

# ‘Ziemia jeść nie woła!’ – behavioural and institutional factors affecting delays in land development. The GZM Metropolis in Poland

by

Katarzyna Reyman



*Institute for Multi-Level Governance & Development  
Department of Socio-Economics  
Vienna University of Economics and Business*

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**Abstract:**

Underutilised land produces negative externalities in cities. The literature suggests several reasons why land remains vacant. The real option literature explains this phenomenon by the value of the option to wait with development. As this stream of literature has already examined market and general institutional factors affecting the timing of land development, the behavioural reasons have not yet been fully uncovered. Especially in the institutional framework of post-transition countries, with the peculiar remnants of formal and informal institutions from the previous system, this topic gains additional interest.

I use a mixed methods approach, building on the quantitative results of Reyman and Maier (2023), which show that investors typically delay land development in The Metropolitan Union of Silesia (GZM MA) by an average of 3.4 years. Land with a perpetual usufruct title is developed more slowly (relative to ownership), as are land with zoning (relative to those without), and land bought or sold by a government agency (relative to individuals and commercial investors). In this research, I report on a grounded theory research methodology to elicit the values, attitudes, and behaviours of investors and city officials that guide their decisions about the timing of land development. In-depth, semi-structured interviews with 12 investors and city officials allowed respondents to explore their values and learn about the informal rules that frame their environment.

The analysis of the coded transcripts suggests that the institutional background of the GZM MA terrain (dozens of competing municipalities, post-industrial land) influences the behaviour of market participants, and remnants of institutions from the previous system add uncertainty to the land development process. Fierce competition between cities affects the pro-investor attitude of city officials. Many institutional causes of delays in land development, such as poorly written procedures, lack of procedures and bureaucracy, mean that much is discretionary and land development is less predictable. In addition, officials act conservatively for fear of being accused of negligence, which could be a feedback loop of too much legislation and too few proper procedures. As a consequence of the institutional reasons, there is a tacit acceptance of delays in land development, with investors exploiting the legal loopholes. This creates a feedback loop with an established system (lock-in).

As many of the reasons for delays in land development stem from 'fuzzy' institutions, the results of this research should be applicable in the other post-transition countries.

**Keywords:** delays in land development, land hoarding, polycentric metropolis, post-transition countries

**JEL:** P26, R38, R52, R58

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<sup>1</sup> *Ziemia jeść nie woła* – a Polish saying that means ‘land does not cry out to eat’, as opposed to a baby who cries to eat and must be taken care of immediately.

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## 1. INTRODUCTION AND ARGUMENTS FROM LITERATURE.

### *1.1. Theoretical overview*

Empty or underutilised plots of land in city centres are a source of externalities (Morandé et al., 2008) that deteriorate the urban structure. Derelict land has a negative impact on the quality of life, as trashed lots are unattractive and become a place for criminal activity; they also hinder development in the surrounding area, as investors are reluctant to invest near vacant land, causing property prices to fall (Goldstein J. et al., 2001). Long-undeveloped land might be a sign that an investor's intention was to gain profits just from price increase. Although speculation is inevitable in an 'outgrowth of free markets promoting efficient market outcome' (Stanley, 2016, p. 579), it has negative consequences in urban land markets, as well as in the larger economy. These implications also include artificially inflating prices, discouraging infill

development, and triggering ‘gentrification without development’ (Stanley, 2016, p. 580). It is difficult to determine unambiguously the difference between a delay in land development and speculation. Morandé et al. (2008) emphasise that vacant land is not always the result of speculation.

The real option concept put forward by Titman (1985) (further developed by McDonald & Siegel, 1982; Capozza & Helsley, 1990; Williams, 1991; Quigg, 1993; Capozza & Sick, 1994; and Chiang et al. 2006) states that ‘land is more valuable as a potential site for development in the future than it is as an actual site for constructing any particular building at the present time’ (Titman, 1985, p. 505). Keeping land vacant is therefore justified in economic terms, as having more time to gather new information allows investors to make more appropriate investments (Morandé et al., 2008). The option value to build in the future increases with greater uncertainty in the market. Uncertainty can be grouped primarily around the expectations of investment outcomes, cost inflows from developed properties, development costs, price volatility, and competition between developers (Lindsay, 2022). Secondly, it includes institutional arrangements such as (re)zoning (density and land use), government controls limiting the development period, property titles, policy uncertainty, and changes in regulations (Lindsay, 2022). Lastly, there are firm-level factors that also reveal behavioural motives, such as the perceived losses on acquisition delays land development (Yang & Wu, 2019), or companies with more debt hastening land development (Marseguerra & Cortelezzi, 2009). The other effect of land development postponement comes from the necessity of organising investment process in the pipeline and the limited supply of land (Evans, 2004; Mourouzi-Sivitanidou, 2020).

In development processes, investors must act according to institutional arrangements and obey local laws as legislated by governmental units. Through zoning, municipalities decide how much land to make available for development and where, taking into account such public purposes as municipal housing, spatial order, and the notion of urban containment. The supply

of land should reflect the demand and municipalities have different instruments and measures to adjust this. Land policies are differentiated by country, and the role of municipalities in land supply can be more or less active, such as the buying and preparing of ready-to-build-on plots by municipalities in the Netherlands, Sweden, and Finland (Woestenburg et al., 2018), or it can be more passive, like in Germany, where planners grant building rights but leave the actual realization to private stakeholders (Hartmann & Spit, 2015). In the first approach, public authorities face the so-called ‘dual hat’ dilemma (Woestenburg et al., 2018) as they steer and control land and serve as market players at the same time (Hartmann & Spit, 2015; Olsson, 2018; van der Krabben & Jacobs, 2013). Mayer and Somerville (2000) distinguished regulators’ interventions in the real estate market according to those that impose explicit financial costs on builders, typically development or impact fees, and those that impact the land use regulatory process by delaying or lengthening it. The authors note that development and impact fees and exactions can increase the costs and time of development. The land use regulatory process, which consists of multiple reviews for obtaining subdivision permits, rezoning existing parcels, filing environmental impact statements, and finally obtaining building permits, delays land use and consequently adds uncertainty over regulatory decisions to the development process (Mayer & Somerville, 2000).

### *1.2. Discussion of Polish situation*

The regulation of real estate markets is far from uniform or static; it varies by location and over time (Lindsay, 2022, p. 15). The Metropolitan Union of Silesia (GZM MA) in Poland is a particularly interesting research site for two reasons. First, it is a post-transition country, where some of the rights and laws or systems adopted from the West have developed differently. Second, it is a young polycentric metropolitan area, still in the process of merging many post-industrial cities, which implies large land use changes. The following presents the institutional arrangements that are specific to the development process in Poland (property rights, spatial

planning system, role of municipalities in land management) and the specification of the GZM MA.

#### 1.2.1. Past influence in institutions

The institutional literature states that property rights over land in post-transition countries are ‘fuzzy’, ‘blurred’, ‘vague’, and weakly delineated (Havel, 2014). Havel (2020) notes that Poles perceive ownership right as absolute and with unlimited scope. Also Polish jurisprudence establishes a ‘primacy of property rights over the public interest’ (Havel, 2020, p. 158). Kuryśko (2018) posits that the Polish long-term lease – a perpetual usufruct right, granted in the 1989 enfranchisement decisions – creates confusion for investors and may lead to court disputes because the provisions were vaguely worded and not adapted to the changed environment and the current designations in spatial plans. Updating annual fees for perpetual usufruct is conducted with inappropriate valuation methods, without the continuous monitoring of price developments by the state (Foryś, 2015). Moreover, the way those updates are executed by landowners causes conflicts between sides. Procedures are rarely revised by municipalities. This differs from city to city; for example, in Poznań, it was performed once in every 10 to 15 years (Trojanek et al., 2019). A major revision took place in 2008-09 after an enormous price increase was labelled by the Constitutional Court, in its judgment of 6 May 2008 (ref. SK 49/04), as ‘hybrid and unusual’ (Załączna, 2014, p. 482). Perpetual usufruct rights are less favoured by investors than ownership rights, as the weaker, time-limited rights are also valued less. In the case of the city of Bydgoszcz, the price difference equals 5.3% to 17% on average (Foryś & Gaca, 2018). Polish legislature gradually liquidates perpetual usufruct rights. Since 2005, this right can be transferred into the right of freehold ownership upon request, and since 2019, it can be executed ex officio for residential land. The consequence of this transformation process is a reduction of the assets of municipalities, as municipalities cease to be landowners; this negatively influences the financial situation of individual cities (Trojanek, 2020).

