

2013 Modularization of Korea's Development Experience: The Expropriation and Compensation System in Korea

2014

2013 Modularization of Korea's Development Experience:
**The Expropriation
and Compensation System in Korea**

2013 Modularization of Korea's Development Experience
The Expropriation and
Compensation System in Korea

Title	The Expropriation and Compensation System in Korea
Supervised by	Ministry of Land, Infrastructure and Transport, Republic of Korea
Prepared by	Korea Research Institute for Human Settlements (KRIHS)
Author	Soo Choi, Korea Research Institute for Human Settlements (KRIHS), Research Fellow Seung Jong Kim, Korea Research Institute for Human Settlements (KRIHS), Associate Research Fellow Hyung Chan Lee, Korea Research Institute for Human Settlements (KRIHS), Associate Research Fellow Joon Park, Korea Research Institute for Human Settlements (KRIHS), Associate Research Fellow Hae Woong Ryu, Korea Real Estate Research Institute (KRERI), Former Vice President (Joint Researcher)
Advisory	Su Kab Kim, Chungbuk National University, Professor Haeng Jong Kim, Semyung University, Professor Soo Hyuk Park, University of Seoul, Professor Hosang Sagong, Korea Research Institute for Human Settlements (KRIHS), Director Seung Woo Shin, Konkuk University, Professor Hee Soon Jang, Kangwon National University, Professor Jong Chun Joo, Myongji College, Adjunct Professor (Appraiser)
Research Management	KDI School of Public Policy and Management
Supported by	Ministry of Strategy and Finance (MOSF), Republic of Korea

Government Publications Registration Number 11-1051000-000459-01

ISBN 979-11-5545-111-3 94320

ISBN 979-11-5545-095-6 [SET 18]

Copyright © 2014 by Ministry of Strategy and Finance, Republic of Korea

Knowledge
Sharing
Program



Government Publications
Registration Number

11-1051000-000459-01

Knowledge Sharing Program

2013 Modularization of Korea's Development Experience

The Expropriation and Compensation System in Korea





Preface

The study of Korea's economic and social transformation offers a unique window of opportunity to better understand the factors that drive development. Within one generation, Korea had transformed itself from a poor agrarian society to a modern industrial nation, a feat never seen before. What makes Korea's experience unique is that its rapid economic development was relatively broad-based, meaning that the fruits of Korea's rapid growth were shared by many. The challenge of course is unlocking the secrets behind Korea's rapid and broad-based development, which can offer invaluable insights, lessons and knowledge that can be shared with the rest of the international community.

Recognizing this, the Korean Ministry of Strategy and Finance (MOSF) and the Korea Development Institute (KDI) launched the Knowledge Sharing Program (KSP) in 2004 to share Korea's development experience and to assist its developing country partners. The body of work presented in this volume is part of a greater initiative launched in 2007 to systematically research and document Korea's development experience and to deliver standardized content as case studies. The goal of this undertaking is to offer a deeper and wider understanding of Korea's development experience in hopes that Korea's past can offer lessons for developing countries in search of sustainable and broad-based development. In furtherance of the plan to modularize 100 cases by 2012, this year's effort builds on the 20 case studies completed in 2010, 40 cases in 2011, and 41 cases in 2012. Building on the past three year's endeavor that saw publication of 101 reports, here we present 18 new studies that explore various development-oriented themes such as industrialization, energy, human capital development, government administration, Information and Communication Technology (ICT), agricultural development, and land development and environment.

In presenting these new studies, I would like to express my gratitude to all those involved in this great undertaking. It was their hard work and commitment that made this possible. Foremost, I would like to thank the Ministry of Strategy and Finance for their encouragement and full support of this project. I especially would like to thank KSP Executive Committee, composed of related ministries/departments, and the various Korean research institutes, for their involvement and the invaluable role they played in bringing this project together. I would also like to thank all the former public officials and senior practitioners for lending their time and keen insights and expertise in preparation of the case studies.

Indeed, the successful completion of the case studies was made possible by the dedicated efforts of the researchers from the public sector and academia involved in conducting the studies, which I believe will go a long way in advancing knowledge on not only Korea's own development but also development in general. Lastly, I would like to express my gratitude to Professors Kye Woo Lee, Jinsoo Lee, Taejong Kim and Changyong Choi for their stewardship of this enterprise, and to the Development Research Team for their hard work and dedication in successfully managing and completing this project.

As always, the views and opinions expressed by the authors in the body of work presented here do not necessarily represent those of the KDI School of Public Policy and Management.

April 2014

Joon-Kyung Kim

President

KDI School of Public Policy and Management



Contents | LIST OF CHAPTERS

Summary.....	12
--------------	----

Chapter 1

Objectives and Achievements of Expropriation and Compensation System	23
1. Objectives	24
1.1. Realization of Public Works	24
1.2. Compensation by Law	24
1.3. Just Compensation	25
2. Achievements	25
2.1. Urban Land Supply for Economic Development.....	25
2.2. Foundation of Public-managed Development.....	28

Chapter 2

Backgrounds and Needs of Expropriation and Compensation System	31
1. Before the 1960s: Prior to the Introduction of Expropriation and Compensation	32
1.1. Background.....	32
1.2. Needs	32
2. The 1960s and 1970s: Coping with the Needs of Public Facilities and Infrastructures.....	33
2.1. Background.....	33
2.2. Needs	34
3. The 1980s and 1990s: Coping with the Needs of Industrial and Residential Site Development	35
3.1. Background.....	35
3.2. Needs	35

4. The 2000s and Thereafter: Encouragement of New Town Development	36
4.1. Background	36
4.2. Needs	36

Chapter 3

Strategies and System of Expropriation and Compensation	39
1. Strategies	40
1.1. Objectivity of Compensation Valuation	40
1.2. Measures for Resettlement and Livelihood in Reflection of Residents' Opinion	42
1.3. Organization to Ease Compensation-related Conflicts	44
2. System and History	45
2.1. Legislative System of Expropriation and Compensation	45
2.2. History of Expropriation and Compensation Legislation	46

Chapter 4

Contents and Current Condition of the Expropriation and Compensation System	53
1. Contents	54
1.1. Procedure of Expropriation and Compensation	54
1.2. Principles of Compensation	70
1.3. Amount of Compensation	72
1.4. Resettlement and Measures for Livelihood	83
2. Current Condition of Compensation	91
2.1. Expropriation and Compensation	91
2.2. Analysis of Compensation Cases	95



Contents | LIST OF CHAPTERS

Chapter 5

Evaluation of the Expropriation and Compensation System.....	101
1. Success Factors	102
1.1. Legislation for Facilitation of Public Works.....	102
1.2. Exclusion of Development Gains and Just Compensation	104
1.3. Establishment and Operation of Compensation Council.....	105
1.4. Evaluation of Compensation and Application of the Officially Assessed Land Prices to Secure the Objectivity of Compensation	106
1.5. Roles of Land Expropriation Committee Members.....	107
1.6. Settlement of Conflicts with Immigrants	108
1.7. Division of Compensation Methods Concerning Obstructions	109
1.8. Variation of Compensation Methods.....	110
2. Complement.....	112
2.1. Improvement of the Officially Assessed Land Prices for Satisfactory Compensation.....	112
2.2. Management of Surrounding Areas of the Public Works District	113
2.3. Diversification of Development Projects.....	114
2.4. Prevention of Compensation Speculation	114

Chapter 6

Implications and Lessons of Developing Countries	115
1. Establishment of Progressive Resettlement and Measures for Livelihood	116
2. Expropriation and Compensation in Consideration of Project Conditions	117
3. Establishment of a Government-funded Development Corporation	117
4. Institutional Provision for Compensation Evaluation	119
5. Vesting Private Sectors with the Land Expropriation Right.....	120
References	121

Contents | LIST OF TABLES

Chapter 3

Table 3-1 Changes in Provisions of Expropriation and Compensation in the Constitution.....47

Chapter 4

Table 4-1 Project Approval Under the Individual Act (Announcement) and Special Rule on the Application Period for Adjudication58

Table 4-2 Changes in the Area of Land Expropriation and Amount of Compensation (1976~2012)92

Table 4-3 Land Compensation by Project93

Table 4-4 Amount for Compensation by Type95

Chapter 6

Table 6-1 Housing Site Supply in Each Region118

Table 6-2 Housing Site Supply of Each Project Operator118



Contents | LIST OF FIGURES

Chapter 1

Figure 1-1	Per Capita GNI (1970-2012)	26
Figure 1-2	Change in the Area of Urban Land (1975~2012)	26
Figure 1-3	Changes in Urbanization Rates (1960~2012)	27
Figure 1-4	Changes in Road Extension and Pavement Rates (1960~2012)	28
Figure 1-5	A Conceptual Diagram of Replotting Method in a Development Project	28

Chapter 3

Figure 3-1	Comparison of the Land Acquisition and Compensation Procedures	51
------------	--	----

Chapter 4

Figure 4-1	Procedures of Expropriation and Compensation	56
Figure 4-2	Access to Land Diagram	57
Figure 4-3	Changes in the Area of Land Expropriation and Amount of Compensation (1976~2012)	91
Figure 4-4	Land Compensation by Project	93
Figure 4-5	Amount for Compensation by Type	94
Figure 4-6	Changes in Officially Assessed Reference Land Prices around the Region of Paju Unjeong Housing Site Development Project	96
Figure 4-7	Changes in Officially Assessed Reference Land Prices in Osan City	97
Figure 4-8	Fluctuation of Population in Case Area	98
Figure 4-9	Changes in Development Permission in Case Area	99

Contents | LIST OF BOXES

Chapter 4

Box 4-1	Price of Land Compensation	73
---------	----------------------------------	----

Summary

1. Objectives and Achievements of Expropriation and Compensation System

Art. 23-3 of the Korean Constitution stipulates that “Expropriation, use, or limitation of private property due to public necessity and with regard to compensation shall be governed by an Act so that just compensation shall be paid.” Hence, expropriation, which means compulsory deprivation of private property rights by the governmental authority for public needs, is based on the assumption that there is a necessity for the public good when private property is to be compulsorily acquired regardless of a person’s will as stipulated in Art. 23-3 of the Constitution. As for just compensation designated by the Constitution for individual infringements of private property rights that require compensation in the enforcement of law and order, the compensation, in principle, means full compensation that the objective value of expropriated properties should be completely indemnified.

For the last 60 years, the Korean economy has achieved an astounding development that is called “the Miracle of the Han River.” Korea was one of the world’s poorest countries at the time of the national liberation in 1945 and it went through a three-year long Korean War from 1950. However, it grew into one of the world’s leading trading powers. Its per capita income, which was merely 255 USD in 1970, reached 22,000 USD as of 2012. One of the most important factors that enabled the Korean economy to achieve such a great development was the consistent expansion of its social overhead capital and its well-planned national development projects. Its urban land increased from 3% of the entire national territory in 1975 to 7% as of 2012 while its agricultural land decreased from 23.2% to 20.6% and its forest land from 68.5% to 64.1%, or a decrease of 2.6%p and 4.4%p respectively. Its urbanization rate was 39.1% in 1960, but it drastically increased up to 90%

in 2005 as its economic development intensified the density of population in urban areas. As it reached the level of urban maturity, Korea went through the slowdown of the urbanization after 2005 and its urbanization rate in 2012 slightly increased to 91%. The level of road extension increased 4 times from 27.1km² in 1960 to 105.7km² as of the end of 2012. The pavement rate also increased from 3.7% in 1960 to 83.4% as of the end of 2012.

Korea had adopted the replotting method more frequently than any other methods as the main way of land development until the 1980s. The replotting method did not change the rights before and after the implementation of the urban development project but transferred those of the existing land to the newly established land after projects. As Korea's economic development progressed, urbanization accelerated. Although the demands for land and houses in cities increased, such demands were not satisfied in a timely manner, which led to speculation in lands and houses. The government promoted the direct land development strategy through the public-managed development method as an alternative to cope with the drastically increasing expropriation of urban land and to collect the profits from land development for the public good. As for the public-managed development, the agent of public projects conducted negotiations for the purchase of the target land and then compulsorily acquired the property right in the way of expropriation when the owner did not accept the offer. Hence, the public-managed development was on the basis of expropriation and compensation system. To this end, the government established the Housing Site Development Promotion Act in December, 1980, introduced the public-managed development, and established the Korea Land Development Corporation (currently, the Korea Land and Housing Corporation), a government-funded development corporation for land development in 1978. The public-managed development is regarded as quite effective in easing the housing problem for ordinary people in a way that establishes large-scale housing complexes in metropolitan areas in a short period of time and appropriate for providing land for public housing at low prices. As a result, the housing supply rates increased more than 100% in just 20 years.

2. Backgrounds and Needs of Expropriation and Compensation System

There was no expropriation and compensation system before the 1960s. Although the principle of expropriation and compensation and security of property rights were specified in the Constitution in 1948, the land expropriation during the time was in accord with the Land Expropriation Decree established during the Japanese colonial period.

In the 1960s and 1970s, the government had to cope with the increasing demands for public facilities and infrastructures. In the early 1960s, the restoration projects of such

public facilities as railroad, road, and harbor were conducted mainly with foreign assistance, which contributed to the restoration to the level before the War. An industrial structure was established centering on consumer goods production and simple processing of raw materials. A great influx of rural population into the cities for job opportunities led to the rural-to-urban migration trend. As the economic development plan successfully progressed as part of industrialization, the phenomenon of urbanization, which was common among developed countries, started to appear outstandingly in metropolitan areas such as Seoul, Busan, Daegu, and Incheon. Accordingly, the Land Expropriation Act was established to secure land for public projects. Thereafter, land lots for industrial complexes and public facilities were purchased at a lower price in accord with this act to facilitate economic development projects. In the 1980s and 1990s, the government had to cope with the demands for the development of industrial complexes and housing sites. In the process of rapid economic growth in industrialization, a large number of people migrated into metropolitan areas and industrial complexes, which led to a serious problem of housing shortage. In response, the 5 million housing unit supply plan was presented. In the 1980s, however, the way to secure public land was through forcing landowners to sacrifice lost ground, and the voices asking just compensation for the loss grew louder. It was of urgency, therefore, to present an institutional measure for expropriation and compensation. In response, the government attempted to improve the laws to realize just compensation while maintaining the basic frame of the Land Expropriation Act and the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss from the 1980s to 1990s.

In the year 2000, the government initiated its active development of new towns. Since the 1980s, the government acquired and developed more urban land through expropriation and compensation according to the Housing Site Development Promotion Act. In the mid-2000s, especially, the balanced regional development project was promoted to solve the problem of uneven regional development as the population was concentrated in the metropolitan area including Seoul. As large-scale national projects involving the construction of administrative cities, innovative cities, and company cities progressed, the land compensation scale was rapidly expanded that it increased from about USD 7.2 billion in the early 2000s to about USD 27.2 billion in 2008. The compensation legislation, which was divided into the Land Expropriation Act and the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss, was integrated as the Act on Acquisition and Compensation for Land, etc. for Public Works (hereunder, the Land Compensation Act) in 2002 to streamline the procedures and standards regarding compensation, improve various unreasonable institutions, protect the property rights of the nation faithfully, and promote efficient implementation of public works.

3. Strategies and System of Expropriation and Compensation

1) Strategies

First, Korea utilized the officially assessed land price system and certified public appraiser system for the secure objectivity of the compensation evaluation. The Land Compensation Act stipulates that as for lands acquired through negotiation or arbitration, the compensation is decided in reference to the officially assessed land prices as specified in the Public Notice of Values and Appraisal of Real Estate Act (Art. 70). When a project operator estimates the amount of compensation, three appraisers are appointed to evaluate the properties.

Second, it promoted resettlement and living measures in reflection of the residents. In Korea, the measures for resettlement and livelihood were developed to ease the conflicts with original inhabitants who were forced to move out in the process of large-scale housing site development projects in the past. For instance, the Multifunctional Administrative City Construction Project initiated in 2005 took the measures for resettlement and livelihood in full reflection of the residents' opinions presented in such meetings as those of the Compensation Council, inhabitants' presentation, residents' discussion, etc.

Third, an organization to ease conflicts concerning compensation was operated. Since the compensation of land lots within public works districts directly affected personal property rights and may cause conflicts among interested parties, the head of the local government was eligible to establish and operate a Compensation Council to ease civil complaints and reflect the inhabitants' opinions. In addition, the Land Expropriation Committee was operated to judge disputes on expropriation and compensation for loss between the project operator and landowner or related parties in a just and neutral perspective.

2) System of Expropriation and Compensation

The supreme legislation of expropriation and compensation in Korea is the Constitution. Art. 23-3 of the Korean Constitution stipulates that "expropriation, use, or limitation and compensation of property rights for public needs shall be designated by law, but just compensation shall be paid." To specify the aspects of expropriation and compensation in the Constitution, the Land Compensation Act is referred to. This Act stipulates general aspects of expropriation and compensation such as scope of public works, details and standards of compensation, compensation procedure, objection, etc. Since expropriation is an exceptional case where the public justly infringes private property rights, important aspects concerning expropriation and compensation are to be specified by law, and other details delegated to law are handled in related Enforcement Ordinances. In particular, separate instructions are arranged for objectivity of compensation valuation. Other practical

aspects on expropriation and compensation include internal regulations on land acquisition of each project operator, resettlement measures, etc.

4. Contents and Current Condition of the Expropriation and Compensation System

1) Contents

To sum up, the general procedures of expropriation are as follows: ① preparation for public works, ② project approval, ③ preparation of land protocols and goods protocols, ④ negotiation, ⑤ adjudication, and ⑥ filing objection or administrative litigation. The principles of compensation include the principle of a project operator's compensation obligation, principle of advance compensation, principle of compensation in cash, principle of compensation by individual, principle of lump sum compensation, principle of project implementation profits and set-off prohibition, principle of fair market value compensation, and principle of exclusion of development gains.

Compensation for Land, etc. is as follows:

- Land: As for estimation of land compensation, the price at the time of concluding the negotiation or that at the time of adjudication of expropriation or use shall be the basis (Art. 67 of the Land Compensation Act), and the project operator shall indemnify indemnified persons individually. As for land restricted by public law, it shall be evaluated as it is under the restriction.
- Remaining Land: When the price of the remaining land decreases or involves some loss due to acquisition or use of a group of lots that belong to the same landowner or when new structures such as passages, ditches, and fences are to be newly built up in the remaining land, the project operator shall provide corresponding compensation for the loss or construction expenses.
- Ground Structures Such As Buildings: For building compensation, the cost method shall be adopted in evaluation. As for residential buildings, however, the sales comparison approach shall be adopted when the price based on the sales comparison approach is higher than that based on the cost method and when the building price is classified as divided ownership according to the act on the possession and management of aggregate buildings.

- **Sales Compensation:** Sales compensation is applied when the sales shop is closed or suspends business because of the public work. This is reasonable compensation for expected loss of business, specifically for income or profit, and additional loss related to the business activity rather than for the property value of the business itself.
- **Compensation for Agriculture, Stock Raising, and Fishery:** As for loss of farm products in land where the harvesting has yet to begin, such factors as type and maturity of farm products shall be comprehensively taken into consideration. As for farmland included in public works, incomes from farm products as part of the total income of the agricultural industry for each province reported in farming household economic statistics by a statistics agency are divided by the cultivated acreage specified in the current condition of sample farmhouses in each province. This total yearly average income from farm products per unit farming area in each province is doubled for the amount of compensation for agricultural loss. Such businesses as hatchery business, egg gathering business, stock breeding farming, and livestock breeding business registered according to the Livestock Industry Act are subject to compensation for stock raising. When the number of farm animals reaches a certain level as well, the business will be counted for compensation for stock raising. As for the amount of compensation for fishing rights, the cases are divided into when fishing is cancelled, when fishing is suspended, and when fishing is restricted. Afterwards such factors as the remaining value of facilities, investment, expected profit, and fixed cost during the suspension are considered in estimation.

The amount of compensation shall be paid in money in principle, but the current Land Compensation Act stipulates compensation in bonds and compensation with the land developed by the public works for exceptional cases.

For immigrants who lost their former residence due to public works, measures for resettlement and living are provided. Those entitled to resettlement measures are persons who provide their residential buildings for public works and thus lose their basis for livelihood. Types of resettlement measures include formation of a settlement, provision of housing sites or houses, special supply of national housing to the head of a household who does not own a house, temporary use of national rental housing complex, supply of resettlement funds, supply of moving expenses compensation, etc. For immigrants who lose their basis for living, livelihood stabilization subsidies, occupational training, and job offers are provided.

2) Current Condition

In analysis of expropriation and compensation statistics for 37 years from 1976 to the present, Korea has expropriated land as large as 5,855.9km² in total for public works, which accounts for 5.85% of the entire national territory (100,148km²). The yearly average amount of land compensation was 160 billion won (USD 145 million) in the 1970s, 1.3 trillion won (USD 1.2 billion) in the 1980s, 7.1 trillion won (USD 6.4 billion) in the 1990s, and 15.4 trillion won (USD 14 billion) in the 2000s. The total amount of land compensation for the last 10 years since 2003 reached about 181.7 trillion won (USD 165 billion), among which the amount of housing and housing site projects accounted for about 92.4 trillion won (USD 84 billion, 50.8%) and that of road projects about 30.7 trillion won (USD 28 billion, 16.9%). The total amount of compensation for the last 10 years since 2003 reached about 213.6 trillion won (USD 194 billion), among which the amount of land compensation accounted for about 181.7 trillion won (USD 165 billion, 84.7%), the largest portion, and life compensation such as resettlement measure accounted for about 5.3 trillion won (USD 4.8 billion), only 0.3% of the entire amount of compensation.

In analysis of land prices over the surrounding regions of the road construction project areas including housing sites, it turned out that the officially assessed reference land price over those regions increased 5 to 10 times. Such increase of land prices in adjacent regions would cause a sense of deprivation to expropriated persons in the project area as well as additional expenses for exchange of land in reality. Hence, it is necessary to manage the land prices over the surrounding regions of the development project. Supervision of possible compensation speculation after a development project is also necessary.

5. Evaluation of the Expropriation and Compensation System

1) Success Factors

The success factors of the expropriation and compensation system in Korea are as follows:

First, Korea has provided legal systems for the smooth operation of public works. The Land Compensation Act stipulates the procedures of negotiation prior to expropriation to simplify the process of acquisition of land and minimize disputes with property owners.

Second, The Korean Constitution specifies the just compensation with regard to property expropriation. To this end, the Land Compensation Act stipulates time modification from the reference time of compensation for the just estimation of the amount of compensation. However, development gains are excluded from the estimation of compensation.

Third, it stipulates the establishment and operation of a Compensation Council to embrace civil opinions and ease civil complaints.

Fourth, the compensation evaluation and publicly noticed land price systems are operated to secure objectivity of compensation. When a project operator has to estimate the amount of compensation for land, etc., at least two appraisers shall be entrusted for evaluation of land, etc.

Fifth, the Land Expropriation Committee entrusted for adjudication concerning expropriation of land, etc. is divided into the Central Land Expropriation Committee and Local Land Expropriation Committee.

Sixth, for large-size housing site development projects, an institution for resettlement measures and measures for livelihood have been developed for the settlement and stable residence of original inhabitants who are forced to move out.

Seventh, as for obstructions, moving expense compensation shall be provided in principle, and acquisition expense compensation is a provision for exceptional cases.

Eighth, bonds indemnity and indemnity with the land developed by the public works are operated in addition to cash indemnity as compensation methods.

2) Complement

The Expropriation and Compensation System of Korea needs to be complemented regarding the following aspects:

First, it is necessary to reconsider the level of publicly noticed land prices for the indemnified persons to satisfy the amount of compensation. When the amount of compensation is estimated in accord with the Land Compensation Act, it is viewed as realization of just compensation. In reality, however, expropriated persons are only slightly satisfied with the given amount of compensation in Korea.

Second, it is necessary to manage the prices of the surrounding areas of the public work district. However, since landowners around the project area earn development gains while expropriated persons are excluded from development gains, the principle of equity is certainly violated. To guarantee substantial just compensation, therefore, there should be an institutional measure to collect development gains around the area of public works. In addition, various compensation measures may need to be made use of such as stricter regulation of land use in a way of designating an urbanization-coordination zone to restrict speculation over the surrounding areas, etc., regulation of land transaction with the intent of speculation including designation of land transaction districts, prohibition of cash compensation flowing into the surrounding areas, and so forth.

Third, it is also necessary to diversify the types of development projects. Korea has depended mainly on the total acquisition method so far. Since the total acquisition method is based on compulsory expropriation of the owner's land, it has limitations in fundamentally resolving the conflicts of compensation. Hence, it is necessary to seek ways of utilizing the replotting method for public works such as housing site development rather than compulsory expropriation of private property rights of landowners, etc.

Fourth, it is vital to prevent compensation speculation. Hence, the project district management must be strengthened by means of aerial photographs, for instance, and it must cope with illegal/unauthorized development and construction acts.

6. Implications

The implications of the case of the Expropriation and Compensation System of Korea before developing countries are as follows:

First, it is vital to carry forward measures for resettlement and livelihood progressively. For immigrants who are forced to move out after expropriation, resettlement and measures for livelihood are essential. However, to establish resettlement and measures for livelihood as the original inhabitants want would cause more compensation expenses, and thus the project operator has to seek ways to minimize the expenses while he proceeds with the public works. Hence, social consent is required concerning the level of compensation for resettlement and measures for livelihood especially among developing countries.

Second, project conditions need to be taken into consideration in expropriation and compensation. In view of the case in Korea, it is difficult to apply land development through expropriation to existing residential areas, while it is advantageous to develop new towns in non-urbanized areas at the outskirts of a city and develop an industrial complex. To develop a central area of a city where land prices are high and many people reside, it is desirable to develop the land through replotting based on the agreement of the land owners.

Third, it is necessary to establish a government-funded development corporation. Korea has supplied urban lands within a short period of time by establishing the joint development agency called the Korea Land and Housing Corporation in addition to the project operation method of public-managed development promoting large-scale land development. It also has considered the public good by collecting development gains publicly and reinvesting into development projects such as rental apartment construction. Likewise, developing countries need to collect development gains publicly in line with land development and establish a government-funded development corporation to promote large-scale development projects promptly.

Fourth, institutional provisions for compensation evaluation need to be crafted. In order to enhance reliability of compensation evaluation, it is also necessary to utilize government-authorized certified public appraisers for the estimation of land prices, for one.

