Investigation of the gap between statutory and market prices in the Real Estate Market

(Case study in Hanoi, Vietnam)

Nguyen Phuong Tam

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Investigation of the gap between statutory and market sale prices in the Real Estate Market
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by

Nguyen Phuong TAM

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Thesis Assessment Board

Chairman:	Prof. Ir. Paul van der Molen
External Examiner:	Dr. Ir. Jaap Zevenbergen
First Supervisor:	Dr. A.M. (Arbind) Tuladhar
Second Supervisor:	Dr. Ing. W.H. (Erik) de Man

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Abstract

Vietnam, under the transition from the command-driven economy to the market-driven economy, has made progress towards opening up the real estate market. Since the Land Law 2003 came into effect, the full establishment of real estate market is now legally recognized with the official acceptance that the land use rights (LURs) could be transacted in the open market. Recently, one of the emerging issues is about the large gaps (or differences) between the statutory land prices and the sale market prices. Such significant gap has created negative impacts such as speculation, market distortion, non-transparencies, etc. on the real estate market.

This research has been conducted to investigate the gap between statutory price (SP) and market sale price (MP) in the real estate market. The focal point of research is at urban residential land market in Hanoi, one of the biggest urban cities in Vietnam. The gap is studied under the interaction of the real estate operation and valuation process. From a broader point of view, the real estate market and valuation is reflected through the market failures and non-market failures, which are the signals to identify whether the government intervention is desirable and relevant or not. These signals also indicate the possible remedies for government intervention to fix the failures of market.

The analysis of this research showed that the gap between SP and MP is inevitable, but significant gaps had negative impacts to both the government and the land user's interest. The existing extent of the gap is presented largely not less than 50%. This gap is larger to the land parcels having one side front big road, street (called as location 1) because the profit gained from land at location 1 can be higher than that at the other locations. Finally, the research concluded with two main reasons for such type of significant gaps: 1) deficient real estate market, and 2) inappropriate land valuation. Particularly, the research clearly illustrated that the combination between poor data provided by the deficient market and inappropriate land valuation is the reason for the existing large gap in Vietnam now-a-days.

Based on the analysis and discussion on the existing situation of the real estate market and impact of possible government intervention, two government interventions are proposed to be essential to minimize the gap in the current development of land management and real estate market. The first one is to improve the land tax system, in which land-housing tax must be progressively imposed on both land and houses; LUR transfer tax is further reduced. The second one is to set up a systematic real estate distribution channels with some preferential policies such as financial support to encourage transaction at market level 2 (between the investor and the users).

Key words: Real estate market, Gap, Statutory price, Market price, Government intervention, Valuation

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Abbreviation

DCF	Discounted cash flow
Dist.	District
DoF	Department of Finance
DoNRE	Department of Natural Resource and Environment
DPC	District People's Committee
GDP	Gross Domestic Product
LL	Land Law
LUP	Land Use Planning
LUR	Land Use Right
LURC	Land Use Right Certificate
MoC	Ministry of Construction
MoF	Ministry of Finance
MoNRE	Ministry of Natural Resource and Environment
MP	Market Price
NOI	Net Operating Income (Cash flow)
Org.	Organization
PC	People's Committee
PPC	Provincial People's Committee
SP	Statutory Price
USD	United State Dollar
VND	Vietnamese Dong

1. Introduction

1.1. Background

Vietnam has been progressively making the changes of Land Laws to support the development of the market - oriented economy since "Doi moi" (Reform) policy in 1986. The first Land Law was promulgated in 1987, and land use rights were then allowed for granting to the individuals over a period of up to fifteen years. However, such land use rights were not tradable. In 1993, a new Land Law was enacted and in addition to an increased lease term, land use rights can now be inherited, transferred, exchanged, leased and mortgaged. The law of 1993 is therefore seen as the foundations toward a formal market for land in Vietnam (Do et al. 2002).

Under the impacts of market economy and the successive pace of socio-economic development, the land related problems have become complicated issues. New issues, which were not specified in the Land Law 1993, raised number of challenges, for example, the unclear stipulations in which State allocates/ leases land without land use fee or with land use fee; the unclear rights of organizations, households and individuals in using the land for non-agricultural and non-forestry purposes. Later on, the amendments and additions to the Land Law 1993 were made starting from 1998 to 2001. Such amendments and additions were focused on the items such as rights and obligations of land users, authority in land lease, allocation and land use conversion, authority in issuing land use right certificate, land acquisition, land use planning. Thus, Land Law 1993 (including these amendments) brought significant achievements in the management of land in Vietnam.

However, with the rapid development of infrastructure and economic transition in the track of industrialization, it is realized that a major policy reform is required to deal with land issue problem. Based on the comprehensive review of the 10-year implementation of Land Law 1993, a new Land Law 2003 was passed by National Assembly of Vietnam on 26th November 2003. One of most important elements in the new Land Law is the reform on the bundle of land use rights from five to nine that enable effective operation of the open market mechanism.

The timeline of amendments and modifications of Land Laws to support the development of the open market mechanism is shown in the figure 1-1.

Land Law 1993: recognize five rights (inherited, transferred, exchanged, leased and mortgaged), *setting the foundations of a formal market for land in Vietnam*

| **1987** | **1993** | **1998** | **2001** | **2003** |

——————Ammendments——————

First land law: land use rights are granted to the individuals, but not tradable

Highlight in LL 2003: land use rights from five to nine that enable effective on the open market mechanism; LUR as commodity in land market

Figure 1-1: Timeline of Land Law amendments

From the Land Law 1993 to the latest Land Law 2003, the statement: "powers and responsibilities of the State as a representative of the entire people's ownership of land and exclusive manager of land; the management and use of land and rights and obligations of land users" has been mentioned clearly in the first page of these Land Laws. This statement acts an "umbrella" for regulating all the land management activities in Vietnam. Since the year 2004, when the Land Law 2003 came into effect, the full establishment of real estate market is legally recognized with the official acceptance that land use rights could be transacted in the open market.

With the transition from the command-driven economy to the market-driven economy, GDP annual rates from 6.79% to 8.43% (estimated by World Bank) over the years from 2000 to 2005 suggest that socio-economic development and living standard of the Vietnamese people are evident of the growth in Vietnam. Such growth has strongly influenced the demand of land by the people and society, while it is clear that land is increasingly scare resources (Adlington et al. December 2000).

In the broader economic context, there is no assurance that real estate market in practice would operate efficiently and smoothly. The real estate market in Vietnam is still not fully operated by open market mechanism. This is due to the fact that the existing land system does not support in the way that government does valuing land and property, as the society is not willing to accept the statutory land prices (stipulated by the local authority).

1.2.　　Problem statement

Land valuation plays a key role in the land market. It influences to all behaviours and activities in land markets, including both market and non-market activities. In 2001, land valuation has been the new concept in the land administration system of Vietnam. Vietnam has not had any system of valuation offices, land price accordingly is defined on the basis of the government land price frame (Vo et al. May 2001). Till the year 2004, the Land Law 2003 has one section for "Finance on land and land price", in which identifies from which resources the land price is formulated (Article 55), principles on land pricing stipulation (Article 56) and land price consultation (Article 57). The rest Articles in this section regulate revenues to the State budget from land, auction, value of land use rights in the

assets of organization, and exemption and reduction of land use fees and rentals. However, the current State mechanism to define land prices is prone to under-valuation, prompting private trade that undermines State control, and over-inflates prices.

One of the emerging issues is about the large gaps (or differences) between the statutory land price and sale market price. Such significant gap has created negative impacts such as speculation, market distortion, non-transparencies, etc. on the real estate market. For examples, the combination of undervalued official land prices and high land transfer taxes has triggered the development of an informal and highly speculative land market. Prices of land in central locations in Hanoi and Ho Chi Minh City are allegedly higher than in down town Hong Kong and other mega cities (SEMLA 2004). In addition, price differentials between state and market values generate incentives to corruptly allocate land (eg Thang Long Waterpark Case) or illegally convert land use (AusAID 2000; AusAID December, 2000), that has strong impact on the efficient operation of land market. In the literature, "low transparency" is sometimes equalled with "corruption", for example (Lasalle 2006)[1]. The research on real estate transparency index conducted by (Lasalle 2006) give the result that Vietnam rank at the low end of real estate transparency score table of Asia Pacific region (Appendix 1).

The main problem of this research is centred on the large gaps between the statutory and market prices in Vietnam. The aim of this research is to investigate the gaps between statutory and market prices, and to discuss about the issue needed to minimize the gaps.

1.3.   Research framework

The starting point for this research is market with two parallel axes as market and non-market components. In which, the understanding on relationship between the market failures and non-market failures, market activities and non-market activities are studied based on "Non-market" failures and Market failures theory of (Charles Wolf 1978). Then, land market is closely considered through the land market model constituted by three pillar (registration, valuation and fiscal services) argued and formed for the transition economy, by (Dale et al. 2000). This model shows that the efficient functioning of these three pillars is necessary requirement for smooth and formal operation of land market and the clear and consistent land policies is sufficient requirement for an efficient land market. These three pillars reflect the connection between participants, land as commodity and finance mechanism as value and prices. Among these pillars, land valuation pillar was assessed as the weakest one in six countries, such as Czech Republic, Hungary, Latvia, Poland, Slovakia and Slovenia, involved in this model study. Accordingly, land valuation is taken for consideration in this research. Price is the outcome of valuation and also one of the core components of the market. And then, gap is generated due to the difference between two types of prices (statutory price and market price) in the market. So, there is a close linkage from market to land market; from land market to land valuation and the gap.

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[1] Refer to the work of Transparency International. This approach is well-summarized by Ben W. Heineman and Fritz Heimann in "Curbing Global Corruption," Foreign Affairs Quarterly, May/June, 2006.

The framework of the research problem is summarized as the figure 1-2 below:
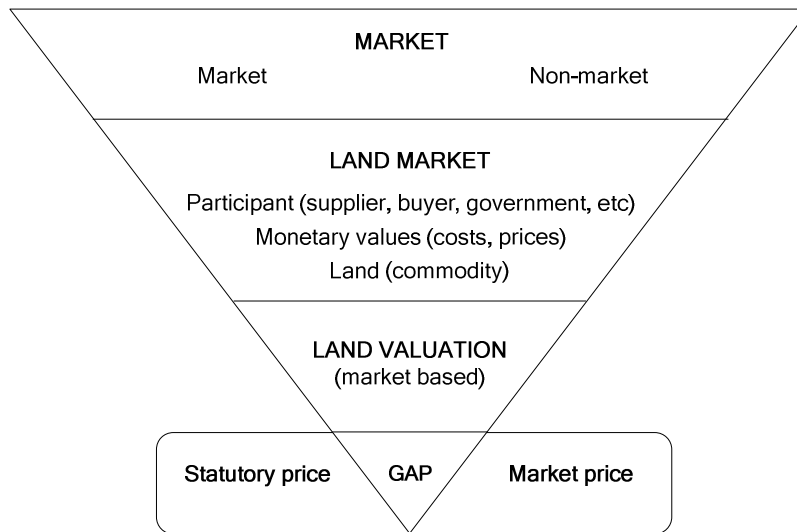
Figure 1-2: Summary of the research problem identification

1.4. Research objectives

The main objective of this research is to investigate the gap between the statutory price and market sale price in the real estate market in Vietnam to discuss the issues to minimize the gap.

In order to achieve the main objective, the following sub-objectives are laid down:

Objective 1: To understand the existence of the gap between the statutory price and market sale price

Objective 2: To identify the main reasons of the gap

Objective 3: To discuss about the issues to minimize the gap

1.5. Research questions

The objectives of the research are specified by the following questions:

Objective 1:

1.1 What are the typical characteristics of real estate market and land valuation in Vietnam?

1.2 How far are the land-related policies sufficient and suitable with the development of real estate market and valuation in Vietnam?

1.3 How can the gap issue be identified?

Objective 2:

2.1 How is the current status of the gap?

2.2 What are the main reasons of the gap between market price and statutory price?

Objective 3:

3.1 What should be the issues to support minimizing the gap?

1.6.   Methodology

Research methodology is essential for conducting any type of research. It plays as a framework and guideline for timely completing the research in the right track. In this research, there are three main phases. Main activities in phase one are literature review and problem identification. Fieldwork is conducted in phase two to provide the findings from practices. Phase three focuses on understanding and analysis, discussion and conclusion. It is referred to the figure 1-3 for the overall picture of the methodology.
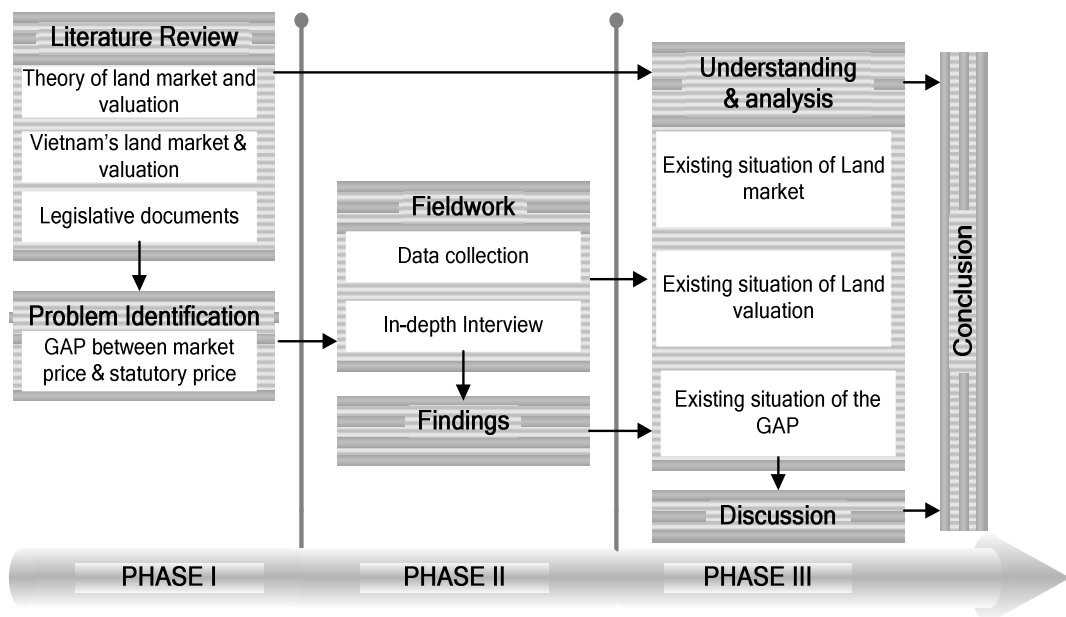
Figure 1-3: Research methodology

1.6.1.   Literature review

Literature review is carried out in phase 1 to identify theoretical background for the research problem and to support for analysis and discussion as well in phase 3. The main topic of literature review is divided into three themes:

- Theoretical background of the research topic, including market, land market, valuation

- Legal frameworks related to real estate market and valuation in Vietnam

- Literatures on Vietnam's real estate market , valuation and the gap

1.6.2.   Fieldwork for data collection

The focal point of research is at urban residential land market segment. Hanoi, one of the biggest urban, where the statutory prices have been said to be approximately 30-50% of market prices (Truyen 2007), was selected for conducting the fieldwork. Two locations were picked up for data collection as 1) Trung Hoa – Nhan Urban development area and 2) Existing residential area as Quang Trung Ward in Dong Da district.

There are two data sources (primary data and secondary data) to collect during the fieldwork. The primary data were collected from the semi-structured interviews at three levels (management, operational levels & intermediate organization). The secondary data were extracted from different document sources such as:

- Historical sale land data from the Newspaper Agency under management of Ministry of Trade, Real Estate Centres and from other websites.

- Reports, census, and archives from the interviewed organizations

- Digital maps from Cartography publishing house.

1.6.3.   Data analysis, discussion and reporting

Data analysis is carried out based on the 1) findings explored and observed during the fieldwork, 2) findings from literature review and 3) statistics collected. From the data analysis, some key points are withdrawn for discussion. Finally, reporting is formulized to present the research.

1.7.   Thesis structure

Chapter 1: Introduction

This chapter provides the overview of the research, including the following contents: 1) Background; 2) Problem statement; 3) Research framework; 4) Research objectives; 5) Research questions; 6) Methodology, and 7) Thesis structure.

Chapter 2: Theoretical background

Theoretical frameworks of the themes related to the research topic are described in this chapter. These are market theory, land market model, land valuation. Based on these theoretical frameworks, analysis framework for research problem is established.

Chapter 3: Practices of operational real estate market

Findings on the practices of land market, valuation and gap are written in chapter 3 based on the interview information and observations from the fieldwork activities.

Chapter 4: Understanding operation real estate market under the current legal framework

Understanding and interpretation of the operational real estate market and valuation processes within the existing legal framework are presented in this Chapter based on the integration of the knowledge from literature review, findings from the fieldwork and information from the documentation acquired during fieldwork.

Chapter 5: Analysis on the gap between the statutory price and market price

The gap is analyzed in detailed in this Chapter. This analysis focuses on different locations in Hanoi such as residential area in one district. The main reason of the gap is also concluded in chapter 5.

Chapter 6: Discussion on government interventions to minimize the Gap

Based on the findings, understanding and analysis results from the above chapters, discussion on the government intervention essential to minimize the gap is given.

Chapter 7: Conclusions and Recommendations

Conclusions are drawn in this Chapter and recommendation for further research is also presented as well in Chapter 7.

2. Theoritical background

2.0. Introduction

This chapter presents theoretical background for the research work, which constituted by three theme layers as shown in the figure 1-2 in the previous chapter. These layers are market, land market, and land valuation. The purpose of chapter 2 is to study about the linkages among these theme layers. Accordingly, analysis framework is formulized for the research problem.

The chapter is comprised of four sections. Section 2.1 discusses about the market theory, focusing on market and non-market components. Land market is reviewed in Section 2.2, with the focus on the three pillar model of land market. This model was developed based on case studies at six countries, which has been under transition economy. Section 2.3 studied on land valuation, in which the two pricing systems are explored. Finally, analysis framework for research problem is drawn in Section 2.4.

2.1. Market theory

General definition of market can be expressed in several ways. Aitken, (1950) says "A market is a complex system of contractual relationship affecting the exchange of goods and services". Harvey, (1981) defines a market as "any arrangement by which buyers and sellers are brought together to fix a price at which goods can be exchanged". According to the (IVSC 2003), market is the environment in which goods and services trade between buyers and sellers through a price mechanism. In addition, market is publicly defined as a social arrangement that allows buyers and sellers to discover information and carry out a voluntary exchange of goods or services (http://en.wikipedia.org/wiki/Market). Hence, all these definitions generally mention about **buyer**, **sellers**, **goods & services**, **exchange** and **price mechanism**.

From the economic view, a market can be presented by supply and demand relationship, from which price is determined (Eckert et al. 1990). Supply and demand in the market are dynamically changed. Whenever either supply or demand changes, price is accordingly changed. Therefore, formation of price is central function of market. If the market functions properly, the buyer can buy at an optimum price and the seller can earn the maximum profit. In other words, markets are efficient when the price of a good or service attracts exactly as much demand as the market can currently supply. It means the supply is to meet the demand and vice verse at equilibrium price (refer to figure 2-1)
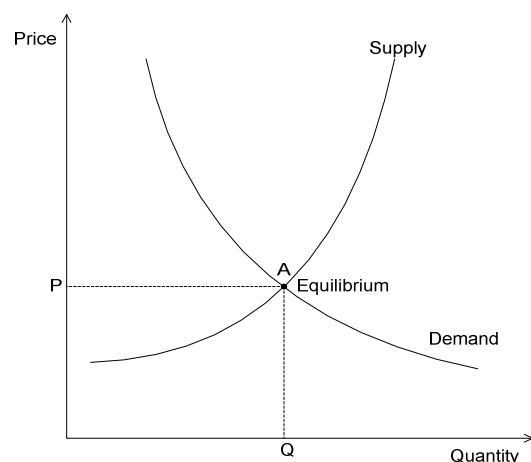
Figure 2-1: Typical supply and demand diagram (Eckert et al. 1990)

Thus, there always exist the interaction signal between demand (users/ buyers), supply (providers/ sellers) and price in the market for adjustment toward the equilibrium point (refer to figure 2-2).
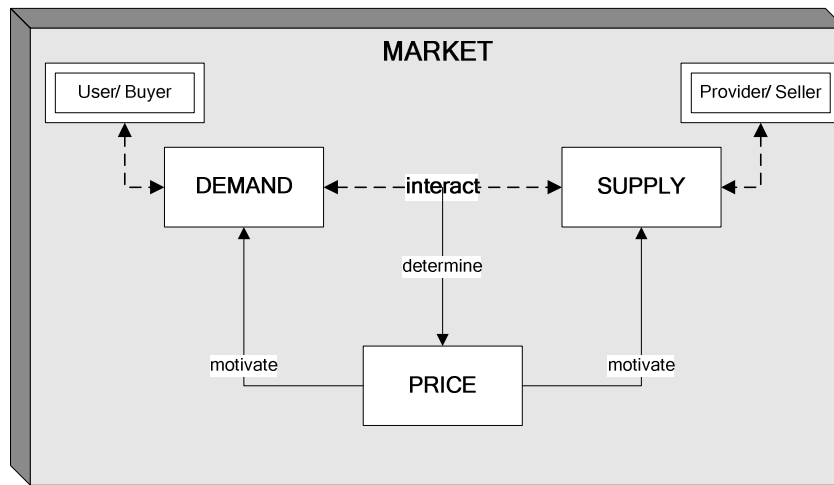
Figure 2-2: Interaction in a market

The supply and demand determine the price, and then in turn the price motivates the supply and demand, which the user/ buyer and provider/ seller stand behind. Buyer and sellers can be individual persons or individual organizations or even governmental organizations participating in the exchange processes in the market. They are the ones creating supply sources and demand sources.

