

FIG WORKING WEEK 2019

22-26 April, Hanoi, Vietnam

Presented by the FIG Working Week 2019,
April 22-26, 2019 in Hanoi, Vietnam

"Geospatial Information for a Smarter Life
and Environmental Resilience"



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Negative Covenants in Densification Projects - Cadastral Challenges

Helén Elisabeth Elvestad,

Department of Property and Law, University of Life Science

helen.elvestad@nmbu.no

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The purpose of the paper

- Investigation of how developers in Oslo deal with negative covenants in densification projects.
- Gain more insight into the challenges facing developers in confrontation with negative covenants in their projects.

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The legal status of negative covenants and zoning plans

- Negative covenants formed the backbone of suburban development in Oslo, Norway from late 19th century onwards, until the first modern planning law, implemented in 1924.
- From mid 1990s, densification of urban areas has been the stated Norwegian national policy for urban development.
- Negative covenants still are legally binding for the owners of plots in such development areas, even if newer land-use plans, which also are legally binding for new development, shows other land uses, densities, activities, etc.

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Method and data collection

- Qualitative informant interviews with the Mapping Authority and with developers in the Oslo area, all of whom have experience of negative covenants.
- The study is based on 13 interviews.

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Challenges arising from the Norwegian property registration system

- The current Norwegian property registration system is divided into
 - an object register (the cadastre)
 - The cadastre contains information on property boundaries and the physical characteristics of the property,
 - a rights register (land register).
 - The land register contains information relating to ownership and rights
- When registering, codes and standard texts are used.
 - There are no clear guidelines explaining how land charges should be entered into the land register.
- Covenants that predate the creation of a partitioned property are not transferred in writing to partitions formed at a later date.
- There is nothing automatic in the fact that lapsed covenants are deleted from the land register.

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Possible solutions

- A link directly to the documents after clicking on the land charges listed in the folio(s) in the land register.
- Clarify the contents of the land charge in relation to the designation stated in the land register.
- A provision whereby covenants older than 50 years will be assumed to have lapsed, unless the right-holder states that he wishes them to continue.

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Concluding remarks

- Accessing information on covenants is currently a very arduous procedure.
- It takes considerable time to go through every documents of potential importance to the property.
- The system is costly in terms of time and resources for rights holders and developers alike.
- A national and complete cleansing of the registers may help improve efficiency in the administrative processing of zoning and building matters.

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