

Land Valuation Problems of Turkey

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Key Words: Real Estate Valuation, National Valuation Unit, Turkey

SUMMARY

Real estate values have a significant role on the basis of a sustainable land management system. One of the main goals of land management is to define basic policies related to the determination and use of real estate values. Even though a system on real estate value has been established in many highly developed countries, administrative problems in developing countries continue. Lack of legal regulations and standards on determining real estate values are the main problems. In this context, law, regulations and similar legal arrangements should be made primarily. Putting real estates on the capital market is significant in terms of creating economic resources. On the other hand, real estate value has gradually become one of the main issues in rural and urban land arrangements, urban renewal and expropriation applications in the recent years. Therefore, it is essential to determine real estate values accurately. Real estate value concerns many different institutions as it is at the heart of land applications. Real estate values are obtained through different standards and various methods by these institutions and as a result, some differences emerge among values. The existence of different values (tax value, trading value, mortgage value, value defined by the court, etc.) belonging to the same real estate cause economic, social, technical and judicial problems. The problems related to the determination of real estate value in Turkey will be revealed in the scope of the study. In addition, a new model will be designed and discussed in order to record and manage these values, and some solutions will be presented for developing countries.

ÖZET

Sürdürülebilir bir arazi idare sisteminin temelinde gayrimenkul değerleri önemli rol oynamaktadır. Arazi yönetiminin temel amaçlarından birisi de gayrimenkul değerlerinin tespiti ve kullanımına yönelik temel politikaların belirlenmesidir. Günümüzde çok gelişmiş ülkelerin birçoğunda gayrimenkul değerine yönelik sistemin kurulmuş olmasına rağmen, gelişmekte olan ülkelere idari sorunlar devam etmektedir. Gayrimenkul değerlerinin belirlenmesine yönelik kanuni düzenlemeler ve standart eksikliği bu sorunların başında gelmektedir. Bu bağlamda kanun, yönetmelik veya benzeri yasal düzenlemeler öncelikle yapılmalıdır. Gayrimenkullerin sermaye piyasasına sunulması, ekonomik kaynak yaratma açısından önemli rol oynamaktadır. Bunun yanı sıra, gayrimenkul değeri son yıllarda kırsal ve kentsel toprak düzenlemesi, kentsel dönüşüm ve kamulaştırma uygulamalarında giderek en önemli konulardan biri haline gelmiştir. Bu sebeple, gayrimenkul değerlerinin doğru belirlenmesi önem arz etmektedir. Araziye yönelik uygulamaların temelinde yer alması nedeniyle, gayrimenkul değeri birçok farklı kurumu ilgilendirmektedir. Gayrimenkul değerleri, bu kurumlar tarafından farklı standartlar ve çeşitli yöntemlerle tespit edilmekte, bunun sonucunda değerler arasında farklar meydana gelmektedir. Aynı gayrimenkule ait (vergi değeri, alım-satım değeri, ipotek değeri, mahkemece belirlenen değer vb.) farklı değerlerin var olması ekonomik, sosyal, teknik ve hukuki sorunlara sebep olmaktadır. Bu çalışma kapsamında, Türkiye'deki gayrimenkul değerinin tespitiyle ilgili sorunlar ortaya konulacaktır. Ayrıca, bu değerlerin kayıt altına alınması ve yönetilmesine yönelik yeni bir model tasarlanıp tartışılarak gelişmekte olan ülkelere çözümler sunulacaktır.

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1. INTRODUCTION

Real estate processes directly or indirectly concern private individuals/companies and public institutions in Turkey as in all over the world. Real estate value is an indispensable element in carrying out transactions such as sale-purchase, expropriation, land regulation and taxation related to the real estate. However, legal and institutional regulations are needed in relation to the determination, registration and management of values.

Therefore, no significant problems occur when valuation is analyzed under two titles called private valuation and official valuation as the parties in private valuation have a right to decide freely no matter there are some internalized standards in the country-level.

Value is defined as the total benefit and usage value provided by a property, and the material amount that can be taken in return to the property when given to someone else (Nişancı, 2005). Being one of three basic features of land management, value is based on taxation, expropriation and securing the justice.