2.1.1.   Market and Non-market components

As discussed above, the participants in the market are not only individual persons or individual organizations but also the governmental organizations. In practice, the motivation of these participants is different, and then their revenue comes from different sources. Some operate for the profit purpose, some not totally for profit purpose. Based on their revenue source, they can be grouped into market organizations and non-market organizations. Accordingly, market activities and non-market activities can be distinguished (refer figure 2-3).
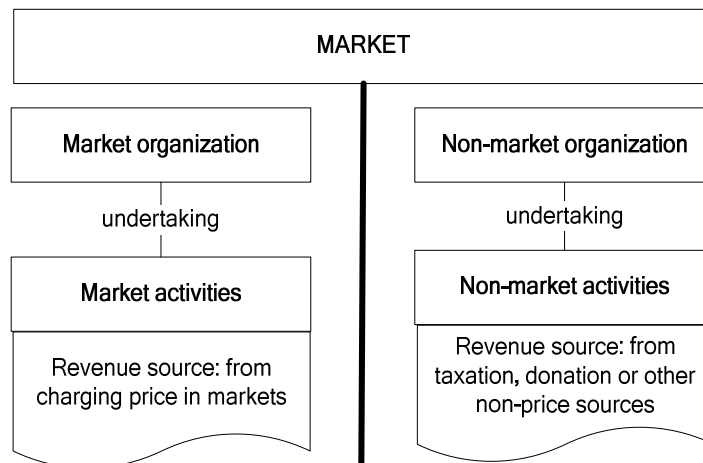
Figure 2-3: Components involving in market theory

Market activities are defined as all the activities in the goods exchange process. It can be reflected via the rule on the goods – money – goods, which is relevant with component of the market as producer – price – user (buyer) (refer figure 2-4). The characteristic of market activities is to charge prices in the market. Thus, the market activities directly involve into the issues as profit-oriented activities, "production for sale" and market prices or price as economical significant, which is based on cost production.
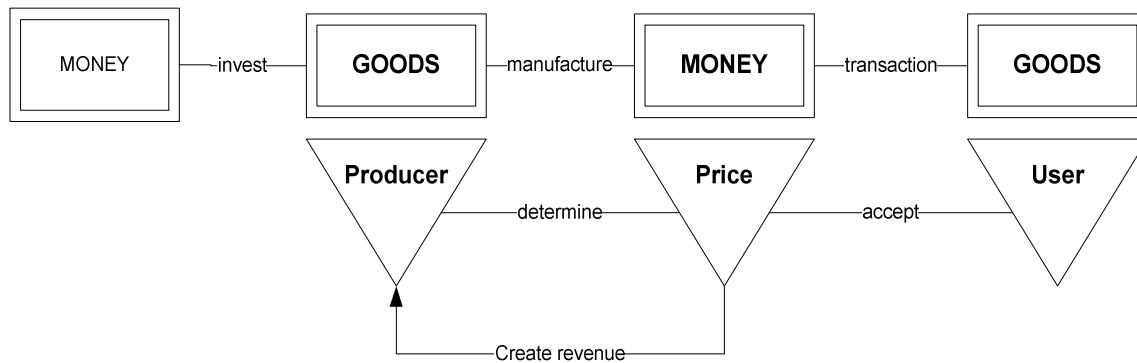
Figure 2-4: Market activities

Meanwhile, Woft, (1978) defined that "non-market activities as those undertaken by government and other institutions whose sources of revenue come principally from taxes, donations or other non-price sources, rather than from charging prices in markets". Based on this distinction, it can be said that government is the principal organization in non-market organizations, and government interventions are considered as the main activities among non-market activities. The motivation of non-market activities is not purely economical; it also covers large range such as social and political aspects. Therefore, the market price or price as economical significant is not all centred in non-market activities. Furthermore, the output of non-market is quite difficult to define. They are generally intermediate products and non-quantitative ones in practice.

2.1.2. Market failure and non-market failure theory

Following the distinction between market and non-market components above, market is also discussed on both parallel axes as market failure and non-market failure. This was stemmed from the "arguments between advocates of the market, and advocates of government intervention to correct the market's shortcomings, are characterized by a curious asymmetry" (Wolf 1978).

Market failure occurs when the market fails to function properly. Based on the four conditions necessary for pure competition as "homogeneity of product", "Buyers and sellers too small to have a measurable effect on the price", "Absence of artificial restraints" and " Mobility") stated by (Eckert et al. 1990), there are respectively four interpreted conditions, which lead to market failure, as 1) inadequate competition, 2) lack of market information, 3) unreasonable price and 4) resource immobility. Therefore, the principal finding of this theory is that, under certain conditions, the production and distribution of a commodity through a competitive market in which all the relevant agents are pursuing their own self-interest will result in an allocation of that commodity that is

socially inefficient (Grand 1991). Meanwhile Wolf, (1978) mentions that non-market failures are due to the absence of non-market mechanism for reconciling calculation by decision maker of their private and organizational costs and benefits with total costs and benefits. The supply and demand characteristics of the non-market sector are fundamental to the theory of non-market failure.

As mentioned above, government is principal in the non-market axis. So, Wolf, (1978) came up with comment *"The types and sources of market failure indicate the circumstances in which government intervention is worth contemplating, and in which alternative policies are worth analyzing as possible remedies. Similarly, the types and sources of non-market failure indicate the circumstances in which government intervention may itself misfire, and in which potential correctives are worth analyzing as possible remedies for the likely short-comings of government interventions"*. Both market failure and non-market failure are the signals to evaluate how far the government intervention to the market is desirable, efficient and sufficient or not. Thus, there is closely interaction between market failures, non-market failures and government intervention (refer figure 2-5).
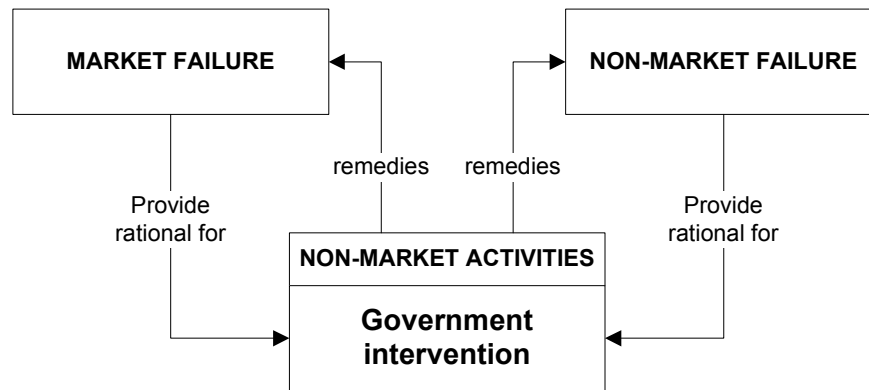
Figure 2-5: Interaction of market failure, non-market failure and government intervention

This interaction can be linked with the typical supply and demand diagram (refer to figure 2-1) to show that once the supply and demand do not meet at equilibrium price point, it means "market is unable to achieve allocative efficiency" that is referred to the theory of market failure (Grand 1991). And then, this signal provides the rational for government to analysis and to find out the remedies to reduce the market failure and non-market failure.

2.2.   Land market model

Land market is a special market due to its special commodities, including land and property, which are unlike other commodities that can be bought and sold in that it is immoveable. They are also required to be legally registered when being transacted in the market. Additionally, "Land and property is the largest class of asset in most economies" (Adlington et al. 2000). Its efficient use and management is one of the keys to successful economic development. Besides its special characteristics, land market in broader economic view, is important to sustainable development because it not only has widely impact on economy but also on the society. It is one channel to allocate and reallocate land resources, which is the primary condition for any social and economic activities.

However, it is found that the development of land market in the transition economics has been constrained by a wide range of factors (Adlington et al. 2000). The literature studies show that many countries in economic transition like Vietnam, such as Czech Republic, Hungary, Poland, Latvia, Slovenia, Slovakia, Slovenia and Albania have faced various obstacles that hinder the land market development. Some studies were conducted to develop an understanding of land market in countries in economic transition and hence to identify ways in which they can be developed so that they meet the needs of the societies that they serve (Dale et al. 2000) as well as make land markets work "properly" (Stanfield 1999).

Dale et al., (2000) argued "market operations need to be supported by three regulated sectors – land registration and the cadastre, valuation service, and financial services. The efficient functioning of these elements is essential if the land market is to operate smoothly and formally. These supports may be regarded as the regulatory pillars that stand on the basis of land policy". This model identifies the component of land market including the participants (land owners and tenants), the good and services (the land and its use) and financial instruments (mortgages, credit, capital financing, etc). And the interactions of these components are presented by the connection of three pillars, namely *land registration and cadastral*, *land valuation (market-based)* and *financial services*. Pillar one is the connection between land and people; Pillar two is the connection between land and finance mechanism; and Pillar three is the connection between people and finance mechanism. These entire three pillars are established and operate under the legal framework and land policies of the country respectively (refer to figure 2-6 and figure 2-7).

Figure 2-6: The three pillar model of land market (Dale & Baldwin, 2000)

Figure 2-7: Market model and dual connection among pillars
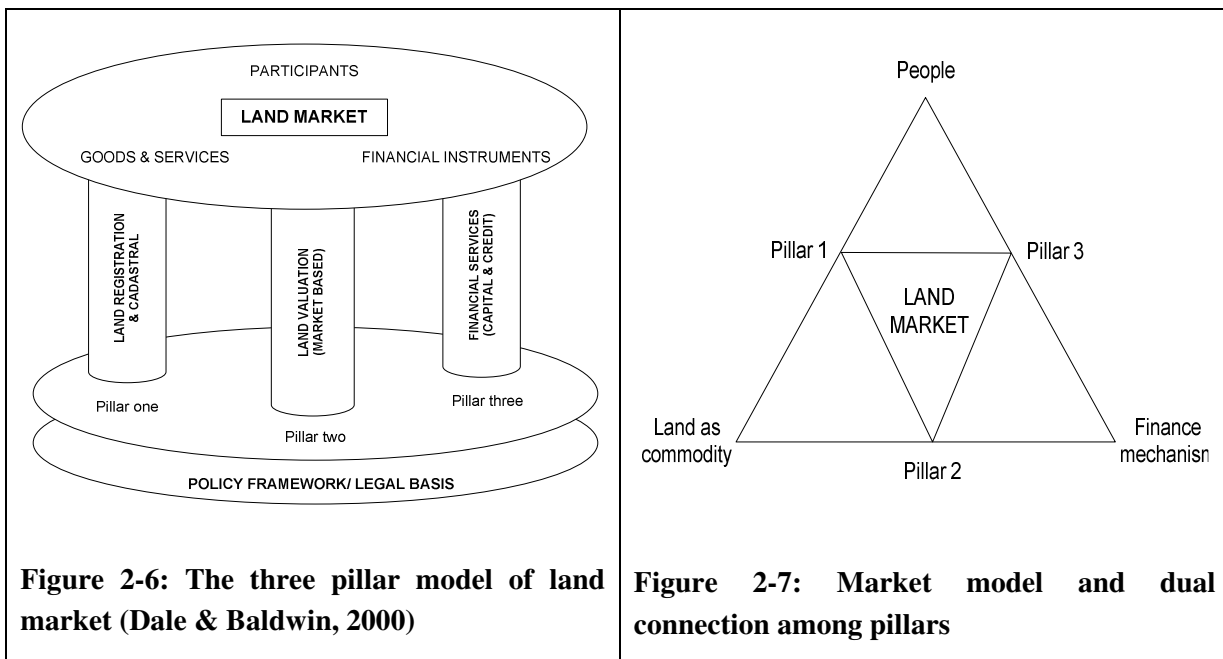
2.2.1.   Function of market pillars

Land registration and cadastral pillar provide registering documents as the evidence to officially recognize the relationship between property and its owner/ user. In the other hand, it supports to develop a formal market, in which information of property and owner/ users can be recorded and accessed so as to assure the security for the commodity and the participants in the market. The

function of this pillar is "normally carried out by the State administration although professional in the private sector may be empowered to carry out some of the processes" (Dale et al. 2000).

Financial services pillar presents the connection between people and finance mechanism. It supports for mobilizing the property to support the buying, selling, leasing and development of property. In particular, land and property can be used as collateral or mortgage for borrowings. However, Dale et al., (2000) states that in all socialist countries, "the financial services are mostly provided by the private sector, so naturally this pillar is only strengthen as the market deepen and there is an increased demand for financial products and services".

Land valuation (market based) pillar establishes the connection between the property and monetary value. Its outcome is land price, which supports the re-allocation of resources according to market forces (supply and demand) (Dale et al. 2000). Additionally, land value is indispensable for taxation, which provide revenues to government and as a tool to guiding land use and development (Dale et al. 1999). Looking at the case study in six countries[2] for this model, the results show that the development of valuation pillar has been slower. The average score of indicator assessment for pillar 2 – valuation is the lowest one (refer to Appendix 2). Further study about this pillar is taken in the section 2.3.

2.2.2.   Government interventions in land market

The government interventions are necessary part in the land market, especially in the land market of the transition economies. Dale et al., (2000) mentioned the three regulatory pillars are constructed upon the legal frame of the country and are strongly shaped by the land policies adopted by government as the necessary and sufficient conditions for efficient and effective market operation. Additionally, Adlington et al., (2000) also has the same opinion: "government intervention is a necessary part of ensuring that land market operates in an efficient way, for example, by controlling monopolies and creating conditions for businesses to function with confidence".

Applying the market failures and non-market failures theory into land market model, land market failures and non-market failures can not be seen from the land market aspect only, but also from each market pillar too. This is because in a situation where one of the three market pillars does not function well it creates "unbalanced standing" of the land market. As a result, failures of market might be generated. Following this situation, the government can intervene in the land market as a whole by enforcing policies and regulations which directly influence the supply and demand in the market such as land use planning, land taxation, etc. Besides, the government can also intervene in each pillar such as land valuation, land registration and financial services regulations

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[2] Czech Republic, Hungary, Latvia, Poland, Slovakia and Slovenia

2.3.   Land valuation

According to (Dale et al. 1988), "property has value because it provided amenities and satisfactions of living, as in the case of residences; services in the production of goods, such as a manufacturing plant; and income in the form of rents or leases". Therefore, it is necessary to estimate the value of land and property when buying, selling, leasing, or taxing it, or when there is a need to calculate the assets held by an individual or business for the purposes of inheritance, bankruptcy, or collateral. Good valuations guide the market towards fair prices and allow informed decisions to be made about efficient use of resource (Dale et al. 1999). So, valuation is considered as the indispensable activity real estate market.

A valuation prepared by a valuer is a carefully researched and considered opinion of value of a particular parcel/ plot of land. There are many factors affecting on land values. They can be grouped into four categories 1) Social factors (populations, lifestyles, education, etc); 2) Economic factors (supply-demand, employment, income level, etc); 3) Government factors (Zoning, legislation, restrictions on ownership, etc); and 4) Environment factors (climate condition, pollution, topography, etc) (Tuladhar 2002).

2.3.1.   Concept of value

Following the international valuation standards (IVSC 2003), the distinction of price, cost and value is presented as follows:

Price: is a term used for the amount asked, offered, or paid for a good or service. Sale price is an historical fact, whether it is publicly disclosed or kept confidential. Price is, however, generally an indication of a relative value placed upon the goods or services by particular buyer and/ or seller under particular circumstances.

Cost: is the price paid for goods or services or the amount required to create or produce the good or service. When that good or service has been completed, its cost is an historical fact. The price paid for a good or service becomes its cost to the buyer.

Value: is an economic concept referring to the price most likely to be concluded by the buyers and sellers of a good or service that is available for purchase. Value is not a fact, but an estimate of the likely price to be paid for goods and services at a given time in accordance with a particular definition of value.

2.3.2.   Land valuation system in real estate market

Theoretically, there always exist in almost countries two land valuation systems because valuation may be broadly divided into those that are to fulfil market requirements, such as those for sale, purchase, rent, insurance, mortgage, inheritance and divorce, and those that are to fulfil requirements laid down by statute, such as those for taxation and compulsory purchase compensation (Munro-Faure 1999).   In other words, there are two types of land prices: one regulated by the State *(Statutory price)*

to adjust the economic relationship between State and land owner (land users in Vietnam); one set up by the land economy relationship between land owners (land users) in the market and determined by the supply and demand relation *(Market price)*. The statutory price is relatively static while the market price is quite dynamic. The statutory price is formulated based on the historical market sale price by application of land valuation approaches.

Valuation theory focuses on the techniques or methods through which value is measured, estimated, or forecast (Fanning et al. 1994). Hence, there are three traditional market – based valuation approaches such as sale comparison approach, cost approach, and income approach. The selection of approach depends on the purpose of valuation, the input data available for valuation.

Sale comparison approach, which is considered as the simplest way to determine the market value of land or property. The main content of this approach is to compare the properties being valued with similar properties that have recently sold or for which offers to purchase have been made. This approach requires three steps: 1) Inspect of property; 2) Analysis the data; and 3) Calculate the value. It is the preferred approach when sales data are available (Dale et al. 1999).

Cost approach, which may be used for insurance purpose or for valuing public building such as town hall, hospitals, etc. It is based on assumption that the cost of the site plus the cost of building (Dale et al. 1999). It is assumed that 1) the cost of the site can be calculated from other sources, and 2) the cost of the building can be calculated from construction materials and labour, etc and depreciation percentage is taken. The cost approach is considered reliable when used on newer structures, but the method tends to become less reliable for older properties.

In almost case, when the cost approach is applied, the overall methodology is a hybrid of the cost and sales comparison approaches (Eckert et al. 1990). For example, while the replacement cost to construct a building can be determined by adding the labour, materials, and other costs, land values and depreciation must be derived from an analysis of comparable.

Income approach, by which the values are calculated based on the income generated from the land and asset-attached to land. This approach capitalizes an income stream into a present value. This capitalization is the division of a present income by an appropriate rate of return to estimate the value of the income stream. The model used to estimate the present value of income expected in the future is known as the IRV formula[3] (Eckert et al. 1990).

2.4.   Concluding remarks

Land market is a special market. It is subject to the viewpoints from the market failures and non-market failures theory. With the land market model developed by (Dale et al. 2000), this theory can be applied not only for the land market as a whole, but for each market pillar also. Accordingly, the government interventions as remedies are provided for the land market in general and for each market pillar in particular, in case when one of these market pillar do not function properly.

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[3] Value (V) = Income (I)/ Rate (R)

Two land value systems for two different purposes result in two types of land prices, which are statutory price and market price. Statutory price is static and generated based on the dynamic market sale price. So, it is very likely to exist a certain difference between these prices. For these reasons, land valuation and land market play important roles in the gap amount. Thus, under proper valuation and efficient land market, this gap is minor. In inverse situations of land valuation and market, this gap is large. Then, this big gap reacts to the land market by further creating and facilitating negative impacts such as corruption, market distortion, non-transparencies and speculation, etc to the land market.

Putting the gap into the market failure and non-market failure theory, the large gap is considered as the failure in the valuation pillar (in scope of land market model) and in land market (in market failure theory). Accordingly, the analysis framework for the large gap is visualized in the following figure.
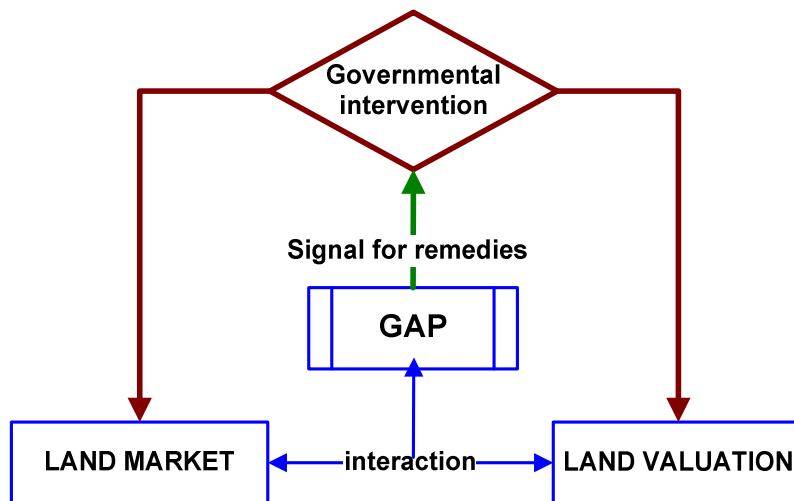
Figure 2-8: Conceptual framework of the gap

This framework focuses on the interaction the government intervention and land market in general and land valuation in particular. How far the existing intervention is desirable and what are the signal of market failure, as the gap between market price and statutory price, give requirements to the government intervention.

3. Practices of operational real estate market

3.0. Introduction

In chapter 2, the framework for the gap was set up. Under this framework, this chapter presents the findings on practices of real estate market, land valuation and the gap. These findings are largely based on the observations and in-depth interviews during the fieldwork conducted in Hanoi. Two areas are selected in Hanoi, Vietnam. The first area is existing residential area where there are no major development activities in Dong Da district, while second one is new urban development area where intensive development is taking place in Thanh Xuan district.

This chapter is organized by three sections. Section 3.1 describes fieldwork activities, including fieldwork location, fieldwork methodology and its limitations. The findings on practices of operational real estate market are given in section 3.2. Then, section 3.3 is concluding remark.

3.1. Fieldwork activities

3.1.1. Fieldwork location

Hanoi, one of the biggest urban in Vietnam, was selected for conducting the fieldwork. It has the highest population density of 3,490 people/ km^2 and residential density 25,105 people/ km^2 *(Source: Hanoi Statistical Yearbook 2006 – General Statistics Office)*. In addition, recently in mass media channels and workshop on the real estate market topic as well, Hanoi and Ho Chi Minh always are examples for the gap issues concerning land price. For example, according to Pricing division of Hanoi Department of finance, Ministry of Finance, the statutory prices set in several localities such as Hanoi and Ho Chi Minh city are just equal to approximately 30%-50% of the market prices (Truyen 2007), and "prices of land in central locations in Hanoi and Ho Chi Minh City are allegedly higher than in down town Hong Kong and other mega cities" (SEMLA 2004).

Hanoi (translated as River Interior) is the capital city of Vietnam for almost thousand years. It is located at 21^0 North, $105^051'$ East. Brief introduction of fieldwork location is presented in the box 3-1 and geographic location is presented in the figure 3-1.