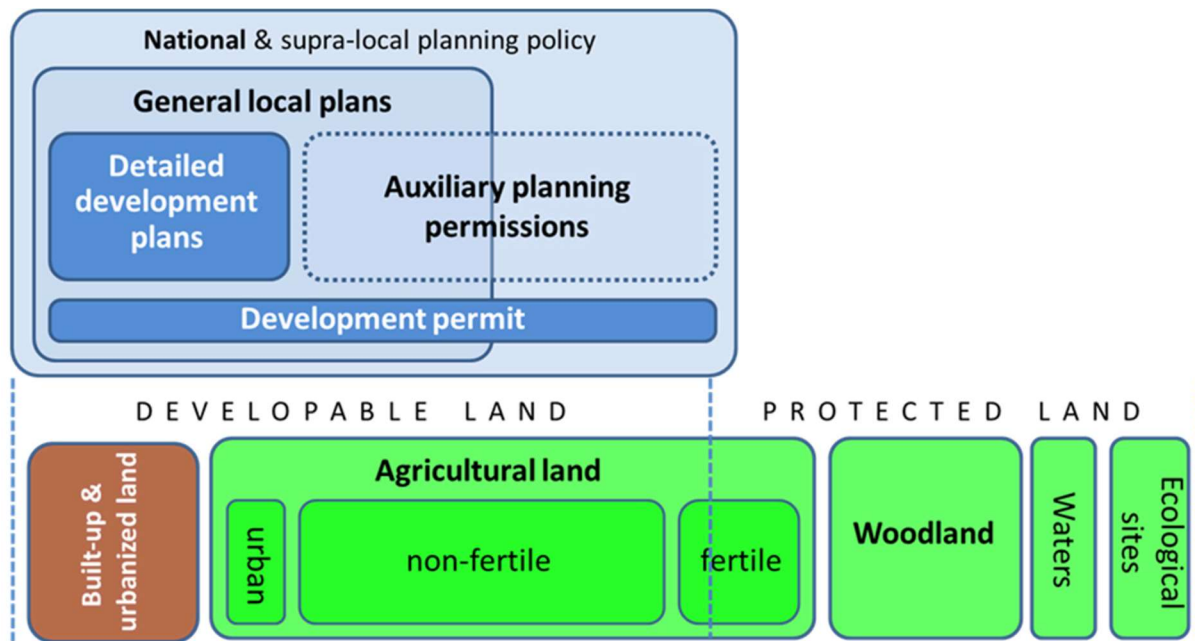
### 1.2.2. Spatial planning system

Spatial chaos, disorder, suburbanisation, and urban sprawl as a result of the failure of the Polish spatial system (Anioł, 2019; Foryś & Nowak, 2022; Krajewska et al., 2014; Śleszyński et al., 2021; Zybała, 2019) can be easily noticed at first glance in the Polish urban landscape. Those spatial flaws produce costs that are estimated at 20 billion euros per year (Śleszyński et al., 2020; Zybała, 2019). Further negative consequences of the inefficient spatial system are linked with land speculations (Kowalewski et al., 2018). Spatial development plans (SDPs) according to the "Act of 27 March 2003 on spatial planning and development" (2003) as of June 2023<sup>1</sup> are not obligatory for municipalities. According to Krajewska et al. (2021), 30.81% of the area of Poland was covered by SDPs in 2017, and the highest share of zonings (over 75%) is in south-central Poland. Building permits are issued based on either SDP (if it exists) or on a Land Development Decision (LDD) that is issued by the mayor of a municipality or town, provided that it does not violate the provisions of other legal acts and complies with statutory requirements, including the principles of good neighbourhood design (Krajewska et al., 2014, p. 55). Figure 1 shows that development permits can be obtained based either on SDP (what is named on the figure 1 as a 'detailed development plan' or on LDD (what is named on the figure 1 as 'auxiliary planning permissions'), and that non-fertile agricultural land located in the city boundaries is developable.

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<sup>1</sup> This state of affair has changed since the implementation of Act of 7 July 2023 amending the Act on spatial planning and development and certain other acts, (2023). , that came into force on September 2023. With this amendment, all Polish municipalities are obliged to develop a spatial development plan till the end of the year 2025 (however legislator is currently working on prolonging this deadline till the end of year 2027), till that time for areas without spatial development plan LDD can be still issued.

Figure 1: The Polish legal framework for developable land designation management.

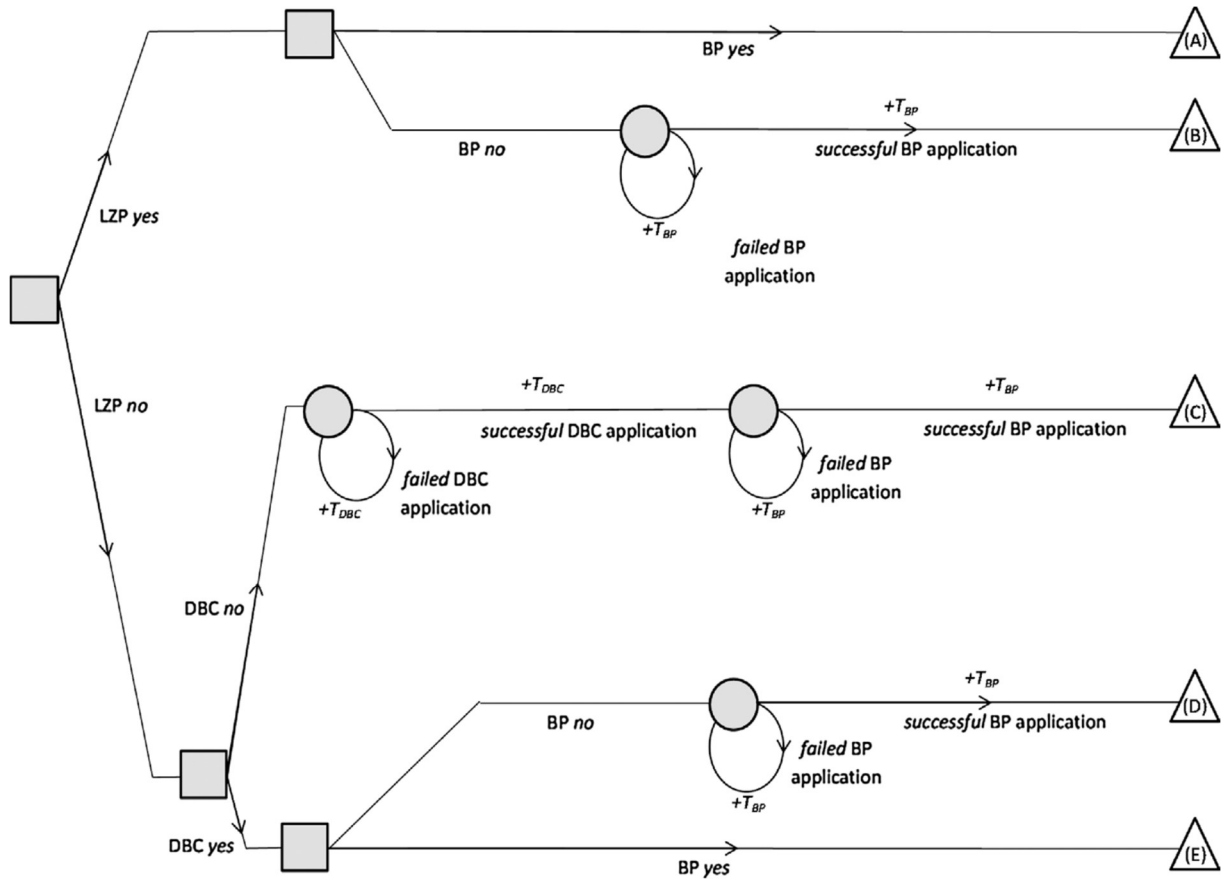


Source: Zaborowski (2021a, p. 8), Scheme 2.

Głuszak and Zygmunt (2018) analysed land sales transactions in Kraków, distinguishing those with SDPs, LDDs, building permits (BPs), or without any decision. The authors found that issued decisions are capitalised in land prices, and that land with valid LDDs in particular was sold for 27% to 29% more than comparable properties, while a building permit increased the sale price by 47% to 50%. Figure 2 presents the procedural track for plots with and without SDPs (that has acronym 'LZP' on figure 2), with indications for additional time and procedural risks for plots without SDPs that require land development decisions (that has acronym 'DBC' on figure 2).



Figure 2: Land use planning in Poland from investor's perspective.



Source: Głuszak and Zygmunt (2018, p. 156), Figure 2.

A similar result was achieved in Bydgoszcz, where land prices were on average 17% to 23% higher due to less risky SDPs (Krajewska et al., 2021). Still, Foryś and Blaszkę (2021) state that the quality of the local spatial development plans is low. This is based on their study of Polish court decisions on SDPs challenged by landowners. The study found that 69% to 75% of the plans were rejected in whole or in part – that is, they were flawed. Nonetheless, more than 50% of construction permits are issued on the basis of administrative decisions that were primarily intended to be used only under extraordinary circumstances (Krajewska et al., 2014, p. 61), but now are ubiquitous, making it impossible for municipalities to properly manage developable land. Consequently, we see an oversupply of developable land in Poland (Zaborowski, 2021a, 2021b; Zybala, 2019). The next distinctive features of the Polish spatial planning system that are the residue from the past are an ‘ideological prejudice against planning

mechanisms' (Zybała, 2019, p. 111 after Anioł, 2019) and the widespread understanding that 'everybody has the right to develop'<sup>2</sup> (Havel, 2020, p. 160). Consequently, extensive rights are attached to compensation for the loss of land value due to a change of plans, and too little rent is collected for surpluses to municipalities (Havel, 2020). Private interest prevails over the public in spatial planning, as can be seen in jurisdiction (Foryś & Blaszkę, 2021; Foryś & Nowak, 2022; Śleszyński et al., 2020; Zybała, 2019). In summary, it 'should be emphasized that the overall formal and procedural uncertainty in the Polish spatial development system deepens the speculative actions of investors and a kind of confusion among local authorities' (Śleszyński et al., 2021, p. 18).

#### 1.2.3. The land management

The role of municipalities in managing the development process is passive (Zaborowski, 2021a), market-led (discretionary), and limited to the obligation to organise a public tender to sell land (Havel, 2009, p. 140). The reason for this is the strong (again as opposed to the previous system) belief in a perfect self-regulated market, but also more practical financial problems of the municipalities that could be deepened by bearing the financial consequences of elaborating or changing SDPs, as compensation rights for landowners are excessive. The other malfunctions of Polish municipalities, according to Gross and Żróbek (2020), can be seen in the lack of well-qualified city managers and a unified property law.

