billion, which is equivalent to one-and-a-half times the city's municipal capital spending in 2005.

In Cairo in 2007, an auction of desert land for new towns generated US\$3.14 billion—equivalent to about 10 percent of total national government revenues and 117 times greater than the (very low) total urban property tax collection in the country.

Source: Peterson 2009.

rying, there is little clarity in terms of responsibilities of land holders versus the PRD, and there is duplication of responsibilities.

**The city forgoes revenues that could be captured from using market-based valuation in land management and allocation.** First, until recently, land was being allocated to the private sector for free or at prices below what could be obtained through good-quality auctions. Forgone amounts depend on many factors, including (i) the condition of the real estate market (is it active or in crisis/cyclical decline), (ii) whether investors can obtain well-located government land without going to auctions,

and (iii) what building is allowed on the land and with what density. If the city would implement a clear-cut and consistent policy and practice that land for nonpublic capital construction is allocated only by auction, then an increase of annual budget revenues of at least 10–30 percent could be realized for several years to come. However, in order to gain such revenues, the city needs to align its land releases with conditions in the real estate market to selectively release land that would provide an acceptable return (that is, not sell land at the bottom of the market). Moreover, one-time revenues such as land sales cannot be relied upon as a long-term sustainable source of revenues.



# Chapter 4

## Urban Land and Property Markets

**The function of land markets in UB reflects current shortcomings in land administration and land management practices.** Previous chapters have discussed the institutional fragmentation and the delays associated with obtaining and transferring land certificates. Zoning and development standards influence private investment priorities by artificially creating surpluses or shortages of different land use types. Continuity of land tenure, especially for legal entities, is uncertain. On the other hand, allocations that are free or not based on market values, along with current tax and fee assessments of land, are linked to a time (1997) that no longer reflects current market conditions in the city. This represents a tremendous public subsidy to certain types of property (such as residential *khashaa* plots and apartments) and not others (property held by legal entities). These policy preferences selectively impose costs or gains that are reflected in the prices and activity of private property markets in the city.

**The market for urban land has been one of the last areas of liberalization reforms in Mongolia.** However, the function of land markets is closely related to urban land administration practices, each of which has important consequences for urban development, housing, transportation, and infrastructure provision. This chapter introduces the reasons for supporting inclusive and transparent urban property<sup>1</sup> markets and provides a brief

overview of recent trends in land and property sales activity throughout the city. It concludes with an assessment of the function of urban land markets based on an analysis of interviews with stakeholders and secondary data. The chapter finds that while property markets for residential land are active, there are a number of constraints that reduce both public and private investment in areas that could sustain and expand the value generated by market activity.

### LAND AND PROPERTY MARKETS IN URBAN DEVELOPMENT

**The manner in which cities expand is contingent upon the function of land markets.** International experience and research on urban economics has shown that a number of factors influence the supply and demand of urban land. These include the type and enforcement of tenure and development rights assigned to the land, as well as the proximity of land to infrastructure, amenities, and public services such as clinics, schools, and public safety (Dowall 2010; Dowall and Clarke 1996). The prevalence of informal or service-deficient areas is an outcome of inefficiently functioning land markets.

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1. “Property” in this chapter refers to both (i) a vacant land plot with a legal description and record, and (ii) a land plot with a legal record

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that features immobile improvements that are understood as “real property” in common law countries. Unless specified, property does not refer to apartments or multifamily dwellings.

**The types of development rights assigned by governments influence the market value of urban land.** Zoning and development standards regulate the types and intensity of uses permitted on a land parcel and effectively control land supply. Development rights—including zoning, building standards, and tenure claims—influence prices by signaling the level of risk and the costs associated with investing in a particular plot of land. However, when these are overly specific, inflexible, and unresponsive to market demands, they impose costs and risks to potential property owners and developers, distorting the market value of land and discourage investment (Gyourko and Glaeser 2003; Ohls et al 1974).<sup>2</sup> The constrained supply imposes additional costs on land owners, which are subsequently reflected in the costs of the activities the land supports, such as housing prices, rents, and leases of office and commercial spaces. On the other hand, regulations that accommodate mixed or complementary land uses and those that allow for flexibility in reviewing and approving proposed development projects encourage a range of investment types.

**However, because regulations by their nature support certain types of land uses and exclude others, they can artificially restrict the supply of land for particular uses.** The location of desirable amenities and land use rights increases the market value of land in places where there is demand. Since poor residents have less ability to rent or purchase property in areas with high market values, they will naturally move to land that costs less and is therefore easier to obtain, often through informal sales or rental agreements or through squatting. Such vacant land is inexpensive because it may be located far from the city center, is held by an absentee owner, or has environmental contamination or susceptibility to a disaster such as floods or landslides. Slums and informal settlements are symptomatic of land markets that are functioning poorly (Dowall 2010). Informality may reflect the unequal dis-

tribution of enforceable property claims (such as titles<sup>3</sup>), regulatory limits on the supply of land, or uneven investment in infrastructure and other amenities.

**Public investment in infrastructure increases land values.** The market value of land grows when it is serviced with infrastructure provided by local governments, including streets, sidewalks, lighting, heating, drainage, water, and sewage connections. Similarly, land values respond well to proximity to schools, health facilities, police and fire protection, and public transportation stops. Typically, these investments precede land development and the value they add to land greatly enhances its market value. However, where property rights are vague or unenforced, illegal or informal land development may occur before infrastructure investment, which greatly increases the costs of providing it. Finally, international experience has shown that while it is possible to extend infrastructure coverage after land is developed, both the time required and marginal costs of building and maintaining connections to each property are extremely high (Werlin 1999).

**Proximity to services, amenities, and transportation are important determinants of land value.** The value of land is partially determined by its proximity to other services and amenities. Plots that are close to paved roads, public transit stops, or key pedestrian routes tend to be worth more than plots that are not. The central core of a city provides particular advantages to people and firms that locate there because different land uses are located close together and movement is rapid and inexpensive. In a capital city such as UB, the central area offers proximity to government offices and associated legal and administrative services. In other cities, the central core may also be composed of a primary industry along with a chain of overlapping and supportive financial, logistical, and legal services. Larger cities may also have multiple cores (what

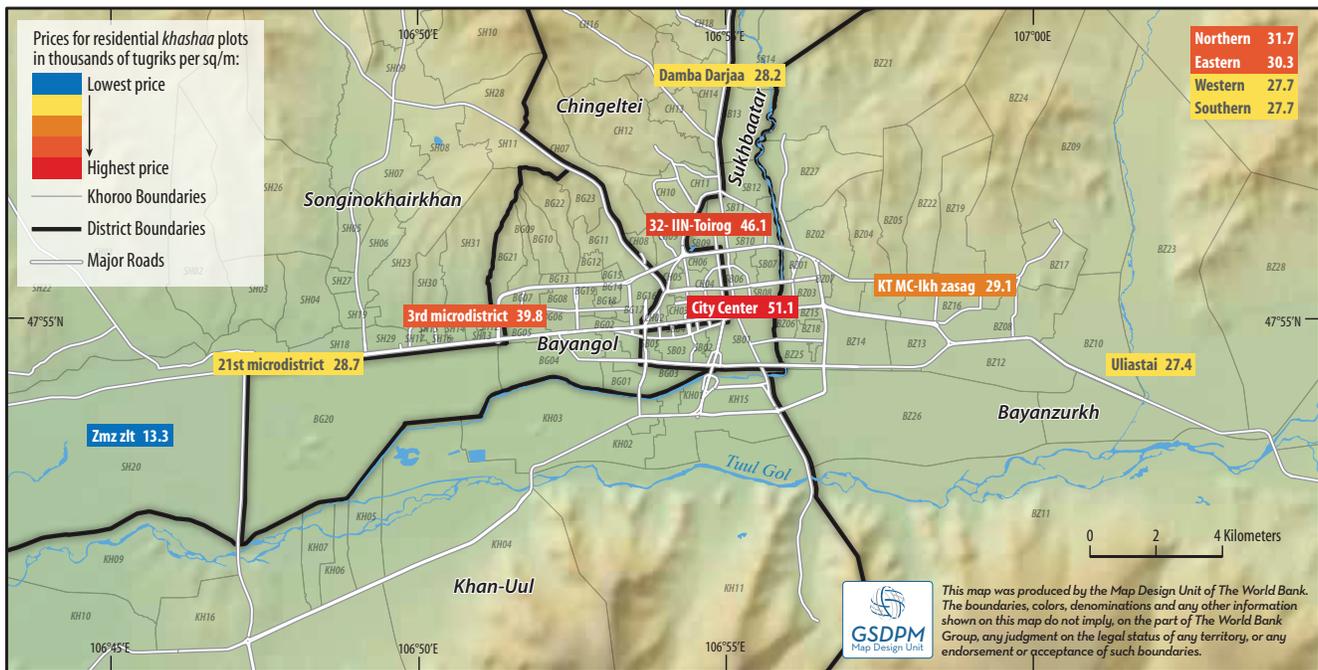
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2. Evidence suggests that inconsistent, lengthy, or uncertain approval processes—not regulations or fees per se—are factors that significantly inhibit investment activity (Mayer and Somerville 2000).

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3. This is not to say, however, that formal legal title is always necessary or is always beneficial to the poor. For example, the higher land value that title imparts in many cases comes with an obligation to pay fees and taxes based on that value. See (Payne 2002) for an extended discussion of land tenure forms and their implication for housing the urban poor.

**Map: 4.1: Average *Khashaa* Prices in UB, 2013 (million MNT/m<sup>2</sup>)**



Source: World Bank Team with data from Tenkhleg Zuuch (2014).

is called a “polycentric” form) around which different industries and specializations cluster (Champion 2001; Waddell and Shukla 1993).

## EXISTING LAND USE PATTERNS IN ULAANBAATAR

**Access to infrastructure and proximity to the city center are important factors in determining land values.** Land in the city center is scarce and commands the highest market value in the city, up to \$1,000 per square meter (m<sup>2</sup>).<sup>4</sup> As is typical with a monocentric city, land and

property prices decline as the distance to the city center increases. This is not only because of physical distance and lower densities but also because network infrastructure services such as water, central heating, sewage, and roads diminish in quality and coverage. Map 4.1 shows the average price of *khashaa* plots according to location in the city. It shows a steady decline in land plot values the further they are from the center. Average prices on the western edge of Songinokhairkhan, for example, are only a quarter of those in the downtown area.

4. In recent years, Mongolia’s rapid economic growth and the modest tax laws have stimulated the growth of a high-end apartment market geared toward foreign investors from Europe, expatriates, and Mongolian professionals. This market comprises about 11 percent of the total residential space, and currently commands prices between MNT 1.28 to MNT 5.0 million (US\$711–US\$2,778) per m<sup>2</sup> and unit sizes of 100 m<sup>2</sup> or more—among the highest in the city. Given the rapid growth of this market, renting luxury properties is a lucrative investment scheme,

with rents averaging about MNT 28,000/m<sup>2</sup> (US\$15.6) and an annual rental return of approximately 24 percent. According to a developer and local bank, this market may currently be saturated. There are several factors that support this conclusion. First, commercial mortgages are expensive; term lengths are relatively short (15 years) and feature high interest rates (15 percent or more). Second, developers for these projects rely on presales to finance about one third of construction costs, and local banks do not finance presale loans. Third, about 30–50 percent of new residential highrise buildings are not completed due to weak business plans and few local sources of developer finance.

**Table 4.1: Khashaa Plot Prices from Khoroo 26, Songinokhairkhan**

	Sample property	Public investments							Private investment	Price per m <sup>2</sup> (MNT)
		Electricity	Water Kiosk	Bus stop	Street frontage	Sewage	Central heating	Piped water	Dwelling area	
Vacant land	1	✓	✓	✗	✗	✗	✗	✗	plot only	5,714
↓	2	✓	✓	✓	✗	✗	✗	✗	plot only	9,286
	3	✓	✓	✗	✗	✗	✗	✗	plot only	17,143
	4	✓	✓	✗	✓	✗	✗	✗	37 m <sup>2</sup>	25,714
	5	✓	✓	✗	✗	✗	✗	✗	80 m <sup>2</sup>	101,796
Improved land	6	✓	✓	✓	✓	✓	✓	✓	60 m <sup>2</sup>	235,714

Sources: Data from selected commercial bank records and public listings in Shuurkai zar, a real estate periodical, from December 2013 to March 2014.

