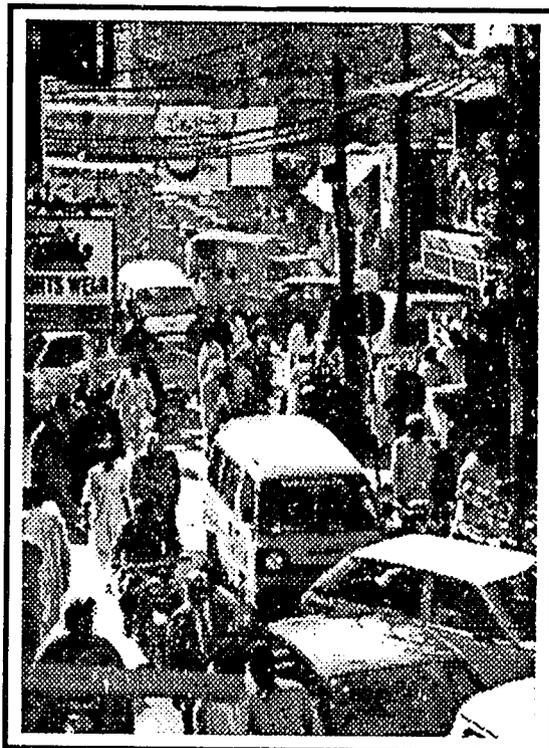

Urban Institutions and Land Policy in the Punjab

*A
Shelter
Resource
Mobilization
Program
Case Study*



by the
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Office of Private Enterprise and Energy
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Contents

<i>Executive Summary</i>	<i>1</i>
<i>Introduction</i>	<i>5</i>
<i>Land Acquisition and Administration</i>	<i>7</i>
<i>Land Titling, Registration, and Transfer</i>	<i>15</i>
<i>City Profiles:</i>	
<i>Islamabad</i>	<i>19</i>
<i>Rawalpindi</i>	<i>27</i>
<i>Lahore</i>	<i>33</i>

Executive Summary

Land development and urban environmental management are the foundations upon which communities, cities, and countries are built. People's work, homes, and most of the activities in their daily lives are directly tied to the land. It is what people seek to give their lives meaning and stability. Land is for housing, industry, commerce, recreation, and a multitude of other human activities. In Pakistan, the land development process does not function adequately, and provision of housing and urban infrastructure has not been able to keep pace with the rapid growth of urban centers.

This study on Municipal Planning and Land Development in the Punjab was commissioned by USAID. Its purpose was to examine the legal and administrative processes used to regulate land acquisition and development, to identify existing constraints, and to recommend ways to improve the process so that urban land development systems can accommodate large scale, high quality private sector housing development.

The first section of this report focuses on the legal and administrative framework for land acquisition and development in the Punjab.

The second section of this report discusses the land titling, registration, and transfer process. Particular attention is given to the prohibitive costs of formal registration of property, and the constraints that this has posed to the newly emerging housing finance sector in Pakistan.

The third and final section of this report profiles three major cities in the Punjab; Islamabad, Rawalpindi, and Lahore. Each profile provides basic information concerning the city's historical development, population growth, infrastructure and services, housing conditions, and the role of local development agencies. These city profiles were developed based on interviews with private developers and officials from various development Authorities in each city.

Study Findings

Public Sector domination

The public sector's direct involvement in land development has limited the role of the private sector to a great extent, and has led to the development of highly speculative land markets. Many public sector projects have consumed scarce government resources for land and infrastructure, making it more difficult for low and moderate income families to obtain appropriate and affordable land for housing. This has led to the densification of existing low income housing areas and degradation in the quality of the urban environment.

In order to have a workable development process in the urban areas of Pakistan, public sector agencies need to investigate ways to decrease their role in actual physical development and increase their role in planning, regulating and controlling land development.

One of the most practical approaches is to allow private owners of land to consolidate and develop the land, while the public sector can provide mechanisms to facilitate this consolidation. This would enable public sector agencies to concentrate on land development for general purposes like public buildings, parks, and monuments.

Inadequate land acquisition process

The Land Acquisition Act of 1894 formalized the British land revenue system and is the basis for legal and administrative land management in Pakistan. This system favors large land holdings and agricultural use; division of the land for non-agricultural purposes requires a cumbersome legal process which often requires more than 10 years to effect.

Inadequate titling and registration systems

The urban land registration system is in severe disarray. Land registration records kept by the provincial Land Revenue Department provide only a rebuttable presumption of valid title to land in favor of the person whose name is mentioned in the Record of Rights. Oral sales of land are legally permissible in rural areas of the Punjab. In cases of inheritance, changes in ownership of land are usually not reflected in the revenue record for a long time.

Similarly, records maintained by local development Authorities are not conclusive evidence of title. While subsequent sales are compulsorily registerable, new owners are not required under the law to have the changes effected in the record of the Authority. In turn, the Authority often neglects to have transactions recorded in the Provincial Record of Rights.

An effective land titling, transfer, and registration system is a necessary first step for the establishment of a strong housing industry in Pakistan. Indeed, such a system is a necessity for making the legal system more effective and responsive and would have a positive effect on government and the country's economy. For government, it would provide a firm basis for collecting wealth tax as well as land revenue. For the economy, it would be beneficial to all areas of land development including housing, industrial, and commercial development. Land and the

improvements on land effect the lives of most people on a daily basis. Regularizing transactions in land registration, titling, and transfer would facilitate the creation of new wealth and development in Pakistan.

Prohibitively high land registration and transfer fees

A muddled system of land ownership and transfer has degenerated to the point where formal legal title is no more successful in rebutting claims against one's property than other documents related to the transfer of property.

There are oppressively high fees associated with formal registration of property, including a 10% Provincial Stamp Duty Tax, a 2.5% Development Authority Corporation Tax, and a 5% Capital Value Tax on non-assesseees (people who are not registered tax payers). As there are 100,000 registered tax payers in a country with a population of 125,000,000 people, non-assesseees are the vast majority. In addition, there is a 2% Excise Tax on housing construction.

Combined, these fees make it difficult or impossible for formal title registration or transfer, and as a result, people have created less expensive mechanisms for property transfers. In Development Authority areas, the majority of land transactions are now undertaken through a sales agreement and power of attorney in favor of the buyer in regard to the land in question. In Building Society areas, an allotment letter from the society to the land purchaser is the only record of title. Legal ownership, if it exists, remains in the name of the Society. Benami transfers, which register transactions under a fictitious name, are also common and are used to avoid wealth tax. Even more common is the practice of not registering a transfer at all.

A major disadvantage to unofficial means of transfer is that a high proportion of households are unable to furnish the documentary evidence of title needed to satisfy collateral requirements for house building and/or improvement loans.

A new land titling system is a necessary long term goal, however, it will require years to implement. Meanwhile, there are opportunities for short term solutions to bring land transactions back into the

formal registration system. Clearly, if rates were reasonably reduced, more people would register property transactions. Revenue would be optimized while the current hindrances to financial and economic activity, particularly in the housing sector, would be significantly reduced. Although this is a provincial government issue, the Federal Government must rationalize the current fee structure and assume the initiative for change and the coordination of action with provincial governments for a consistent fee structure throughout the country.

High urban land prices and a growing shortage of vacant land

Urban land prices have risen rapidly over the last twenty years. This is due to a number of factors. In the 1970's and 1980's, land was a good investment for drug money, and this raised land prices. Government found land to be a major source of wealth for its employees, and large tracts of urban land were developed and allocated to government servants as a non-transparent benefit.

For example, if a plot of land (one kanal) in Islamabad is sold to a government service retiree for 175,000 rupees, the market value of this one kanal of land is currently 1,200,000 rupees. This represents a 1,000,000 rupee non-transparent benefit to the employee, which is more money than the average individual in Pakistan would earn in 27 years of labor.

The inefficient use of urban land by Municipal Corporations, Cantonment Boards, and Development Authorities has resulted in an acute shortage of vacant land for development. And unfortunately, since a great deal of land has been allocated to government servants at far less than market value, there are a lack of funds available to finance the development of new areas. Except in Islamabad, where there is still a large amount of vacant land, the metropolitan areas investigated in this study are faced with growing demand and a limited supply of land.

Poor inter-agency coordination and cooperation

Physical planning in Lahore and Rawalpindi is fragmented due to the separation of land use control among the Municipal Corporation, the

Cantonment Board, and the Development Authority. There is little or no coordination between the three authorities in the provision of basic urban services and infrastructure. This fragmentation has undermined the efficient expansion of services and infrastructure at the metropolitan level.

Poor planning

Although local authorities have statistics on housing shortages in their communities, they do not have approved five year land use plans to address these shortages. Even more importantly they do not have five year financial plans which can start to address how development can be funded. Mechanisms for financing infrastructure – like private sector bonds that use land as collateral and are guaranteed by the Provincial government and paid off through the property taxation system, would allow private sector development of infrastructure on a much larger scale.

Infrastructure provision is critical to a smoothly functioning urban area, and it must be carefully planned by government. Traditionally, government has contracted for infrastructure. A lack of funding and alleged corruption has resulted in lack of urban infrastructure in Pakistan. To make the development process work in urban areas in the Punjab, the government must remove itself from the contracting and financing process to the greatest extent possible.

No mechanism for private land consolidation

Private land is available in Lahore, but mostly in small individual parcels unsuitable for larger scale housing development. Due to the difficulties in land titling and transfer, it is virtually impossible to consolidate private land for more efficient usage.

No effective land development process or land use controls for the private sector

There are no effective formal mechanisms or procedures for a developer to follow if they wish to propose a project and gain government approval. There have been recent efforts to involve private developers in land development, but such actions are on an ad hoc basis and the procedures proposed for review of individual projects is tentative at best.

There is a significant amount of privately held land in Rawalpindi and Islamabad. Historically, the Capital Development Authority (CDA) in Islamabad only worked with private developers to provide housing for government employees. Currently, the CDA is planning to open new areas of Islamabad to joint public and private development. The Rawalpindi Development Authority (RDA) is starting to investigate the possibilities of public private partnerships.

