IZMIR KATIP CELEBI UNIVERSITY ★ GRADUATE SCHOOL OF SCIENCE AND ENGINEERING

ASSESSMENT OF REAL ESTATE OWNERSHIP ISSUES IN URBAN REGENERATION PROJECTS IN TURKEY

M.Sc. THESIS

Yunus KONBUL

Department of Urban Regeneration

Thesis Advisor: Assoc. Prof. Dr. Mehmet ÇETE

JANUARY 2016

IZMIR KATIP CELEBI UNIVERSITY ★ GRADUATE SCHOOL OF SCIENCE AND ENGINEERING

ASSESSMENT OF REAL ESTATE OWNERSHIP ISSUES IN URBAN REGENERATION PROJECTS IN TURKEY

M.Sc. THESIS

Yunus KONBUL
(130201006)

Department of Urban Regeneration

Thesis Advisor: Assoc. Prof. Dr. Mehmet ÇETE

JANUARY 2016

İZMİR KÂTİP ÇELEBİ ÜNİVERSİTESİ ★ FEN BİLİMLERİ ENSTİTÜSÜ

TÜRKİYE'DEKİ KENTSEL DÖNÜŞÜM PROJELERİNDE YAŞANAN MÜLKİYET SORUNLARININ DEĞERLENDİRİLMESİ

YÜKSEK LİSANS TEZİ

Yunus KONBUL
(103201006)

Kentsel Dönüşüm Ana Bilim Dalı

Tez Danışmanı: Doç. Dr. Mehmet ÇETE

OCAK 2016

Yunus Konbul, a **M.Sc.** student of **IKCU Graduate School of Science and Engineering**, successfully defended the thesis entitled "**ASSESSMENT OF REAL ESTATE OWNERSHIP ISSUES IN URBAN REGENERATION PROJECTS IN TURKEY**", which he prepared after fulfilling the requirements specified in the associated legislations, before the jury whose signatures are below.

Thesis Advisor :	**Assoc. Prof. Dr. Mehmet ÇETE** İzmir Katip Çelebi University	.....
Jury Members :	**Assoc. Prof. Dr. Özşen ÇORUMLUOĞLU** İzmir Katip Çelebi University	.....
	Assoc. Prof. Dr. Kerem BATIR İzmir Katip Çelebi University	.....

Date of Submission : 22.12.2015
Date of Defense : 08.01.2016

To my family,

FOREWORD

First and foremost, I would like to thank my advisor, Professor Mehmet Çete, for his leading and support with open-minded ideas in this research. I would also like to thank him for providing me a warm, friendly and productive work environment.

Next, I would like to thank the personnel of Izmir Metropolitan Municipality; Altındağ Municipality, Mamak Municipality, Housing Development Administration and General Directorate of Infrastructure and Urban Regeneration Services in Ankara; Istanbul Metropolitan Municipality, Gaziosmanpaşa Municipality and Esenler Municipality in Istanbul for providing me very valuable information about their urban regeneration projects.

I would like to thank my family for their support in every area of my life, and for their endless love. All opportunities and accomplishments I owe to them. Also, I would like to thank my colleagues for their interesting ideas and support.

This thesis was supported by Izmir Katip Celebi University, Coordination Office of Scientific Research Projects.

January 2016 Yunus KONBUL

TABLE OF CONTENTS

Page

ABBREVIATIONS

HDA **:** Housing Development Administration
TAD **:** Title Allocation Document
USD **:** United States Dollar

LIST OF TABLES

Page

LIST OF FIGURES

Page

ASSESSMENT OF REAL ESTATE OWNERSHIP ISSUES IN URBAN REGENERATION PROJECTS IN TURKEY

SUMMARY

Illegal settlements, urban sprawl and old urban areas can be transformed into livable spaces with urban regeneration projects. Especially because of the earthquake risk and its low quality building stock, Turkey is one of the countries where implementation of those projects is vital. However, real estate ownership problems experienced at the beginning of the urban regeneration projects hinder implementations of the projects. Therefore, identifying and eliminating those problems can help carry out the projects successfully.

In this study, the interviews with a number of stakeholders in five different regeneration project areas in Izmir were carried out in order to understand the problems and their expectations. Then, interviews were carried out with experts and personnel of some of the authorities carrying out regeneration projects in Turkey, namely Izmir Metropolitan Municipality in Izmir; Altındağ Municipality, Mamak Municipality, Housing Development Administration and General Directorate of Infrastructure and Urban Regeneration Services in Ankara; Esenler Municipality, Gaziosmanpaşa Municipality and Istanbul Metropolitan Municipality in Istanbul. Real estate problems in the regeneration projects were discussed and identified in those interviews.