Note: m<sup>2</sup> = square meters

**Urban land values vary widely across the city depending on location and infrastructure coverage.** On average, the mean price in the city of serviced vacant land is MNT 300,000–500,000/m<sup>2</sup> (US\$176–US\$294). However, a typical 700 m<sup>2</sup> plot in the outer *ger* area without infrastructure can range in price from approximately MNT 1,428/m<sup>2</sup> to up to MNT 10,000/m<sup>2</sup> (US\$0.79–US\$5.55). Improved *khashaa* prices in central *ger* areas command a much higher price, ranging from 160,000 MNT/m<sup>2</sup> up to 1.6 million MNT/m<sup>2</sup> for plots in designated redevelopment areas.<sup>5</sup> This high value is due to buildings and improvements constructed on the plot, as well as access to infrastructure and proximity to amenities in the downtown area. These prices are comparable with those of apartments, even though the quality and type of construction in *khashaas*, along with infrastructure coverage such as water and central heating in these places, may differ significantly.

5. These figures are from interviews with real estate and appraisal professionals obtained between October 2013 and April 2014.

**Property prices vary according to infrastructure coverage in newly developed areas.** Table 4.1 shows six concurrent *khashaa* plot sales prices from *Khoroo 26*. The properties are organized according to the level of amenities and investments, shown from the top (vacant land) toward the bottom (occupied property).<sup>6</sup> The right column shows the asking price for the property. Vacant land properties (numbers 1–3) feature minimal infrastructure connections and the asking prices for each are similar; they likely vary by location, as suggested by the proximity of property 3 to a bus stop. Access to electricity and water kiosks is common across the properties. But connections to piped water, sewage, central heating, and transportation provide justification for much higher market prices—as seen in property 6, which enjoys the greatest

6. The table provides an approximation of the value added to *khashaa* plots through investment in infrastructure. Due to data constraints, these prices cannot be considered representative of marginal price gains from property improvements. Rather, the table is meant to distinguish the number and quality of improvements to *khashaa* plots is reflected in a local property market.

number of amenities. The table also shows that private investment (in the form of housing construction) can enhance the value of land, although complementary public investments are important for supporting these gains. The properties that include dwellings (numbers 4–6) vary in price, likely due to the location of the property and the size and quality of the building construction.

**The existing zoning structure supports fragmentation in land uses.** Map 4.2 shows the planned distribution (through the year 2020) of land use zoning categories throughout the city based on the approved Master Plan (MCUD 2013). Mixed commercial office and residential uses are clustered around a small downtown area around Sukhbaatar Square. Industrial and manufacturing uses remain concentrated on the western side of the city in Khan Uul and Songinokhairkhan. Low-density residential areas are almost entirely found in the northern fringe of the city. In the southwest near the airport, a planned subcenter integrates several land use types, though it is located far from the rest of the city. In part, these land use categories simply reflect existing conditions, though it is unclear to what extent that these zoning standards are ap-

propriate for directing future development, especially in existing fringe areas along the southern edge of the city.

## CONSTRAINTS TO URBAN LAND MARKETS

**The city faces a number of obstacles that constrain the function of urban land markets.** These barriers have influenced the physical expansion of the city and have contributed to unequal access to public services among residents in different parts of the city. The country's Land Law (guaranteeing a plot of land for urban residential use) should be recognized as a progressive shelter policy because it provides a low-cost, widely accessible form of secure tenure for the urban poor. However, land is transferred to residents without the cost of securing infrastructure that improves the market value of any investment made. This reduces access to formal sources of finance. The Land Law sustains an informal market where land and property values are misrepresented or not reported and where transfers and attendant rights given to land plots could be subject to corruption (see box 4.1).

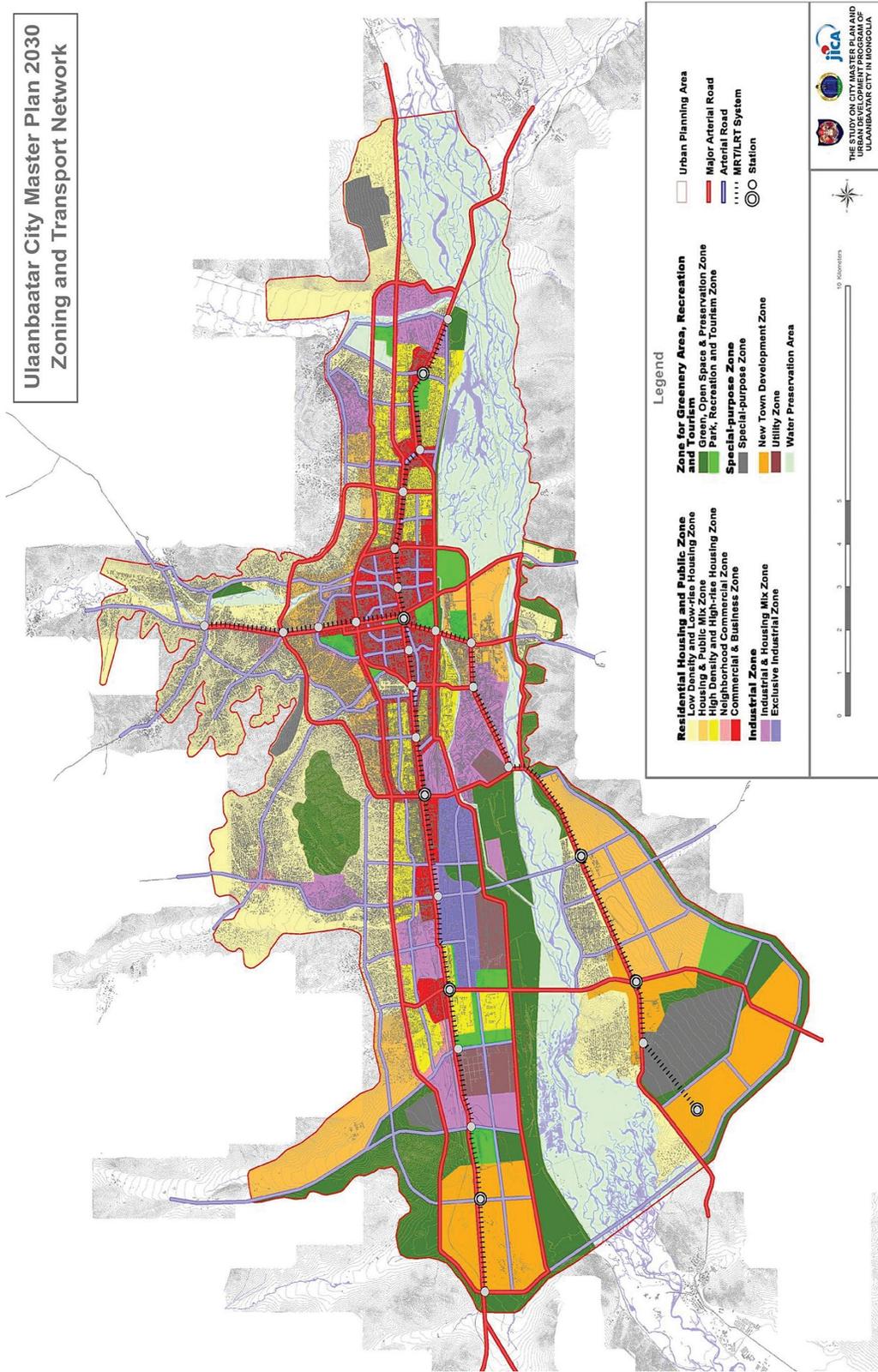
### Box 4.1: Zaisan: The Cost of Illegal Fringe Development

Zaisan is a neighborhood located on the south central edge of Ulaanbaatar at the base of Bogd Khan mountain. While the area is officially designated as a special protected zone, over the last decade hundreds of apartments have been constructed there. Zaisan's location and superior air quality initially made it an attractive alternative to the city core for investors and wealthy home buyers. However, because development proceeded against official planning standards and without official approvals, heating and infrastructure connections are unevenly distributed, schools are lacking, traffic circulation is poor, flood risks are present, and the design and siting and setbacks of buildings is disorganized. Due to the disputed legal status of the area, property rights of land holders are in question.

The accumulation of these negative impacts has now been reflected in the local property market. Real estate professionals indicated in late 2013 and early 2014 that prices are dropping and vacancy rates in some developments remain at 10–15 percent. The case demonstrates that land and property values are sensitive to a set of development rights, planning controls, and public infrastructure coverage. When these are absent or incomplete, the value and demand for these properties will decline.

Source: Interviews for this report carried out with real estate agents and appraisers.

Map: 4.2: Projected Distribution of Land Use Zones in UB through 2020



Source: MCUD 2013.

**Land markets in *ger* areas are not well documented, although it is clear that transactions are common.** While most properties are registered, representative prices are not widely available. Therefore, estimating the size and volume of the market for land and improved *khashaas* is difficult. In interviews with real estate agents who sell *ger* area parcels, they estimated that there are between 300–400 parcels on the market in a given week, of which about 150 are sold. This suggests an annual turnover rate of about 4 percent of the *total* amount of residential parcels in the city.<sup>7</sup> This figure likely underestimates the total volume of sales, since it is based on anecdotal data on plots that are advertised or brokered by an agent. As a comparison, there are over 210,000 apartments in the city, with about 700 sales per month, representing an annual turnover rate of 17 percent, suggesting a very active market.<sup>8</sup>

**Property markets in *ger* areas tend toward informal or cash transactions.** Real estate firms in the city tend to deal with apartment and office properties and relatively few firms broker sales in *ger* areas. There are several explanations for this. First, plots in these areas are worth less and so are less attractive to brokers given the market value and amount yielded through commission rates.<sup>9</sup> Second, commercial banks report that *ger* residents comprise a small proportion (less than 10 percent) of their commercial mortgage portfolio, which suggests that mortgages may be too costly and unnecessary to finance purchases in these areas and that savings-based cash transactions are the primary means of exchange.

**Land and property are also obtained through commercial mortgages, though this is far less common than purchasing apartments.** Since 2011, one commercial bank's mortgage lending to improved *khashaa* plots averaged just 3.6 percent of the total portfolio. Over the

same period, another commercial bank's lending portfolio averaged 8 percent. A prominent commercial mortgage lender reports that only about 10 percent of its mortgage lending is for *khashaa* properties. In 2012, two banks combined had lent mortgage finance for only 167 improved *khashaas*, representing only 2.1 percent of the annual estimated sales volume.<sup>10</sup> The low rate of mortgage disbursement in *ger* areas reflects the limited access to formal credit mortgages and the limited value *khashaa* plots provide as a source of collateral.<sup>11</sup>

**There is limited use of commercial loan products for housing improvements in *ger* areas.** A World Bank survey of UB residents finds that only 15 percent of respondents used formal loans for home improvements in the last five years (World Bank 2014b). Of this total, 5 percent of *ger* area dwellers reported using a commercial loan and the rest obtained finance through a salary or pension-backed loan. A comparable number (12.4 percent) used money borrowed from friends or family members. The vast majority (60.4 percent) used cash from earnings. This suggests that amount of money that households use for home improvement projects is limited and there may be interest in affordable loan products for these purposes.

**Mortgage amounts for properties in *ger* areas are comparatively small, which suggests they have low market values.** The average size of mortgages for properties in *ger* areas is approximately MNT 9.1 million (US\$4,920). Assuming a 30 percent down payment, the average market value of these improved *khashaa* plots is MNT 11.8 million (US\$6,012). However, this estimated value reflects only a small portion of the market, and likely skews toward the higher end because of both the income requirements for accessing finance and the long-term costs incurred through servicing the debt. *Ger* area residents who are informally employed also may not be able to provide adequate proof of income for debt service. Bank respon-

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7. There is a total of approximately 120,000 plots, and on average about 150 are sold per week.  $(150 \times 52) / 120,000 = 0.043$ .

8. Interview with Tenklh Zuuch on April 15, 2014.

9. Our interviews suggest that commissions for real estate sales vary from 1.5 to 3 percent of the sales value.

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10. Assuming an average of 150 plots are sold,  $167 / (150 \times 52) = 0.021$

11. An earlier World Bank survey (World Bank 2010) estimated that fringe and mid-tier *ger* households had a loan penetration rate of 4.7 and 2.2 percent, respectively.

dents indicated that residential plots are rarely considered as appropriate collateral because of their limited market value relative to the size of a typical mortgage for an apartment, which would be at least three times the typical *khashaa* value.