Today, many developed countries (Germany, Holland, Spain, etc.) have a Valuation Law or Regulation arranging real estate valuation activities. Some guidance documents have also been prepared in order to lead practitioners in the study. Thus, a centralized implementation of studies conducted in the national-level is achieved as well (Yomralioğlu, 2009). On the other hand, lack of creating an integrative structuring in legislative, administrative and technical aspects in developing countries causes problems in applications. Especially in recent years, there is a need for real estate value both in national and international standardization studies regarding spatial data. There is an e-state project aiming to; establish a Geographic Information System infrastructure in accordance with national-level technological developments and the inspire directive (National Geographic Information System of Turkey-TUCBS), create a web portal on which public institutions and organizations can provide users with geographical information which is under their responsibility through a common infrastructure, create the content standards of geographical data to respond to the needs of all user institutions, and determine geographical data interchange standards (TUCBS, 2010).

2. THE IMPORTANCE OF REAL ESTATE VALUATION AND THE SYSTEM IN DEVELOPED COUNTRIES

Real estate valuation has a great importance in terms of; conducting planned urbanization, selecting residential areas, comparing the costs of internal and external links between these areas, evaluating construction plans economically, aggregating very small parcels in urban settlements, making real estate markets to attain clarity and reliability, availability to monitor changes in market prices, and guiding real estate buyers, sellers and heirs and the parties for the establishment of rights on real estates (Utkucu, 2009).

One of the most important applications of real estate valuation is to determine the tax base. In developed countries, property tax revenues have an important place for local and central governments (Nişancı, 2005). The main reason is that property tax is an obligation which is tightly connected to the real estate valuation as the structure. In fact, property tax is directly mentioned as “tax valuation” in some sources as well. The problems in determining the value of a real estate in a realistic way in the current regulatory framework in Turkey not only reduce the productivity and efficiency of taxes related to the real estate but have distorting effects on fair taxation. (Hacıköylü and Heper, 2010). As a result of determining and taxing the true values of real estates, the demand for buying real estates for speculative and profit-oriented reasons will also decrease and the flow of capital to the real economy will be provided.

Real estate valuation is also important for expropriation applications. Expropriation is the state’s or public corporate entities’ buying the real estates under the ownership of real and private law legal entities by paying the price in cases of public interest. Law No. 2942 of Expropriation Law clearly states by which factors and by whom the value of real estate or resource will be determined. As expropriation and ownership rights are seized, accurate and objective determination of real estate value is of great importance here. Likewise, the expropriation price determined by the commission is frequently in dispute. Many of the objections to the expropriation process have been justified by the court and most of the claims have been concluded in favor of the owners (Yomralıoğlu, 1995).

A great number of professional valuation organizations have been founded in developed countries. The most comprehensive ones are; International Valuation Standards Council (IVSC) and The European Group of Valuers’ Associations (TEGoVA) (Çete, 2008). Appraisers Association of Turkey (TDUB) and Appraisers Association (DUD) are some available institutions in the field of valuation in Turkey.

These professional organizations have been established to; create and extend international valuation standards, ensure reliability and transparency of valuation activities, determine international valuation standards for real estate investments exceeding national borders, gather all professional organizations under a single roof and facilitate information exchange, etc. (Yomralıoğlu et al., 2011).

3. THE PROBLEMS RELATED TO THE DETERMINATION OF REAL ESTATE VALUE IN TURKEY

Real estate valuation is made to be used directly or indirectly in many applications. These applications can be listed as; the collection of taxes expropriation, nationalization, privatization, land arrangements, the operations based on registration, the capital market, banking, credit facilities, insurance, real estate management, the establishment of real estate rights, the determination of real estate sale or hire prices in some cases, and some similar applications (Yomralıoğlu et al., 2011).

As in many other countries, various laws and related regulations exist in Turkey requiring the knowledge and monitoring of real estate values, as in many other countries. The main ones

are; Expropriation (Law No. 2942/4650), Real Estate Tax, Income Tax, Tax Procedure Law, Building Land Office, Courts, Land Registry, Land Survey (Law No. 3402), and Capital Market Law. In spite of some similarities between the applications of these laws for the determination of real estate values, there are also many differences. The case is also the same for many institutions (General Directorate of Land Registers, Capital Market Board, Governorates, Municipalities, Housing Development Administration, Special Provincial Administration, General Directorate for Highways, Revenue Administration, etc.) carrying out valuation studies. For instance, separate values can be determined for the title deed fee or expropriation in the determination process of the tax base of a real estate by the municipality. As it is seen, the studies cannot be conducted in a standard structure and some quite different appraisals may appear in real estate valuation studies being made by different people or institutions.