It is imperative to develop procedures to monitor and facilitate private sector land development. Private development schemes have often taken the form of land speculation and given the private sector a bad name. Many private developments in the Punjab have been paper developments with lots laid out but no infrastructure provided or anticipated. These subdivisions are sold off for a quick profit and they almost always remain vacant and unproductive.

There are 102 building societies with a variety of land development schemes under the jurisdiction of the Rawalpindi Development Authority. Many of these schemes are very speculative in nature and provide a risky investment. There is an immediate need to bring these housing schemes under control and supervision to protect investors.

Land and construction financing are needed

There is virtually no land financing or subdivision bridge financing available in Pakistan. This has slowed the rate of growth in housing stock. Financing is not available primarily due to problems associated with land titling, as well as the uncertainty in the development process within the Municipal Corporations, Development Authorities, and Cantonment Boards.

Introduction

Access to urban land and housing is a critical component in the social and economic structure of a city, underpinning not only the living conditions of resident and immigrant populations, but also economic decisions made by its inhabitants. In Pakistan, there is a basic land distribution problem. Individual members of the population do not enjoy equal access to housing and land; rather, varying levels of opportunity exist for different economic and social groups.

In the three cities under examination in this study, this differential access to the valuable and desirable commodities of urban land and housing is a product of both historical and present day policies -- deliberate decisions by colonial and present administrations to favor some groups at the expense of others, on the one hand, and individual responses to economic necessity and opportunity on the other. The result is often a checker board of land and housing patterns, and one should more properly speak of markets in the plural than in the singular.

The urban housing sector is more than merely the backdrop to life in the city. In many places, the land market and housing construction are the most vital activities of the urban economy; they are often the most popular and secure opportunities for investment and profit in the city, if not in the country as a whole.

In general, land prices and returns on housing have risen continuously over the last three decades, and this makes obvious their appeal as a

long-term investment or as a short-term holding, perhaps to produce a quick return. Other potential sources of profit may be dependent on the policies of the government and the international climate.

Demand for urban land and housing has risen among virtually all socioeconomic levels of city dwellers, the product not only of rising numbers of residents, but also of increasing urban rootedness.

Urban land and housing provides a range of investment opportunities for both men and women, rich and poor. An individual may construct a small room at the back of their house to rent out, while another with more capital or perhaps more influence, may purchase land with the goal of constructing luxury housing for rental to the foreign community, as in Islamabad.

As a rule, these kinds of investments have proven to be relatively secure and have held up well under economic hard times and despite often ill-advised government interference. In all three cities studied, for example, despite political and economic problems, land prices have continued to rise at a rate that has kept pace with inflation. Recently, in Islamabad, the Government has levied a property tax. Though an unfavorable policy for investors, this has not proven a disincentive for investment in land and housing.

A major aspect which has been detrimental to the healthy growth of private land development is the element of fraud. It is public knowledge that some Housing Societies have taken advances for plots of

land and then disappeared from the scene, leaving unfortunate investors without their land or money. In addition to an increased potential for fraud, the lack of a regulatory framework and compliance monitoring leaves many private developers at the mercy and whim of local development authorities. This situation will not abate without the proper registration and monitoring of societies.

Since the advent of the First Five Year Plan, the Government of Pakistan has espoused a policy aimed at providing housing for all income groups in the country. Due to the economic development and industrialization of the country which took place in the major cities of Karachi, Lahore, Faisalabad, etc., there was a shift in population from rural to urban areas.

In the past three decades, cities in Pakistan have grown at a dramatic pace. The increase in the population of the cities has surpassed even the high rate of growth of the national population. Where once urban residence was considered by many to be temporary, cities have become permanent places of settlement for a large number of residents. No sector of the urban economy has been more affected by this change than the land and housing market.

Purpose of the Study

The purpose of this study was to examine the legal and administrative process of land acquisition and the constraints to land development in the urban areas of the Punjab. The main objective was to form a better understanding of the existing

planning and development process, and recommend ways to improve the process so that urban land development systems in the Punjab will allow larger scale, better quality private sector housing development to occur.

Scope of the Study

The scope of this study was to collect data and information about land and housing development in Islamabad, Rawalpindi, and Lahore. The study emphasizes the role of Federal and Provincial Agencies, Municipal Corporations, Cantonment Boards, and Local Development Authorities.

Urban development in the Punjab is heavily dependent on the legal and procedural aspects of land acquisition, therefore, in the first section of this study, the Land Acquisition Act of 1894 is discussed in detail.

The second section of the study discusses the land titling, registration, and transfer process. The SRMP believes that if the transaction cost of land transfer and titling can be lowered, the private sector will take the initiative in developing land for housing and other purposes.

The third and final section of this report focuses on the organization of the major land use authorities in Islamabad, Rawalpindi, and Lahore. The urban planning and land development systems of each are described. Currently, the preponderance of activity in housing is development of plots for government employees.

Land Acquisition and Administration

In South Asia, i.e. Pakistan, India, and Bangladesh, the legal framework for land ownership dates back to the Bengal Code of 1824. The Code was primarily intended to enable the East India Company to obtain land and immovable property required for roads, canals and other public purposes at a fair price.

The Land Acquisition Act of 1894 is a culmination of various laws enacted between 1824 and 1894. Initially, the Act of 1894 provided authority for the acquisition of land by the Central Government. Under the Government of India Act of 1935, authority for the acquisition of land was passed on to the Provincial Governments, who made fairly substantial amendments to the act. After 1957, an amendment was made delegating the powers exercised by the Provincial Government to the Commissioners of the Division, with the exception of rule making power under Section 55, which remained with the Provincial Government.

The 1894 Act authorizes Provincial Governments to acquire land needed for public and other purposes, and to determine the amount of compensation to be paid.

The Act establishes three basic principles:

- the right of the Provincial Government to acquire land needed for public and other purposes;
- The Act confers upon the private individual whose land is compulsorily acquired a

corresponding right to receive compensation; and

- While the Act provides for a summary determination of the land area, its value, and the apportionment of compensation by the Collector; it also provides for judicial determination, by a special Civil Court, of the measurement of the land, the amount of compensation, the persons to whom it is payable, and its apportionment among the persons interested.

Basic Definitions in the Act

It is helpful to indicate the basic definitions in the Act as some of the Officers of the Capital Development Authority (CDA) of Islamabad, the Lahore Development Authority (LDA), the Rawalpindi Development Authority (RDA), and the Cantonment Boards of Rawalpindi and Lahore are responsible for administering certain provisions of the Act.

- "Collector" means the Collector of a District and includes a Deputy Commissioner and any officer specially appointed by the Provincial Government to perform the functions of a Collector under this Act.
- "Company" means a company registered under the Companies Act and includes a society registered under the Societies Registration Act, and a registered society under the Cooperative Societies Act. Under

Section 38-A of the Act, the meaning of the word "Company" has been further enlarged to include an industrial concern owned by an individual ordinarily employing not less than one hundred workmen, or by an association of individuals desiring to acquire land to build dwelling houses for workmen employed by the concern, or for the provision of amenities directly connected therewith.

- "Land" includes benefits to arise out of the land, and things attached to the earth or primarily fastened to anything attached to the earth; the use of the expression "benefits to arise out of the land" is intended to cover Easement Rights.
- "Public Purpose" is land needed for a public purpose, or for a company in which the Provincial Government has declared by notification in the official Gazette; and shall state the District or other territorial Division in which the land is situated, the land area and purpose for which it is needed, and where a plan of the area can be inspected.

Administrative Organization

Broadly speaking, the organizational structure of the authority for land acquisition is as follows:

Provincial Government
Board of Revenue
Commissioners of Divisions
Collector

For the purposes of land administration, the Punjab is divided into five Divisions. Each Division is headed by a Commissioner and is divided into four or five Districts. Each District is run by a Deputy Commissioner (DC), or Collector. Under the 1894 Act, the legal authority for the acquisition, registration, and transfer of land is the Deputy Commissioner/Collector. The Division Commissioner is answerable to the Provincial Board of Revenue (BOR) and the Provincial Minister of Revenues. The Board of Revenue (BOR) is the controlling authority on all matters connected with the administration of land, revenue collection, and preparation of land records. The BOR is composed of members from the High Court of the province.

At the headquarters of a District there are, in addition to a large ministerial staff, several officers appointed by the local government who exercise executive and judicial functions under the orders of the Deputy Commissioner. They are known as Assistant Commissioners if they are members of the Civil Service of Pakistan, and as Extra Assistant Commissioners if they belong to the Punjab Civil Service.

A District is divided into several Tehsils, to each of which a Tahsildar and Naib-Tahsildar are appointed. Each exercise administrative and judicial functions within the limits of their own Tehsils. The unit of revenue administration in the Punjab is the Estate or Mahal, which is usually identical with the village or Mauza. Of these Estates, large and small, a Tehsil, as a rule, contains from two to four hundred estates.

One of the duties of the Deputy Commissioner is to maintain records of rights and registration of fiscal and agricultural statistics of each Estate. Proprietors of the estate are jointly responsible for the payment of land revenue, and in government interactions they are represented by one or more headmen or Lambardars. These headmen are paid a surcharge of 5% of revenues by the communities they represent. Lambardars form a valuable unofficial agency through which the Deputy Commissioner and the Tahsildar convey the wishes of Government to the people.

For the maintenance of revenue records and agricultural statistics, estates are grouped into small circles, to each of which a Patwari or village registrar is appointed. About twenty of these circles form the charge of a field Kanungo, who supervises the work of the Patwaris. Kanungos are government servants.

The District Commissioner carries out responsibilities with the help of Tehsildars, Naib-Tahsildars, Kanungos, Patwaris and the local Lambardar. The key role in this hierarchy is played by the Patwari who maintains the complete record of ownership and use on each piece of land in his jurisdiction. Land cannot be bought, sold, or used for urban development without prior classification and measurement by the Patwari. Therefore, though a rather low-paid employee with little opportunity for advancement, the Patwari is a rather powerful individual in the land acquisition

process. The main duties of the Patwari are as follows:

- maintaining records of the crops grown at every harvest;
- maintaining up-to-date records of rights and mutations; and
- preparation of statistical information from harvest inspections, registers of mutation, and records of rights.