Box 3-1: Introduction of Hanoi – Fieldwork location

Total natural area: 921.8 sq. km
Population: 3,216.7 thousand habitants (2006)
Administrative division:
Inner districts (9): Hoan Kiem, Ba Dinh, Dong Da, Hai Ba Trung, Cau Giay, Thanh Xuan, Tay Ho, Hoang Mai and Long Bien
Outer districts(4): Gia Lam, Dong Anh, Thanh Tri and Soc Son
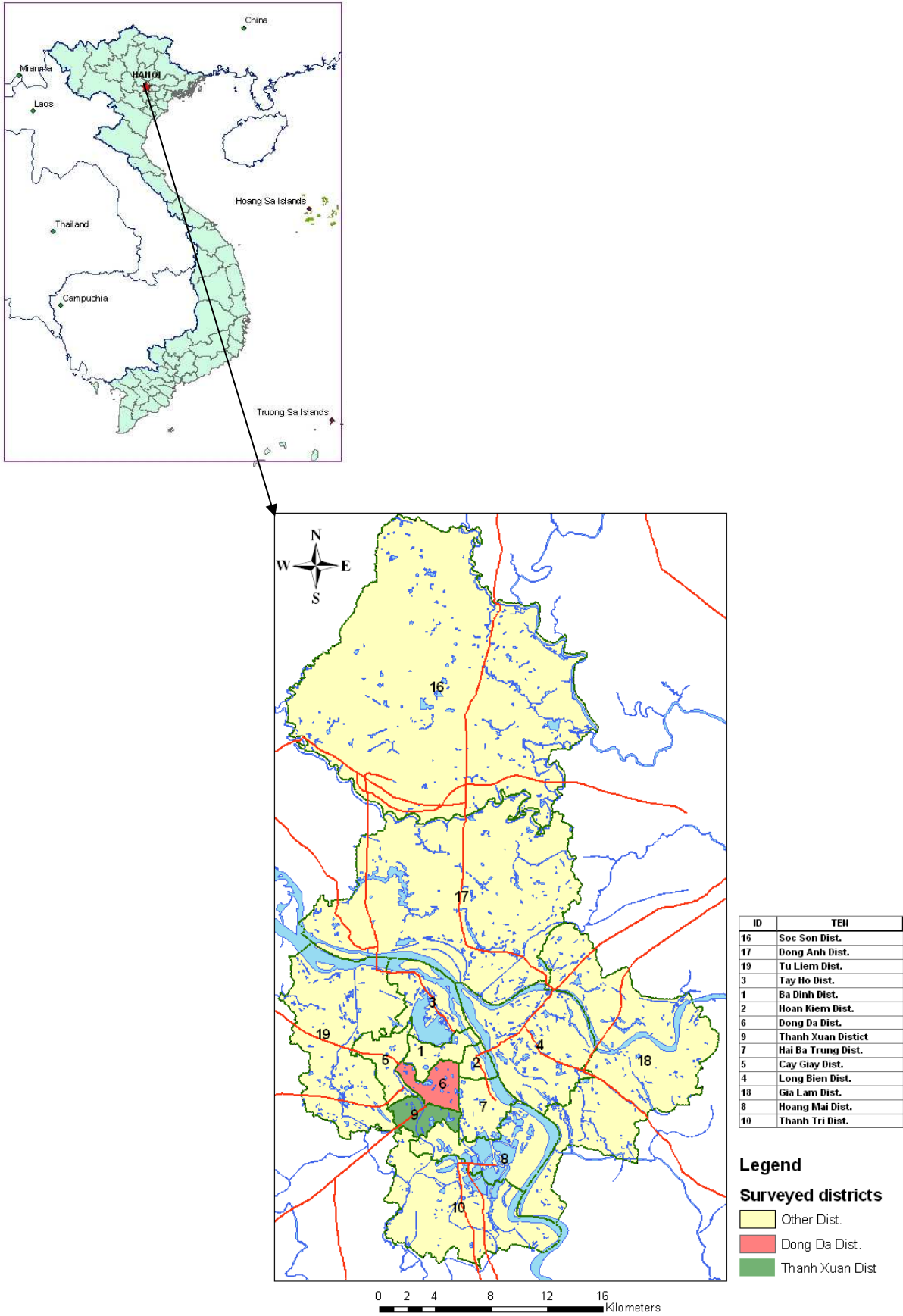
Figure 3-1: Map of Vietnam (upper) and Administrative Map of Hanoi (lower)

3.1.2.   Fieldwork methodology

In order to achieve the research objectives as mentioned in section 1.4, various methods, such as semi-structured questionnaires, in-depth interview, and observation are applied.

In-depth interview method in combination with questionnaires and observation is undertaken for three groups to study from the different viewpoints (management, operational levels & Intermediate organization – Refer to table 3-1). The selection of management group and operational group are basically followed the Decree 188/2004/NĐ-CP issued by the Government, Circular 114/2004/TT-BTC and Circular 80/2005/TT-BTC issued by Ministry of Finance. In these legislative documents, mandates to undertake land valuation are given to some organizations involved in this field. The selection of the Intermediate group is made randomly.

Table 3-1: Interviewed Stakeholders

Interview group	Stakeholders	Inteview purpose
MANAGEMENT	Ministry of Natural Resource and Environment (MoNRE)	To study from the policy viewpoint
	Ministry of Finance (MoF)	
OPERATION	Dept. of Natural Resource and Environment (DoNRE)	To study from the policy implementation viewpoint
	Department of Finance (DoF)	
	Division of Planning and Finance	
	Cadastral Officer	
INTERMEDIATES	Investor of Urban Development Area	To study from the practical viewpoint
	Land Brokers	

The in-depth interview was conducted based on different questionnaires prepared for each group before the fieldwork. Number of interviewee is five, seven, and six respectively for management group, operation group and intermediates group. The average time for each in-depth interview was approximately 2 hours.

Data was collected from two main data sources (primary and secondary)(refer to figure 3-2). For primary data, in-depth interview with the semi-structured questionnaire was applied. The questionnaire was designed with both open-ended and close-ended questions (refer to Appendix 6). Closed-ended questions were directly asked and filled in. Open-ended questions were used for discussed and the discussions were taken note carefully. For secondary data, it was acquired by free of charge collection, such as data and reports, etc from interviewed organization and placing order, such

newspapers, digital maps, ect from newspaper agency, cartography publishing house, etc. Besides, other related data and information were also acquired from the mass media channels such as magazines and internet.
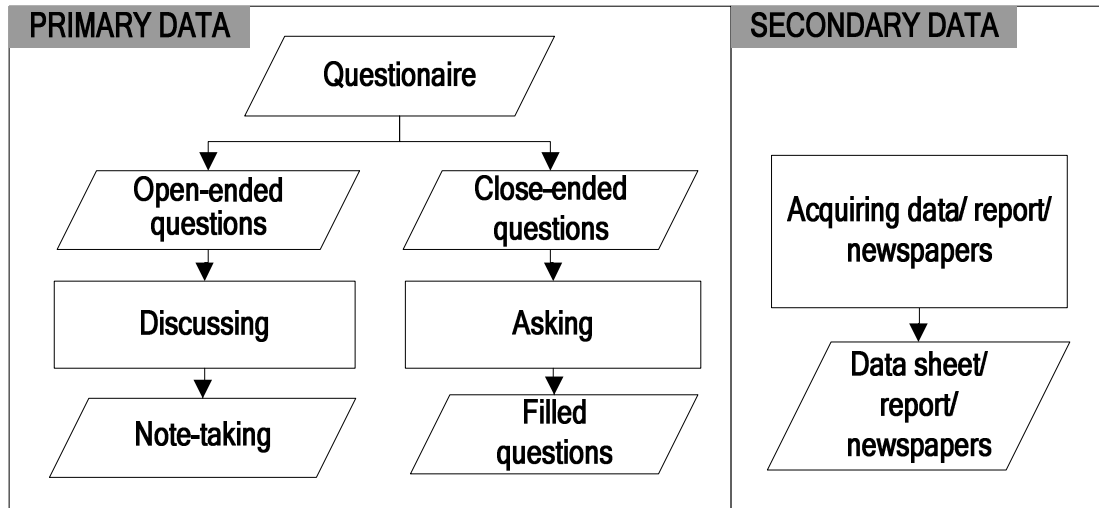
Figure 3-2: Data collection

3.1.3.   Limitations of the fieldwork

Gap issues in land prices have been raised in recent years. It is recognized that it induces the environment for speculation and corruption, so gap becomes a sensitive issue. For this reason, the fieldwork has following limitations:

- Data surveyed in the year 2006 for calculating statutory price applied for the year 2007 is restricted.

- Details of valuation process could not be revealed because the staffs directly involved in statutory price calculation was not willing to tell the detailed approach to generate the final calculation of statutory price.

- There is no place to keep the records of the historical sale price (market price). Therefore, this type of data is collected within the year 2007 (from January to September 2007) from newspaper, internet and some land brokers.

3.2.   Practices of operational real estate market

The findings on practices of operation real estate market are mainly based on the interview's results and observations during the fieldwork. These findings are presented by two parts. In the first part, findings focused on real estate market's operation in general view. The second part gives the specific findings on land valuation activities and the existing status of the gap between statutory price and market price in Vietnam in general and in Hanoi in particular.

3.2.1. Practices of real estate market

All the interviewees confirmed that Land Law 2003 provided significant support for the full establishment of real estate market in accordance with the land tenure regime in Vietnam. However, 11 out of 14 interviews used the word "Non tre" – translated as "infant" – to describe the real estate market when being asked to tell their opinions about the current status of Vietnam real estate market in general and residential land market in particular. Following these opinions, the findings on the so-called "infant market" are interpreted and summarized as below.

(1)   Legislative document system

There are many laws that regulate the activities of real estate market such as Civil Code, Law on House, Law on Property Business, Law on Land Use Right Transfer Tax, Law on Construction, Law on Agricultural Land Tax, Land Law, etc. Consequently, there exists overlap, inconsistencies and conflicts between them.

Law on Property Business was issued on 29 June 2006 but until now Decree or Circular on implementation instruction has not been issued yet.

(2)   Management system

All real estate properties now are under control and management of three ministries: a) Ministry of Natural resource and Environment (MoNRE), b) Ministry of Construction (MoC), and c) Ministry of Finance (MoF).
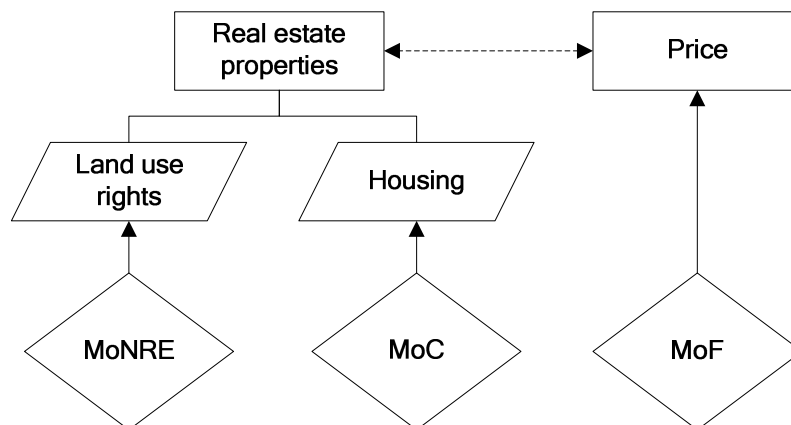
Figure 3-3: Real estate under management of different ministries

(3)   Transaction and registration

The proportion of informal transactions is high. It means that high proportion of transaction is implemented under "hand - written paper", no official registration and without financial obligation.

Formal transaction process or registration is complicated and takes long time. People prefer the informal transaction because it is very simple with only two steps (negotiate and sign a written

agreement), which can be done within a day and no. But the formal one takes 10 steps, which could take 1 month or even more than a year.

(4)   Transparency

The transparency issue is "alarming". The lack of transparency in the real estate market can be found in various ways:

- It is very difficult to find the answers to the questions: What products, services are available? What price? Where? in the real estate market.

- Speculation and illegal land broker (so-called "cò đất") are popular, and emerge in land and housing markets, especially in the urban development area.

- It is difficult to identify the real supply and demand in the market

(5)   Insufficient understanding of the real estate market. When giving any ideas about the real estate market, most people just think about land only. Therefore, the information of real estate market is not comprehensive as it should be.

(6)   Price and commodity

There is no organization, which is responsible for monitoring the market price.

The commodity of the real estate market nowadays mostly consists of apartment buildings and separate houses in the urban development areas. The land area becomes scarce while the population is gradually increasing. Moreover, it normally takes 2-3 years at least to finish the land acquisition procedure and to complete the construction on it. Therefore, supplies are always behind or lower, even much lower than the demand. As the result of this fact, land and housing prices are unreasonable in comparison with the income of normal citizen in Vietnam. It is obviously observed that access to land and house to a normal citizen is difficult. Buying a middle-rank apartment with original price announced by the investor can be estimated as follows:

Box 3-2: Example about the large different between income and house price

GDP of Hanoi is 1.500 USD/person/year. However, let take the example with one middle-class couple. Their monthly income is around 700 USD. Their monthly average expenditure is around 500 USD. It means they can spend about 200 USD every month without any emergency cases, such as sick or organization of special event. Meanwhile, the average price of one apartment 100 sq meter is around 100 * 497 USD = 49,700 USD. The number of year, one couple need to spend for buying a apartment is $\frac{49,700}{200*12} = 20.7$

Source: Interview

(7)   Finance service system

The connection between real estate market and financial service system hardly exists. The investors and on-going projects are lacking in capital. The buyer confronts difficulties to access the mortgage services of the bank.

3.2.2.   Practices of land valuation and the gap

(1)   Sale comparison approach is mostly used for urban land and income approach for agricultural land. It is impossible to use another approach for urban land at this time because of lacking data. However, the data needed for the sale comparison approach is not reliable but at least can be acquired[4].

(2)   Sampling and surveying for calculating the price is also insufficient and unreliable respectively in quantity and quality due to lacking cooperation between organization involved, such as taxation agency, notary agency and cadastral office [5]. This situation is aggravated because of high proportion of informal transaction and the attitude of citizens in implementing financial obligation.

(3)   Valuation is subjective and "nominated" by the higher management level.

Box 3-3: Story of statutory price 2007

> The staff of the Pricing Division of Hanoi Department of Finance (under management of MoF), which has the mandate of coordinating and calculating annual land price to submit the People's Committee for approval, said: "Last year, we proposed price alternatives with the highest price of VND 81 million per square meter to the Hanoi People's Committee (Hanoi PC). Then, after several meeting Hanoi PC told that it seems there is not much change in real estate market during the last year. So, the highest price for the land price 2007 finally is reduced by VND 54 million per square meter". She added "that's the decision of Hanoi PC, but we proposed the higher one."

(4)   Valuers encountered difficulties to satisfy all the obligatory requirements stipulated in legislative documents when calculating the statutory price [6], for example:

- ▪   Valuation outcomes have to satisfy all seven financial purposes[7] as mentioned in the LL 2003 and the socio-economic development orientation. But the fact shows that

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[4] Interview sources: 100% interviewees of operational and intermediate groups mention about the Sale comparison approach when being asked which type of valuation approach is commonly applied for land valuation.

[5] Interview source: derived from management group, operational group and International Adviser on Land Administration as well.

[6] Interview source: interpreted from the discussion with operational group, particularly from Pricing Division - DoF, where take directly responsibility for preparing annual land price to submit Hanoi People's Committee

there has been existed the interest conflict between citizens' financial obligation and rights on land utilization or between the State's budget balance and individual/ investor's interest.

▪ Valuation is also supposed to meet two conditions: 1) not exceeding the Price frame (formalized in Decree 188) and 2) being close to the market price in the normal condition.

▪ Criteria for the market price "in normal condition" can not be identified. The Deputy Head of Pricing Division complained that MoF can not give the criteria for the term "in normal condition" to apply for valuation.

(5) All the interviewees agree that there exist a significant difference (hereafter called gap) between the statutory price and market price. However, when asked to give the figure of the gap and which data source or information to come up with this gap, only 8 out of 18 persons being asked, can give the figure of the gap after some consideration. The figure is given with some words like "it is just relative because the fact shows that gap is varied by location and variation amplitude of the gap is large". They also said "the figure we give is just based on our experience and observation from the fact".

The figures of the gap given by the interviewees are varied and in different types (refer to table 3-2). The gap given in percentage is calculated by the formula $\frac{Market\ Price - Statutory\ Price}{Market\ Price} \times 100$; and given in times by $\frac{Market\ Price}{Statutory\ Price}$

Table 3-2: Figures of the gap

	Gap given in percentage	Gap given in times
Interviewee 1	50% - 70%	
Interviewee 2	40% in general 100 - 300% in residential land	
Interviewee 3		7- 10 times
Interviewee 4	40 - 70%	
Interviewee 5		4 - 10 times
Interviewee 6		4 - 6 times
Interviewee 7		6 - 7 times
Interviewee 8	30 - 40%	

---

[7] basis for calculating 1) land use tax; 2) income tax from transfer of land use rights; 3) land use fees and land lease fees for land allocation or land lease not through auction of land use rights or tender of investment projects using land; 4) the value of land use rights in case where land is allocated without the collection of land use fees; 5) registration fees; 6) compensation where the State recovers land; and 7)compensation for damage caused to the State by any person who causes such damage due to violating the provisions of the laws on land

(6) Some interviews at management level said that the gap is unavoidable but the important issue is how large the gap it is? The ideal gap is the statutory price is not less than 80% of the market price. Otherwise, super-profit and corruption are made by some government staffs and investors. One shocking figure given in the interview session between the Ex-deputy Minister of MoNRE and correspondent of VietNamNet newspaper, is that during 10 years (from 1994 – 2004), "two land prices" for urban residential land caused the loss of USD 70 billion (An 2007).

(7) There are many opinions about the reasons of the gap. Basing on the questionnaires, the statistics are summarized by the following reasons:

- Valuation Process

- Quality of data input for valuation

- Policy: land policies and tax policy *(non-market activities)*

- Unhealthy land market *(market activities)*

- Rapid development of urbanization and economy

- Land use planning

- Others

The results given by interviewees is visualized in the following figure
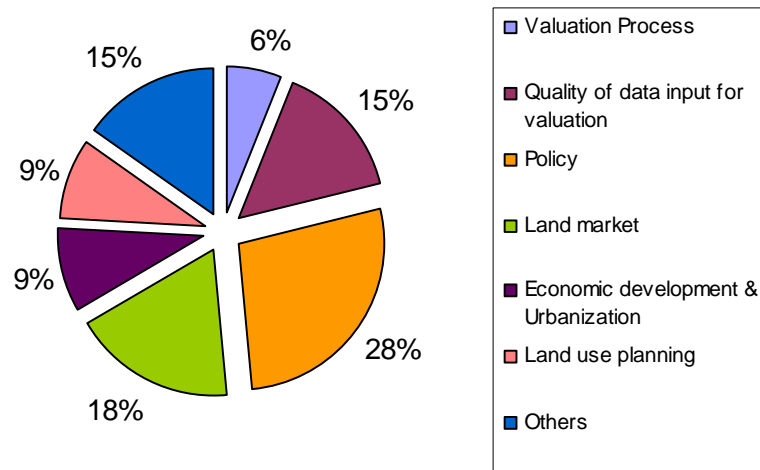
Figure 3-4: Opinion of interviewees about the reason of gap

3.3. Concluding remarks

Vietnam real estate market was operated since the year 2004, when the new LL 2003 came into effects. Till now, it is just three years old. For this reason, the word "infant market" was used by almost interviewees when discussing about the market. Several shortcomings on the so-called "infant market" are revealed in: 1) legislative document system; 2) management system; 3) transaction and registration; 4) transparency; 5) understanding of real estate market; 6) price and commodity; and 7) financial service system (refer to section 3.2.1).

For the valuation, some general findings on valuation approach and process are seen due to the limitations during the fieldwork (refer to section 3.1.3). It is seen that sale comparison approach is mostly used for doing valuation in residential land market. The reason is that it is possible to acquire data for this approach. However, this data is of insufficient quantity and unreliable quality due to the sampling and surveying steps. These insufficiency and unreliability actually are also caused by the shortcomings of the real estate market as mentioned in the previous paragraph. Additionally, valuation process is subjective, nominated by higher management level; and subject to many obligatory requirements, which in fact create many difficulties for the valuers.

The gap was found to be so varied but mainly large amount. And the reasons of the gap are focused on policy (28%),   land market (18%) and quality of data input for valuation (15%) (refer to figure 3-4). These figures are summarized based on the interview results of all three groups' viewpoint (management, operation and intermediates).

4. Understanding real estate market under the current legal frameworks

4.0. Introduction

The previous chapter has provided some findings on what practical situation of land market. These findings are largely based on interviews conducted in Hanoi, and are related to two different areas. The purpose of this chapter is to understand and interpret these findings on operational real estate market and valuation processes within the existing legal framework. For this purposes, this chapter is structured into five sections. Section 4.1 describes some key terminologies used in this chapter. Section 4.2 discusses the legal framework and its dynamic aspects, land valuation and price system. Section 4.3 develops critical issues on operational real estate market. Section 4.4 discusses on the land valuation system in the existing real estate market. Finally the concluding remarks are drawn.

4.1. Terminology

Land administration is introduced into Vietnam few decades ago. Therefore, there still exist many terminologies in land administration field that create confusion in interpretation. To avoid such misinterpretations, some key terminologies used in this research are defined as follows:

Land use rights (LUR)*: those rights are all the rights granted under the LL2003 to the individuals, households and organizations to use and occupy land. These include the rights to exchange, transfer, lease, sub-lease, inherit, donate, mortgage, guarantee, making LUR as capital contribution, and receive compensation when the land is recovered by the State.

Land market (LM)*: it is the environment in which LURs are transacted between the land users/ tenants and receivers/ lessees in the open market.

Real estate market: it is the environment in which LURs either with or without assets attached to land is transacted between the land users/ tenants and receivers/ lessees in the open market.

Statutory price: the land prices set by Provincial People's Committees on 1st January every year.

Price frame: the range that is basis for setting statutory price every year. The latest frame was prepared on 16th November 2004 (Decree 188/2004/ND-CP).

