

Practical Affairs of Land Readjustment Projects
(Registration, Relocation and Compensation, Imbalance Adjustment)

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1. The Legal Framework for the Development of Social Infrastructure Facilities through Land Adjustment

(1) An Overview of the Land Registration System in Japan

In Japan, there are currently two categories of land ownership: private and national/municipal lands. This is the result of numerous institutional reforms of the late nineteenth century aiming at transition from a form of feudal land ownership towards a workable social system as a modern nation following Western ones. While the registry is administered at the branch offices of the Ministry of Justice, the registrars' authority is independent. That is, the land registration affairs fall under the jurisdiction of the national government.

Japan's land registration system is not integrated into a single system for real property, the characteristic of which is the combination of land and building registries. This is due to historical reasons. In the following, the focus of this paper will be on the land registry.

Private land rights can be perfected against a third party by registration. Following the French civil law, Japan's land registry system takes the principle of application by right holders. The registry has a public-notice effect, but without any public-reliance one. Many cadastral maps are less accurate because they were measured by farmers in the late nineteenth century. In particular, survey technic level that time was poor and tendency is remarkable in those of mountain forests. That time Land registries are separated into two categories: the "registration of description" that publicly notifies the physical status of land (parcel number, area, land category); the content of the rights such as (in)existence of any attached mortgage and the background of the land-rights transfer due to inheritance or sales/purchase – so called the "registration of rights" that publicly notifies the relationship of rights. The former has a nature of a tax list and used to be under the jurisdiction of the Ministry of the Finance for a long time, while the latter was under the jurisdiction of courts. They have been integrated since 1960 and are currently managed at the branch offices of the Ministry of Justice.

In terms of inheritance or sales/purchases of lands, it is common to request the services of qualified specialists. While real-estate surveyors are allowed to carry out services related to "registration of description," judicial scriveners are allowed to carry out services related to "registration of rights."

In addition, as for lands that are used as public facilities (infrastructures) amongst national/municipal lands, the government has developed the management records based on laws for management of roads, rivers and city parks, respectively.

(2) Land Expropriation and Replotting

First of all, in order to develop a public facility on private land, the facility developer is basically required to obtain the right to use the land (i.e. mainly ownership). Generally, in accordance with the Civil Code, the central or local government is to acquire the ownership of necessary land through free trading negotiations with the landowner based on the market price. Such negotiations may become lengthy unless the landowner agrees to the government.

In cases where an owner refuses to sell land, the government may coercively acquire the ownership of that land based on the Land Expropriation Act. The Land Expropriation Act is enforced through a rigorous procedure, which requires that the given project is especially important for the public interest and needs urgent implementation.

If the central or local government acquires a piece of private land for infrastructure development, it has to compensate for his/her rights lost related to the property in accordance with Article 29 of the Japanese

Constitution. In legal studies, the methods of compensation for loss of rights in Japan are categorized into: “public-interest expropriation” and “public-interest replotting.”

The public-interest expropriation is the case of compensation based on the Land Expropriation Act as mentioned above. On the other hand, the public-interest replotting is the compensation in land as “substitute performance” that includes replotting in land adjustment and entitled floors in urban redevelopment.

In the case of land acquisition in accordance with the Civil Code, the project executor may also provide an alternative site at another place. In spite of its form of compensation in land, this is different from public-interest replotting in a sense that the project executor is to provide land in lieu of money as the proceeds of land acquisition. Nevertheless, this is in practice called “indemnity for areal loss.”

(3) Public Law and Administrative Dispositions

The rights to an original land plot is to be transferred to a replotted land plot, however, this change in rights as an effective act in this case is carried out as an “administrative disposition (the exercise of public authority by administrative agencies)” under the Land Readjustment Act. The administrative disposition is a concept that is unknown to common law systems.

Laws can largely be divided into public and private laws. Public law governs the relationship between the nation and its citizens, while private law governs the relationship between private persons. Specifically, the constitution and administrative law are the typical of the former, while the Civil and Commercial Codes, the latter.

This distinction presupposes another distinction between the legal statuses of the nation and its citizens, which has not traditionally been recognized in common law. Also, there are various views on what should be the basis for such a distinction, even among legal scholars in Japan, however, I won't go too far into this here.