**Access to information about prices and property registration status is a widespread challenge.** Accurate data on both formal and informal property prices is difficult to obtain for several reasons. First, official records only capture formal transactions, often those underwritten with a mortgage contract. Also, transactions may include two different contracts; one with the real market price and other with a lower price figure. The lower-price contract will then be registered with GASR to avoid paying the sales tax. It is likely that many sales transfers are deemed “gifts” in order to avoid sales taxes.<sup>12</sup> There is also evidence that the national apartment mortgage subsidy program influences the reporting of sales prices in order to conform to eligibility requirements. This prevents the collection of accurate data on housing prices, which in turn makes it difficult to assess the current and future supply and demand trends across the city. Real estate professionals also report that obtaining accurate and timely information on properties registered at GASR is difficult and costly due to privacy provisions in the General Law on State Registration. Additionally, the structure of property sales taxes does not distinguish between long-term ownership and short-term investments. This could encourage speculative investment, especially in areas of the city where property values have risen considerably in recent years.

## DISCUSSION

**Land allocation policies have directly impacted urban expansion by encouraging inefficient land consumption.** Unlike many growing cities where land is scarce and expensive, UB has a large supply of land for residential

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12. These contracts require notarization, but there is anecdotal evidence that notaries have recently favored recording actual transaction prices in order to avoid disputes.

use and widespread and affordable access to this land by right. However, as newly allocated land seldom contains adequate infrastructure investments, its value is mediated only by improvements from the owner or possessor and the location of the plot relative to roads or bus stops. Elsewhere, such as Zaisan, where land was allocated illegally and property rights are ambiguous, market activity has declined due to perceived investment risks. As a result of these practices, property investment clusters in areas with both clear and secure development rights as well as public investments in infrastructure. Each of these enhances the market value of privately held land and property.

**The city should align infrastructure investments with land use regulations that support mixed uses and access to transportation.** Land values are enhanced through both public investments in infrastructure such as piped water, central heating, sewage, schools, and health facilities. Strategic investment in road improvements and public transportation stops can also enhance the value of land along these corridors while also improving mobility. The city can also invest in newly densifying areas of the city (also referred to as subcenters) where some services have organically concentrated (transportation hubs, road intersections and limited commercial activity) by locating service centers and allowing mixed residential and commercial uses. Enabling the subcenters would provide alternatives to the central city area, which commands the highest land prices and which can be costly and difficult to reach for residents that live on the outskirts of the city.

**The city’s land and property market is active and maturing, although a large segment does not rely on formal sources of finance.** For most residents, land and property purchases are done without formal finance. Improvements to land, such as home construction, are also not financed with loans or savings. While cash transactions are rapid and convenient, they are not recorded or published, which makes it difficult to track and record market transaction patterns. Poor residents may also be at a disadvantage in informal markets because they may have less information about comparable properties and

market trends. Banks are disinterested in using land as collateral, both because it has low market value relative to the cost of a loan product, and because it is illiquid due to the large number of land plots. They will extend loans for properties that have a greater market value, which would be enhanced through infrastructure investments.

**The city should establish and support accurate recording of transaction prices and volumes of all land and property.** Representative data on sales prices and transaction volumes is limited. This is due in part to the tax imposed on registered transactions, which encourages people to underreport values or rely on cash transactions. The most detailed data are collected by banks and real estate firms, but they reflect the market of upper-income groups and or properties eligible for mortgage finance. In order for UB to develop appropriate interventions to support affordable housing, small to medium-sized enterprise growth, there must be a representative and easily accessible database that can be used for understanding transaction patterns. These data can be used for developing housing subsidies or support for populations that are unable to purchase or finance land and property for residential or commercial use.

**The city should support the professionalization of the real estate sector.** The commercial real estate sector in UB is relatively new and is currently developing a professional association, the Mongolian Real Estate Professional Association, to act as both a networking and advocacy

organization.<sup>13</sup> Its main goals are to support professional development of real estate agents and firms in the city and to identify key challenges faced by the private sector involved commercial real estate transactions. For example, it may take 3–12 months to complete a property transfer where possession or use rights apply. This is a major cost and an impediment to the operation of an efficient market, especially given fluctuations in prices due to macroeconomic changes. These efforts toward professionalization are commendable—currently no licensing is required to broker transactions. Not all consumers can or need to use the service of real estate agents, but the consolidation of professionals in this field in UB suggests an increasing degree of formality of land and property market transactions. Real estate agents provide representation and brokerage services to their clients, who may be unfamiliar with property markets and local price conditions. To obtain membership, agents must obtain a license demonstrating their competency, which can discourage malfeasance under the threat of expulsion. Their activities also promote clearer and more transparent recording of price listings and sales of properties, which are needed to assess market trends in order to provide accurate advice to their clients.

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13. Nearly all of the firms we spoke with have less than 10 years of experience. Estimates suggest there are about 30 agencies operating in the city, although there is a high turnover and many do not last long. Commission rates vary according to the extent of work involved, but range between 2–6 percent of the value of property involved and reportedly 5 percent in *ger* areas. Currently, no licenses are required.



# Chapter 5

## Conclusion and Recommendations

This report has provided an overview of the spatial, institutional, and market structures that contribute to the dynamics of urban land investment and exchange in UB. This chapter summarizes the main findings of the report and suggests action that the city government can take to improve the practice of land administration, more effectively manage urban land markets, and pursue additional revenue streams to finance public services to reach underserved areas of the city. The recommendations are organized by distinguishing actions related to land administration and management. Some actions are within the purview of the city government. More fundamental legal and institutional reforms will require longer-term strategic partnerships with other national government stakeholders.

**The expansion of UB has been driven by inexpensive, accessible land.** The city's land policy is unique by international standards in that it provides individuals broad access to a large plot of land at a low cost. Yet because the supply of land is so large, without public and private investment to improve the land, its market value tends to be very low. The generous land allocation policy has allowed the city to expand at a low density. Land and property markets are active, but there are few accurate resources to estimate price trends and volumes of different properties. This is because an unknown amount of market activity takes place as cash transactions, which are either not reported or purposefully understated to avoid taxes.

**The city has grown rapidly since 2000, though overall it has a very low density.** Low-density development carries long-term costs that are born both by the city government as well as residents. The city government does not adequately capture land value gains, and it similarly lacks necessary financial tools for infrastructure improvements in low-density *ger* area settlements. Servicing these areas is much more expensive than servicing vacant land. Low-density and segmented land uses encourage traffic and congestion. As a result, residents must spend time and money in order to reach their jobs and commercial centers, or to access public services such as schools and hospitals. Houses and *gers* that lack central heating instead rely on coal heating stoves for much of the year, which presents a long-term public health risk due to air pollution.

**The current iteration of the Master Plan does not adequately address underlying problems in the urban land market.** The current plan does not offer justifications for future projects in terms of the advantages or cost efficiencies. Land use plans and zoning encourage low-density development and the construction of new and distant satellite cities without detailed analysis of why industries and residents would choose to move there. The Master Plan should be used to guide strategic, long-term land development in the city rather than as a means to direct specific, detailed investments.

### Box 5.1: Development Fees as a Source of Municipal Revenue

Cities can raise revenue to pay for infrastructure by requiring developers pay a fee for the right to build. The basis for development fees is that any new private development, such as apartments, offices, and commercial spaces, production uses impose additional burdens on the existing public infrastructure or require expansion. The developer then pays a fee, which the city uses to offset the extra infrastructure demands that the project will impose. A new apartment complex, for example, will house more families and increase the need for new or larger schools. It will also place additional burdens on the city's overall water, power, and heating needs once these lines are connected to the system.

Development fees are a one-time charge assessed on anybody before they can start construction. The fees amounts are in proportion to the expected cost needed to provide the service improvement. Fees can be charged in several ways, such as per square unit of developed area (sometimes differentiated by land use, so that developers of commercial real estate pay more than builders of single-family homes, for example); according to a zone system based on location; or as a proportion of estimated construction costs. The city uses the fee revenue to pay for additional infrastructure, such as additional school space, trunk water lines, lane space on access roads, and so forth.

Development fees represent an important source of revenue for many cities across the United States and Europe. In the Balkan region, for example, they constitute up to half of local government revenues (Garzon and Friere 2014). In the United States, they are one of several tools used to support urban growth while also generating revenue for service provision. They are also a less-risky alternative to municipal borrowing, and also transfer more of the government's infrastructure investment risk on to the private developers.

However, there are several caveats to the use of development fees. First, because development fees represent an additional cost to development, a fee that is too costly may limit private investment in construction or encourage illegal development (Peterson 2009). Second, it can be difficult for cities to assemble enough fee revenue quickly enough for large public investments. This is the case when new developments are relatively small, infrequent, and spread across the city (Fulton 1999). Finally, setting up the development fee that would generate sufficient but not excessive revenues is a difficult task, and the use of these revenues in transitional economies is sometimes criticized for being not transparent.

Sources: Fulton 1999; Garzon and Friere 2014; Peterson 2009.

**The proposed Land Exchange will not provide a stable revenue source and will continue or exacerbate current market distortions.**<sup>1</sup> The city's proposed Land Exchange is aimed at improving the reporting of land and property transactions for taxation purposes. There is no comparable institution in other cities for these purposes and the assumed benefits of the Exchange practice remain unclear both for the city and the public. The added time and cost imposed through requiring a buyer and seller

to use the Land Exchange would discourage reporting of either the transaction itself or underreporting the price of sale. The volume and price of land and property transactions in the city would remain poorly understood and the city would continue to only gain a small portion of the possible revenue derived from transfers. The report recommends that the city improve existing administrative and tax structures related to land and property (see box 5.1). For instance, UB could strengthen the cadastral procedures and land registry, through which all titles and individuals will still need to be registered.

1. Critique of the Land Exchange as a concept and institution was presented to the UB government in a separate document.

## RECOMMENDATIONS: PUBLIC LAND ADMINISTRATION AND LAND VALUE CAPTURE

The report provides recommendations that are clustered around two main areas: (i) actions that can immediately be taken up by the city, primarily focused on improving management practices for the land it owns; and (ii) longer-term policy reforms that need action from national-level actors.

### Recommended Actions for Improving Public Land Administration and Management in the Short Term

The city government should begin to develop an explicit land management policy and strategy for publicly owned land. This could begin with the establishment of a temporary interdepartmental Task Force that includes representatives from district offices (box 5.2). The Task Force would be charged with developing a long-term comprehensive strategy for land administration, conduct land audits to identify underused public land, and develop suggestions for overcoming the current limitations of

the land management and administration structure in the city. At a minimum, the following issues should be addressed in the strategy:<sup>2</sup>

- Complete and maintain the current inventory and registration of city-owned buildings and land
- Policies and procedures for valuing and pricing of public land
- Procedures for land and property allocation
- Land related actions needed for improving the investment climate
- Use of land sales and privatization revenues
- Principles of acquiring land from the private sector for public purposes (eminent domain)
- Transparency of information on land
- Intention to develop and implement a strategic land allocation plan for surplus vacant land
- Institutional framework for overcoming fragmentation in land management and administration

2. See details in Kaganova (2012a).

#### Box 5.2: Using a Land Task Force in Establishing Strategic Land Management

The City of Nis, Serbia (population 255,500) created a special temporary Task Force (TF) to improve land management. The TF was composed of the Mayor; Advisor to the Mayor (Acting TF Chair); a member of the City Council; Head of Property and Inspection Department; Head of Finance, Local Revenues, and Procurement; Acting Head of Planning and Construction Department; Deputy Public City Attorney; Head of Information and Communication Technology (ICT) Department at City Administration; Financial Manager, Municipal Enterprise for Construction; and Representative of the Republic Geodetic Department (Cadaster). The TF focused on four activities:

- i. inventorying land
- ii. conducting demonstration land auctions based on current best approaches to offering land to investors
- iii. developing land policy
- iv. developing a Strategic Land Management Plan

*(continued next page)*

## Box 5.2 (continued)

**According to participants, the TF played a critical role in improving land management for the following reasons:**

- The TF functioned with a “think tank” capacity because it combined the expertise and knowledge of multiple departments.
- The inclusion of the member of the City Council on the TF allowed the group to informally liaise with the Council and prepare the members for the suggestions and recommendations the TF would provide.
- Similarly, TF members from two central government institutions (a local branch of the State Cadaster Agency and the municipal court) secured cooperation with agencies that held data critical for land inventorying
- Unexpectedly, the TF also helped to depoliticize the land management issues. Although TF members represented different political parties, the temporary nature of the TF, the technical nature of the tasks considered, and the use of a Chatham House Rule provided some level of anonymity to participants and allowed for more candid discussions. The Chatham House Rule allows participants to discuss opinions, ideas, and information from a meeting without mentioning the identity of the person responsible for them. These aspects supported a collaborative and constructive environment for the work of the TF.
- The TF became an important setting for knowledge transfer from the technical assistance provider to members of the TF.
- The temporary nature and cross-department composition of the TF was a good platform for developing and preparing permanent organizational changes that were eventually introduced.