Fifth, vesting private sectors with the land expropriation right needs to be taken into consideration. Recently, the concept of publicity has expanded as the socio-economic conditions changed, while the publicity of some projects and profit-making businesses of private companies also may be acknowledged in terms of realization of the public good.

Some parties criticize vesting private sectors as unconstitutional in that the publicity for the land expropriation right for urban development projects does not seem as evident as that of road or railroad construction projects. In developing countries where investments into development projects are insufficient, however, it is necessary to consider vesting private sectors with the land expropriation right as a way of making use of private capitals in urban development on the assumption that the landowners agree with it.

2013 Modularization of Korea's Development Experience
The Expropriation and Compensation System in Korea

Chapter 1

Objectives and Achievements of Expropriation and Compensation System

1. Objectives
2. Achievements

Objectives and Achievements of Expropriation and Compensation System

1. Objectives

1.1. Realization of Public Works

Art. 23-3 of the Korean Constitution stipulates that “Expropriation, use, or limitation of private property due to public necessity and with regard to compensation shall be governed by an Act so that just compensation shall be paid.” Hence, expropriation, which means compulsory deprivation of private property rights by the governmental authority for public needs, is based on the assumption that there is a necessity for the public good when private property is to be compulsorily acquired regardless of a person’s will as stipulated in Art. 23-3 of the Constitution. Currently, the Act on Acquisition and Compensation for Land, etc. for Public Works (hereafter, the Land Compensation Act) limits the scope of public works to projects of the military and national defense, public projects such as railroad and national road, and projects for public facilities, housing construction, or housing site development projects conducted by the government, local governments, and public agencies.

1.2. Compensation by Law

Art. 23-3 of the Korean Constitution stipulates that when expropriation, use, or limitation of private property rights may cause a special material loss as a result of exercising the governmental power for public needs, the related law established by the National Assembly limits the scope, and that for compensation, just compensation shall be provided as designated by an Act established by the National Assembly.

1.3. Just Compensation

As for just compensation designated by the Constitution for individual infringements of private property rights that require compensation in the enforcement of law and order, the compensation, in principle, means full compensation that the objective value of expropriated properties should be completely indemnified. This also means that there must be no limitation in terms of the timing and method of compensation as well as the amount. The objective value of expropriated property is calculated on the basis of the reasonable sales price or the market price in free transaction among those who are well aware of the nature of such items. As the development gains from the implementation of public works, however, are not caused by the expropriated individuals, they are not counted for compensation. Hence, the exclusion of development gains in calculating the amount of compensation does not violate the principle of just compensation stipulated by the Constitution.

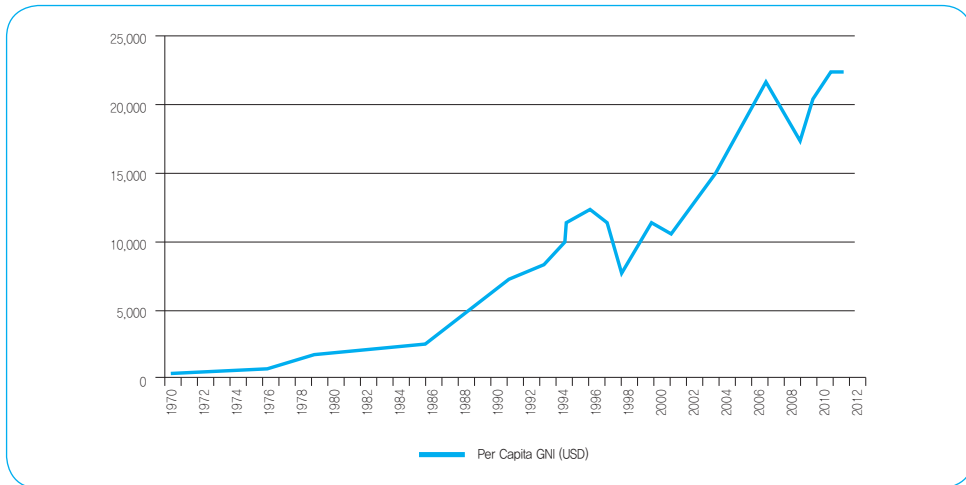
2. Achievements

2.1. Urban Land Supply for Economic Development

For the last 60 years, the Korean economy achieved an astounding development that was called the “Miracle of the Han River.” Korea was one of the world’s poorest countries at the time of the national liberation in 1945 and it went through a three-year-long Korean War starting in 1950. However, it grew as one of the world’s leading trading powers. Its per capita income, which was merely 255 USD in 1970, reached 22,000 USD as of 2012. One of the most important factors that enabled the Korean economy to achieve such a great development was the consistent expansion of its social overhead capital and well-planned national development projects.¹

1. Korea Development Institute, 2010, the 60 Year History of the Korean Economy: Section of Territory Environment, Korea Development Institute, p.9 [revised].

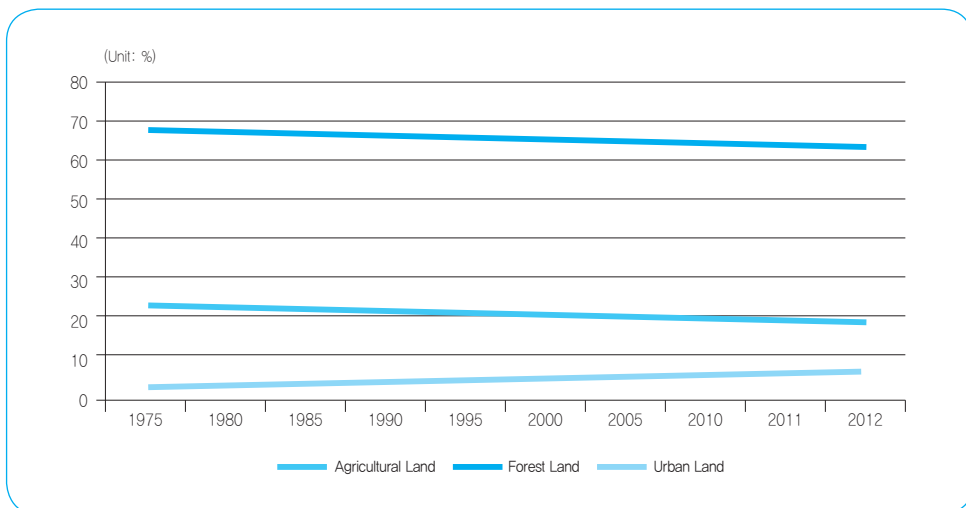
Figure 1-1 | Per Capita GNI (1970-2012)



Source: Bank of Korea (www.bok.or.kr).

The urban land increased from 3% of the entire national territory in 1975 to 7% as of 2012 while the agricultural land declined from 23.2% to 20.6% and the forest land from 68.5% to 64.1%, or a decrease of 2.6% and 4.4% respectively.

Figure 1-2 | Change in the Area of Urban Land (1975~2012)



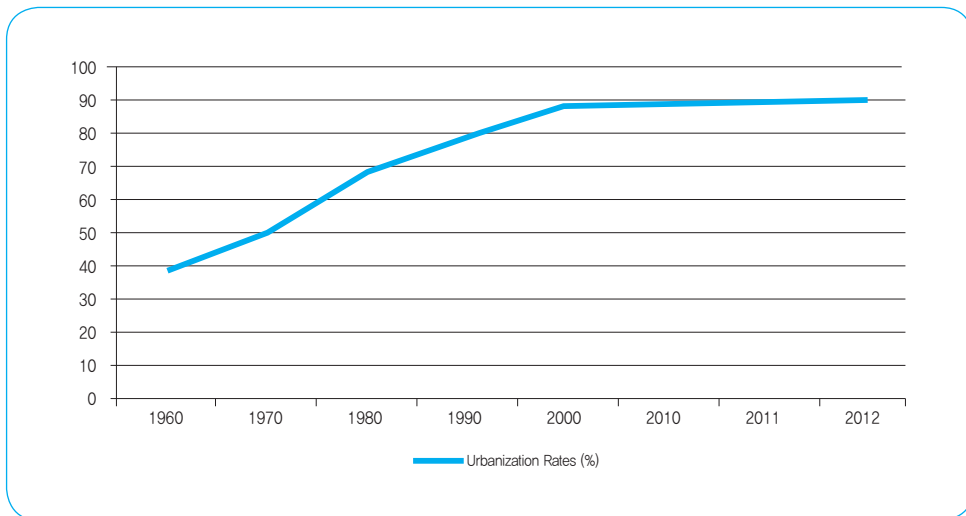
Note: The urban land includes the class “large” in the land category, plant land, school land, road land, and railroad land.

Source: Ministry of Land, Infrastructure, and Transport, Annual Report on the National Land Use.

Urbanization rate was 39.1% in 1960, but they drastically increased up to 90% in 2005 as the economic development intensified the density of population in urban areas. As it reached the level of urban maturity, Korea went through the slowdown of the urbanization after 2005, and urbanization rate in 2012 is 91%.

The urbanization rate was 39.1% in 1960, but it drastically increased up to 90% in 2005 as the economic development intensified the density of population in urban areas. As it reached the level of urban maturity, Korea went through the slowdown of the urbanization after 2005, and the urbanization rate in 2012 went up slightly to 91%.

Figure 1-3 | Changes in Urbanization Rates (1960~2012)

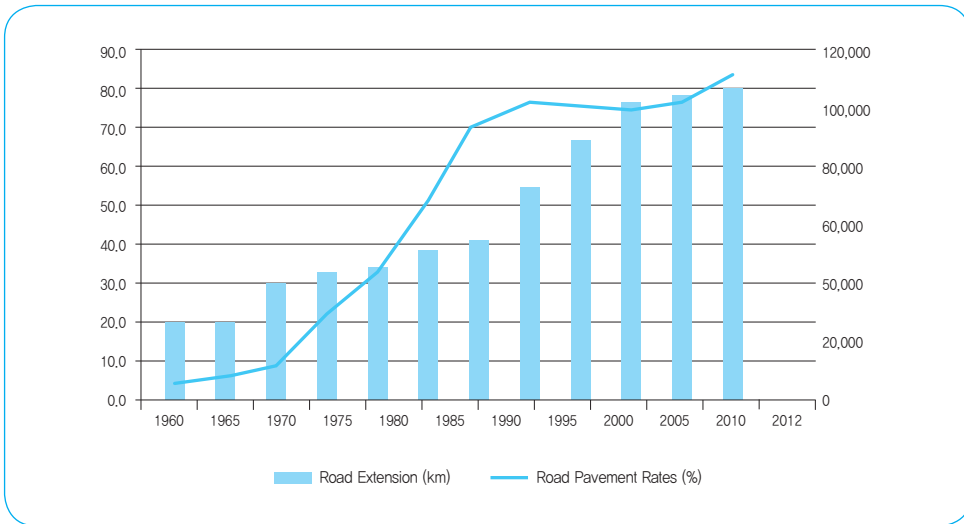


Source: Ministry of Land, Infrastructure, and Transport, Annual Report on the National Land Use.

The level of road extension has increased 4 times from 27.1km² in 1960 to 105.7km² as of the end of 2012. The pavement rate also increased from 3.7% in 1960 to 83.4% as of the end of 2012.

The level of road extension increased 4 times from 27.1km² in 1960 to 105.7km² as of the end of 2012. The pavement rate also increased from 3.7% in 1960 to 83.4% as of the end of 2012.

Figure 1-4 | Changes in Road Extension and Pavement Rates (1960~2012)

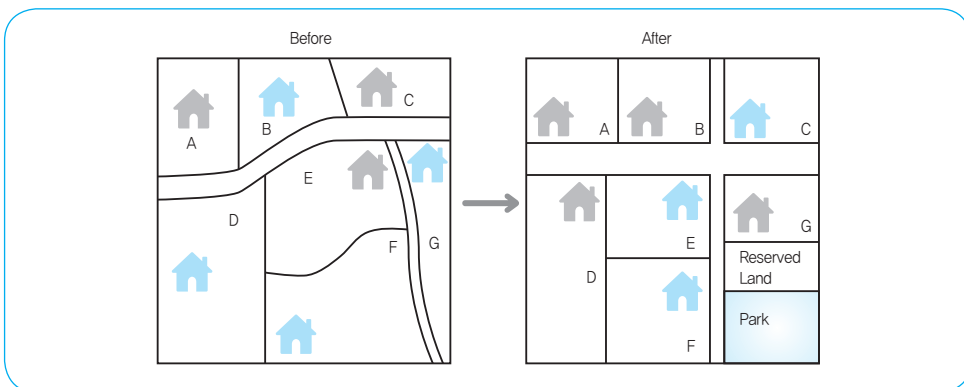


Source: Ministry of Land, Infrastructure, and Transport, Annual Report on the National Land Use.

2.2. Foundation of Public-managed Development

Korea had adopted the replotting method as the main way of land development until the 1980s. The replotting method did not change the rights before and after the implementation of the urban development project but transferred those of the existing land to the newly established land after the projects.

Figure 1-5 | A Conceptual Diagram of Replotting Method in a Development Project



Source: National Land Research Center, 2008, 60-year National Land History of “Sangjeonbyeokhae,” National Land Research Center, p.35.

Land Compartmentalization and Re-arrangement Projects which were a representative development project of replotting method referred to projects changing the boundaries of a land by exchange, division, or merger in order to increase efficiency and improve public facilities in building sites; changing lot category or land quality; or installing and changing a public facility. Land Compartmentalization and Re-arrangement Projects exchanged, divided, or combined the land of a landowner depending on location, area, or usage situation. It may also be part of the land used as a public facility lot or sold to cover project cost. If there is an imbalance in the land price among the individual landowners, it is adjusted through a collection and disbursement, or a settlement amount.

As economic development in Korea progressed, urbanization accelerated. Although the demands for land and houses in cities increased, such demands were not satisfied in a timely manner, leading to speculation in lands and houses. As the speculation in real estate markets reached a peak in 1978, there was an increasingly loud call for addressing the problem of privatization of development gains. Most of the development gains were generated from the process of land development that involved the change of land uses, and there was an underlying principle that most of the development gains should belong to the private landowners when it came to land re-adjustment projects. In an attempt to address this problem and collect such development gains for the public good, the public-managed development was suggested.²

As for the public-managed development, the agent of public projects conducted negotiations for the purchase of the target land and then compulsorily acquired the property right in the way of expropriation when the owner did not accept the offer. Hence, the public-managed development was on the basis of expropriation and compensation system. To this end, the government established the “Housing Site Development Promotion Act” in December, 1980, introduced the public-managed development, and established the Korea Land Development Corporation (currently, the Korea Land and Housing Corporation), a government-funded development corporation for land development in 1978. Only the public sectors such as the government, local governments, and government-funded agencies could be the project operator when it came to public-managed development. Accordingly, this was advantageous in that it enabled development gains to be redeemed by society and the collected resources to be reinvested into other public projects. However, the repulsion and complaint of landowners due to the sense of deprivation remained a problem and was difficult to solve. In addition, since the public-managed development made it possible to carry out development projects over urban areas, green land areas, and other non-urban areas as well, lands could be supplied at relatively low prices. In the process, though, the existing

2. Korea Research Institute for Human Settlements, 2008, 60 Year National Land History of ‘Sangjeonbyeokhae’, Korea Research Institute for Human Settlements, p.39.

urban planning system and urban space structure were likely to be distorted, and the natural environment was seriously damaged. In the case of the public-managed development, the construction fund and land purchase were all part of the project operator's expenses. For this reason, the procedure of property right transferring before and after the project was simple and the project term was relatively short. As the expenditure for compensation on a great scale increased cash flows in the society, however, the land prices over adjacent areas increased accordingly by speculation.³

Although the public-managed development involved this type of adverse effects, it was regarded as quite effective in easing the housing problem for ordinary people in a way that established large-scale housing complexes in metropolitan areas in a short period of time, providing the land of public housing at low prices. As a result, the housing supply rates increased more than 100% in just 20 years.⁴

3. Korea Development Institute, 2010, op. cit., p.137.

4. Ibid.

2013 Modularization of Korea's Development Experience
The Expropriation and Compensation System in Korea

Chapter 2

Backgrounds and Needs of Expropriation and Compensation System

1. Before the 1960s: Prior to the Introduction of Expropriation and Compensation
2. The 1960s and 1970s: Coping with the Needs of Public Facilities and Infrastructures
3. The 1980s and 1990s: Coping with the Needs of Industrial and Residential Site Development
4. The 2000s and Thereafter: Encouragement of New Town Development

Backgrounds and Needs of Expropriation and Compensation System

1. Before the 1960s: Prior to the Introduction of Expropriation and Compensation

1.1. Background

Established on August 15, 1948, based on the Constitution established on July 17 of the same year, the government faced imminent challenges to establish public order and clean up the vestiges of Japanese imperialism. Even before the political and social confusions consistent from the early stage of the national foundation were controlled, the Korean War broke out, resulting in tremendous casualties and economic loss. Thus, the top priority of the regime in the national economic policies was the post-war restoration.⁵

1.2. Needs

Established in 1948, Art. 15-1 of the First Constitution stipulated that “Property rights should be secured. The contents and limitations should be decided by law,” specifying the private property system. Art. 15-2 of the Constitution also stipulated the principle of compensation; that is, “expropriation, use, or limitation of private property right for the sake of public needs should involve the provision of acceptable compensation in law.” Although the principle of expropriation and compensation and security of property rights was specified in the Constitution, the land expropriation in time was in accord with the Land Expropriation Decree established during the Japanese colonial period.

5. H.N. Jung, S.J. Kim, et al., 2010, A Study on Re-establishment Plans for the Land Policy Paradigm, Ministry of Land, Infrastructure, and Transport, p.35.

2. The 1960s and 1970s: Coping with the Needs of Public Facilities and Infrastructures

2.1. Background

In the early 1960s, the restoration projects of such public facilities as railroad, road, and harbor were conducted mainly with foreign assistance, which contributed to Korea's restoration to the level before the War. An industrial structure was established centering on consumer goods production and simple processing of raw materials. While the economic growth and income increase rates during the post-war restoration period were relatively low, the population increase rates were so high that the unemployment rate in 1960 reached 24.2%.⁶ The major strategy of economic development in time became export-oriented industrialization centering on heavy-chemical industry with aim at progressive industrialization. As the industrialization advanced, the urbanization rate, which was 17% at the time of national liberation in 1945, drastically increased up to 35.8% in 1960, which indicated the outstanding phenomenon of urbanization. In addition to that, the available funds accumulated through the economic growth flew into land speculation and, as a result, the land prices increased 20-100% within a short period of time.⁷

In the 1960s, a great influx of rural population into the cities for job opportunities led to the rural-to-urban migration trend. As the economic development plan successfully progressed as part of industrialization, the phenomenon of urbanization, which was common among developed countries, started to appear outstandingly in metropolitan areas such as Seoul, Busan, Daegu, and Incheon. As the existing cities were unable to accommodate the new influx of population, the demands for urban land continued to increase rapidly.⁸ The government, accordingly, supplied urban land lots to respond to the increasing demands for land and conducted various projects to establish the urban infrastructure.⁹

The existing Urban Planning Act, however, had limitations in promoting such large-scale urban development projects, and thus the government established the Land Compartmentalization and Rearrangement Projects Act in August, 1966, to meet the increasing demands for land and housing due to industrialization and urbanization and expanded the urban planning facilities in application of the land readjustment project by

6. Korea Research Institute for Human Settlements, 2008, op. cit., p.16.

7. H.J. Park, et al., 1998, 'The Progress and Development Direction of Land Policies', Korea Research Institute for Human Settlements, p.55.; H.N. Jung, S.J. Kim, et al., 2010, op. cit., p.38 (recited).

8. H.N. Jung, S.J. Kim, et al., 2010, op. cit., p.39.

9. H.J. Park, et al., 1998, op. cit., pp.56-57.; H.N. Jung, S.J. Kim, et al., 2010, op. cit., p.41.

forming large-scale housing complexes and establishing or expanding roads.¹⁰ In the 1970s, industrial sectors provided active support for consistent economic growth by facilitating exports and for the general development of the heavy-chemical industry. From the mid-1970s on, the overseas construction projects in the Middle East were actively conducted, which induced the available funds from abroad into the domestic real estate market. As a result, real estate speculation was stirred up.¹¹

2.2. Needs

In the 1960s, the Land Expropriation Act was established to secure land for public projects. Thereafter, land lots for industrial complexes and public facilities were purchased at a lower price in accord with this act to facilitate economic development projects. On the basis of the Land Expropriation Act, the Act on Special Cases Concerning Land Expropriation was established on January 20, 1962, for the construction of the Ulsan Industrial Zone, the center of refined oil and chemical industry, as the initial part of the 1st five-year national economic development plan.¹² The Act was abolished in December, 1963, during which the land expropriation was almost completed.¹³

In the late 1960s, public projects such as urban planning projects were actively conducted in line with the rapid expansion of cities, adjustment of heavy-chemical industrial complexes, and construction of Gyeongin Expressway and Gyeongbu Expressway. Most of the land necessary for public projects, however, was acquired through bargaining acquisition in accord with the civil law. Since there was no general standing rule in that regard, the objects of and standards for compensation were different depending on the type of projects and agencies, and the inconsistent compensation resulted in civil complaints. Further, there was no way to acquire unregistered lands or lands whose property owner was unknown except for expropriation. To make it easy to acquire public lands and to determine appropriate compensation, therefore, the Act on Special Cases concerning the Acquisition of Lands for Public Use and the Compensation for their Loss was established in 1975.¹⁴

10. H.N. Jung, S.J. Kim, et al., 2010, op. cit., p.40.

11. H.J. Park, et al., 1998, op. cit., pp.56-57.; H.N. Jung, S.J. Kim, et al., 2010, op. cit., p.41.

12. From the 1960s to the mid-1990s, Korea systematically implemented economic development by taking a comprehensive approach to establishing economic policies in Korean economic development plans. The basic goal of the 1st Five-year Economic Development Plan was the achievement of independent economy and infrastructure development. The Basic Strategies were ensuring energy resources, improving agricultural productivity, and developing key industries.

13. M.O. Choi, H.N. Jung, et al., 2006, 「A Study on the Direction and Strategy of Land Policies Toward Advanced Society(I)」. Korea Research Institute for Human Settlements, p.28.; H.N. Jung, S.J. Kim, et al., 2010, op. cit., p.39 (recited).

14. H.U. Ryu, 2012, 「A New Introduction to the Act on Expropriation and Compensation」, Buyonsa, pp. 149-150.

3. The 1980s and 1990s: Coping with the Needs of Industrial and Residential Site Development

3.1. Background

In the process of rapid economic growth in industrialization, a large number of people migrated into metropolitan areas and industrial complexes, which led to a serious problem of housing shortage. In response, the 5 million housing unit supply plan was presented. Accordingly, the government endeavored to help the economy recover by creating more job opportunities and conducting large-scale land development projects to boost the economy. The existing development through land readjustment projects, however, had limitations when it came to easing the housing problem in that development gains were privatized to the landowner and that the land use was centered on detached houses. The government established the Housing Site Development Promotion Act in December, 1980, in an effort to enhance the role of the public in land development by applying the public development method.¹⁵

3.2. Needs

Since the 1960s, the national development plan of Korea was focused on public projects, and thus it led to great achievements in national land and economic development. In the 1980s, however, the way to secure public land by forcing landowners to sacrifice lost ground, and the voices asking just compensation for the loss grew strident. It was of urgency, therefore, to present an institutional measure for expropriation and compensation. The amount of compensation was regarded as insufficient when it came to the protection of private property rights. With regard to land expropriation for the sake of public projects, ① land owners' opinions were hardly reflected in the process of negotiation as the project operator unilaterally carried out the projects. ② There was no proper institutional measure for standards and methods of compensation valuation, and the amount of compensation was insufficient. As a result, complaints were frequently raised among land owners. ③ The high-handedness of project operators with the basic policy of "compensation after construction" led to serious infringement of private property rights. ④ The absence of a system for indirect compensation made compensation incomplete. ⑤ There were various problems such as imbalanced taxation in the process of bargaining acquisition and expropriation.¹⁶ In response, the government attempted to improve the laws to realize just compensation while

15. H.N. Jung, S.J. Kim, et al., 2010, op. cit., p.46.

16. Construction Committee, 1981. 12. 11, A Report of Judgment on the Land Expropriation Act Revision, the National Assembly, pp.4-6.

maintaining the basic frame of the Land Expropriation Act and the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss from the 1980s to 1990s.

4. The 2000s and Thereafter: Encouragement of New Town Development

4.1. Background

Since the 1980s, the government acquired and developed more urban lands by way of expropriation and compensation according to the Housing Site Development Promotion Act. As a result, the urbanization rate, which was 35.8% in 1960, increased up to 88.3% by the end of 2000. As the housing site development in time was promoted publicly through expropriation, development gains were redeemed to society with a large expanse of urban land supplied within a short time. The compulsory resettlement of original inhabitants after expropriation, however, became a controversial issue, and thus a critical voice was raised, arguing that the participation of private sectors in land development project should be expanded. Accordingly, the government established in 2000 the Urban Development Act, which stipulated the manner of expropriation, replotting method, and combination for land development projects for a smooth promotion of urban development projects. In the mid-2000s, a balanced regional development project was promoted to solve the problem of uneven regional development as the population was concentrated in the metropolitan areas including Seoul. To this end, efforts were put forth into the relocation of public organizations to local areas and the establishment of company cities and innovative cities. For example, the government initiated the construction project of a Multifunctional Administrative City in an effort to relocate some governmental divisions to local areas. As large-scale national projects, such as the construction of administrative cities, innovative cities, and company cities, progressed, the land compensation scale was so rapidly expanded that it increased from about USD 7.2 billion in the early 2000s to about USD 27.2 billion in 2008.

4.2. Needs

In the early 2000s, expropriation and compensation legislation caused confusion as they were divided into the Land Expropriation Act and the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss, with many civil complaints and disputes raised concerning the amount of compensation.¹⁷ The Act on

17. Construction and Transportation Committee, 2011. 12, *A Report of Judgment on the Land Expropriation Act*, the National Assembly, p.4.

Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss specified the procedures as part of the rules without any legal basis while the Land Expropriation Act omitted the procedures of notice and reading of compensation plans. In addition, such procedures as land investigation, compensation plan notice/reading, compensation estimation, and negotiation were implemented based on the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss, but it was impossible to reach a mutual agreement. As a result, repetition of the same procedures of acknowledgement and negotiation regarding the project in accord with the Land Expropriation Act led to administrative waste, with the rights of indemnified persons hardly protected. The Land Expropriation Act and the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for their Loss contained many compatible regulations but caused confusion because they adopted different terms. Hence, some argued that there was no need to keep the separate Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss.¹⁸

In consideration of the fact that the legislation caused complaints among the nationals as well as problems to the smooth implementation of public works in reality, the compensation legislation, which was divided into the Land Expropriation Act and the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss, was integrated as the Land Compensation Act in 2002 to streamline the procedures and standards regarding compensation, improve various unreasonable institutions, protect the property rights of the nation faithfully, and promote the efficient implementation of public works.¹⁹

18. *Ibid.*, p.5.

19. *Ibid.*, p.4.

2013 Modularization of Korea's Development Experience
The Expropriation and Compensation System in Korea

Chapter 3

Strategies and System of Expropriation and Compensation

1. Strategies
2. System and History

Strategies and System of Expropriation and Compensation

1. Strategies

1.1. Objectivity of Compensation Valuation

The Korean compensation valuation is based on the officially assessed land prices system and the certified public appraiser system. The Land Compensation Act stipulates that as for lands acquired through negotiation or arbitration, the compensation is decided in reference to the officially assessed land prices as specified in the Public Notice of Values and Appraisal of Real Estate Act (Article 70). When a project operator estimates the amount of compensation, three appraisers are appointed to evaluate the properties. Landowners can recommend one of the appraisers. A landowner who wants to recommend an appraiser should win the approval of the majority of landowners whose lots account for at least a half of the entire area to be indemnified.

1.1.1. Officially Assessed Land Price System

The officially assessed land prices indicate the price per unit area (m²) of the reference land announced by the Minister of Land, Infrastructure, and Transport after the investigation and evaluation process (Article 9 of the Public Notice of Values and Appraisal of Real Estate Act). These land prices are estimated and announced in accord with the Public Notice of Values and Appraisal of Real Estate Act for a reasonable and consistent land price information system. This land pricing system was initiated in July, 1989, as the public concept of land ownership was introduced in the same year of the unification of the statutory standard price of the fair market value of the Ministry of Government Administration and Home Affairs, the standard value of the Ministry of Land, Infrastructure, and Transport and the National Tax Service, and the appraised value of the Korea Appraisal Board.

Since the officially assessed land prices are referred to as basic information of land prices and indicators of land transaction, accurate investigation and evaluation of lands are of great importance. The domestic land consists of about 38 million and 20,000 lots of land. When all of these lots are investigated and evaluated, a lot of human resources, financing, and time should be involved, but such is impossible in reality. Hence, about 31 million and 580,000 lots whose land prices are to be estimated are selectively investigated and evaluated among general land lots such as private lands and national/public lands subject to taxation.

The government selects 0.5 million representative lots of reference land among 31 million and 580,000 lots, investigates and evaluates the prices, announces the Officially Assessed Reference Land Prices, and then investigates and estimates the officially assessed land prices of the rest of land lots in reference to the Officially Assessed Reference Land Prices announced by the government in city, county, and borough administrative units.²⁰ Since the Officially Assessed Reference Land Prices are the reference prices for the pricing of individual lots in a certain unit of land, certified public appraisers may be entrusted for investigation and evaluation for more appropriate price estimation before the results are announced. The officially assessed land prices of individual lots are estimated directly by public officials at local governments in reference to the standard comparison table of land prices for land price deciding factors and for comparison with the Officially Assessed Reference Land Prices announced by the government for each city, county, and borough administrative unit. To verify the appropriateness of the result, appraisers confirm it through a verification procedure.

The Officially Assessed Reference Land Price is the basis not only for the estimation of individual officially assessed land prices but also for indication of general land transactions, price estimation in relation to affairs of public agencies such as the government and local governments, and appraisal of individual land lots and land compensation by appraisers. Officially assessed individual land prices are referred to as the basis of various charges such as development surcharges as well as national and local taxes such as capital gains tax, aggregate land tax, etc. Further, the fluctuation rates of national reference land prices are investigated and announced as bases for individual land lot pricing and various governmental affairs such as land-related policies.

1.1.2. Certified Public Appraiser System

Certified public appraisers may be entrusted by others for a public appraisal of land, building, movable property, etc. Here, “public appraisal” means judging the financial value of land, etc. and indicating a specific price. “Land, etc.” subject to public appraisal

20. Ministry of Land, Infrastructure, and Transport, 2013 Annual Report on Real Estate Price Notice, p.26.

include land and fixtures, movable property, copyright, industrial property, fishing right, mining right, and other real rights involving mining foundation in accord with the Factory and Mining Foundations Mortgages Act, factory foundation in accord with the Factory Mortgage Act, and properties registered in accord with related laws such as living tree, vehicle, construction machine, ship, airplane, and marketable securities.²¹ When the amount of compensation for land, etc., is estimated, at least two appraisers must be appointed in principle. When asked by the landowner, one more appraiser recommended by the landowner may be appointed (Article 68 of the Land Compensation Act).

According to the Public Notice of Values and Appraisal of Real Estate Act, those who have passed a national certification examination conducted by the government (Certified Public Appraiser Qualification Test) are qualified to act as a certified public appraiser. Specifically, those who have passed the first and second certified public appraiser tests and completed the one-year practical training, and those who have handled practical public appraisal affairs at a public appraisal corporation, certified public appraiser office, or public appraisal association for at least 5 years and passed the second certified public appraiser test are qualified to act as a certified public appraiser. The number of those who acquired the qualification of a certified public appraiser is 3,652 in total as of the end of July, 2013. Among them, 3,458 individuals are currently working at public appraisal corporations, etc.²²

1.2. Measures for Resettlement and Livelihood in Reflection of Residents' Opinion

In Korea, the measures for resettlement and livelihood have been developed to ease conflicts with original inhabitants who were forced to move out in the process of large-scale housing site development projects in the past.

As for the Gwacheon New Town Development Project (1980~1984), the project operator (Korea National Housing Corporation) suggested the provision of landowners with apartment ownerships as part of the resettlement measure, but the residents requested occupation rights of rented apartments for the tenants in addition to the formation of the resettlement complex before the demolition of their current residence. In the end, the conflict was settled in such a way that a lot in the district was allotted for the landowner at a cost and occupation rights and movement expense were provided for the tenants.²³

21. Ibid., p.288.

22. Ibid., p.292.

23. D.S. Ji, S.J. Kim, et al., 2006, 'A Study on the Improvement of Land Indemnity for Smooth Progress of Public Works', Korea Research Institute for Human Settlements, p.44.

As for the Anyang Pyeongchon District Development Project (1989~1995), the residents requested measures for the original inhabitants, livelihood of tenant farmers and stock breeding farmers, apartment occupation rights, etc. In this case, a housing site or apartment ownership for residence (unlicensed houses included) owners, rented apartment occupation rights for tenants, and priority ownership of a store for business operators and farming households were provided.²⁴

As for the Bundang New Town Development Project (1989~1996), the residents requested measures for the original inhabitants' living, stock breeding farmers' living, factory relocation, and business area parceling-out. The conflict was settled by giving house owners and business operators ownership of stores and tenant farmers and farmland owners priority ownership of market stores.²⁵

As for the Yongin Suji District Development Project (1990~1994), rental apartment occupation rights for tenants, resettlement before demolition, and absence of resettlement out of the district were requested. In the end, the conflict was settled in such a way that occupation rights for rental apartment or support funds for resettlement were additionally provided.²⁶

The Multifunctional Administrative City Construction Project initiated in 2005 took the measures for resettlement and livelihood in full reflection of the residents' opinions presented in such meetings as those of the Compensation Council, inhabitants' presentation, residents' discussion, etc. The project operator embraced the residents' requests and they came to an agreement to utilize such practical channels as the Compensation Council to seek understanding and cooperation.²⁷ As for the Multifunctional Administrative City Construction Project, agricultural land lease and job opportunities were suggested for tenant farmers and poor people. Various types of resettlement housings such as single housing, block-type housing, and condominium were presented. The reclaimed land in Seosan City, Chungcheongnam Province, adjacent to the project area, was suggested as an alternative resettlement district.²⁸

24. Ibid.

25. Ibid., p.45.

26. Ibid.

27. Ibid., p.48.

28. Ibid., p.48.

1.3. Organization to Ease Compensation-related Conflicts

1.3.1. Compensation Council

Streamlined operation of the Compensation Council is necessary to ease civil complaints regarding the amount of compensation after expropriation.

Since the compensation of land lots within public works districts directly affects personal property rights and may cause conflicts among interested parties, the head of the local government is eligible to establish and operate a Compensation Council to ease civil complaints and reflect inhabitants' opinions. This is a sort of autonomous advisory agency that shall be arranged for a public works project that covers an area of 0.1 million m² and involves 50 landowners or more (Article 82 of the Land Compensation Act and Article 44 of the Enforcement Ordinance of the Act).

A Compensation Council will be established in the city, county, or borough (autonomous district) administrative unit in charge of the project area. When two or more administrative units such as city, county, and borough are involved in the public works, the heads of the city, county, or borough administrative units make decisions cooperatively. When a majority acknowledges the need to establish a Compensation Council, the council shall be established and the project operator shall be notified within 30 days from the expiration date of the compensation plan reading period unless there is any special reason to do otherwise. A Compensation Council consists of 8~16 (at least one-third shall be the landowners) judicial officers, lawyers, notaries, local government officials, project operators, or individuals of 5-year or more experience. An assistant mayor, assistant county chief, or assistant director of the borough office may be appointed to represent the Compensation Council as the chairperson, supervising the affairs of the Compensation Council.

A Compensation Council may deliberate on the following matters:

- Advance gathering of public opinions on compensation valuation
- Scope of remaining land and establishment of resettlement measures
- Relocation of public facilities within the project area
- Other aspects where the head of the local government acknowledges the need to handle requests from landowners, etc.
- Other topics suggested by the head of the local government

The chairperson shall operate a Compensation Council for the smooth progress of the project (Article 44-11 of the Enforcement Ordinance of the Act). A meeting of the Compensation Council shall validly open when the majority of the committee members are present. Since a Compensation Council is an autonomous advisory agency, there is no certain regulation on

the number of members for a quorum. Once the project operator is notified of the results of the Compensation Council meeting, he shall review aspects that are viewed as just.

1.3.2. Land Expropriation Committee

The Land Expropriation Committee is a quasi-judicial administrative organization that judges disputes on the amount of compensation or expropriation between the project operator and land owner or related parties in a just and neutral position and finalizes the decision. This is an independent administrative office of agreement in that it independently decides and announces a governmental intent based on its consultation with members.

To finalize decisions on the use and expropriation of land, etc., the Ministry of Land, Infrastructure, and Transport appoints the Central Land Expropriation Committee and the metropolitan cities/provinces/special self-governing province the Local Land Expropriation Committee (Article 49 of the Act). The Central Land Expropriation Committee finalizes the decisions on the scope, use, and expropriation of the object land, the compensation for loss and the expropriation, initiation of use, period, and so forth (Article 50 of the Act).

The Central Land Expropriation Committee supervises projects whose operator is the government, city, or province, and lands subject to expropriation or use that involve two or more cities or provinces, while the Local Land Expropriation Committees supervise aspects other than those handled by the Central Land Expropriation Committee. The Central Land Expropriation Committee consists of 20 members including one chairperson. The Minister of Land, Infrastructure, and Transport serves as the chairperson, but when not available, he may appoint a certain member as his representative. The Central Land Expropriation Committee has its own organization to handle affairs.

2. System and History

2.1. Legislative System of Expropriation and Compensation

The supreme legislation of expropriation and compensation in Korea is the Constitution. Article 23-3 of the Korean Constitution stipulates that “expropriation, use, or the limitation and compensation of property rights for public needs shall be designated by law, but just compensation shall be paid.” In other words, the Constitution specifies that any expropriation of private property rights shall be in compliance with the due process of law, and that just compensation shall be paid. Expropriation rights may be acknowledged only for public works in principle, and individual laws concerning development projects stipulate the basis for expropriation rights. There are a number of laws concerning land development, each of which specifies the expropriation’s timing and right implementation based on project procedures.

To specify the aspects of expropriation and compensation in the Constitution, the Land Compensation Act is referred to. This Act stipulates general aspects of expropriation and compensation such as scope of public works, details, and standards of compensation, compensation procedure, objection, etc. This Act is a general law on expropriation and compensation, which shall be complied with unless another law has more specific regulations on them. Since expropriation is a quite exceptional case where the public justly infringes private property rights, important aspects concerning expropriation and compensation are to be specified by law, and other details delegated to law are handled in related Enforcement Ordinances. In particular, separate instructions are arranged for objectivity of compensation valuation. Other practical aspects on expropriation and compensation include internal regulations on the land acquisition of each project operator, resettlement measures, etc.

Acts on individual development projects including the Land Compensation Act are established or revised by the National Assembly and government. Acts may be established or revised when the majority of the National Assembly members are present and the majority of those present agree on the modification. The government also may make a suggestion for the establishment or revision of a certain Act. The government stipulates aspects delegated to law through the administrative legislation of related Enforcement Ordinances. The Land Compensation Act is under the control of the Land Policy Division and the Ministry of Land, Infrastructure, and Transport. The Association of Property Appraisers is in charge of compensation valuation. Specifically, the Association of Property Appraisers establishes Land Compensation Appraisal Guidelines, evaluation instructions concerning housing redevelopment/reconstruction, evaluation instructions concerning the amount of compensation, and evaluation instructions concerning fishing rights, etc., to provide uniform standards with which individual certified public appraisers could evaluate compensation. However, since certified public appraisers are under the supervision of the real estate evaluation division of the Ministry of Land, Infrastructure, and Transport, specific evaluation instructions are actually under the control of the government. As for aspects other than law, individual project operators may execute compensation according to their internal guidelines.

2.2. History of Expropriation and Compensation Legislation

2.2.1. The Constitution

Since the Enactment of the Constitution in 1948, provisions concerning expropriation and compensation of property rights have been revised four times. The First Constitution stipulates that expropriation and compensation shall be decided by law and acceptable compensation shall be paid. Acceptable compensation means complete compensation for

infringement, which is slightly different from the meaning of just compensation specified in the current Constitution.

In the 5th amendment, acceptable compensation was revised to just compensation. The provision of the First Constitution that compensation shall be decided by law was deleted, and thus claim for compensation became possible based on the Constitution with no need for any other separate law.

Table 3-1 | Changes in Provisions of Expropriation and Compensation in the Constitution

Classification	Constitutional Provision	Description
The First Constitution (1948)	As for expropriation, use, or restriction of private property rights for the sake of public needs, acceptable compensation shall be paid in accord with the law	<ul style="list-style-type: none"> ○ Basis for expropriation and compensation: law reservation ○ Basis for compensation: acceptable compensation
5 th Amendment (1962)	Expropriation, use, or restriction of property rights for the sake of public needs shall be decided by law and just compensation shall be paid	<ul style="list-style-type: none"> ○ Basis for expropriation: law reservation ○ Basis for compensation: the Constitution ○ Basis for compensation: just compensation
7 th Amendment (1972)	Expropriation, use, or restriction of property rights for the sake of public needs as well as the standards and methods of compensation shall be decided by law	<ul style="list-style-type: none"> ○ Basis for expropriation and compensation: law reservation ○ Basis for compensation: delegation by law
8 th Amendment (1980)	Expropriation, use, or restriction of property rights for the sake of public needs shall be decided by law, and just compensation shall be paid. The amount of compensation shall be decided by law in just consideration of the public good and benefits of the interested party	<ul style="list-style-type: none"> ○ Basis for expropriation and compensation: law reservation ○ Basis for compensation: reasonable compensation
The Current Constitution (1987)	Expropriation, use, restriction, or compensation of property rights for the sake of public needs shall be decided by law and just compensation shall be paid	<ul style="list-style-type: none"> ○ Basis for expropriation and compensation: law reservation ○ Basis for compensation: just compensation

Because of the law reservation concerning the standards for compensation in the 7th Amendment, the Constitutional principle of complete compensation concerning property rights regressed. This did not mean, however, that the Constitution gave up just compensation.

The 8th Amendment stipulates reasonable compensation as a basis for compensation, which indicates complete compensation in principle with a possibility of restricting the scope of compensation for the public good.

The current Constitution stipulates that expropriation and compensation of property rights shall be decided by law and that just compensation shall be the basis for compensation. Concerning just compensation in the Constitution, the Constitutional Court judges that “the amount of compensation must indemnify the value of infringed property rights completely in principle and there shall be no restriction regarding the amount, timing, and way of compensation.”²⁹

2.2.2. Act on Expropriation and Compensation

The history of expropriation and compensation legislation in Korea began in 1962 with the establishment of the Land Expropriation Act. From the foundation of the government in 1948 to the time before the establishment of the Land Expropriation Act, the Joseon Land Expropriation Decree, stipulated in 1911 under the Japanese occupation, was applied. In 1975, the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss was established as the basis for bargaining acquisition, the previous step of compulsory expropriation. In 2003, the Land Expropriation Act and the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss were integrated to the Land Compensation Act.

a. The Land Expropriation Act (1962)

The Land Expropriation Act replaced the existing Joseon Land Expropriation Decree (1911, Regulation No. 3), stipulating expropriation and use of land for public works for the balance between public welfare and protection of private property rights. The major contents of this Act are as follows:

- Public works that justify expropriation or use of private land
- Access to lands occupied by others and removal of the obstacles in preparation of public works
- Getting the approval of the Minister of Construction and Transportation when a company asks for expropriation or use of land

29. Constitutional Court Decision, 89-HEUNMA-107, Decided June. 25, 1990.

- Details of the procedure of land expropriation or use
- Operation of the Economic Planning Board of the Central Land Expropriation Committee and Seoul City and other provinces of their own Local Land Expropriation Committee for the judgment of land expropriation and use
- As for the loss of the landowner or related parties due to expropriation or use of land, the project operator shall indemnify
- Procedures of objections to the decision of the Land Expropriation Committee

b. The Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for their Loss (1975)

Until the mid-1970s, lots necessary for public works were acquired through bargaining acquisition in accord with the Land Expropriation Act or the civil law. As for bargaining acquisition, there was no general regulation, and the standards for compensation were different depending on the type of business or public office in charge. As a result, appropriate compensation was not guaranteed and civil complaints were often raised. In addition, the demand procedure for compensation was complicated and even the documentation expense for compensation was sometimes more than the amount of compensation itself. In the case of unregistered land or lots whose owner was unknown specifically, it was difficult to acquire the land or lots in ways other than land expropriation. To solve this problem, the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss was established in 1975, which became the basis for evaluation, method, and procedure of evaluation of land for product works. The chief points are as follows:

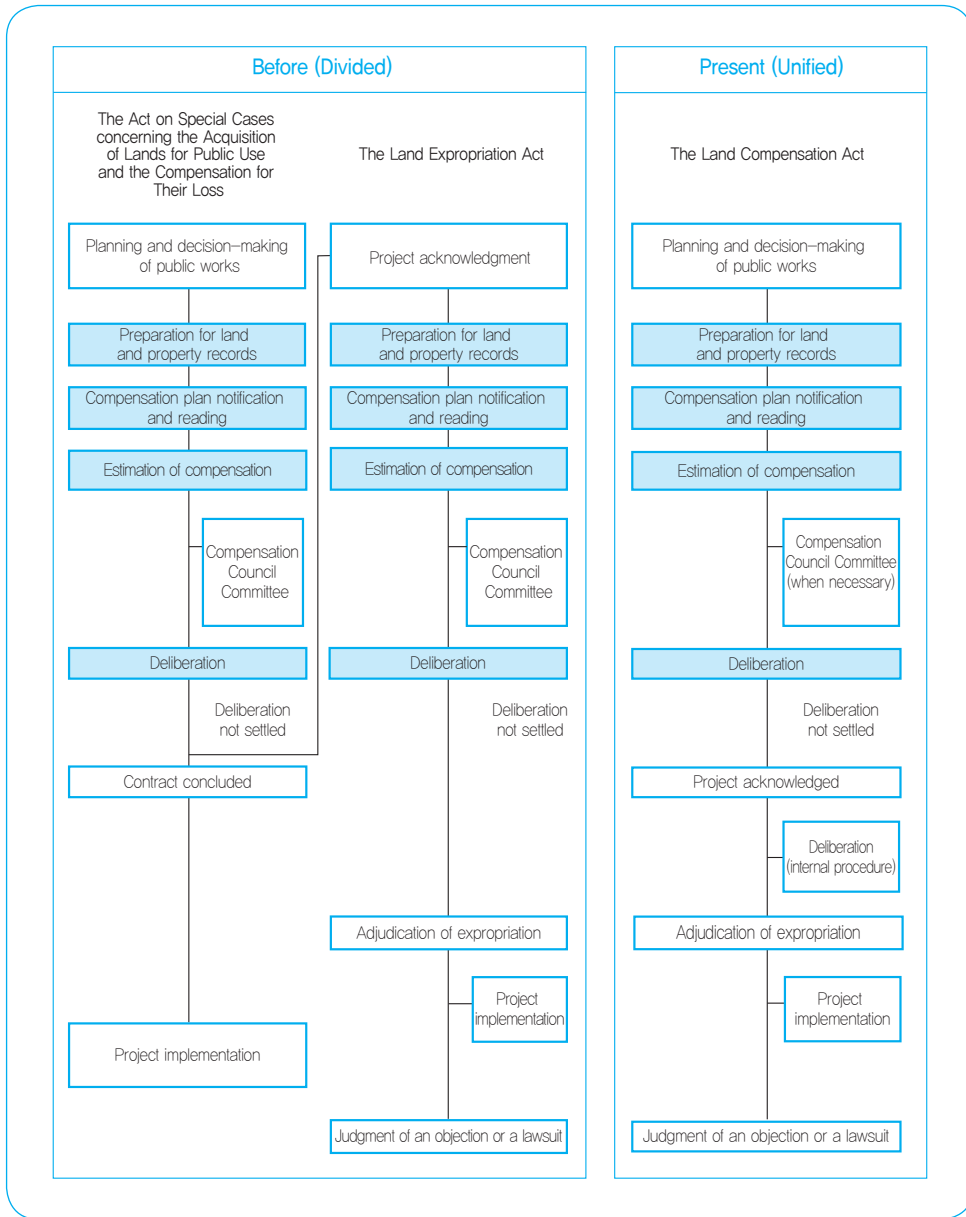
- The scope of this law is limited to certain public works that require expropriation or use of land.
- Resettlement expenses and relocation expenses for farming are added to compensation objects. The ways and standards of property evaluation and compensation estimation are in accord with the related presidential decree.
- Compensation may be paid to just owners of land whose registration of ownership or transfer has not been finished.
- As for lots whose owner is unknown, the consultation procedure is substituted with service by public notice, and the compensation will be deposited.
- For owners of land to be used for public works who need to move out, resettlement measures are to be planned and taken. In this case, the National Housing Fund may be first taken into consideration.

c. The Land Compensation Act (2003)

Established in 1962, the Land Expropriation Act stipulates expropriation and compensation of compulsory acquisition of land while the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss, established in 1975, specifies acquisition and compensation based on consultation with related parties ahead of compulsory acquisition. The Land Expropriation Act, established based on the Joseon Land Expropriation Decree in the Japanese colonial period, and the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss, established as an exemption law of the Civil Law Act, were substantially poor and only slightly reflected the reality of the time. Further, the laws were divided in terms of procedures and standards for compensation and acquisition of land for public works, which caused confusion in the understanding of regulations and duplication and difference among the same aspects. Such an unreasonable basis for compensation resulted in a lot of waste in national budgets, which led to the enhancement of the compensation law system. To solve this problem, the Land Expropriation Act and the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss were integrated to the Land Compensation Act. The major points are as follows:

- Procedures for a project operator to prepare public works
- The following of the specified procedures when a land lot or property is to be acquired or used for public works and the omission of approval for the smooth progress of public works when such implementation is done before the approval of a project
- Specification of the scope of public works for which land can be justly acquired or used
- The number of the Central Land Expropriation Committee members increases (8→20 or less) and meetings consist of 9 including 7 individuals designated by the chairperson at each meeting for the efficient operation of the Local Land Expropriation Committee (Article 52 of the Act)
- For the estimation of the amount of compensation, two or more appraisers shall be entrusted for the evaluation of land, etc., and one more appraiser recommended by the landowner may be added (Article 68 of the Act)
- For the smooth progress of public works, a compensation agency may be entrusted for compensation-related affairs (Article 81 of the Act)
- Upon objection to the decision, the administration litigation may be raised without judgment of the objection
- When there is a dispute between the project operator and landowner concerning the repurchase price, a court shall handle the matter (Article 91 of the Act)

Figure 3-1 | Comparison of the Land Acquisition and Compensation Procedures



Source: Ministry of Land, Infrastructure and Transport, 2013. 1. 8.,
Main Contents Comments for Land Compensation Act, pp.1-2.

2013 Modularization of Korea's Development Experience
The Expropriation and Compensation System in Korea

Chapter 4

Contents and Current Condition of the Expropriation and Compensation System

1. Contents
2. Current Condition of Compensation

Contents and Current Condition of the Expropriation and Compensation System

1. Contents

1.1. Procedure of Expropriation and Compensation

As expropriation is a compulsory measure to acquire property rights for the sake of public works against owners' intent, it is necessary to coordinate the contrasting interests of the project operator and expropriated persons. Hence, certain steps need to be taken on the basis of a legal framework. The laws about the procedures of expropriation include general laws such as the Land Compensation Act and special acts including individual acts.³⁰

The Land Compensation Act limits the scope of public works as follows (Article 4 of the Land Compensation Act).