In civil law countries such as France and Germany, public law cases in relation to administrative law matters are, in principle, subject to the jurisdiction of administrative courts that are established separately from ordinary courts with jurisdiction over civil and criminal cases. In such cases, principles of public law which are different from those of private law are to be applied in terms of substantive law.

The Japanese legal system has received the German administrative law that distinguishes public law from private law. In terms of public law relations, the government and private persons are positioned in the hierarchical or power relationship, in which the administrative acts of administrative bodies have strong legal effects. In other words, it is a system that enables administrative bodies to exert unilateral influence on the legal relationships between individuals.

In addition, a land owners' association of Land Readjustment is given authority that can do administration disposition as a special and limited government.

(4) Legal Effects of Administrative Disposition

An act of administrative disposition has a tentative validity (legally-binding power).

The feature of administrative dispositions is that an illegal and invalid act of administrative disposition is to be treated as valid until it is rescinded by a court in a rescission case under the Administrative Case Litigation Act. There are little cases where acts of administrative disposition are rescinded by courts. This means that, from the project executor's standpoint, significant legal stability is guaranteed for acts based on administrative disposition.

(5) Redress Mechanism against Administrative Disposition

For instance, in the case of a land readjustment project, if the land owner is unsatisfied with the designated

location, shape and area of replotted land, he or she (or an agent) may request in writing the examination agency that is an authorizing agency for the project to hold an administrative review of his/her complaint **in accordance** with the Administrative Appeal Act, 1962. The Administrative Appeal System that enables a private entity to file a complaint with an administrative agency on a disposition, in lieu of a lawsuit at a court, is intended to redress complaints related to rights and interests through the simple and quick procedure.

Acts of administrative disposition also include those for land replotting, provisional replotting designation, and building removal or relocation. A disposition notice from the executor to a land right holder says, without fail, that he/she may file a request for administrative review, and that the content of the examination agency and the period for request of administrative review must be “instructed.”

In terms of the request for administrative review under the Land Readjustment Act, the prefectural governor who is an authorizing entity is to serve as an examination agency in the case of projects executed by associations or municipalities, while the Minister of Land, Infrastructure and Transportation is to serve as an examination entity in the case of projects by prefectures or the Urban Renaissance Agency. A request for re-review is also allowed and, in this case, the Minister of Land, Infrastructure and Transportation is to serve as an examination agency. The examination agency promptly takes a decision and issues a notification in writing. If the land right holder has an objection against the decision, he or she may appeal to a court of law in accordance with the Administrative Case Litigation Act.

(6) Redress Mechanism against Administrative Dispositions 2 (The Background of Institutionalization)

After the end of World War II, the current Japanese Constitution was enacted and promulgated in 1945 under the American occupation. This Constitution incorporated common law rules and principles into the Japanese legal system and placed all the lawsuits under the jurisdiction of courts of law while abolishing the administrative court.

Following the promulgation of the Constitution in 1946, the system was formed by enactment of the “Act on Special Measures for Administrative Case Litigation” in 1948 and then the “Administrative Case Litigation Act” in 1962. On the other hand, while the administrative review was continuously carried out under the “Appeal Act” of 1890, the “Administrative Appeal Act” was enacted in 1962.

(7) The Relationship between Legal Effects and Registration Concerning Land Replotting Disposition

In order to effect a change of land ownership by an administrative disposition as a unilateral act, it is necessary to cause legal effects that all changes in rights simultaneously take effect on a certain day (i.e. the following day of the land replotting notice). The effect of this change in real rights must be secured by registration.

The Japanese Civil Code that received the French civil law tradition has taken the voluntarism theory for changes in real rights. That is, the transfer of real rights takes effect solely by the relevant party’s intention, and the registration constitutes merely a requirement for duly asserting against third parties (Articles 167 and 177, the Civil Code). Also, in principle, the relevant parties are required to apply to a registry office for changes in rights concerning real property (Item 1, Article 16, the Real Property Registration Act); the registration of changes in real rights of private persons may be made only by application as public law acts.

Note: Article 177 of the Civil Code: Acquisitions of, losses of and changes in real rights concerning immovable properties may not be asserted against third parties, unless the same are registered pursuant to the applicable provisions of the Real Estate Registration Act (Law No. 123 of 2004) and other laws regarding registration.