To aid the Deputy Commissioner in the maintenance of records and revenue registers, a Director of Land Records is appointed. The principal duties of the Director are:

- supervision of the patwari and kanungo, inspection of the records of rights and statistical records, and the posting of settlement kanungo and mappers.
- control of income, and expenditure of mutation fees and fees connected with the kanungo, patwari, and revenue records.

Under the Land Acquisition Act, the Collector is normally the Deputy Commissioner of the district, who performs his duties with the assistance of field staff. By notification in the Official Gazette, the Provincial Government or the Commissioner may delegate the powers of a Collector to any other officer. Thus, all Revenue Assistants have been invested with the powers of Collector under this Act.

As some of the government and semi-government departments and local bodies have to cope with heavy demands, special Land Acquisition Officers have been appointed to acquire land for these organizations. For example, the following Land Acquisition Officers are now working in Lahore:

- Land Acquisition Officer, Building & Roads, Private Works Division
- Land Acquisition Officer, Lahore Development Authority
- Land Acquisition Officer, Department of Industries, Punjab

- Land Acquisition Officer, Water and Power Development Authority
- Land Acquisition Officer, Pakistan Railways

Operative Clauses of the Land Acquisition Act of 1894

Section 4, Subsection (1) indicates that whenever land in any locality is needed or is likely to be needed for any public purposes or for a company, a notification shall be published in the Official Gazette by the Board of Revenue or the Commissioner, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

The date of this notification is important as it fixes the material date for determining the market value of the land. After this has been done, it shall be lawful for any officer authorized by the Board of Revenue or the Commissioner to enter upon the land for a preliminary survey.

Under Section 5, an authorized officer shall, at the time of entry, pay or tender payment for all necessary damage to be done to the land, and in case of dispute as to the sufficiency of the amount so paid or tendered, shall at once refer the dispute to the decision of the Collector or other chief revenue officer of the district, where a final decision will be made.

Section 5-A provides that any person affected by such acquisition shall, within thirty days of the issue of the notification, lodge his objections with the Collector in writing. The Collector shall give the objector an opportunity of being heard either in person or by pleader. After hearing the objections and after making such further enquiry as considered necessary, the Collector shall submit the case to the Commissioner together with a record of the proceedings and a report containing his recommendations. The decision of the Commissioner on the objections shall be final.

Under Section 6, after a decision has been arrived at as to the expediency of the proposed acquisition, a declaration to the effect that a particular piece of land is needed for a public

purpose or for a company shall be made by the Commissioner through the Official Gazette, giving the full particulars of the land and stating the specific purpose for which the land is needed. This declaration shall be conclusive evidence of the fact that the land is needed for a public purpose or for a company, as the case may be.

Under Section 7, when the aforesaid declaration has been issued, the Commissioner shall direct the Collector to take orders for the acquisition of the land.

Under Section 8, the Collector is required to have the land marked out, accurately measured and, if not already done, to prepare a plan for the land.

Section 9 requires notices to be given to interested persons. Its object is to ascertain the persons who are affected by the acquisition, and to give them an opportunity to file claims for compensation for their respective interests, and to register their objections (if any) with regard to the measurements made under Section 8.

Under Section 11, the Collector proceeds to enquire into the objections (if any) to the measurements of the land. The Collector also determines the amount of compensation which should be allowed for the land, taking the following into consideration:

- the true area of the land;
- the compensation which in his opinion should be allowed for the land; and
- the apportionment of compensation among the persons known or believed to be interested in the land, and whether or not they have appeared before him.

The Collector's award and his valuations are departmental in character and are made for the purpose of ultimately making an offer. Unfortunately, if a Collector does not sufficiently consider the evidence produced by the owner of the land, and forms an opinion based on materials which were not before him as evidence, this would not render the proceedings improper.

Section 12 indicates that when the Collector's award is filed in his office, it serves as final and

conclusive evidence between him and the persons interested regarding the true area and value of the land, as well as the apportionment of compensation among the persons interested.

Though the Collector is not a judicial officer, he is empowered under Section 14 to exercise certain quasi-judicial functions, and has the power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and in the same manner as provided in Civil Court under the Code of Civil Procedure.

Under Section 16, if the Collector has made an award under Section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances. In ordinary cases, possession may be taken after the award has been made and filed, and without regard to whether it has been accepted, provided the compensation money has been paid or tendered under Section 31 of the Act.

As evident from the foregoing provisions, these proceedings take considerable time to complete. In cases where the land is required urgently, the Act has laid down a much simpler procedure.

Under Section 17, in cases of urgency and whenever the Commissioner so directs, the Collector, though no award has been made, may on the expiration of fifteen days from the publication of the notice mentioned in Section 9 (1), take possession of any waste or arable land needed for public purposes, or for a company, and such land shall thereupon vest in the Government "free from all encumbrances."

Where emergency provisions have been invoked, the Commissioner may direct that the provisions for objection under Section 5-A shall not apply. If he does so, he must direct a declaration be made under Section 6, at any time after the publication of notification under Section 4 (1).

Part III of the Act (Sections 18 to 28) deals with references made to the Court. Any person interested who has not accepted an award may, by written application to the Collector, require that the matter be referred to the Civil Court by the Collector for determination. Objections may be to the measurement of the land, the amount of compensation, the persons to whom it is payable,

or the apportionment of the compensation among the persons interested. The application must state the grounds on which objection to the award is taken. The following period of limitation applies:

- if the person making the application was present or represented before the Collector at the time when the award was made, then within six weeks from the date of the Collector's award;
- in other cases, within six weeks of the notice from the Collector under Section 12 (2), or within six months from the date of the Collector's award, whichever period shall first expire.

In making the reference, the Collector shall state for the Court in writing:

- the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;
- the names of the persons whom he has reasons to think are interested in such land;
- the amount awarded for damages and paid or tendered under Sections 5 and 17, the amount of compensation awarded under Section 11; and if the objection is to the amount of compensation, the grounds on which the amount of compensation was determined.

Section 23 lists the factors that will be taken into consideration by the Court while determining the amount of compensation:

- the market value of the land on the publication date of the notification under Section 4 (1);
- damage sustained to crops or trees which may be on the land at the time of the Collector's possession thereof;
- the damage (if any) sustained at the time of the Collector's possession of the land by reason of severing such land from other land;
- the damage (if any) sustained by the person interested at the time the Collector takes

possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings;

- if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and
- the damage (if any) resulting from diminution of the profits of the land between the time of the publication of the declaration under Section 6, and the time the Collector takes possession of the land.

In addition to the market value of the land, the court shall award an additional 15% of the value in consideration of an urgent acquisition under Section 17 of the Act. Section 24 lays down that the Court shall not take into consideration:

- the degree of urgency which has led to the acquisition;
- any disinclination of the person interested to part with the land acquired;
- any damage sustained by him which, if caused by a private person, would not render such person liable to a suit,
- any damage which is likely to be caused to the land acquired after the date of the publication of the declaration under Section 6, by or in consequence of the use to which it will be put;
- any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;
- any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or
- any outlay, improvements on, or disposal of the land acquired, made without the sanction of the Collector following the date of the publication of the notification under Section 4 (1).

When the applicant has made a claim to compensation pursuant to a notice under Section 9, the amount of compensation awarded to him by the Court shall not exceed the amount claimed or be less than the amount awarded by the Collector under Section 11.

When the applicant has refused to make such claim, or has omitted a claim without sufficient reason, the amount awarded by the Court shall, in no case, exceed the amount awarded by the Collector. When the applicant has sufficient reason to omit a claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

The award of the Court shall be deemed to be a decree, and the statement of the grounds of every such award a judgment within the meaning of Sections 2 (2) and 2 (9) of the Code of Civil Procedure. The award shall also state the costs incurred in the proceedings and by what persons and in what proportions they are to be paid.

If, in the opinion of the Court, the Collector should have awarded a higher sum as compensation, the award of the Court may direct that the Collector pay interest on the excess at the rate of 6% per annum from the date on which he took possession of the land, and up to the date of payment of the excess to the Court.

Part IV of the Act (Sections 29 and 30) deals with the apportionment of compensation where there are several persons interested. If such persons agree to the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons, the award shall be conclusive evidence of the correctness of the apportionment.

When the amount of compensation has been settled under Section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

Part V (Sections 31 to 34) deals with the payment of compensation. Under Section 31, the Collector must tender payment as soon as an award is made. An important question that the Collector must decide is whether the persons named in the

award are legally competent to receive the payment. Sections 32 to 34 relate to modes of investment of money deposited in respect of lands belonging to persons incompetent to handle their own affairs and in similar cases, the payment of interest in cases where the Collector takes possession of the land before payment of the amount of compensation.

Part VI (Sections 35 to 37) relates to the temporary occupation of land and provides a simple procedure for the excavation or storage of materials in the case of construction of, for instance, a railway. Such temporary occupation is restricted to a period not exceeding three years, and companies are specifically excluded from its scope.

Part VII (Sections 38 to 44) prescribes the procedure for the acquisition of land for companies. In such cases, the provisions of Sections 6 to 37 of the Act shall not be put in force, except with the previous consent of the Commissioner. Such consent shall not be given unless the Commissioner is satisfied:

- that the purpose of the acquisition is to obtain land to build dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith; or
- that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public.

When the Commissioner is satisfied as to the above-mentioned requisites, he shall require the company to enter into an agreement with the Government, providing to its satisfaction the following matters:

- payment of the cost of the acquisition to the Government;
- the terms on which the land shall be held by the company;
- where the acquisition is for the purpose of building dwelling houses or the provision of amenities connected therewith; the timeframe, conditions, and the manner in

which the dwelling houses or amenities shall be provided; and

- where the acquisition is for the construction of any other work, the timeframe, conditions under which the work shall be executed and maintained, and the terms on which the public shall be entitled to use the work.