**Key results of TF activities included:**

- In 15 months, a newly developed database on municipal land was populated with 15,835 parcels identified in the Real Estate Cadaster; of those, 3,011 parcels were verified in field audits.
- The city successfully auctioned five municipal parcels, despite the fact that the auction happened in the middle of the financial crises (March 2010). Factors of success included: (i) preparation and formal approval of a new set of good-quality procedures and legal documents, substantially attuned to efficiency expected by potential buyers, and (ii) marketing of the sites by a professional brokerage company.
- “Big picture” principles for the draft of the city’s land policy (though the policy was not formally adopted).
- Formulation of central issues to be addressed in the Strategy of Land Management and partial solutions (also not formally adopted).

**Room for Improvement:**

- One of the overall lessons learned and incorporated into land management practice was that the City Administration needs better “public diplomacy” and a good public relations approach in order to educate and influence the public opinion and to secure the understanding and support of particular groups such as local business circles and political parties.

Source: NORC 2013.

**The Task Force needs to include representatives from all relevant departments dealing with municipal land and property within the city government.** It should also include representatives from each district, 2–3 members of the City Council, and representatives of related state agencies such as the Ministry of Construction and Urban Development (MCUD), General Authority for State Registration (GASR), Administration for Land Affairs Geodesy and Cartography (ALAGaC), and the Ministry of Finance. The Mayor should chair the Task Force, which should be led by the Head of the Property Relations Department (PRD). The Task Force will be most efficient if it functions on the basis of an agreed upon agenda and schedule, and is facilitated by experts with knowledge of international good practices in managing government land. The Task Force’s initial duties should include:

### **Immediate Actions for Improving Management and Administration**

- *Consolidate the existing land inventory data and further develop it, in order to provide the Task Force and policy makers with clear systematic data on land possessions of all the legal entities that constitute the city government.* The database should also include potentially buildable vacant land. Incentives should be provided for entities to identify and release back to the government the excess land they hold. This would allow the city to have better control over land assets and make more informed decisions about whether to allocate or retain land in a reserve. UB should also ensure that the inventoried land is registered in a legal cadaster so as to secure its rights.
- *Institute a practice by which decisions on allocating land parcels for private activities are made with the participation of a district government on whose territory the parcels are located.* This would allow the district more control over planning future land use needs and public service priorities.
- *Continue the moratorium on allocating vacant municipal land for private economic activities on devel-*

*oped (built-up) territories.* The moratorium should be lifted once districts’ needs for land for public uses are jointly identified and agreed upon between the city government and the districts.

- Introduce *rigorous periodic audits of municipal land.* Audits should begin with the biggest land-holders, including individuals, budgetary organizations, nongovernmental organizations (NGO), political parties, and religious organizations. The main purposes of the land audits include (i) verifying whether these entities are in need of the entire parcel for carrying out their activities, or if they have some excess land; and (ii) checking for the presence of other users on the parcels and, if they are present, investigating their status (such as informal arrangements, encroachments, formal allocations not yet reflected in land inventory, and so forth).
- Institute a proactive, long-term, planned approach to release land for private activities. This should be based on a reasonably complete inventory of municipal land, an assessment of current and future public needs, and a classification of the available land. A possible approach to the classification is presented in figures 5.1 and 5.2.

### **Generating Revenue for the City’s Investment Budget through Land Auctions**

**The city should integrate land management into current budgeting and accounting practices.** For accounting purposes, the municipal balance sheet should treat land as a fixed rather than an intangible asset, per standard international practice. This land should be evaluated and inventoried at its market value. UB should begin with inventorying the most valuable land. Even when land is transacted noncompetitively, such as when it is allocated to an NGO or is used as collateral, market valuation should apply. For instance, if land is allocated to municipal enterprises or joint ventures, it should be recorded at

Figure 5.1: General Classification of Urban Land Controlled by the Government of UB

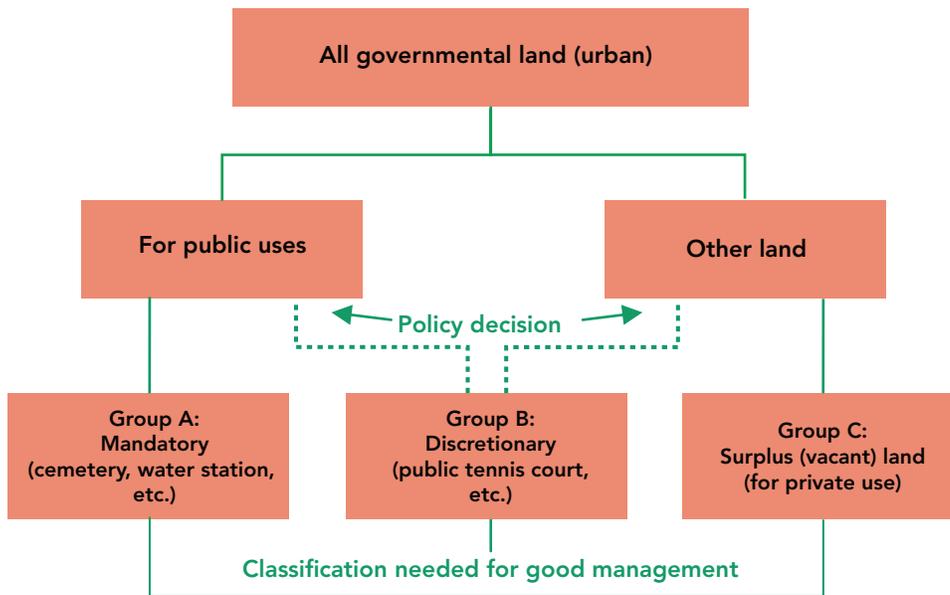
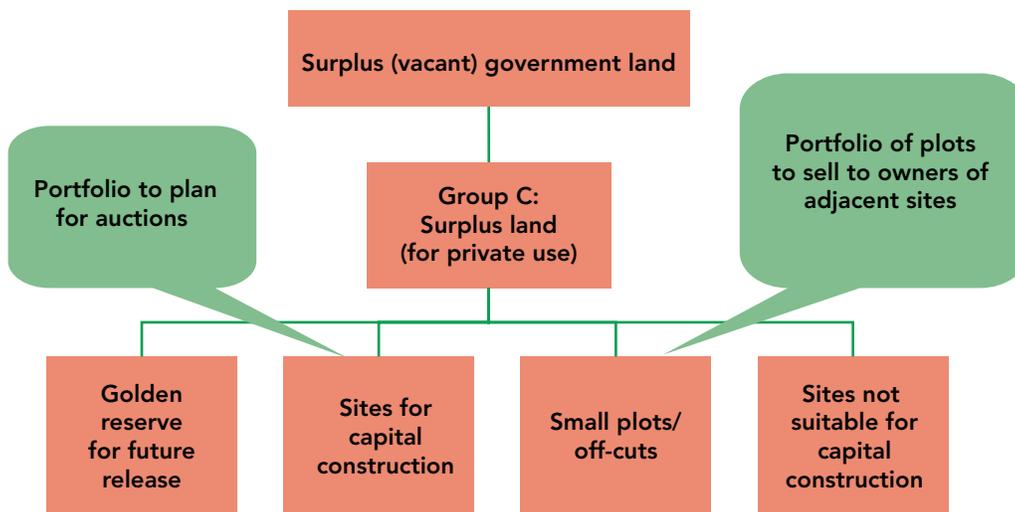


Figure 5.2: Classification of Vacant Land in UB



market value in the balance sheet of these entities as the city’s contribution. The costs of property-related liabilities (such as site decontamination) should be incorporated in valuation

**This detailed inventory of public land can be used to guide decisions to auction publicly owned land that is currently underutilized.** As already discussed in Chapter

4, there is a large amount of surplus land currently held by various entities, especially by the city’s budget entities. An incremental auction release of this land for the private sector can produce a significant revenue source for the city. This report estimates that roughly 10 percent of public land is in excess of the needs of the entities holding them (city organizations, NGOs, political parties, public utilities, and so forth). The release and auctioning of this

### Box 5.3: Prerequisites of Successful Land Auctions

- Sites are located in areas where investors want the land
- Permitted land uses are based on market demand
- Effective marketing (sufficient time for advertisement, broad advertisement)
- Transparent auction process (transparent processes such as verbal auctions with open access to the public, etc.)
- Timing when demand is strong

Source: Kaganova et al. 2012.

land at current market prices would result in additional revenues for the city at over *five times its total budget for 2012*. Assuming the release of this land takes place over the next 20 years, land auctions could provide an additional 25 percent of the total budget for 2012. (See appendix B for details.)

International best practices on public land auctions suggests that the city should undertake the following actions:

- *Introduce a universal principle that all well-located vacant land should be allocated for private economic activities through auctions only (with special-case exceptions preapproved by the City Council).* Good-quality auctions are critical for both generating interest from potential bidders and excluding opportunities for collusions and corruption. Box 5.3 outlines some general features of successful auctions.<sup>3</sup>
- *Identify prime city-owned land for auction in order to attract private capital.* Link land auctioning with public investments in infrastructure, as auctioning infrastructure-equipped land may help to defray the cost of infrastructure.
- *Introduce a rule that revenues from sales of land rights and privatization of land are held in a separate fund.* The fund should be earmarked for capital investments only.

3. More details are provided in Kaganova (2012).

## Recommended Actions for Improving Land Administration and Management in the Longer Term

### *Reforming Property Taxation for Revenue Generation*

**The city should consider property taxation as a means to increase its revenues.** The central government and UB, together, need to reconsider the policy and regulations related to land and property fees and taxes, registration, and transfer. These should be regulated within a broader context of intergovernmental fiscal and institutional relations. The purpose is to increase UB's revenue base through two mainstream options, which can be combined: (i) establishing a stable, annual, inter-government transfer from the central budget to the UB budget; and (ii) introducing the land and property tax that reflects, at least to some extent, market values of properties and is imposed on owners of land, apartments, individual homes, and nonresidential real property. In addition, the city government needs more power in defining parameters of the land fee and property tax.

**Currently, the city obtains only a small portion of the value of land and property, even though it is responsible for granting land permissions and providing infrastructure to the city.** A property tax system that reflects the market value of land and nonresidential property would provide a substantial increase in revenue for the city (box 5.4) and could be used for investments in infrastruc-

### Box 5.4: Property Valuation for Taxation Purposes: Area-Based Valuation

There are several methods for conducting property valuation for taxation. A property tax is derived from a combination of a tax base and a tax rate. The tax base refers to the value of the property taxed, which in developed economies is based on some portion of the property's market value.<sup>a</sup> A tax rate applied to the taxable value results in the tax amount due for payment. In developed economies, price information on most types of land and properties is widely available and can be used to estimate the market value and compute the tax base. However, in areas where market price data are inaccurate or incomplete, accurate property tax valuation is much more difficult. The capacity of a government to collect accurate market price data on individual properties and develop a valuation system for tax purposes is complex and takes years to establish.

Area-based valuation is the simplest technique and has been implemented in countries where market-based valuation systems are weak or do not yet exist, including Hungary, the Slovak Republic, Slovenia, Romania, and the Czech Republic. Area-based valuation is a simple first-step toward developing more sophisticated market-based valuation systems as more reliable price information becomes more available and tax assessment capacity improves over time (Norregaard 2013). In the most basic form, the tax base is determined by the floor or land area of the property, which is combined with a base value per square meter. The base value should also be updated every 3–5 years to reflect inflation and general market trends. The tax rate can be fixed or adjusted according to the type of the property. This resembles the system that is already in place in UB, though the price assumption for the tax base does not reflect current market values.