4.2. Understanding on land market and valuation from the legal frameworks

4.2.1. Legal frameworks and dynamic aspect of land market

There are a lot of legislative documents regulating land and land valuation in Vietnam. Within the scope of this research, some key legislative documents are studied. They are grouped into two levels: 1) Civil Code, and Laws, 2) sub-law documents, including Decree and Circular, as in table 4-1 below.

The Civil Code and Laws are issued by legislative body. They are legal frameworks to regulate legal status, legal standard, rights and obligations and protect legitimate rights and interests of individuals, organizations and State and to support socio-economic development. The Civil Code is the "umbrella" for each specific Law to refer.

Sub-law documents are issued by executive bodies. Following each law, there are a series of sub-law documents to specify its implementation. The function of these documents is to give detailed instructions on implementation of the law at the operational levels.

Table 4-1: List of key legislative documents referred in the scope of research

Civil Code and Law	Content
Civil Code 1996 *(revised 2005, put into effect on 2006)*	Civil Code provides regulations on civil affairs.
Land Law 2003	Regulations on the management and use of land (the latest LL)
Law on Property 2006	Regulations on property business
Sub-law documents	
Decree 181/2004 ND-CP	Implementing the Land Law
Decree 188/2004/ND-CP	Method of land valuation and land price frame for various categories of land
Decree 123/2007/ND-CP	Amendment to Decree 188/2004/ND-CP
Circular 114/2004/TT-BTC	Instruction on land valuation method; land price determination methods of People's Committee of provinces and centrally-managed cities
Circular 80/2005/TT-BTC	Instruction on setting up network of land price survey; preparing summary report on price for various categories of land

4.2.2. Dynamic aspect of land market and real estate market

The establishment of land market and real estate market are reflected through three timelines of Land Law (LL) issuance (the first LL 1987, LL 1993 and the latest one 2003) as presented in figure 4-1.

The first LL 1987 was promulgated with the aim at strengthening responsibilities of all organizations and individuals in land use and management, environment protection; providing strict regulations on land use and management, and potential exploitation in effective and economical ways. However, LL1987 was bureaucratic in character. It was not recognized that land has its price. Therefore, a land market was not legally admitted in Vietnam but the housing market was recognized at that time.

To catch up with the socio-economic development direction towards a market economy, the policies have been changed. LL 1993 was issued, in which the five rights (inherited, transferred, exchanged, leased and mortgaged) to land users was introduced. It is the most important renovation in comparison with the first LL. In addition, LL 1993 accepted the existence of land prices. All of these are the positive signals for the formulation of a land market.

Continuing this dynamic trend, the latest LL was approved in the year 2003 and came to practice one year later. This LL 2003 has the most comprehensive scope of legislative framework in comparison with the preceding Land Laws. The highlight issues in the new LL 2003 are: the LUR is legally recognized as the commodity in the market; the five rights (in LL 1993) are extended to nine rights (exchange, transfer, lease, sub-lease, donation, heritage, mortgage, guarantee and contribution as capital). Thus, since the issuance of LL 2003, real estate market is legally established and comprehensively recognized with both main groups of immovable commodities (LUR and assets on land).
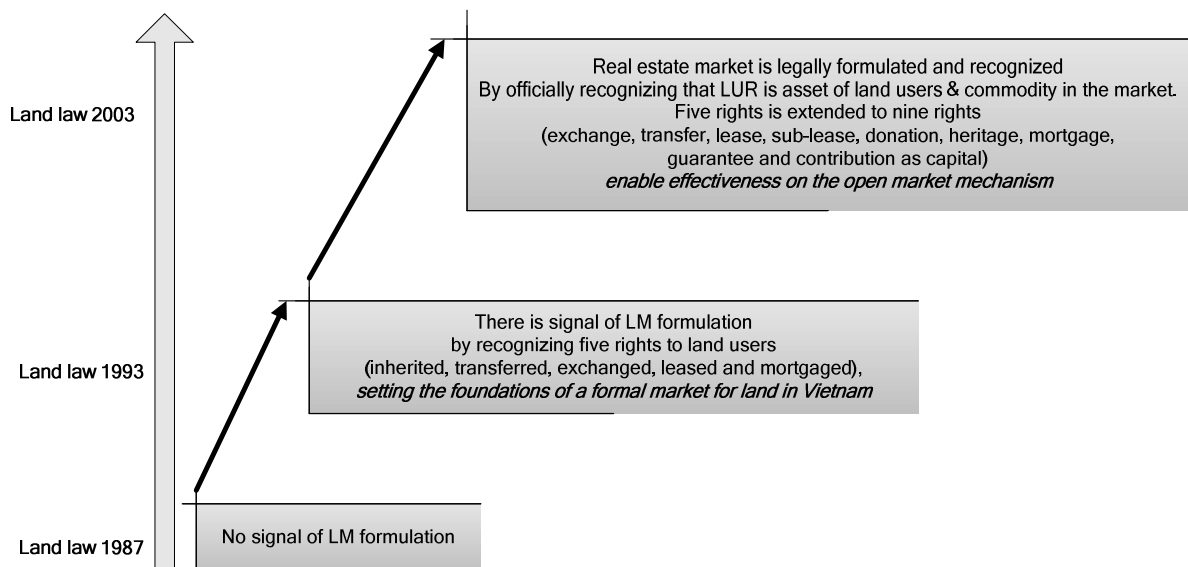
Figure 4-1: Timeline of legal formulation of Real Estate Market

Article 181 of the Civil Code 1996 stipulates that "Real Estate is immovable assets including: a) Land; b) House, construction on land and all the assets attached to the house and construction; c) Other assets attached to land; d) other assets recognized by Law".

However, not all the real estate is legally accepted as commodity in the market. According to the Article 6 (Law on Property) and Section 7 (LL 2003), the real estate commodities are legally recognized including: 1) Houses, construction works under the legislative permission; 2) Land use rights as stipulated in LL 2003; 3) Other Real estate as stipulated by the Law. Thus, the manner of the

Vietnamese Real Estate Market is the transaction of Land use rights value and the ownership rights to the assets attached to land. The root of this characteristic is from the legal conceptualization of the land tenure regime in Vietnam that Article 1 and Article 5.1 (LL 2003) clearly mentions "…powers and responsibilities of the State as a representative of the entire people's ownership of land and exclusive manager of land; the management and use of land and rights and obligations of land users." and "Land is under the ownership of the entire people, and the State is the representative of the owner".

Once again, not all land use rights (LUR) are allowed to be transacted in the market. It depends on the legislative regulations on land categories and land users. For example, Article 106 – LL 2003 stipulates that the LUR of the land users, who meet the following conditions:

> a) Have the land use right certificates;
>
> b) Land is not subject to any dispute;
>
> c) The land use rights are not confiscated to ensure the enforcement of the count's judgment and/or decision;
>
> d) Within the land use term.

are allowed to be transacted in the market. Moreover, the type of LUR transaction also depends on type of land users, refer to the table 4-2.

Table 4-2: Land use rights for each kind of land user in the Land Law 2003

Nine rights	Org. allocated land with land use fee	Org. leasing land Industrial Zones (IZ)	Household and individuals using land (not leased)	Household and individuals using land leased	Overseas Vietnamese and foreign investors leasing land (annual payment)	Overseas Vietnamese and foreign investors (payment for whole lease term)
Exchange LUR	⊘	⊘	Agriculture	⊘	⊘	⊘
Transfer LUR	X	⊘	⊘	⊘	⊘	X
Lease LUR	X	⊘	X	⊘	⊘	⊘
Sub-lease LUR	⊘	X	⊘	⊘	⊘	X
Mortgage LUR	X	⊘	X	⊘	⊘	⊘
Contribute LUR as capital	X	⊘	X	⊘	⊘	X
Donate LUR	⊘	⊘	X	⊘	⊘	⊘
Guarantee with LUR	⊘	⊘	X	⊘	⊘	X
Inherit LUR	⊘	⊘	X	⊘	⊘	⊘
Refer to LL 2003	*Article 110*	*Article 111*	*Article 113*	*Article 114*	*Article 119*	*Article 119*

Note: X: allowed   ⊘: not allowed

Based on land tenure regime, the Vietnam real estate market includes two main groups of commodities: 1) LUR and 2) Assets on land. Market transactions are reflected through the nine land

use rights, and other specific transaction to the assets on land such as selling – buying, mortgaging and contributing. The real estate market in Vietnam can be generally depicted as in the following figure 4-2.
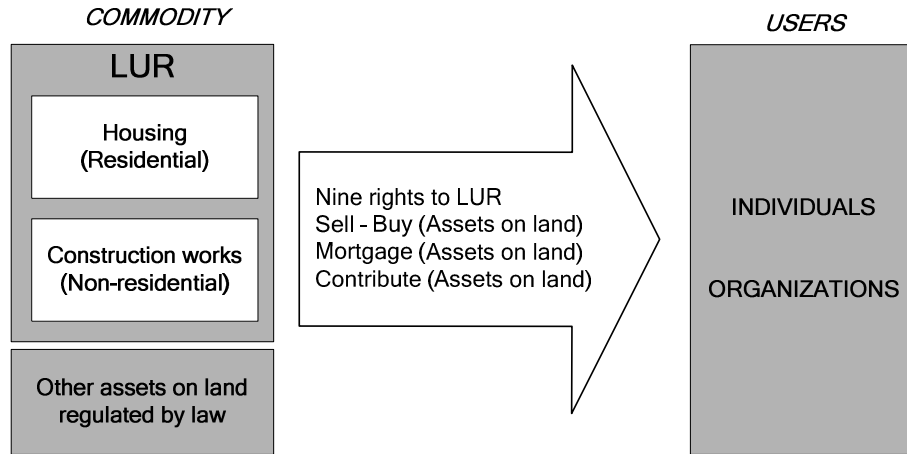
Figure 4-2: Overall picture of Vietnam Real Estate Market

The real estate market can be further elaborated into two models with different levels based on the participants and types of commodities. Regarding to the LUR commodity only, there are two levels, (1) primary market; and (2) secondary market (Refer figure 4-3). The primary market operates through the channel of land allocation, granting and lease between State and Organizations or Individuals in accordance with the land use planning. The secondary market is through transferring, sub-leasing and mortgaging between Organization - Organization, Organization - Individual, and Individual – Individual.
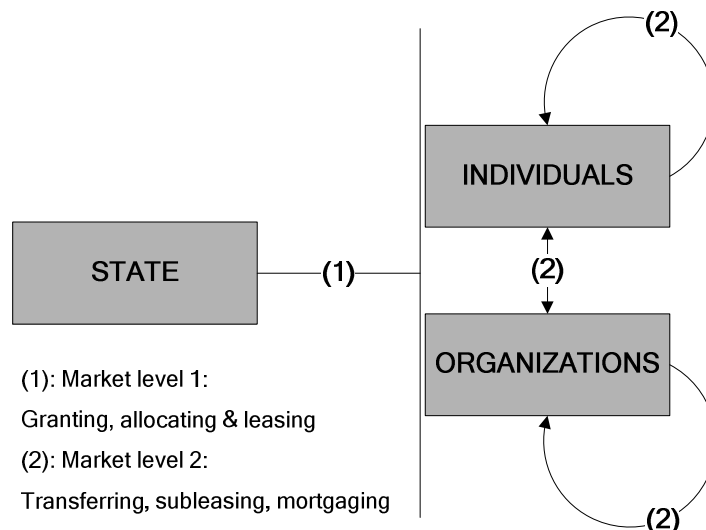
Figure 4-3: Land market

The real estate market, including both commodities LUR plus assets on land, is presented into three levels as in the figure 4-4. In this model, investors are added as participant and are the immediate channel to provide new supply sources in the real estate market. The channel (State – Investor –

Users) is the development orientation given by State during these years. The investors add-up the value on land by assets like house, construction, etc for business. The channel (State – Users – Users) is limited and even may vanish.

(1): Market level 1: Granting, allocating, leasing, & auction
(2): Market level 2: Transferring, subleasing, mortgaging
(3): Market level 3: Transferring, subleasing, mortgaging
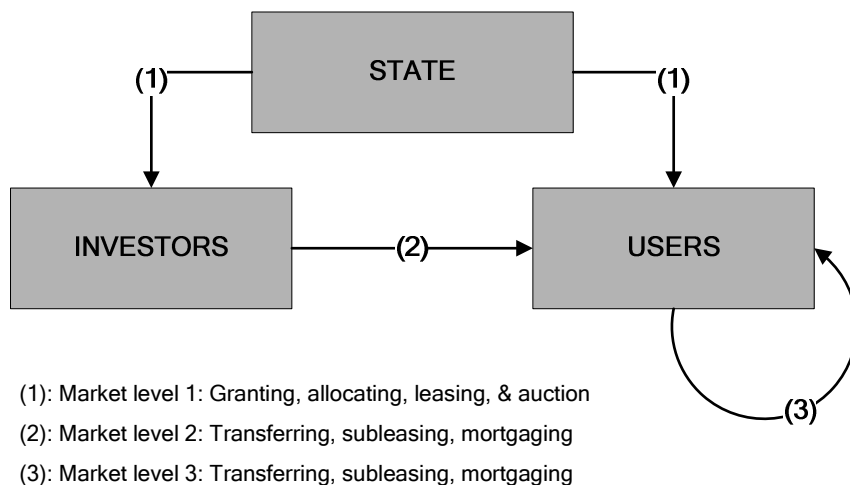
Figure 4-4: Real Estate Market, including both LUR and Assets on land

4.2.3.   Land valuation and price system

From legal perspective, price of land and land valuation are first recognized in the Articles 12, 13, LL 1993. This recognition is in accordance with the development of a market economy under the socialist direction. However, the term land valuation is still considered as a new concept and not yet entered into the social life until the issuance of LL 2003.

Following the land tenure regime in Vietnam, land valuation is understood as the estimation of the value of land use right in currency for a certain land use purpose at a certain time. Later on, two valuation approaches 1) Sales Comparison approach and 2) Income approach are mentioned in subsequent legislative documents (Decree 188/2004/ND-CP issued by the Government in 16th November 2004).

In accordance with the development of market, the Government issued another Decree 123/2007/ND-CP in 2007 to add Construction cost approach, Residual approach to the existing approaches for valuation.

Price is outcome of the valuation process. In Vietnam, land price is formulized by the three ways:

(1)   The People's Committees provinces and cities under central authority shall stipulate land price in accordance with Paragraph 3 and paragraph 4 of article 56 of LL 2003;

(2)   Auction of land use rights or tender of land use projects

(3)   Land users make agreement on land price with the relevant people when performing rights of land transfer, land lease, land sub -lease or contribution of capital by land use rights.

As mentioned in the section 2.3.2, there always exist in almost countries two land price systems: one regulated by the State to adjust the economic relationship between State and land owner (land users in

Vietnam); one set up by the land economy relationship between land owners (land users) in the market and determined by the supply and demand relation. Vietnam, like other transitional economies, also has two land price systems: land price regulated by the State (including price frame and statutory price) and market price. However, under the policy lines, LL 2003 stipulated *land price stipulated by the State need to be close to the actual market price of the land use rights transfers in normal conditions. If there is a big difference from the actual price of land use right transfer, appropriate adjustment will then be needed.* In other words, the government expect an one-price mechanism in Vietnam.

The government regulates land price and this land price is concretized as follows:

- ▪ *Price frame*: is the basic range for calculating statutory price annually. It is prepared by the Government every five years.

- ▪ *Statutory price*: is prepared annually by land price stipulated by the People's Committees of provinces and cities under central authority published on 1st January yearly will be used as basis for calculating 1) land use tax; 2) income tax from transfer of land use rights; 3) land use fees and land lease fees for land allocation or land lease not through auction of land use rights or tender of investment projects using land; 4) the value of land use rights in case where land is allocated without the collection of land use fees; 5) registration fees; 6) compensation where the State recovers land; and 7) compensation for damage caused to the State by any person who causes such damage due to violating the provisions of the laws on land (Refer to Article 56 – Land Law 2003).

The allowable variation between the Price frame and Statutory price is +/ - 20%, refer to figure 4-5
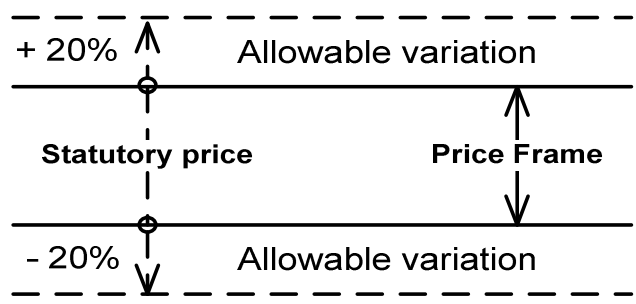
Figure 4-5: The relation between Price frame and Statutory Price

4.3. Analysis on operation of real estate market

4.3.1. Ownership regime and LUR in the market

Land is prerequisite conditions for any social and economic activities. From the economic point of view, land is one of three production factors (land, capital and labour) in all economies. Therefore, land ownership regime has a strong impact on the economic development and must be in line with the economic development orientation. To facilitate the transition from the centralized command

economy to the market-oriented economy since 1986, there are many adjustments in land policies as well as land use right regimes in Vietnam (refer to figure 4-1).

The main characteristic of the land ownership regime in Vietnam is that the State represents entire people's ownership on land and land use rights given by the State to the land users based on the type of land user and type of land. Therefore, land use rights (LUR) plays as the core of land tenure regime in Vietnam. The State is tasked to manage the land by identifying the "use" to the land through management tools such as land use planning, land registration, land taxation, etc.

Each land user is just granted with the right to use, but does not have to the right to determine the land use purpose and to possess the land. It was shown before and till now land users have nine rights of exchange, transfer, lease, sub-lease, donation, heritage, mortgage, guarantee and contribution as capital. With these nine rights, the LUR is recognized as the commodity in the real estate market since the LL 2003.

4.3.2.   Supply and demand

Before the LL 1993 came into effects, there existed two types of market: 1) the informal land market and 2) the formal housing market. Since the LL 2003, real estate market is formally operating and including both LUR and assets on land as commodities. However, due to the complex historical development, Vietnam real estate market is divided into many segments. This segmentation is based on the types of commodity like LUR only, improvement only or LUR plus improvements; on types of land use purposes like residential land market, industrial land market, agricultural land market, etc; or on type of exchange in the market like transfer market, rental market, mortgage market, etc. From these different classifications, it is clear that the real estate market in Vietnam is complex. It is very necessary and important to recognize these different segments clearly while discussing the demand and supply.

Within the residential market, the segmentation based on the types of commodity constitute 1) residential LUR segment, 2) housing segment, and 3) real estate (including LUR + housing) segment. Under these three segments, Hanoi residential land market can be further categorized into seven specific types of commodities as 1.1) LUR of rural residential land, 1.2) LUR of urban residential land, 1.3) LUR in urban development area; 2.1) luxury apartment, 2.2) apartment block; and 3.1) villas, 3.2) detached houses. Commodity types of each market level are presented in the following table 4-3.

The supply capacity of each commodity varies due to the specific characteristic of each supply source and the policies and regulations imposed by the Government. Because of the limited supply source of land, the trend of the housing development up to the year 2020 is to gradually stop allocation of land to individual for housing construction. Therefore, what can be seen recently is that land is allocated to investors in urban development areas. This is reflected in the table 4-3 above, where the supply of commodities (1.1) and (1.2) is almost stopped in the market level 1 and replaced by commodity (1.3). However, commodity (1.1) and (1.2) are still transacted in the market level 3. As the results of this trend, commodity (2.1), (2.2) and (3.1) of the housing market segment and LUR + houses market

segment respectively nowadays are major supply sources for the real estate market. Accordingly, market transactions are mainly implemented at the market level 2 (between investors and users) and market level 3 (between users and users). Hence, the major new supply source of the real estate market is recently located in the urban development areas and housing projects.