By means of those interviews and literature review, a typology of urban transformation initiatives was described, potential stakeholders were listed, and some mathematical models for determining property rights of stakeholders were developed. It was stated that the cause of the paradox of "increasing building density" or "displacement" is the financing model. Negotiation issues among stakeholders and technical problems on determining land-share proportions in condominiums were shown. The importance of documentation and public relations especially when carrying out expropriation, property transfer and determining regeneration area boundaries was explained. Inefficiency of the Turkish urban regeneration legislation and the issues originated from this inefficiency was discussed. For example, it was stated that lack of definitions in the legislation about who the right holders are and what are the rights that should be given them leads to problems in different projects and makes the projects subject to court cancellations. Importance of realization of urban regeneration projects by local authorities because of their better ties with stakeholders and knowledge about local issues and support of central authorities to local authorities in terms of expertise and finance were discussed.

This study intends to fill the gap in the Turkish and English literature about real estate ownership issues experienced in the Turkish urban regeneration projects and tries to develop some solutions for those issues.

TÜRKİYE'DEKİ KENTSEL DÖNÜŞÜM PROJELERİNDE YAŞANAN MÜLKİYET SORUNLARININ DEĞERLENDİRİLMESİ

ÖZET

İllegal yerleşimler, çarpık kentleşmeler veya zaman içerisinde eskiyen kent bölümleri, kentsel dönüşüm projeleriyle yaşanabilir alanlar haline getirilebilmektedir. Özellikle deprem tehdidi ve mevcut konut stokundaki sorunları nedeniyle, Türkiye kentsel dönüşüm projelerine en çok ihtiyaç duyulan ülkelerden biri durumundadır. Ancak, gerçekleştirilmeye çalışılan dönüşüm projelerinin daha başlangıcında mülkiyet kaynaklı sorunlarla karşılaşılmakta ve bu sorunlar projelerin hayata geçirilmesini engelleyebilmektedir. Bu sebeple, mülkiyetle ilgili sorunların tespiti ve bu sorunların çözümüne yönelik yaklaşımların geliştirilmesi, projelerin başarıya ulaşabilmesi açısından büyük önem taşımaktadır.

Bu çalışmada, İzmir'de beş farklı kentsel dönüşüm proje alanında, çok sayıda hak sahibiyle, gerek mülkiyet kaynaklı sorunların tespiti gerekse hak sahiplerinin beklentilerinin belirlenmesi için mülakatlar yapılmıştır. Daha sonra, İzmir Büyükşehir Belediyesi, İstanbul Büyükşehir Belediyesi, Altındağ Belediyesi, Mamak Belediyesi, Gaziosmanpaşa Belediyesi, Esenler Belediyesi ve Toplu Konut İdaresi ve Altyapı ve Kentsel Dönüşüm Hizmetleri Genel Müdürlüğü gibi Türkiye'de kentsel dönüşüm çalışmaları yürüten kamu kurumlarıyla teknik içerikli mülakatlar yapılmıştır. Bu mülakatlarla kentsel dönüşüm projelerinde yaşanan mülkiyet sorunları tespit edilmiştir.

Tez kapsamında gerçekleştirilen mülakatlar ve literatür taraması sonucunda; kentsel dönüşüm türleri sınıflandırması oluşturulmuş, muhtemel hak sahipleri tanımlanmış ve bu hak sahiplerine verilebilecek haklar için bazı matematiksel modeller önerilmiştir. "Emsal artırımı" veya "yerinden etme" paradoksunun finansal modelden kaynaklandığı ortaya konulmuştur. Hak sahipleri arasında paylaşım ve arsa payının belirlenmesi konusunda yaşanan sorunlar dile getirilmiştir. Özellikle kamulaştırma, mülkiyet transferi ve kentsel dönüşüm alanlarının belirlenmesi süreçlerinde, gerekçelendirme ve hak sahipleriyle iletişimin önemi vurgulanmıştır. Kentsel dönüşümle ilgili yasal mevzuatın yetersiz ve çelişkili olduğu, bu nedenle kentsel dönüşüm projelerini yürüten kamu kurumlarının, özellikle hak sahiplerini ve bu kişilere verilmesi gereken hakları belirlemede sıkıntı yaşadıkları ifade edilmiştir. Bu durumun ise, dönüşüm uygulamalarının mahkemeler tarafından iptaline sebep olduğu belirtilmiştir. Kentsel dönüşüm projelerinin, gerek hak sahipleriyle daha iyi iletişim kurulabilmesi gerekse yerel sorunlara daha iyi hakim olunabilmesi için, yerel yönetimler tarafından gerçekleştirilmesi, merkezi idarenin de finansal ve teknik destek sağlamasının önemi üzerinde durulmuştur.

Bu tez çalışmasıyla, Türkiye'deki kentsel dönüşüm projelerinde yaşanan mülkiyet sorunları ile ilgili Türkçe ve İngilizce literatürdeki eksikliğin giderilmesi ve bu sorunların çözümüne yönelik önerilerin geliştirilmesi hedeflenmiştir.