An area-based system can be adapted in order begin to accommodate variations in market values of land. For example, tax rates on land and property can be set to vary according to their location relative to amenities (such as schools, hospitals, and transportation hubs, among others) throughout the city. Properties that are located near amenities can be taxed at a higher rate than those that are further away, as is done in Chile and Romania (Bahl 2009). This approach allows the property tax structure to have some sensitivity to differences in market values of property based on location prior to developing more precise price records or price estimates for individual properties in order to improve the accuracy of tax base.

Sources: Bahl 2009; Norregaard 2013.

Note: a. Market value is the most probable price that can be expected for a particular property in a sale between a typical buyer and seller under the following assumptions:

- An open and competitive market exists for the type of rights involved in the transaction.
- The buyer and seller are acting prudently in their best interest and without undue stimulus.
- Marketing efforts were adequate and a reasonable time was allowed for exposure of the property on the open market.
- Payment was made in cash or comparable terms.

ture-deficient areas. Apartments and individual homes should also be eligible for taxation based on market values. In contrast to income taxation, property taxes are less regressive for the poor and represent a more stable source of revenue. As property taxes represent a stable and reliable revenue source, the city needs to consider

them as a means for funding future expenses and repayment of debt. This is especially germane to any discussion of using borrowing instruments like municipal bonds, because funds obtained through borrowing *are not real revenues*—they need to be repaid over an extended period, at a cost.

**Land tax and fee policies should be based on market valuation.** At present, the city has very limited power to define the land fee and land tax, as they are generally set nationally and at very low levels. Since the city primarily acts as an implementer of national policies, it should take a more proactive role in convincing the national government to change how taxes and fees are set.

**The city's revenue will increase significantly if it were to tax land and property holders.** Table 5.1 presents illustrative examples for options to introduce new forms of land based taxes and fees and for increasing existing taxes and fees to more reasonable levels. This is intended as background information for initiating policy discussions and is not meant to depict a program of property tax reform. The introduction of property tax reform requires careful design and assessment of feasibility, including the cost of implementation. Key issues to address include obtaining consensus from the majority of payees and securing a gradual increase of the amounts that people and companies would pay. The latter is important, because drastic single increases of the fees and taxes may lead to public protests and unrest (as in the case of Hong Kong SAR, China, when the government attempted to increase land lease fees).

The findings of this study suggest that the biggest single-source increases can be expected from:

- Taxing apartment ownership
- Taxing nonresidential properties based on their market value, and
- Releasing public land for private sector activities at market prices.

Taxing nonresidential properties at 0.42 percent of their market value would increase the 2012 budget by about 23 percent. Similarly, taxing apartment ownership could produce nearly an additional 20 percent increase to the city's 2012 budget (at an annual tax rate of 0.35 percent of apartment market value). Further increases would occur if tax rates were also to increase. The estimated increases would range from about 56 percent of the 2012 city

budget (under Scenario 1 assumptions; see table B.1 in appendix B) to 119 percent (under Scenario 2 assumptions; see table B.2 in appendix B). Table B.3 in appendix B presents a potential increase of recurrent annual revenues from the property tax under the more modest assumption of the annual tax constituting only 0.3 percent of the property market value. And still the budget increase from the property tax alone would be about 35 percent of UB's total 2012 budget. It is worth noting that these additional annual revenues well exceed the amount that the city might get through one-time borrowing.

**A tax on privately owned land and property could be a large and stable source of revenue for UB.** The city needs to develop a strong justification for reforming land and property taxes and engage a broad set of stakeholders within the national government, other sectors and the general public to show how these reforms would be in their mutual interest and benefit. Currently, the city faces a large funding gap for engineering and social infrastructure and services.<sup>4</sup> Whether ownership of land, individual homes, or apartments in UB and other cities should be taxed is clearly a national policy issue. But it affects UB disproportionately, given the higher concentration of people, demands for infrastructure, and need for sustainable revenue sources it has relative to other cities or rural areas of the country. UB's economic activity contributes the majority of Mongolia's GDP. Revenues collected by the city (which could be significantly enhanced) are also a substantial source of revenue for the national government.

### *Regulatory Reforms on Land*

**The city should also consider regulatory changes to reduce the costs and risks associated with investing and**

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4. Note that insufficient funding is not the sole reason why UB may continue lagging behind on improving and increasing infrastructure and service provision. There are two other reasons. First, the current capacity of the city to deliver capital investment lags behind the city's plans; in 2012, UB executed only 62 percent of its planned capital investment. Second, the existing sprawl of *ger* areas and further spread, monofunctional and low-density development stipulated in the new Master Plan make provision of modern infrastructure to many these areas prohibitively expensive (for more discussion see Chapter 1).

**Table 5.1: Potential Revenue Modifications for UB Budget**

Type of revenue	Share of UB 2012 budget (MNT thousand/%)	Potential annual addition to UB 2012 budget levels (MNT thousand/%)	Assumptions underlying increases
<b>Total UB budget revenues</b>	347,288,249/100%	n.a.	n.a.
<b>Borrowing*</b>		52,093,237,350/15%	The maximum allowed by law
<b>Asset (property) sale tax</b>	7,577,905/2.2%	n.a.	n.a.
<b>Property tax:</b>			
<b>On nonresidential buildings</b>	13,250,184/3.8%	<p><u>Channel 1:</u> At least 1,987,528/0.6%</p> <p><u>Channel 2:</u> 79,501,104/22.8%</p>	<p><u>Channel 1:</u> This increase is based on improving basic tax administration only (i.e. tax rolls and collection), leading to a 15% increase from the 2012 revenues</p> <p><u>Channel 2:</u> The tax is assessed on the property market value; the market value is on average 10 times higher than the book value; the taxable value is 70% of the market value; tax rate—0.6%. <b>Result:</b> the annual tax = 0.42% of the market value. <b>Example:</b> A company that owns a 400 m<sup>2</sup> commercial unit in Sukhbaatar District, with the book value of MNT 50 million and pays the annual tax of MNT 300 thousand would need to pay the tax of MNT 2.1 million and would be able to sell the unit for MNT 500 million.</p>
<b>On apartments</b>	None	<p><u>Scenario 1:</u> 67,871,526,157/19.5%</p> <p><u>Scenario 2:</u> 135,743,052,314/39%</p>	<p>Number of apartments—170,771 Average market value—MNT 113,554,788</p> <p><u>Scenario 1:</u> Taxable value—70% of the market value; tax rate—0.5% of the taxable value per year. <b>Result:</b> the annual tax = 0.35% of the apartment's market value. <b>Example:</b> annual tax = MNT 397,442</p> <p><u>Scenario 2:</u> Taxable value—70% of the market value; tax rate—1% of the taxable value per year. <b>Result:</b> the annual tax = 0.7% of the apartment's market value. <b>Example:</b> the annual tax = MNT 794,884</p>
<b>On individual homes</b>	None	<p><u>Scenario 1:</u> 3,257,054,256/0.9%</p> <p><u>Scenario 2:</u> 6,514,108,512/1.8%</p>	<p>Number of homes—62,362 Average market value— MNT 14,922,339</p> <p><u>Scenario 1:</u> Taxable value—70% of the market value; tax rate—0.5% of the taxable value per year. <b>Result:</b> the annual tax = 0.35% of the house market value. <b>Example:</b> the annual tax = MNT 52,228</p> <p><u>Scenario 2:</u> Taxable value—70% of the market value; tax rate—1% of the taxable value per year. <b>Example:</b> the annual tax = MNT 104,456</p>

**Table 5.1 (continued)**

Type of revenue	Share of UB 2012 budget (MNT thousand/%)	Potential annual addition to UB 2012 budget levels (MNT thousand/%)	Assumptions underlying increases
<b>Land tax</b>	Too small to collect  Owners of apartments in condominium buildings do not pay either land tax or land use fee	<u>Scenario 1:</u> 3,981,386,850/1.1%  <u>Scenario 2:</u> 7,962,773,700/2.2%	Number of land plots to tax—102,481 Average market value—MNT 11,100,000  <u>Scenario 1:</u> Taxable value—70% of the market value; tax rate—0.5% of the taxable value per year. <u>Result:</u> the annual tax = 0.35% of the plot market value. <u>Example:</u> the annual tax = MNT 38,850  <u>Scenario 2:</u> Taxable value—70% of the market value; tax rate—1% of the taxable value per year. <u>Result:</u> the annual tax = 0.7% of the plot market value. <u>Example:</u> the annual tax = MNT 77,700  It is assumed that the property tax on apartments, being based on their market value, already reflects the land value
<b>Land use fee</b>	28,136,869/8.1%	<u>Component 1</u> (annual fee): 8,471,601,384/2.4%  <u>Component 2</u> (one-time fee for obtaining land): From 10% to 50%	<u>Component 1:</u> <ul style="list-style-type: none"> <li>• Possessors of residential land pay an average commercial-use rate for extra land above 538 m<sup>2</sup> per plot</li> <li>• Budgetary organizations, NGOs, political parties, and religious organizations pay an average commercial-use rate for extra land above 7,000 m<sup>2</sup> per plot</li> </ul> <u>Component 2:</u> <ul style="list-style-type: none"> <li>• This is a rough and conservative estimate that assumes that plot for individual housing are still allocated as currently, for free</li> <li>• This revenue may vary from year to year</li> </ul>
<b>State property lease revenue</b>	1,022,820/0.3%		
<b>Property privatization revenue</b>	638,761/0.2%		
<b>“Hook-up charge”</b>			Not considered here

Sources: The number of apartments and individual homes—from GASR data; the number of privatized land plots—from PRD. The average market values of apartments, homes, and land plots are derived from sample of transaction prices for 2012 provided by the Central Bank of Mongolia.

**transferring property.** There are a number of changes that can be introduced through national administrative reforms within the city and in partnership with other ministries and agencies, including the Administration for Land Affairs Geodesy and Cartography (ALAGaC) and GASR. These include consolidating and streamlining the procedures necessary for obtaining and transferring land title certificates. UB can also develop tools and outreach programs that can improve public awareness, transparency, and accountability for the services provided by these offices; they are not well understood by the public.

**The MPD should review proposed land use and zoning regulations in areas across the city.** The review should aim to ensure that zoning designations are relevant to the local context and can support mixed uses at a level approaching UN-Habitat's suggestion: up to 40 percent of floor space in any neighborhood should be designated for economic use (UN-Habitat 2013). Mixed-use zoning is especially advantageous along existing transit corridors and intersections. A complementary approach would include reviewing and relaxing standards that place caps on density levels or that specify minimum requirements (such as parking spaces). These would allow developers more flexibility to match market conditions at different locations and relieve them of additional and unnecessary cost burdens.

**The city could better support private investment with more substantive reforms to current land tenure laws.** The current system of “possession,” “ownership,” and “use” rights adds unnecessary time, confusion, and costs for firms and residents. Ownership rights should be granted to eligible residents without requiring a preliminary possession certificate. This would reduce the cost and burden of the system for both the government and private sector in administering the title and registration system. Over

the long term, UB and Mongolia in general would benefit from modernizing the property rights system. This would include (i) allowing land ownership for legal entities as well, and (ii) replacing “possession right” and “use right” by leases. Possession and use rights for legal entities could be combined to become a long-term land lease (60 years). Foreign legal entities should also be eligible for these leases, provided they meet certain requirements and under strictly defined terms, conditions, and periods. *Increase the duration of possession rights allocated to private sector actors for capital construction to 60 years as currently allowed by the law.* This would reduce the cost and burden of the system for both the government and private sector.

**The current practice of allocating low-cost urban land for residential use needs to be reconsidered.** While the right for citizens to own land is embedded within Mongolia's Constitution and is out of the city's purview of control, it has in current practice presented serious and overlapping challenges to UB. The city needs to develop long-term partnerships with national government stakeholders including the Ministry of Finance, the Ministry of Construction and Urban Development, and others in order to explore possible reforms to the Law on Allocation of Land to Mongolian Citizens for Ownership, when the eligibility period for obtaining land ownership once and free of charge expires on May 1, 2018. The study has found that the expansion of the city's built form, along with a number of environmental, economic, and quality-of-life challenges faced by UB residents is closely linked to the almost free availability of land for every resident. This practice limits the market value of urban land because of the costs associated with providing infrastructure to newly developed areas. The low value both reduces private investment in these parcels and limits the city's ability to capture revenue from their improvement or sale.