Table 4-3: Classification of market segment in accordance with market level

Market segment	Commodities	Market level *(refer figure 4-4)*
1) LUR	(1.1) LUR of rural residential land	3, 1 (now limited)
	(1.2) LUR of urban residential land	3, 1 (now limited)
	(1.3) LUR in urban development area	1
2) Housing	(2.1) Luxury apartment	2, 3
	(2.2) Apartment block	2, 3
3) LUR + house	(3.1) Villas	2, 3
	(3.2) Detached houses	3

Figure 4-6 shows the evidence of the trend mentioned above. Before the year 2000, the land area allocated to individuals was higher than that allocated to investors for housing project. However, since the year 2003, the situation is reversed. The new supply source is mainly from urban development areas and housing projects. The land are allocated to investors are much higher than the land allocated to individual over the years.
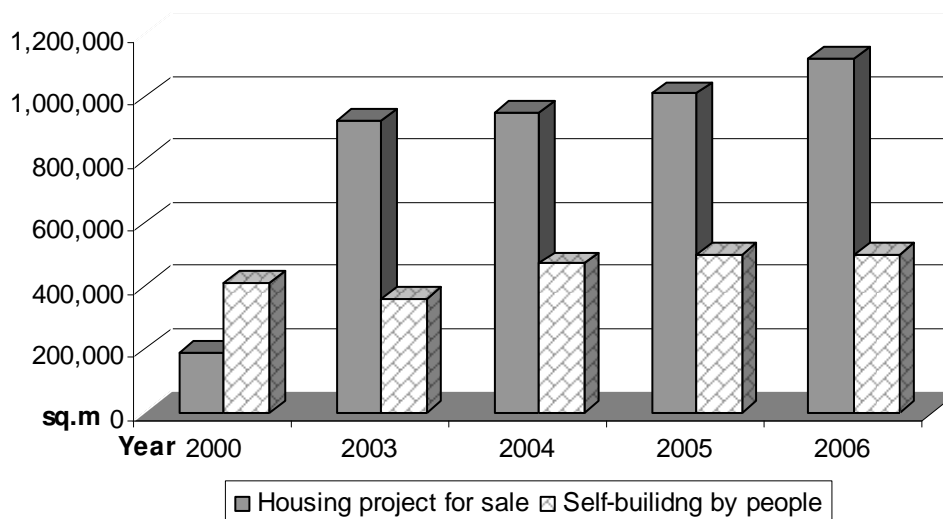
Figure 4-6: Newly built area of residential housing in the year
(Source: Hanoi Statistical Yearbook 2006 – General Statistics Office)

From the land inventory data, which is conducted every five years, the State adjusted the land use planning to enlarge residential land area during 10 year (figure 4-7) by converting other land use purposes into residential land use purpose. Indeed, the figure shows the increase of land residential

area is from 11,509 ha in the year 1995 to 12,810 ha in the year 2005. This conversion is almost from the agricultural land. According to the land inventory in the year 2005, 98% of converted residential area is from agricultural land (figure 4-8) and majority of it is allocated for housing projects.
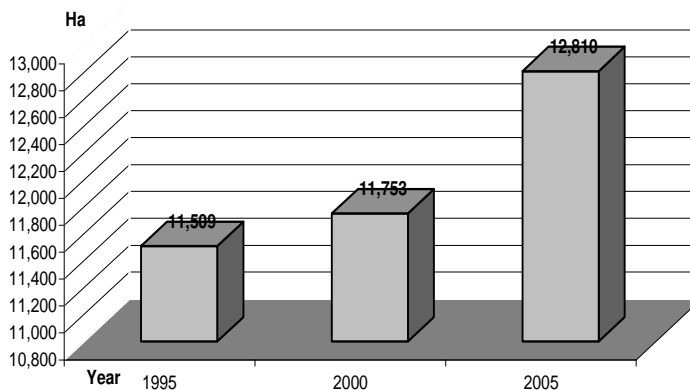
Figure 4-7: Changes in residential land by the year

(Source: Land inventory data – DoNRE)
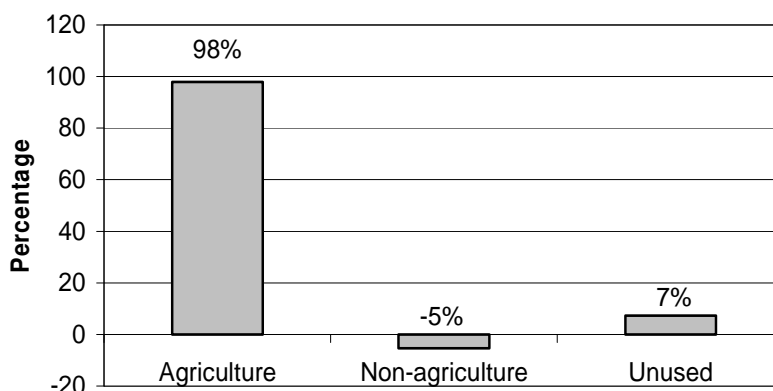
Figure 4-8: Conversion between residential land and other land categories
from the year 2000 to 2005

(Source: Land inventory data – DoNRE)

For estimating the demand on the residential land market, the population and households are taken into consideration. The statistics show that the population in Hanoi keeps on increasing with the average natural increase rate of 3% annually from 1999 to 2006. Following that, the number of household over the same period also increases (refer to figure 4-9). From these figures, the average household size are calculated and shown with gradual increase from 4.16 to 4.29 from 1999 to 2006 (refer to table 4-4). All of these are the signal of the shortage of house. This signal implies that the supply in the real estate market does not satisfy the demand.

Table 4-4: Increase of household size by years in Hanoi

Year	1999	2002	2004	2006
Household size	4.16	4.18	4.26	4.29

(Source: General Statistics Office)

	1999	2002	2004	2006
Number of household	641,863	654,240	724,248	765,317
Population	2,672,000	2,734,100	3,088,700	3,283,600
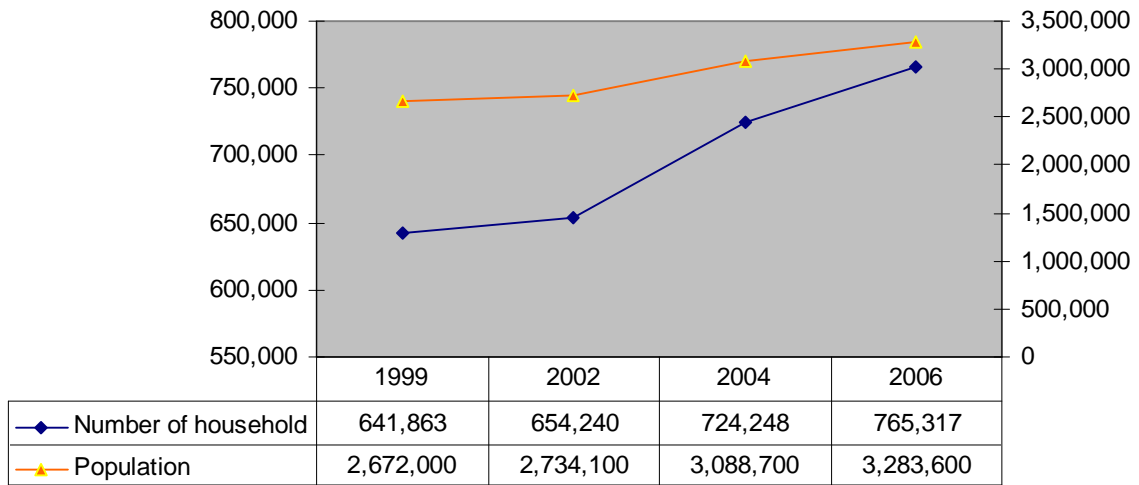
Figure 4-9: Increase of population and number of household by years in Hanoi

(Source: General Statistics Office)

Then, the practice show that supply is usually behind the demand. Because the demand is continuously increased by years, but it takes time for one housing project to finish, normally at least 2 or 3 years. The main reasons for this time taken is 1) investor lack of capital, 2) land acquisition process takes long times and partially due to the difficulty in compensation negotiation. Thus, these projects are always not completed in schedule and extended. Until the year 2006, there are totally 11 urban development areas over all Hanoi. However, these projects are still under construction and each year just can complete some part to provide for the market.

Moreover, it is quite difficult to estimate the demand. There exist a large difference between the income and house price (refer to Box 3-2). Therefore, one dilemma can be seen that the supply behind the demand leads to high price. Then, this high price reduces the purchase power due to the low income status. The reduction in purchase further increases the demand and make the supply beyond the demand. This looped relation between supply and demand creates the difficulties in identifying the real demand.
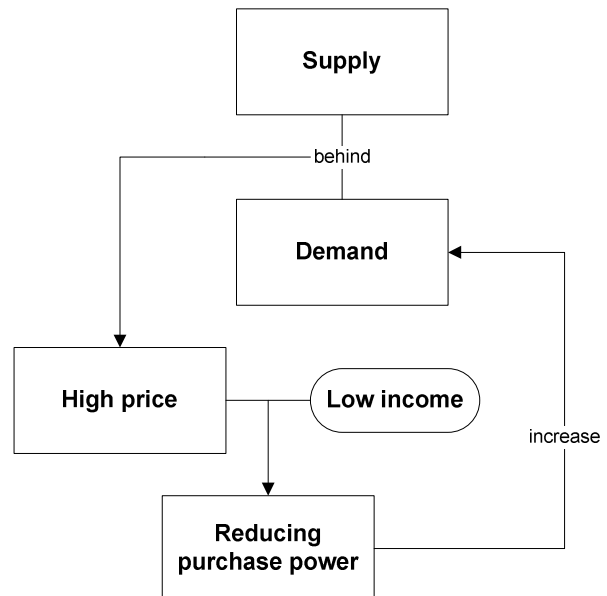
Figure 4-10: Looped relation between supply and demand

4.3.3. Government's intervention in the real estate market

Two main functions of government with respect to land are 1) representing owner of the whole people on land and exclusive manager of land and 2) conducting administrative function on land. These two functions underlie all other concepts of the LL, and "much of the LL is an attempt to achieve the benefits of a true land market within the constraint of state ownership" (Doi et al. 2006). The government plays two main roles in real estate market 1) managing properly real estate market and 2) being the biggest land supplier.

In practice, the main government's activities in the real estate market are identified as 1) allocating/ leasing and recovering land in accordance with the *land use planning*; 2) providing legal foundation by issuing land use right certificate (LURC) for land users by *land registration* in relevant with land use purpose and land use term for transaction; 3) regulating land price (supply-demand relationship) by *land taxation*. Market is always comprised by market activities and non-market activities. The government's activities are considered to be included in non-market activities. As discussed in section 2.1.1, government interventions are the main activities among non-market activities and these interventions are carried out under policies and regulations. Therefore, the main interventions of the government in the real estate market are specifically identified as land use planning, land registration and land taxation.

4.3.3.1. Land use planning

The government is the preliminarily biggest land supplier through the land use planning (LUP), which is developed based on the socio-economic development. There exist two different plans in Vietnam: 1) Short-term LUP for the period of 5 years, and 2) Long-term LUP for the period of 10 years. These are set up for each administrative level as commune, district and city. The aim of those LUPs is to support the City's government in land management and direction of land use effectively. The short-term LUP is more detailed than long-term LUP, so it is option for effectively distributing various land use purposes.

LUPs are important to the overall development of real estate market because they provides the information about the proportion and distribution of each land categories, such as residential land, agricultural land, commercial land, and public land, etc. Additionally, LUP are also the basis for developing Construction Plan (CP), a good information source for the market in general and for residential land market in urban area in particular.

However, LUPs in Vietnam are still insufficient quantity and poor quality that leads to the non-transparent information to investors' investment, especially land-users' decision in the real estate market. In Hanoi case, Hanoi accomplished long-term LUP for the period of 2000-2010 and the short-term LUP for the period of 2000-2005[8]. However, at district level, only Thanh Tri District has the LUP for 10 years from 2000 to 2010 as well as the LUP for 5 years from 2006 to 2010. Consequently,

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[8] Approved under Decision No. 1447/QD-TTg dated 9th November 2001

both short-term and long-term LUPs have not yet developed for all 229 communes. For the lack of LUP, Hanoi People's Committee just approved CP until 2010 for 7 urban districts and 5 rural districts. The CP of Long Bien and Hoang Mai districts are being developed. At communal level, only 15% of communes have their detailed CP until 2010.

Moreover, the quality of LUP is still poor. As analyzed in the previous section 4.3.2, the land supply is always behind the real estate market demand. LUP is still not satisfying the land and accommodation demand of all citizens. This is said that the government does not regulate the land availability in accordance with the social demand.

4.3.3.2. Land registration

Government provides legal foundation for land users by registration in relevant with land use purpose and land use term for transaction. That means land registration is an administrative tool for government to intervene to the real estate market. Registration is necessary condition for participating in the formal transaction (formal market) and ensure the land users' security. However, looking at the fact and figure of Hanoi as an example, the interaction between government and citizens is not achieved. The proportion of LURC issuance is still low and the issuance speed every year still so slow (refer table 4-5)

Table 4-5: Status of LURC issuance

Year	Urban residential area need to be granted with LURC (ha)	Urban residential area already granted with LURC (ha)	% area granted with LURC
2005	3939	2011	51.7%
2007	4559	2018	44.3%

(Source: Land inventory 2005 – DoNRE; Report 19/BC-CP on LURC issuance status to submit National Assembly XII)

There are two main reasons for this issue: 1) long and complicated development history of registration system, 2) Registration fee is high. For example, at present, there exist four types of certificate for property: Land use right certificate (LURC) under Land Law 1993 (old "red book"), which was issued before 1st July 2004; LURC under Land Law 2003 (new "red book") issued after 1st July 2004; Building ownership and Land use certificate for urban residential land (BOLUC – old "pink book") issued under Decree 60/1994/ND-CP; and Building and Works ownership certificate (BWOC – new "pink book") issued under Decree 95/2005/ND-CP. The fact shows that how this registration system creates difficulties to land users (refer Box 4-1). In addition, during these years, the apartment market in urban development makes up high proportion in the real estate market. The concept of strata is presented somewhere in the LL. But this is unclear concept for implementation in practices. For the registration, an amount spent for a transaction equal Stamp duty (Land area X Land price (***statutory price***) X 1%) + Land use transfer tax (Land area X Land price (***market sale price)*** X 4% (for residential land).

Box 4-1: Story of LURC issuance

Such many types of the certificates create an inconsistent registration system, with many involvements of different agencies; those make difficulties to the citizens. Mr. Ngo Trong Khang, Director of Hanoi Land and Housing Registration Office confirmed: "This generate a complex administrative procedure system to the citizens, who has to apply for land registration at land management agency, apply for assets on land registration at varied management agencies".

Presently, there are 65.000 cases of households have not come to get the LURC yet. The reason is that the LURC applicants in two years (2005 – 2006) have to pay stamp duty by new land price, which is 8 – 15 times higher than the land price of the year 2004.

Source: http://vietnamnet.vn/

4.3.3.3.   Land taxation

The government regulates land price by supply – demand relationship under land taxation policies to close to the equilibrium point of the typical supply and demand diagram (figure 2-1). In other words, land taxation is intervention to regulate the price, supply and demand to the real estate market. The issue raised here is the separation of land segment market and housing segment market create the incomprehensive concept for the real estate market. So the land price determined by the supply – demand relationship of land only is not relevant and sufficient to reflect fully picture of the interaction operation of real estate market as a whole.

Thus, it is necessary to have a comprehensive concept of real estate market. Looking at the nature manner of land commodity in residential market, there is limited supply source on land in comparison with demand always. If just taking consideration on land market, then the land price itself seems to be always so high as the rule of the typical supply – demand diagram because of limitation in supply. This will put the government in the challenge to ensure the land accessibility of the whole people. However, with the comprehensive concept, it will give the full understanding of land accessibility. The real estate market plays as the channel for government to reallocate land to ensure the accessibility to land and housing for all peoples. Therefore, the concept is very important in guiding any analysis and decision-making to achieve management targets.

The practice shows that the incomprehensive concept of the real estate market leads to the insufficiency of the existing land taxation system. Land taxation in Vietnam includes tax and fees. Land tax is categorized as 1) Land use right transfer tax, 2) Agricultural land use tax, and 3) Land-housing tax. Regarding the land fees, there are also three categories such as 1) registration fee (stamp-duty), 2) Cadastral fee and 3) Land allocation fee. Currently, agricultural land use tax is already cleared and land-housing tax is just applied for land only. Then, no tax for houses nowadays facilitates the speculators to operate easily and strongly in the real estate market. The rests are still applicable, but there still exists many shortcomings creating from the levies on land transaction, including land use transfer tax and stamp duty. One example of those is described in box 4 above, or people prefer to choose informal transaction because of financial incapability. As the result that the real estate market is operate insecurely.

4.3.4.   Investor's roles

As mentioned in the section 4.3.2 about supply and demand above, under the orientation of socio-economic development and housing development program, the government gradually replaces the allocation of land allocation to individuals by the allocation of land to the investors for housing construction. The target of this replacement is to ensure the equity access to land for people. Therefore, housing investors at different scale have been emerged recently.

The main role of the investor is the producer of housing commodity for the real estate market. In other words, they are the bridge to conduct "reallocation" of land to the people. The State allocates or lease land to the investor, then the investor adds up the value to the land as housings and improvements. The change in commodity in both fiscal value and non-fiscal value (utilization) are generated by the investors. Then, the type of commodity is also changed in the different market level (refer to figure 4-11)
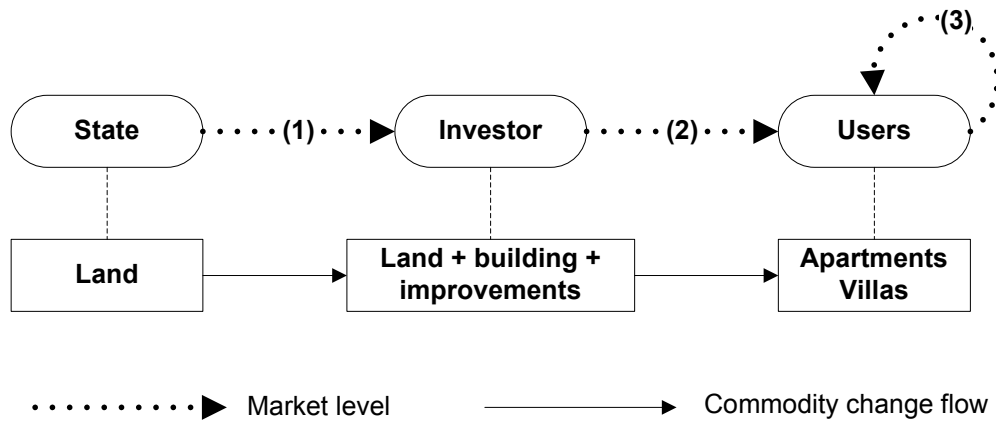
Figure 4-11: Change of commodity through different levels

Following this, the value of commodity is also different in each market level. Land value is set by the State as statutory price. The Land + building + improvements is set by the investors based on the total investment cost plus the profits. And then the apartment and villas in the market level 3 (open market) set by the supply and demand in the real estate market.

Hence, it can be seen that the investor plays as an actual "businessman". From the economic view, profit is the core target of these investors. It starts with the land value at the market level 1, then comes to value of land + building + improvements + other factors such as location, housing aspects in the market level 2 before entering to the open market between the real users. There exists a large profit here for the investors to exploit. As mentioned above, 98% of new extended residential land for such recent housing projects is converted from the agricultural land. So, the agricultural land price is applied for investor to taking the project land area. But then land, after being invested, becomes residential land, which has really much higher value than the original one. Facing with this issue, the Land Law 2003 gave the restriction to such housing project by applying the auction. However, the investors in fact still have strong direct influence into the real estate market by the given commodity amount and the prices, that can make the market not go in the right track of equal access to land as the State's declaration because of the profit motivation.

From this fact, the investors by chance become a step to make the market price higher to the extent, that is difficult for a normal citizens to afford (refer box 2). Then, this situation is totally matched with the statement given by (DFID 2007) as "if the investment is likely to increase land and property price to levels which local people can not afford, inequality is increased".

4.4. Analysis on land valuation

In cases of taking land and asset attached to land as a whole as real estate, then the valuation activity includes two components: land valuation and property valuation. Under the typical characteristics of ownership regime, land valuation in Vietnam can be defined as LUR valuation as the estimation of the value of LUR in monetary norm based on the determined land use purpose, at the certain time.

Valuation provisions are stipulated in the Section 6 of the LL 2003. In which, land price is formulated in three ways (refer section 4.2.3). Looking at three ways, it is seen that there is difference between price and value in term of understanding of international valuation standards (refer to 2.3.1). Price is set by the market, while the values set by the valuer based on the historical price data. Following this, Government and Provincial People's Committee (PPC) in Vietnam are the valuers.

The Government issues the price frame every five years as the range for PPC to set statutory price annually. The issue raised here is this 5- year price frame is becoming a barrier for the annual valuation of PPC while the real estate market is so dynamic under the transition economy. The PPC has to conform not only to the price frame but also to the statement "Land pricing stipulation should be close to the market price of transfer of the land use right in the normal status; if there is a high difference to the practical transfer price of the market, the price of land must be adjusted appropriately" (LL 2003). The evidence for this issue was reflected through the story in the box 3-2. Refer to Appendix 3 for the price frame of urban residential land.

4.4.1. Purpose of valuation

The purpose of valuation is to support State with implementing the management on land by financial tools. It is stated clearly in the legislative documents that annual land valuation with the outcome as statutory price is applied for seven purposes related to tax and fee collection, land lease, and compensation, etc (refer section 4.2.3). In other words, one price is applied as a basis for calculating all the financial relationships between Government and land users. In practice, one price for all purposes creates many interest conflicts. These conflicts can be obviously seen from two viewpoints of taxation and compensation. The impact of high statutory price and low statutory price to different stakeholders are always in contradiction (refer to table 4-6).

Table 4-6: Matrix of conflicts

Land price	From land taxation viewpoint			From land compensation viewpoint		
	State	**Individual**	**Investor**	**State**	**Individual**	**Investor**
High	+	-	-	-	+	-
Low	-	+	+	+	-	+

Note: +: positive impact   - : negative impact

4.4.2.   Valuation approach and process

Up to now, the legislative documents already give permission to application of four valuation approaches (refer to section 4.2.3) to facilitate for land valuation field in line with the development of economy. However, in practice, only the sale comparison approach is applied for residential land.