#### 1.2.4. The GZM MA specification

The GZM MA was established by an administrative decision in 2018 merging 41 territorial units, including 26 cities, on a territory of 2,545 km<sup>2</sup>. It is densely populated by more than 2.3

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<sup>2</sup> 'Everybody has the right to develop' means it is assumed that owners cannot be denied the right to develop their own real estate when the intended use complies with the conditions set out in the local plan (or in the absence of a plan, with the decision on the conditions of site development). A refusal may be issued only if the intended use of the land should infringe on public interests that are protected by law or on a third party's interest (Havel, 2009, p. 135).

million people. As presented by Czornik and Gibas (2020), today's metropolis in the nineteenth and twentieth centuries connected cities because of the coal and metal industries, metallurgy, and engineering. Consequently, many industrial buildings and part of the technical infrastructure, especially railways, still exist in city centres. They have been partly revitalised, but mining damage still exists, and many housing estates are from the socialist era. This polycentric agglomeration does not have a dominant centre, but the city of Katowice plays a leading role. As Czornik and Gibas also emphasise, the GZM MA currently concentrates on energetics, medicine, and information and communication technologies. Myga-Piątek et al. (2021) underline that the GZM MA distinguishes itself from the other metropolitan areas in Poland by its industrial origin, polycentricity, very high level of urbanisation, and high population density. Forty-one spatially concentrated municipalities face strong competition for investors and their tax revenues, as confirmed by Marona et al. (2018), given that property tax is usually the most important component of municipalities' revenues.

In this paper, I want to focus on two main actors who are interrelated in the land development process: municipalities as regulators (organisation, institution, legislator) and developers as firms representing pragmatic business motives. These organisations are personified by incumbents, officials, and entrepreneurs with their own behavioural motives and cognitive biases.

The literature review shows that much has been researched on the market and general institutional factors that affect the timing of land development; therefore, I want to focus on (post-transition) country-specific, less formal institutional arrangements and behavioural motives, as they are under researched.

The main findings from the previous quantitative research (Reyman & Maier, 2023) show that investors typically delay land development in the GZM MA by an average of 3.4 years. Land with a perpetual usufruct title is developed more slowly (compared to ownership), as is land

with zoning (compared to those without), and land bought or sold by a government entity (compared to individuals and commercial investors). This paper aims to deepen these findings by answering the following research questions, based on conducted interviews with city officials and investors: 1. What are the main institutional and behavioural motives for postponing land development by investors, 2. Why municipalities do not counter withhold land in the GZM MA.

The paper is organised as follows: section 1 is the introduction and literature review; section 2 covers materials and methods; section 3 presents the results that show the viewpoints of the two market actors on land development delays and their reasons; and section 4 encompasses the discussion and conclusions.

## 2. MATERIALS AND METHODS

I use a mixed methods approach. This paper builds on the quantitative results of Reyman and Maier (2023). In this research I interviewed investors, developers, and city officials in order to crosscheck and validate the results of the quantitative study and to learn more about the actors' behaviour and their motives. 'A mixed methods study involves the collection or analysis of both quantitative and/or qualitative data in a single study in which the data are collected concurrently or sequentially, are given a priority, and involve the integration of the data at one or more stages in the process of research' (Creswell, 2003, p. 213). I focus on an explanatory design in which quantitative findings inform qualitative methods (Creswell & Clark, 2007). This combination of quantitative and qualitative approaches provides for a better understanding of complex multilevel phenomena than either approach can alone (Penz, 2020). Literature also plays an informative role in this research.

In my research, I wanted to find the hidden structures that influence delays in land development; therefore, I chose as participants property investors and developers as well as city officials. This

way of constructing a theoretically meaningful sample is in line with theoretical sampling, which builds in certain characteristics or criteria that help to develop and test hypotheses and explanations (Mason (1996) in Silverman (2020), p. 65). By juxtaposing the experiences and views of these two types of property market actors, I can identify their attitudes, beliefs, and motivations. These can in turn illuminate the participants' behavioural motives and constitute the basis of further institutional solutions, both formal and informal, such as legislation, regulations, and rules of conduct, as well as the business climate, networking, and cooperation. This selection also shows how those two groups perceive each other's roles and actions. The city officials were chosen from different municipalities (urban and rural) in the GZM MA and from different real estate departments of their respective city halls (sales, management, and spatial planning). The investors represented local small and medium enterprises, as it was difficult to reach representatives of the bigger companies. I conducted semi-structured in-depth interviews with seven officials and five investors from January 2022 to April 2023. The characteristics of the sample are presented in Table 1. Both groups of informants were difficult to reach, therefore the snowball (chain) sampling technique was used, in which, according to Patton (2002), one respondent is asked for the next, and the first key respondent is crucial to creating a good purposive sample. After the first participant had agreed to be interviewed through acquaintances, they recommended others to be invited. More respondents were added until saturation was reached, which means 'the diminishing marginal contribution of each additional case' (Gummesson, 2000, p. 96).

*Table 1: The sample characteristic.*

The characteristic of public official group (7)		
Gender	Female	3
	Male	4
Department	Real Estate Management	3
	Real Estate Sale	2
	Spatial Management	2
Position	Director	6
	Senior Inspector	1
Years of Experience	4-10	2
	11-15	5
The size of county	Rural	1
	Urban (up to 150k)	2
	Urban (150-250k)	3
	Urban (above 250k)	1
The characteristic of investor group (5)		
Gender	Female	2
	Male	3
Department	Management	5
Position	Owner	4
	Manager	1
Years of Experience	4-10	1
	11-15	3
	Above 20	1
The size of company	1-9 employees	4
	10-50 employees	1

Source: author.

Participants answered a set of 14 open-ended questions in Polish that were adjusted to each group. Interviews took place online via zoom and in person; they were recorded (minimum 28 minutes, maximum 132 minutes, average 62 minutes) and subsequently transcribed. The transcription produced 168 pages of single-spaced interview text that was analysed in Polish language with NVivo software. The outcomes of analyses (codes, memos, analytical schemes, etc.) were elaborated in English and citations used in this paper were translated into English.

## 2.1. ANALYSES

I decided to use the coding method to analyse my data and to apply the coding schemes suggested by Saldaña (2016). Saldaña defines a code as a word or short phrase that symbolically assigns a summative, salient, essence-capturing, and/or evocative attribute to a portion of language-based or visual data (Saldaña, 2016, p. 4). The unit of analysis in this case is a person. The interview texts were coded using First Cycle Coding methods, which are ‘those processes that happen during initial coding’ (Saldaña, 2016). Using Grammatical Methods, Subcoding and Simultaneous Coding were applied. Subcoding is when the initial large portion of coded text can be split into others (parent-children codes). An example is ‘*Land title*’ (parent code) and ‘*Only ownership right*’ – ‘*Perpetual usufruct*’ – ‘*Other forms of legal title to property*’ (children codes). Simultaneous Coding ‘is the application of two or more different codes to a single qualitative datum, or the overlapped occurrence of two or more codes applied to sequential units of qualitative data’ (Saldaña, 2016, p. 80). Elemental coding methods were used to filter and review the data. ‘Initial Coding is breaking down qualitative data into discrete parts, closely examining them, and comparing them for similarities and differences’ (Strauss & Corbin, 1998, p. 102) and is the basis for the grounded theory approach. The next group of coding techniques constitutes Affective Coding Methods, which ‘investigate subjective qualities of human experience (e.g., emotions, values, conflicts, judgments) by directly acknowledging and naming those experiences’ (Saldaña, 2016, p. 105). Examples of Values Coding include ‘*Officials’ attitude towards investors*’ and ‘*Perception of city officials*’. Versus Coding is also an affective coding method used to ‘identify in dichotomous or binary terms the individuals, groups, social systems, organizations, phenomena, processes, concepts, etc., in direct conflict with each other’ (Saldaña, 2016, p. 115). Examples of these codes are those ascribed to officials: ‘*ideal vs real world*’, ‘*liberal vs strict*’, ‘*now vs previous system*’, ‘*residents vs investors*’, ‘*vs state regulations*’. This set of methods allowed codes to be placed into their

first categories (e.g., ‘*Reasons for delays in land development*’). Next, I applied post-coding transitional methods, which help to reorganize, reconfigure, and transfer the initial work (Saldaña, 2016). The visualisation techniques of code landscaping, code mapping, and code charting enabled the identification of any word connotations or frequently used words that require further examination. To organise such a vast amount of text and interwoven threads in codes, I applied the operational model diagramming technique. CAQDAS programmes allow the emergent sequences or networks of codes and categories associated with the study to be mapped or diagrammed in sophisticated ways, and the associated comments and notes to be linked to visual symbols for explanatory reference (Saldaña, 2016, p. 202). These diagrams are rooted the story according to its three points of departure: municipalities, investors, and land (Figure 3). The municipalities’ perspective is focused on land management, land supply, zoning, taxes, and vacant land problems, as well as land price increments. Their actions are part of a regulatory sphere that sets a framework for what investors can do. The investors’ perspective on land is concentrated on location and optimal timing of land development.

*Figure 3: Operational diagram: The first look at municipalities, investors, land.*



Source: author, NVivo.



Describing the operational diagrams in analytical memos facilitated the ordering of the content, the re-ordering of codes, and the discovery of some existing theories and concepts in the participants' stories. In analytical memos, I included my position as a property valuer with ten years of experience in the GZM MA real estate market. My professional practice allowed me both to observe the actions of the interviewees in the valuation of properties and to see the potential problems. Working directly with officials in the valuation of properties for the purpose of determining zoning or improvement fees, compensation for the expropriation of property for the construction of a road, or fees for the conversion of perpetual usufruct rights into ownership rights, I have been able to observe how legal solutions are implemented. Through numerous workshops, I heard the opinions of other real estate professionals on legal acts pertaining to real estate and their implementation. By valuing properties for investors and developers, I was able to observe how land development decisions work in practice. Checking the legal status of valued properties has allowed me to examine land and mortgage registers and identify numerical discrepancies. Second-cycle coding methods are advanced ways of reorganizing and reanalysing data coded through first-cycle methods (Saldaña, 2016, p. 234). Having identified a couple of concepts, I deleted some redundant codes and reorganised them to arrive at the final ten codes, which represent the main components of the research and enable the full research story to be told. These are described in Table 2.