Following execution, the agreement is published in the Official Gazette.

Part VII (Sections 45 to 55) deals with miscellaneous matters such as:

- the manner of service of notices;
- the penalties for obstructing proceedings under Sections 4 and 8;
- the enforcement of surrender by the Magistrate if the Collector is opposed or impeded in taking possession of any land;
- In cases where the Government withdraws from acquisition before actual possession is taken, determination of compensation due for the damage suffered by the owner in consequence of the notice, or of any proceedings thereunder.
- the procedure in respect to the acquisition of only a part of a house or other building if the owner desires that the whole of it be so acquired;
- the applicability of the Code of Civil Procedure to all proceedings before the Court; and
- the power of the Provincial Government to make, alter, or add to rules under the Act.

Land which is required for public purposes is generally obtained through the Collector in accordance with the provisions of the Land Acquisition Act of 1894. However, the Act does not preclude engineers or other government functionaries who have been authorized by their Departments to arrange for the purchase of land by private agreements. In such cases, the Collectors are required to supply preliminary estimates of value. Government functionaries cannot undertake

private negotiations with landowners on behalf of their Departments without the previous consent of the Board of Revenue.

Punjab Provincial Planning Approval Process

Local development authorities submit proposed projects to the Provincial Department of Housing and Physical Planning (PDWP) in Lahore. Projects below Rs. 10 million are approved by the Provincial Development Planning Party, and projects above Rs. 10 million require the approval of the Federal Development Working Party.

The approval process is conducted by the Punjab Development Board, which acts as the secretariat for the approval of projects under the Province and the Federal Planning and Development Division.

Following approval, the project will be included in the Provincial Development Program and the Annual Provincial Budget to be approved by the Provincial Assembly. At this stage, the project stands approved and the availability of funds is guaranteed.

When acquiring land, the Development Authorities of Rawalpindi, Lahore and Islamabad must strictly follow the rules and regulations under the Land Acquisition Act of 1894. From 1973-1985, when the Land Acquisition Act of 1973 was in operation, the Deputy Commissioner was given full and final authority to determine land prices. As Land Acquisition Officers of local Development Authorities enjoyed the powers of the "Collector" as provided in the Act, local authorities acquired a great deal of land at low prices during this period.

In 1985, the 1973 Act was repealed due to protests from landowners who felt cheated when they witnessed the value of land increasing many fold following acquisition and development by the Authorities.

Under the 1894 Act, government acquisition of land is a time consuming and cumbersome process, and it often takes up to 10 years or more to acquire a piece of land. Procedures under the 1894 Act require that the government devote large sums of money in order to finance the front end costs of acquiring and developing the land. Local Authorities have neither the time nor the funds to invest in time consuming legal processes. At the

same time, government land available for development is becoming increasingly scarce in most urban areas.

As a result, local authorities acquire land from private owners at market rates. In Lahore, where land is particularly scarce, the Lahore Development Authority (LDA) is purchasing land at market prices, and in addition, is returning 20-30% of the developed plots to the landowner, who then sells the plots on the open market.

Some private developers are acquiring land in a similar manner. However, as there is no formal process in place to approve private development projects, this has given rise to a host of irregularities. It has been suggested that the approval process has become completely arbitrary, whereby only influential or wealthy developers are successful in securing approval from the local authorities for their projects.

Land Titling, Registration, and Transfer

The Land Registration Act of 1908 applies to the whole of Pakistan, although provincial legislative bodies have amended certain elements of the legislation so that it varies slightly from one province to another. The Registration Rules of 1929 provide procedural details for the maintenance of records and instructions in respect to registrars, copies, etc.

The Registration and Transfer of property can be a relatively straight forward process based on the requirements of the Land Registration Act of 1908. The vendor obtains a copy of the relevant entry in the record of rights from the Patwari, and the buyer has the entries verified from the duplicate record of entries maintained at the tehsil headquarters. Prior to recording the entries in the record of mutation, the situation in respect to a piece of land is attested to by the Patwari and confirmed by a superior officer (the tehsildar).

Under the Act, a document cannot be accepted for registration unless it is presented for that purpose within four months of the date of its execution. This period can be extended four additional months under certain circumstances. The object of requiring an instrument to be registered is to enable it to be used as evidence and to minimize the chances of fraud.

The Act does not require that a transaction in respect of properties be carried out through a registered document, however, it does require that if a document is created to record a land

transaction in writing, the document must be registered to have any standing in court.

While land registration procedures are not cumbersome, the Provincial Governments have gradually increased the fees and taxes on land transactions to the point where the cost is prohibitive and is therefore avoided. The taxes associated with land registration and transfer are summarized below:

Stamp Duty

Stamp Duty fees are 10% of the value of the land. In the Punjab, the government has a rating system for land values in various areas of the Province. This rating system sets the value for land transactions in most urban areas, and establishes a minimum sales price per marla, called the Valuation Table, which becomes the basis for determining the stamp duty on a transaction.

To formalize the Valuation Table system, the Stamp Act of 1899 was amended in 1986. Normally, the land value stated in the Valuation Tables is much lower than the actual market value of the land. Therefore, the system does not provide a good reflection of land values in the Province, and in many cases, it has allowed for the formal registration of land at low values and thus provided lower tax revenue for the government.

Corporation Tax

This is a tax of 2.5% of the value of the land which the Urban Development Authorities charge to officially register a sales deed that changes the title to land in their urban jurisdictions. This fee must be paid in conjunction with the Stamp Duty described above.

Capital Value Tax

This is a 5% wealth tax on the transaction. The 5% wealth tax only applies to Non-Assessees (people who are not officially registered as income tax payers), which is the vast majority of the population.

Excise Levy

This is a 2% tax on housing construction valued over 50,000 rupees.

not be able to compete with open market prices unless they are willing to take a loss –they will be competing primarily with properties that were purchased with allotment letters and thereby do not have the 12.5% added cost of formally registered property.

In the Lahore Development Authority (LDA) area, the vast majority of land transactions are completed through a sales agreement between the buyer and seller, and a power of attorney in favor of the buyer. This circumvents both the stamp duty tax and the corporation fee. As a result, it has become very difficult to book mortgage loans. Many potential customers have power of attorney ownership of land, however, it may be the fifth such sales deed and power of attorney issued on an individual parcel since the land was last formally registered. This multiple power of attorney situation has made it difficult for lenders to contact the last registered owner.

Circumventing Fees

To avoid the high cost of formal registration, a number of other informal documents such as allotment letters, powers of attorney, and benami (under a fictitious name) transfers have been developed. Most individuals have become indifferent to the formal registration system and are using less expensive ways to undertake property transactions.

For example, in the Lahore Cantonment Cooperative Housing Society (LCCHS) area, where there is little or no formal housing finance, the vast majority of transactions are done through an allotment letter. LCCHS has a large tract of subdivided land which it holds legal title to in the form of a long term lease or free hold, and it has allocated its land parcels to members of the society at fixed prices. An allotment letter costs 5,000 rupees and is recognized by the general public as an ownership document. However, it does not constitute legal title under the law, and only by paying the 10% Stamp duty and the 2.5% Corporation Tax can one legally register land and officially transfer title.

The anomaly here is that if a buyer chooses to pay the required stamp duty and corporation taxes, and subsequently decides to sell the property, they will

Impact on Housing Finance

A major disadvantage to informal titling is that a high proportion of households are unable to furnish the documentary evidence of title needed to satisfy collateral requirements for house building and/or improvement loans. Uncertainty in land titling and registration makes it very difficult for financial institutions to lend in the housing sector. Poor land titling and registration have made it equally difficult for the courts to provide timely remedies to financial institutions in loan recovery cases. Much of the litigation that takes place is simply trying to establish who is the legal owner of the property in question. This muddled system is why Housing Finance Company (HFC) lawyers are insisting on legal title as a precondition for a mortgage loan.

Though prudent, this nonetheless raises the cost of mortgage loans to prohibitively high levels, effectively leaving middle and lower income families with no access to formal housing finance. Currently, Commercial Bank "customers" are charged only 1% stamp duty on a land title transaction. House Building Finance Corporation (HBFC) has been given the same status for its housing loans.

The new Housing Finance Companies (HFCs) do not enjoy this tax break, and are finding it difficult

to conduct business under these conditions. HFC's would like both the buyer and seller to be considered a "customer" for all land transactions which are clearly made for purposes of housing finance. This would allow a seller to transfer property directly to an HFC, who would hold title to the property during the term of the mortgage. Once the mortgage was paid off the HFC would transfer the property to the buyer/borrower. Both transactions could then be undertaken at a reasonable 1% fee rather than the exorbitant 10% currently in force for title transfers.

A low cost land transfer and registration system is a necessary first step for the establishment of a

strong formal private sector housing industry in Pakistan. Indeed, such a system is a necessity for making the legal system more effective and responsive and would have a positive effect on government and the country's economy. For government, it would provide a firm basis for collecting wealth tax as well as land revenue. For the economy, it would be beneficial to all areas of land development, including industrial and commercial development, as well as the housing industry. Regularizing transactions in land registration, transfer, and titling would facilitate the creation of new wealth and development in Pakistan.

City Profiles:

Islamabad

With the creation of Pakistan in 1947, the prosperous city of Karachi became the country's first capital. In 1959, however, an eight member Commission constituted to frame recommendations on the National Capital proposed it be moved to Potowar, the area that is presently Islamabad. This area was in close proximity to the Shahrah-e-Pakistan international highway, and met various requirements pertaining to defense, climate, local resources, and aesthetic beauty. Furthermore, the large adjacent city of Rawalpindi could act as a "Mother City" during the initial growth and development of Islamabad, and the twin cities could grow and become part of the same Metropolitan area while retaining their distinct individual characters. With these factors in mind, Potowar was declared as the future Capital site in June of 1959.