1. Projects for the national defense and military affairs
2. Projects to be implemented for public interests by obtaining permission, authorization, approval, designation, etc. under the related Acts, with respect to railroads, roads, airports, harbors, parking lots, public garages, cargo terminals, rail tracks, rivers, dikes, dams, canals, water supply and waterworks systems, sewerage systems, terminal sewage treatment, wastewater treatment, erosion control, windbreak, fire prevention, tide embankments, water embankments, reservoirs, irrigation and drainage canals, petroleum reservation, oil supply, waste treatment, electricity, telecommunications, broadcasting, and gas and meteorological observations

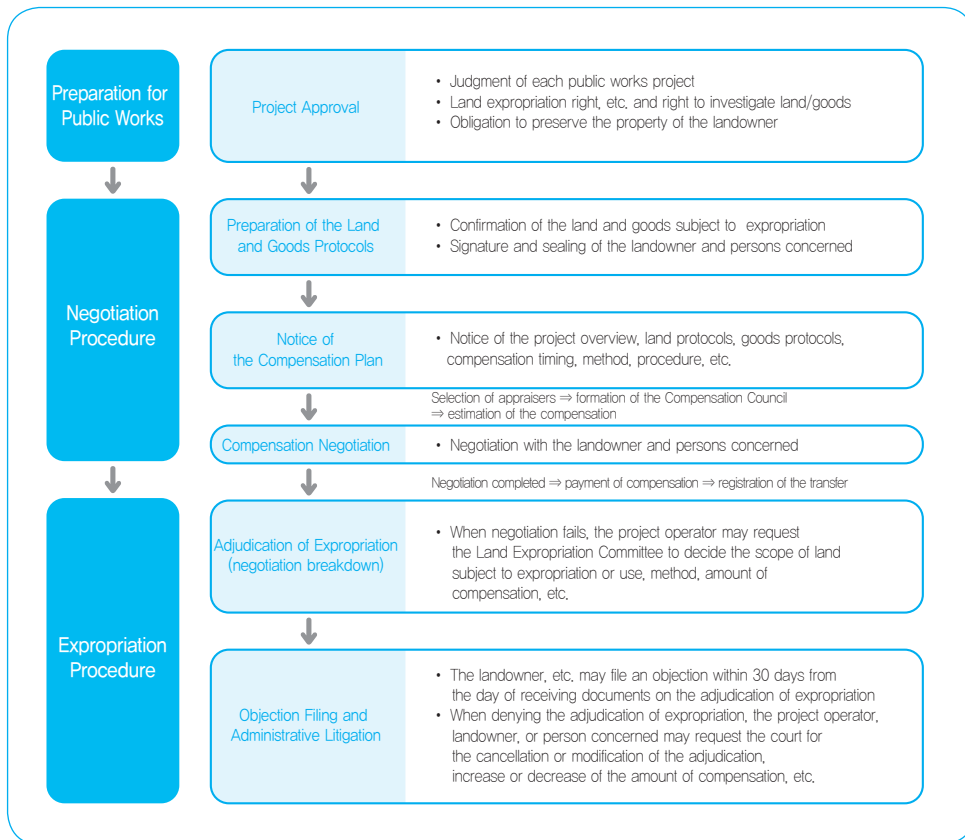
30. H.N Jung and S.J. Kim, et. al., 2008, Policy Tasks to Improve Compensation System for Mitigation of Conflicts in Public Works, Korea Research Institute for Human Settlements, p.62.

3. Projects for office buildings, plants, research institutes, test sites, health facilities, cultural facilities, parks, arboretums, squares, athletic fields, markets, graveyards, crematories, slaughterhouses, or other public facilities to be established by central or local governments
4. Projects for the establishment of schools, libraries, museums, and art galleries to be implemented for public interests by obtaining permission, authorization, approval, designation, etc. under the related Acts
5. Projects for the construction of houses or creation of housing lots for the purposes of lease or transfer, which are to be implemented by central, local governments, or public institutions under Article 4 of the Act on the Management of Public Institutions, local public enterprises under the Local Public Enterprises Act, or persons designated by the State or local governments
6. Projects for pathways, bridges, cables lines, material storages, or other accessory facilities necessary for implementing the projects under Subparagraphs 1 through 5
7. Projects for the development of relocation complexes, such as houses, factories, etc. necessary for implementing the projects under Subparagraphs 1 through 5
8. Projects for which properties, such as land, can be expropriated or used under other Acts.

As for the general procedures of expropriation specified by the Land Compensation Act, expropriation begins with the project approval for the expropriation right of the project operator, followed by the preparation of land protocols and goods protocols, negotiation with the landowner and persons concerned, application for adjudication to the Land Expropriation Committee, and then concludes with the adjudication of the committee or settlement between the project operator and expropriated persons. As an appeal method for adjudication, a filing objection and an administrative litigation may be raised. To sum up, the general procedures of expropriation are as follows: ① preparation for public works, ② project approval, ③ preparation of land protocols and goods protocols, ④ negotiation, ⑤ adjudication, and ⑥ filing objection or administrative litigation.³¹

31. Ibid.

Figure 4-1 | Procedures of Expropriation and Compensation

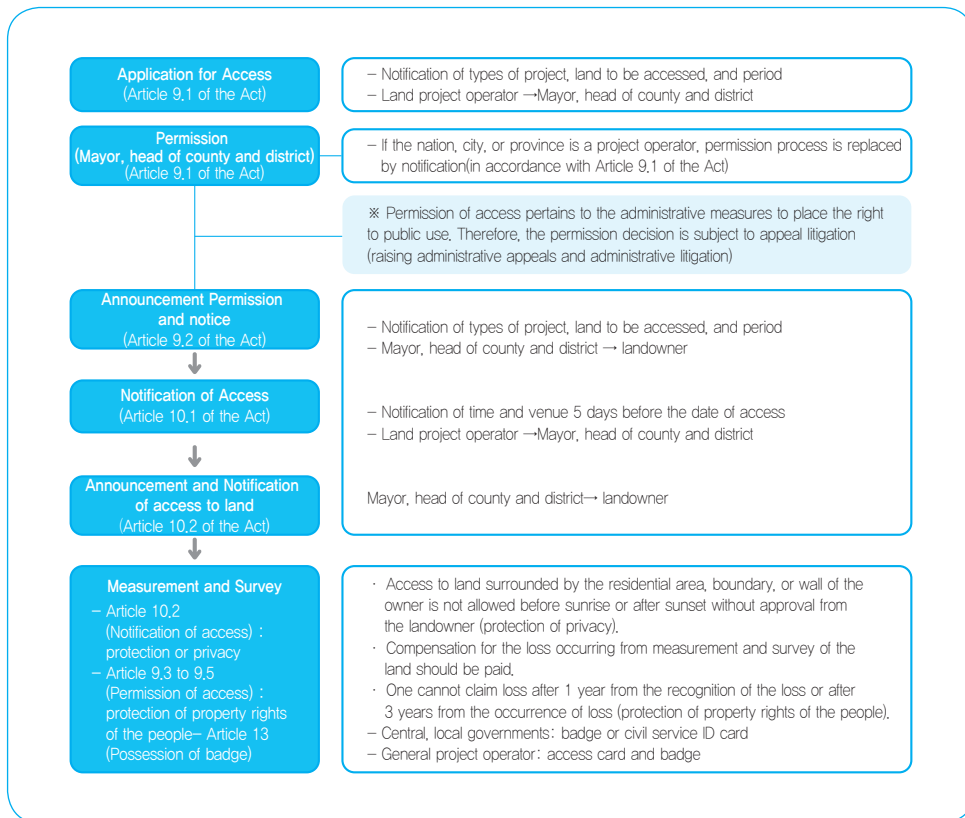


1.1.1. Preparation for Public Works

Preparation for public works refers to a series of activities including the identification of spatial division and property to be expropriated and confirmation of property subject to compensation in detailed design stage (Articles 9-13 of the Land Compensation Act). If access to land owned by others is necessary to conduct measurement and geographical survey to prepare for public works, applicable rules should be followed to prevent unnecessary dispute with residents.³²

32. H.N Jung, et. al., 2013, 『Manual of Implementing Land Acquisition and Resettlements for Urban Development in the Republic of Korea : Policy Implication for Developing Countries,』 KRIHS, p.11.

Figure 4-2 | Access to Land Diagram



Source: Jung, Hee-Nam, et. al. (2013), "Manual of Implementing Land Acquisition and Resettlements for Urban Development in Republic of Korea: Policy Implication for Developing Countries," Korea Research Institute for Human Settlements, P.11.

1.1.2. Project Approval

a. Significance of Project Approval

A project that is eligible for expropriation of land, etc. shall basically meet the requirements specified in each item under Article 4 of the Land Compensation Act, and it shall be for the public good. Even if a project meets these basic requirements, expropriation of land, etc. may not be allowed immediately. When a project operator wants land expropriation, he shall obtain a project approval from the Minister of Land, Infrastructure, and Transport (Article 20 of the Land Compensation Act). In other words, a project that meets the requirements for land expropriation and use needs to obtain approval from a related governmental agency.³³

33. H.N Jung and S.J. Kim, et. al., 2008, op. cit., KRIHS, p.63.

The term “project approval” is an administrative act to permit the expropriation of a property right in acknowledgment that the project is part of public works eligible for expropriation and on the assumption that it will go through the designated procedures. A project approval must determine whether a public works project aims to use or expropriate land, etc. (Article 2-7 of the Land Compensation Act). A project approval under Article 20 of the Land Compensation Act is the first step initiating the procedures of expropriation. Such a project approval is an administrative step to be taken for expropriation on the assumption that the designated follow-up procedures will be followed. Once a project approval is given, the scope of expropriation is determined, and the right of expropriation under public law against the current or future right holders for the object comes to an effect.³⁴ In general, it is rare to receive project approval under the Land Compensation Act as project approval under an individual act is recognized as project approval.³⁵

Table 4-1 | Project Approval Under the Individual Act (Announcement) and Special Rule on the Application Period for Adjudication

Individual Act	Project Approval	Basis for Project Approval	Special Example for the Application Period of Adjudication
Act on the Designation and Management of the Free Economic Zone	Announcement of detailed plan approval	Article 13.2	Within the project period designated in the detailed plan
Act on the Promotion of Housing Site Development	Designation and announcement of planned district	Article 12.2	Within the project period designated in the detailed plan
Special Act on the Construction of Bogeumjari Housing, etc.	Designation and announcement of housing district	Article 27.2	Within the project period designated in district planning
Urban Development Act	Announcement of detailed list of land subject to expropriation or use in accordance with development plan	Article 22.3	Within the project period designated in the development plan
Act on the Improvement of City and Residential Environment	Announcement of permission related to project	Article 40.2	Within the project period designated at the timing of permission to carry out the project

34. Ibid.

35. H.N Jung, et. al., 2013, op. cit., KRIHS, p.125.

Individual Act	Project Approval	Basis for Project Approval	Special Example for the Application Period of Adjudication
Act on the Development of a Site's Industrial Use	Designation and announcement of industrial complex (announcement of development plan in cases where details of the land are included in the development plan after the designation of the industrial complex)	Article 22.2	Within the project period designated in the development plan
Act on the Development and Management of Logistics Facilities	Announcement of permission to carry out construction	Article 10.2	Within the project period designated at the timing of permission to carry out the construction
River Act	Establishment and announcement of stream work implementation plan, its detailed plan, and its installation of the sluice survey facility plan	Article 78.3	Within the project period of stream work or sluice facility installation work
Small River Improvement Act	Announcement of implementation plan for small river improvement	Article 12.2	Within 2 years after the announcement date of implementation plan
Special Act on the Construction of and Support for Innovative City as a Result of Relocation of Public Institutions to Local District	Designation and announcement of planned area for the development of an innovative city	Article 15.2	Within the project period of innovative city development
Act on Project Related to National Defense and Military Facility	Approval for detailed plan	Article 6.3	Within the implementation period designated in the detailed plan
Special Act on the Development of Corporate City	When the details including land are announced under Article 11.4 (approval for development plan)	Article 14.2	Within 2 years after the announcement of the development plan
Act on the Planning and Use of National Land	Announcement of detailed plan	Article 96.2	Within the project period of the city planning facility work designated in the detailed plan
Road Act	Determination or change of road district ※Entity with right to expropriation is management office (Article 48.1)	Article 48.2	Within the project period for road works

Source: Jung, Hee-Nam et al., 2013, Manual of Implementing Land Acquisition and Resettlements for Urban Development in the Republic of Korea: Policy Implication for Developing Countries, KRIHS, pp. 125-126.

b. Procedure

A project operator should submit an application form to the Minister of Land, Infrastructure, and Transport through a mayor or a governor (Article 20 of Land Compensation Act). The Minister of Land, Infrastructure, and Transport should discuss with a mayor, a governor, or a head of a central administrative agency before making a decision. The Minister of Land, Infrastructure, and Transport notifies the project operator, landowners, relevant people, and relevant mayors or governors of the project's approval and posts details of lands including the name of project operators, project types, project districts, and acquired lands in an official gazette (Article 22 of Land Compensation Act).

Project approval becomes effective on the date where detailed information including name of project operators, types of project, and project districts or lands to be acquired or used are posted in an official gazette (Article 22 of the Land Compensation Act). Even though the announcement is made on road zoning or stream improvement implementation plan under individual law, the project approval is not effective without the announcement of the details of the land. If the application for adjudication on expropriation is not made within 1 year after the announcement of project approval, project approval becomes ineffective on the date one day after the expiration date (Article 23 and 24 of the Land Compensation Act). However, application for adjudication on expropriation can be done within a project period under the Road Act and River Act. In this case, project approval becomes ineffective when the cancellation or change of the project is announced in an official gazette after a mayor or governor gets a report or opinion from the project operator. With project approval, a project operator is given the right to acquire or cancel an individual's property right under law. In addition, the project operator has the right to claim for expropriation to the government. However, a person whose land is expropriated can ask for cancellation or change of the decision through administrative litigation for reasons of illegality of project approval decision or abuse of discretionary power.³⁶

c. Effect of Project Approval

If the project approval is announced, a project operator is given the right to expropriate object through legal procedures (Article 26 and 28 of the Land Compensation Act). With the announcement of land details upon project approval, the scope of expropriation is determined and adjudication on expropriation can be applied within the announced scope. Relevant people as those whose land is expropriated are restricted to those who had rights before the announcement of project approval. Those who obtained rights after the announcement of project approval are not included among the relevant people and exclude the successor of the existing rights (Article 2.5 of the Land Compensation Act). These

³⁶. *Ibid.*, p.127.

people cannot claim their rights by participating in the expropriation procedure. Relevant people as those whose land is expropriated are restricted to those who had rights before the announcement of project approval. Those who obtained rights after the announcement of project approval are not included among the relevant people and exclude the successor of the existing rights (Article 2.5 of the Land Compensation Act). These people cannot claim their right by participating in the expropriation procedure. After the announcement of project approval, a project operator can access a land or property to measure or survey for the purpose of project preparation or writing the Land Protocols and Goods Protocols (Article 27 of the Land Compensation Act). In this case, separate approval from a mayor or a governor is not required. Occupants of land have the responsibility to accept the survey and they cannot tackle the measurement and survey work by the project operator without justifiable reason (Article 11 of the Land Compensation Act).³⁷

1.1.3. Preparation of Land Protocols and Goods Protocols

a. Significance of Land and Goods Protocols

Land protocols and goods protocols mean documents that the project operator prepare according to the designated procedures on the land and involve goods subject to expropriation or use for public works. The preparation of land protocols/goods protocols is the second step for expropriation following project approval. This is to confirm the land and goods subject to expropriation or use. The preparation of land protocols/goods protocols is an obligation of the project operator, for which he is entitled to visit and investigate others' land, etc. (Article 9 of the Land Compensation Act). This obligation of preparing land protocols/goods protocols is for the project owner, landowner, and persons concerned to check considerations of the land or goods in advance of the initiation of adjudication. As for the aspects specified in the protocols, the deduction ability is acknowledged (Article 27 of the Land Compensation Act). Land protocols/goods protocols must confirm the factual details of the land or goods subject to expropriation such as quantity and area. Hence, a series of procedures should be prepared for adjudication to prevent disputes between parties concerning the land and goods subject to use or expropriation in the future, and make prompt and smooth the procedures of examination and adjudication of the Land Expropriation Committee.³⁸

37. *Ibid.*, pp.128~129.

38. H.N Jung and S.J. Kim, et. al., 2008, *op. cit.*, KRIHS, p.64.

b. Preparation of Land/Goods Protocols

If the survey on land and properties is completed, the data should be organized and preparation should be made to create the Land Protocols and Goods Protocols including request for the measurement of current state. Based on the survey on the actual state, one should extract the lot number of the land, for which compensation should be made differently from the land category in a public record like the site of unauthorized building constructed before January 24, 1989, road and ditch, and request the Korea Cadastral Survey Corporation to measure the current state of land use from a practical perspective. For a land whose shape and quality have changed, one should confirm whether the change is legal or not by asking information on the permission of change of land shape and quality to the local government except for the land used temporarily. A road should be classified into a private road and de facto private road by checking information on whether public works are underway and compensation was paid or not.³⁹

A project operator should create a site map by marking relevant land in a cadastral map or forest land map after the plan for public works is confirmed. Based on the site map, the Land Protocols and Goods Protocols should be filled out. The protocol of land is filled out based on the review on public record and survey on actual state for each landowner. One should check the location lot number, land category, and area with the land register and forest register and then check the name and address of the landowner and the right of relevant people with a certified copy of the register and then input the information in the form. The following information should be filled out on the protocol of land: ① location, lot number, land category, whole area, included area, current use of the land, ② name, title, and address of landowner, ③ name, title, address, type, and details of the rights of those who have the rights to the land except for ownership, ④ date of creation, and ⑤ other information required for the estimation of compensation. Goods protocols should check the location, lot number, type, structure, and size of the building with a building register and check name, address, and rights of relevant people with the certified copy of the register. The following information should be filled out on goods protocols: ① location and lot number of the land where properties (including mining right, fishing right, or right to use water) are located, ② type, structure, size, and quantity of property, ③ name, title, and address of property owner, ④ name, title, address, type, and details of the right of those who have the right to the property except for ownership, ⑤ date of creation, and ⑥ other types of information required for the estimation of compensation.⁴⁰ The project operator should make the Land Protocols and Goods Protocols after the completion of survey on land and property (Article 7.2 of the Enforcement Decree of Land Compensation Act). After filling

39. H.N Jung, et. al., 2013, op. cit., p. 67.

40. Ibid., p.68.

out the form of the Land Protocols and Goods Protocols, the sign or seal of landowner and relevant people should be obtained. (1) If the landowner and relevant people refuse to give a signature or sign without any reasonable cause or (2) if obtaining a signature or seal is not possible as the landowner and relevant people cannot be identified or there is no information on the address or location where they live, the reason for it should be written in the Land Protocols and Goods Protocols.⁴¹

1.1.4. Notice of Compensation Plans and Compensation Estimation

a. Notice and Reading of Compensation Plans

The announcement of compensation plan aims to inform the preparation of compensation to the landowner. Major items related to the date of compensation announcement follow. The holding of the Compensation Council and confirmation of appraiser recommended by the landowner should be completed in advance to prevent the civil claim related to a short period of notice. If there are many properties omitted in the process of adjudication, the negotiation may be regarded as an insincere negotiation delaying adjudication. Therefore, the reading of the Land Protocols and Goods Protocols by owner should be done sufficiently to prevent an objection by the landowner due to omitted property. The governor of the special province, the mayor, the head of a county or province, or the project operator should install the Compensation Council within 30 days after the expiration of the reading period of the compensation plan, and the installation of the consultation should be notified. The Compensation Council should be established within 44 days after the date of compensation plan announcement (reading period is 14 days and within 30 days after the expiration of the reading period) (Article 44.4 of the Enforcement Decree of Land Compensation Act). If a landowner wants to recommend an appraiser, he should address his intention to recommend an appraiser to a project operator within 30 days after the expiration of a reading period (Article 28 of the Enforcement Decree of Land Compensation Act). Those who obtained fishing rights after the date of compensation plan announcement or the project approval announcement are not subject to compensation for fishery (Article 44.3 of the Enforcement Ordinance of the Land Compensation Act). After filling out the protocol of land and goods, the project overview, information in the Land Protocols and Goods Protocols, and compensation plan including compensation time, method, and procedure should be announced in a daily newspaper distributed nationwide while the same information should be notified to the landowner and relevant people. If the number of the landowners and relevant people is less than 20, the announcement can be skipped (Article 15.1 of the Land Compensation Act). In the announcement of the compensation plan, claim can be raised regarding the loss of land located outside of the public works district (Article 79.3 of Land

41. Ibid.

Compensation Act). The head of a city or province and the landowner can recommend an appraiser while the compensation plan should be notified to the head of city or province where the land to be compensated is located (Article 28.1 of Enforcement Decree of Land Compensation Act).⁴²

In case of the announcement of a compensation plan or individual notification, the place at the convenience of the landowner should be selected to make the general public read the compensation plan for more than 14 days. Provided that the project district is laid over two different cities and a province, county, or project operator is not in administrative authority, the copy of the plan should be sent to the governor of a special province, and the mayor and head of the county should be asked to read the plan. If a landowner or relevant people have objections against the announcement or information on the Land Protocols and Goods Protocols, he can raise objection in writing to the project operator within a reading period. The project operator should write the objection regarding the Land Protocols and Goods Protocols after receiving the objection and taking appropriate measures if the objection is recognized as reasonable. In case where the number of landowners and relevant people is less than 20, the announcement of the compensation plan in a newspaper can be omitted but the individual landowner and relevant people should be notified of the plan. If the mail is returned as the landowner died or his address has changed, one should check the changed address while taking appropriate steps including the issuance of a copy of resident registration.⁴³

b. Appointment of Appraisers

An appraiser should be selected before the opening of the Compensation Council as much as possible since an appraiser should explain the method of calculating the compensation amount or listen to the opinion of residents for the compensation evaluation after participating in compensation consultation.

Under the Land Compensation Act, a project operator should select more than three appraisers to ask the evaluation of a land in case of calculating compensation amount. In this case, the mayor or governor of the place where the land is managed, and the landowner can recommend an appraiser (Article 68.2 of the Land Compensation Act). The project operator selects appraisers including the appraiser recommended. Provided that if of mayor or governor and landowner do not recommend an appraiser, a project operator asks for an evaluation from two appraisers (Article 68 of the Land Compensation Act). Application for the recommendation of appraiser should be made by the landowner with the attachment of the document that shows more than half of the land owners who own more than one second

42. Ibid., pp.79-80.

43. Ibid., pp.80-81.

of the total land area to be compensated according to the compensation plan within 30 days before the expiration of the reading period of the compensation plan. What should be noted is that the requirement must meet both criteria: landowners that own more than half of the land to be compensated and an agreement by more than half of them. If there are a number of land owners, the time to prepare a document required to recommend an appraiser is abundant such that it is possible to give information on the procedure and format to prevent a delay in project schedule. The building owner except for the landowner cannot recommend an appraiser (Article 28 of the Enforcement Decree of the Land Compensation Act). If the compensation plan is announced, a project operator should include the statement that a mayor or governor can recommend an appraiser. In addition, the mayor or governor of the place where the land to be compensated is located should be notified of this plan. The notified mayor or governor can recommend an appraiser to the project operator within 30 days after the expiration of compensation plan reading period. If the land is laid over two different cities or provinces, the concerned parties should negotiate to recommend an appraiser (Article 28 of the Enforcement Decree of Land Compensation Act). In relation to the selection of an appraiser by a project operator, there is no legal constraint existing. However, a project operator should ensure the transparency, objectivity, and validity of the result in the process of selecting an appraiser. To this end, most project operators select an appraiser in electronic form (Article 28 of the Enforcement Decree of the Land Compensation Act).⁴⁴

c. Establishment of a Compensation Council

The Compensation Council is the council to be installed for a discussion among project operator, landowner, and local government regarding the evaluation of the compensation amount. The installation of a Compensation Council can be mandatory or not depending on a case. The head of a relevant local government can install the Compensation Council if necessary. If the need for the installation of the Compensation Council is recognized, the head of the local government should install the Compensation Council within 30 days after the expiration of the reading period of the compensation plan except for a special reason and then the installation of the Compensation Council should be addressed to the project operator. The Compensation Council should be installed in the city, province, and council (autonomous province) which govern the project area. If the area of public works lies over more than two different cities, provinces, and councils, the location of the Compensation Council should be determined through mutual discussion (Article 82 of the Land Compensation Act and Article 44 of the Enforcement Decree). The head of the local government should establish the Compensation Council if the area of public works is more than 100,000m² and the number of owners including land is more than 50 people.

44. *Ibid.*, pp.81-83.