Table 2: Codebook.

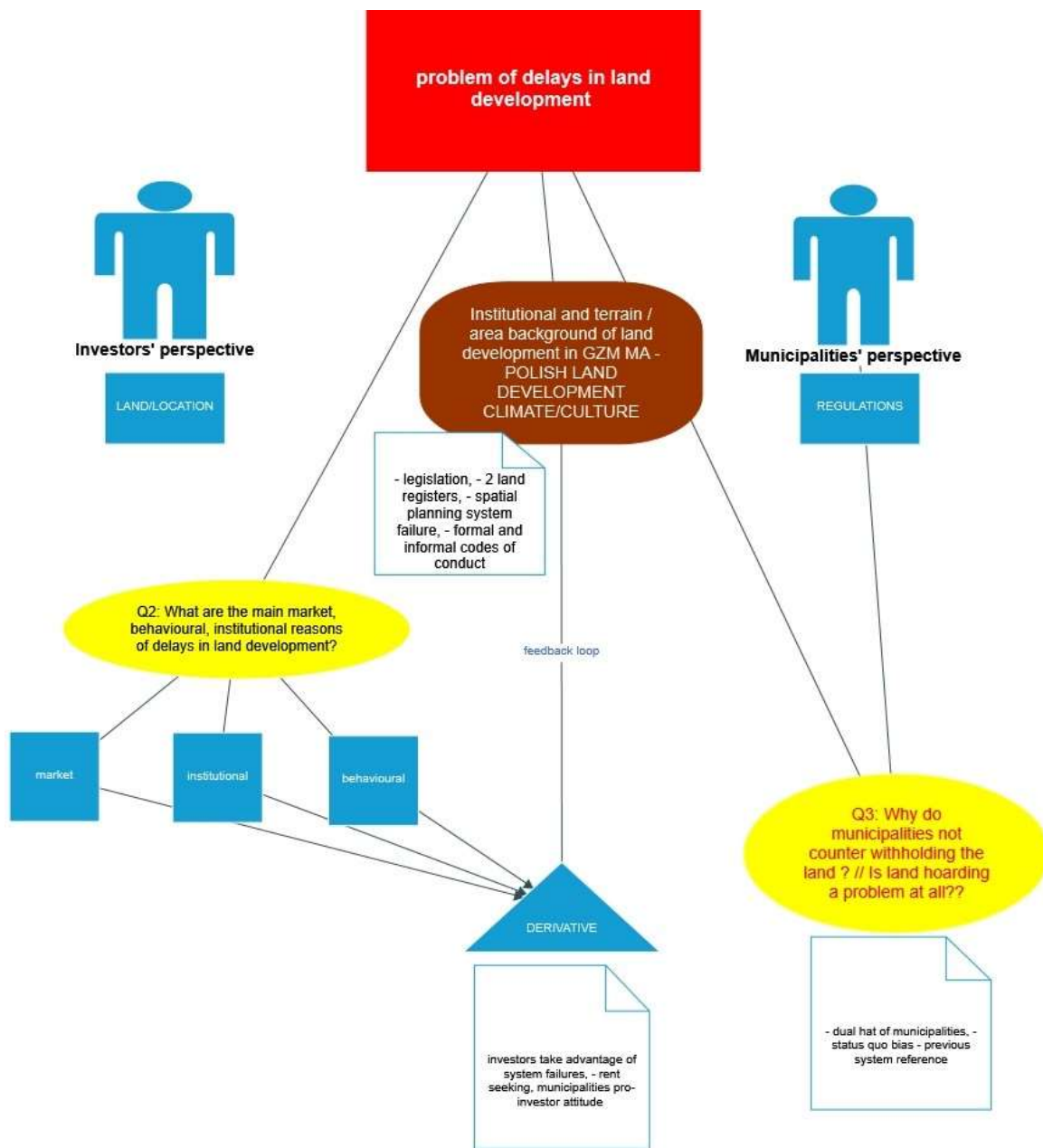
Name	Description
Institutional background	The <i>institutional climate</i> in land development emerging from the existing institutions, laws, regulatory flaws, regulations, organisations, municipalities' offices, bureaucracy, officials' attitudes, and the way they are perceived, as well as its associations. This code reveals a place background – the GZM MA and the implications of its terrain specification (history, industry) on land development as perceived by participants.
Municipalities' perspective	The municipalities' perspective on the land development process, their main goals, tasks, and activities in land management, their regulatory role, and their limitations,

Name	Description
	including common fields for activities and/or cooperation with investors, as well as cooperation and competition of municipalities in the GZM MA.
Municipalities' Dual Hat	Describes a concept found in the literature on the motivations of municipalities, which stems from the dual role of municipalities as regulators and land providers, and as public investors.
Investors' perspective	The investor/developer perspective in the land development process (phases, construction pipeline), including different types of uncertainties and risks faced by investors, particularly in relation to institutional arrangements (zoning) and the way investors behave in the existing institutional background.
Land as a subject of regulations and development process	This code considers land as a point of departure for the investment process, including location for investors and a subject of regulation for municipalities, as well as the topics of land prices, titles, and other legal issues.
Delays in land development	The aspect of timing in the land development process from two participants' perspectives, identifying the market, institutional, behavioural, and derivative reasons for land development delays, as well as issues of land banking, withholding land from the market, and speculation.
REASONS 4 NO ACTION (municipalities)	The reasons for the lack of action by local authorities to influence the timing of land development and prevent delays. The core concept: <i>Is land hoarding a problem at all?</i>
Some examples	<p>Eight vivid examples from participants' experiences that aptly visualize the core of the problem:</p> <p>Ex. 1. Land from the Catholic Church – acquiring a large amount of land.</p> <p>Ex. 2. Land after coal mining – huge gains from information about a future large investment and the effect that large investments have on neighbourhoods and a city.</p> <p>Ex. 3. Land waits for hotel – withholding land in the city centre and land speculations.</p> <p>Ex. 4. Vacant plots in the city centre.</p> <p>Ex. 5. Logistic centre infrastructure – enormous land value gain after the municipality adds a road exit from a highway.</p> <p>Ex. 6. Many owners – vacant plot in the city centre due to too many heirs.</p> <p>Ex. 7. Capricious developer – land kept vacant despite municipality's incentives and adjusting zoning.</p> <p>Ex. 8. Opportunity – developer sells the land primarily intended to develop because an opportunity comes.</p>

Source: author, NVivo.

In the last step, the second-cycle coding methods of pattern, axial, and theoretical coding are applied. Pattern Coding develops the ‘meta-code’ – the category label that identifies similarly coded data. It is explanatory and inferential code that not only organizes the corpus but attempts to attribute meaning to that organization (Saldaña, 2016, p. 210). An example is the code ‘*REASONS 4 NO ACTION*’, which catches to the core conclusion of the study. The purpose of Axial Coding is to reassemble previously split data. It describes a category’s properties and dimensions and explores how the categories and subcategories relate to one another (Saldaña, 2016, p. 209). The code ‘*Only ownership right*’, for example, was initially categorised as a reflection of the participants that Polish investors definitely prefer full ownership, but after applying axial coding, this code was included in the category ‘*Land title*’. Together with ‘*Land prices*’, ‘*Legal issues with land*’, and ‘*Location*’, it forms the parent code ‘*Land as a subject of regulation and development process*’. These processes of applying specific types of codes to data through a series of cumulative coding cycles ultimately led to the development of a theory that is ‘grounded’ or rooted in the original data itself (Saldaña, 2016, p. 55). Grounded theory focuses on a process of generating theory, ‘emphasizing steps and procedures for connecting induction and deduction through the constant comparative method, comparing research sites, doing theoretical sampling, and testing emerging concept with additional framework. [...] Grounded theory depends on methods that take the researcher into and close to the real world so that the results and findings are grounded in the empirical world’ (Patton, 2002, p. 125). At least ten interviews with detailed coding are necessary for building a grounded theory (Strauss & Corbin, 1998, p. 281). Figure 4 presents the concept of this research.

Figure 4: Problem, research questions, and main concepts.



Source: author, NVivo.

The research problem of delays in land development is examined through the lens of two market participants (municipalities and investors), for which land is a subject of regulations and a location for development. The actions of the participants take place in an institutional background, which constitutes an *'institutional climate'*. The main reasons for delays in land

development might be grouped into market, institutional, behavioural, and derivative, with the last group resonating with an institutional climate. The second question that is posed refers to the role of municipalities and their attitude towards land hoarding.

### 3. RESULTS AND DISCUSSION

The results are divided into the following subsections: (1) institutional background, (2) local authorities' and investors' perspectives on (the timing of) land development, (3) reasons for delays in land development, and (4) reasons why municipalities do not react to delayed development.

#### *3.1. Institutional background*

The official institutional arrangements in the land development process are explicit in published laws, regulations, by-laws, etc., but internal rules and codes of conduct can be gleaned from a closer look. Which of these are dominant and which are most influential in shaping participants' actions and behaviours – and conversely, how participants' performance can affect the system – can be learned from a deeper examination of the participants' experiences. The institutional and terrain background of the GZM MA shows some peculiarities that constitute what can be called 'Polish land development climate'.