In case of Hanoi, the valuation process is comprised by 10 steps (refer figure 4-12) within a period of 150 working days at least (approximately 5 months). Then, these steps can be grouped by the main responsibility of each management level (province, district and commune) as the following table 4-7.
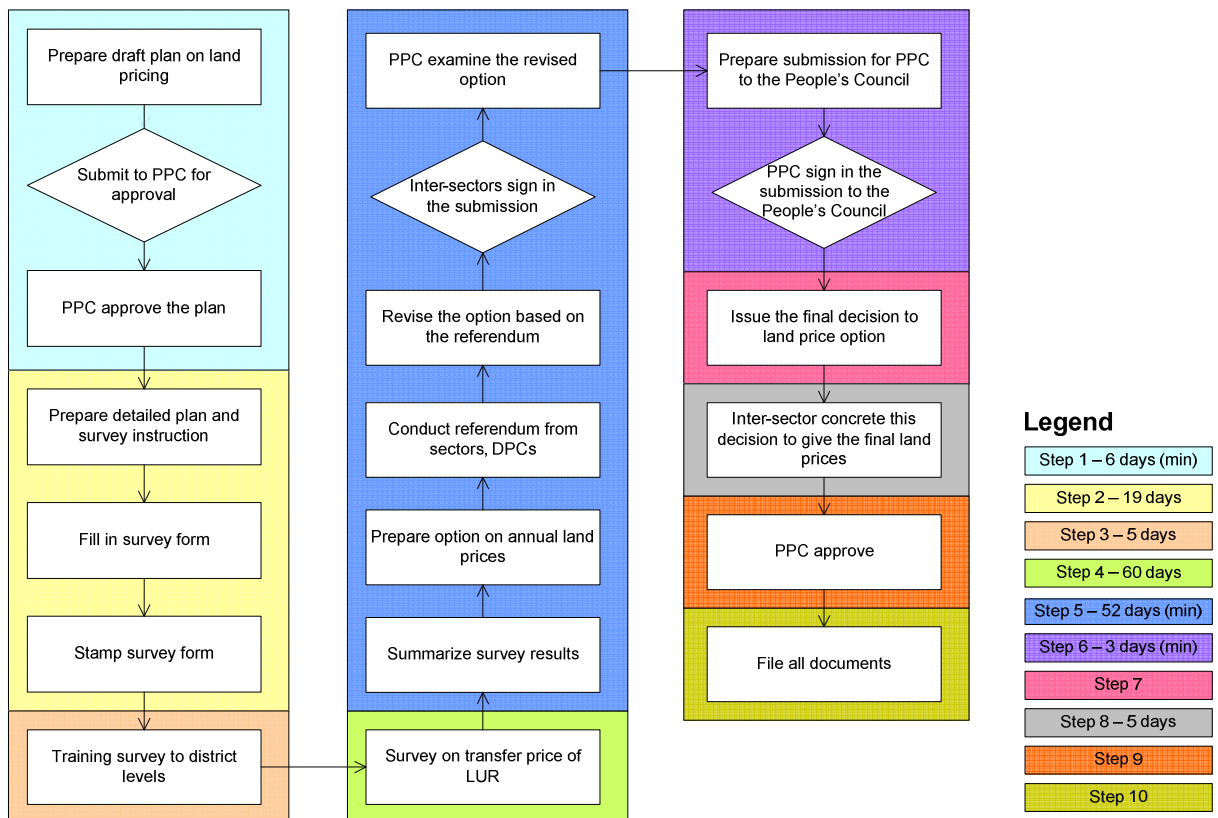
Figure 4-12: Valuation process in Hanoi city

Table 4-7: Key stakeholders and their responsibility in valuation process

Stakeholder	Responsible for	Step
Hanoi People's Council	Giving the comments and final decision for land price option	7
Hanoi People's Committee	Examining, approving and issuing the annual land price for Hanoi	1, 5, 6, 9
Pricing Division – Department of Finance	Organizing and supervising the survey and calculating the annual land prices	1, 2, 3, 5, 6, 10
Division of Planning and Finance	Preparing summary on survey results and report on price for land categories	3, 5
Cadastral Officer	Directly surveying the land transfer price at household level within the commune	4
Other representative from related organization	Contribute opinions to the land price option	5, 8

For a good valuation result, it requires a good integration of high quality survey results, professional valuers, and cooperation between involved organizations. And a high quality survey result is considered as the preliminary condition for the following requirements.

Within the context that Vietnam now has been in the transition stage, and then it reflects as its manner as (Dale et al. 1999) said "In many countries, especially those in economic transition, data on comparison sales are not readily available and this makes comparison difficult. Elsewhere, data may not be released because of confidentiality, to gain competitive advantage or through conservatism while that officially held by the land registration or cadastral authorities may not be a reliable indicator of market price. In efficient market where supply and demand are unknown, pricing may be little more than guesswork". The practice shows that the survey results are unreliable due to inadequate quantity and poor quality in data.

Regarding to the poor quality, it can be explored from two points. Firstly, the sample is not representative for the whole real estate market. The samples are taken in the residential area only, excluding the urban development areas or housing project areas, which now are the important part of the real estate market. Secondly, transferee usually declares the registered transfer price lower than the actual one to evade taxation. Table 4-8 shows two cases with the same location; same housing value remains but there is quite big difference and contradiction in transfer price and land area.

Table 4-8: Two cases of transaction

Location	O Cho Dua ward, Dong Da dist., location 2	O Cho Dua ward, Dong Da dist., location 2
Land area	50.4 sq.m	29.6 sq.m
Construction area	170.1 sq.m (3 storeys)	29.6 sq.m (1 storey)
Housing value remain	0.65%	0.65%
Transfer price	VND 100,000,000	VND 200,000,000

(Source: One-stop-shop, DONRE)

Regarding to the inadequate quantity, there is due to no information linkage between the cadastral officers and other involved organizations such as notary, taxation and registration office. This one makes cadastral officers difficulty in taking the sample for survey. From the request given by district level, the cadastral officers have to fill into the survey form. Total survey forms for each street is 16 sheets, in which four samples for each location[9] along each street. Without information of is there any transaction occurred during the year, the cadastral officers just go to the site and randomly take the samples. In fact, there are so many cases which there is no transaction at this location on this street during the last the year or the households refuse to provide information about the price transaction because of confidential reasons. In the survey form, there are two options for filling up, one is the transferred price and the other is estimated transfer price. And the survey results, which show that almost cases are estimated transfer price given by the cadastral officers.

From the beginning of valuation process, the input data is shown insufficient and correct. After calculation procedure, the land prices are again put under final decision of higher level management. Then, it becomes as subjective and nominated as the story in box 3 in section 3.6.2.

Moreover, in consideration of the valuation period, it takes at least five months for issuing the annual land prices, then the question is raised as is this the survey results (after five months) still valid for calculation while the market itself has so dynamic changes as Vietnam case, where the land market still "infant" and unstable.

4.5. Concluding remarks

Due to the typical characteristics of Vietnam ownership regime, properties in the real estate market are transacted as selling/buying the assets attached to land and transferring the LUR from an original user to a new one; and the government is the biggest land supplier of the market.

The current trend of the real estate market is that allocation of land to the individuals is limited and will be vanished and the government allocates land to the investors for housing construction by

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[9] There are 4 locations basing on the distance from the street front to the land parcel.

auction. The reason of this trend is to ensure the accessibility of all people to land while land availability is limited. Consequently, the major new supply in the real estate market now is apartments from the housing projects. Therefore, investors become "re-allocation" channel in the real estate market and accordingly have strong direct influence into the real estate market.

As discussed above, the supply is usually behind the demand. This is due to: 1) it takes at least 2 and 3 years to complete a housing project while the demand is gradually increased year by year (refer figure 4-9); and 2) unreasonable market price in comparison with a normal citizen's income. The unreasonable price is the result of the deficiencies of real estate market. These deficiencies reflect the inadequacies and incomprehension of government's land policies such as lack of land use planning, improper land taxation and complicated land registration (government interventions).

Land valuation has close linkage with real estate market. For calculating annual statutory price, real estate market is an indispensable data provider. The statutory price is stipulated to be close to the market price of transfer of the land use right in the normal status. However, under this situation of the current real estate market, this stipulation is failed. Market data providing for valuation are unreliable due to insufficient quantity and low quality. Moreover, there are some reasons from valuation activity itself, such as 1) the valuation process is too long (approximately 5 months with 10 steps); 2) the statutory price is applied for all seven purposes related to tax and fee collection, land lease, and compensation, etc (refer section 4.2.3); 3) valuation results are object to the price frame, which is issued by the government and valid during 5 years.

5. Analysis on the Gap between the statutory price and sale market price

5.0. Introduction

In Chapter 4, we discussed the operational real estate market and valuation processes within the existing legal framework. In this chapter, the gap between the statutory price and sale market price, which is considered as the result of the failures in land market and valuation process, continues to be discussed. The purpose of chapter 5 is to have a close look at the existing situation of this gap and discuss the detailed main reasons of the gap.

This chapter is organized into three sections. Section 5.1 presents the recognition of the gap. This section discusses how the gap is discovered from two perspectives: one from State's view (scenario 1) and the other from Land users' view (scenario 2), and the current situation of the gap. Then, the main reasons of the gap are identified in section 5.2. Finally, section 5.3 is concluding remarks.

The terminology "Gap" is understood as the difference between the market sale price and the statutory price. It can be presented absolutely by (MarketPrice – StatutoryPrice) or relatively by percentage as the following formula:

$$\frac{Market\,\Pr ice - Statutory\,\Pr ice}{Market\,\Pr ice} x\ 100$$

5.1. Gap recognition

Gap recognition includes two parts. The first part discusses about the change from two-price mechanism into one-price mechanism and how the gap is discovered from both State's view and land user's view. The second part studies about the existing gap to show how large the existing gap is in the real estate market.

5.1.1. How the gap is discovered

The notion of land price was firstly recognized in the LL 1993. At that time, there existed two-price mechanism in Vietnam: 1) Market price is determined based on the agreement of seller and buyer, and 2) Statutory price is determined by the State for State management's purposes such as allocation, taxation, penalty, etc. This two-price mechanism exposed many shortcomings during ten years till 2003.

As from the LL 2003, one section 6 is spent for finance on land and land price. Here, the one-price mechanism is stated in Article 56 as "Land pricing stipulation should be closed to the market price of transfer of the land use right in the normal status". In practice, this mechanism is never absolutely achieved. Then, the gap always exists. However, it is stated that significant gap has been creating many negative impacts on the land management and development. These impacts can be shown from

two perspectives: one from State's view (Scenario 1) and the other from the land users' view (Scenario 2).

State's view of the gap (refer to figure 5-1)

When the State allocates or leases land to the land users, the statutory price (SP) is applied. When, this land user subsequently brings this LUR to the open market, the transaction is subject to the market price (MP).

If the significant gap is existed, it is possible to have following negative effects: There is a good environment for corruptions from the allocation/ lease arrow from the State to the land user (arrow 1) for making individual profit from the significant gap between the SP and MP. Behind this corruption, the inequity in land allocation/ lease is also seen. The MP in Vietnam is influenced by several factors, which can be grouped into 1) Physical factors (shape of land, size of land, infrastructure), and 2) Location factor (land aspect, location). As consequence, this individual profit is added by these factors (refer to section 5.1.2). Considering the arrows 2 and 3, when the transaction is occurred, the land user (buyer) has to fulfil financial obligations as Stamp duty (Land area x Land price (*MP*) x 1%) + Land use transfer tax (Land area x Land price (*SP*) x 4%). If the MP is declared lower than SP, then SP will be come the benchmark for calculating Stamp duty fee. Therefore, the majority of buyers are tempted to reduce the declared MP by the SP to avoid the tax. Therefore, the larger the gap, the bigger amount from taxation the State will lose. In addition, this will corrupt the market.
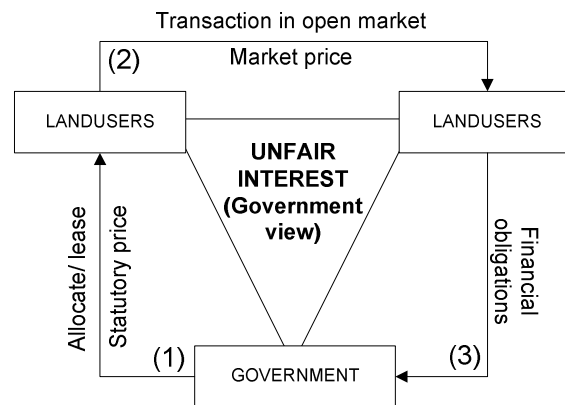
Figure 5-1: Negative impact of the gap from Government's view (Scenario 1)

For example, Mr. A has a land parcel of 100 sq.m on the front of Chua Lang street. The MP for such parcel is VND 80,100,000 per sq.m and the SP is VND 20,000,000. When Mr. A transfers this parcel to Mr.B, more and less VND 80,100,000 is offered. Then, if the transaction is successful, the *legally amount* Mr. B has to pay is about *(100 x 80,100,000 x 1%) + (100 x 20,000,000 x 4%) = VND 160,100,000* that is a big amount of money. Therefore, Mr.B and Mr. A declare the sale price in the contract is just VND 20,000,000 per sq.m (the benchmark price for stamp duty fee). Consequently, the *actual amount* Mr. B has to pay is *(100 x 20,000,000 x 1%) + (100 x 20,000,000 x 4%) = VND 100,000,000* (about 62% of the legally amount). With the gap is 75%, the lost amount from taxation is 38%. That means the bigger the gap is, the bigger amount from taxation collection the State lost.

The land users' view of the gap (refer to figure 5-2)

The State allocates/ leases a parcel to a land user (arrow 1), the SP is applied. When then this land user subsequently brings this LUR to the open market to other land user. This transaction is subject to the MP (arrow 2). Assume that this parcel is located in the right-of-way of land acquisition. Then the amount this land user is paid as compensation will be based on the SP (arrow 3). In these cases, land

users will be lost the amount which equal to the gap between MP and SP. Then the larger the gap is, the more lost the land user suffers and the more difficulty for State to implement the land acquisition.
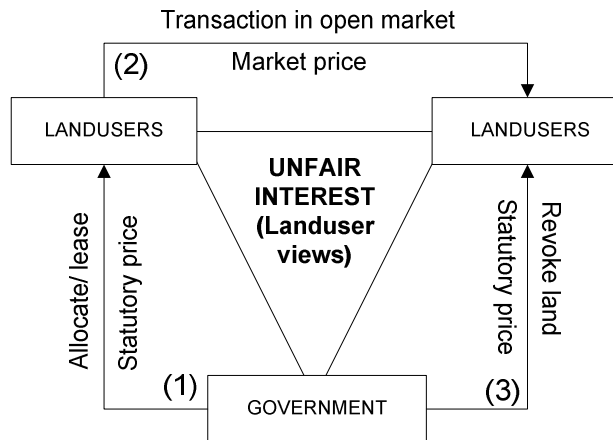
Figure 5-2: Negative impact of the gap from Land User's view (Scenario 2)

Actually, as discussed above, market price is so dynamic meanwhile statutory price is static. Then, the gap is unavoidable. Market price is determined basing on the agreement of seller and buyer, and 2) Statutory price is determined by the State ***basing on the market price*** for State management's purposes such as allocation, taxation, penalty, etc. Then, one-price mechanism is understood with a minor gap.

5.1.2.   Natural factors influence on the market price

Urban land price in Hanoi real estate market is under the influence of many factors, which can be group into: 1) Physical factors, 2) Location factors.

5.1.2.1. Physical factors

The physical factors are land area (size), shape of land, and infrastructure.   The favourite area of one land parcel in Hanoi market now is around 45 – 80 sq. meters due to the limitation of purchase power of citizens. Land parcels are of size in bracket of (45-80 sq. meters) making up 48% of the total sale market price samples taking in Dong Da district (refer to figure 5-3).Regarding the shape of land, it is more value with post-expansion like trapezium or in perfect square shape. Infrastructures, such as water supply, electricity network supply or drainage system,
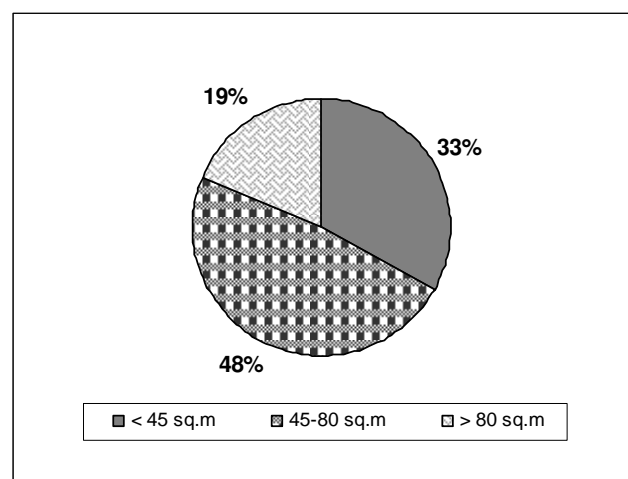
Figure 5-3: Proportion of land sample by size

are also important factors to affect on land price. In addition, other public services like schools, hospital, recreational centre, green park, etc are also considered in this group, which will make the land price higher.

5.1.2.2. Location factors

Location factor is of directly strong influence on the land price. Land is immovable, therefore location plays important role to determine the convenience and easy accessibility to commercial centre and ancient areas, where have many traditional and historical values or the profit from the investment into land. For example: the nearer to the centre downtown, the higher land price is; or the land price of the parcel front street is always much higher than that in the alley; the wider alley, the land price of the parcel is higher (refer to table 5-1).

Table 5-1: Land prices at different areas and different locations in the year 2007

Unit: VND 1,000

Location	Location 1		Location 2		Location 3		Location 4	
	SP	**MP**	**SP**	**MP**	**SP**	**MP**	**SP**	**MP**
Central Downtown (Hoan Kiem Dist.)								
Hang Dao St.	*54,000*	270,000	*24,300*	74,000	*18,900*	NA	*16,200*	NA
Hang Bong St	*52,000*	290,000	*23,400*	83,000	*18,200*	NA	*15,600*	NA
Downtown (Dong Da Dist.)								
Ton Duc Thang St.	*36,000*	80,700	*18,500*	43,000	*15,100*	32,000	*12,650*	22,000
NguyenChi Thanh St.	*35,000*	160,200	*18,200*	52,000	*14,800*	39,000	*12,550*	29,000
Giang Vo St.	*35,000*	118,800	*18,200*	45,000	*14,800*	37,000	*12,550*	25,000
Urban fringe (Cau Giay Dist.)								
Cau Giay St.	*22,000*	96,000	*12,900*	47,000	*10,800*	22,000	*9,700*	18,000
Hoang Dao Thuy St.	*22,000*	125,000	*12,900*	85,000	*10,800*	55,000	*9,700*	45,000
Tran Duy Hung St.	*25,000*	153,000	*14,300*	90,000	*11,800*	76,000	*10,500*	49,000

<u>Note:</u>

Location 1: land parcel having one side front big road, street;

Location 2: land parcel having one side front the alley of more than 3.5m width;

Location 3: land parcel having one side front the alley of 2m – 3.5m width;

Location 4: land parcel having one side front the alley of lesser than 2m width.

In addition, following the geomancy[10] conceptualization, a traditional thinking, majority of Vietnamese people prefer the land's aspect at Southern East and Southern West. The land parcel which located at these aspects always has higher price than that at other aspects.

5.1.3.   Current situation of the gap

As mentioned in the early section 5.1.1, gap has been existed and brought unfair profit from land for both the Government and land users' sides. The practices prove that the bigger the gap is, the more unfair profit the Government and land users get from the land. And all these create the difficulties for

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[10] Geomancy is a trantional thinking in Vietnam. People believe that the land aspect determine future events and the strength of a dynasty or particular family.

the Government in land management and for the land users in land accessibility. Therefore, gap nowadays is big problem, which get many concerns from management side and social side as well.

Hanoi districts can be divided into 3 urban layers as central downtown (Hoan Kiem dist.), downtown (Ba Dinh, Dong Da and Hai Ba Trung dist.) and urban-fringe (Thanh Xuan, Cau Giay, Tay Ho, Hoang Mai and Long Bien) (refer to figure 5-4). For having a close look at is the actual extent of the gap, the Dong Da district is selected because 1) it is not located at the central downtown layer, where have highest SP and MP, and extreme gap as well (refer to table 5-1), and 2) it has the highest number of transaction[11] within 9 months of the year 2007 (refer to figure 5-5).
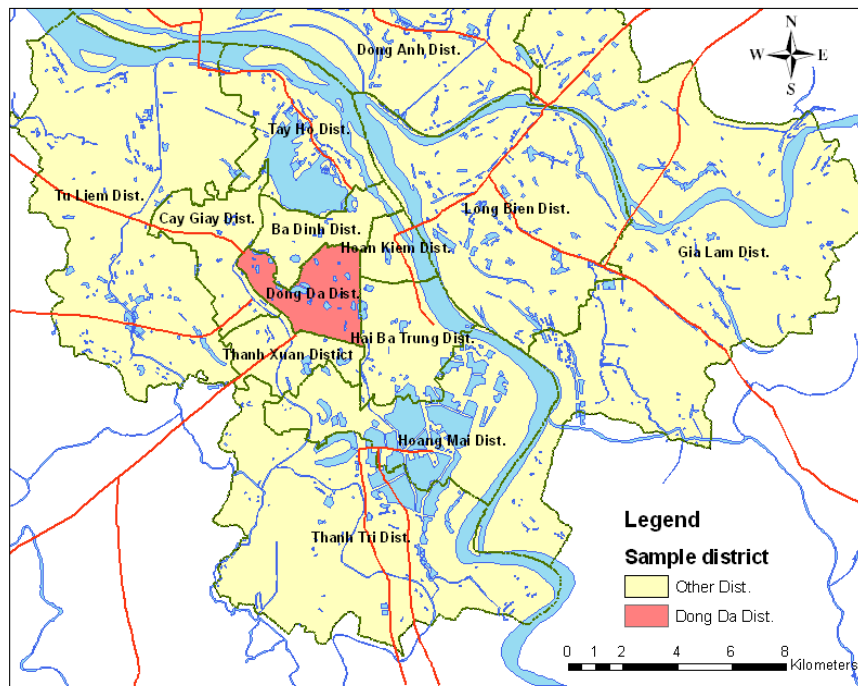
Figure 5-4: Location of Dong Da District
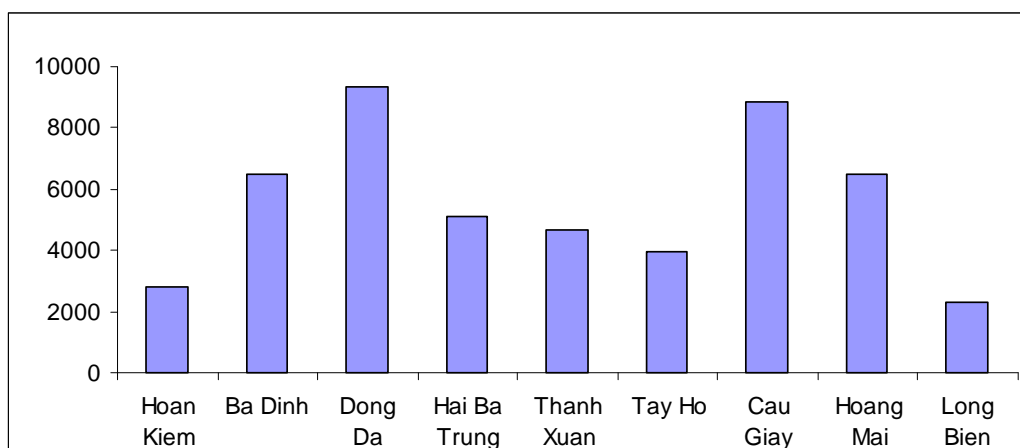
Figure 5-5: Number of transactions within 9 first months in the year 2007
(Source: "Mua va Ban" newspapers)

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[11] The number of transaction are included both successful transactions and expected ones

The price samples cover for 56 main streets/ roads within the administrative boundary of Dong Da district. These samples are taken for both SP and MP, at two main locations: 1) **Location 1** – price of the parcel having one side front the streets/ roads; 2) **Location 2** – the average price of parcels located in the alley. The structure of samples is shown in the following table:

Table 5-2: Structure of price samples for Dong Da district

Unit: VND

Code	Name of road	Statutory Price		Market Price	
		Location 1	**Location 2**	**Location 1**	**Location 2**
296	Thai Ha St.	30,000,000	13,950,000	94,500,000	35,700,000
289	Nguyen Chi Thanh St.	35,000,000	15,183,333	160,200,000	38,400,000
295	Chua Lang St.	20,000,000	10,400,000	80,100,000	31,600,000
298	Huynh Thuc Khac St.	30,000,000	13,950,000	115,200,000	29,000,000
....					