Article 178 of the Civil Code: The transfers of real rights concerning movables may not be asserted against third party, unless the movables are delivered.

Article 16 of the Real Property Registration Act: Unless otherwise provided for in laws and regulations, no registration may be made without an application filed by a party concerned or a commission issued by a government agency or public office.

(8) Land Replotting Disposition as a Legal Framework for Land Readjustment

In Japan's land readjustment, the registration can be seen as a subordinate act for perfection of requirements for duly asserting against third parties because the transfer of rights takes effect and becomes final and binding by an act of land replotting disposition that is based on a framework of the registration system that presupposes the administrative disposition of German public law and the voluntarism theory of French civil law. Also, by approving the "registration by request" that is a delegated task between administrative bodies under the Land Readjustment Act, the system is to ensure the interlocking operation between the land replotting and its registration system by internal acts between administrative bodies instead of application by individuals (Articles 103 and 107, the Land Readjustment Act).

Note: An act that a public office applies to a registry office (the Legal Affairs Bureau) for a registration is called "commissioning"; the registration made by commissioning, "registration by request".

The above is the legal explanation of a system in which the transfer of registration from an original land plot to a replotted land plot is guaranteed to be completed by obtaining approval of a land replotting plan and carrying out an administrative procedure with a registry office. In practical matter, land owners always can transfer their property during the Land Readjustment project.

What requires attention is that the Japanese legal system in which changes in rights are ensured by administrative disposition has a legal basis that is different from the legal systems of western countries except Central and South American countries and Germany because, due to the lack of the concept of public law, the legal relationship is governed by agreement (contract) between individuals in those countries.

In addition, the transfer of ownership will not be perfected until the registration is made in the countries that adopt the German law formalism, in contrast with the Japanese system of registration upon application. That is, if introducing Japan's readjustment system in those countries, then the registrar is to carry out substantive review because the registration is seen as a necessary act to determine the ownership of a replotted land plot. When introducing the system of land readjustment, this will require a close consideration whether the registration by request is to be allowed as in the Japanese system in which it suffices to require only the formal examination.

(9) Land Replotting Disposition as a Legal Framework for Land Readjustment 2 (Handling of Land for Public Facilities in Land Replotting)

In built-up areas prior to the implementation of land readjustment projects, there can be found a lot of roads and waterways, insufficient though they are. Also in the case of new urban developments, there can be found farm roads and drains. Such lands for public facilities are to be incorporated into lands for public facilities that increase by land replotting disposition. The Land Readjustment Act provides that the original public facilities such as roads and drains are to be once abandoned and then transferred to the owner of the new public facility (Articles 105 and 106, the Land Readjustment Act).

The central and local governments, serving as public facility owners in practice, can acquire control over new

facilities by carrying out internal administration of affairs (e.g. in the case of roads, by making a change to the relevant portion of a road inventory within a department that manages the inventory).

The Kingdom of Thailand enacted the Land Readjustment Act in 2004; however, it is said that it had taken time to develop institutional design for attribution of lands because it was legally difficult to abandon public facilities.

(10) Rules for Land Readjustment Related to Land Replotting Disposition

The Land Readjustment Act has a very complex mechanism because it provides for detailed special provisions that differ from the rules of private law.

i. Provisions concerning project procedures and their meaning

As long as these provisions guarantee the great legal stability supported by administrative disposition, it is necessary for the administrative body to check the project executors from the public perspective at various stages.

Specifically, it is to ensure the public nature of an individual/association as a project executor through the prefectural governor's approval of the standards and company contract at the formation phase of the project operating body.

The prefectural governor's approval to the plan needs to be obtained at the project planning stage that follows, while his or her approval to the land replotting plan in the process towards land replotting disposition. These are logical consequences of viewing land replotting disposition as administrative disposition.

ii. Adjustment provisions for guaranteeing land use before land replotting disposition

Also, provisional replotting has been institutionalized by adjustment provisions in order to guarantee land use before land replotting disposition; there are numerous provisions concerning provisional replotting (Articles 98-102, the Land Readjustment Act).