Table 1. The values belonging to the same real estate determined by many different institutions

	Plot Number	Parcel Number	Institution (USD) (A)	Court	
				Expert (1st Board) USD (B)	Expert (2st Board) USD (C)
4					
6					
5	386	68	156	493	624
0	386	65	178	670	758
	100	8	535	825	-
	94	7	312	361	446
	94	6	312	446	446
	207	13	28	76	54

Implementation of Law No. 4650 necessitating the bargaining conditions is also unable to resolve the problem. Indeed, the judges are obliged to appoint the result when various values appear among the experts in the expert council formed by the courts as it is seen in Table 1.

Figure 1 illustrates the studies on real estate values belonging to an area where expropriation is made for Urban Renewal. The parcel owner numbered 11 in the figure agreed with the administration conducting expropriation and accepted 256 dollars/m² given by the council. The parcel numbered 12 next to the parcel numbered 11 did not agree with the administration and went to law. As a result, an expert council was formed and it evaluated 491 dollars/m² for the parcel mentioned. The main contradiction occurred in the parcel numbered 9 on the left. The expert council appointed by the court evaluated 1226 dollars/m² to the real estate owners who did not agree with the administration.

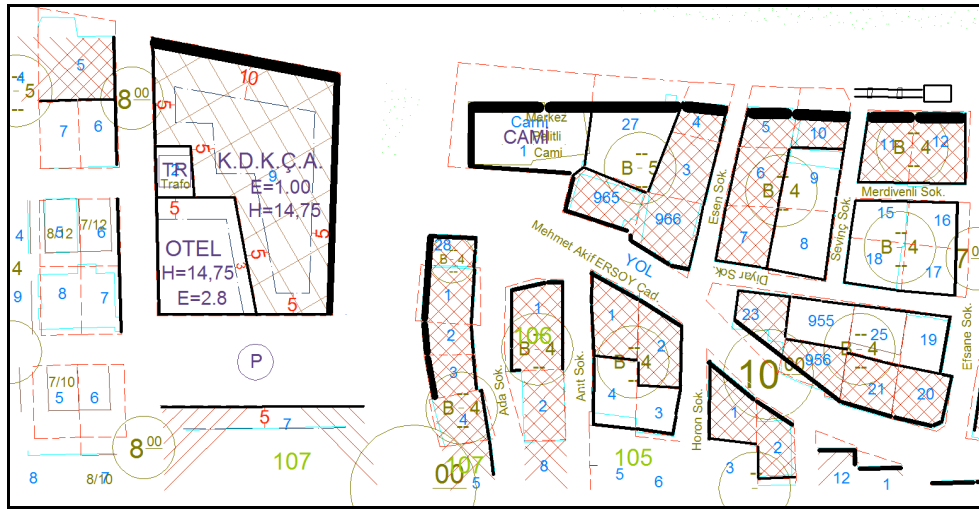


Figure 1. The plan of a valued area in Turkey

As it is seen in the figure, different prices were determined for two parcels located side by side which causes; one side to suffer, the state to pay extra money or not to make a claim for the rights of the people having no objection. As a result, the end time of the applications are delayed along with labor loss and injustice. The worst part is that a citizen who has accepted a low price in the bargaining will most probably lose trust to the state in case his/her neighbor gets a higher price. The absence of compensation in the law for these cases is also one of the major shortcomings.

The method used in expropriation studies is the classical valuation method currently used all over the world. Precedent comparison method is used in case the real estate related to valuation is a building land, income method is used for a land, and cost method is used for buildings. Especially the absence of real estate to serve as a sample in precedent comparison method make the process more difficult. The people carrying out valuation activities in Turkey are obliged to collect the necessary data for their studies by themselves and they meet various difficulties during data-gathering process as they have no databases for both real estate characteristics and precedent purchase and sale values. This case not only makes the studies harder but also affect the quality of real estate valuation results. (Çete and Yomralıoğlu, 2011; Candaş, 2012).