The Master Plan

In September 1959, a Federal Land Commission was constituted to prepare the Master Plan and Master Program for the new Capital. Besides the development of the legal and administrative frame work for the Capital's development, the Commission also had to develop long-term requirements and a five year plan for phasing the project. The Commission carried out various surveys, investigations and studies, and by January of 1960, preliminary reports were

completed. On May 24, 1960, a preliminary master program and master plan designed by M/s. Doxiades Associates of Athens was presented to the President, Cabinet, and top Government Functionaries.

The Master Plan for the Metropolitan area was prepared on the principle of Dynapolis, which means a dynamic city where the city center grows in direct proportion to the growth of residential functions.

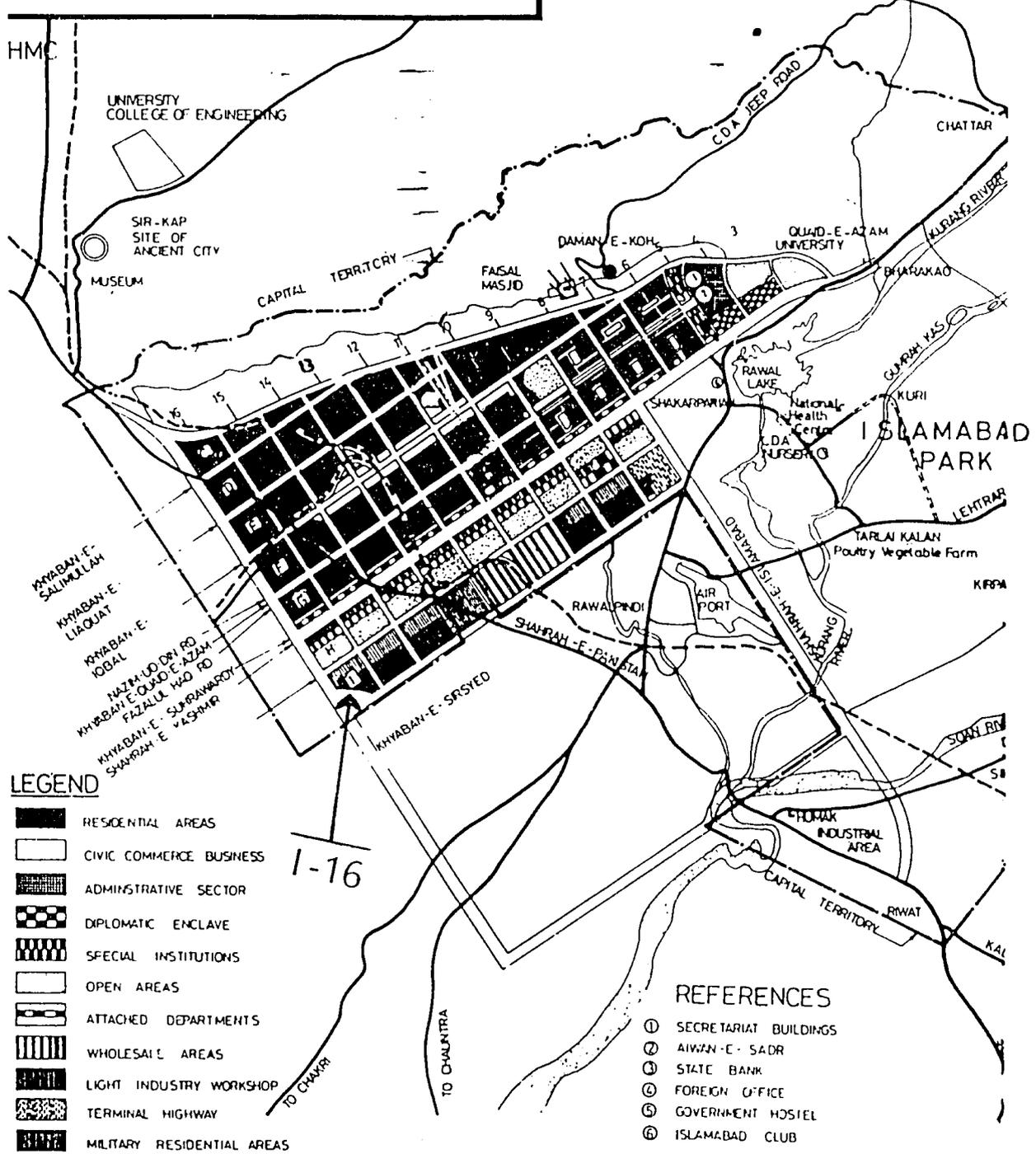
Islamabad's Master Plan covers an area of 1165.50 square kilometers acquired under the Land Acquisition Act of 1894. Four highways with a right of way of 365.8 meters form the framework for a grid of squares each measuring 3.1 square kilometers. Shahrah-e-Islamabad and Shahrahi-e-Kashmir highways link Islamabad with the rest of the country while the Shahrah-e-Pakistan highway links Islamabad with Lahore, Peshawar, and Kashmir. The area enclosed by the Master Plan is divided into four parts:

Rawalpindi: 259 square kilometers

Islamabad proper including institutional and industrial areas: 225.15 square kilometers

Islamabad Park (semi-urban): 220.15 square kilometers

CAPITAL DEVELOPMENT AUTHORITY
MASTER PLAN FOR THE METROPOLITAN AREA
 OF ISLAMABAD / RAWALPINDI



Islamabad Rural Area: 466.20 square kilometers

Islamabad Proper

Between Margalla Hills and the Shahrah-e-Kashmir is the city of Islamabad. South of Shahrah-e-Kashmir and North of Khyaban-e-Sir Syed are institutional and industrial areas to serve the cities of Islamabad and Rawalpindi.

Islamabad Proper is located on a plateau with a high ranging from 502.0 - 609.6 meters above sea level. It is planned in parallel belts and includes an Administrative Sector, Diplomatic Public Building Area, Residential Sectors, Industrial Zones, and a business sector called the Blue Area.

Islamabad Park

Islamabad Park extends over an area of 220.15 square kilometers and is earmarked for semi-urban functions and institutions requiring large areas of land. The Atomic Research Institute and the National Health Laboratories are currently located in this area, as well as numerous agricultural, dairy, and poultry farms. There are plans for sports centers, parks and exhibition grounds. The functional scope of the park has also been enlarged to include Model Villages, Agrovilles, Suburban Centers, and suitable places to facilitate the settlement of displaced families near their ancestral surroundings. Shakarparian Hill, which is 609.6 meters high, serves as a vantage point and provides a panoramic view of the city.

Review of the Master Plan

Over time, amendments have been made to the original Master Plan. For example, in view of the requirements, the number of planned shopping centers has been decreased. Similarly, some changes have been made in the network of roads. In certain cases, cul-de-sacs have been eliminated and the right-of-way of some roads have been reduced.

Initially, the projections in the Master Plan were made for 20 years. It was intended that the requirements would be reassessed with the passage of time and adjustments made accordingly. A review of the Master Plan is currently in progress.

Capital Development Authority

The Capital Development Authority (CDA) was established under the Capital Development Authority Ordinance of 1960, and is responsible for the development of Islamabad within the framework of a regional development plan. The CDA is defined as "a body corporate, having perpetual succession and a common seal, with power, subject to the provision of the Ordinance, to acquire and hold property, both movable and immovable, and shall by the said name sue and be sued."

The general direction and administration of the Authority and its affairs vest in the Board, which is appointed by the Central Government and has the same powers as the Authority. The Central Government is responsible for appointing the Chairman, Vice Chairman, and Finance Advisor from among the Members of the Board. In determining policy vs. non-policy issues, the Central Government has final decision-making authority.

CDA as Municipal Authority

In 1966, municipal powers were delegated to the CDA. Acquired land was placed at the disposal of the CDA to administer the development of plots for government officers, government servants, housing, marketplaces, places of worship, educational buildings, parks, and land for private housing. CDA operated under the Municipal Ordinance of 1960, and subsequently, under the Islamabad Territory Local Government Ordinance of 1979.

The Capital Development Authority operates under a Central Government approved Master Plan and phased Master Program for the development of the Islamabad area. Under the Master Plan and Master Program, the Authority can acquire land, incur expenditures, procure plants, machinery, instruments and materials, enter into and perform contracts, and authorize surveys and technical studies. For areas with a Master Plan under preparation, the Authority can issue interim development orders which may restrict or prohibit alterations to property, structures, or installations. In consultation with the CDA, plans may also be solicited from local authorities. With the approval

of the Central Government, the CDA can raise funds for planning purposes or raise working capital by issuing bonds and debentures.

Maintenance of Infrastructure

The CDA is responsible for the development and maintenance of municipal and civic amenities to ensure a clean, healthy and hygienic environment for the inhabitants of Islamabad. Responsibilities range from sanitary services and the control of rodent and wild dog populations to fire fighting, registering births and deaths, and granting approvals for local trade.

Acquisition and Disposal of Land

The CDA is authorized to acquire land under the provisions of the Capital Development Authority Ordinance of 1960.

The Deputy Commissioner is also authorized to acquire land under the CDA Ordinance. Following measurement and demarcation, the Deputy Commissioner issues a public notice to parties with interests in the land. Interests and/or objections to the measurement are received in writing, and a Notice is served to the occupier, usually within 10 days of the first published notice.

On a specified date, the Deputy Commissioner inquires into objections, interests, the market value of the land and any anticipated compensation. Compensation for land under the Ordinance is calculated based on consideration of its market value, the extent of damage sustained by the individual dispossessed of the land, as well as consideration of individuals compelled to move their residence or place of business. In urgent circumstances, the Deputy Commissioner may take possession of the land after publishing Notice, provided the occupier is not caused any unnecessary inconvenience.

The CDA or any other aggrieved person may appeal to the Commissioner within 15 days of an award (final order). In such cases, judicial proceedings are held in accordance with Section 193 and 229 of the Pakistan Penal Code.

The CDA Ordinance authorizes the CDA to enact regulations consistent with its authority. For example, in 1985, under Section 51 of the

Ordinance, the CDA enacted the Land Disposal in Islamabad Regulation, which governs acquisition of land by the Authority.

