Privatising of urban public space
a new division of tasks for the (re)development and management tasks of public spaces

Studied cases
For practical perceptions a triad of (inter)national cases have been investigated where a certain degree of privatisation is reported. This has been brought to light by filling in the defined conceptual model’s variables (left figure).

The first case is a ‘school example’ from the United States (US): Santana Row, San José California. It concerns a high-quality shopping- and residential area of which an institutional investor is both the owner and manager of the entire urban area (real estate and public space). Secondly the assisted living complex De Zomertuinen in Soest, of which the real estate and public space are property of and managed by a housing association. In the last case, the Chassé Park in Breda the municipality is traditional owner of public space, and the management is divided in ‘basis management’ (executed by the municipality) and ‘additional management’ (executed by residents and entrepreneurs).

The national cases show that, from a judicial perspective, private redevelopment and management is already possible in The Netherlands. On a small scale there is talk of private management in The Netherlands, transfer of property is less self-evident. Still there are initiatives to be detected in The Netherlands, such as the examined case ‘Almere Duin’. The investor is taking over the management and ownership of the public space.

Problemstatement
Nowadays the quality of urban public areas is more under stress: town centres are commercialising, post-war districts do not live up to diverse consumer desires and in outer town boundaries the arrival of new public functions results in lack of clarity about the area’s identity(...). The importance of a proper public area is significant: it contributes to livability and the quality of cities and scenarios. (VRDM-read, 2009)

The Netherlands has a characteristic tradition in (re)development of urban areas: from initiative until development, the municipality is guiding for the greater part. Needham (2002) states that the current Dutch situation is not ready for the future. The municipality is both owner as well as developer, without the possibility that other interested parties are able to exert influence. On top of that, the municipality invests in (re)development of public space but is only able to pass the investment costs for public facilities via the spatial planning act.

In the United States there are successful projects started at which private parties were able to (re)develop and manage public areas. In this way a part of financing is solved and additionally more thought is put in to durable developments.

Objective
If private parties would participate more in (re)development and management of urban public space in The Netherlands, it could be one of the solutions for the previously mentioned problems. Within this research it is hypothesized that: “Passing public management tasks and/or properties concerning urban public space to (a) private party/parties will lead to a more efficient management and a boost of the urban-spatial quality”. To investigate this hypothesis the following main research question is formulated:

Under which conditions are private parties prepared to privatise urban public space with the purpose to improve the spatial quality?

By means of a literary research, a triad of (inter)national cases and an applied case, an answer has been formulated to this question.

For the extent of privatizing of urban areas two indicators have been defined: transfer of management tasks and objects concerning the urban public areas. In the case of transfer of both tasks and objects, there is a matter of ‘complete privatizing’. Proceeding from this argumentation the following outlines have been defined:

- (Partial) transfer of management functions.
- Transfer of properties of (objects within) urban areas.
- Transfer of properties of (objects within) urban areas + corresponding management functions.

Results
The example from the US cannot be directly copied. On a small scale there is talk of private management in The Netherlands, transfer of property is less self-evident. The examples from the US show that the transfer of property is an important indicator for the success of privatizing: the private party has full responsibility.

The variant of ‘complete privatizing’ seems to be the one that creates the most commission of private actors.

Judicial Armamentarium
The (im)possibilities in the matter of judicial armamentarium to legalise privatizing in The Netherlands are central in this research. From the literature and cases the following instruments have been found suitable:

- For management transfer:
  The so called ‘park management’ and the experiment law ‘businesses investment zones’
- For transfer of property and management:
  A division into ‘apartment rights’. With this, for example, an ‘urban area’ in its entire is involved in a main separation by which rows of houses and/or apartment complexes are created.

(Pre)conditions
Both public as well as private actors will have (pre)conditions for privatizing the public space. Increasing the value of public spaces is an important condition for private actors. The spatial quality of public space is contributory to the real estate’s value. In order to generate this increasing value, private actors need to have full authority over their property. Though it is also important to take stock of the public’s conditions of privatising the public space. First of all the public’s accessibility of public spaces needs to be guaranteed. Furthermore, tasks which are regulated by public law cannot be transferred and so will remain publicly regulated.

Bottlenecks
In the investigation however there are also several bottlenecks that have come up:
- The Road Traffic Act lays down the responsibility of managing publically accessible roads at the municipality at all times, even though the roads are no private property.
- Not all objects and tasks within urban areas are ready to be transferred. Utility companies do not appear to be ready for creative solutions and public statutory tasks are unable to be handed over to private parties.
- Above all privatizing brings along political discussions. With this, the role of the municipality alters from a facilitating party; extending permits, provide for public statutory tasks, etc.

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