**Place and its past.** Forty-one municipalities in the GZM MA cooperate in strategic spheres, such as a joint transportation system<sup>3</sup>, but also face intensified competition for investors, as taxes from investments go to the budget of a particular city. Municipalities are governed separately and have different local laws, such as local development plans or general development plans, and different rules that reign over the issuing of land development decisions

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<sup>3</sup> Other cooperation policies, including sustainable mobility and common zoning, were implemented in 2020 and 2022.

and building permits. Some historical influences may be visible in land structures<sup>4</sup>. The transition from heavy industry, which began in the 1990s, took some time for certain cities to move to a service-based economy. One of the interviewed developers benefited from consistent investment in one of the neglected post-industrial city that still had very low land prices, despite being directly adjacent to an expensive city in the metropolitan area. Municipalities vary considerably in terms of property prices.

**Spatial planning failure and dual land registers.** As already mentioned in the introduction, a large body of literature on spatial planning in Poland points to the failure of the planning system. For areas without SDPs, building permit decisions are issued based on the LDD<sup>5</sup>, which must be in line with the general local plan<sup>6</sup> that is elaborated for each municipality and constitutes a very general outline of land designation. Comparing these two ways of obtaining a building permit decision, respondents indicate that plots with SDPs are more stable and predictable, ensuring sustainable land use, but are also more rigid and do not allow many changes – and if so, they can take a very long time. LDDs are more flexible for investors, as the premises to issue it by the city mayor are broad<sup>7</sup>. However, depending on the city, obtaining a building

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<sup>4</sup> Looking back very briefly to history, the GZM Metropolis is a specific terrain, as it had once been the site of a so-called ‘Trójkąt trzech Cesarzy’ (‘triangle of three emperors’), which designates the place where, from 1846 to 1915, the borders of the three European powers participating in the partition of Poland converged: Prussia (later Germany), Austria (later Austria-Hungary), and Russia. This point on the map is the tripoint of the three empires, a fact that is still sometimes seen in land and mortgage registers, with old entries written in foreign languages, and in plots’ shapes, which are usually less regular in the former Russian areas (Sosnowiec, Będzin, Czeladź, and Dąbrowa Górnicza), and in the general condition of the land and mortgage registers that are more or less ordered and updated depending on the city.

<sup>5</sup> ‘Decyzja o warunkach zabudowy i zagospodarowania terenu’ [the outline planning permission for development of land and property].

<sup>6</sup> ‘Studium uwarunkowań i kierunków zagospodarowania przestrzennego’.

<sup>7</sup> According to Art. 61 of the Act on Spatial Planning and Development (Ustawa z dnia 27 marca 2003 r. o planowaniu i zagospodarowaniu przestrzennym Dz. U. z 2021 r. poz. 741, 784, 922, 1873, 1986 z późn. Zm.), outline planning permission for the development of land and property (LDD) can be issued if: 1) at least one adjacent land plot accessible via the same public road is built up in a manner that supports the determination of functional requirements, parameters, planning features, and indicators, including the size and architectural form of buildings, building line, and land-use intensity for new buildings; 2) the property has access to a public

permit decision (BP) based on LDDs can take longer than on SDPs. If a municipality decides to elaborate an SDP, then all commenced administrative procedures to issue LDDs are paused for up to nine months. This 'planning situation' of a plot indicating whether an SDP exists or not is perceived by interviewees as confusion, ambiguity and additional risk for investors. .

The cadastral system in Poland consists of two registers: a 'land and mortgage register' and a 'land and property register'. The first register is maintained by the district courts, and the second by the city/county mayors. The entries in these two registers (address data, parcel number, area, title, owner, etc., and only in the first register, mortgage and easements) together give information about the legal status of a property and should be consistent, but as I observed in my valuation practice, discrepancies are common. The reasons the participants of interviews gave for the inconsistencies were the lack of cooperation between the two registers, the absence of an obligation to carry out an inheritance procedure, and the lack of updating. The consequences of this mentioned by the respondents include the need for additional time to check if the entries in the land registers are valid and relevant to the land development process.

**Regulatory flaws.** Respondents cite the broad scope for interpreting the law as the most common example of regulatory failures in land development. As Walczyński (2020) summarised, the discrepancies in the jurisprudence result from the insufficient definition of the concept of 'a separate object of ownership', indicated in Art. 46 § 1 of *The Civil Code* ("Act of 23 April 1964. - Civil Code,," 1964) as a criterion for the creation and existence of a land property. Since the legislature did not explicitly specify what procedure for separating part of the Earth's surface is referred to, pursuant to Art. 46 § 1 of *The Civil Code* and Art. 24 of "Act

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road; 3) the existing or planned public utilities cater to the needs of the planned construction undertaking; 4) the property does not constitute agricultural land or a forest where separate permission is required for development projects that are not associated with agricultural or forest production, or the relevant permission has been granted to the property in question; 5) the outline planning permission complies with the provisions of other legal acts.

*of 6 July 1982 on land registers and mortgages"* (1982), there are at least two ways of understanding the concept of land real estate. The first is the so-called substantive law approach, according to which land is real estate if it belongs to the same owner and is externally surrounded by the real estate of other owners, and the second is referred to as the land and mortgage register understanding, according to which separation is determined by including one or more plots in a land and mortgage register. Officials indicate that investors abuse this dually interpretable definition to undermine decisions on imposing planning rent, betterment, subdivision fees, or taxes. As the next regulatory flaw, participants mention SDPs that are not clearly written, leading to uncertainty about the exact parameters of a building that will be permitted. Subsequently, the vagueness of the written objectives for the designation of land in perpetual usufruct contracts from the 1989 Enfranchisement Decisions has the effect that, if the usufructuaries use the land contrary to the provisions of the law, it is up to the city whether to take them to court. Silesian investors who build on long-term leases do not perceive this to be a problem. For them, it is just confusing. A common practice among investors, allowed by the law of deficiency, is to prolong the construction of buildings for many years, if necessary, even though the building permit decision is only valid for three years. The misuse of perpetual usufruct has occurred in cases where municipalities sold to developers to build multi-family houses. Since, according to the law, the selling price in tenders is equal to 10% of the land value, this allowed almost unlimited bidding, as the rest of the price for the perpetual usufruct right (paid in the amount of 1% annual fees up to 99 years) was still paid by the developers' clients and therefore not relevant to them. Municipalities no longer grant perpetual usufruct rights, as they are now being liquidated by the legislature.

**Bureaucracy** in land development is manifested by the long-lasting process of issuing LDDs, building permit decisions, and changing SDPs. Investors experience many formal problems



during the development process, which are explained by complicated procedures and the lack of communication among the departments of city hall.

**Financial problems.** Municipalities struggle with financial resources, and this is cited by officials as a reason for only partly elaborating SDPs as not for the whole municipality. The next consequence is the inability to provide adequate infrastructure for buildable land. However, there is also a feedback loop for the lack of local development plans: if local authorities prepare zoning plans in places where there is insufficient infrastructure, they would be obliged to provide this infrastructure, which they do not have the resources to do. As already examined in the literature, officials confirm that the preparation and amendment of SDPs results in the need to pay compensation to landowners who have lost the value of their property. The lack of resources also means that land ready for construction is not being prepared (through the merging and dividing of plots, or the provision of adequate infrastructure) to ensure an appropriate supply of land for investors. This task is credited to investors.

**Perception of officials and officials' attitude.** The perception of officials revealed by the interviewees is neutral or negative. Officials are not appreciated (*'not professional'*, *'may cause problems or prolong procedures'*, *'stick to procedures in fear of being accused of negligence'*, and in the best case, *'do not disturb'*) and are underpaid. Officials are sceptical about cooperating with investors in a public-private partnership (PPP), as they are afraid of accusations of passing on public information and/or corruption. It is said that *'having friends'* in municipalities helps some investors to do business.

Some regulations (or the lack of them, the lack of procedures) trigger ambivalent responses in officials' everyday decision-making processes. As officials issue LDDs autonomously, they show an ambivalence in whether to be strict or liberal in their decisions. Municipalities may choose whether to prepare SDPs or stay with LDDs. It seems that LDDs are an easier, more flexible, and cheaper way, but plans must be more appropriate and reconsidered. Some officials

show an oppositional attitude to some state regulations, such as the *"Act of April 10, 2003 on specific rules for the preparation and implementation of investments in the field of public roads"* (2003), the *"Act of July 5, 2018 on facilitations in the preparation and implementation of housing investments and accompanying investments"* , and the abolition of perpetual usufruct right. It still seems that, with such categories as private vs public property, private vs public space, and individual vs social interest, the arguments of officials tend toward the opposition between what is now and a previous, bad communist system, with the perception of strong individual property rights and unrestricted market freedom indisputable and without any flaws. This argument is reflected in the later decisions made by officials about SDPs/LDDs, exercising the perpetual usufruct right. Some civil servants take a passive, downplaying attitude to delays in the development of land. Others point to the lack of influence, lack of (legal) action, irrelevance, lack of interest, and what could be interpreted as a status quo bias, where what is now is better than what is new – without questioning what is now.

This section outlined some general laws, regulations, institutions, soft conditions, and behavioural motives that influence the land development process and shape the culture and climate of development. In the next sections, the problem of timing land development and delays will be introduced from two angles: municipalities and investors.

### *3.2. Perspectives of municipalities and investors on (the timing of) land development.*

#### *3.2.1. Municipalities' perspective*

One of the goals, and the core activity of the cities named by officials, is to ensure city growth by attracting investors that will provide workplaces for current and future residents. Land supply for investors is provided by preparing properties for sale from the municipalities' stock every year. As officials indicate plots are not provided 'off-the shelf'; the municipalities' task of merging and dividing plots is transferred to interested investors. In practice, also the required infrastructure has to be ensured or adjusted by the investor. Developable land for investors is

designated in SDPs or LDDs. The management of the land by the Silesian civil servants is therefore very limited in scope.