Land Development

The Capital Development Authority has an elaborate process for land development within its jurisdiction. It has maintained strict control over development, and the Capital City has grown at a pace and scale consistent with the Master Plan.

CDA's policy for the sale of land for institutional uses like shopping centers and other businesses is on a 33-year renewable lease. Charges for rent are nominal. Most residential development has consisted of low density single family dwellings and a large number of high density government employee housing complexes. Land for residential use is on a 99-year lease. Plots are primarily intended for government officers, judges, army personnel, and journalists. A percentage of allotments are given to the President, Prime Minister, Minister for Housing and CDA Chairman.

The CDA has allowed very little private sector housing development, and currently only 10% of the plots are for private citizens. This is an area that needs to be addressed in the current development policy if the Capital and the rest of the metropolitan area are to expand in an orderly manner and provide large scale quality housing development.

Plot Allotment

Classification of plots:

- **Residential plots:** Plots in Sectors meant only for a residential building.
- **Commercial and business plots:** Plots intended for use as markets, departmental stores, shops, business offices, restaurants, cafes, and hotel, etc.
- **Other commercial plots:** Commercial plots other than those mentioned above include those meant for cinemas, theaters, motels, petrol filling stations, incidental shop corners, etc.

- **Community buildings and facilities plots:** These include plots for religious institutions, educational buildings, hospitals, dispensaries, maternity homes, libraries, art galleries, museums, public service, amenities building, police stations, gymnasium, amusement parks, and transport terminals, etc.
- **Administrative buildings and public offices plots:** These are exclusively provided in the Administrative Sector and Mauve Areas or are special institutions placed in the "H" Series and National Park Area. There are specified quotas in the Blue Area, Markaz and Class-III shopping centers for allotment to Ministries, Government agencies and corporate bodies.
- **Industrial plots:** These plots are of the following types:
 - Very light industry and trading associated with residential areas like those for laundries, repair industries, and bakeries, etc.
 - Light manufacturing servicing industries essential to the needs of the city at large. In addition, industries created by construction works to be carried out in the area in the 'I' series and in the industrial triangle for heavy industries.
 - Extractive industries, mining, quarrying, crushing and brick kilns.
- **Diplomatic enclave:** Plots in the Diplomatic Enclave are intended for Foreign Missions.
- **Public parks, playing fields, incidental open space and graveyards:** Plots are developed and maintained by the Authority as specified in approved layout plans.
- **Agro-farming and agro industry plots:** Areas requiring intensive farming and modern techniques.

Agro village and sub-urban centers: Model villages in the rural areas of Islamabad developed as Agrovilles and Sub-Urban Centers.

Eligibility

Residential plots:

- All citizens of Pakistan.
- Government employees having a minimum of 10 years of service.
- Government servants who have retired within one year from the date of inviting the applications for the allotment of plots and have not been allotted a plot earlier in Islamabad.
- Widows/dependents of Government servants who died during service and did not own a plot.
- Professionals and special categories with 15 years standing who have attained national stature.
- All Defence service personnel according to criteria laid down by respective service head-quarters.

Agro villages and sub-urban centers:

Residential plots in these villages are allotted to displaced rural families and others. The following are eligible:

- Those whose house has been acquired and who have not been issued an eligibility certificate for allotment of agricultural land in the colony district.
- Those who have not been allotted any residential plot in any sectoral or rural area of Islamabad.
- Those who do not own a house or a plot in their own name or in the name of their dependent children in Rawalpindi City or the Cantonment area.

Quota and Reservation of Areas

A certain percentage of residential area in any Sector is reserved for Government Servant housing which is sold to various ministries and concerned departments at a price to be determined

by the Authority. The percentage is regulated by planned demand and special terms apply for usage by Housing Societies and Cooperatives. The remaining residential plots are available for allocation under the guidelines shown below:

Residential plots of 500 square yards and above:

General Public: 50 %

Government servants of Grade-17 and above including employees of autonomous and semi-autonomous bodies and civilian employees paid out of Defence Estimates: 20%

Overseas Pakistanis: 10%

Professionals and special categories not covered under the above: 5%

Defense Personnel: 5%

Discretionary quota of the Authority: 10%

Residential plots of less than 500 square yards:

General Public: 50%

Government servants including employees of autonomous and semi-autonomous bodies and civilian employees paid out of the Defence Estimates: 20%

Overseas Pakistanis: 10%

Serving Defense personnel: 5%

Industrial and commercial workers: 5%

Discretionary quota of the Authority: 10%

Applicants eligible for specific quotas have the option to be considered for the 50 general public quota instead of their respective quota.

Reserved Areas

- for affectees of Islamabad in certain Sectors scheme-wide at the time of acquisition of their immovable property for sale under normal rules.

- for employees of CDA in certain sectors scheme-wide for sale under normal rules.
- for registered Government societies in certain sectors for sale under normal rules.
- for followers in each sector wherein plots will be available for sale under normal rules for sanitary workers, dhobies, and the like.

Commercial and business plots:

Public auction: 75%

The Authority, however reserves the right to reject a bid without assigning any reason and may also resort to open negotiations after an auction bid falls below the reserve price and is rejected.

Government agencies and other social welfare organizations/firms: 20%

Discretionary quota of the Authority: 5%

Industrial plots:

Private sector: 80%

Public sector: Up to 20% according to planned requirements.

Agro-farming and agro-industry plots:

Open quota to individual/party with necessary expertise and financial resources and on submission and acceptance of feasibility report: 50%

Affectees as individuals or as a group who have individually or jointly lost in acquisition a minimum of 100 kanals of cultivable land: 40%

Priority is given to affectees who were original land owners on submission and acceptance of feasibility report.

Discretionary quota of Authority: 10%

Agro villages:

Eligible affectees of rural Islamabad: 80 %

Others: 20%

Sub-urban centers:

Eligible affectees of rural Islamabad: 20%

Others: 75%

Discretionary quota of Authority: 5%

Mode of Application and Conditions for Allotment**Residential plots and agro-farming and agro-industrial plots:**

Applications are received by the Authority on the prescribed forms along with down payments. In the case of residential plots, if the number of applications exceeds the number of plots in any category, the allotment is made by public ballot.

Other commercial plots:

Requests are considered on submission to individuals, Trusts and Welfare Organizations. The procedure as applicable above is adopted subject to production of NOC from the relevant Government agency.

Industrial plots:

Selection of beneficiaries is decided by the Authority on the basis of submission and acceptance of feasibility reports.

Agro Villages and sub-urban centers:

Commercial and amenity plots are disposed of per the policy of commercial and amenity plots in the sectoral areas.

Transfer of Plots**Residential plots:**

Plots measuring below 200 square yards are transferable. Plots above 200 square yards are generally non-transferable, except with the permission of the CDA Board in the following instances:

- that the allottee has expired and the legal heirs are not in a position to build the house on the plot for financial reasons.

- the allottee has gone insane
- the allottee has reached the stage of bankruptcy.
- Any other cogent reason which may appeal to the Board and is considered justified to allow transfer.

Negotiable residential and I & T commercial plots:

Transfer is on payment of prescribed transfer fee.

Industrial plots:

These plots are non-transferable until the project has been completed and is operational, in which case a fee of Rs. 10 per square yard will be charged.

Agro-farming schemes:

Plots are not transferable until the same is developed in accordance with the provisions of agreement executed with the CDA.

Transfer in case of death:

In case of the death of an allottee, the legal heirs may request the Authority to transfer the property to their names.

Transfer within families:

In case of transfer within a family (wife/husband/children/parents), no transfer is charged the first time. However, Rs. 100 is assessed for subsequent transfers.

Cancellation of Plots

Allotments can be canceled for the following reasons:

- Failure to pay dues within the prescribed period
- Failure to complete building within the stipulated period.

-
- Violation of other terms and conditions of allotment, e.g. subdivision, amalgamation, or other non-conforming uses.
 - Serious violation of zoning, building, or municipal regulations.

Violations

A compounding fee is imposed for temporary non-conforming use, unauthorized extension of violation of zoning, building or municipal regulations. In cases where the fee is not established in the regulations, it will be determined by the Authority.

Appeals

Any person aggrieved by an order may, within three months of the order, appeal to the Authority. Appeals are considered by the Board of Authority, whose decision is final.

Resolution

The Authority may consider cases for restoration of allotment of canceled plots under the condition that an appeal has been made by the aggrieved allottee within a period of three months.

City Profiles:

Rawalpindi

Rawalpindi is an old city. Its growth accelerated when the British established a Cantonment in the city, however the most important factor in its urban development was the decision to transfer the Capital of the country to Islamabad. Rawalpindi served as a satellite town of the new Capital and the twin cities were intended to develop in harmony to meet the housing needs of the growing population in the area. Hence, after 1960, the population of Rawalpindi grew much faster as officers and officials of the Federal Government were transferred from Karachi to Islamabad. According to estimates of the Rawalpindi Municipal Corporation (RMC), there are currently approximately 93,000 housing units in the municipal area.

The population growth of Rawalpindi since 1951 has been as follows:

YEAR	POPULATION	PERCENT GROWTH
1951	236,877	--
1961	340,175	4.36
1972	614,804	7.34
1981	836,140	4.00
1992*	1,245,400	4.45

*estimated

Source: Population Census Reports 1951, 1961, 1972, and 1981 and Rawalpindi Development Authority.

The population annual growth was more than 7% between 1961 and 1972; from 1972 to 1992 the rate was slightly more than 4%, or 15% higher than the national population growth of about 3%.

Rawalpindi Municipal Corporation

The RMC operates as a local body. It is composed of one Mayor, two Deputy Mayors, and 70 elected Councillors. The RMC is financed by various municipal funds, including octroi (commodity) taxes; property, toll, and tonga taxes; and building fees. The RMC has very little money for development purposes--although some funds are available from allocations to MNAs and MPAs for development works in the Rawalpindi area, funds are typically used to improve city roads.

