

Standardization in the Cadastral Domain

Sub Working Group 1: Legal Aspects

Framework

§ 10 participants

§ 8 countries

§ 2 sessions

§ Updates from the different countries
(mainly as to the legal aspects of cadastre)

§ Discussions on specific issues
(pre-defined list of legal aspects questions)

Updates from the different countries

§ Canada:

- Many different jurisdictions in property management
- Problem: is compounded by devolution of property rights management to individual aboriginal groups with vastly different notions of land and land tenure
- Development of tools – What is suitable should be user-driven
-

Updates from the different countries

§ Switzerland:

- 26 Different models in property management
 - not technical different but historic and tradition
 - is different in language regions
- Not a central land registry in Switzerland
- Land register (belong to courts) is separated from cadastre (part of administration)

Updates from the different countries

§ Sweden:

- Property register – for property and credit market
- Land register and surveying authority feed the system
- Surveying authority: organize the land and legal unit (geometry)
- Surveyors can create, change, erase easements and mortgages

Updates from the different countries

§ Finland:

- Very similar system to the Swedish system
- Property register called cadastre
- One system in whole country - one database

Updates from the different countries

§ Netherlands:

- One organization for land registration and cadastre
 - Working on single deed registry (registration by email from notaries)
 - Efficient system
- Prize competition between notaries - only 2 years
 - First result: more errors in deeds
 - Expected: specialization

Updates from the different countries

§ Austria:

- One law for whole of Austria
 - Subdivision land register (courts) and cadastre (ministry of economy)
- Old system - legal definition of boundary
 - is reality (stones, agreement of owners)
- New system (since 1969) –
 - Boundary by coordinates (no boundary stones)
- Approx 9 to 10% in new system

Updates from the different countries

§ Israel:

- Separate cadastre and land registry
 - two different ministries (housing & construction; justice)
- Current cadastre - graphical
 - map is not the legal basis, only original measurements
- Future cadastre – analytical (digital definition)
 - Boundary by coordinates (no boundary stones)
 - Coordinated will have legal validation
- Timetable: 10-15 years

Updates from the different countries

§ Greece:

- Mortgage offices, regional, small, registration of deeds
- Since 1996 creation of cadastre –
 - mortgage office becomes interim cadastral office,
 - afterwards consolidation
- Timetable for implementation:
 - depends on funding, hope to be completed 2015 - 2020
 - At the moment 6% of country is completed
- Implementation: 1 – 1.5 Billion Euro (original 2.6 Billion)

Discussions

§ One general legal model (or many models)?

- Procedure should be in common,
 - differences may occur in methodology.
 - Is legal model part of culture?
 - Can we thus unify?
- Could be possible from the technical side
 - how to obtain the data
 - What steps in the workflow are common?
 - To handle this we need to model the legal situation.

Discussions

§ One general legal model (cont.)?

- Do we need to change the national models?
 - This would be necessary if we create a common model
 - Differences may occur in methodology
- A single standard model might not be possible
 - A core should be achievable
 - We should have common concepts
 - This allows talking across boundaries.
- Society needs are not the same for all of the world

Discussions

§ One general legal model (cont.)?

- Development of common core
 - For legal aspects for all countries,
 - Common core for IT aspects.
- Society needs are not the same for all of the world
- Common model for ownership is possible
 - We are more or less in the same system in Europe
 - Are we in the same system outside of Europe?

Discussions

§ Has modern IT an effect on the model?

- No
 - because law is not influenced – only the process is.
- Would it be possible to enlarge the model
 - Handle more detail?
 - Paper-based databases is only more difficult to access
 - No difference in the data which can be stored
 - Digital copies simplify searching

Discussions

§ Should we have a separation between cadastral mapping and land registry?

- First step: a single database is needed
 - the data should not contradict
- How it is organized is not interesting for the user
- User would need one front office
 - Going to two offices take time for the user
 - This should be handled internally

Discussions

§ separation - cadastre/land registry (cont.)

- Database is 'easy' to merge
- Having the employees sitting in the same office is more difficult but possible (one front office)
- Completely merge the organizations seems to be impossible
- Samples
 - Netherlands: Customer goes to one place
 - Other countries (e.g. Israel, Austria) - different procedure:
 - User goes to one place to get the map and to another place to register the change

Discussions

§ Focus on static side or on dynamic side of the legal model?

- The question is what to use them for!
- Both alternatives are important
- The question should be “what is the target?”
- According to the answer - the static or the dynamic side can be selected

Discussions

§ Enumeration of rights

- In core model rights should be limited
 - one type for derived rights
 - in detailed model is should be separated
- Core model shall clarify the concept and not go into the details
- Problem is where to draw the boundary between core model and expansions
- Guidelines necessary to move from the core model to the expansions

Discussions

§ Positive and negative rights/restrictions?

- Should include both parts –
 - rights for one person,
 - restrictions for another person
- In terms of UML these are two different things
- Simple concept with private rights,
 - problems with public rights (who is the beneficiary)
- Public rights should be registered
 - usually it is a restriction

Discussions

§ Same type of question for 3D-cadaastre ?

- Sweden:
 - real space can be explicitly excluded from ownership
- Switzerland:
 - ownership includes ownership and space above and below that you need to use the land.
 - Decision if a tunnel is allowed is based on the case.
- Several countries:
 - If you can survey the 3D-cube then you can register it
- 3D cadaastre should be handled in the coming years

Discussions

§ Effect of several actors involved in the process

- NO
- Procedures may be quite similar but the actors are different
- Actors may change over time for the same step
- Netherlands (for example) – obtaining of land registration data is possible for everybody, you do not need a notary

Discussions

§ Ownership model from the center of the earth up to heaven

- For land parcels it is true
 - Not for objects (buildings, apartments etc.)
- Only two different definitions seem to exist –
 - this one; and,
 - the definition as in Switzerland (space that can be used)
 - Both models seem to work
- Problem of boundaries could be more difficult

Thanks

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