Municipalities have a regulatory role in the property market: they implement state legislation relating to property management. Municipalities can use other civil law measures to manage real estate that is not strictly aimed at controlling land development (and its timing), but makes it possible. These measures include adverse possession, expropriation right, pre-emption right, right of repurchase, and perpetual usufruct right setting the type of construction and time to build. According to the officials, they rarely use these legal means. Municipalities are passive when it comes to providing land and managing real estate, focusing on promoting and informing about local development opportunities.

When it comes to realising public investments such as new roads, municipal houses, public buildings, and the reclamation of post-industrial areas, municipalities are active participants in the local real estate market.

*‘The strategic issue is that the municipality is a quite serious player in the market. The municipality also shapes the market a little bit.’ (Participant G4)*

For public investments, communes search for land, or use their own stocks, and withhold the land from a market as well. *‘Land does not call to eat; it can wait’*<sup>8</sup> (Participant G4, Participant Z1).

The ‘dual hat’ (Hartmann & Spit, 2015; Olsson, 2018; Woestenburg et al., 2018) was identified in an example of public investment by a municipality. One of the municipalities was planning to invest as a major stakeholder in the widening of an airport runway. They knew how the designations will be changed in the SDP, but before that, they assembled the land needed for a

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<sup>8</sup> In Polish: *‘Ziemia jeść nie woła’* - a saying that means, that land can wait as opposed to a baby who cries to eat and must be taken care of immediately.

project (also by using their expropriation power) and deliberately kept their land in the adjacent areas to sell after the SDP/project came into force. The next example of the use of regulatory power by the municipality is the obligation for investors to provide their own infrastructure and to carry out land consolidation and subdivision as a condition for obtaining a building permit.

In the GZM MA, as a polycentric metropolitan organism, cities compete fiercely for investors and residents, which has always been an exciting topic for all officials.

*‘And at that point, after all, when the political transformation took place here in Silesia, with the consequences of the liquidation of industry, well, it was necessary for each commune to find its own identity. And it is here in the metropolis where, in my opinion, one can see most clearly where the cities..., after all, even when driving through Silesia, someone, who doesn't know Silesia, doesn't even know he has just driven through seven cities. This is virtually unheard of in Poland, it is unbelievable. And now here, this investor, when he arrives, well, for him, it's often a unified organism, and for these local authorities it's **to be or not to be**. And after all, they pay taxes, because this is simply connected with taxes, with jobs, and after that, it also translates into electoral votes’*  
(Participant Z1).

Fierce competition is pushing cities to make public investments that will attract residents. Officials have identified the need for land use trade-offs between residents and investors. Residents need housing with spacious plots and recreational areas, and investors who maximise profits prefer commercial use, such as trade, service, or logistics buildings, with maximum densities on minimal plots.

*‘Because investors are interested in what the potential of the property is today. The area of the property is one thing, but the height of building, that is, determining the height of the development is another. Because today it's not thousands of people in warehouses,*

*it's all automated. And they [investors] want to build higher buildings, because the taller the building you can build, the greater the capacity to store goods. And this is important today from these conversations I have with potential investors, for example: with logistics centres, they are interested in the possibility of building up [higher] because this is money. They count it all, they calculate'. (Participant G4)*

*'Rather, it is looking for areas that are then already zoned for residential use and setting different development parameters for them. That is, for example, from a mixed single-family development to semi-detached, or from a terraced housing to a medium-intensity multi-family development'. (Participant Q5)*

The objectives of these two market players do not always coincide in terms of land use, and in making this trade-off. Municipalities give greater weight to investors because they contribute more to the municipal budget and can create jobs. Smaller cities seem to be more inclined to attract investors. One official spoke of '*local pride*' in attracting a major investor to the city, revealing an emotional motive in the work and decisions of officials. This strong dependence on investors shapes a 'pro-investor' attitude among cities and may explain the very liberal approach to issuing LDDs, making decisions on planning permission, changing land use and/or even tacitly agreeing to withhold land from investors. The pro-investor attitude can sometimes go too far, as there are also '*not serious investors*':

*'Well, we have, for example, one here on the main street [...], where land [...] was sold to a fairly large developer who now treats the area as ... a kind of capital investment. And nothing is being built there either, the area stays vacant in the middle of the city, well here a private investor cannot be forced to invest in any way. [...] around 20 years [...] Well, now we are making a change to the plan there. We adopted a local plan in 2017, which in fact provides very large investment opportunities. Because there is a possibility for multi-family housing with services, there was even a plan made for*

*building a shopping centre there. Well... but anyway, the investor did not use it, now we are changing the plan, and we will see, maybe with these new arrangements we will encourage him more to invest, well, we will see how it goes.'* (Participant T8)

### 3.2.2. Investors' perspective

The most important thing according to investors is a good location. As the amount of developable land in cities is decreasing, investors must constantly search for it. They buy it from local authorities in public tenders, from individuals, or from organisations that used to own large tracts of land, such as former state-owned companies or the Catholic Church. Investors first recognise the 'planning situation' of a plot. Plots with SDPs are perceived as more stable, but also rigid in terms of their building parameters. Plots requiring LDDs are perceived as more flexible and in practice can be treated as having multiple land use possibilities. However, there is an additional factor of risk and unpredictability in the form of a possible objection by neighbours or a nine-month freeze period in the event of a start being made on the preparation of a new SDP. Investors describe changing land use or zoning parameters with LDDs as much easier than with SDPs, which can take a long time and may not be successful. This is because the two instruments are subject to different administrative procedures. According to investors, an important factor that has changed in recent years is the significantly longer time it takes to obtain gas and electricity connections. It is also not easy to cooperate with media suppliers, as they are oligopolistic companies.

As stated in the property handbook (Evans, 2004) and confirmed by the participants, the limited supply of land and the complexity of assembling a site lead investors to work in a pipeline system to ensure a flow of investment. Smaller investors confirmed that they acquire new land for their next investment while they are completing the current one. Larger developers bank land. Again, because land is difficult to buy, investors stockpile land with different designations that are likely to be rezoned in the future to a more favourable use to suit the profile of the

business. However, land banks are treated as capital investments at the same time. Here, the experience was that even if they had originally intended to develop the land, they resold it at a profit when an opportunity came along, or a plot proved too problematic. It seems that the abandonment option is easier to exercise when a plot is located outside of the local territory of a developer – it is easier to let it go. One participant bought a piece of land on a new market, then *‘obtained planning permission, there was an LDD. We ended up selling the investment to a local developer mainly because we saw too many risks. There were nonsensical expectations from the city office’* (Participant X13).

The participants' practice shows that they hold their development for better opportunities in one location, while developing in another city with already high prices. A factor that facilitates this strategy is the rather large price diversification on a small area of the GZM MA. Titman (1985) analysed such behaviour theoretically in his real option theory, where waiting to develop a land has its value.

The land development process takes place in a market environment with strong institutional influence. Developers are driven by profit maximisation from the development process, but when the opportunity arises, they may use their local knowledge of a market and sell plots from their land banks without developing them, making profits from doing so. Developers use their information from the local market in which they operate, with local networks (real estate professionals, city officials, media providers, etc.).

Investors often mentioned the issue of risk in property development. Apart from the typical market risks related to long-term capital accumulation, an increase in interest rates for investments and mortgages in banks, an increase in material prices, uncertain future demand for houses and uncertainties related to recent global crises such as pandemic and war in Ukraine, investors face the risk of institutional arrangements. The risk for sites without an SDP, such as the suspension of the development process in the event of the implementation of the local plan,

is completely independent of the developer. It could be reduced by having some private information from the city hall. However, there is still a risk of poorly written local plans and the possibility of their interpretation. One developer's strategy for mitigating the risk of possible neighbour protests was to maintain good relations with the neighbours.

Investors tend to buy land that requires an additional change of designation; if they have bought land at a lower price, then they are willing to risk more time and effort in waiting to change the land use. Some of the interviewed investors made riskier decisions on a hunch. Participants were inclined to take a higher risk when the profits appeared to be greater and when they had information from a mix of private network sources and city officials regarding future changes in the neighbourhood.

The timing of land development on the part of the municipalities is perceived through regulations, the problem of vacant land, the increase in land prices (theoretically, as it was hardly mentioned by the participants), and from the point of view of public investments that promote urban growth. From the investors' point of view, land is a location for their future investments. Delays in development are detrimental to their business. On the other hand, land hoarding is necessary for the flow of investments and/or a strategic advantage.

### *3.3.Reasons of delays in land development*

Investors have a practical understanding of the value of the option to wait to develop (real option theory). The quantitative study (Reyman & Maier, 2023) found that the average time to apply for a building permit after purchasing a plot in the GZM MA is 3.4 years. Interviewees say that without any delays, the construction process starts about six months after purchase. From the interviews, we have identified the following reasons for delays in land development and divided them into market, institutional, behavioural, other, and derivative categories.



### **The market reasons.**

The most important market reasons for land development delays named by the participants are deadlock in sales due to the increase in interest rates of mortgage credits and a forecast of downturn in demand, as well as increases in the price of building materials, internal financial problems of investors, downturn in a housing market, global crises such as the Covid pandemic, war in Ukraine, or a high rate of inflation (17.2% in January 2023<sup>9</sup>), and difficulties in predicting the directions of the real estate market with the existence of these successive global crises. The general uncertainty surrounding the pandemic and the falling value of the Polish currency led to an increase in the amount of land purchased as a capital investment. Strategic land hoarding appears to be easier in a polycentric area with a high diversity of property prices. Investors hold on to some sites in anticipation of future urban growth, while building in the more expensive neighbouring towns. Interviewees pointed to land in a very central location that was eventually bought for speculative purposes and resold at a higher price.