However, if the establishment of the Compensation Council is hard for a special reason or if the discussion to determine the place of the Compensation Council, if the project district lies over more than two cities, provinces, and counties, has not reached an agreement within 30 days after the expiration of the compensation plan reading period, the project operator should establish the Compensation Council (Article 82 of the Land Compensation Act, Article 44.2 of the Enforcement Decree).⁴⁵

Committee members should be more than 8 people and not more than 16 people including the chairman. The members of the Compensation Council should include the ① landowner and relevant people, ② judge, lawyer, notary, or appraiser or those who have been involved in compensation work for more than 5 years, ③ public servant of the relevant local government, and ④ project operator (or its employee). The project operator should be a member of the consultation and more than a third of the members should be landowners or relevant people. The consultation opens with the participation of more than half of the eligible members but there is no quorum requirement to make a decision as it is an advisory group. In cases where the local government establishes compensation consultation, the head of the city, province, or country, or the deputy head of the city, province, and county should be a chairman. In case of mandatory installation and the consultation is established by a project operator, the chairman is elected by mutual vote. The Compensation Council discusses ① opinion acceptance on the evaluation of compensation, ② scope of residual land and establishment of migration plan, ③ relocation of public facilities within the project district, ④ items requested by landowner or relevant people and recognized by the local government in terms of necessity, and ⑤ items raised by the head of the local government. The chairman should inform the project operator the agreed items during the meeting. The project operator should conduct the project by reflecting whether an item is recognized as reasonable.⁴⁶

d. Estimation of Compensation

In cases where the project operator wants to estimate the compensation amount for land, he should request an appraisal of the land from more than two appraisers by attaching the details of the land and properties in the letter of appraisal request (Article 16 of the Enforcement Ordinance of the Land Compensation Act).⁴⁷

- Marking target property
- Timing of the target property price

45. Ibid., p.85.

46. Ibid., p.86.

47. Ibid., p.87.

- Deadline for appraisal report submission
- Classification into acquisition or use of the target property
- Classification into relocation or acquisition for properties including building
- Classification into closing or suspension in case of compensating operating loss
- Opinion acceptance on the compensation evaluation under Article 82.1.1 of the Act
- Other evaluation conditions and references

Timing of price refers to the base date for the estimation of compensation. As the compensation amount is estimated based on the price as of contract signing date, in general, evaluation timing is same as price timing except for retroactive evaluation. Under the compensation act, the price at the timing of negotiation is completed in case of negotiation while price at the timing of adjudication in case of adjudication is used as base price (Article 67 of the Land Compensation Act). For land, land to be compensated (excluding private land and public/state land for which no compensation is paid) and land not to be compensated (public land except for the Korea Forest Service, the National Railroad Administration, and land held by the local government whose land category is road or river) should be separated. Appraisal should be requested for the land to be compensated, and public land among the land excluded from compensation should be delivered to the national asset management department to handle the national land. Special land including road, river, railway, water system, or access road to an industrial complex or a residential area should be checked to confirm whether other projects paid compensation already to determine that the land is subject to appraisal. The deadline for the appraisal report submission is within 30 days except for special cases concerning target object or condition. If a special issue is involved in target object or evaluation, this deadline is not followed (Article 16.2 of the Enforcement Ordinance).⁴⁸

Compensation should be lump sum based on calculating compensation for land, agriculture, hindrance, residential cost, resettlement cost, movement cost, and settlement cost altogether. If there is no issue occurring after reviewing the appraisal report, compensation should be estimated based on the arithmetic mean of the appraisal results. If it is judged that appraisal result is in violation of the applicable law or appraisal is done inappropriately, the project operator should ask for a re-appraisal from the appraisal company. If the highest appraisal value is bigger than the lowest appraisal value by more than 1.1 times, the project operator should ask for up to two appraisals that are different from the previous one (Article 17 of the Enforcement Ordinance).⁴⁹

48. Ibid., p.88.

49. Ibid., p.88.

1.1.5. Negotiation

Negotiation means a mutual consent with the landowner and persons concerned in the acquisition or termination of rights to land, etc. that the project operator will expropriate after the notice of the project approval (Article 26-1 of the Land Compensation Act). In other words, negotiation specifies the scope of land, etc. subject to expropriation or use, expropriation, initiation and duration of expropriation or use, and amount of compensation between the project operator and expropriated persons. When this negotiation is completed, the expropriation procedure comes to an end with the objective achieved. Since the procedure of negotiation is obligatory in the Land Compensation Act, it is unable to apply for adjudication without this step in principle. Hence, an application for adjudication with this step of negotiation omitted is illegal, and adjudication without it is invalid in principle. However, when there is no modification to the land protocols and goods protocols in a project that has obtained a project approval just because the negotiation procedure finished prior to the project approval or the negotiation was not completed, the procedure of negotiation may be omitted. Nonetheless, when the project operator or landowner and persons concerned request this step of negotiation, it must be implemented (Article 26-2 of the Land Compensation Act).⁵⁰

1.1.6. Adjudication

Adjudication is the last procedure of expropriation for the Land Expropriation Committee to determine such aspects as the area and usage of land subject to expropriation or use, amount of compensation, initiation and duration of expropriation or use, and others specified in the Land Compensation Act upon the project operator's request as the negotiation fails or stays insoluble. Upon notice of the project approval and negotiation among the project operator, landowner, and persons concerned, the procedure of expropriation comes to an end and the project operator is entitled to obtain the object of expropriation. When the negotiation fails or stays insoluble because the right holder or his whereabouts are unknown, adjudication makes it possible to acquire the object in a compulsory manner.⁵¹

Land expropriation refers to the forced acquisition of land assuming that compensation is provided or deposited if the acquisition of land is not possible through negotiation. Adjudication on expropriation starts with project approval (announcement of details), writing the Land Protocols and Goods Protocols, announcement of compensation plan, negotiation, adjudication on expropriation, and payment or deposit of compensation. Objection to the result of adjudication on expropriation should follow the procedures of raising an objection,

50. H.N Jung and S.J. Kim, et. al., 2008, op. cit., KRIHS, p.64.

51. Ibid., p.65.

adjudication on objection, payment or deposit of increased compensation amount, and administrative litigation.⁵² Only a project operator can apply for adjudication on expropriation (Article 28.1 of the Land Compensation Act). An expert agency dedicated to compensation should fill out an application form under the name form to the project operator.⁵³ The owner can ask for prompt application for adjudication on expropriation from the project operator after the negotiation period. Submission of the claim to apply for adjudication on expropriation can be made after the negotiation period. However, if it is clear that there is no possibility of reaching an agreement through negotiation even before the end of the negotiation period, the landowner can claim the application for adjudication on expropriation before the negotiation period from the project operator.⁵⁴ If the project operator receives claim for the application for adjudication on land expropriation, the project operator should apply for the adjudication to the relevant Land Expropriation Committee within 60 days after the receipt of the claim (Article 30 of the Land Compensation Act). If the application was made after 60 days after the claim, the legal interest rate (annual rate of 20%) should be added to the compensation in accordance with Article 3 of the Act on Special Cases Concerning Expedition, etc. of Legal Proceedings. The procedure of expropriation is completed after adjudication.⁵⁵ The project operator obtains the right to the original acquisition of land on the condition of payment or deposit of compensation. Those whose land is expropriated should accept compensation and take the responsibility of delivery and transfer of object to be expropriated. If the person does not fulfill his responsibility, the project operator is allowed to apply for administrative execution by proxy.⁵⁶

1.1.7. Filing Objection and Administrative Litigation

The project operator or those whose land is expropriated insubordinately to the adjudication on expropriation can raise an objection to the Central Land Expropriation Committee within 30 days after the date of receiving adjudication statement (Article 83 of the Land Compensation Act). As the objection is raised against the adjudication on expropriation, the items not related to adjudication on expropriation are not subject to the objection to be raised. If the reason for raising an objection is disputed over compensation, the compensation should be evaluated again but the institute that provided appraisal service during negotiation or expropriation adjudication should be excluded whereas appraisal timing becomes the date of adjudication on expropriation.⁵⁷

52. H.N Jung, et. al., 2013, *op. cit.*, p.131.

53. *Ibid.*, p.133.

54. *Ibid.*

55. *Ibid.*

56. *Ibid.*, pp.138-139.

57. *Ibid.*, p.151.

Administrative litigation demands the court to cancel or modify the adjudication or to increase or decrease the amount of compensation when the project operator, landowner, or persons concerned deny the adjudication of the Land Expropriation Committee. Administrative litigation concerning adjudication is divided into litigation for cancellation and administrative litigation for an increase or decrease in the compensation.⁵⁸ In case of appeal litigation that pursues cancellation or change of adjudication for reasons of illegality or objection on adjudication, a person concerned should approach the Central Land Expropriation Committee as a defendant with a competent court serving as administrative court at the level of district court. If the adjudication is cancelled after the administrative litigation, the Central Land Expropriation Committee should perform adjudication or objection on adjudication. If a project operator is defeated in the administrative litigation raised by the project operator, the project operator should pay a legal interest rate (annual rate of 20%) under the Act on Special Cases Concerning Expedition, etc. of Legal Proceedings in Accordance With Article 87 of the Land Compensation Act for the period between the date of receiving the original statement of adjudication or objection on adjudication to the date of judgment. However, the effect of adjudication on expropriation is not suspended even though objection is raised against adjudication on expropriation or administrative litigation is filed. It means the litigation cannot suspend the proceeding or project, expropriation, or use of the land (Article 88 of the Land Compensation Act).⁵⁹

If the suitor is the project operator, the landowner becomes a defendant; if the suitor is the landowner or relevant persons, the project operator becomes a defendant. Such occurs when the person concerned in the litigation only deals with the increase of compensation related to adjudication or objection on adjudication (Article 85.2 of the Land Compensation Act). In case of the litigation of the person concerned, the court determines the compensation directly. Therefore, the person concerned should follow the result of litigation and there is no action to be taken by the Central Land Expropriation Committee.⁶⁰

1.2. Principles of Compensation

1.2.1. Principle of Project Operator's Compensation Obligation

As for loss of the landowner or persons concerned due to acquisition or use of land, etc. for public works, the project operator shall indemnify (Article 61 of the Land Compensation Act). Even if the compensation and resettlement measures are taken by the entrusted

58. H.W. Ryu, 2012, *op. cit.*, p.322.

59. H.N Jung, et. al., 2013, *op. cit.*, p.152.

60. *Ibid.*, p.153.

agencies such as the local government, the ultimate responsibility for compensation is born by the project operator.⁶¹

1.2.2. Principle of Advance Compensation

A project operator shall pay the whole amount of compensation to the landowner and the persons concerned prior to the initiation of public works except in the case of urgent land use upon instances like natural disaster or when the landowner and persons concerned allow (Article 62 of the Land Compensation Act).

1.2.3. Principle of Compensation in Cash

The amount of compensation shall be paid in cash unless there is a special regulation in law that stipulates otherwise. When the project operator indemnifies the landowner with a land lot in consideration of a reasonable land use plan and project plan for public works and the landowner also wants it, part of the land for public works may be provided as compensation except the amount of cash and bonds paid as compensation (Article 63 of the Land Compensation Act).

1.2.4. Principle of Compensation by Individual

The amount of compensation is decided for individual landowners or persons concerned except when it is impossible to estimate the amount of compensation by individual (Article 64 of the Land Compensation Act).

1.2.5. Principle of Lump Sum Compensation

A project operator shall pay compensation at once as the landowner or persons concerned demand it when more than one land, etc. is involved in the same project area over time (Article 65 of the Land Compensation Act).

1.2.6. Principle of Project Implementation Profits and Set-off Prohibition

When a project operator acquires or uses a part of land lots that belong to the same owner, profits generated from the increase of the remaining land price after the implementation of the public works project cannot be set off for the loss due to acquisition or use (Article 66 of the Land Compensation Act).

61. Ministry of Land, Infrastructure and Transport, 2010. 6, 『Manual of Land Compensation for Public Works』, p. 142.

1.2.7. Principle of the Fair Market Value Compensation

The estimation of compensation shall be decided by the price at the moment of concluding the negotiation and at the moment of expropriation or use (Article 67-1 of the Land Compensation Act).

1.2.8. Principle of Exclusion of Development Gains

As for the estimation of compensation, when the public works caused the price of land, etc. to change, it is not taken into consideration (Article 67-2 of the Land Compensation Act). However, development gains from other projects irrelevant to the public works are not excluded. The judgment⁶² on the case is as follows: “The supreme court shall decide the appropriate amount of compensation for land expropriation in reference to the price at the time of adjudication of expropriation regardless of price fluctuation due to the approval and notice of the plan concerning the public works project; however, development gains due to other projects irrelevant to public works are not excluded.”⁶³

1.3. Amount of Compensation

1.3.1. Details of Compensation

a. Land Compensation

As for estimation of land compensation, the price at the time of concluding the negotiation or that at the time of adjudication of expropriation or use shall be the basis (Article 67 of the Land Compensation Act), and the project operator shall indemnify indemnified persons individually. As for land acquired through negotiation or adjudication, the officially assessed land prices in accord with the Public Notice of Values and Appraisal of Real Estate Act shall be the basis. For the land use plan in accord with related laws from the base date of the official assessment to the point of time for pricing, the fluctuation rate of land price of regions not affected by public works, producer price increase rates, and other land features such as location, configuration, environment, and usage shall be taken into consideration for the proper amount of compensation (Article 70-1 of the Land Compensation Act). The amount of land compensation shall be estimated in consideration of objective situations and realistic usages at the point of time for pricing. Instant usages, subjective values of the land owner or persons concerned, and intended special usages are not considered (Article 70-2 of the Land Compensation Act).

62. Supreme Court Decision, 91NU7774 Decided Feb. 11, 1992.

63. Ministry of Land, Infrastructure and Transport, 2010. 6, op. cit. p. 143.

Box 4-1 | Price of Land Compensation

Price of land compensation = the officially assessed land prices of the alternative standard land to appraisal × time modification (fluctuation rate of land price, producer land increase rate, etc.) × comparison of regional factors × comparison of individual factors × compensation of other factors

① *Selection of an Alternative Standard Land to Appraisal*

The alternative standard land to appraisal is the standard for comparison in evaluating the target land in recognition of the corresponding value of the reference land of the officially assessed lands in accord with the Public Notice of Values and Appraisal of Real Estate Act (Article 3-1 of the Land Compensation Appraisal Guidelines). The alternative standard land to the appraisal for land evaluation basically ① shall be located in the same city/county/borough or an adjacent one, ② be similar in terms of actual land category and usage, ③ be similar in terms of restrictions under public law such as land use, zoning, and district, ④ be similar in terms of surrounding environments, and ⑤ be as geographically adjacent as possible. Unless there is a special reason, the land subject to evaluation and the land use designated by the National Land Planning and Utilization Act refer to the same reference land (Article 9-1 of the Land Compensation Appraisal Guidelines). The alternative standard land to the appraisal is to select one of the reference lands that is most suitable for the appraisal standards. When the land is used for two or more purposes or when it is necessary to estimate price, two or more reference lands of the officially assessed land prices may be selected (Article 9-2 of the Land Compensation Appraisal Guidelines). When there is no reference land for the officially assessed land prices that meet the standards in adjacent regions or when it is inappropriate to select one of the officially assessed land prices in an adjacent region because of alteration of the use of land or alteration of the form and quality of land after the base date of the official assessment, a reference land price of the officially assessed land prices similar to the corresponding real estate price within the correlated areas shall be selected (Article 9-3 of the Land Compensation Appraisal Guidelines).

② *Officially Assessed Land Prices of Each Year*

As for the acquisition of land through negotiation prior to the project approval, the officially assessed land prices are the ones noticed at the time close to the point of time for pricing among the officially assessed land prices noticed at the point of time for pricing the target land (Article 70-3 of the Land Compensation Act). As for the acquisition of land after the project approval, the officially assessed land prices are the ones whose base date

of the official assessment is earlier than the date of the public announcement of the project approval. Among the officially assessed land prices noticed at the time of conclusion or adjudication of negotiation concerning the target land, one that has been noticed at the time close to the date of the public announcement of the project approval shall be selected (Article 70-4 of the Land Compensation Act). When it is acknowledged that the price of land to be acquired has been changed because of the announcement of the public works plan or implementation, the officially assessed land price is one whose official assessment base date is earlier than the announcement or notice date (Article 70-5 of the Land Compensation Act).

③ *Time Modification*

In the case where the reference land is evaluated on the basis of the officially assessed land price, time modification should normalize the officially assessed land price of the alternative standard land to that at the point of time when the price has fluctuated due to the time discrepancy between the officially assessed land price on the base date of the official assessment and that at the point of time for pricing.⁶⁴ However, the producer price increase rate may be reflected when ① a newly formed or reclaimed land is evaluated, ② when the divided ownerships of the building and right to use the site are evaluated as one, and ③ when there is another special reason (Article 14-1 of the Land Compensation Appraisal Guidelines).

④ *Comparison of Regional and Individual Factors*

When an alternative standard land to appraisal is selected within one of the correlated areas where the real estate price is similar because there is no proper alternative standard land to the appraisal in the adjacent region, the regional and individual factors must be compared with those of the target land. When an alternative standard land to the appraisal is selected in the adjacent region, only individual factors are compared since the regional factors are the same (Article 15-1 of the Land Compensation Appraisal Guidelines). As for the comparison of regional and individual factors, the land is classified as follows according to usage characteristics on the basis of the use land/zoning, district under public law and actual usages, and such aspects as street circumstances, accessibility circumstance, environmental circumstance, administrative circumstance, and other circumstances to be compared (Article 15-2 of the Land Compensation Appraisal Guidelines).

⑤ *Compensation of Other Factors*

As for land evaluation, when other influential factors on the land price are to be considered in addition to the fluctuation rate of land price, producer price increase rate, regional factors,

64. Korea Land & Housing Corporation, 2010, 『Compensation Work Handbook』, p. 472.

and individual factors, these factors are to be compensated (Article 16-1 of the Land Compensation Appraisal Guidelines). When there are precedents of compensation for the last two years on lands in situations similar to those of the target land within the adjacent region or the correlated areas in real estate price, the evaluation standards of the precedents may be referred to (Article 17-1 of the Land Compensation Appraisal Guidelines).

b. Evaluation on Land, etc. Restricted by Public Law

① *Land Restricted by Public Law*

As for land restricted by public law, it shall be evaluated as it is under the restriction. However, when the restriction under public law aims directly at the implementation of public works, the land shall be evaluated without the restriction considered. As for land whose land use or zoning has been modified directly for the implementation of public works, the use district or zoning before the modification shall be referred to in the evaluation (Article 23 of the enforcement ordinance of the Land Compensation Act).

② *Evaluation of Lots Including Unauthorized Buildings or those Classified as Illegal Alteration of the form and Quality of Land.*

As for lands whose form and quality have been altered without a proper permit or report even though an approval or report is obligatory according to the related law or lands whose use has been altered in violation of the related law, the use and situations at the time of construction of the unauthorized buildings or alteration of the use of land shall be considered in evaluation (Article 24 of the enforcement ordinance of the Land Compensation Act).

③ *Evaluation of Uncompensated Lots*

As for uncompensated lot whose compensation has not been paid even though it was used for a previous public works project, the use at the time of a previous public works project shall be considered during evaluation. However, when the use at the time of the previous public works project is unknown, the land category and use of adjacent lots at the time of the public works project's implementation shall be considered instead (Article 25 of the Enforcement Ordinance of the Land Compensation Act).

c. Remaining Land Compensation

When the price of the remaining land decreases or involves some loss due to acquisition or use of a group of lots that belong to the same landowner or when new structures such as passages, ditches, and fences are to be newly built up in the remaining land, the project operator shall provide corresponding compensation for the loss or construction expenses. As a part of lots that belong to the same landowner is acquired and the price of the remaining land decreases as a result, the loss of the remaining land is the price before its use for public works subtracted by the price after. As for loss of the remaining land due

to the construction of new structures such as passages, ditches, and fences, the expenses of installations and constructions are referred to in evaluation. When part of the land is purchased or expropriated through negotiation and it is significantly difficult to use the remaining land for its originally intended purpose, the landowner may demand the project operator to purchase the entire land, and after the project approval, he may demand the Land Expropriation Committee for expropriation.⁶⁵

d. Compensation of Ground Structures Such as Buildings

① Building Compensation

For building compensation, the cost method shall be adopted in evaluation. As for residential buildings, however, the sales comparison approach shall be adopted when the price based on the sales comparison approach is higher than that based on the cost method and when the building price is classified as divided ownership according to the act on the possession and management of aggregate buildings.

□ Unauthorized Buildings

Unauthorized buildings built up after the public announcement of the project approval for the public works project that restricts the development are not considered in compensation (Article 25-3 of the Land Compensation Act). As for unauthorized buildings built up after January 24, 1989, additional indemnities including special cases involving residential buildings (minimum of 5 million won [USD 4,545] of compensation), moving expenses compensation, and resettlement funds are restricted in accord with the revised Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss Enforcement Ordinance (Date of enforcement: January 25, 1989).⁶⁶

□ Remaining Parts of Buildings

When a part of a group of buildings that belong to the same owner is acquired or used and the price of the remaining parts decreases, the loss to the remaining buildings is the price of the remaining buildings before the public works subtracted with the price after the public works project's implementation. When a part of a group of buildings that belongs to the same owner is acquired or used and thus the remaining buildings come to need repair or maintenance, the estimated expense is the amount necessary for the remaining buildings to be used for the original purpose (Article 35 of the Enforcement Ordinance of the Land Compensation Act).

65. H.N Jung and S.J. Kim, et. al., op. cit., p.56.

66. Korea Land & Housing Corporation, 2010, op. cit., p.323.

□ Special Case of Compensation for Residential Buildings

When the evaluated amount of a residential building is less than 5 million won (USD 4,545), the amount of compensation shall be 5 million won (USD 4,545). However, this is not applied to unauthorized buildings after January 25, 1989. When the residential building had originally been sold or newly built up in another district after compensation for the public works and was transferred to another public works district within 20 years from the day of compensation, 30% of the evaluated amount of the building and land shall be added in compensation (Article 58 of the Enforcement Ordinance of the Land Compensation Act).

② *Structure Compensation*

As for the evaluation of structures, etc., evaluations on the building and rights other than the property rights of the building itself and the remaining buildings shall be included. However, ① when the structure is of no financial value because the original use of the structure, etc. has been abolished or its function has been lost, ② when the price of land, etc. has increased in full reflection of the value of other lands, etc. in relation to that of the structure, etc., and ③ when the project operator further builds up alternative facilities for the structure that will be used in the public works project, these shall not be evaluated along with additional values (Article 36 of the Enforcement Ordinance of the Land Compensation Act).

③ *Compensation for Fruit Trees, etc.*

As for fruit trees and other profit-making trees or ornamental trees, various factors, such as the species of trees, size, age, quantity, planting area, management state, transplanting possibility, difficulty in transplanting, and others that may affect the pricing, shall be taken into consideration (Article 37-1 of the Enforcement Ordinance of the Land Compensation Act). As for seedlings, such factors as possibility of commercialization, possible loss in transplanting, growth rate, and management state shall be comprehensively taken into consideration (Article 38-1 of the Enforcement Ordinance of the Land Compensation Act). As for standing timbers, such factors as age for final cutting, species of trees, tree numbers, area, profitability, and other factors that may affect the pricing shall be comprehensively taken into consideration (Article 39-1 of the Enforcement Ordinance of the Land Compensation Act). As for the quantity of trees, the trees are investigated for each plant subject to evaluation. When there is a special reason that trees cannot be investigated for each plant, a sampling method for a unit area shall be adopted (Article 40-1 of the Enforcement Ordinance of the Land Compensation Act).

④ *Grave Compensation*

As for graves, a sum of grave relocation expense, relocation cost of stone figures placed in front of a grave, sundry expenses, and relocation assistance (1 million won; USD 909) shall be provided for those under management of a related person, while 50% of the sum of grave relocation expense, relocation cost of stone figures placed in front of a grave, and sundry expenses shall be provided for those not under the management of a related person (Article 42 of the Enforcement Ordinance of the Land Compensation Act).

e. Sales Compensation

Sales compensation is applied when the sales shop is closed or suspends business because of public works. This is reasonable compensation for expected loss of business, specifically for income or profit and additional loss related to the business activity rather than for the property value of the business itself. The object of compensation includes one that continues the business or runs the business with official permits with human resources and facilities in a legitimate place⁶⁷ before the date of the project notice. As for tenants who run a business in an unauthorized building, compensation is valid only if the tenant has been registered 1 year before the date of the public announcement of the project approval (Article 45 of the Enforcement Ordinance of the Land Compensation Act).

① *Compensation for Business Abolishment*

As for compensation for business abolishment, such cases as when it is unfeasible or significantly difficult to relocate the business place to another area in the same or an adjacent city/county/borough district, to change the business type, or to obtain an approval again have to be considered. Facilities that would disgust residents due to foul smell, etc. such as a slaughterhouse, poultry slaughterhouse, pigsty, etc. are included. For compensation in this case, the confirmation of the head of the city/county/borough district office or the adjacent one is essential. Compensation for business abolishment is estimated upon the sum of sales profits for two years, fixed assets, loss of selling raw materials, products, etc. (Article 46 of the Enforcement Ordinance of the Land Compensation Act).

② *Compensation for Business Suspension*

Compensation for business suspension is paid for a case where a business suspends its operations because of the relocation of the business place for a public works project. Basically, the period of business suspension is at most three months, but it is possible to extend it to two years for exceptional cases. The amount of compensation is determined in consideration of the sales profits, fixed cost (depreciation, maintenance cost, labor cost,

67. Places where the act of piling goods up is not prohibited by law such as unauthorized buildings, lands whose form and quality have been illegally altered, etc.

etc.), relocation expense, depreciation of relocation, additional expense for relocation, etc. during the suspension period (Article 47 of the Enforcement Ordinance of the Land Compensation Act).

③ *Compensation for Layoff or Unemployment*

Besides business owners, compensation is provided for workers who have worked for at least three months and temporarily rested from the office or lost employment due to public works. Either 70% of the average income or common wage for the period of suspension (maximum of 90 days) or the amount corresponding to the average income for 90 days in the case of unemployment is given (Article 51 of the Enforcement Ordinance of the Land Compensation Act).

④ *Compensation for Unauthorized Business*

For those who have run a business without the necessary permission before the date of the public announcement of the project approval and are now no longer able to run it due to public works, compensation as much as the three month expenditure of a household with three family members is given. However, the compensation for relocation of business facilities, etc. shall be separately provided. In the case that the person or his lineal ascendant, descendant, or spouse in the same household is indemnified for another business due to the same public works project, only the compensation for the relocation of business facilities, etc. shall be provided (Article 52 of the Enforcement Ordinance of the Land Compensation Act).

f. Compensation for Agriculture, Stock Raising, and Fishery

① *Compensation for Farm Products*

As for loss of farm products in a land where the harvesting has yet to begin, such factors as type and maturity of farm products shall be comprehensively taken into consideration. As for farm products scattered, sprouting, or in seedbeds, the estimated expenses up to the point of time for pricing shall be considered in estimation. For other farm products, the amount of compensation is the present value of the average total income for the last three years (years of extraordinarily rich or poor harvesting excluded) extracted by the present value of expected future expense. In this case, the value of unripe peppers, sesame leaves, and pumpkins that can be commercialized at the point of compensation is deducted from the total amount of compensation (Article 41 of the Enforcement Ordinance of the Land Compensation Act).

② *Compensation for Farming Tools*

When continuing farming is not possible in the district because two-thirds of the farmland is included in the public works project, losses in sales of the agricultural equipment shall

be estimated for compensation. When it is difficult to estimate the losses in sales in reality, however, losses in sales may be calculated as 60% of the price estimated by means of the cost method (Article 48-6 of the Enforcement Ordinance of the Land Compensation Act).

③ *Compensation for Agricultural Loss*

As for farmland included in public works, incomes from farm products as part of the total income of the agricultural industry for each province reported in farming household economic statistics by a statistics agency are divided by the cultivated acreage specified in the current condition of sample farmhouses in each province. This total yearly average income from farm products per unit farming area in each province is doubled for the amount of compensation for agricultural loss (Article 48-1 of the Enforcement Ordinance of the Land Compensation Act). However, as for included farmland cultivated by those who prove their actual incomes, the actual income for two years is considered for the compensation for agricultural loss (Article 48-2 of the Enforcement Ordinance of the Land Compensation Act).

However, ① land used as farmland after the date of the public announcement of the project approval, ② land temporarily used as farmland in view of the land use plan and surrounding environment, ③ land illegally occupied and cultivated by someone who is not the owner, ④ land cultivated by someone who is not a farmer, and ⑤ and land, etc. that the project operator allows for cultivation for two or more consecutive years after compensation for the land acquisition are excluded in compensation (Article 48-3 of the Enforcement Ordinance of the Land Compensation Act).

④ *Compensation for Stock Raising*

Such businesses as hatchery business, egg gathering business, stock breeding farming, and livestock breeding business registered according to the Livestock Industry Act are subject to compensation for stock raising. When the number of farm animals reaches a certain level as well,⁶⁸ the business will be counted for compensation for stock raising (Article 49-2 of the Enforcement Ordinance of the Land Compensation Act). Compensation for stock raising is evaluated in correspondence to compensation for business (Article 49-1 of the Enforcement Ordinance of the Land Compensation Act).