Under Section X of the Municipal Administration Ordinance of 1960, all of the cities of Punjab were required to prepare a Master Plan. Although Rawalpindi had prepared a Master Plan, there was no responsible development authority to implement it at the time. The Rawalpindi Municipal Corporation (RMC) had neither the funds nor the technical expertise to acquire new land and

develop new housing areas, and as a result, concentrated primarily on the maintenance of roads and sewerage systems. The development of the city was further handicapped by the powerful influences of the Capital Development Authority of Islamabad and the Cantonment Board of Rawalpindi. At present, the RMC has by-laws regarding the replacement of existing dilapidated buildings. The RMC has no formalized plans for the development of new areas.

Rawalpindi Cantonment Board

The Cantonment Boards were created by the British with a view to protect ammunition dumps and to distance the minority ruling class from their Indian subjects. Cantonment areas were commonly limited to resident servicemen and a handful of British civilians. Following independence, the Government of Pakistan assumed control of Pakistan's cantonments. At this time, maintenance of the cantonment generally declined.

Currently, the cantonments serve as quarters for servicemen, armed forces units, and contingents. In Rawalpindi, there are bachelor quarters or "messes" for Signals, EME, Artillery, Air Force, Aviation, Joint Staff Headquarters, and so on.

Houses were built for married officers, and as time passed, government hospitals, schools, and markets were developed, including Combined Military Hospitals (CMH), Federal Government Schools and Colleges, and more recently the Army Public School and the Canteen Stores Department (CSD). Eventually, private markets were also developed to cater to the needs of Armed Forces personnel.

To provide for such large scale development, a body of authority was necessary, and under the Cantonment Act of 1924, Cantonment Board Offices were established. The only Master Plan available for the Cantonment Board was the Islamabad/Rawalpindi Master Plan of 1960. Unfortunately, this plan is outdated and does not provide any useful land use control mechanisms for the Cantonment Board.

The Cantonment Board does have its own planning department, however it is primarily concerned with the development of housing

schemes for military officers. Plot allotments are according to the following classification:

Officers up to Lt. Colonel:	500 yards
Up to rank of Colonel/Brigadeer:	600 yards
Major, General, and above:	1000 yards

There is obviously a need for a coordinated master planning of the city among the Municipal Corporation, the Cantonment Board and the Rawalpindi Development Authority. Over the last four to seven years, under the regulation and authority of the Cantonment Board, there has been a great deal of land transferred from military officers to private parties. There is no formal development approval process in place at this time, and approvals are done on an ad hoc basis. For example, one private sector housing subdivision built over 100 of 212 proposed plots within the Cantonment Board area prior to having the site plan approved by the Board. The site plan was not approved until two years after the project was launched.

Many of the rules and regulations in the Cantonment governing allotment of plots are outdated and require revision. Generally, the Cantonment Board has been ineffective in the area of house construction. For example, the bylaws require that one third of the land on which any building is constructed be left open. However, lack of supervision and inefficiency of field staff has resulted in noncompliance.

The Cantonment Board is making an effort to maintain a clean living environment, however, the general level of cleanliness is unsatisfactory. Commonly, the Board is subject to political pressures which often override laws and ordinances. For example, despite a ban on them, tongas and Rehries are common in the Cantonment area.

Cantonment authorities have the power to cancel plot allotments if they discover irregularities or violation of the terms of allotment or lease conditions.

Prior to canceling an allotment, the matter is put before a board which gives proper notice to the

allottee and listens to concerned parties prior to making a final decision.

According to the rules and regulations of the Cantonment, the minimum requirement for allotment is 20 years of service in the defence forces. However, there are an increasing number of civilians acquiring plots through purchase from the allottee officers. In some instances, plots are also allotted on the basis of reward for widows and children of Shaeed (martyrs).

The laws of the Cantonment Board permit a two-year construction period, however, permission for extensions may be given on a yearly basis. There are also by-laws regulating the building of temporary structures in the Cantonment area. Accordingly, temporary structures are prohibited on Cantonment land unless permission is given by a Cantonment Board officer. Any person committing a breach of this requirement is punishable by fine.

According to the bylaws of the Cantonment Act of 1924, housing taxes are charged at a rate of 15% of the assessed annual rental value of the building.

Under some circumstances tax exemptions are granted. For example, widows and children of shahæeds, government servants living in their own houses, and the very poor are granted certain concessions.

Despite various laws, illegal occupation of land, illegally constructed buildings, and lack of proper drainage and sewerage systems are common. The laws have been made but they are not being enforced.

The Cantonment Board does not speculate in plots. Its job is simply to develop plots, control building activity and provide civic facilities like ponds, streets, water supply, sewer, drains, and street lights, etc.

As far as transactions of land are concerned, there is no law prohibiting the sale of private land, and there is no limitation on how much land a person is allowed to own. However, sale and purchase of land is regulated by Cantonment authorities. Since the Cantonment Board is controlled by the military, it has not been concerned about or interested in providing mechanisms for private development within its jurisdiction.

Rawalpindi Development Authority

The RDA was established in 1990, and operates directly under the control of the Punjab Provincial Government. With no funds of its own, the RDA is heavily dependent on the development funds allocated to the Members of the National Assembly (MNAs) and Members of the Provincial Assembly (MPAs) of the city. The RDA is currently planning to cooperate with and encourage private developers to establish housing schemes in Rawalpindi.

The Chairman of the RDA and his supporting staff include Town Planners and Engineers appointed by the Provincial Government for the development of Rawalpindi. The RDA has an annual budget of Rs. 50 million. To date, the RDA has developed about 4000 kanals of land in the private sector for housing schemes. The RDA has also constructed roads and is currently planning to build a Ring Road around Rawalpindi. When this road is completed, some marginal adjacent land will be available for housing development.

The RDA is a relatively new authority and has only had the Islamabad Master Plan to guide it in planning Rawalpindi. However, the original master plan is currently in the process of being updated, and over the last two years, the RDA has begun to outline several peripheral areas of the City that it wishes to plan and develop. Much of the land in these areas is privately owned by individuals, or by the 102 housing societies operating in the city. Unfortunately, to date there has been little RDA involvement with the housing societies, and there is an immediate need to bring these schemes within the planning and control framework of the Authority.

Housing Stock In Rawalpindi

In 1992, housing stock was estimated at approximately 144,650, or 8.61 persons per household. The housing shortage in Rawalpindi has been calculated by the RDA as follows:

Requirement at the rate of 6 persons per housing unit: 207,573

Housing Stock: 144,650

Back Log: 62,923

Immediate replacement of dilapidated houses at the rate of 8% of existing stock: 11,572

Total Housing Shortage: 74,495

To meet the shortage of housing, the RDA had been making efforts to develop a projected 42,330 residential plots. However, due to a paucity of funds, the RDA is handicapped in the development of housing schemes. Land in Rawalpindi is about Rs. 500,000 per acre and its development as serviced plots requires about 3.5 times more funds or Rs. 1.75 million for development expenditure. Hence, the total cost of developing once acre of land is approximately Rs. 2.25 million.

The RDA is planning to develop at least 100 kanals of land for private development under an scheme called Group Housing. To date, RDA has a list of approximately 102 Housing Societies which they are examining for reliability and competence in housing development. A prospective Developer in the RDA area must fulfill the following conditions:

- proof of the ownership of the land;
- feasibility of water supply, roads, sewerage treatment etc.;
- the housing scheme fits into the town planning scheme of the RDA, which is now being prepared;
- private developers must arrange the supply of utilities with the concerned agencies.

In addition, the RDA has a list of areas adjacent to the planned Ring Road around Rawalpindi, and has developed self-financing schemes for low and middle income shelter in Rawalpindi. A Group Housing Scheme to encourage private sector participation is currently being developed as follows:

- A Group Housing/Community Housing Scheme is planned in the vacant area bounded by Islamabad Highway, I.J. Principal Roads, and the proposed first Ring Road and area falling in between G.T. Road and Attock Oil Road, up to Morga and Swan River.

- The land will be purchased/acquired for the scheme in one contiguous parcel measuring 50 to 100 kanals. The scheme will be prepared by a qualified Town Planner registered with the RDA.
- The sponsor will submit the scheme on prescribed proforma (to be prepared by RDA) along with the requisite documents and plans to the Director, Town Planning, RDA.
- The scheme will be approved by an RDA Committee composed of the following individuals:
 - Director, Town Planning
 - Director, Land Development and Estate Management (LD & EM)
 - Director, Traffic Engineering Projects (TEP)
 - Director, Engineering; and
 - Director, Horticulture
- The Committee will submit their recommendation regarding approval of the scheme to the Director General of the RDA for the final decision.
- The scheme will be developed in accordance with the lay-out plan and services plan approved by the Director General.
- Following confirmation of the ownership documents by the Director of LD & EM, a public notice to invite objections will be given at the expense of the sponsor.
- The sponsor will mortgage 20% of the residential plots in favor of RDA as per the Mortgage Deed. This will be executed by the Director of LD & EM and will serve as a guarantee for completion of development works within the specified period.
- At the expense of the sponsor, a public notice will be published in the press regarding mortgage of the plots.

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- The sponsor will transfer to the RDA, free of cost, the land reserved for roads and streets, public buildings, open spaces, and graveyards as per the transfer deed.
 - Stamp and judicial papers for deed registration will be purchased by the sponsor, who will also bear all other incidental expenses and fees.
 - The scheme will have an independent water supply, sewerage and municipal waste system duly confirmed by the appropriate local authorities.
 - Following approval of the layout and construction plans, the scheme will be advertised in the press.
 - The scheme must be accessible from an existing road of not less than 50 feet wide. If the approach road is less than 50 feet, then the sponsor will provide set back to allow for expansion. However, a width of less than 30 feet is not acceptable.
 - The scheme area will be enclosed by a boundary wall and have only one access to the existing abutting road.
 - The sponsor will submit a court attested undertaking on Stamp Paper of appropriate value acknowledging acceptance of the above mentioned conditions to the Authority.
 - The building plans will be approved in accordance with the RDA Building Regulations of 1992.
 - The sponsor will submit a certificate for use of the locally maintained graveyard or provide 20% of the area outside the premises of Group Housing for this purpose.
 - The possession of constructed houses will be delivered after a completion certificate is issued by the RDA. The sponsor will pay the RDA the following fees:
 - Document Security fee: Rs. 10,000
 - Approval of layout plan: Rs. 2,000 per Kanal

City Profiles:

Lahore

Lahore is an old city, and historically, has been developed with no modern town planning concept. In the old Walled City, the Lohari, Kashmiri, and Bhati gates, among others, mark the progression of the city's development. Over the past 40 years, Lahore has expanded a great deal due to the development of manufacturing units in the towns of Sheikhpura and Kalashah Kaku. The majority of the employees in these units live in the growing suburbs of Lahore.