Source: 1) "Mua va Ban" newspapers, 2) Real estate transaction centres (Appendix 5)

The data samples show a significant gap between SP and MP. The gap is double at least on almost streets/ road and at both location 1 and location 2. The variation amplitude of gap is different by each street/ road. That is explanation for different answers from different interviewees during the fieldwork (refer to table 3-2). From these price samples, the gap between the SP and MP are calculated by the formula given in the section 5.0. The whole dataset of price sample is presented in Appendix 4.

The pie chart in figure 5-6 shows that the location 1 of 94% streets/ roads has the gap of 50% - 80%. However, further looking at figure 5-6, the point distribution around 70% - 80% range is quite dense and dominant. This says the gap at the range of 70% - 80% make up high proportion.
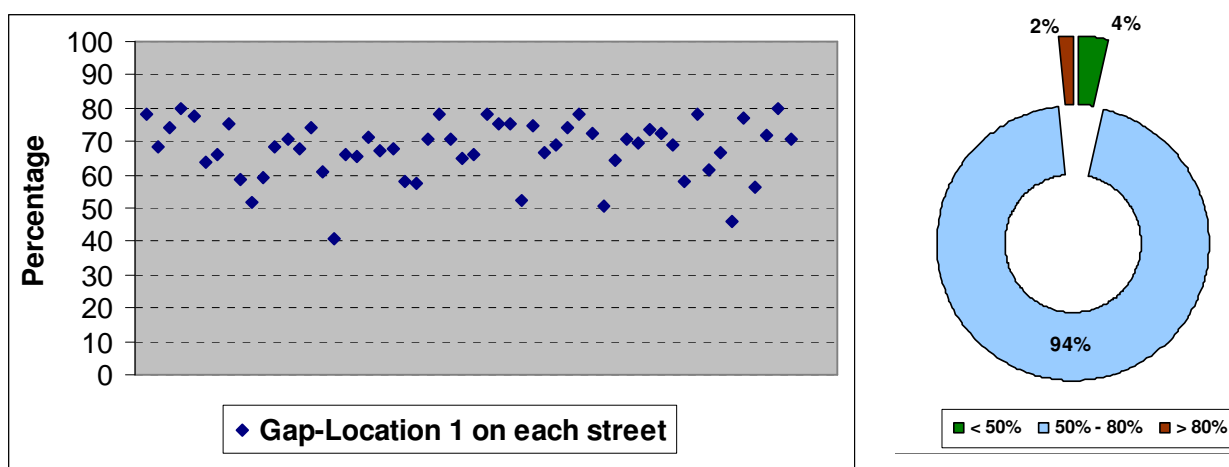
Figure 5-6: Gap at Location 1

For the location 2, the gap of 50%- 80% at this location are seen at 98% streets/ roads (refer to figure 5-7). And the highest distribution density of the gap gathers at the range of 60% - 70%.
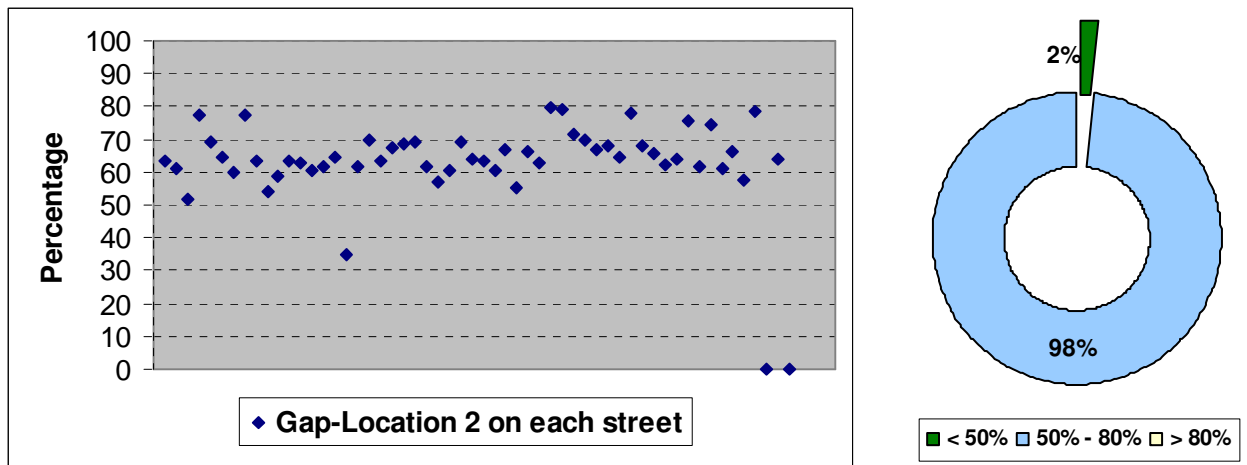
Figure 5-7: Gap at Location 2

Thus, in general view, the gap over 50% is seen widely at both location 1 and location 2 on almost streets/ road and any location. Nevertheless, there is difference in gap range between location 1 and location 2. At location 1, proportion of the gap range at 70% - 80% is larger than that at location 2. The majority of the gap at location 2 is at the range of 60% - 70%, and just small proportion has the gap over 70%.
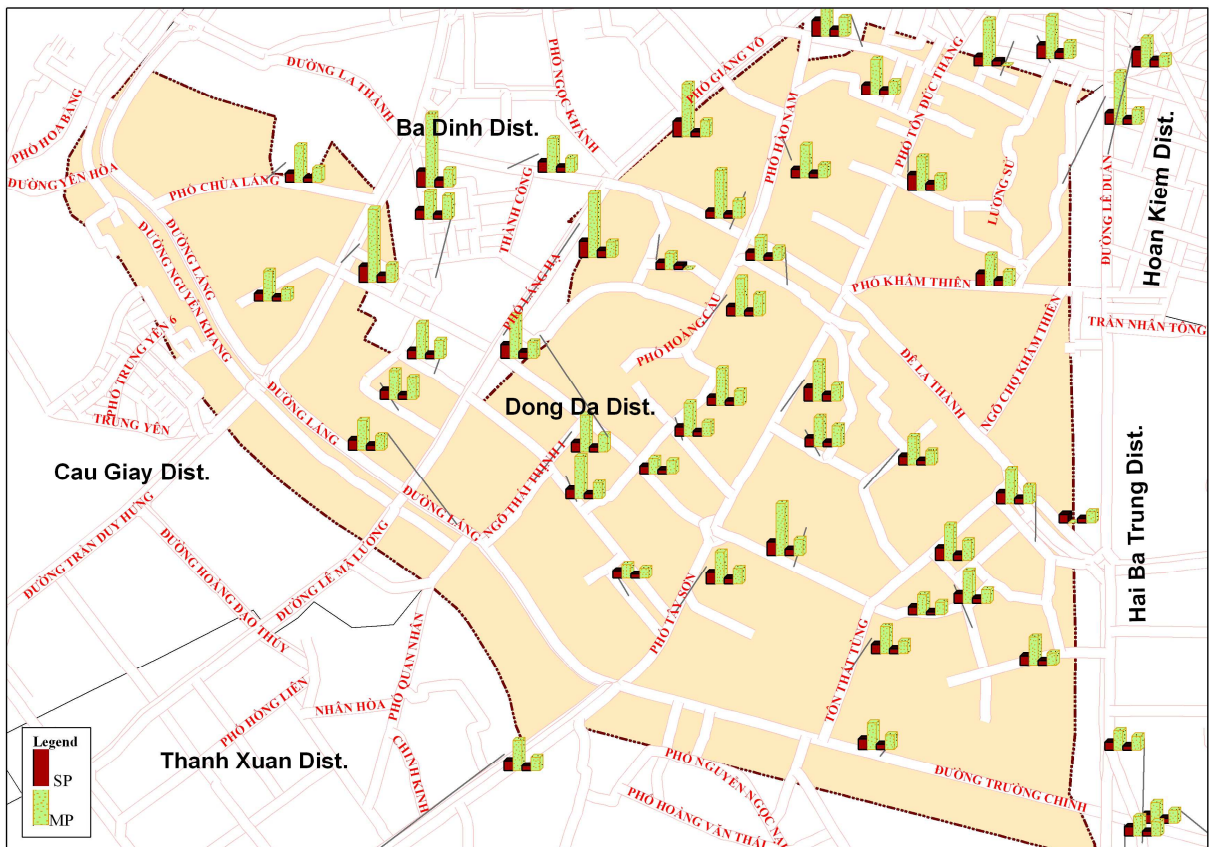
Figure 5-8: Map of SP and MP at Location 1 and Location 2

For overall visualization, the gap between SP and MP at location 1, or at location 2 on each street/ road; and the differences between location 1 and location 2 for SP, or for MP are viewed all on the map (refer to figure 5-8). The red column presents for SP, the light dotted green column for MP. For

each cluster of column, it from left to right shows SP_location1, MP_location1, SP_location2 and MP_location2 respectively. From this map, we also can see clearly by eye that large gap is everywhere, and furthermore the gap at location 1 is much bigger than that at location 2. Closely looking at the gap at location 1, the clusters, which have prominently large gap, are posited at the upper side of the map because this part is adjacent to the centre downtown district. Meanwhile, the clusters at the right lower corner, the gap deems to be a bit smaller than that at the upper side. It means the gap at location 1 on the streets/ road is directly proportional to the distance to the central downtown.

5.2. Identifying the main reasons of the gap

As discussed above, gap is unavoidable but large gap is creating unhealthy and illegal activities, such as corruption, taxation evasion, etc, which bring negative impact to the operation and development of the real estate market. Then, the section 5.1.3 illustrates the fact that there exists a big gap between SP and MP.

Actually, gap between SP and MP is an issue, which has been exposed during these years. The LL 2003 is the signal of this exposition with the statement to make to the SP close to the MP. Since then, gap becomes a hot issue and by time almost people, from the management level to the individual land user, are aware of its negative impacts as discussed above.

Under the scope of this research (refer to figure 2-8: Conceptual framework of research problem), it is identified that the main reasons of this large gap is due to the deficiency of the real estate market and the impropriety in land valuation process. Then, the interaction between this real estate market and land valuation is the overall picture creating the gap.

Regarding the deficiency of real estate market, it is reflected from the analysis on operational land market (refer to section 4.3). The deficiency is known as it is "infant" market, distortion in supply and demand (sub-section 4.3.2); non-transparency in market information from the poor and insufficient LUP and from the investors, insecurity in land tenure due to the complex of land registration system and impropriety in land taxation (sub-section 4.3.3); and speculation due to the improper role of investors and insufficient taxation system (sub-section 4.3.4).

Regarding the impropriety in land valuation process, it is discussed in section 4.4. The insufficiency is revealed from the purpose of valuation (one SP applied for seven finances on land), which create the interest conflicts between involved stakeholders and also the obstacle for the valuers (sub-section 4.4.1); from the limitation of applying valuation approach and the long, subjective and nominated valuation process with the poor data input in both quality and quantity for valuation (sub-section 4.4.2).

Then, the interaction between the deficient real estate market and improper land valuation process show how such large gap created. The deficient real estate market can not provide exactly information about the real supply – demand and the sale market price as the input to the valuation process. In turn, the land valuation is not close to the sale market price, creating the large gap, which makes the market operate in inappropriate track.

Taking these deficiency and impropriety into further consideration, the response of the fact shows that one reason for these is insufficiency of the governmental interventions, which are implemented by government's policies and management tool. Therefore, the following figure describes clearly the main reasons of the gap:
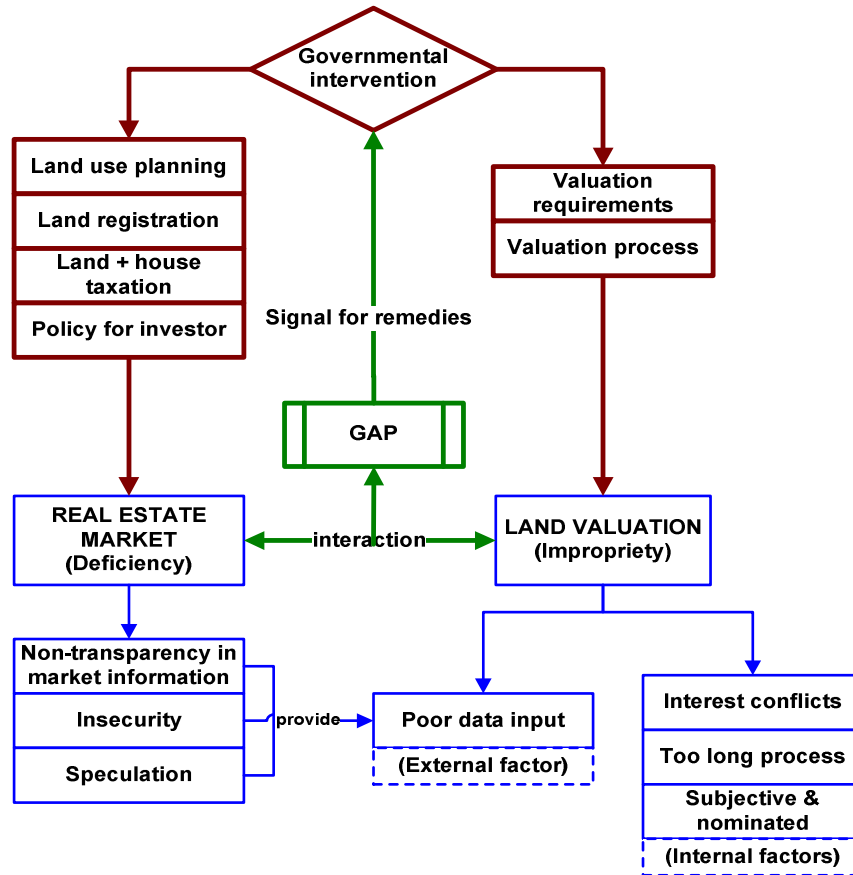
Figure 5-9: Main reasons of the gap under the scope of this research

5.3. Concluding remarks

Gap between SP and MP is inevitable, but large gap has negative impacts to the operation and development of the market. The analysis above verifies that the existing extent of the gap is presented largely at the minimum ratio of SP/ MP equal to 1/2. This gap is larger at the location 1, where the profit from land can be gained higher than that from other locations. Such large gaps have been causing the deficiencies to the real estate market and this deficient market in return contributes to create the gap.

However, not only real estate market but also valuation process is believed as the two main reasons of the gap. And gap is the signal of the defects in the market and valuation. Market and valuation have close interaction and gap is the result of this interaction. Real estate market provides foundation and information for valuation. The combination between poor data provided from the deficient market and impropriety in land valuation (refer to figure 5-9) is the picture of the existing large gap in Vietnam now-a-day.

In any market, government intervention is necessary to ensure the market operate in an efficient way, such as controlling monopolies, and providing the insurance for participants doing their business. Yet, in real estate market, government intervention is also important part. However, how far and how deep this intervention is suitable and desirable should be carefully considered. The market and non-market failure theory says that the failures of the market are the signal for determining the intervention of the government. Thus, such large gap is the important signal for the government to give the remedies for its existing interventions to the real estate market and valuation also. The signal returned from the existing policies and regulations imposed in the market and valuation such as non-transparency in market data, speculation, insecurity, interest conflicts, etc, are the factors, from which the government will give the remedies to adjust these policies and regulations such as land use planning, land registration, land + housing taxation and policy for investor, valuation requirements and valuation process (figure 5-9).

6. Discussion on the government interventions to minimize the Gap

6.0. Introduction

The previous chapter revealed the two main reasons of the gap between statutory and market prices and they are the deficient real estate market and inappropriate valuation practice. The analysis of results shows that the market price is generally twice as large as the statutory prices of land.

The purpose of this chapter 6 is to provide further discussion on the government interventions needed to minimize this gap. This chapter is structured into three sections. The section 6.1 presents the discussions on the existing situation of the government intervention. Accordingly, section 6.2 focuses on further discussion on essential needs to minimize the gap. Finally, concluding remarks are drawn in section 6.3.

6.1. Government interventions

Referring the figure 5-9, the significant gap is largely caused by the deficiency of the real estate market and the inappropriate land valuation practices by the statutory bodies. The inappropriateness of land valuation is not only caused by approval system of valuation process but also by the poor data quality provided from the deficient real estate market. Since the data is utmost important for valuation practices, the discussion would largely focus on the deficiencies of the real estate market with a view to minimize the gap.

In the sections 4.3.3 and 4.3.4 we have mentioned government intervention is a necessary part to ensure the markets operate in an efficient way in a manner that does not distort their operations or inhibit their development. Situation analysis revealed that *land use planning, land registration and land taxation* and *investors' role* have not been effective. The following table 6-1 presents the relationship between the government interventions and non-market failure signals, viz. non-transparency, insecurity, and speculation.

Land use planning (LUP) as intervention. Under the ownership regime of Vietnam, the government is exclusive land supplier in the market. LUP is the tool for the government to regulate the land availability in accordance with the trend of the socio-economic development through land allocation, lease and recovery. LUP is also an information channel for the land users in the real estate market. However, LUP is not strong enough in quality and quantity to fulfil its functions as discussed in section 4.3.3.1. The most important reason of this issue is the vision and capacity of the whole system of land management bodies, as well as staff capacity involved in preparing LUP.

Table 6-1: Relationship between government intervention and non-market failure signals

Non-market failure signals \ Government intervention	Non-transparency in market information	Insecurity (in transaction)	Speculation
Land use planning	x		
Land registration		x	
Land taxation		x	x
Policy for investors	x		x

Land registration as intervention. The government is expected to facilitate the development of formal market. Land registration provides the legal foundation for land users by issuing the LURC to ensure their security in market transaction. Successful land registration requires two conditions: 1) land users have full awareness of the registration benefit, and 2) the registration system should operate in a way to encourage land users to implement the registration. In the practices, the land users now are much knowledgeable of registration and want to obtain LURC because they are aware of the high value of land. But, the second condition has not been fulfilled till now. Section 4.3.2.2 shows that the present registration system gives many constraints to the registers such as complicated registration, and high registration fee. However, these constraints are potentially being eliminated by the support of two on-going projects: 1) Vietnam - Sweden Corporation Program on Strengthening Environmental Management and Land Administration (SEMLA), in which "support to development of policy for land registration and improvement of land registration process" is one part of the Land Administration component, and 2) Vietnam Land Administration (VLAP) with one component of strengthening land registration service provision.

Land tax as intervention. Land tax is a financial tool for the government to regulate the price through supply and demand in the real estate market. From both an economic and management viewpoints, this tool has important and strong impacts on operation of any market. In general, once tax increases, the demand is directly influenced, and accordingly the supply and price will also be affected. However, this mechanism is more complicated in the real estate market because of the many types of tax on land and properties. As mentioned in section 4.3.3.3, land taxation in Vietnam includes tax and fees. Land tax is categorized as 1) Land use right transfer tax, 2) Agricultural land use tax, and 3) Land-housing tax. Regarding the land fees, there are also three categories such as 1) registration fee (stamp-duty), 2) Cadastral fee and 3) Land allocation fee. Two land tax categories, which have strong impacts on the market, especially residential land market, are land use right transfer tax and land-housing tax. These taxes have had negative impacts on the operation of the residential land market, specifically speculation and insecurity, which are seriously damaging the market.

Policies for investors. Under the current trend of land management, investors play an important role as "intermediate channel" to reallocate land to the people. However, in fact investors now are known as another factor that makes the price higher to the extent, that makes an ordinary citizen can not afford. This situation occurs due to the lack of proper policies for investor's operation as

"intermediate channel" as the government expected them to be. Nowadays, investors are the main commodity provider in the real estate market. Through this channel, the government intends to regulate the accessibility to land of the people. Therefore, the practice requires proper regulations and policies for investors to ensure the efficient operation of the market are needed.

6.2.   Essential needs to minimize the gap

Based on the discussions on the existing situation and impact extent of each government intervention above, the research proposes proper land taxation and policies for investor as essential needs to minimize the gap under the current trend of government land management and real estate market.

6.2.1.   Land taxation

Non-market failures due to the intervention of land taxation are signalled by "speculation" and "insecurity". The research has shown loopholes in the existing land taxation system that facilitate speculations operating and developing strongly, and high proportion in transaction.

Regarding to the land-housing tax, it is levied under the Law on land-housing tax, which was issued since the year 1992. The tax is imposed on land only. Therefore, each household just has to pay land use tax annually. The amount of land use tax[12] is relatively small; it is just few hundreds of thousand VND. Therefore, it does not big matter, when someone has much land and leaves it vacant. Moreover, under the current development orientation of real estate market, in which apartment buildings is the major commodity supply source, the users do not have to pay any tax (both land tax and house tax). Additionally, the LUR transfer tax (with 4% tax rate for residential land) is automatically disappeared in transaction. The buyers just have to pay stamp duty fee. Thus, the condition of no housing tax and low land use tax equally applied has created ideal environment for speculation in both land and houses, which distort the operation mechanism of real estate market.

Regarding to the LUR transfer tax, the tax rate has been reduced from 20% and 4%. However, the existing SP applied for calculating this tax is much higher than the previous one. For example, the highest existing SP (in the year 2007) is 54,000,000 VND per sq. meter but the equivalently previous one is 9,800 VND per sq. meter *(source: DoNRE)*. So, although the tax rate is reduced, it still makes the tax fee so high in comparison with the purchase power of most of the users. Hence, people prefer informal transaction or another fact is that people undertake the registration but could not get the LURC because of financial capacity. It is the reason why informal transaction makes up high proportion in the real estate market. The issue here is LUR transfer tax rate seems not to be relevant with the existing price mechanism.