⑤ *Compensation for Fishing Rights and Mining Rights*

Compensation for rights includes fishing rights, mining rights, water use rights, etc. Fishing rights means a right to be engaged in fishery in a designated water area. In other words, this means a right to be engaged in fishery exclusively in a designated water

68. Hens(200), rabbits (150), ducks(150), pigs(20), cows(5), deer(15), goats(20), sheep(20), bees(20 groups), etc.

surface area with the license from the administrative office in charge. As for the amount of compensation for fishing rights, the cases are divided into when fishing is cancelled, when fishing is suspended, and when fishing is restricted. Such factors as the remaining value of facilities, investment, expected profit, and fixed cost during the suspension are considered in estimation.⁶⁹ As for mining rights, the mine value is estimated in consideration of future profitability according to the standards for mine evaluation specified by an agency entrusted by the Minister of Trade, Industry, and Energy, while the remaining value of facilities that can be relocated or reused is subtracted and the relocation cost is added. As for mines for which the investigator has initiated the investigation or been acknowledged for the exploration result and those that have had no production of minerals after the approval for mining, the investment into the mine development and the estimation of the current facilities are subtracted with the remaining value of facilities that can be relocated or reused and then combined with the relocation expense (Article 19-1 of the Enforcement Ordinance of the Mining Industry Act).

1.3.2. Compensation Methods

The amount of compensation shall be paid in money in principle, but the current Land Compensation Act stipulates compensation in bonds and compensation with the land developed by the public works for exceptional cases.

a. Compensation in Cash

The amount of compensation shall be paid in cash unless there is another special regulation in law (Article 63-1 of the Land Compensation Act).

b. Compensation in Bonds

When the project operator is the government, a local government, a public agency, or a public organization, ① in the case that the landowner or person concerned wants it, and ② in the case that the amount of compensation for the land of a nonresident owner exceeds 0.1 billion won (USD 90,909) and compensation shall be paid for the exceeding amount, bonds issued by the project operator may be used for payment (Article 63-7 of the Land Compensation Act). As for a public agency or organization that implements public works such as housing site development and industrial complex development in a district where land transaction is permitted and in an adjacent city/county/borough with the risk of land speculation, the amount exceeding 0.1 billion won (USD 90,909) as part of compensation for land of a non-resident owner shall be paid in bonds that the project operator issues (Article 63-8 of the Land Compensation Act). When compensation is paid in bonds, the term of redemption shall not exceed 5 years. As for the interest rate, interest rates of fixed deposit

69. Ministry of Land, Infrastructure and Transport, 2010. 6, *op. cit.*, p.234.

from treasury agency bonds may be referred to (Article 63-9 of the Land Compensation Act).

c. Compensation for Land Developed by Public Works

Compensation for land developed by public works has been introduced to control the increase of real estate prices in adjacent districts by allowing the landowner to share development benefits and decrease demands for land purchase.

Compensation with the land developed by public works is for public works implemented by way of total acquisition method, applied to projects that involve lands to be sold such as a business area. This is also applicable to owners of land included in additional projects for project approval such as road construction. When the landowner wants it, those who transfer land lots that are larger than the area of partition limit of a site according to Article 57-1 of the Building Act are considered.⁷⁰ When there is competition, the priority shall be given to one who voluntarily receives the compensation in bonds except nonresident owners of real estate according to Article 63-6-2 of the Land Compensation Act. The land type to be indemnified to landowners may include detached house, townhouse, business area, etc. However, a housing land cannot exceed 990m² and a business area 1,100m². The price is based on the general parcel price unless there is another special regulation in law.⁷¹

1.3.3. Compensation Resources

Resources of public works may differ depending on the type of projects. Construction expenses for public facilities such as national defense, road, harbor, airport, etc. shall be born as part of common budgets of the government or a local government. As for housing site development or rental housing construction, compensation resources shall be provided by public project operators, and the compensation shall be withdrawn by selling the project area once the project is completed. Korea has a national public development project agency entitled the Korea Land and Housing Corporation, and most of the local governments as well have development corporations for public works. When an urban development project is promoted in private sectors, the private project operator pays the compensation.

70. Area of partition limit of a site: residential area: 60m²; commercial area and industrial area: 150m²; green area: 200m²; others: 60m².

71. H.N Jung and S.J. Kim, et. al., 2008, op. cit., p.62 (revised).

1.4. Resettlement and Measures for Livelihood

1.4.1. Establishment of Resettlement Measures

a. Concept

Resettlement measures are an active governmental policy for livelihood compensation for the project operator to restore a former level of living and secure basic human life for those who transfer to another residence building and thus lose their basis for livelihood due to a public works project (Article 78-1 of the Land Compensation Act).⁷²

b. History

Resettlement measures appeared for the first time in 1973 when the Industrial Site Development Promotion Act was established. In time, provisions on the formation of settlements also emerged. Although it was in 1973 when “Settlements” were stated in law, there had already been many settlements formed by the government. The formation of settlements in the 1950’s was done mainly to help victims of fire in concentrated housing areas in the middle of the city (Yangdong, Namchangdong, Namsandong, etc.) and flood victims around the Han River and Chyeonggyecheon. As for settlements for those who became dispossessed of their homes in cities, the formation of the Miari settlement in 1958 began, followed by other steps up to the early 1970’s. Most of these settlements were national or public lands on the outskirts of Seoul, in areas of poor conditions of traffic, etc. Further, most of them were located in barren highlands where there was no utility such as water and sewage and electricity. There was nothing but about a 30m² lot provided in the settlement formation projects. Without basic facilities for livelihood, the settlements caused many problems. One of the major causes of the riot in the Gwangju Settlement Complex in 1971 was the lack of basic livelihood facilities in the settlement.⁷³

As an institutional measure to this problem, Article 5 of the Enforcement Decree of the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss established in 1976 stipulated that a settlement shall include basic livelihood facilities such as road/water supply and that the project operator shall bear the expenses. Thereafter, as housing construction projects especially in new towns were actively implemented, Article 5 of the Enforcement Decree of the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss was revised on January 24, 1989. Accordingly, resettlement measures were established

72. Supreme Court Decision 92DA 35783 Decided May 24, 1994; Supreme Court Decision, 2001DA67126, Mar. 15, 2002, Constitutional Court Decision, 2004HEANMA 19, Decided Feb. 23, 2006, etc.

73. Korea Land & Housing Corporation, 2010, *op. cit.*, p.491.

when housing sites or residence buildings were supplied to those entitled for resettlement measures in accord with related laws such as the Housing Site Development Promotion Act and Housing Act.⁷⁴

c. Standards for Establishment

Resettlement measures are established and taken when at least ten of those entitled to the resettlement measure desire to move into the settlement unless there is a special reason (upper part of Article 40-2 of the Enforcement Decree of the Land Compensation Act). Special reasons include ① when there is no appropriate land for housing complex formation near the district of the public works project and ② when the expense for the resettlement measure exceeds the expense for the original objective of the public works project, which make it substantially difficult to implement the public works project (Article 53-1 of the Enforcement Ordinance of the Land Compensation Act). However, when the project operator supplies those entitled to the resettlement measure with a housing site or a residential building in accord with the Housing Site Development Promotion Act or Housing Act (including the case where the project operator arranges the supply), it would be viewed as an establishment and implementation of the resettlement measure (latter part of Article 40-2 of the Enforcement Decree of the Land Compensation Act).

d. Those Entitled to Resettlement Measures

Those entitled to resettlement measures are persons who provide their residential buildings for public works and thus lose their basis for livelihood (Article 78-1 of the Land Compensation Act). Owners of buildings who did not report or obtain the approval for construction even though they had to shall be excluded from the list (Article 40- 3-1 of the Enforcement Decree of the Land Compensation Act).⁷⁵ Building owners who have not resided continuously from the notice of the related law concerning the public works project to the conclusion of contract or adjudication of expropriation shall be excluded from those entitled to the resettlement measure. However, those who had to leave the place temporarily for unavoidable reasons such as disease, conscription, public affairs, schooling, etc. shall be viewed as exceptional (Article 40-3-2 of the Enforcement Decree of the Land Compensation Act). Tenants who reside in a building owned by others shall be excluded from those entitled to the resettlement measure (Article 40-3-3 of the Enforcement Decree of the Land Compensation Act).

74. Ibid., p.492.

75. Unauthorized housing buildings constructed before January 24, 1989 are subject to the resettlement measure [Art. 6 of the Additional Rule of the Enforcement Decree of the Land Compensation Act].

e. Types of Resettlement Measures

① Formation of a Settlement

The Land Compensation Act stipulates the principle of forming a settlement, but the specific methods are not stated. However, a settlement shall include basic facilities for livelihood such as road, water supply, sewage, and other public utilities. The project operator shall bear the expenses involved. When the project operator establishes and takes the resettlement measure instead of an administrative office, the local government may bear some of the expenses (Article 78-4 of the Land Compensation Act).

② Supply of Housing Sites or Houses

When a project operator provides those entitled to the resettlement measure with a housing site or a house in accord with the Housing Site Development Promotion Act or Housing Act, it shall be viewed as establishing and taking the resettlement measure (Article 40-2 of the Enforcement Decree of the Land Compensation Act).

③ Special Supply of National Housing to the Head of a Household Who Does Not Own a House

When a project operator arranges a housing site or a house for those entitled to the resettlement measure in accord with the Housing Site Development Promotion Act or Housing Act, it shall be viewed as establishing and taking the resettlement measure (Article 40-2 of the Enforcement Decree of the Land Compensation Act).

The Rules on Housing Supply stipulates that when such houses as national housing are constructed and supplied, the special supply of the National Housing and prioritized supply of the National Rental Housing Complex shall be applied to owners of buildings demolished in public works other than the housing construction project (Article 19-32 of the Rules on Housing Supply).

□ Special Supply of National Housing

When a project operator constructs and supplies houses for national housing, at most 10 percent of the constructed units may be specially supplied to heads of households who do not own a house, including men of national merit and North Korean refugees at the time of the resident enlistment notice according to the priority set by the head of the related organization. However, the units may exceed 10 percent when there is an approval from the mayor of the city or province (Article 19-1 of the Rules on Housing Supply). Those entitled to the special supply concerning public works shall be limited to persons that own legitimate housing and acknowledged by a metropolitan city mayor or a country chief (Article 19-1-3 of the Rules on Housing Supply).

□ Prioritized Supply of the National Rental Housing Complex

When a project operator constructs and supplies a National Rental Housing Complex, at most 10 percent of its constructed units may be supplied to prioritized persons such as owners or tenants of buildings to be demolished in the public works project, or the units may be supplied to other urban planning projects among heads of a household who do not own a house at the time of the resident enlistment notice regardless of the list of selected residents. However, the units may exceed 10 percent when there is an approval from the mayor of the city or province (Article 32-4 of the Rules on Housing Supply). For those who became dispossessed of their homes due to a public works project, the conditions of monthly average income per city worker are not applied.

④ *Temporary Use of National Rental Housing Complex*

For owners or tenants of buildings to be demolished for such projects as housing site development, housing environment improvement, housing redevelopment, urban environment maintenance, urban development industrial complex development, and innovative urban development, a project operator of the National Rental Housing Complex may allot 30 percent of the National Rental Housing Complex units in the construction area or adjacent areas during the period of the public works project's implementation (Article 33 of the Rules on Housing Supply).

⑤ *Supply of Resettlement Funds*

When a project operator does not establish/take a resettlement measure or those entitled to the resettlement measure want to move to areas other than the designated settlement, resettlement funds shall be provided to those entitled to the resettlement measure instead (Article 41 of the Enforcement Decree of the Land Compensation Act). A project operator may provide resettlement funds instead of the resettlement measure when there is no appropriate land for a housing complex near the district of public works or when the expense for the resettlement measure exceeds the cost for the originally intended public works project, which makes it substantially difficult to implement the public works project (Article 53-1 of the Enforcement Ordinance of the Land Compensation Act). Resettlement funds shall be limited to 30 percent of the estimation of the housing building subject to compensation, but when the amount is less than 5 million won (USD 4,545), the fund shall be 6 million won (USD 5,454); when the amount exceeds 12 million won (USD 10,909), the fund shall be 12 million won (USD 10,909) (Article 53-2 of the Enforcement Ordinance of the Land Compensation Act).

1.4.2. Supply of Moving Expenses Compensation

a. Concept

Moving expenses compensation means an amount of compensation to support the resettlement of housing owners and tenants that have to move out because of public works and to facilitate the project.

b. History

Moving expenses compensation was introduced for the livelihood of housing residents that have to move out because of public works. The Supreme Court has judged that moving expenses compensation aims to promote early resettlement of tenants residing in the district of a public works project to facilitate the progress of the project and to support tenants in terms of social security during special difficulties due to relocation.⁷⁶

On November 29, 1986, this was initiated in the revised Enforcement Ordinance of the Act on Special Cases Concerning the Acquisition of Lands for Public Use and the Compensation for Their Loss. In time, moving expenses compensation for building owners and that for tenants were separated, but they were integrated to the current moving expenses compensation in the revised Land Compensation Act in 2002. In the revised Enforcement Ordinance of the Land Compensation Act in 2007, the two-month average household expenditure of city workers was expanded to a four-month average.⁷⁷

c. Objects

① *Owners of Residential Buildings*

For owners of residential buildings in the district of a public works project, moving expenses compensation shall be provided for two months in consideration of the number of household members at the time of compensation except that the building owner does not reside in the building or the building is an unauthorized building (Article 54-1 of the Enforcement Ordinance of the Land Compensation Act).

② *Tenants of Residential Buildings*

Among tenants of residential buildings who have to resettle due to a public works project, those who have resided for at least three months in the district of the public works project area at the date of the public announcement of the project approval or at the time of the notice of related laws concerning the public works project shall be indemnified for four-month moving expenses according to the number of household members. However,

76. Supreme Court Decision, 2006DU2435, Decided Apr. 27, 2006.

77. S.J. Kim, et. al., 2011, 「Improvement of the Compensation System for the Infringement on the Rights of Residence and Livelihood in the Public Expropriation」, p.31.

those who have resided in the district of the public works project on the date of the public announcement of the project approval or at the time of notice of related laws concerning the public works project among tenants in unauthorized buildings shall be indemnified for moving expenses according to the related provisions (Article 54-1 of the Enforcement Ordinance of the Land Compensation Act).

d. Standards for Payment

Moving expenses compensation is estimated based on the monthly average city worker household expenditure in consideration of the number of household members and in reference to household statistics reported by a statistics agency in accord with Article 3-3 of the Statistics Act. When the number of household members is 5, the monthly average expenditure of a household of 5 or more members is applied. When the number is 6 or more, the monthly average expenditure of a household of 5 or more members multiplied by the average expense per head in a household of five or more members⁷⁸ is added in estimation (Article 54-1 of the Enforcement Ordinance of the Land Compensation Act).

1.4.3. Supply of Resettlement Subsidies

Individual acts stipulate that additional resettlement subsidies or special subsidies for resettlement shall be provided in addition to resettlement funds specified in the Land Compensation Act. Resettlement subsidies were introduced first in the Electric Source Development Promotion Act established on December 5, 1978. Further, the Promotion of Installation of Waste Disposal Facilities and Assistance, etc. to Adjacent Areas Act, the Act on Construction of Dams and Assistance, etc. to their environs, and the Special Act on the Support for the Area Around the Land to Be Returned by US Forces in Korea stipulate resettlement subsidies. Although the amount may differ depending on individual acts, it ranges from a minimum of 10 million won (USD 9,090) to 20 million won (USD 18,181).⁷⁹

1.4.4. Special Case of Cooperative Transferors

In the case where the land and building are transferred to the project operator through negotiation in the step of negotiation concerning public works, it is a special case concerning the supply of developed land in the project area, supply of lands for livelihood measure, and scale of supply in the project area.⁸⁰ Cooperative transferors' housing sites are supplied through a private contract in accord with the Housing Site Development Promotion Act,

78. Average expense per head = (monthly average expenditure of a city worker household with 5 or more members - monthly average expenditure of a city worker household with 2 members) ÷ 3.

79. S.J. Kim, et. al., 2011, op. cit., p.33.

80. Ibid., p.35.

and this is applied to those who have possessed lands before the reference data and have transferred all the land lots in the district of the housing site development (Article 13-2-5-4 of the Enforcement Decree of the Housing Site Development Promotion Act).

1.4.5. Supply of Lands for Livelihood Measure

As for measures for livelihood, the project operator may provide a business area or a shop according to the business type and condition for the smooth progress of the project in addition to resettlement measures. Measures for livelihood are a type of support to stabilize the lives of the former landowners. The Land Compensation Act does not stipulate any measures for livelihood, but project operators have their own internal regulations. Recently, the Special Act on the Development of Enterprise Cities and the Special Act on the Support for the Area Around the Land to be Returned by US Forces in Korea stipulate measures for livelihood.⁸¹

Measures for livelihood land aim at those entitled to resettlement housing sites, business operators, self-cultivating farmers, tenant farmers, and stock breeding farmers. Even though the household members are entitled to two or more measures for livelihood, the measure for livelihood land is provided per household.

The qualifications may differ depending on the project operator since he decides to limit the scope to cooperative transferors or downsize the area of supply.⁸² Most of the measures for livelihood lands provide a business area, and even a shop may be parceled when the project operator promotes housing construction in addition to housing site formation. Further, lots for religious facility, school (kindergarten), medical facility, market, and social welfare facility may be provided depending on the type of those entitled to compensation. The scale of supply may differ depending on the project operator. A business area, for instance, ranges from 16.5m²-27m². The supply price is the appraised value, and when an excess area is supplied, the winning bid is applied.⁸³

1.4.6. Relocation Expenses for Farming and Relocation Expenses for Fishing

Relocation expenses for farming and relocation expenses for fishing are a type of compensation for those farmers or fishermen who reside in the region on the date of the public announcement of the project approval, cannot continue their farming or fishing, and

81. *Ibid.*, p.37.

82. *Ibid.*

83. *Ibid.*, p.38.

thus need to move to another region.⁸⁴ As for relocation expenses for farming, the initial compensation served as displacement subsidy for the mental anguish of those who had to move to another region due to a dam construction project.⁸⁵

The previous arrangement of providing compensation to those who transferred to another region due to the dam construction with one month living expenses was expanded to the current amount where one-year living expenses are provided to farmers or fishermen.⁸⁶

1.4.7. Supply of Livelihood Stabilization Subsidies

The Land Compensation Act does not stipulate livelihood stabilization subsidies, but the Electric Source Development Promotion Act, the Promotion of Installation of Waste Disposal Facilities and Assistance, etc. to Adjacent Areas Act., the Act on Construction of Dams and Assistance, etc. to Their Environs, and the Special Act on the Support for the Area Around the Land to Be Returned by US Forces in Korea have the stipulated provisions. Livelihood stabilization subsidies may differ depending on individual acts, but they range mostly from 8 million to 12 million won (USD 10,909) per household. The amount may differ depending on the period of dwelling and number of household members. The title as well may differ depending on specific laws.⁸⁷

1.4.8. Occupational Training and Job Offers

To support the means of livelihood of those who have to resettle due to development projects, the Land Compensation Act stipulates that efforts shall be put forth to find job opportunities for basic livelihood security recipients and potential welfare recipients residing in a project area. Individual acts concerning dam construction, innovative city, and industrial formation stipulate provisions on occupational training and job offers, but state no specific qualifications as in the Land Compensation Act.⁸⁸

1.4.9. Factory Resettlement Measures

Factory resettlement measures were introduced in the revised Land Compensation Act on October 17, 2008. When the factor premise has been transferred or expropriated through negotiation concerning a public works project where the owner is no longer able to operate the factory in the region, a resettlement measure shall be established (Article 78-2 of the Land

84. S Ibid.

85. H.W. Ryu, et. al., 2005, 「Improvement of Land Compensation System」, Ministry of Land, Infrastructure and Transport, p.390.

86. S.J. Kim, et. al., 2011, op. cit., p.38.

87. Ibid., p.40.

88. Ibid., p.42.

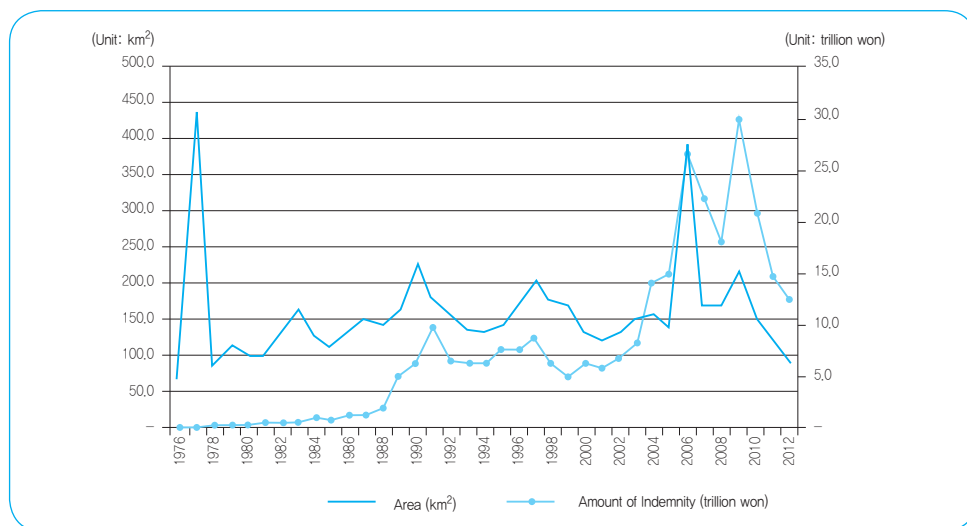
Compensation Act). Plans for factory resettlement measures shall include the arrangement of prioritized selling lots of the industrial complex, if any, in the region of public works or in an adjacent region; the formation of and movement in the industrial complex if the project operator plans to establish a factory resettlement measure; the prioritized selling of a factory site in the public works area; and other administrative supports for smooth factory resettlement (Article 41-3 of the Land Compensation Act of the Enforcement Decree).

2. Current Condition of Compensation

2.1. Expropriation and Compensation

In analysis of expropriation and compensation statistics for 37 years from 1976 to the present, Korea has expropriated land as large as 5,855.9km² in total for public works, which accounts for 5.85% of the entire national territory (100,148km²). The yearly average amount of land compensation was 160 billion won (USD 145 million) in the 1970s, 1.3 trillion won (USD 1.2 billion) in the 1980s, 7.1 trillion won (USD 6.4 billion) in the 1990s, and 15.4 trillion won (USD 14 billion) in the 2000s. The yearly average amount of compensation increases drastically in comparison with the yearly average area of compensation because of the government's efforts to realize just compensation through objective compensation evaluation, as well as land price increase in line with economic growth.

Figure 4-3 | Changes in the Area of Land Expropriation and Amount of Compensation (1976~2012)



Source: Ministry of Land, Infrastructure, and Transport, Annual Report on the National Land Use.

Table 4-2 | Changes in the Area of Land Expropriation and Amount of Compensation (1976~2012)

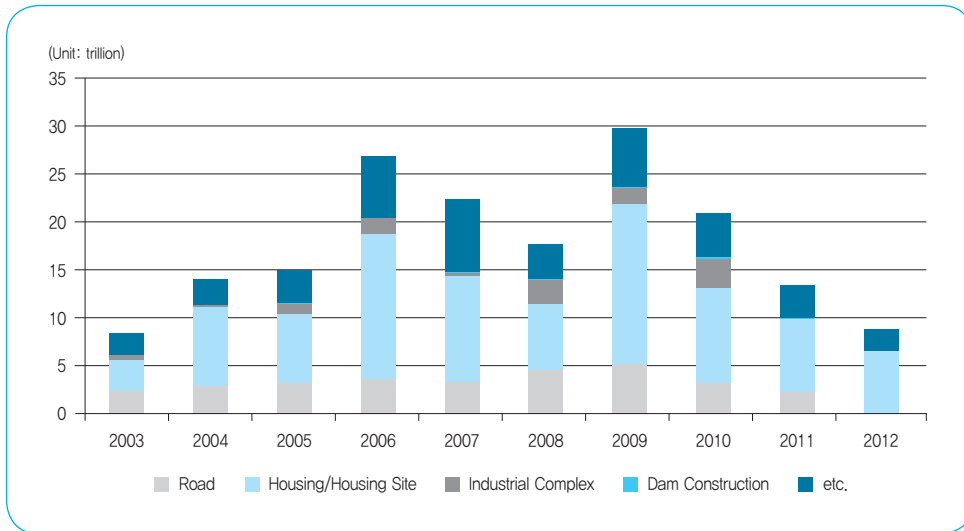
(Unit: trillion won, km²)

Year	Amount of Compensation	Area of Expropriation	Year	Amount of Compensation	Area of Expropriation	Year	Amount of Compensation	Area of Expropriation
1976	0.1	67.9	1989	5.1	162.0	2002	6.7	132.1
1977	0.1	441.3	1990	6.6	225.5	2003	8.3	156.9
1978	0.2	84.9	1991	9.6	175.7	2004	14.1	155.9
1979	0.3	113.5	1992	6.7	153.7	2005	15.1	137.3
1980	0.3	95.8	1993	6.3	139.3	2006	26.8	393.0
1981	0.5	97.8	1994	6.5	133.8	2007	22.4	159.8
1982	0.5	136.7	1995	7.5	142.4	2008	17.7	164.4
1983	0.7	163.8	1996	7.6	174.1	2009	29.7	216.5
1984	1.0	131.6	1997	8.6	206.3	2010	20.8	150.8
1985	0.9	112.0	1998	6.1	176.6	2011	14.5	120.1
1986	1.1	124.2	1999	5.0	167.4	2012	12.2	91.2
1987	1.2	154.6	2000	6.2	132.5	-	-	-
1988	1.9	144.0	2001	5.7	120.4	-	-	-

Source: Ministry of Land, Infrastructure, and Transport, Annual Report on the National Land Use.

The total amount of land compensation for the last 10 years since 2003 reached about 181.7 trillion won (USD 165 billion), among which the amount of housing and housing site projects accounted for about 92.4 trillion won (USD 84 billion, 50.8%) and that for road projects about 30.7 trillion won (USD 28 billion, 16.9%).

Figure 4-4 | Land Compensation by Project



Source: Ministry of Land, Infrastructure, and Transport, Annual Report on the National Land Use.