From a perspective of the history of the making of this system, there was no need for it when agricultural land adjustment was intended for. In contrast, in the case of enforcing land readjustment for recovery from the earthquake disaster, it was institutionalized under the name of "land to be replotted" because there was pressing need for the use of residential areas (housing construction) that were originally designed as lands to be replotted since before the determination of rights by land replotting disposition. In order to approve the usufruct (its *jus disponendi* must be reserved until land replotting disposition) of the housing area (land to be plotted) facing the land on which a road is to be built at the same time as setting the land for a road on the previous housing area and beginning to use that portion of the area, the usufruct of the previous housing land needs to be ceased. This would be what was considered a reasonable measure, because the registration of the land to be plotted is to become final and binding by land replotting disposition in the near future. Consequently, in the current system, the provisional replotting land is to be designated from the portion of land that has become available for use in the process of the construction work that is carried out in the part of the project execution area.

The system of provisional replotting presupposes the formulation of a replotting plan (land replotting design and settlement money). As an institutional device, it has also made it possible to temporarily suspend the usufruct of the portion of housing land for construction by designating the land for provisional replotting in order to carry out the crucial construction work, which may affect the success of the entire project, even before the formulation of the land replotting plan (Article 100, the Land Readjustment Act).

In cases where the suspension of the usufruct of the original land plot does not concur with the commencement of provisional land replotting, compensation in money is to be made for the rights in terms of the period of

suspension of the usufruct without prejudice to the interest of the land owner.

iii. Special provisions on transfer and inheritance of rights

Since the land readjustment system adopted the administrative disposition as a method of transfer of rights, which is different from that of private law rules, there arose a need to set out special private law provisions on the transfer and inheritance of rights (Articles 113-117, the Land Readjustment Act).

Specifically, this provision is designed so that land replotting disposition can be carried out without causing any loss to superficies, emphyteusis, leaseholds and others that make profits from the use of land associated with the ownership. For instance, there may be cases where tenancy business that used to be feasible at the original land plot becomes infeasible due to the reduction in site area. As a matter of law, the cause lies not in the will of the landowner but in administrative disposition; therefore, these provisions provide for the cancellation, period, compensation, and clearance of rent in terms of contracts.

iv. Compensation for loss and Compensation by damage

Compensation for loss is compensation for special sacrifice – the properties that were reduced due to legitimate exercise of public power. Damages are a form of responsibility stipulated by the Civil Code, in which, if damages are caused by illegal acts such as default and tort, a person who caused the damages is to restore the situation where there were no damages by compensating for the damages caused to another.

The land readjustment requires landowners to carry out many acts of compensation such as on-site inspection, relocation of houses, suspension of use of land and houses due to construction work. If someone caused damages to another party, it requires the form of compensation for loss, rather than for damage caused by illegal acts (Article 73, and 78-80 of the Land Readjustment Act).

2. Practical Affairs of Land Registration

(1) Registration Affairs Concerning Land Replotting Disposition

A land readjustment project formally begins upon approval of project plan with layout, financial and construction, to the implementation body, and then, completes by issuance of a public notice on the land replotting disposition. The project executor is required to immediately notify the registry office after land replotting disposition, the details of which are prescribed in Article 22 of the Ordinance for Land Readjustment Act.

A transcript of a written approval pursuant to the provision of Item 1, Article 86 of the Land Readjustment Act

A map of replotted land pursuant to the provision of Item 1, Article 13 of the Land Readjustment Act

A detailed statement of land replotting pursuant to the provision of Item 1, Article 13 of the Land Readjustment Act

A map of replotted land is made on a scale of 1:500, which has sufficient accuracy to be used for an appendix to the registry. It is treated as a formal cadastral map pursuant to Article 17 of the Real Property Registration Act by carrying out the procedure of the National Land Survey Act (see Table 1 and Figure1 for a detailed statement of land replotting).