*‘But I think that ... where this building is about to be built, it was also one of those examples where speculation proceedings took place, but it was purchased by an investor who is now building it. And I hope it builds to the end at last.’ (Participant Q5)*

### **The institutional reasons.**

Poor procedures can significantly delay development, as in one participant's example of a neighbourhood protest that was processed despite a legitimate claim, and the delay in obtaining a meaningful building permit. Poor procedures can also mean a lack of procedures, as in the case of agreeing between the investor and the officials over what can be built.

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<sup>9</sup> <https://stat.gov.pl/>

*‘we were developing a large housing estate. We applied for a building permit for the first building, where ultimately there were supposed to be several of them, but the City Hall refused to issue the decision and said that if it’s an entire integrated complex, they want a permit for the whole thing, for all the buildings. So, unfortunately, it was such a blow to us, because there’s a difference between doing a project for one building and doing a project for ten buildings. It’s a huge cost that just eats into the budget and that cost has to be borne at the beginning when it’s the most difficult financially. And the second point is that it’s very time-consuming, because we had to design all ten buildings. And it is enormous amount of time and money. Well, as a result, we incurred the costs twice, because we made the project a bit hippie, because you know that it was impossible to work out all the details in such a short period of time, and then we made replacement projects for everything, so it actually cost us twice as much and took a very long time. The project dragged on for two years.’ (Participant A12)*

This example illustrates the additional uncertainty, introduced by the regulator, that developers do not know the extent to which local authorities will require costly changes to their project before final approval is given.

Poorly written procedures, or none at all, give more power to officials and make a development project less predictable and more dependent on the officials' decisions.

Following this was bureaucracy, which was most often mentioned by developers as a significant delaying factor. This encompassed the large number of legal acts to be interpreted in a development process, as well as the many offices and officials that prolong this process at every step. Some investors described bureaucracy as potential ammunition for officials working against them.

The ‘planning situation’ of a plot has implications on the timing of land development. Plots without SDPs are more flexible:

*‘The advantage is that if there is no spatial plan and you apply for development conditions, you can still negotiate with the city about various aspects, such as building density, building height – this is discussed. However, when the plan has been adopted, we are faced with a fait accompli, we don't really have a choice, we have to sign up for what has been adopted.’* (Participant A12)

SDPs may be too rigid and strict that investors do not want to buy the land and build on it, because it will be difficult and time consuming (1.5 to three years) to make changes.

*‘There are plots of land in the city centre, especially in Silesia [...], there are plots of land for which local plans are deliberately not established, not developed. Because the investor has to present a project for what he wants to do there, because a local plan, the adoption of a local plan, if it is not for the investor, **can cause that land to stand for years**, because developers know best what to build in a given location and when, and what the economic situation is, and what to build, and how much to build.’* (Participant RM7)

On the other hand, according to the participants, for land without an SDP, it can take from one year to even two or three years to obtain a LDD, depending on the city. In addition, the application process can be frozen, as in the following example:

*‘We had a particular investment where we were blocked by this very event, when the city passed a resolution to start changing the plan. And it's such that the application is frozen for nine months, and only after nine months do they suspend the proceedings and only then does the normal procedure of division begin, so de facto we were at the end of the investment and it dragged on for nine months. It's a lot and it's like a real hassle for*

*someone who is making investments, because there's a factor that can come up completely independently of us our will and can block things significantly.'* (Participant A12).

Participants confirm that the way a planning charge is constructed encourages them to wait 5 years before building and selling developed land to avoid paying a charge.

Obtaining proper access to infrastructure is a delaying factor, as building new infrastructure or adapting existing infrastructure to a building requires permission. Participants indicate that obtaining an electricity or gas contract can even take two to three years in some cases.

Participants also encountered legal problems with land. The first of these related to the previous owners and an unresolved restitution from the Second World War. It is followed by the abandonment of the land during the emigration phases in the 1950s and 90s. The return of the land to the previous owners after expropriation during the communist period results in the current dispersal of ownership. Hampering development in the post-transition countries, land fragmentation was already noted in literature by Van Dijk and Kopeva (2006). The following is a vivid example of undeveloped land due to unresolved inheritance cases for several generations:

*'This is an area in the centre of the city, completely undeveloped; certainly the problem is that there are different owners there. Partly owned by the municipality, partly by other owners, privately owned. This plot currently has 27 owners quarrelling with each other. Due to the fact that they cannot get along among themselves, they quarrel, well, and the area is, so to speak, blocked for investment.'* (Participant T6)

Land fragmentation is the reason for structurally unemployed land (Schenk, 1978). Dispersed ownership in rural areas and inheritance issues for some investors were too problematic to overcome and led to the abandonment of an investment. Participants also mentioned minor legal

problems, such as some very old encumbrances, which can easily be cleared, but still take time and double-checking. Discrepancies between 'land and mortgage registers' and 'land and building registers' are very common, depending on the towns, the district courts, and how thorough the land registers are. Time is needed to find out and correct the entries in these registers. As indicated by Miceli et al. (2000), defects in land titles (errors or omissions in the public record, and differences of opinion among searchers over how to interpret the record) can result in significant financial consequences, which the authors documented with data from title insurance in the United States. However, Polish investors only mentioned the additional time. Depending on the city, it could take up to a year:

*‘Well, I think that a few years ago [...] the situations were abstract, the number of situations where the mortgage books didn't agree with each other after migrations, and where the meters were completely inadequate to what ... is in nature ...; what was registered to what was in nature. Well, there was chaos, and such places are famous for that, and in fact, when you prepare to invest there, you always start with someone local who knows the arrangements and more or less knows the past. [...] It had to be sorted out, but it was also so long ago, because it was ... as I said, I think it was about ten years ago, that it was easier to sort it out then, because well ... I don't know how to put it delicately ...; this chaos was obvious to everyone and this mess .... I'm sorry for the word ... while the ways of solving it were also adequate for what they were ... not everything had to be so buttoned up to the last button, somehow it got resolved. Today it is hard for me to imagine such tools.’ (Participant S11)*

The property title may also influence the timing of development. In general, investors prefer ownership rights over perpetual usufruct, as long-term lease from contracts from 1989 can be risky to make congruent to the current zoning aims and prolong development due to the possible court cases. However, some investors gained much by building on that right and experienced

neither difficulties nor delays, but this was more connected with the location in a city and a vast post-industrial terrain, where perpetual usufruct was a predominant land title.

### **The behavioural reasons.**

Behavioural reasons for delays in land development could be found in the actions of both types of participants. Investors explained longer delays in their larger investments as a result of greater caution – the need to check every detail carefully and the fear of making mistakes. Smaller companies are more inclined to use their sentiments. An example of this is the sale of an investment property that was farther away from the owners' home and local area of activity, as they did not want to spend so much time away from home. It is easier to abandon an investment in such newly explored areas than on a well-known local market.

*‘In this remote city we withdrew from the investment, sold [...] we got planning permission, there we got an LDD. [...] We sold the investment to a local developer mainly because we saw too many risks. There were nonsensical expectations from the office. For example [...] Trivialities, but it shows such a picture of their different approach, yes. Penalties for this, penalties for that [...] We weren't from there, we had to travel and so on, so we sold to a company that operates there, they've clearly trodden paths. It's just easier for them there. They also know the officials better. But it's like this.’*

(Participant X13)

It is clear from this and other investors' statements that networking is very important, even crucial. Investors pay attention to the behaviour of officials in general, and the attitude they have towards investors is important. If they are *'all right'*, cooperative and helpful, it is easier to work with them. Also, officials are perceived as acting conservatively for fear of being prosecuted for negligence, which leads to longer procedures.

Another sentiment among officials is that developers withhold strategic land from a market for reasons of prestige, because they want to engage world-famous architects someday in the future:

*‘However, I can joke that this is our family silver and this will probably be the last plot of land to be commercialised. I always promise myself and recommend to presidents that if we bring in Libeskind or another architect from the pantheon of architects dealing with high-rise buildings, then maybe we will think about it.’* (Participant Q5)

### **Derivative reasons.**

A separate group of reasons for delays in land development, called 'derivative', emerged from what resonated with an institutional development culture and climate in Poland. In other words, it is a kind of feedback loop with an institutional background or lock-in in North's (1990) terminology. Municipalities give silent approval for land development postponements, because there is no law to oblige a developer to build in a specific time, so they just do not have to do it, arguing *‘what is not forbidden by a law is allowed’* or *‘everybody has the right to develop’* (Havel, 2020). Officials are not always interested in why a plot has not been built. In those cases, they usually mention a lot of different possibilities or say that it is hard to say what actually happened, citing *'life situations'*, etc. Officials do not ask because it is not their job. Moreover, legal loopholes and inconsistencies in the legislation allow investors to take advantage of them. The building permit decision is valid for three years, but in practice, developers extend this period as long as they want, simply by carrying out some minimal construction work and filling in a logbook to ensure continuity. Housing developers were able to take advantage of 'lapse leverage': as recipients of public tenders for perpetual usufruct rights, they had to overbid the initial fee, which was only 10% of the land value, and as further annual fees were to be paid by future co-owners of multi-family houses, they could do so almost without limit. As there are no fees or taxes on unoccupied land, there are no additional costs for investors to withhold land.