Basic principles to determine the cost of expropriation is given in Article 11 of Expropriation Law as follow:

Article 11- the expert council to be established in accordance with the Article 15 shall visit the place of the immovable property or the resource with the court commission. And the council shall listen to the related people. And then the council shall consider the below mentioned facts:

- a) Type and quality of the immovable or the resource
- b) Surface area

- c) all the qualities and properties that can affect the value of it and the values of every quality and property
- d) Tax statement, if any
- e) amount estimation made by the official authorities on the date of expropriation
- f) net revenue of the land, immovable property or resource according to the location and conditions valid on the date of expropriation and the fact that the land, immovable property or resource is used in their original condition.
- g) Sales amount of the similar land sold before the date of the expropriation without any special purpose.
- h) official unit prices, construction cost estimations and depreciation of the buildings on the date of expropriation
- i) Other objective measurements that can be effective on the determination of the amount.

The council shall take the aforementioned facts as the basis and state the comments on these facts one by one. And the council shall set the amount of the immovable property dependent upon an evaluation report with rationales by considering the statements of the related authorities.

During the determination of the cost of the immovable property, the value increase caused by the enterprise that require development and services and profit that can bring as a result of the use of the immovable property in the future shall not be taken into consideration.

In granting the right of easement through expropriation the decrease of the value of the immovable property or the resource due to the expropriation shall be stated with its rationales. Such decrease in the value is the cost of expropriation.

What shall be other objective values stated especially in item (i) are not indicated in the law. In other words, a specialist may take the “landscape” factor as an effective element to the value while another specialist may not. Therefore, these should be defined as a whole. How the comparison shall be made when the precedent method is preferred remains unanswered as well. Even if such details are not stated in the law, such shortcomings reveal the necessity for a regulation that explains these items of the law.

A standard is defined for the member countries of the World Bank by the International Valuation Standards Committee (IVSC). Yet, this standard defines the general valuation principles. In other words, it defines the outer frame of valuation. The standard has an expert-centered approach as well. This means the expert will transfer the market value to his/her customer on condition of adhering to the code of ethics. When the valuation process is handled as customer-centered, the point whether valuation serves for a private or public purpose becomes important. If it is a business of private individual property appraisal or it is not approved by the customer, another expert can be preferred. However, the owner of the real estate will have no chance to make choice in the valuation process by the state. Thus, the official valuation procedures should be defined in legal and technical terms. Which points and basic factors to be considered by the expert and the effect value of these factors should be defined? In addition, the estimated value as a result of the report should be verified by checking it with book values. Therefore, value disorder both in the regulations and between

the institutions during real estate valuation reveals the need to prepare a rule in compliance with international standards and create a centralized institutional structure.

4. REAL ESTATE VALUATION MODEL APPROACH FOR DEVELOPING COUNTRIES

In the regulations of the developing countries, an integrative structuring is not formed in terms of administrative and technical aspects in the field of real estate valuation. This situation causes disorder in applications. As valuation is open to illegal fiscal relations, it should include ethical rules, transparency and strict control mechanisms (AYÖP, 2012). Standardization of real estate activities, centralizing implementation and inspection operations, recording real estate values and controlling fluctuations in the real estate market, eliminating repetitive operations and differences, and making a regulation of real estate valuation in developing countries is needed due to similar reasons.

A model is formed for developing countries in the field of real estate valuation as shown in Figure 2. This model aims to establish a national-level geographical information system infrastructure in accord with technological developments and inspire technique. All data belonging to real estate will be collected in a common database through this system. A web portal will be created to put these data into the users' service (limited information sharing). The model also aims to form the content standards of geographical data in order to respond to the needs of all user institutions and determine the geographical data interchange standards.