Table 1: A detailed statement of land replotting

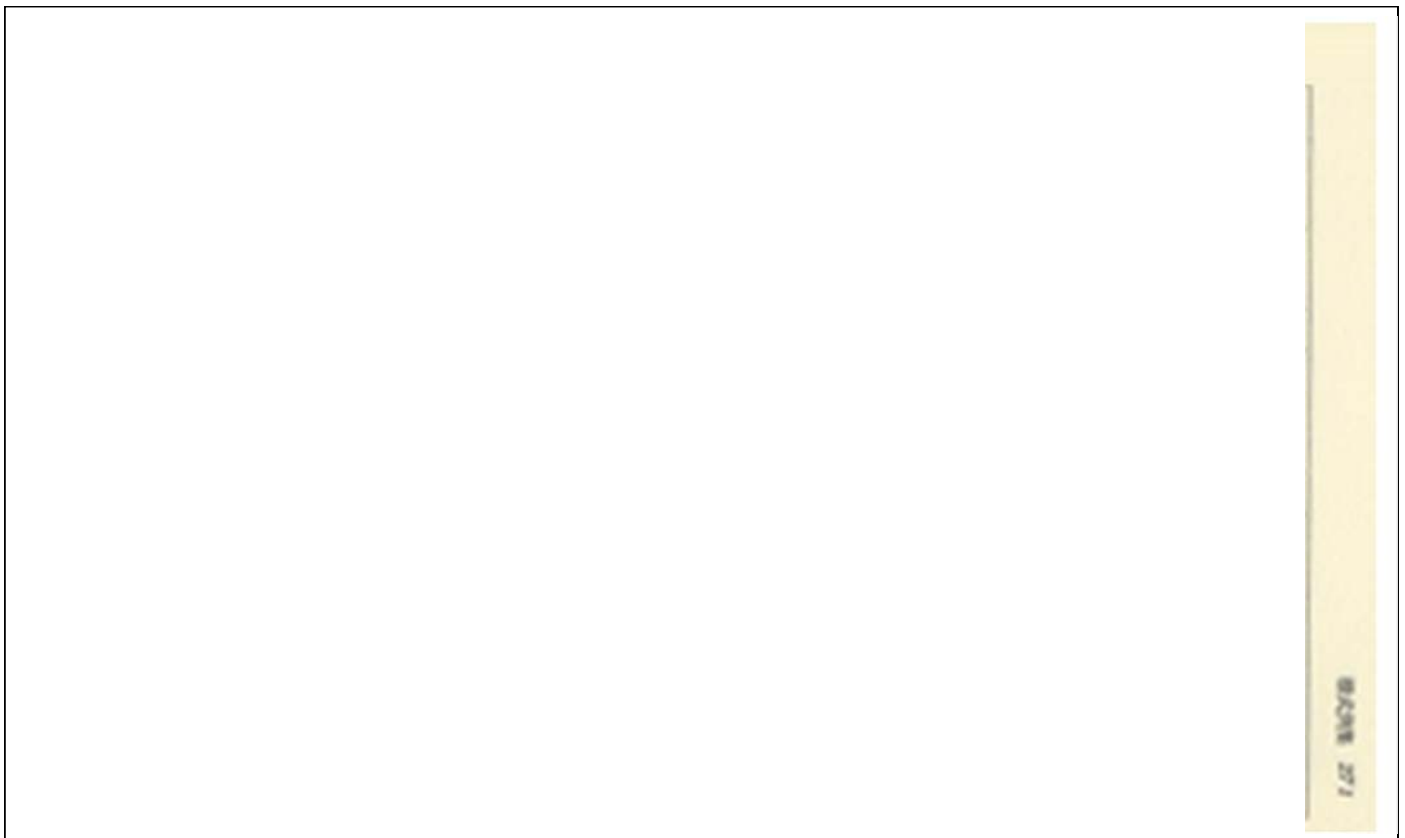




Figure 1: Map of land after land replotting disposition

The regular registration concerning lands in the notified execution areas is to be suspended and such lands cannot be registered until the registration concerning land replotting is completed. The period of this process varies depending on the area of execution area; it is about three months.

In practice, the project executor (the actual work is to be carried out by entrusted land readjustment consultants) and the person in charge at the registry office make efforts to ensure to communicate in advance and promptly carry out practical affairs.

(2) Registration Affairs during Project Implementation

General registration affairs are continuously carried out also after the approval of the project. Changes may occur in rights associated with inheritance or sales/purchases of lands even during the project execution. Real-estate transactions are often more active than ordinary circumstances where it is intended to make development profit through land readjustment. In this regard, land division and annexation, and transfer of rights are, in principle, not limited by the project. However, as the construction work proceeds, it will become difficult to divide or annex land because the landform changes accordingly.