Table 4-3 | Land Compensation by Project

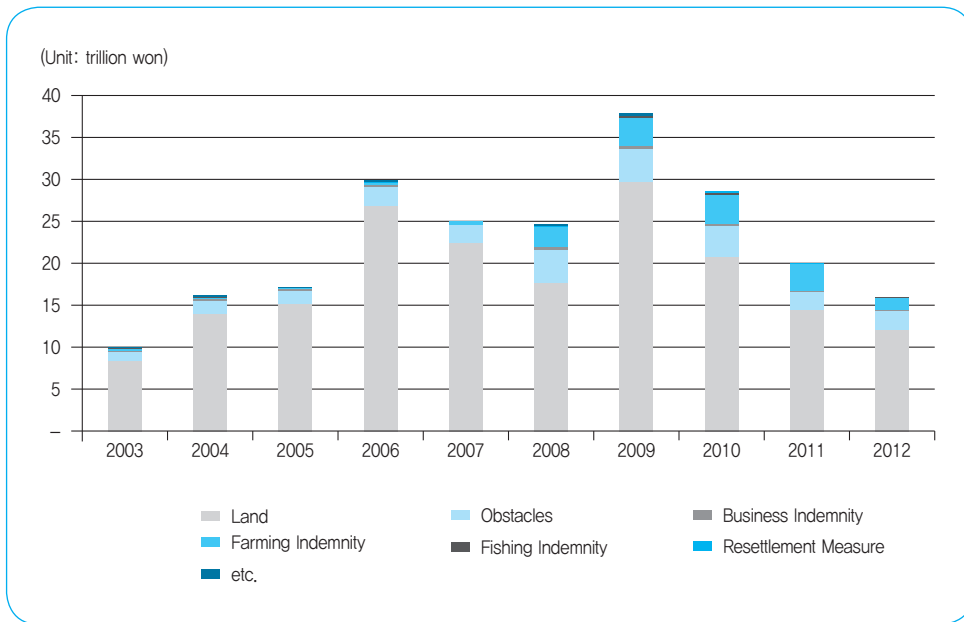
(Unit: 100 million KRW)

Year	Total	Road	Housing -Housing Site	Industrial Complex	Dam Construction	Others
2003	83,461	25,031	31,440	3,983	293	22,713
2004	140,583	29,015	82,969	1,322	219	27,060
2005	151,425	31,763	71,396	11,906	91	36,269
2006	268,477	35,886	152,013	15,816	939	63,823
2007	223,688	33,874	109,355	3,672	742	76,045
2008	177,454	45,272	69,444	23,757	2,125	36,857
2009	297,051	52,226	166,394	16,693	765	60,973
2010	208,394	31,261	99,597	31,442	997	45,096
2011	145,310	23,389	75,936	118,53	1,437	32,696
2012	121,578	266,21	65,508	595,73	414	23,079
Total	1,817,421	307,717	924,052	108,591	8,022	424,611
	100 (%)	16.9 (%)	50.8 (%)	6.0 (%)	0.4 (%)	23.4 (%)

Source: Ministry of Land, Infrastructure, and Transport, Annual Report on the National Land Use.

The total amount of compensation for the last 10 years since 2003 reached about 213.6 trillion won (USD 194 billion), among which the amount of land compensation accounted for about 181.7 trillion won (USD 165 billion, 84.7%), the largest portion, and life compensation, such as resettlement measures, accounted for about 5.3 trillion won (USD 4.8 billion), only 0.3% of the entire amount of compensation.

Figure 4-5 | Amount for Compensation by Type



Source: Ministry of Land, Infrastructure, and Transport, Annual Report on the National Land Use.

Table 4-4 | Amount for Compensation by Type

(Unit: 0.1 billion won)

Year	Total	Land	Obstacle	Business Compensation	Farming Compensation	Fishing Compensation	Resettlement Measure
2003	100,352	83,461	10,723	1,136	1,665	1,326	308
2004	161,850	140,583	14,976	1,842	1,766	255	528
2005	172,615	151,425	15,326	1,657	1,618	241	420
2006	299,185	268,477	22,713	2,920	2,033	380	556
2007	251,741	223,688	20,571	2,519	2,387	114	373
2008	224,980	177,454	38,265	2,915	24,726	283	504
2009	348,555	297,051	39,159	3,747	34,061	506	536
2010	254,373	208,394	37,280	1,511	35,580	987	1,238
2011	172,654	145,310	20,169	1,274	32,493	552	504
2012	149,781	121,578	22,080	2,070	13,540	415	346
Total	2,136,086	1,817,421	241,262	21,591	149,869	5,059	5,313
	100 (%)	84.7 (%)	11.3 (%)	1.0 (%)	6.6 (%)	0.3 (%)	0.3 (%)

Source: Ministry of Land, Infrastructure, and Transport, Annual Report on the National Land Use.

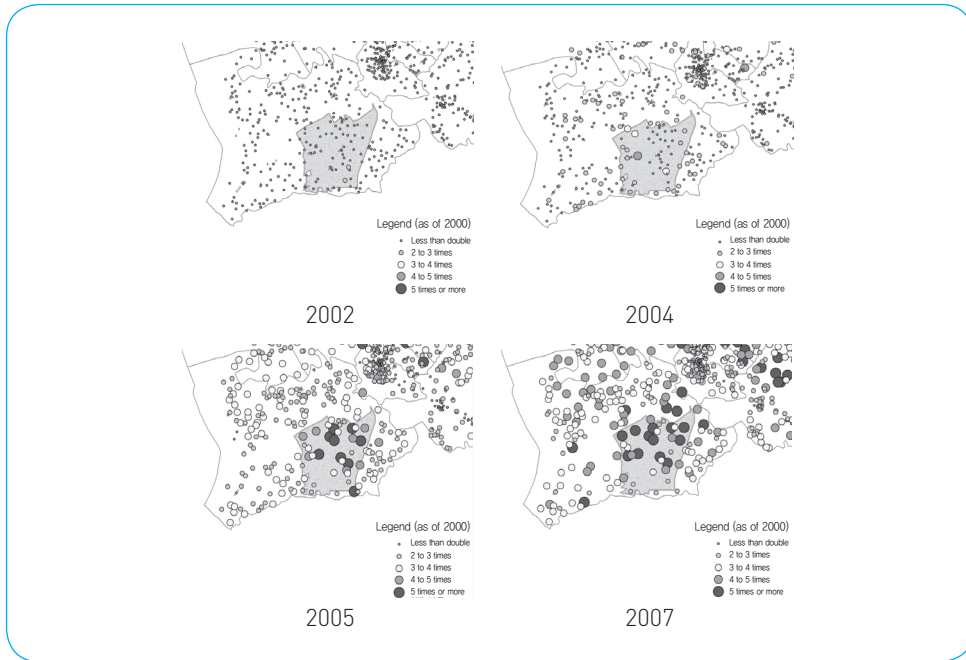
2.2. Analysis of Compensation Cases

2.2.1. Land Price Increase in Surrounding Regions of the Project Area

In general, projects that bring in benefits to the surrounding regions such as housing site development are likely to affect the land prices. In analysis of the land prices in and out of the project area in reference to the Officially Assessed Reference Land Price, the housing site development area in Unjeong, Paju City in 2003 resulted in a drastic increase of the land prices in surrounding regions since 2005.⁸⁹ Red spots mean that the Officially Assessed Reference Land Price had increased more than 5 times compared to that of 2000 in the following figure.

89. H.N Jung and S.J. Kim, et. al., 2008, op. cit., p.77.

Figure 4-6 | Changes in Officially Assessed Reference Land Prices around the Region of Paju Unjeong Housing Site Development Project



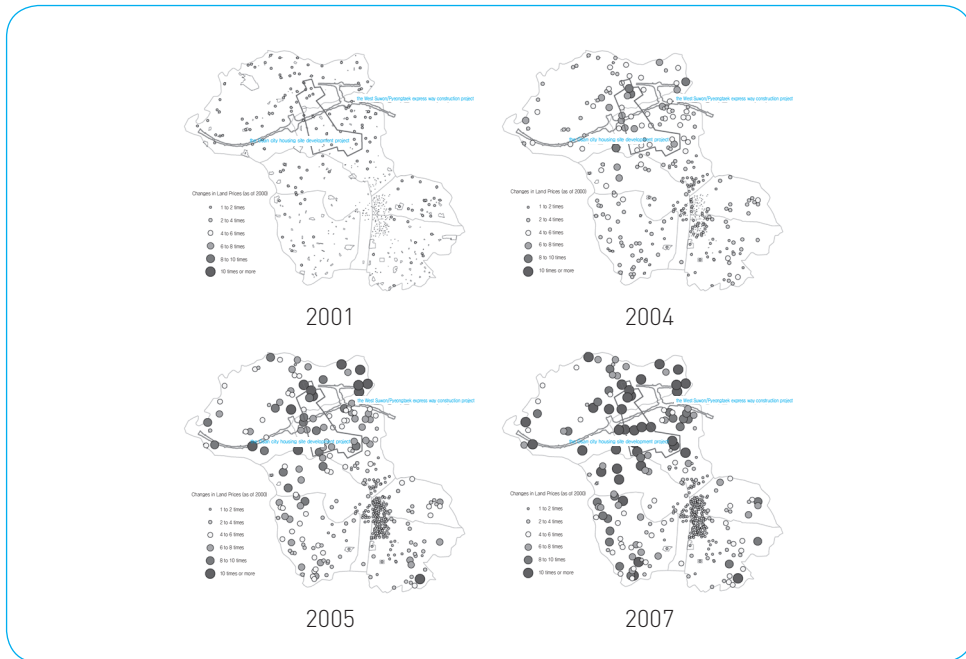
Remarks: legend (base year: 2000), red spots (more than 5 times or more).

Source: Jung, Hee-nam et al., 2008, Policy Tasks to Improve Compensation System for Mitigation of Conflicts in Public Works. Korea Research Institute for Human Settlements, KRIHS, p. 124.

Land price increase in surrounding regions after a development project was shown in road-related projects as well. In analysis of the Officially Assessed Reference Land Prices in Osan City in relation to the West Suwon/Pyeongtaek Expressway construction project, whose plan was announced in 2002, the land prices in surrounding regions started to increase in 2005.⁹⁰ The red spots signify that the Officially Assessed Reference Land Price had increased more than 10 times compared to that of 2000 in the following figure.

⁹⁰. Ibid., p.124.

Figure 4-7 | Changes in Officially Assessed Reference Land Prices in Osan City



Remarks: legend (base year: 2000), red spots (more than 5 times or more).

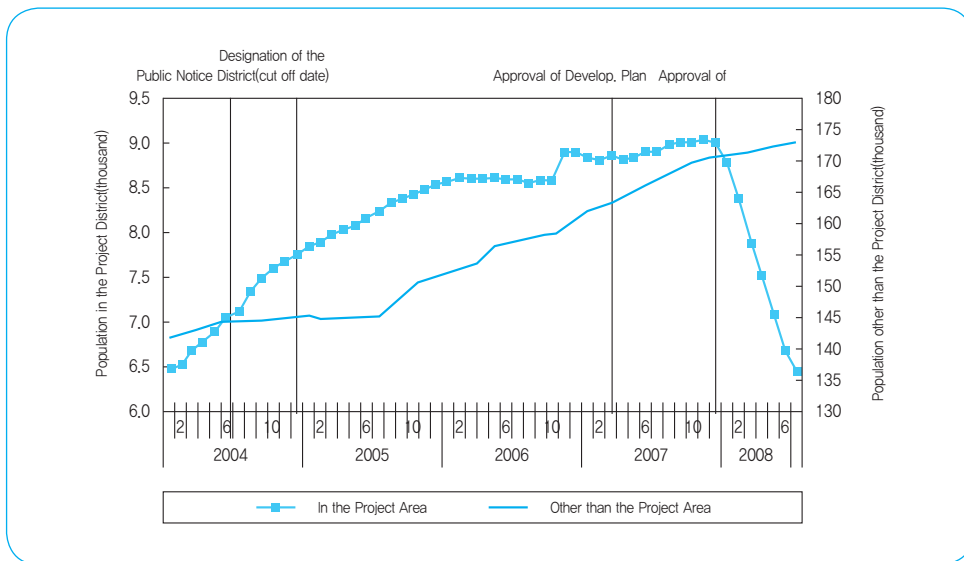
Source: Jung, Hee-nam et al., 2008, Policy Tasks to Improve Compensation System for Mitigation of Conflicts in Public Works. Korea Research Institute for Human Settlements, KRIHS, p. 124.

In the case study, the officially assessed land prices in the reference land in and out of the project area were comparatively analyzed; thus, it was difficult to confirm how much the actual amount of compensation reflected the land prices in the surrounding regions. However, it turned out that the land prices around the project area were increasing for certain. Such increase of land prices in adjacent regions would cause a sense of deprivation to expropriated persons in the project area as well as additional expenses for exchange of land in reality. In other words, when the same level of alternative land should be secured in adjacent areas after the landowner of the developed area received compensation, the amount of compensation referred to the officially assessed land prices at the time of project approval while acquisition expenses for alternative land had to be paid after the land prices had already increased. Because of this problem, landowners in the project area had a significantly different view from that of the project operator in terms of compensation price. Although the compensation price outstandingly increased, the landowner would feel that the compensation price did not fully reflect the market price.

2.2.2. Case Study of Compensation Speculation

The case district was located in the metropolitan area, where a number of housing site development projects, such as new town construction, were in progress or review in addition to the housing site development project took place. The object project was completed in 2013 over an area of 7 million m², with 79,400 individuals in 26,500 households involved in expropriation, and costing the project expense measured to 1 trillion won (USD 0.9 billion). Once a development project was initiated, existing residents would have to move out of the project district, but in this case, residents rather moved into that area to become recipients of the resettlement measures after the notice of the district designation in 2004.⁹¹

Figure 4-8 | Fluctuation of Population in Case Area



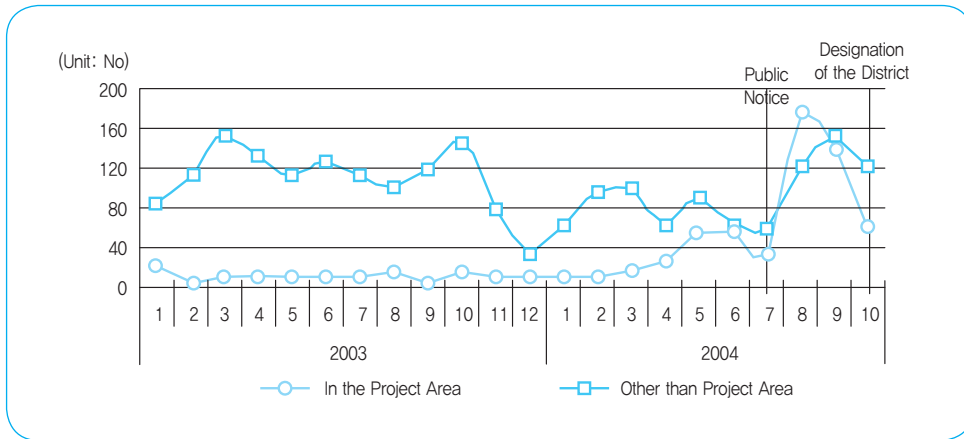
Source: Jung, Hee-nam et al., 2008, Policy Tasks to Improve Compensation System for Mitigation of Conflicts in Public Works. Korea Research Institute for Human Settlements, KRIHS, p.117.

The number of permitted development conducts gradually increased after the notice and reached peak in August, 2004. The number of permitted development conducts in that project area exceeded the number out of the area. During that period, the permission rates were 6 times higher than those of the previous year (8%→48%). It seems that the intent of such development conducts was speculation with compensation in mind rather than natural purpose.⁹²

91. Ibid., p.125.

92. Ibid., p.118.

Figure 4-9 | Changes in Development Permission in Case Area



Source: Jung, Hee-nam et al., 2008, Policy Tasks to Improve Compensation System for Mitigation of Conflicts in Public Works. Korea Research Institute for Human Settlements, KRIHS, p. 117.

To prevent compensation speculation with the intent of being entitled to measure for livelihood land, the Korea National Housing Corporation and Korea Land Corporation tightened up the standard for measures for livelihood land supply in the metropolitan area and speculation areas from the day of notice of district designation to “one year before the notice of district designation.”⁹³

93. Korea Housing Corporation: Revised standing rules on resettlement and measures for livelihood (2007.8.28), Korea Land Corporation: revised instructions on prioritized supply of business areas, etc. (2007.6.11).

2013 Modularization of Korea's Development Experience
The Expropriation and Compensation System in Korea

Chapter 5

Evaluation of the Expropriation and Compensation System

1. Success Factors
2. Complement

Evaluation of the Expropriation and Compensation System

1. Success Factors

1.1. Legislation for Facilitation of Public Works

Public works are one of the driving forces of the improvement of national life development of the country. The quality of national welfare can be enhanced and the country can be competitive when public works go smoothly. As there are many factors that would hinder public works, the Land Compensation Act and individual laws that specify special cases have presented institutional measures to solve those problems. One of them is the creation of provisions concerning public works, and another one is expropriation for public works in accord with individual laws. In addition, the Land Compensation Act stipulates the procedures of negotiation prior to expropriation to simplify the process of acquisition of land and minimize disputes with property owners.

1.1.1. Negative System for Public Works

As the prescription of public works is negative, its application is comparatively easy. Prescription of public works in law includes individual legislation system, limited positive system, and negative system. The Land Compensation Act expresses that it adopts the limited positive system concerning projects entitled to land expropriation or use (Article 4 of the Act), but it is no exaggeration to say that, substantially, it adopts the comprehensive system since it thoroughly lists public works projects rather than classifies them specifically. Such legislations are readily applied to the process of urbanization including the establishment of basic industries, infrastructure, national housing, and welfare facilities. In other words, public works may be viewed as under one of the provisions of Article 4 of the Land

Compensation Act, and thus it is possible to obtain a project approval and compulsorily acquire land for a public works project.

1.1.2. Public Works Based on Individual Laws

A project may be implemented with simple procedures and methods in accord with related individual laws. The Land Compensation Act involves the project approval and adjudication procedures for land acquisition in public works, but almost all of the projects comply with special case provisions of individual laws rather than this Act since individual laws stipulate that land, goods, and rights may be expropriated or used for development projects and that expropriation shall be in accord with the Land Compensation Act. Accordingly, individual laws specify special cases such as project approval, period of application for adjudication, repurchase, etc. Hence, land acquisition for public works is actively supported by individual laws, which contribute a lot to implementing projects.

1.1.3. Negotiation-based Land Acquisition

Most of the land acquisitions for public works are done through negotiation. Land acquisition for public works is divided mainly into that through negotiation and that through expropriation. When acquiring land is unfeasible through negotiation, the land may be compulsorily expropriated by obtaining a project approval. Hence, land acquisition through negotiation contributes to the project's progress as it makes it easier to acquire land for public works. In most of public works, land is acquired through negotiation, which results from the institutionalized system and legislation.

Acquisition through negotiation is divided into two types: one is negotiation prior to a project approval, and the other is negotiation after a project approval. However, the Land Compensation Act stipulates that negotiation may be omitted once the project approval has been obtained to avoid the duplication of the negotiation procedure. This is to simplify the procedure by removing the need for expropriation procedures such as adjudication, which is unnecessary after a project approval. This system aims to increase the land acquisition ratio through negotiation by facilitating negotiation with the project operator, landowner, etc.

A project operator may conclude a contract for land acquisition once the negotiation with the landowner is concluded. Once the contact is concluded, the project operator acquires the right to land for public works, and the landowner is given the right to compensation. This type of negotiation is different from expropriation. Rather, it is of a legal nature as in common private transactions.

1.2. Exclusion of Development Gains and Just Compensation

1.2.1. Realization of Just Compensation

The extent of compensation for infringed rights to property may differ depending on the logic and values of the society that base legislative attitudes in the Constitution. Article 23-3 of the Constitution stipulates that compensation shall be determined on the premise of “just compensation.” To this end, the Land Compensation Act specifies that the amount of compensation shall be decided as of the date of compensation.

In order to realize just compensation, the point of time for pricing shall be made clear. In the case of land the estimation of “the amount of compensation shall be on the price at the time of concluding negotiation or at the time of adjudication of use or expropriation.” (Article 67-1 of the Act). Hence, the general principle that the time of compensation shall be based on the price at the time of concluding negotiation or at the time of adjudication is applied. As for land acquired through negotiation or adjudication, compensation shall be paid on the basis of the officially assessed land prices according to the Public Notice of Values and Appraisal of Real Estate Act. The officially assessed land price as the basis for compensation estimation is that of the reference land.

Estimation of the amount of compensation is in reference to the officially assessed land prices on the premise of time modification. In other words, land acquired through negotiation or adjudication shall involve compensation in reference to the officially assessed land price according to the Public Notice of Values and Appraisal of Real Estate Act.

However, land use plans, fluctuation rate of land prices of regions that would not be affected by the land price due to a public works project, producer price increase rate, and other aspects of the land such as location, configuration, environment, and use from the base date of the official assessment to the point of time for pricing shall be taken into consideration in accord with related laws (Article 70-1 of the Act).

As for estimation of the amount of compensation for the land subject to expropriation, when all factors that would affect the pricing according to related laws are reflected, just compensation is settled. Hence, when the amount of compensation is estimated in accord with related provisions of the Land Compensation Act, it will be regarded as just compensation.

1.2.2. Exclusion of Development Gains

The officially assessed land price as the basis for compensation estimation is that of the reference land. Estimation of the amount of compensation on the basis of the officially assessed land price is different between negotiation and adjudication. As for acquisition

through negotiation prior to the project approval, considered is the officially assessed land price noticed close to the point of time for pricing among the officially assessed land prices noticed at the point of time for land pricing (Article 70-3 of the Act). As for acquisition after the project approval, considered is the officially assessed land price that refers to the time before the date of the public announcement of the project approval as the base date of the official assessment. In other words, the officially assessed land price at a time closest to the date of the public announcement of the project approval among the officially assessed land prices noticed at the time of concluding negotiation or adjudication for the land will be considered (Article 4 of the Act). This is an institutional measure to exclude development gains from the estimation of the amount of compensation for the land. Hence, the amount of compensation paid to the expropriated persons shall be just compensation but shall not include development gains that were generated by the project.

There is no doubt about the necessity of excluding development gains from the estimation of the amount of compensation.

The Constitutional Court consistently makes it clear that estimation of the amount of compensation with development gains excluded does not violate the principle of just compensation. The Supreme Court as well has maintained the same stand that the estimation of the amount of compensation with development gains excluded is appropriate. Since development gains cannot be viewed as loss of the expropriated persons in terms of complete compensation, exclusion of it from estimating the amount of compensation does not violate the constitutional principle of just compensation. Exclusion of development gains is a matter of legislative policy, and the legislation of development gain exclusion goes against neither the nature of compensation system nor the principle of just compensation.

1.3. Establishment and Operation of Compensation Council

Land acquisition and compensation for public works are in direct relation to personal property rights, and there may be conflicting interests between the project operator and landowners. Hence, the Land Compensation Act stipulates the establishment and operation of a Compensation Council to embrace civil opinions and ease civil complaints. A Compensation Council may be established when the head of the city/county/borough acknowledges the need. For a certain scale of public works, the establishment is obligatory.

The negotiation committee discusses aspects concerning gathering opinions on the amount of compensation, scope of the remaining land, establishment of resettlement measures, and relocation of public facilities in the area, which are the most sensitive matters between the project operator and expropriated persons. Since the negotiation committee consists of the landowner, persons concerned, project operator, and appointed local government officials,

it is the very channel of negotiation between the expropriating body and expropriated persons. Hence, the establishment and operation of a negotiation committee is essential for the smooth progress of a public works project. In fact, the rate of negotiation-based acquisition would be high only when expropriated persons, etc. deliver their opinions and accomplish demands through the negotiation committee.

1.4. Evaluation of Compensation and Application of the Officially Assessed Land Prices to Secure the Objectivity of Compensation

1.4.1. Appointment and Entrusting of Appraisers

Appraisers are entrusted for evaluation of compensation for land, etc. Basically, certified public appraisers are entrusted by others to perform compensation evaluation and appraise land, etc. (Article 22 of the Public Notice of Values and Appraisal of Real Estate Act). Certified public appraisers have passed the certification test, gone through a certain period of training, and obtained the final certificate. Hence, they are authorized professional appraisers with a wealth of knowledge and experience concerning evaluation of land, etc. Entrusting such certified public appraisers to evaluate compensation seeks for a just and objective estimation of the amount of compensation.

In addition, every compensation evaluation must involve multiple appraisers. When a project operator has to estimate the amount of compensation for land, etc., at least two appraisers shall be entrusted for the evaluation of land, etc. (Article 68-1 of the Land Compensation Act). Further, the landowner demands one more appraiser recommended by the landowner selected in addition to the two basic appraisers. This aims to ease the complaints of landowners and enhance the objectivity and validity of compensation estimation by involving the project operator in the process of appointing the estimation agency.

Such an institutional measure to enhance the objectivity of compensation evaluation contributes to minimizing complaints about the amount of compensation between the project operator and expropriated persons. Entrusting authorized appraisers for compensation evaluation and letting landowners as well as project operators recommend appraisers for compensation evaluation are intended to secure fairness in appointing appraisers.

1.4.2. Application of the Officially Assessed Land Prices

As for land acquired through negotiation or adjudication, the amount of compensation shall be estimated in reference to the officially assessed land prices according to the Public Notice of Values and Appraisal of Real Estate Act (Article 70-1 of the Land Compensation Act). The officially assessed land price as the basis for compensation evaluation is that of the reference land.

The officially assessed land price of the “reference land” means the price of the reference land per unit area (1m²) as noticed by the Minister of Land, Infrastructure, and Transport through a process of investigation and evaluation (Article 2-5 of the Public Notice of Values and Appraisal of Real Estate Act). The officially assessed land price of the reference land is a proper price appraised by the entrusted appraiser for the reference land. The currently operated reference land includes 500,000 lots nationwide. The officially assessed land price of the reference land is the basis for compensation for expropriation/use of land and purchase of public land, acquisition or disposal of national/public land, and estimation of official land prices (Article 9-1 of the Act).

As for compensation evaluation, the appraisers estimate price in application of time modification and consideration of the actual situations in reference to the officially assessed land price of the reference land. Hence, compensation evaluation cannot be done only based on the subjective judgment of the appraisers. Although the government may put a lot of budgets into the estimation of the officially assessed land price, presenting official land prices as the basis for public assessments such as compensation evaluation can be highly valued in terms of policy. Existence of the officially assessed land prices, indeed, contributes a lot to the objectivity of compensation.