# Appendix A

## The Evolution of Land Laws in Mongolia

Mongolia's transition to a market economy since the 1990s has been marked by the introduction, and subsequent amendment, of many laws relating to land and property. Prior to the democratic revolution, the 1971 *Law on Land Utilization* applied throughout Mongolia. This was revised in 1994. The current *Land Law* was passed in 2002 in the same year as the *Law on Allocation of Land to Citizens of Mongolia for Ownership*, (both enacted in 2003). These laws and their subsequent amendments represent an important step forward in land ownership and land use. Both these laws provide for regulation of transactions related to ownership and use and are currently subject to ongoing review. Specifically, they make some important improvements to land tenure and rights regarding pasturelands. In addition, the *Law on Allocation of Land to Citizens of Mongolia for Ownership* regulates the allocation of land for ownership and the types and sizes of land to be owned; the Law also indicates the power of local administrations and the procedures for enacting land ownership. Local governments are given the power to appropriate land under local special protection, and the central government possesses the rights to acquire land under possession of citizens, entities, and organizations, for "special needs" (USAID 2004:10-11). The law defines three categories of land tenure and rights, namely (1) to own land, meaning to be in legitimate control of land with the right to dispose of it; (2) to possess land, meaning to be in legitimate control of land in accordance with its intended use and terms and conditions specified in respective contracts; and (3) to

use land, meaning to undertake a legitimate and concrete activity to make use of some of the land's characteristics in accordance with contracts made with owners and possessors of land. These three categories provide the legal foundation of land markets in UB.

The *Law on Allocation of Land to Citizens of Mongolia for Ownership* has been amended several times, in 2005, 2008, 2010, 2011, and 2012, suggesting that initial proposals were based more on political enthusiasm than careful analysis of the likely consequences on land and housing markets. The Law allows for the allocation of land once and free of cost to all Mongolian citizens, irrespective of age and for family needs until May 1, 2018 (according to the latest revision of this law), though ownership is tied to the land fee system that the government introduced in 1997 under the *Law on Land Fees*.<sup>1</sup> The Law on Land Fees concerns only those who have land possession and land use. A land tax is imposed on those with land ownership. Land tax—that is, property tax—is regulated by *Law on Immoveable Property Tax*. The system of determining the land value is the same for all types of land tenure (ownership, possession, and use). The land fees vary from 0.1 to 1 percent of the base land value in cities, villages, and other settled areas. The fee is determined by central

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1. Land ownership is tied to land, that is, the immovable property tax system. Land possession and use are tied to the land fee system, but the land value for taxation and fee payment are both tied to the Law on Land Fee.

government, taking into account location and land use, as well as socioeconomic, geological, and environmental parameters. UB is divided into five land valuation zones depending on location and income level and is applied uniformly to properties in each zone.

Initially, demand for completing the procedures for full ownership was modest and many residents retained their possession rights. It was widely thought by politicians and officials that this might be because people were reluctant to pay the necessary land (immovable property) tax after obtaining ownership rights. To overcome this reluctance, a decision was made to provide tax discounts on privatized residential land plots by revising the Law on Immovable Property Tax (revision of January 9, 2004). For land or property owners, taxes are estimated on an annual basis and charged quarterly. However, as these are based on land values in 1997, revenues represent a low proportion of current land values and in practice taxes on residential plots are not collected.

Demand for residential land resulting from urban population increase in UB led the Governor of the Capital and Mayor of Ulaanbaatar City municipality to pass **Resolution A/726 of July 30, 2013**. This restricts the allocation of land for ownership in the 52 locations for people who move to UB from local areas. The resolution is titled “Some measures to prevent over concentration of population, issues of employment, to prevent from distorting normal pace of public services, transportation and communication in the Capital.” Among other clauses, the resolution is intended to

Temporarily suspend allocation of land possession rights for family use to the citizens from rural areas who resettled in the Capital after May 30, 2013, which is the date when the Resolution on determining the location and size of the land to be allocated for ownership for family use, No. 10/39 of the Capital (city) Citizens Representative Khural (Council), was approved. This temporary suspension is (shall be valid) until the completion of the Capital (city) *ger* area re-planning projects.

It also states that

The PRD/Sh. Tumurbaatar/shall organize activities to allocate land for ownership in accordance with the relevant laws for those Mongolian citizens who have not obtained land for ownership for family use and who were registered to settle permanently in the Capital city from local areas before May 30, 2013, i.e. before the approval of the Resolution on determining the location and size of the land to be allocated for ownership for family use, No. 10/39 of the Capital (city) Citizens Representative Khural (Council) from May 30, 2013. In this resolution the more than 15,000 hectares of area in 52 locations were identified for allocation of land for ownership.

Existing cadastral law does not include procedures for property registration and there is no legal framework for addressing and resolving disputes during cadastral surveys. There are three types of cadastre: (1) multi-purpose cadastre (forest, agriculture, urban, and water resources); (2) legal cadastre (tenure and use status) and; (3) fiscal cadastre (valuation for tax, use, and assigned fees). Illegal encroachments of plot boundaries, combined with occasional survey errors, have resulted in increasing land disputes since the administrative court was established in 2004. In 2011, a total of 645 cases were considered, of which 161 related to land disputes. In the first seven months of 2013 alone, a total of 816 cases were heard, of which 274 were related to land disputes; this was an increase in both the number and proportion of the total cases. This increase is partly because more people are living in the city and more are aware of legal options. Of the total, an estimated 30 percent go to higher courts for resolution. Cases relating to claims of corruption are heard in the criminal courts.

In some cases, according to the judges of the administrative court, some land disputes occur when land is allocated to an individual but not occupied, possibly as the person already occupies a plot with other family members elsewhere. Rural migrants unfamiliar with urban land administration may then occupy the plot, erecting a *ger*

and a fence, only for the plot to be found later by the legal allottee. However, if the original allottee of a land possession certificate does not occupy the plot within two years, their claim for possession rights is void and the settler is entitled to have it re-registered in his or her name, though such cases are rare.<sup>2</sup> Some land disputes involve claims against the governor and others are between individuals. Of those against the governor, about half are successful. A statute of limitations of 30 days exists beyond which claims cannot be submitted.<sup>3</sup> Cases are usually opened within 7 days of submission and must be settled within 105 days according to the law, but some take up to a year. Judges are actively involved in visiting sites, interviewing claimants and researching the records.

*The Law of Urban Development* (amended 2008) regulates “relations arising between state, economic entities and citizen in rational and purposefully planned utilization of land and territories of towns and villages with the aim to establish optimal structure for regional development.” The law empowers the Governor of the capital city to organize land allocation and implement works as part of the city Master Plan and establish the Construction and Urban Development Department managed by the Chief Architect. The law also stipulated that participatory planning principles are to be applied and reflected in urban development actions and activities. In the event of compulsory resettlement of landowners, the law requires the state to pay compensation to the owners and also meet relocation expenses. The Ministry of Construction and Urban Development (MCUD) is currently rewriting this law, though no draft was available at the time of writing.

Given the lack of clarity in land prices for different uses and locations within UB, it is logical that emphasis is being placed on methods of estimating land and prop-

erty values and prices. *The Law on Property Valuation* (2010) determines the legal and institutional framework for property valuation. It sets the activities, rights, and duties of the state organizations, citizens, and legal entities related to property valuation. Article 8 states that valuations are to be conducted in accordance with international and national valuation standards. It also states that the State Central Administrative Organization in Charge of Finance and Budget, in collaboration with other related organizations, shall endorse a methodology of property valuation. In practice, this involves the Ministry of Finance and MCUD jointly approving a methodology/regulation for compensation valuation when acquiring land.<sup>4</sup> The concepts of land and property valuation are based on evidence from actual transactions in a transparent and open land and property market. But in practice, because of high taxes and lack of mechanisms to state the “real” transaction prices when registering the property, it is difficult to find out the real price.

The problem is due to the impact of the taxation system and lack of mechanisms to report transactions. There are also some technical issues such as lack of databases with real transaction prices that are maintained and used by relevant government agencies, and lack of professionals such as appraisers. This presents major problems of land management and indicates that land and property valuation are not sufficiently based on evidence from actual transactions in a transparent and established land and property market.

The frequent introduction of laws relating to land and property has also given rise to anomalies that may deter investment and development. For example, while the Land Law prohibits foreigners and foreign entities from obtaining possession rights, the new Law on Foreign Investment (Article 9) states that “Mongolia shall accord to

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2. This does not apply in the case of land ownership as this is permanent.

3. An unofficial translation of the Administrative Procedure Law of Mongolia 2002 (Article 6.1) states that “Unless otherwise stipulated in the Law a citizen, or legal entity which considers that the illegal administrative act of the administrative body or official infringed its rights shall submit a complaint to higher instance administrative body within 30 days since receipt of the act or finding out about the act”

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4. See Article 8.2 of the Law on Property Valuation. The actual wording is: “Alone or jointly with other related organizations, the State Central Administrative Organization in Charge of Finance and Budget shall endorse a Methodology of property valuation in accordance with characteristics and purpose of respective item of property valuation and require to comply with.”

foreign investors no less favourable treatment regarding the possession, use, and disposal of their investments than that accorded to Mongolian investors.” Article 10.1.1 provides that foreign investors shall enjoy the right to possess, use, and dispose of their property including the repatriation of investments that were contributed to the registered capital of a business entity with foreign investment. Article 21 offers business entities with foreign investment leases of up to 60 years, extendable once for a period of up to 40 years. However, Article 10.2 states that foreign investors are required to conform to the laws of Mongolia. As the Land Law expressly prohibits foreigners from obtaining possession rights, it remains to be seen how the difference between a lease and a possession right will apply in practice.

There are an insufficient number of qualified professionals in either the public or private sector to bridge the gap between inadequate market-derived data and evidence from other sources. The city intends to prepare land value rates and norms that will limit land values. This displays an excessively optimistic approach to market management and is more likely to increase, rather than reduce, existing market imperfections and possible distortions. However, the draft Law on Land Acquisition for Unavoidable Public Need is intended to balance the interests of the public and the private land/property holders when implementing public projects (such as public infrastructure and schools). The draft law does not focus on land values etc., though this must be addressed from the perspective that the entities affected by land acquisition must be compensated fairly. This is because the land/property appraisal for compensation purposes is different in some principal aspects compared to land/property appraisal for other purposes. The law applies equally to those owning, possessing, or using land. It is expected to ensure that adequate levels of compensation are paid and other assistance is provided to private landowners whose land is to be acquired.

A key basis for any law of land acquisition is the definition of public interest that forms the basis for acquisition. In the unofficial English translation of the draft law, these

aspects are presented in Article 5.1.3, which states that “state special need refers to articles 13.3.1.–13.3.3. and 13.3.8. of the Law on Land,” and Article 5.1.4, which defines unavoidable public need as meaning “activity, infrastructure and structure that is unavoidably needed for the public and serves the public interest and secures public’s rights to live in healthy and safe environment [sic] and safety as specified [sic] in article 6 of this law.” Concern was expressed by some local observers that the law could be used to remove people for commercial, not just strategic, reasons. However, Article 6 states that land shall be acquired only for specified purposes, such as special protection land, national defense, and inter-*aimag* pasture reserves, while public needs include land for state/national infrastructure, and land for schools to be built with state or local budgets. The introduction to the draft law also states that land expropriation should be the last resort and based wherever possible on negotiation. It will not permit any private sector entity to acquire land based on assessment of public needs. The law will also ensure that the land, housing, livelihood, or income of affected entities after land acquisition will be at the same or better level than they were before it.

Compensation for any land acquired is defined in Article 4.1 5 is based on the “replacement value” or “market value,” whichever is higher. Valuation practice in Mongolia follows international practice, which defines “market value” as

the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm’s-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently, and without compulsion.

An alternative option is listed in Articles 11.1.2–4, which entitles those whose land is being acquired to receive compensation in the following forms: cash; direct replacement, that is, receive the compensation in the form of land and structures that are of similar size, quality, and utility, for loss of land and immovable property; or a combination of the two, plus loss of income sources.

Regulations and bylaws required to implement the draft Law on Land Acquisition for Unavoidable Public Need were presented to parliament, together with the set of four other land-related laws,<sup>5</sup> but subsequently withdrawn due to the withdrawal of the Law on Land, which created public controversies around the provision of land

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5. The set of land-related laws included (i) Law on Land, (ii) Law on Land Cadastre, (iii) Law on Land Fees, (iv) Law on Geodesy and Cartography, and (v) Law on Land Acquisition for Unavoidable Public Need.

possession rights to foreign entities. It is worth noting that codes for many existing laws and norms relating to land and property do not yet exist. It is clearly vital that citizens are made fully aware of their rights and options for appeal against perceived unfair treatment under this and other relevant laws and codes.