The project executor investigates the registry books as a preparatory work for designing land replotting; all the registry books of lands and buildings within the execution area will be photocopied and compared. The article 84 of the Land Readjustment Act provides that the inspection and photocopying for this purpose are free of cost.

Thorough investigation into inconsistent areas is to be carried out after photocopying cadastral maps and then comparing them with the details in the registry book. If there is any error that may affect the project execution, it is usual to prompt the original owner to correct it while presenting the materials. For instance, this may be a case of annexation of two areas where the name on one of these registries remains that of the owner before the land was

inherited.

Although legally allowed under Article 82 of the Land Readjustment Act, there are few cases of the “registration of subrogation” (i.e. the case where a landowner requests others to make a registration of parcel subdivision on his/her behalf).

Rather, what is important in the case of Japan is the determination of the previous land area (this is called a “standard parcel area for land replotting”). As mentioned above, the accuracy of cadastral surveys conducted in the middle of the nineteenth century was not high in suburbs and mountainous areas; in general, it is often the case that areas in reality are larger than those entered in registry. In order to deal with this matter, a special measure is required. It is usual for the project executor to prorate the difference between the actual and registered areas (except those of public land) to all the lands depending on each registered area. The area subject to this pro rata allocation used to be incorporated into public lands.

This is a practically important step for the project executor to build a relationship of trust with the land owner; therefore, for projects that are executed by local governments, the procedure to determine the standard parcel area is set out by ordinances.

Before determining the standard parcel area for land plotting, individual landowners are allowed to measure their own lands and correct the parcel area (usually within three months after the approval).

Also, those who reconstruct their houses and accumulate a mass of earth and sand on their premises in the middle of their business in individual situations shall obtain the approval for the project from an authorizing agency (Article 76, the Land Readjustment Act); it is also provided that the registration associated with this shall be reported to the registry office (Article 76, the Land Readjustment Act).

In particular, rights other than ownership, in particular the land lease right, are given nearly equivalent status to ownership in the land readjustment projects. Consequently, the procedure for reporting land lease rights (including unregistered ones) is provided in detail (Articles 19 and 85 of the Land Readjustment Act).

(3) Registration of Reserved Lands, etc.

There is no reserved land before the execution of a land replotting project. Although the location, shape and area of land are specified in the land replotting plan, its registration cannot be made until land replotting disposition.

The “registration for preservation of ownership” is to be made at the time of land replotting disposition.

Note: The registration for preservation of ownership is a form of registration for the cases where the first registration is to be made in terms of the ownership of real estate that has been registered only on the heading section. There is also registration by authority, in addition to registration by application and commission. The registration is usually made in order to publicly announce, in the case of a new building, who owned it for the first time.

The disposition of reserved lands shall conform to the purpose of the project plan and be carried out in accordance with the method that is provided in the execution rules (Article 108, the Land Readjustment Act). This provision provides that any disposition should be in accordance with the original purpose as this has emerged to place a reasonable burden on landowners by reduction of site area.

There used to be cases where, even if a landowner tried to dispose of his/her land in order to obtain business funding in the middle of his/her business, it was difficult to do so because the land was not registered. As a matter of law, the project executor has the right of administration over reserved lands. Due to the accumulation of legal judgments that it is allowed to dispose of this right of administration, trading of lands even before land replotting

disposition has become common.

(4) Establishment of Servitudes

Although it is interpreted that the rights concerning the previous land is to be entirely transferred to the replotted land, servitude is exceptional and requires different handling due to its nature. Servitude is the right to make lands of others available for the benefit of their own lands as is defined in Article 280 of the Civil Code. For instance, an owner of a housing land that does not face any roads may establish servitude on a land of another, or a power utility company may establish it on a farmland below a power transmission line that the company is going to install.

Since, as a matter of land replotting, the physical environment of a piece of land that is to involve a servitude may be different from that of previous land, Article 115 of the Land Readjustment Act allows to demand the establishment of a servitude for an original purpose. It would be easy to understand if we assume a situation where pylons for power transmission lines are transferred.