Land Registration

Under the Land Acquisition Act of 1894, property registration in Lahore has been available for approximately the last 100 years, and in the rural areas, most ownership records are complete. Under the 1894 Act, agricultural land cannot be put to alternative uses without the permission of the owner. However, if it is acquired by the Government, it must be used for nonagricultural purposes such as industry or construction of houses.

In many cases, landlords have donated land to workers, however because the appropriate transfers have not been made, final ownership rights rest with the landowners. In the event of a worker's death, the land reverts back to the landowner.

In the central city where urban areas have developed around agricultural land, land ownership is not up to date. This is the case with about 20% of the houses in the city. However, the ownership/registration of the houses/land can be determined in the following manner:

- Present ownership can be determined by presenting the record of the owner. The owner's claim is publicized in the newspapers, and if there are no claims, then the ownership of the land or house is registered in their name.
- If the owner of the house has resided on the property for a long time, ownership can be determined by providing a certificate from a Member of the Provincial Assembly and the Chairman of the District Council. Certificates are countersigned by a Member of the National Assembly. When ownership is determined on the basis of an affidavit certifying that no litigation regarding the property is registered in the Courts, a certificate is obtained from the Judge. In cases where the property is owned by a family, then the affidavit has to be countersigned by a District Officer and by a Member of the National Assembly.

At present, the physical and infrastructure development of Lahore is controlled by three organizations. They are as follows:

- *Lahore Metropolitan Corporation (LMC)*
- *Lahore Cantonment Board (LCB)*
- *Lahore Development Authority (LDA)*

The Lahore Metropolitan Corporation

The Lahore Metropolitan Corporation is concerned with an approximate area of 400 square kilometers in the main city, and has control over housing specifications, improvements, replacements, and related infrastructure and municipal services like the removal of garbage, cleaning sewerage drains, and street sweeping, etc. The Municipal Corporation has no land for development, and is limited to regulating specifications and building construction in its jurisdiction.

The Lahore Cantonment Board

The Lahore Cantonment Board (LCB) operates under the Federal Cantonment Act, and operates similarly to the Rawalpindi Cantonment Board. The LCB is responsible for the development of infrastructure i.e., roads, water supply, sewerage, etc. within the Cantonment area. The LCB has developed substantial areas for housing within its jurisdiction, although this is almost exclusively for military personnel. To date, the Board has not allowed private development of housing within its jurisdiction.

The Lahore Development Authority

Of the three development agencies in Lahore, the Lahore Development Authority (LDA) exercises the most power and authority over development in the urban areas of Lahore, and is responsible for the city's physical planning. In Lahore, the research conducted for this case study focused on the LDA and its functions.

The Lahore Development Authority (LDA) has attempted to maintain some control over the physical expansion of the city by infrastructure planning, for example, sewerage and water supply trunk systems. In addition, the planning and development of roads in the city provided a rough

guideline for the location of housing societies and katchi abadies.

The LDA has jurisdiction over an area of approximately 2,000 square kilometers, including Lahore, Sheikhpura, Gujranwala, Muridkey, Bhai Kheroo and the areas up to the Indian Border towards Wagah. The Authority is composed of three departments:

- 1) the Housing and Physical Planning Department;
- 2) the Road Traffic Department; and
- 3) the Water and Sanitation Department.

The LDA is composed of a Chairman, who is the Chief Minister of the Punjab, a Vice Chairman, and a full-time Director General. All three departments are assisted by additional Director Generals. The powers of the LDA are delegated through an Act to eleven members: the Chairman; four Ministers from the Punjab Provincial Government and the Secretaries of Housing and Physical Planning, Finance, Local Government, and Planning and Development Department; the Lord Mayor of Lahore; the Director General, Housing and Physical Planning, LDA; four Members of the Provincial Assembly/National Assembly; and the Chairman of the District Councils. The budget of the Authority is approved by the Chairman or the Director General.

Housing Stock in Lahore

According to the 1981 Housing Census, the housing population of Lahore was 440,000 units, indicating a shortage of 130,000 units. It is estimated that until the year 2000, with an average occupancy of six persons/house, the shortage of houses will be about 200,000. Currently in Lahore, 30% of the houses are one room, 30% are two rooms, and the remaining 40% of the houses are three rooms or more. Approximately 30% of the houses are 33 years old or more.

The LDA, the Housing and Physical Planning Department of the Provincial Government, the LMC, and the Private Cooperative Housing Societies have 1/3 of their housing development plans targeted for low income groups, 1/3 for middle income, and 1/3 for high-middle and high income groups.

Under the LDA's site and service schemes, plots are sold following acquisition and development. Ninety percent of the plots are 200 square meters, and the remaining 10% range from 70 to 120 square meters (3 Marla or less). Currently, the LDA does not have any active projects of this kind.

Plot Allotment

The land development process in Lahore is very similar to the process used by the CDA in Islamabad and the RDA in Rawalpindi, and commonly, serviced plots are mainly allocated to government employees. Past experience has indicated that the pace of development for government serviced projects is slow, and any scheme which is 10 years old usually has only 20% of the houses constructed. Plots are commonly held for speculation. Plots are also held vacant because individuals who want to own a house are often not familiar with loan procedures or do not have access to loans from HBFC or Banks.

LDA commonly purchases land at market value, with the condition that 20% of the developed plots will be allotted back to the landowners. The remaining 80% of the plots are allotted according to the following procedure:

General Public by ballot: 10%

Armed Forces: 35%

Government Servants having a service of 10 years or more: 10%

Chief Minister and Governor: 10%

Disabled or destitute: 5%

LDA employees: 3%

Journalists/scholars: 2%

Judges: 2%

Artists: 2%

It is significant to note that LDA only provides plots and is not interested in the construction of houses. In the past, LDA has tried joint ventures with the private sector for the construction of houses, but

these facilities were misused. However, LDA is currently open to entering into contracts with private developers if they possess land, and in that case, joint ventures would be possible.

At present, due to the recent financial cooperatives scandal, the climate is somewhat muddled. However, there are parties approaching LDA for the development of land; at present three are very keen. One of them has 5,000 Kanals, and the other two parties have 500 and 300 Kanal projects, respectively.

Slum projects

Twenty percent of Lahore has been declared slums and katchi abadies. LDA is making efforts to upgrade these areas by supplying water, sewerage systems, roads, electricity, and gas, etc. There are currently 308 katchi abadies, and 200 of these have been upgraded. The main purpose is to reduce the shortage of housing in the city.

Infrastructure

In accordance with recent rules, LDA provides services design plans to the Water and Power Development Authority (WAPDA) for electrical supply clearance, and to Water and Sanitation Authority (WASA) for water supplies and sewerage. LDA's role starts when the private developer obtains permission for development. It is mandatory for private developers to enter into an agreement with LDA for the provision of infrastructure on a "turn-key basis", as LDA follows all the specifications of WAPDA and WASA. Formerly, private developers made their own arrangements for the provision of infrastructure, however, this resulted in problems and complaints by residents.

Currently, with the assistance of World Bank, LDA has a plan for water sewerage under a Trunk System. This system has been completed in the northern part of Lahore and is now being extended to the south. Private developers are required to link up with the water supply and sewerage within the Trunk System. The cost of this arrangement is Rs. 7,000 per Kanal, or Rs. 260 per square meter. Water is available in abundance and can be supplied to any area in Lahore. However, a primary problem is the shortage of vacant land for development.

Currently, it costs approximately Rs. 100,000 to develop one Kanal (about 460 square meters) of land. This includes roads, water, sewerage, electricity, and gas, as well as open spaces for parks and gardens.

Private Sector Development

Under the Land Acquisition Act of 1973, the public sector provided state land, financial support, and the legal authority for the acquisition of property. During this period the private sector was kept out as a matter of policy.

When the 1973 Land Acquisition Act was repealed in 1985, it became nearly impossible to acquire land due to the long drawn-out legal process required under the Land Acquisition Act of 1894. As a result of these circumstances, the LDA invited private sector participation in housing projects by either allowing the private developer to develop land and construct housing units according to client demand or through joint ventures with the LDA. Though numerous privately developed projects exist, there have been no joint ventures thus far. LDA is currently trying to motivate people to construct houses under joint venture schemes.

As space is becoming scarce in the city, vertical developments are becoming increasingly prevalent. The LDA is planning a large number of higher density flat developments within the city. The private sector can enter into the 110 housing schemes consisting of about 30,000 flats for development. There is another batch of 100

schemes which will provide about 40,000 flats which are in the planning stage, although the implementation has been postponed due to a shortage of funds. The flats will be sold at current prices and the schemes will mature during the next 5 to 6 years.

There is currently no process in place to encourage private land development in Lahore. LDA has rules and regulations for the approval of housing schemes, as well as of individual houses, but they are not available in printed form because the rules change so frequently that updating is not possible.

When land is available, it is in very small quantities privately held by small landowners. Generally, LDA will grant permission for these private housing schemes within 3 months. After permission has been granted, final approval by the LDA is usually sanctioned without delay.

LDA does not allow private developers to provide on site improvements such as roads, water and sewer, electricity and phone lines. These are provided by the Authority at a set cost to the developer. However, to get any of these services provided in a timely fashion, the appropriate officials must be "paid", raising the costs to much higher than would be the case if the on site development were provided by the developer himself. This has greatly discouraged private development within the jurisdiction of the LDA.