1.5. Roles of Land Expropriation Committee Members

The Land Expropriation Committee entrusted for adjudication concerning expropriation of land, etc. is divided to the Central Land Expropriation Committee and Local Land Expropriation Committee. The Central Land Expropriation Committee belongs to the Ministry of Land, Infrastructure, and Transport and the Local Land Expropriation Committee to the city/province. Hence, the jurisdiction of each Land Expropriation Committee may either be the central or local area. The bases for deciding the jurisdiction are divided into the jurisdiction principle based on the project operator, the jurisdiction principle based on the project operation region, and the jurisdiction principle based on the project nature.

The Land Compensation Act adopts the jurisdiction principle based on the project operator; additionally, the jurisdiction principle is based on the project operation region. This is because the Central Land Expropriation Committee is responsible for the following

projects: ① projects whose project operator is the government, city, or province and ② projects that involve two or more cities/provinces over the land to be expropriated or used (Article 51-1 of the Act). The Local Land Expropriation Committee handles the adjudication of projects out of the jurisdiction of the Central Land Expropriation Committee (Article 2 of the Act).

When the boundary of the duties of the Central and Local Land Expropriation Committees is fixed, there is a risk that the Central Land Expropriation Committee might be over-weighted because most of the projects implemented by corporations are put under the authority of the Central Land Expropriation Committee. In fact, however, for more swift and smooth progress of public works, it is more effective for the Central Land Expropriation Committee to handle projects. In countries which involve a lot of development projects, it is unavoidable that a weightier responsibility is put before the Central Land Expropriation Committee.

1.6. Settlement of Conflicts with Immigrants

For large-size housing site development projects, an institution for resettlement measures and measures for livelihood have been developed for the settlement and stable residence of original inhabitants who are forced to move out.

1.6.1. Implementation of Resettlement Measures

Resettlement measures aim to institutionally support the life of those who lose their basis for livelihood and to provide resettlement funds. The district of resettlement is for those who hope to reside there as the project operator bears the expenses of establishing basic life facilities. Hence, those who are given a lot in the resettlement housing site have advantages in terms of lower parcel price since they bear only the sum of land purchase cost and housing site development cost. This is an institutional measure to ease conflicts with the immigrants by supporting expropriated persons for stable settlement.

Further, project operators must provide resettlement funds for those who desire to move to areas other than the designated district of resettlement without a resettlement measure established and implemented. Although the resettlement subsidy is limited to 12 million won (USD 10,909), this serves as a system supporting immigrants. In addition to this, the Act on Construction of Dams and Assistance, etc. to Their Environs also stipulates the supply of resettlement subsidies and livelihood stabilization subsidies.

1.6.2. Measures for Livelihood

The Land Compensation Act specifies resettlement measures but not measures for livelihood. To stabilize the life of expropriated persons, however, it is necessary to take proper measures for livelihood. In reflection of such needs, such major development project operators as the Korea Land and Housing Corporation and Korea Water Resources Corporation have made and operated internal regulations on measures for livelihood in addition to resettlement measures. Some of the individual laws as well stipulate separate measures for livelihood in consideration of the characteristics of and expected resistance to development projects, such as the Development of Enterprise Cities and Project Facilities for US Forces in Korea. Some view these measures for livelihood, however, as inappropriate and unfair in consideration of other development projects.

In the case of the Development of Enterprise Cities, for instance, it was stipulated that alternative lands necessary for measures for livelihood shall be provided in consideration of the possession of land, etc. and occupations in it (Article 14-7 of the Special Act on the Development of Enterprise Cities, Article 19-1 of the Enforcement Decree of the Act). In the case of the facility development project for US Forces, it is necessary to establish resettlement and measures for livelihood (Article 33-1 of the Special Act on the Support for the Area Around the Land to Be Returned by US Forces in Korea). In these projects, land for the restoration of the previous life is to be provided unlike the case of compensation with the substituted land.

The facility development project for US Forces specifies a wider range of resettlement and measures for livelihood compared to the Development of Enterprise Cities. In other words:

The Defense Minister specifies for immigrants, tenants, etc. (hereunder, “immigrants, etc.”) ① supply of housing sites for those who reside in an adjacent area, ② land for establishment of neighborhood living facilities or business areas (hereunder, “business areas, etc.”), and ③ supply of a rental housing complex as resettlement and measures for livelihood (Article 19-3 of the Enforcement Decree). As for entitlement and supply conditions of resettlement and measures for livelihood, there are separate standards (Article 4 of the Enforcement Decree of the same Act).

1.7. Division of Compensation Methods Concerning Obstructions

As for obstructions, moving expenses compensation shall be provided in principle, and acquisition expenses compensation is a provision for exceptional cases. As for buildings, structures, and goods fixed in the land, compensation shall be provided for moving expenses (Text of Article 75-1 of the same Act). When it is unreasonable or inappropriate to apply

the arrangement of moving expenses compensation, however, compensation on the basis of the acquisition price may be applied exceptionally (a provision under the same Article of the same Act). Indemnities for obstructions are divided as above since it is impossible to relocate every obstruction and to provide compensation specifically for moving expenses.

Division of indemnities for obstructions makes compensation reasonable and minimizes complaints among expropriated persons. Even after receiving moving expenses compensation, some reject relocating obstructions, which hinders the progress of a public works project. In view of this reality, it is not an exaggeration to say that acquisition expenses compensation is more persuasive. When merely relocating makes it possible to maintain the same use and form, it would be unnecessary to pay much expense for acquisition.

1.8. Variation of Compensation Methods

The Land Compensation Act stipulates that “the amount of compensation shall be paid in cash unless other laws specify special provisions” (Article 63-2 of the Act); that is, the principle of cash compensation. In exceptional cases, however, substituted land or bonds may be provided as compensation.

1.8.1. Bond Compensation

As an alternative to cash compensation, bond compensation is also adopted. This measure has been expanded and modified up to the current state. Bond compensation is a way of compensation that provides qualified expropriated persons with bonds instead of cash. This reflects the reality that as the percentage of land compensation for public works in the total project expense gradually increases; it becomes more difficult to establish social overhead capital facilities. Hence, this arrangement aims to reduce the financial burden of acquiring the land on the part of the project operator, facilitate the project, and prevent compensation from being temporarily used for speculation. At first, this measure aims to pay in bonds the amount of compensation for the land of nonresident owners as the landowner or persons concerned want it. However, the amount of compensation was exploited during speculation, land prices increased, and real estate market became unstable. Accordingly, the range of bond compensation expanded. Public agencies and public organizations among housing site development agencies and industrial complex development agencies in regions which involve a high risk of land speculation are obligated to pay in bonds an amount of compensation that exceeds 0.1 billion won (USD 90,909) for the land of nonresident owners.

This obligation of bond compensation was introduced with the aim to restrict the increase of land prices in adjacent districts due to the increasing demand for alternative land. It is expected that the obligation of bond compensation would reduce the burden of public works on the part of the government and thus facilitate such public works as a result. It is still controversial if bond compensation is correspondent to just compensation, but realization of no excess and deficiency before and after infringement will be viewed as complete compensation.

1.8.2. Compensation With the Land Developed by Public Works

The last measure introduced as a means of compensation is compensation with the land developed by public works. This allows landowners to share the benefits of development while reducing the demands for land and controlling the increase of real estate prices in adjacent districts. Compensation with the land developed by public works provides land lots formed as a result of the project within the range of compensation that the landowner is entitled to. Since this is a way of compensation by means of lots of the developed land, it is different from other typical types of compensation with the substituted land.

Compensation with the land developed by public works is available only in such development projects as housing site development and industrial complex development. The priority is given to those who are residential owners of real estate, and the estimation of land prices is based on the common price of public sale in lots. As for areas of compensation with the land developed by public works, housing sites cannot exceed 990m² and business areas 1,100m² (Article 63-2 of the Act).

Since compensation with the land developed by the public works may involve some margin from the increasing land prices even though it is based on public sale, this would be attractive to expropriated persons. In contrast, this may be burdensome to project operators because they should obtain the project approval for a larger area corresponding to the extent of compensation with the land developed by public works. This measure is advantageous, in any case, in that it can contribute to minimizing civil complains about compensation as it diversifies the means of compensation.

2. Complement

2.1. Improvement of the Officially Assessed Land Prices for Satisfactory Compensation

When the amount of compensation is estimated in accord with the Land Compensation Act, it is viewed as a realization of just compensation. In reality, however, expropriated persons are only slightly satisfied with the given amount of compensation. Compensation shall completely correspond to the value of property in principle, but it is hard to say that the compensation is actually complete. Complete compensation must maintain the value of property before and after expropriation, and a sufficient amount of compensation to acquire the corresponding substituted land is likely to be different from the original value.

In general, the decision on the amount of compensation should be based on the market price principle. Mostly, however, the amount of compensation is estimated in reference to the officially assessed land prices and in application of time modification rather than directly in accord with the market price principle. Hence, the appropriateness of the officially assessed land prices is in direct relation to just compensation. In fact, complete compensation of the value of property depends on the level of the officially assessed land prices.

It is commonly recognized that the officially assessed land prices do not perfectly reflect the market values. When the officially assessed land prices that do not reach the market value are referred to for compensation, it is viewed that the amount would not correspond to just compensation. Since the certified public appraiser estimates compensation based on the officially assessed land prices, however, there is no room for this problem to occur. Nonetheless, the reliability of the officially assessed land prices is low and thus civil complaints about compensation are constantly raised.

For the estimation of just compensation, it is necessary to keep the proper level of the officially assessed land prices warranted. To this end, the officially assessed land price of the reference land appraised by a certified public appraiser needs to be more reliable.

2.2. Management of Surrounding Areas of the Public Works District

2.2.1. Equity Between the Expropriated Persons and Landowners of the Surrounding Areas

Exclusion of development gains from the estimation of the amount of compensation is a common principle regardless of countries and regions. Expropriated persons' complaint concerning just compensation may result from the relative loss in comparison with owners of lands around the expropriated land. Hence, how to collect development gains around the project area and maintain equity with the expropriated persons are chief concerns.

While expropriated parties provide their lands for public works at fixed prices or so-called "just compensation," those who are not subject to expropriation around that area make a tremendous amount of unearned revenue owing to the increasing land price after the public works project. Just compensation and development gains are in conflicting relation to each other, and compensation should pursue harmony between them. Regulations of compensation, therefore, should assure both just compensation and exclusion of development gains. However, since landowners around the project area earn development gains while expropriated persons are excluded from development gains, the principle of equity is certainly violated. Since compensation is a measure to remove the results of public works in violation of justice and equity, coordination between those who are expropriated and those who are not is inevitable. To guarantee substantial just compensation, therefore, there should be an institutional measure to collect development gains around the area of a public works project to make up for the limitations of the Land Compensation Act concerning compensation.

2.2.2. Land Price Management Around the Development Project Area

Various factors such as instant increase of cash liquidity due to compensation of a development project, increase of demands for adjacent substituted land, increase of investment potentials in relation to the development project, etc. result in an increase of the land price around the national policy projects. It is necessary, therefore, to seek the stabilization of the land market around the public works district. In other words, various compensation measures may need to be made use of such as stricter regulation of land use by way of designating an urbanization-coordination zone to implement speculation restriction over the surrounding areas, etc., regulation of land transaction with the intent of speculation including designation of land transaction districts, prohibition of cash compensation flowing into the surrounding areas, and so forth.

2.3. Diversification of Development Projects

Public works are implemented by the total acquisition method and replotting method. Korea has depended mainly on the total acquisition method so far. Since the total acquisition method is based on compulsory expropriation of the owner's land, it has limitations in fundamentally resolving the conflicts of compensation. Hence, it is necessary to seek ways of utilizing the replotting method for public works such as housing site development rather than compulsory expropriation of private property rights of landowners, etc.

2.4. Prevention of Compensation Speculation

Compensation speculation may occur when a development plan of a national policy project is known in advance and people attempt to obtain lots of resettlement and measures for livelihood by way of camouflaged move-in or illegal development because it becomes possible to monopolize the ownership of a lot of resettlement housing sites and measures for livelihood land with a high premium. It is necessary, therefore, to design a more sophisticated institutional measure to prevent speculation compensation. For instance, the project district management may be strengthened by using aerial photographs and tightening control on illegal/unauthorized development and construction acts.

2013 Modularization of Korea's Development Experience
The Expropriation and Compensation System in Korea

Chapter 6

Implications and Lessons of Developing Countries

1. Establishment of Progressive Resettlement and Measures for Livelihood
2. Expropriation and Compensation in Consideration of Project Conditions
3. Establishment of a Government-funded Development Corporation
4. Institutional Provision for Compensation Evaluation
5. Vesting Private Sectors With the Land Expropriation Right

Implications and Lessons of Developing Countries

1. Establishment of Progressive Resettlement and Measures for Livelihood

For immigrants who are forced to move out after expropriation, resettlement and measures for livelihood are essential. However, to establish resettlement and measures for livelihood as the original inhabitants want would cause more compensation expenses, the project operator has to seek ways to minimize the expenses while he proceeds with the public works project. Hence, social consent is required concerning the level of compensation for resettlement and measures for livelihood especially among developing countries.

In the case of Korea, the level of resettlement and the measures for livelihood have been improved as development projects were conducted by way of expropriation. In the early stage of urbanization, the level of resettlement and the measures for livelihood, including the level of just compensation, were quite low unlike those of today. As the national economy grew and the national awareness enhanced in line with democratization, the government started to show consideration and interest in the people's property rights and right to live. For example, when the project term is extended, the residents' objection would increase the project expense in a large-size public works project. Hence, the project operator would have to minimize civil complains concerning the public works project by presenting resettlement and measures for livelihood as the expropriated persons want for the smooth progress of the project.

In fact, resettlement and measures for livelihood for public works may differ depending on economic situations and awareness of the residents in each country. As large-scale development projects have been conducted for decades in Korea, various systems have

been developed accordingly. Developing countries, therefore, need to promote resettlement and measures for livelihood progressively in consideration of economic scale, level of livelihood, and awareness of the residents.

2. Expropriation and Compensation in Consideration of Project Conditions

In the 1960s~1970s, Korea developed lands in a way that used part of the owner's land for the infrastructure and development project expenses and then they returned the developed land lots to the landowner. This type of development method, however, was likely to extend the project term since it was difficult to come to an agreement among the landowners. In addition, it was difficult to meet the rapidly increasing demands for urban land since the projects were done in a small scale. Since the 1980s, the Korea Land Corporation was established and development projects were promoted by way of governmental land expropriation. Development gains were publicly collected and land for urbanization was supplied, contributing to land price stabilization as well as economic development. As for large-scale urban lands, new towns were established in existing non-urbanized areas to provide housing sites or industrial complexes. As the urbanization rates reached 90% in the late 2000s, however, demands for development rapidly decreased while demands for reconstruction of the existing cities increased, and the replotting method, adopted in the 1960s~1970s, received attention again.

In view of this case in Korea, it is difficult to apply land development through expropriation to existing residential areas, and it becomes advantageous to develop new towns in non-urbanized areas at the outskirts of a city and develop an industrial complex. To develop the central area of a city where land prices are high and many people reside, it is desirable to develop the land through replotting based on the agreement of the landowners.

3. Establishment of a Government-funded Development Corporation

Public sectors such as Korea Land Corporation supplied housing sites as large as 29.16km² per year on average, which totaled 816.45km² from 1981 to 2008. With 422.57km² (15.09km² per year on average) in total supplied in the metropolitan area, the sum accounted for 51.76% of the total supply of housing sites while five major metropolitan cities and provinces supplied 393.88km² (48.25%). The yearly housing site supply continually increased from 20.64km² per year in the 1980s to 29.52km² in the 1990s, and to 39.25km² in the 2000s.

Table 6-1 | Housing Site Supply in Each Region

(Unit: km²)

Classification	Metropolitan Area	5 Major Metropolitan Cities	Province	Total
1981~1991 (11 years)	116.92 (10.63)	35.71 (3.25)	74.45 (6.77)	227.08 (20.64)
1992~1999 (8 years)	109.88 (13.74)	46.80 (5.85)	79.48 (9.94)	236.16 (29.52)
2000~2008 (9 years)	195.77 (21.75)	47.93 (5.33)	109.51 (12.17)	353.21 (39.25)
Total (28 years)	422.57 (15.09)	130.44 (4.66)	263.44 (9.41)	816.45 (29.16)

Note: Numbers in () indicate the yearly supply on average.

Source: Jung, Hee-nam et al., 2009, Introduction and Realization of Competition System in Land Development of Public Housing Site, Ministry of Land, Infrastructure, and Transport., p.36.

As for project operators, the Korea Land Corporation provided 356.45km² in total, and 12.73km² per year on average, from 1981 to 2008, which accounted for 43.66% of the total supply. Local governments provided 282.88km² in total (10.1km² per year on average), while the Korea National Housing Corporation 177.12km² in total (6.33km² per year on average), which accounted for 34.65% and 21.69% respectively.⁹⁴

Table 6-2 | Housing Site Supply of Each Project Operator

(Unit: km²)

Classification	Korea Land Corporation	Korea National Housing Corporation	Local Governments	Total
81~'91 (11 years)	102.99 (9.36)	34.63 (3.15)	89.47 (8.13)	227.08 (20.64)
92~'99 (8 years)	96.32 (12.04)	29.75 (3.72)	110.08 (13.76)	236.16 (29.52)
00~'08 (9 years)	157.14 (17.46)	112.74 (12.53)	83.34 (9.26)	353.22 (39.25)
Total (28 years)	356.45 (12.73)	177.12 (6.33)	282.88 (10.10)	816.45 (29.16)

Note: Numbers in () indicate the yearly supply on average.

Source: Jung, Hee-nam et al., 2009, Introduction and Realization of Competition System in Land Development of Public Housing Site, Ministry of Land, Infrastructure, and Transport., p.37.

94. H.N Jung and S.J. Kim, et. al., 2009, 'Introduction and Realization of Competition System in Land Development of Public Housing Site', Ministry of Land, Infrastructure and Transport., p.36.

In 2008, to avoid duplication of efforts in similar housing site development projects conducted by the Korea National Housing Corporation and Korea Land Corporation and to contribute to the national economy by improving the management efficiency, the Korea National Housing Corporation, Korea Land Corporation, and Korea Land and Housing Corporation were integrated as one. The Korea Land and Housing Corporation is known to have 30 trillion won (USD 27.2 billion) of legal capital, 6,100 employees, and 167 trillion won (USD 151.8 billion) of total capital as of the end of 2012.

Korea has supplied urban lands within a short period of time by establishing the joint development agency called the Korea Land and Housing Corporation in addition to the project operation method of public-managed development, promoting large-scale land development. It also has considered the public good by collecting development gains publicly and reinvesting them into development projects such as rental apartment construction. Likewise, developing countries need to collect development gains publicly in line with land development and establish a government-funded development corporation to promote large-scale development projects promptly.

4. Institutional Provision for Compensation Evaluation

As Korea introduced the officially assessed land price system in 1989, it realized a fair charge of taxation by streamlining the land price system and improved the objectivity of appraisal. The officially assessed land price system realized the unification of public land price systems by investigating individual lots on the uniform standard for pricing general property among private lands and national and public lands nationwide, and thus by establishing the unified officially assessed land prices. In addition, as certified public appraisers participated in the process of investigation, evaluation, and verification of individual lots, the reliability of public land prices was improved. Important data of land characteristics, such as public regulations, land use, officially assessed land prices of reference land and individual lands, were computerized so that the established land price network could be utilized for accumulation and management of accurate information on land, efficient land management, and establishment of various land-related policies. In addition, existing information related to appraisals such as precedents of compensation evaluations was integrated into a database so that common people as well as appraisal agencies could make use of it. Such enhances the objectivity and fairness of appraisals.⁹⁵ True, there may be some differences in terms of institutional environments for land price investigation, taxation standard, and compensation evaluation among countries, but it is still necessary to present unified standards for land

95. Ministry of Land, Infrastructure and Transport, 2013, "Annual Report on the Public Notice of Values of Real Estate," pp. 27-28.

prices to maintain objectivity in compensation evaluation. In order to enhance the reliability of compensation evaluation, it is necessary to utilize government-authorized certified public appraisers for the estimation of appropriate prices of land, etc.

In the early stage of the development project, however, it is necessary to increase the scale of the assets by selling the formed land in lots rather than forming rental housing or industrial complexes. The Korea Land and Housing Corporation, for instance, endeavors to secure the soundness of the fiscal condition because the debt to asset ratio exceeds 400% as it has promoted large-scale national projects, such as innovative city and multifunctional administrative city constructions, and housing welfare improvement projects such as rental apartment constructions.

5. Vesting Private Sectors with the Land Expropriation Right

In the past, project operators of expropriation of property rights such as land, etc. were mostly administrative institutions such as central governments, local governments, public organizations, etc. Recently, however, the concept of publicity was expanded as the socio-economic conditions changed, and the publicity of some projects and profit-making businesses of private companies also may be acknowledged in terms of realization of the public good. Vesting private sectors with the land expropriation right aims to realize social justice, properly control and regulate the public good and personal benefits, realize the duties of a welfare state that seeks public welfare, make land available among private sectors, and activate the participation of private sectors in the development of cities, housing sites, and industrial complexes.

To vest private sectors with the land expropriation right, the project should promote the public good in accord with law. For instance, the landowner, union of landowners, real estate investors, etc. are eligible to exercise the land expropriation right as long as half of landowners in the project area and landowners over two-thirds of the entire area agree according to the Urban Development Act.

Some criticize the idea of vesting private sectors with the land expropriation right for urban development projects whose publicity does not seem as evident as that of road or railroad construction projects as an unconstitutional measure. In developing countries where investments into development projects are insufficient, however, it is necessary to consider vesting private sectors with the land expropriation right as a way of making use of private capitals in urban development on the assumption that the landowners agree with the proposition.

- Chae, Mie-Oak and Jung, Hee-nam, et. al. (2006), “Land Policy Direction and Implementation Strategy Preparing for the Advanced Society (I),” Korea Research Institute for Human Settlements
- Ji, Dae-Sic and Kim, Seung-Jong, et. al. (2006), “An Improvement on the Land Compensation System for Smooth Operation of Public Works,” Korea Research Institute for Human Settlements
- Jung, Hee-nam and Kim, Seung-Jong, et. al. (2008), “Policy Tasks to Improve Compensation System for Mitigation of Conflicts in Public Works, Korea Research Institute for Human Settlements,” Korea Research Institute for Human Settlements
- Jung, Hee-nam and Kim, Seung-Jong, et. al. (2009), “Introduction and Realization of Competition System in Land Development of Public Housing Site,” Ministry of Land, Infrastructure and Transport
- Jung, Hee-nam and Kim, Seung-Jong, et. al. (2010), “Reestablishment of Land Policy to Paradigm Shift,” Ministry of Land, Infrastructure and Transport
- Jung, Hee-Nam, et. al. (2013), “Manual of Implementing Land Acquisition and Resettlements for Urban Development in the Republic of Korea: Policy Implication for Developing Countries,” Korea Research Institute for Human Settlements
- Kim, Seung-Jong, et. al. (2011), “Improvement of the Compensation System for the Infringement on the Rights of Residence and Livelihood in the Public Expropriation,” Korea Research Institute for Human Settlements
- Korea Development Institute (2010), “The 60-year History of the Economic Policy: Land and Environment in Korea,” Korea Development Institute
- Korea Land & Housing Corporation (2010), “Compensation Work Handbook”
- Korea Research Institute for Human Settlements (2008), “60 Year National Land History of ‘Sangjeonbyeokhae’,” Korea Research Institute for Human Settlements
- Korea Research Institute for Human Settlements (2008), “The 60-year History of the Land Policy in Korea,” Korea Research Institute for Human Settlements
- Ministry of Land, Infrastructure and Transport (2009), “Annual Report on the Public Notice of Values of Real Estate”
- Ministry of Land, Infrastructure and Transport (2010. 6), “Manual of Land Compensation for Public Works”
- Ministry of Land, Infrastructure and Transport (2013), “Annual Report on the Public Notice of Values of Real Estate”

-
- Park, Hyun-Joo (1998), “Evolution and Policy Directions of Land Policy,” Korea Research Institute for Human Settlements
- Ryu, Hae-Woong, et. al. (2005), “Improvement of Land Compensation System,” Ministry of Land, Infrastructure and Transport
- Ryu, Hae-Woong (2012), “New Legal Study on the Expropriation and Compensation,” Buyunsa
- The Committee for Construction (1981.12.11), “The Review Report on the Land Expropriation Act,” National Assembly
- The Committee for Construction and Transport (2011.12), “The Review Report on the Land Compensation Act,” National Assembly

Selected Further Readings

- Ho-sang Sakong, Woo-Hyung Cheong, Hyunjung Kim, Jeonghoon Lee, 2013. 2, 「Land Development and Management Laws in Korea」, KRIHS(http://www.krihs.re.kr/html/2_paperInfo/report_read.asp?id=3597809)
- Jung, Hee-Nam, et. al., 2013, 「Manual of Implementing Land Acquisition and Resettlements for Urban Development in the Republic of Korea: Policy Implication for Developing Countries」, KRIHS(http://www.krihs.re.kr/html/2_paperInfo/report_read.asp?id=3597949)
- Jung Hee-nam, Yoo Seon-Jong, Kim Won-Bo, Yoo Ki-Yong, Heo Kang-Moo, Seo Gyeong-Hwa, Park Seong-Jin, Kim Gi-Seon, 2012. 9, 「Compensation Valuation System for Urban Development in the Republic of Korea: Policy Implication to the Developing Countries」, KRIHS(http://www.krihs.re.kr/html/2_paperInfo/report_read.asp?id=3597078)

www.ksp.go.kr

Ministry of Strategy and Finance, Republic of Korea

339-012, Sejong Government Complex, 477, Galmae-ro, Sejong Special Self-Governing City, Korea Tel. 82-44-215-2114 www.mosf.go.kr

KDI School of Public Policy and Management

130-722, 85 Hoegiro Dongdaemun Gu, Seoul, Korea Tel. 82-2-3299-1114 www.kdischool.ac.kr



ISBN 979-11-5545-111-3

**Knowledge Sharing Program
Development Research and Learning Network**

- 130-722, 85 Hoegiro Dongdaemun Gu, Seoul, Korea
- Tel. 82-2-3299-1089
- www.kdischool.ac.kr