*‘such a property, [...] next to the national road, for the development of a logistics centre. The logistics centre was to be built there, but there was a condition of access to the national road. And the existing viaduct had to be rebuilt. [...] But some of that land was owned by that developer as well, and some of it was owned by the municipality, and some of it was owned by the state treasury, in the public road strip. And all of that had to be pooled together. [...] Because it was a prerequisite to get that planning permission there, that this viaduct has to be rebuilt. Because otherwise this property would not be connected to the national road. Well, and it wouldn't meet the requirements of some sort of logistics centre. [...] So it is as if the value of the property in comparison to this viaduct, this entire junction, doubled. Market value. Such is, such is the impact of infrastructure on construction, on such a commercial investment. The investor, he sold this land, [...] Yes, he, he had it in his bank for about... I think... seven or eight years... that land.’ (Participant RM7)*

The literature on land speculation suggests that the early signs of speculation are capital investment, subdivision of land after purchase, double sale of land, and large-scale purchase of land (Gemedá et al., 2020; Thontteh & Babarinde, 2018). These incidents are often mentioned by officials, especially regarding capital investments at the beginning of the pandemic. Subdivision of land after purchase is a common practice in rural municipalities, where for plots with mixed residential and agricultural designations, investors (natural persons) first obtain LDDs for residential use for the entire plot area, and in the next step, they divide it, merge it, and resell it as a fully buildable investment plot. This result is consistent with Konowalczyk's (2014) finding that speculative practices are initiated by natural persons who sell land with high development potential to firms at lower prices, as firms have more information about the market. Officials deny that investors are pushing for changes in land-use designations, however, this practice has been documented in the literature (Zaborowski, 2021a after Jędraszko (2005),



p 337). In one case, the municipality deliberately sold a large plot of land to a developer who subdivided it, built infrastructure, and sold it to private individuals at a profit. The reason given by the municipality was a lack of resources for the preparation of plots ready for building. Another example of withholding a large amount of land by an investor is the following:

*‘Well, the developer [...], he started there in the city X. Well, and that's where he acquired the land, as I remember, over 100 hectares. [...], and he invested, one by one, in these stages. The first stage was there, for example, 50 single-family houses. [...] These lands he had from the church. He bought from the church. [...] These were lands with a variety of designations. [...] They are still building there to this day. There are still probably not all the phases complete by now... ten years they are building. Yes, yes, they don't sell there anymore, they just keep it for themselves. And the agricultural ones they leased, no, because it was close to the land there and thus agricultural so they leased.’ (Participant RM7)*

#### *3.4. Why do municipalities ignore delays in land development?*

As noted in the institutional background section, the attitudes of officials indicate an ambivalence and passivity towards delays in land development. This passive role is coded as *‘REASONS 4 NO ACTION’*. Initially, the municipalities fail to enforce the provisions of the perpetual usufruct contracts regarding the time of construction. Nor do they use other civil law rights, such as the right of first refusal, right of repurchase, etc., to reclaim undeveloped land. Officials claim that they cannot force investors to build in a reasonable time, and that they have no law or regulation to do so. They also suggest that it is not their job. Then, communes explain the double sales of land on their territory as likely tax evasion (companies sell land to themselves, but under a different name), as there have been a few examples of this, and they have shown little interest in it, not considering the price volume of these transactions. Understanding speculation is associated with a previous system:

*'Speculation is also a word we don't like very much in Poland, because I still remember the times before the system change, when we had real socialism in Poland, then the term speculation was a very negative, pejorative term. Nowadays it's not so much spoken about; rather everyone says that once the free market is in place, everyone has the right, because it's like their money and everyone has the right to freely dispose of it, to multiply their assets. It's like an inherent property right, yes. And you can profit from it, also in fact, actually the term speculation is no longer used. So it's difficult for me to make an unambiguous judgement, right, whether this is bad or good.'* (Participant T8)

Officials do not seem to recognise the negative consequences of speculative practices for the city, or it is simply an issue that is not discussed at all. The activity of land developers, who make a profit by preparing ready-to-build-on plots (purchase – change of land use, density parameters, addition of infrastructure, obtaining LDD and/or building permit – sale), is understood as a normal business. However, in the case of obtaining highly flexible LDDs, local human capital must have a great influence on the success of their work. The profit is weighty, as on the neighbouring Cracow real estate market, plots sold with LDDs increase land price on average by 25%, and land with a valid building permit on average by 47–50% compared to land without any valid planning rules at the time of the transaction (Głuszak & Zygmunt, 2018).

The statements of the officials show that they understand ownership as a right without any restrictions. They still conflate it with the conditions of the previous socialist system, and rarely invoke the possible externalities that vacant land can produce for public spaces. The municipalities do not want to interfere, as jurisdiction is acknowledged to give prevalence to landowners.

Even when officials see that vacant land in city centres is deteriorating the urban structure, their understanding of the free market and ownership is still in opposition to the previous system, and therefore so liberal that they do not consider influencing the landowner to develop a long-

delayed project. Therefore, at the end of this section, the following question may be raised: *Is land hoarding a problem at all?* The perception of the right to own, control, enjoy, and dispose of property is very strict and directed towards individuality, without a second thought to the externalities that vacant land can bring or the liabilities (to society) and consequences of withholding land and speculation to society with higher property prices.

#### 4. CONCLUSIONS

The institutional arrangements that shape the land development climate in which municipalities and investors operate reveal a great deal of confusion and ambivalence. The most influential is a system without mandatory local development plans, which has already been identified by many researchers as a regulatory weakness. Poorly written, interpretable legal acts, lacking a coherent definition of landed property, lead to confusion and chaos. There are few instruments to control the timing of land development by municipalities, and perpetual usufruct is being abolished. The financial problems of municipalities have been confirmed by Śleszyński et al. (2021) as serious obstacles to development in Poland, similar to other post-communist countries. The attitude of officials towards some aspects of the institutional scene is firstly ambivalent in many respects due to the chaotic institutional solutions, and then still in opposition to the previous system, maintaining the status quo without questioning the current regulations. This institutional land development climate in the country can be described as chaotic and adds uncertainty to the land development process.

‘Spatial planning without plans’ (Havel, 2009) and the passive role of municipalities make it impossible to properly manage the supply of land. Fierce competition between neighbouring cities for investors tends to skew decisions in favour of investors, who also use this to their advantage in the current institutional climate.

As is already described in the literature (Evans, 2004), land hoarding by investors results from realising an investment process in a pipeline due to limited land supply. Then occasional buyers trigger speculative sales of still vacant land. Analogous to the findings of Yang and Wu (2019), investors are more prone to buy land that requires a risky designation change if the price is a bargain, and they are willing to risk more and wait with changing land use. Investors were inclined to take more risks when profits appeared to be higher and when they had information from a private source about future changes in the neighbourhood. This is consistent with the findings of Ko Wang et al. (2000), that private information could make investors overconfident. In smaller firms, some decisions are made on a hunch.

Apart from the typical market reasons for delays in land development, two global crises that occurred in quick succession, namely the Covid pandemic and the war in Ukraine, created many new uncertainties for real estate market participants in Poland and led to an intensification of land purchases as capital investments.

Many institutional causes of delay, such as poorly written procedures, the lack of procedures, and bureaucracy, mean that much is discretionary and land development is less predictable. The 'planning situation' of a site has three implications for the timing of land development:

1. The lack of an SDP theoretically effects multi-land-use choice and might work as what Geltner D. et al. (1996) call 'rationale indecision', *meaning that development will never occur when the two land use choices have equal value*. Two studies seem to corroborate that: Reyman and Maier (2023) found that plots without SDPs were slower to be developed than those with a zoning. Głuszak and Zygmunt (2018) found that land with SDPs was sold for slightly less than comparable land with no land regulation in force (however the difference was insignificant).
2. Nevertheless, LDDs are more risky and the administrative process can be quite lengthy. Głuszak and Zygmunt (2018) compare it to gambling, but with the facilitating

circumstances of networking and informal influence on the officials issuing the decisions.

3. The probable risk of freezing development on land without an SDP by preparing zoning by a commune may act as a threat to impose regulation, which Turnbull (2005) analysed as a factor accelerating the pace of development.

Legislator has recently changed the law (the Act of 7 July 2023 amending the Act on spatial planning and development and certain other acts, that came into force on September 2023) and obliged municipalities to elaborate spatial development plans till the end of the year 2024 (or 2026 according to planned amendment of the act), therefore ultimately LDDs will be liquidated.

The oligopolistic position of media providers hampers cooperation and causes delays. Many legal problems related to land stem from the past and the common practice of leaving land registers out of date. The type of land title affects the timing of land development, with perpetual usufruct rights with vague objectives adding uncertainty and delaying the land development process.

We found several behavioural reasons that significantly affect the timing of land development. It is easier for investors to abandon a project (sell land undeveloped) in a remote, new, or unfamiliar market, just as it is easier for them to invest in local connections than in remote ones. The behaviour and attitude of officials towards investors plays a big role, and investors are well aware of this. Officials act conservatively in fear of being accused of negligence, which could be a feedback loop of too many legal acts and too few proper procedures. Officials were found to be driven by prestige reasons in the hoarding of public land. As a derivative of the institutional reasons, there is tacit approval for delays in land development, with investors taking advantage of the legal loopholes. This creates a feedback loop with an established system (lock-in).

The reason why municipalities do not intervene when investors withhold land is that they understand ownership as a right that cannot be interfered with in any way, in contrast to the previous system where Poles were virtually deprived of their land. This seems to be one of the main reasons why this issue is not discussed at all in town halls. It is different from other countries that have regulations to deal with land hoarding and speculation, such as in Germany, where the Federal Building Code was implemented to curb land speculation and rising land prices (Hartmann & Spit, 2015).

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## Legal acts

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