A final consideration is that the information on property boundaries and ownership claims is often incorrect and adjudicating these disputes and correcting legal records represents a significant use of public resources.



# Appendix B

## Forgone Past and Potential Land-Based Revenues in UB

**Table B.1: Scenario 1 of Forgone Revenues from Past Land Allocations**

Land use type	Area (m <sup>2</sup> )*	Estimated market value per m <sup>2</sup> (MNT**)	Total estimated market value (MNT)	Total collected revenues from past allocations (auctions and direct allocations) 2003–13 (MNT***)	Total forgone revenues (MNT)	Total forgone revenues as % of 2012 UB budget****
Commercial and Service	89,135,877	286,772	25,561,673,719,044	23,112,663,000	25,538,561,056,044	
Excess residential land under possession	13,363,215	107,570	1,437,481,037,550		1,437,481,037,550	
<b>Total</b>					26,976,042,093,594	<b>7,768%</b>

**Note:**

\* The area of commercial & service land is calculated based on the data provided by PRD and includes the following types: Trade, all types of services; Business activities; Liquid gas fuel stations, fuel stations, storage, wholesale markets & centers; and all types of garages. The excess residential land under possession is calculated as the land above 583 m<sup>2</sup> per holder: 14,819,549 – 583 x 2498, where the total in this category, 14,819,549 m<sup>2</sup>, and the number of land holders, 2,498, are provided by PRD.

\*\* The market value for commercial and service land is estimated as a city average market price for land for multi-apartment buildings in the fourth quarter of 2013, according to “Overview of the Market Value of Real Estate 2013 Year, Quarters 1–4,” by the real estate company Tenkhleg Zuuch. The market value for the excess residential land is taken from the same report, but for the cheapest Songinkhairhan District.

\*\*\* Based on the data provided by PRD regarding the auction revenues for 2003–12 and direct sales revenues for 2007–12.

\*\*\*\* 2012 City Budget was MNT 347,288,249,000.

m<sup>2</sup> = square meters; PRD = Property Relations Department.

**Table B.2: Scenario 2 of Forgone Revenues from Past Land Allocations**

Land use type	Area (m <sup>2</sup> )*	Estimated market value per m <sup>2</sup> (MNT**)	Total estimated market value (MNT)	Total revenues from past allocations (auctions and direct allocations) 2003–13 (MNT***)	ALTERNATIVE Total forgone revenues (MNT****)	Total forgone revenues, as % of 2012 UB Budget****
Commercial and Service	89,135,877	286,772	25,561,673,719,044	23,112,663,000	12,757,724,196,522	
Excess residential land under possession	13,363,215	107,570	1,437,481,037,550		1,437,481,037,550	
<b>Total</b>					14,195,205,234,072	<b>4,087%</b>

Note:

\* The area of commercial & service land is calculated based on the data provided by PRD and includes the following types: Trade, all types of services; Business activities; Liquid gas fuel stations, fuel stations, storage, wholesale markets & centers; and all types of garages. The excess residential land under possession is calculated as the land above 583 m<sup>2</sup> per holder: 14,819,549 – 583 x 2498, where the total in this category, 14,819,549 m<sup>2</sup>, and the number of land holders, 2,498, are provided by PRD.

\*\* The market value for commercial and service land is estimated as a city average market price for land for multi-apartment buildings in the fourth quarter of 2013, according to “Overview of the Market Value of Real Estate 2013 Year, Quarters 1–4,” by the real estate company Tenkhleg Zuuch. The market value for the excess residential land is taken from the same report, but for the cheapest Songinkhairhan District.

\*\*\* Based on the data provided by PRD regarding the auction revenues for 2003–12 and direct sales revenues for 2007–12.

\*\*\*\* 2012 City Budget was MNT 347,288,249,000.

\*\*\*\*\* Assumes that only 50% of the commerce & service land could generate market-value based revenues.

m<sup>2</sup> = square meters; PRD = Property Relations Department.

**Table B.3: Scenario 3 of Forgone Revenues from Past Land Allocations**

Land use type	Area (m <sup>2</sup> )*	Estimated market value per m <sup>2</sup> (MNT**)	Total estimated market value (MNT)	Total revenues from past allocations (auctions and direct allocations) 2003–13 (MNT***)	ALTERNATIVE Total forgone revenues (MNT****)	Total forgone revenues, as % of 2012 UB Budget****
Commercial and Service	89,135,877	155,972	13,902,701,007,444	23,112,663,000	6,928,237,840,722	
Excess residential land under possession	13,363,215	66,371	886,929,942,765		886,929,942,765	
<b>Total</b>					7,815,167,783,487	<b>2,250%</b>

Note:

\* The area of commercial & service land is calculated based on the data provided by PRD and includes the following types: Trade, all types of services; Business activities; Liquid gas fuel stations, fuel stations, storage, wholesale markets & centers; and all types of garages. The excess residential land under possession is calculated as the land above 583 m<sup>2</sup> per holder: 14,819,549 – 583 x 2498, where the total in this category, 14,819,549 m<sup>2</sup>, and the number of land holders, 2,498, are provided by PRD.

\*\* The market value for commercial and service land is estimated as a city average market price for land for multi-apartment buildings in the fourth quarter of 2013, according to “Overview of the Market Value of Real Estate 2013 Year, Quarters 1–4,” by the real estate company Tenkhleg Zuuch. The market value for the excess residential land is taken from the same report, but for the cheapest Songinkhairhan District.

\*\*\* Based on the data provided by PRD regarding the auction revenues for 2003–12 and direct sales revenues for 2007–12.

\*\*\*\* 2012 City Budget was MNT 347,288,249,000.

\*\*\*\*\* Assumes that only 50% of the commerce & service land could generate market-value based revenues.

m<sup>2</sup> = square meters; PRD = Property Relations Department.

**Table B.4: Potential Future Revenues from Auctioning Surplus Land from Various Possession Holders**

Land use type	Area (m <sup>2</sup> )*	Estimated market value per m <sup>2</sup> (MNT**)	Potential revenue assuming 10% of land is surplus and reallocated on auctions (MNT)	Potential revenue assuming 10% of land is surplus and re-allocated on auctions, as % of 2012 budget
Budget organizations	49,915,603	286,772	1,431,439,730,352	412%
NGOs, political parties, religious orgs.	1,939,692	258,095	50,062,441,880	14%
Public utilities and infrastructure	11,781,081	143,386	168,924,208,027	49%
Manufacturing	52,878,346	28,677	151,640,290,104	44%
<b>Total</b>			1,802,066,670,363	519%

Note:

\* The market value of land held by budgetary organizations is estimated similar to commercial / service land as of the 4th quarter of 2013, according to Overview of the Market Value of Real Estate 2013 Year, Quarters 1-4," by the real estate company Tenkhleg Zuuch.

The market value is discounted for other uses assuming that this land is located, on average, in less desirable places that may command a lower market value.

**Table B.5: Potential Annual Revenues from Property Tax Based on Market Value**

Land type	Number of properties	Estimated total market value (MNT*)	Potential annual revenue from property tax, with 0.3% tax rate (MNT)	Potential annual revenue from property tax, with 0.3% tax rate, as % of 2012 UB Budget
Non-residential Buildings	14,214	18,928,834,285,714	56,786,502,857	16%
Apartments	170,771	21,206,001,238,000	63,618,003,714	18%
Land plots with houses (khashaas)	102,481	2,013,454,455,100	6,040,363,365	2%
<b>Total</b>			120,404,506,571	35%

Note:

\*Market value of nonresidential buildings is estimated assuming that market values are on average 10 times higher than book values.

Apartment and khashaa market values are based on prices from 2013 sales price averages for old and new units.

Khashaa assumptions: Mean price/m<sup>2</sup>: 33,700, Mean size 583 m<sup>2</sup>.

## NOTES ON APPENDIX B TABLES

The City of Ulaanbaatar (UB) has foregone potential revenues by (i) providing land for free or at lower-than-market-value prices for commercial and service uses, and (ii) by providing some individuals with land for household use that is in excess of the average size of an individual land plot in the city (see details in table 3.5 in the report). Estimating forgone revenues requires making assumptions, because some critical data does not exist and also because the forgone revenues would depend on the land pricing policy of the city government. Drawing on the available data from auctions and land prices on the private market between 2003 and 2012, the estimates are as follows:

- The full amount of foregone revenue is about 77 times the UB budget for 2012.
- Under more conservative assumptions it is about 40 times the UB budget for 2012.
- The very minimal estimate is 22 times the UB budget for 2012.

Potential future revenues from repossessing and auctioning excess land held by budget organizations, non-governmental organizations (NGOs) (including political parties and religious organizations), public utilities and infrastructure, and by the manufacturing sector are estimated at about 5 times the UB budget for 2012. Given that release of this land should not exceed the absorption capacity of the land market, if this land is released over the 20-year period, an average annual addition to public revenues would be 25 percent of the UB budget for 2012.

Finally, if property tax on nonresidential buildings, apartments, and land plots with individual houses (*khashaas*) is based on their market values, this would add annually other 35 percent of the UB budget for 2012.

This appendix describes the data, data sources, and assumptions used for these estimates. It is important that the estimates are used or referred to with a clear acknowledgement of these assumptions.

## Data and Data Sources

### *Area of commercial and service land*

**Table B.6: Area of Commercial and Service Land, 2012 (m<sup>2</sup>)**

Commercial and services land, by type <sup>a</sup>	Land (m <sup>2</sup> )
Trade, all types of services	28,385,884
Business activities	47,229,595
Liquid gas fuel stations, fuel stations, storage, wholesale markets & centers	13,414,309
All types of garages	106,089
<b>Total land under commercial/service use</b>	<b>89,135,877</b>

Source: Property Relations Department (PRD).

Note: a. Land types are as defined in the land balance provided by PRD as a part of their calculations of the expected revenues from land use fees for 2014.

### *Area of excess residential land in possession (not privatized)*

The data on residential land for individual housing still held in possession (that is, not privatized) is shown in table 3.5 of the main report and constitutes 14,819,549 m<sup>2</sup> of land held by 2,498 land tenants. This translates to 5,933 m<sup>2</sup> per land holder and indicates that these people control land parcels that are 10 times bigger than the city average (a city's average parcel for individual homes is 583 m<sup>2</sup>). Given this, we assumed that the city may charge, retroactively, market prices for this "excess land." The area of this excess land is calculated as follows: 14,819,549 – (583 x 2,498) = **13,363,215 m<sup>2</sup>**.

### *Market value of land for commercial/service use*

When estimating revenues forgone because land for commercial/service uses was allocated without charging the land's market value, one issue is to decide which market values to use for the estimates. Given that annual amounts of land allocated or converted for such uses

since 2003 are not known, it makes no sense to try reconstructing annual dynamic of land values. Therefore, two price approximations are used.

- First, we used a one-time snapshot based on the current land prices, which is commonly used for rough estimates. The market values per square meter are taken from the report “Overview of the Market Value of Real Estate 2013 Year, Quarters 1-4,” by the real estate company Tenkhleg Zuuch (www.zuuch.mn and www.shinebair.mn). This report provided the most detailed data, segregated by types of real estate and by district. We used **286,772 MNT per m<sup>2</sup>** as the market value of commercial/service land, which was the price for land zoned for multi-apartment buildings, averaged across the city, in the fourth quarter of 2013. This price was used for the following reasons:
- The price of land for multi-apartment buildings is used as a *proxy* for all other types of commercial/service uses. This is a legitimate approximation because in UB, and elsewhere in the world, multi-apartment buildings are a common type of commercial real estate. Of course, land for other types of use can have different prices. For example, land for offices and fuel stations can cost more than for apartment buildings (assuming a comparable location), while land for storage can cost less. However, on average, using the value of land for multi-apartment buildings as a proxy for all commercial/service land is apparently well justified. Also, in UB, this category of land has the best-documented prices.
- This price was not the highest recorded average price for land in the city. In the same fourth quarter of 2013, land for construction that already had technical specifications had an average market price 413,665 MNT per m<sup>2</sup>.
- The price 286,772 MNT per m<sup>2</sup> is consistent with estimates for land for commercial/service uses from other sources.

This land value is used for Scenario 1 (full forgone value estimate) and Scenario 2 (conservative forgone value estimate) as explained below.