Note: Article 280 of the Civil Code: A person entitled to a servitude shall have the right to make lands of others available for the benefit of their own lands in accordance with purposes prescribed in the acts establishing the servitudes; provided, however, that those rights should not violate the provisions (limited to those that relate to public policy) under Section 1 of Chapter 3 (Extent of Ownership).

3. Practical Affairs of Relocation and Compensation

(1) Compensation Associated with Public Works

In principle, compensation arising from a public work is to be paid as compensation in value (compensation in money) for the object to be compensated. This is to be carried out by calculating its present value at the point of calculation of compensation. That is, as for buildings, their durable years are to be considered and depreciated. The standards for compensation calculation are in accordance with those for general public works.

This implies an idea of "compensation to recover functions." For instance, this may be applied to cases where an approach road to a housing land is going to be abandoned and a project executor of a public work is to develop another approach road that has an alternative function.

Compensation associated with land readjustment projects as public projects is also to be made in accordance with the above standards.

(2) Compensation Associated with Land Readjustment Projects

i. Compensation for loss associated with on-site inspection (Article 73 of the Land Readjustment Act).

This is to be made in cases where trees, bamboo or structures are damaged due to the on-site inspection.

ii. Compensation for loss associated with relocation, etc. (Article 78, the Land Readjustment Act).

In case of construction of public facilities (e.g. roads) or relocation of a building, trees and bamboos, or structures that is required by land replotting design, the relocation costs are to be compensated. This is compensation for loss due to relocation/removal of buildings or others on the original land plots, which, in principle, compensates for costs that the owner conducted the relocation/removal of it. This, of course, includes the costs of furniture transport associated with the move and the compensation for business loss for a period that a shop/factory incurs such loss. In the case of farmland, the profits arising from agricultural products are to be compensated.

iii. Compensation associated with designation of provisional replotting land (Article 101 of the Land Readjustment Act).

There is no problem if there is a match between profits from the use of the original land plots and those from the provisional replotting lands; however, there may be cases where both the original land plots and the provisional replotting lands are unavailable due to the circumstances of construction.

Structure relocation is carried out basically based on an efficient method. In many cases of Japanese typical buildings, wooden houses are fixed on concrete foundations. In such cases, especially in those of short-distance relocation, we can construct a foundation at a new address (on the provisional replotting land) in advance and move the main body of a house along a steel track. This is called a "house sliding method(Figure2).

On the other hand, we can also disassemble a building and then reassemble its main structural materials at a new address.

There may also be a case of cutting off a portion of a building. In this case, the lost portion and the costs for changing the entrance will also be compensated.

Although the abovementioned method may be employed in practice, there are still many cases where a landowner removes an old house and builds a new one on the provisional replotting land using the received compensation money for relocation/removal expenses. In this case, the difference between the cost of building a new house and the amount of compensation are, of course, paid by the landowner him/herself.

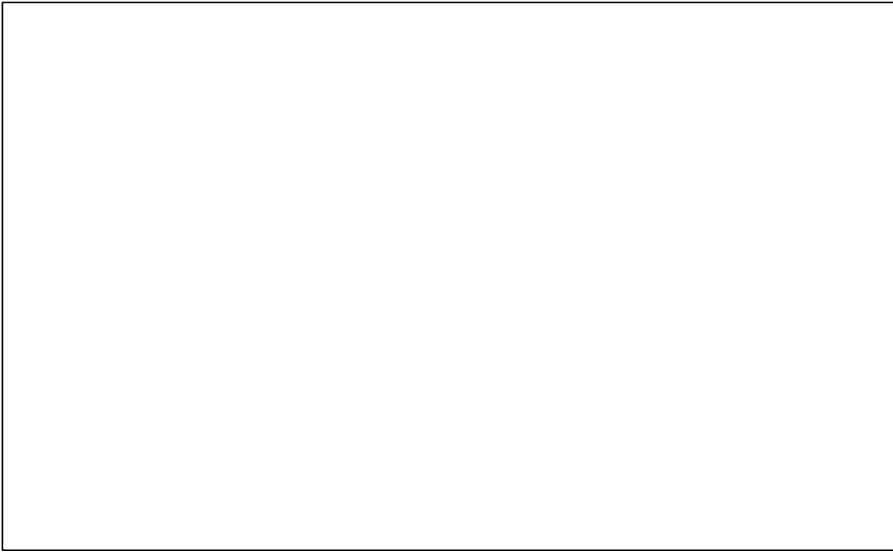


Figure2: House sliding method (<http://www.nihon-hikiya.or.jp/hikiya.html>)