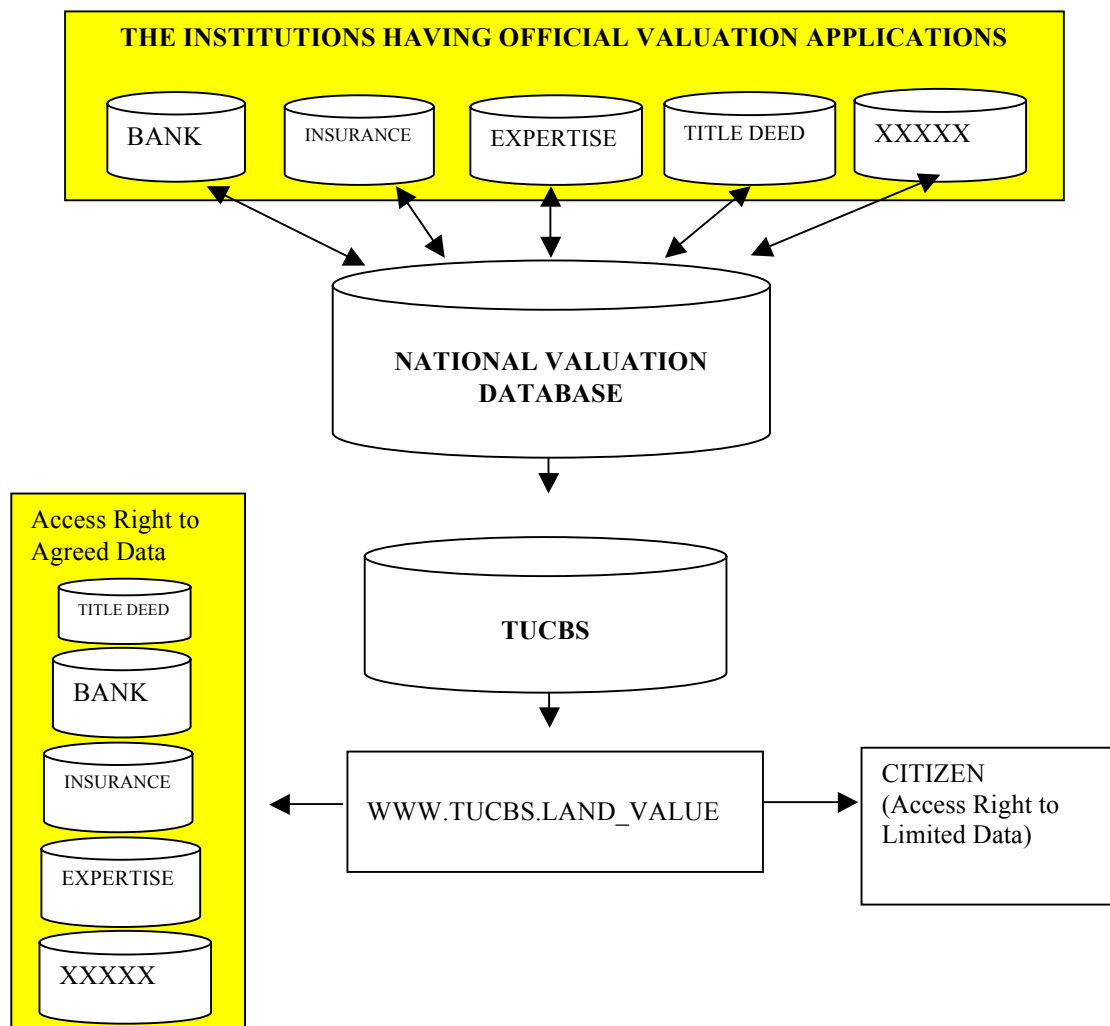


Figure 2. Proposed valuation model

In the law proposed for real estate valuation, some provisions of law should be provided to form the necessary data for all kinds of valuation activities belonging to individual and public real estates, and the determination of all real estate values. A Real Estate Valuation Department and its sub-units should be established including the experts of related occupational groups on valuation in order to conduct real estate valuation activities. It is also necessary to determine and standardize valuation methods and the parameters affecting value in order to decrease disorder and workload in the field of valuation. Real estate values should be recorded and a database should be created to reach reliable, updated and quick information. Up-to-date and registration-based digital value maps should be produced. The department should; hold periodic examinations and give appraiser certificates, provide the experts to fulfill international ethical rules, and control the valuation reports being prepared. The issues related to the valuation to be implemented in the scope of all projects regarding real estate valuation should be organized by the department. The factors affecting real estate value and

the regulations on reporting should be performed in accordance with international standards (Yomraliođlu and Niřancı, 2006; Candař, 2012).

Real estates to be appraised should be recorded in the national geographical database and put into service of related institutions in stated national and international standards in order to define regional differences and the factors effecting value.

5. CONCLUSION

Lack of creating an integrative structuring in legislative, administrative and technical aspects in Turkey causes problems in applications. In this study, the problems on determining real estate valuation are mentioned and a valuation model approach is proposed for developing countries. The case in developing countries necessitates to form a centralized institutional structure and a regulation in accordance with international standards. Separate values for the same real estate appearing as a result of valuation applications by different institutions will be removed and labor force and time loss will decrease in this way. For this reason, a system should be established which will provide efficient and productive evaluation of public resources, perform the determination and recording of updated real estate values, prevent tax and fee loss, and support development policies. Regulatory, administrative and technical integration should also be achieved in the system.

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