In conclusion, it is necessary to improve the land taxation system, in that for land-housing tax, it must be imposed on both land and houses. This would encourage people make full use of land and houses.

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[12] Land use tax (residential land) = Land area X Tax rate (in which, tax rate = 1→32 times X the highest agricultural land use tax in each region).
According to the tax frame agricultural land, the highest level is 650kg paddy/ha.

In addition to this, the tax rate should be progressive proportional to the utilization area in order to prevent the speculation activities. For the LUR transfer tax, in this present context, when the land price mechanism still has many shortcomings, it is suggested to further reduce the LUR transfer tax rate to encourage people participating in formal transaction to ensure the security in the real estate market activities.

6.2.2. Policies for investors

Under the development orientation of real estate market, nowadays investors have become an important channel to provide real estate commodity in the market. Following the three-level market model, we can clearly see the investor-related shortcomings. At the market level 1 (State allocates land to the Investor), speculation was very popular few years ago, because the investors took advantage of the large gap between the SP and MP, and low land use tax. They got the land, kept it in vacant to make the land price high and then sell it to get super-profit. To improve this situation, the State regulated that for all housing construction project, land is allocated to the investors through the auction since the year 2004. With this new regulation, speculation is prevented in the market level 1 only. Coming to the market level 2 and 3, however, speculation has now developed so strong with the one groups called as primary users (refer to figure 6-1).
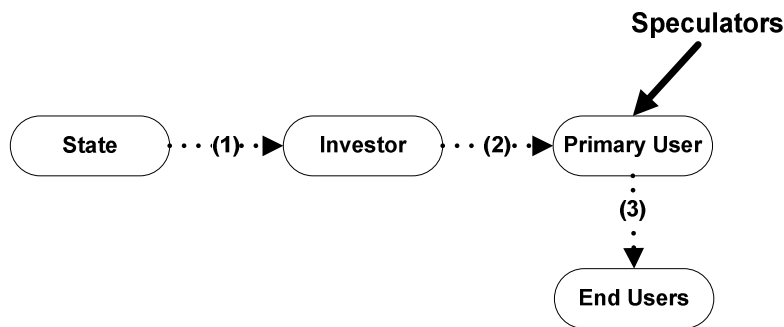
Figure 6-1: Speculation in the real estate market

In practice, the real end users can rarely buy an apartment at the original price that is announced by the investors. When the real end users know the information, all apartments are already reserved by or sold to the primary users. Indeed, passing many apartment buildings, it was observed during the research that many apartments are vacant while many people can not get a house because of lacking information, then so high price due to the speculation by primary users. The reason is there is non-transparent commodity source information at the market level 2 (from investor to users).

Thus, to prevent speculation at the market level 3 (end users), administrative tools are not the suitable intervention. Financial tools as taxation here once again show their power in the real estate. Progressive housing taxation for apartments (as discussed above) will be an effective tool to prevent speculation at the market level 3. However, at the market level 2, it is important to have the regulations (intervention) on the transparent commodity sources. Then, the real end users can access the information of the commodity at the original price, which is always double lower than the price at market level 3. So the suggestion is given that it is necessary to set up a systematic real estate distribution channels with some preferential policies such as financial support policies to encourage the investor to sell their products through these channels. This would make and the people to buy real

estate also through these channels. This would make all the market level, from bidding process between State and Investor to the transactions between Investor and user are informed transparently. The remaining market level 3 will be regulated by the taxation policy.

6.3.   Concluding remarks

This research was motivated by a statement in the Land Law of 2003 referring to improving the land price mechanism in Vietnam: "Land pricing stipulation should be close to the market price of transfer of the land use right in the normal status". The research has shown that the term "normal status" must simply be understood as in the efficient market. The research also has shown that the real estate market at present is far from this ideal. Therefore, conditional for the realization of this policy statement is that the government has to design and implement proper interventions to facilitate an efficient and stable real estate market. However, in practice, government intervention is not always successful, and then it will create the non-market failures. In such situation, these non-market failures will be the signals back to the government for remedies.

From the above discussion on the existing situation and impact of possible government intervention, two interventions are proposed to be essential to minimize the gap in the current development of land management and real estate market.

The current land taxation system is insufficient and irrelevant. The situation of no housing tax and low land use tax has created an ideal environment for speculation in both land and houses, which distort the operation mechanism of real estate market. Therefore, to improve the land taxation system, especially focus must be on land-house tax and land transfer tax. For land-house tax, housing tax is added and both land and house tax is imposed progressively. To deal with the existing situation, land transfer tax should be further reduced.

Investors are the cause of non-transparent commodity source information at the market level 2 (from investor to users). That facilitates speculation in market level 3. So, the action for this issue is to set up a systematic real estate distribution channels with some preferential policies such as financial support policies to encourage the investor to sell their products through these channels and the people to buy real estate also through these channels.

7.   Conclusion and Recommendations

7.1.   Conclusions

Conclusions of this research are drawn with respect to each research questions as defined in the section 1.5 of chapter 1.

1.   *What are the typical characteristics of real estate market and land valuation in Vietnam?*

Since the LL 2003, real estate market is formally operating and including both LUR and assets on land as commodities. Under the typical characteristics of Vietnam ownership regime, properties in the real estate market are transacted as selling/buying the assets attached to land and transferring the LUR from an original user to a new one; and government is the biggest land supplier of the market. Accordingly, land valuation in Vietnam can be defined as LUR valuation as the estimation of the value of LUR in monetary norm basing on the determined land use purpose, at the certain time.

2.   *How far are the land-related policies sufficient and suitable with the development of real estate market and valuation in Vietnam?*

Vietnam real estate market is now considered as "infant market". During three year operation (since the issuance of LL 2003), it exposed many deficiencies such as non-transparency, distortion in supply and demand, insecurity, speculations etc. These deficiencies are recognized as the consequence of incomprehensive and irrelevant land policies such as lack of land use planning, improper land taxation and complicated land registration (government interventions).

The analysis above also shows that policies on land valuation in Vietnam are unclear and unsuitable such as 1) there is confusion between price and value in term of understanding of international valuation standards, 2) the valuation process is too long (approximately 5 months with 10 steps); 3) the statutory price is applied for all seven purposes that create conflict interest of market participants; 4) the price frame, which is issued by the government every 5 years, is constraint to annual valuation.

3.   *How can the gap issue be identified?*

The notion of land price and valuation were firstly recognized in the LL 1993. At that time, there existed two-price mechanism in Vietnam: 1) Market price is determined based on the agreement of seller and buyer, and 2) Statutory price is determined by the State for State management's purposes such as allocation, taxation, penalty, etc. This two-price mechanism exposed many shortcomings during ten years. As from the LL 2003, the one-price mechanism is stated as "Land pricing stipulation should be close to the market price of transfer of the land use right in the normal status".

However, the practice shows that there always exits the gap between SP and MK. That can be explained as the market price is so dynamic meanwhile statutory price is static. Then, one-price mechanism is understood with a minor gap. The minor gap can only be archived in an efficient and stable real estate market. Large gap appear in deficient and unstable market. So, gap is one of signal to

indicate how the real estate market operate and develop. In turn, deficient and unstable market also has much contribution to generate the large gap. Thus, gap acts as "cause and effect" of real estate market operation from different views. From the market view, it is very essential to narrow the gap to enhance a healthy and efficient market. However, from the management view, real estate market must operate efficiently and stably. Then, gap is automatically minor.

4. How is the current status of the gap?

Gap between SP and MP is inevitable, but large gap has negative impacts to both government and land user's interest. As discussed above, large gap creates environment for corruptions in land allocation and lease, big loss from taxation, land users' loss in case their land being acquired. The analysis above verifies that the existing extent of the gap is presented largely at the minimum ratio of SP/ MP equal to 1/2. This gap is larger to the land parcels having one side front big road, street (called as location 1) because the profit gained from land at location 1 can be higher than that at the other locations. Such large gaps have been causing the deficiencies to the real estate market and this deficient market in return contributes to create the gap.

5. What are the main reasons of the gap between market price and statutory price?

There are two main reason of the significant gap: 1) deficient real estate market, and 2) improper land valuation. Particularly, the combination between poor data provided from the deficient market and impropriety in land valuation (refer to figure 5-9) is the picture of the existing large gap in Vietnam now-a-day. The deficiencies of the real estate market are indicated at three main signals as 1) the non-transparency in market information, 2) insecurity in transaction (high proportion of informal transaction) and 3) speculation. The impropriety of the valuation is specified as 1) poor data input provided from the real estate market, 2) one price for all seven financial purposes, 3) long valuation process (at least 150 days), and 4) subjective and nominated valuation due to administrative mechanism.

6. What should be the issues required to support minimizing the gap?

Based on the analysis and discussion on the existing situation of the real estate market and impact of possible government intervention, two government interventions are proposed to be essential to minimize the gap in the current development of land management and real estate market.

1) For land taxation system: there are two types of taxes have to be improved: a) Land-housing tax must be imposed on both land and houses. In addition, the tax rate should be progressive by the utilization area to prevent the speculation activities; b) LUR transfer tax suggested to further reduce.

2) For investor: It is necessary to set up a systematic real estate distribution channels with some preferential policies such as financial support to encourage transaction at market level 2 (between the investor and users) is carried out through these channels. This channel can also cover from bidding process between State and Investor to the transactions between Investor and user so that all the market information is publicized transparently. The rest market level will be regulated by the taxation policy as mentioned in bullet 1.

7.2. Recommendations

Based on the analysis results and discussion, the recommendations for further researches are following:

1. Evaluating land-use related taxes in accordance with the existing land policies to introduce a comprehensive taxation system in line with the current development trend of the real estate market.

2. Establishing information centre for land & housing market with the support of GIS. In the centre, all the information such as land use planning, housing projects and pricing maps are set up.

3. Design property registration and valuation model. This model allows the land users to register their properties and declare these properties' value periodically. Based on this registration, the land users are assured to get proper compensation in case their land is acquired. Besides, market data collected has high quality.

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APPENDICES

Appendix 1: Real Estate Transparency Score – Asia Pacific

Transparency level	Country	Transparency score
Highest	Australia	1.15
	New Zealand	1.20
	Hong Kong	1.30
	Singapore	1.44
High	Malaysia	2.21
	Japan	2.40
Semi	Taiwan	2.86
	South Korea	2.88
	Philippines	3.30
	Thailand	3.40
	India	3.46
Low	P.R China	3.50
	Macau	3.65
	Indonesia	3.90
Opaque	Vietnam	4.69
Source: Jones Lang LaSalle, LaSalle Investment Management		

Appendix 2: Overall Assessment of the Land Market Indicators

Sector of land market	CZ	HU	LV	PL	SK	SI	Mean
Policy framework	2.5	2.9	2.0	2.2	2.2	2.9	**2.5**
Market assessment	2.2	2.9	2.4	2.6	2.0	2.2	**2.4**
Pillar 1 – Registration	3.5	3.7	3.2	2.8	2.8	3.0	**3.2**
Pillar 2 – Valuation	2.2	2.6	2.0	2.4	2.0	2.0	**2.2**
Pillar 3 – Finance	2.2	2.9	2.2	2.2	2.2	2.2	**2.3**
Overall	**2.5**	**3.0**	**2.4**	**2.5**	**2.2**	**2.5**	**2.5**
Source: (Dale et al. 2000)							

Appendix 3: Price frame of urban residential land

Unit: VND 1,000 per s.q meter

Urban land	Special		Class I		Class II		Class III		Class IV		Class V	
	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max
Price Frame	1.500,0	67.500,0	400,0	42.500,0	150,0	30.000,0	120,0	19.500,0	50,0	13.350,0	30,0	6.700,0

Appendix 4: Dataset of price samples in Dong Da district

Unit: VND 1,000 per s.q meter

Code	Name of road	Statutory Price		Market Price		Gap(%)	
		Location I	Location II	Location I	Location II	Location I	Location II
32	Đường La Thành (Giang Vo)	23,000,000	11,500,000	106,200,000	31,200,000	78	63
296	Phố Thái Hà	30,000,000	13,950,000	94,500,000	35,700,000	68	61
298	Phố Huỳnh Thúc Kháng	30,000,000	13,950,000	115,200,000	29,000,000	74	52
313	Đường La Thành (Kim Lien)	15,000,000	8,550,000	73,800,000	37,600,000	80	77
318	Phố Thái Thịnh	21,000,000	10,800,000	94,500,000	35,300,000	78	69
319	Phố Tây Sơn	26,000,000	12,616,667	72,000,000	35,700,000	64	65
323	Phố Nguyễn Lương Bằng	30,000,000	13,950,000	87,750,000	35,000,000	66	60
324	Phố Hoàng Cầu	21,000,000	10,800,000	85,690,000	48,000,000	75	78
333	Phố Cát Linh	35,000,000	15,183,333	84,600,000	41,200,000	59	63
334	Phố Tôn Đức Thắng	36,000,000	15,416,667	74,700,000	33,400,000	52	54
343	Phố Khâm Thiên	28,000,000	13,366,667	68,400,000	32,400,000	59	59
348	Văn Miếu	28,000,000	13,366,667	88,200,000	36,400,000	68	63
349	Quốc Tử Giám	28,000,000	13,366,667	96,400,000	36,200,000	71	63
350	Phố Nguyễn Khuyến	30,000,000	13,950,000	92,800,000	35,400,000	68	61
459	Đường Chùa Bộc	30,000,000	13,950,000	115,200,000	36,200,000	74	61
460	Đường Trường Chinh	23,000,000	11,500,000	58,500,000	32,200,000	61	64
461	Đường Lê Duẩn	38,000,000	15,866,667	63,900,000	24,300,000	41	35
677	Tôn Thất Tùng	20,000,000	10,400,000	59,400,000	27,300,000	66	62
678	Phố Phạm Ngọc Thạch	27,000,000	13,033,333	78,300,000	43,200,000	66	70
687	Phố Lương Đình Của	21,000,000	10,800,000	72,900,000	29,400,000	71	63
688	Phố Hoàng Tích Trí	17,000,000	9,333,333	52,200,000	28,700,000	67	67
689	Phố Đào Duy Anh	25,000,000	12,200,000	77,400,000	39,200,000	68	69

702	Phố Vọng	18,000,000	9,700,000	43,200,000	31,200,000	58	69
715	Đường Đại La	20,000,000	11,366,667	46,800,000	29,800,000	57	62
30	Phố Giảng Võ	35,000,000	15,183,333	118,800,000	35,400,000	71	57
33	Đường Nguyễn Chí Thanh	35,000,000	15,183,333	160,200,000	38,200,000	78	60
147	Đường Cầu Giấy	22,000,000	11,133,333	75,600,000	36,400,000	71	69
283	Đường Láng	23,000,000	11,500,000	65,700,000	31,700,000	65	64
284	Đường Nguyễn Trãi	23,000,000	11,500,000	68,400,000	31,200,000	66	63
289	Đường Nguyễn Chí Thanh	35,000,000	15,183,333	160,200,000	38,400,000	78	60
295	Phố Chùa Láng	20,000,000	10,400,000	80,100,000	31,600,000	75	67
311	Phố Láng Hạ	35,000,000	15,183,333	140,400,000	33,700,000	75	55
685	Đường Giải Phóng	21,000,000	10,800,000	44,100,000	32,100,000	52	66
294	Phố Pháo Đài Láng	17,000,000	9,333,333	67,770,000	25,200,000	75	63
297	Phố Nguyên Hồng	20,000,000	10,400,000	60,300,000	51,000,000	67	80
300	Vũ Ngọc Phan	20,000,000	10,400,000	64,800,000	49,600,000	69	79
317	Thái Thịnh	21,000,000	10,800,000	81,000,000	37,600,000	74	71
325	Trần Quang Diệu	18,000,000	9,700,000	82,800,000	31,900,000	78	70
326	Phố Đặng Tiến Đông	20,000,000	10,400,000	72,900,000	31,200,000	73	67
327	Trung Liệt	17,000,000	9,333,333	34,200,000	29,000,000	50	68
328	Đông Các	18,000,000	9,700,000	50,400,000	27,200,000	64	64
329	Phố Hồ Đắc Di	19,000,000	10,033,333	64,800,000	45,000,000	71	78
330	Phố Đặng Văn Ngữ	19,000,000	10,033,333	62,100,000	31,200,000	69	68
336	Phố Hào Nam	19,000,000	10,033,333	72,000,000	29,200,000	74	66
337	Đoàn Thị Điểm	22,000,000	11,133,333	79,200,000	29,500,000	72	62
338	Phố Bích Câu	21,000,000	10,800,000	67,500,000	30,200,000	69	64
339	Đặng Trần Côn	21,000,000	7,050,000	50,400,000	28,700,000	58	75
353	Trần Quý Cáp	25,000,000	12,200,000	116,000,000	31,900,000	78	62
676	Phố Đông Tác	17,000,000	6,333,333	44,100,000	24,500,000	61	74
692	Phố Phương Mai	21,000,000	10,800,000	63,000,000	27,600,000	67	61
773	Vĩnh Hồ	17,000,000	9,333,333	31,500,000	27,600,000	46	66
299	Hoàng Ngọc Phách	18,000,000	9,700,000	78,300,000	23,000,000	77	58
314	Nguyễn Phúc Lai	15,000,000	8,550,000	34,200,000	40,200,000	56	79
344	Hàng Cháo	25,000,000	12,200,000	88,200,000	NA	72	#VALUE!
351	Ngô Tất Tố	20,000,000	10,400,000	100,800,000	28,900,000	80	64
	Kim Lien O Cho Dua	30,000,000	13,950,000	102,375,000	NA	71	#VALUE!

Appendix 5: Real estate transaction centers

An Khánh Real Estate Co., Ltd
Address: 301 Khuat Duy Tien, Cau Giay, Hanoi
Telephone: 84-4-5536998

Hanoi Real Estate Transaction Center
Address: No. N2D, Le Van Luong – Nhan Chinh, Thanh Xuan, Hanoi
Telephone: 84-4-5568803/04/05/06
Fax: 84-4-5568807

CENTURY Real Estate Joint Stock Company
Address: 82 Nguyen Chi Thanh, Dong Da, Hanoi
Telephone: 84-4-77 52 877
Fax: 84-4-77 54 599

Appendix 6: Questionnaire form for management group

Investigation of the gap between statutory and market prices in the real estate market
(Case study in Hanoi, Vietnam)

Section 1: Interviewee information

Ministry of Natural Resource and Environment (MoNRE)

Department:_____

Name of interviewee:_____

Title:_____

Position:_____

Specialty:_____

Respondent address:_____

Time: Date (dd/mm/yyyy):

Section 2: General views

Question 1: Would you please, tell me briefly your main viewpoints about the current land valuation in Vietnam?

_____
_____

Question 2: In your opinion, how has the Land Law 2003 affected the land valuation?

_____ Improved

_____ No change (go to question 4)

_____Worsened

Question 3: Can you elaborate how did the situation change?

_____
_____
_____

Section 3: Discussion about the gap between statutory price and market price

Question 4: In your opinion, to what extent the following factors influence to the statutory price? (1: least influence; 5: most influence)

Governmental price framework	1	2	3	4	5
Valuation approach	1	2	3	4	5
Policies	1	2	3	4	5
Valuation process	1	2	3	4	5
Valuation professional capacity	1	2	3	4	5
Purpose of land valuation	1	2	3	4	5
Local economy	1	2	3	4	5
Social psychology	1	2	3	4	5
Property characteristics	1	2	3	4	5
Location	1	2	3	4	5
Market price (Actual land transfer price)	1	2	3	4	5
Others:_____	1	2	3	4	5

Question 5: In your opinion, to what extent the following factors influence to the market price? (1: least influence; 5: most influence)

State policies	1	2	3	4	5
Land tax	1	2	3	4	5
National economic development	1	2	3	4	5
Land use planning	1	2	3	4	5
Supply – Demand in market	1	2	3	4	5
Social psychology	1	2	3	4	5
Location	1	2	3	4	5
Property characteristics	1	2	3	4	5
Others:_____	1	2	3	4	5

Question 6: In your own opinion, how is the difference (gap) between the ground of land prices set by localities (statutory price) and the actual prices of land use rights transfer in the market (market price) generally and in residential land, particularly? Can you tell me the approximate percentage of this difference?

(% chênh lệch = $\dfrac{marketprice - statutoryprice/m^2}{marketprice/m^2}$ x 100)

General gap	
Gap of residential land	

Question 7: What would you say are the three main reasons of the gap?

		Explanation
Valuation process		
Quality of data input for valuation		
Insufficient policy & legislative regulations in valuation		
Unhealthy land market		
Rapid development of urbanization and economy		
Lack of transparency and equity in land allocation/ lease policy		
Lack of transparency in Land use planning information		
Others		

Question 8: What are the sequences created by this gap to the each subject?

Subject	Sequences
Government	
Landusers	
Investor	
Others (if any) :_____	

Question 9: As far as you know, did the Government have any action to narrow this gap?

____Yes (go to question 11)

____No (finish this section at question 10)

____Don't know (finish this section at question 10)

Question 10: Which actions should the Government take to narrow this gap? What is the priority action or should these actions be conducted simultaneously?

Option	Priority	Simultaneously

Question 11: Would you please, tell me which action the Government already took to narrow the gap? How efficient these actions are?

Description	Inefficiency	Low efficiency	Efficiency	High efficiency	Don't know

Question 12: In your own understanding, do you have another opinion to solve this issue?

_____ Yes

_____ No (go to question 14)

Question 13: Would you please explain and elaborate to me your another opinion?

_____

_____

_____

Question 14: How do you think about the following options?

Option	Completely agree	Agree	Neither disagree or agree	Disagree	Completely disagree
Auction (at level 1)					
Gap compensated by the State (at level 3)					
Let the market adjust itself (at level 2, 3)					
Statutory price become brenchmark price (level 1)					
Different statutory prices for different land valuation purpose					

* Discussion on the reason of each selection

_____

_____

_____