(3) Practical Affairs of Compensation for Relocation

Projects in urban areas where there are a mass of properties subject to compensation are associated with significant difficulties. It is necessary to negotiate with each landowner who will be required to relocate and obtain his/her consent to compensation. In this regard, close consultation will also be required on the timing of building relocation. Coordination of individual circumstances and construction schedules involves difficulties; however, the projects will be pushed forward along the overall plan in a patient and stepwise manner.

There may be some right holders who do not agree to the amount of compensation or who protest against the land replotting project itself. There might also be cases where construction cannot be carried out because the relevant property is in dispute in a civil case. In cases where the negotiated solution is impossible, the Land Readjustment Act allows the project executor to carry out direct construction work (Article 77, the Land Readjustment Act).

This is a legally binding act that will be carried out carefully in accordance with a legal procedure to avoid infringement of property rights.

4. Practical Affairs of Imbalance Adjustment for Replotting

(1) Handling of Imbalance Adjustment for Replotting

Land replotting is usually designed based on the appraised value of land. An original land plot and a replotted land plot are designed to correspond in value. However, it is actually considerably difficult for all housing land plots to be treated in this manner. For instance, roads are designed in order to make road traffic smoother. Blocks are made as a result of a road arrangement plan; therefore, it is hard to expect that they fully correspond to multiple land plots that will be applied thereto. While the land ownership is to be taken into account in road planning, there may be land plots that have to be applied in slightly smaller or larger sizes in area than they should be as replotted land plots. In this case, the difference in area between the original value of a replotted land plot and a replotted land plot that a right holder actually acquires is to be settled in money.

A land replotting plan is composed of the details of land replotting design and the amounts of imbalance adjustment money (breakdown of imbalance adjustment money by parcel and right) (Article 87, the Land Readjustment Act).

As a matter of law, this is explained as correction of the imbalance in land replotting.

(2) Collection and Delivery Services of Settlement Money

There are some persons to whom money is to be delivered and others from whom money is to be collected; the amounts to be collected and delivered for an overall project are, of course, equivalent. Even if the amounts of imbalance adjustment money to be collected and delivered in terms of adjacent replotted land plots correspond, there is no mutual transfer of money between right holders. The project executor is responsible for these collection and delivery services.

The clerical work for collection and delivery of settlement money is to be carried out after land replotting disposition. In case of large amount of imbalance adjustment money to be collected, partial payment is allowed. However, in case of late payment, delinquency charges equivalent to the national tax delinquency charges are to be levied (Article 110, the Land Readjustment Act).

It goes without saying that the imbalance adjustment to be delivered is deemed as income.

(3) An Example for Imbalance adjustment and Relocation

Fig.3 represents an overlay of a replotting plan and an ordinance survey map. If a house occupies the original lot A1 as in Fig. 3, replot E1 is too small to accommodate the house. In such case, the implementation body has two alternatives: remove the house or shift the boundary in order to accommodate the house.

The former method implies an increase in construction cost and discourages the achievement of a reasonable financial plan. In a high density area, this alternative would prove to be unprofitable while the latter would prove to be more rational.

Shifting the boundary means that A1 obtains a larger replot and A2 gets smaller replot. For example in Fig.3, the boundary was shifted 10ft. E1 gets an area of 1,000 sq.ft. at \$10,000 (5,000 sq.ft. x \$10/sq.ft.). Landowner A1 has to pay to landowner A2.

Payment and receipt of money should be transacted directly to the implementation body in order to reduce the possibility of misappropriation. This transaction called Imbalance Adjustment cancels imbalances in replotting.

The issue of money is called Delivery Equity. The process in which the money is received is called Collection Equity. Delivery and collection equity are generally undertaken after the replotting design and construction period. If the delivery and collection equity are too large, discontentment amongst landowners could arise. Therefore, a replotting plan should be prepared in order to reduce imbalance adjustment.

FIG. 3: AN EXAMPLE FOR IMBALANCE ADJUSTMENT