Second, we used a time-average land value over the period from 2003 to 2013, assuming that land prices were increasing linearly, from 25,172 MNT/m<sup>2</sup> in 2003<sup>1</sup> to 286,772 MNT/m<sup>2</sup> in 2013. The time-average value is then as follows:  $25,172 + (286,772 - 25,172)/2 = 155,972$  MNT/m<sup>2</sup>. This represents 54 percent of the land value under the previous assumption.

This land value is used for Scenario 3 below, which estimates the minimum forgone revenues.

#### ***Market value for excess residential land (individual housing)***

Regarding prices for the excess land held for individual housing, we assumed that its actual use should be thought of as commercial/service as well, given that it is *excess* land. However, assuming that these parcels are located outside of central UB, we took the average market price of land zoned for multi-apartment buildings in the district with the lowest average price in the entire city, Songinkhairhan, as the proxy for the market price of excess residential land. This value, as per the Tenkhleg Zuuch report, is **107,570 MNT per m<sup>2</sup>** and was used in Scenario 1 and 2. In Scenario 3, we used a time-average over the period of 2003 and 2013, assuming a linear increase from 25,172 MNT/m<sup>2</sup> in 2003 to 107,570 MNT/m<sup>2</sup> in 2013. The time-average value is then  $25,172 + (107,570 - 25,172)/2 = 66,371$  MNT/m<sup>2</sup>.

### **Foregone Revenue Calculations**

The revenues forgone in the past are estimated for ***two types of land only***: commercial/service and excess land held for household needs. The estimate does not include what appears to be excess land held by NGOs or budget

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1. According to a 2003 article in the daily newspaper *Zuunii Medee*, the city sold at auction a total of 10,740 m<sup>2</sup> of land for 270,353, 000 MNT, or 25,172 MNT/m<sup>2</sup>.

organizations, as discussed in the report in connection with table 3.5; such land could potentially be allocated for commercial uses, at market values. Instead, the excess land held by budgetary organizations, NGOs, and other users is considered to be a source of potential future revenues. Three different scenarios of forgone revenue are presented below.

**Scenario 1** is based on the assumption that market prices could have been charged from ALL holders of commercial/service land, if the allocation/conversion for such uses had been done through auctions or at auction-equivalent prices (that is, at open market prices) and if these prices were charged retrospectively from holders of such land who obtained it before 2003. This calculation is presented in table B.1. Implementation of this scenario would require (i) charging market land prices for the land allocated for commercial/service uses and for the excess residential use since at least 2003 (which is the first year for which PRD has data on land auction revenues), and (ii) charging these prices for the land that was already in possession before 2003, which implies introduction of a strong policy of retroactively charging these holders for the land's market value.

This scenario also uses the 2013 land prices for both commercial/service land and for the excess household land.

**Scenario 2** considers the case when only after-2003 allocations/conversions for commercial/service land are charged the market prices (table B.2). In other words, this scenario acknowledges that the retroactive charge of the market value from “old” (pre-2003) holders of such land could be too strong of a policy, given the past, pre-market views that the land should be a free resource. However, as indicated earlier, data for the area of land allocated for commercial and service uses since 2003 do not exist.<sup>2</sup> In the absence of this data, it was assumed that **at least 50**

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2. At least the WB team was not able to obtain this data, despite several requests to PRD.

**percent** of all currently commercial/service land was allocated or converted into such uses since the transition began and hence could have been allocated or converted at market prices. Given the explosive growth of commercial and service activities in UB during its market transition, this assumption appears to be quite conservative.

**Scenario 3** uses the time-average land value of 155,972 MNT/m<sup>2</sup> for commercial/service land and applies it only to the land assumed to be allocated/converted since 2003 (table B.3). For excess household land, the value is also time averaged as 66,371 MNT/m<sup>2</sup>. Given that this scenario applies two conservative estimates—about the price and the amount of land allocated/converted—it should be considered as the very minimum estimate.

Further, all three scenarios assume that the market values should be charged for all the excess land held for household needs, because there are no legally or socially justified reasons for such excessive holdings.

Finally, all three scenarios recognize that the city has collected some revenues from land allocations since the transition, from land auctions and from direct sales of land rights. The total amount collected, **MNT 23,112,663,000**, was calculated based on the data provided (in two different documents) by PRD:

- Revenues from land auctions from 2003 to 2012, in the amount of MNT 6,375,400,000
- Revenues from direct sales of land rights from 2007 to 2012, in the amount of MNT 16,737,200,000

This amount has been subtracted from the total revenue to calculate the foregone revenue only.

To get a sense of the scale of the forgone revenues and for potential future revenues, they all are compared to the entire UB city budget for FY 2012 (which was MNT 347,288 million), as shown in tables B.1–B.5.

## Potential Future Revenues

Table B.4 presents estimates of the potential revenues from reallocation (via auctions) of excess land held for four different land uses: budget organizations, NGOs (including political parties and religious organizations), public utilities and infrastructure, and by the manufac-

turing sector. Calculations are based on the assumption that the excess land constitutes 10 percent of each of these categories, and utilize 2013 market prices as explained in the table.

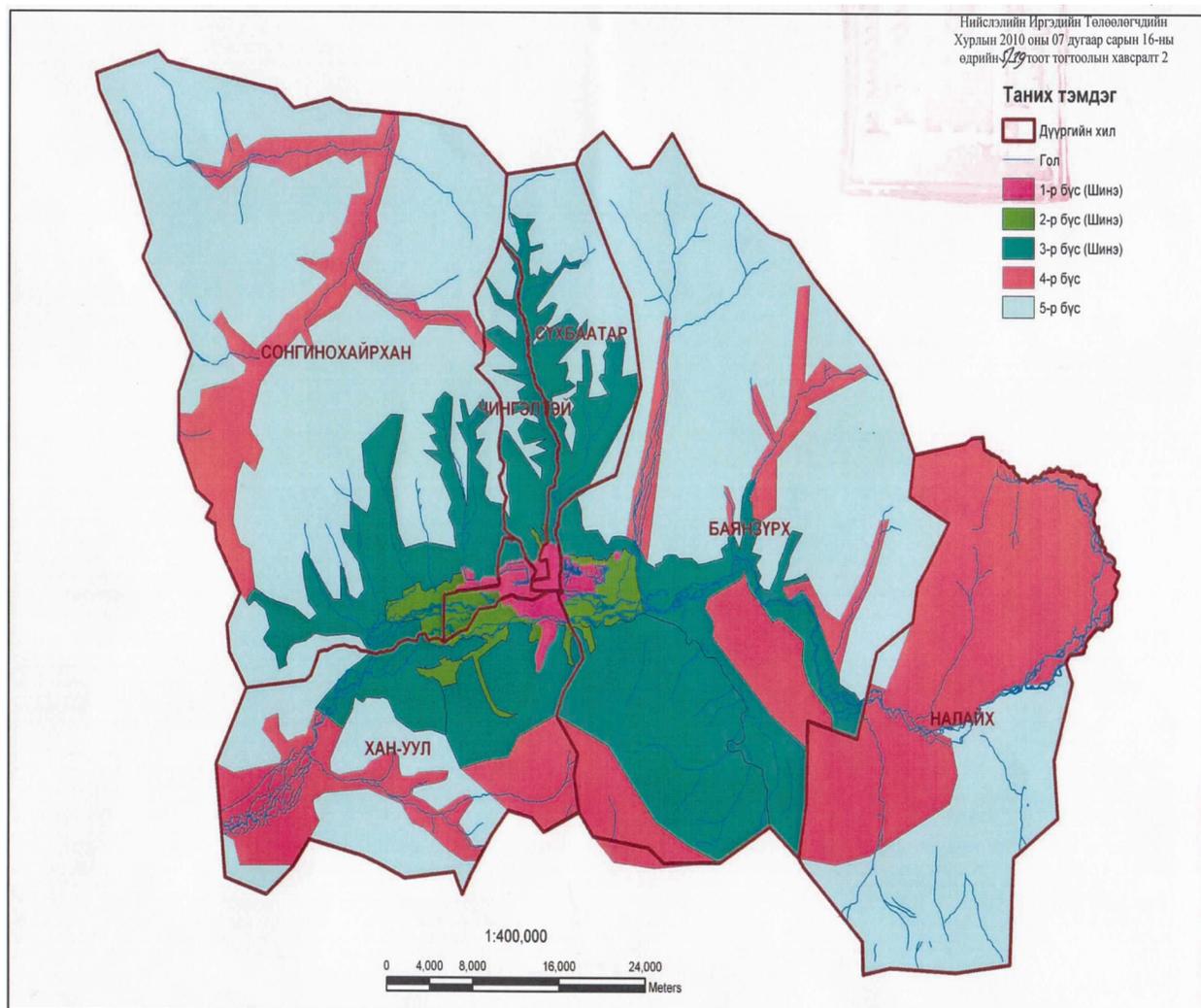
Table B.5 presents potential revenues from the property tax, if it would use the property market value as a tax base.



# Appendix C

## Land Value Zones for Determining Land Fees in UB

Map C.1: Boundaries of Zones to Be Used for Determining Land Fees in UB



There was supposed to be an English replacement for this map?

Source: PRD 2010 (Attachment 2).

The land valuation zoning boundaries shown on the map C.1 and the table C.1 below were approved by the Capital City Representatives Khural Resolution No. 5/39 on “Renewal and Temporary Use of Land Valuation Zoning and Land Fee Rates to Be Imposed” on July 16, 2010. This resolution revised the previously used zones and rates per

m<sup>2</sup> for each of the 15 types of land use. See table C.1 for land fee assessment and collection from the holders of land possession and use rights in Ulaanbaatar. According to this table there are five valuation zones. Although the title of the Resolution No. 5/39 states that it is for “temporary use”, this zoning and fee rates are still applicable.

**Table C.1: Type of Land Use under Possession, and Use Rights for Land Value Zones, and Land Fees under Current Practice**

No.	Type of land use	1st zone		2nd zone		3rd zone		4th zone		5th zone			
		Base value of 1 hectare of land (MNT440 million)						Base value of 1 hectare of land (MNT 40 million)					
		coefficient	land fee per 1 m <sup>2</sup> (MNT)	coefficient	land fee per 1 m <sup>2</sup> (MNT)	coefficient	land fee per 1 m <sup>2</sup> (MNT)	coefficient	land fee per 1 m <sup>2</sup> (MNT)	coefficient	land fee per 1 m <sup>2</sup> (MNT)		
1	Citizens household use	0.2	66	0.1	53	0.1	44	0.3	12	0.2	8		
2	Budget organization (only for official use)	0.2	88	0.15	68	0.1	44	0.4	16	0.3	12		
3	Trade, all types of services	1	440	0.6	264	0.3	132	1	40	0.5	20		
4	Business activities (except trade and services)	0.8	352	0.5	220	0.2	88	0.8	32	0.4	16		
5	Storage, fuel station, wholesale markets and centers	1	440	1	440	1	440	1	40	1	40		
6	All types of garages (on and underground)	1	440	1	440	1	440	1	40	1	40		
7	Public transport	0.2	88	0.15	66	0.1	44	0.5	20	0.4	16		
8	Heating, communication, energy (electricity)	0.6	264	0.3	132	0.2	88	0.7	28	0.5	20		
9	Railway station, airport												
	a. buildings and facilities	0.6	264	0.4	176	0.3	132	0.8	32	0.6	24		
	b. protection zone	0.3	132	0.2	88	0.1	44	0.4	16	0.3	12		
10	Political party, NGO, international organization and its representative office	0.3	132	0.2	88	0.1	44	0.8	32	0.4	16		
11	Religion, monastery	0.8	352	0.6	264	0.4	176	0.7	28	0.6	24		
12	All types of manufacturing (except agricultural)	0.6	264	0.4	176	0.1	44	0.4	16	0.2	8		
13	Agricultural manufacturing	0.4	176	0.15	68	0.1	44	0.4	16	0.2	8		
14	New manufacturing in the suburbs of the city (5 years)							0.1	4	0.1	4		
15	Mining land												
	a. exploitation							0.8	32	0.8	32		
	b. manufacturing							0.5	20	0.5	20		

Source: PRD 2010 (Attachment 3).

Note: This table outlines the land fees imposed on different types of land uses across the city. Each zone contains a base value per hectare, a multiplier coefficient, and an assigned fee per m<sup>2</sup> of land for each type of land use.

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