1. INTRODUCTION

Urban regeneration is a holistic development approach to renew and reinvigorate outdated and dilapidated living spaces with the consideration of physical, social, economic and environmental aspects [1]. Different terms are being used interchangeably in this field in different countries and studies, some of which are urban renewal, urban regeneration, urban redevelopment and urban rehabilitation, however they differ from each other [2]. The “urban renewal” term is generally used to mention slum clearance and renewal of buildings by putting more emphasis on the physical improvement; “urban regeneration” on the other hand is used to mention more holistic projects covering physical, social, economic and environmental aspects rather than focusing only on the physical improvement [1; 3-5]. “Redevelopment” is also used interchangeably with the renewal term to mention more physical improvements (demolish-rebuild), and finally “rehabilitation” can be explained as renovating a building to a better condition (without demolishing) which is a building-based approach, but it can also mean rehabilitation of a neighborhood by improving the facades and making environmental adjustments without implementing major redevelopment projects [2].

Mainly due to economic insufficiencies and neglects of the residents, buildings deteriorate over time. The deteriorated buildings become hazardous places to inhabit because of their potential of collapse in earthquakes. Countries that are located in high-risk earthquake zones, like Turkey, suffer from this situation. In order to solve the issue by encouraging the residents living in those areas, the Turkish governments try to develop incentives, such as providing subsidies or tax-cuts for the renewal of those buildings and neighborhoods. However, those incentives cannot provide renewals in some parts of the cities. Direct intervention of public authorities are required in those areas rather than waiting for market and stakeholder-driven initiatives.

Urban regeneration touches to the personal areas of people’s lives. A home is not only a place that people use it only to sleep in. Most of the times of people are spent

there, and people's lives interconnect each other through neighborhoods. Therefore urban regeneration is a highly social subject [1]. Urban decay areas and squatter areas must be analyzed from this social perspective. These places attract not only low income people because of their affordable rents and prices, but also marginal groups due to lack of police security which makes them convenient areas for informal sector, drug trafficking and crime. Disadvantaged low-income inhabitants generally receive less education and thus less job opportunities, and also suffer from unhealthy environment [6; 7], because squatter areas generally lack proper municipal services and public facilities because of the informal development [8; 9]. When designing regeneration projects for those areas, ensuring the participation of residents and other interested parties can provide more successful projects [10; 11].

Economic and tourism purposes are also another reasons for urban regeneration [12]. Urban lands are required to be used in the best possible ways in order to serve the general community. There can be displacement of industrial zones to the peripheries, changing land use types from residential to commercial, or rehabilitation of historical areas in order to bring out the hidden tourism potential of the areas. Such projects generally require dislocation of residents and this is one of the most important parts of urban regeneration where property rights come on the scene.

This study mainly focuses on property rights given to stakeholders in urban regeneration projects because this is one of the most critical issues in the implementation of the projects. Regeneration authorities in Turkey try to make the best use of produced homes and workplaces in the projects for distributing them among stakeholders and developers. Property rights of real property owners before the projects must be converted into the rights on the new real properties. This conversion requires concrete calculations and explanations. The challenge in the Turkish experience however, which is the basis of this study, is that these calculations are done privately by each regeneration authorities because there is no guidelines or regulations guiding these procedures. In many projects these calculations are done in a secretive manner and then officials go out and negotiate with stakeholders without telling them how they figured out what they offer. Problems experienced in the identification of the rights of unauthorized building owners and squatters, if any, and technical issues faced in the renewal of condominiums are also another problems of urban regeneration projects in Turkey.

In this study, interviews were carried out with a number of stakeholders who hold real property rights and squatters in five different regeneration project areas in Izmir in order to obtain their thoughts, expectations and frustrations. Then, the interviews were carried out with experts and personnel of some of the most well-known authorities which carry out extensive regeneration and renewal projects in Turkey, namely Izmir Metropolitan Municipality; Altındağ Municipality, Mamak Municipality, Housing Development Administration and General Directorate of Infrastructure and Urban Regeneration Services in Ankara; Esenler Municipality, Gaziosmanpaşa Municipality and Istanbul Metropolitan Municipality in Istanbul. In the light of these interviews, real estate-related problems that those authorities experience are discussed and identified face to face. One of the most important findings is that it was a common problem for those authorities that identifying stakeholders and their rights in a regeneration project is a hard task due to the insufficient and contradictory clauses in the related laws and regulations. After the identification of those problems, potential solutions are investigated with the help of literature review and expert views. Because there is very little information in the Turkish and English literature in this regard, this study intends to fill this gap.

2. URBAN REGENERATION IN TURKEY

2.1 Types of Urban Transformation

First of all, it can be a good idea to classify the urban regeneration initiatives in order to understand the concepts more clearly. Different terms are used interchangeably in the urban regeneration literature to describe the projects. Urban regeneration, renewal, re-development and rehabilitation are some of them while urban regeneration is accepted as the most comprehensive one among them. However, in this thesis, there is a need for an "umbrella term" that covers all the terms, including urban regeneration. That term in this study is "urban transformation". After establishing an umbrella term, a typology can be prepared as seen in Table 2.1. The typology is designed to cover all kinds of urban transformation initiatives. Any urban transformation project should fall in one of these types. This typology will provide a framework for the later explanations of property ownership issues. Urban transformation can be categorized into three major types: *(Type A) Area-based transformation*; *(Type B) Building-based transformation*; *(Type C) Urban relocation*.

Table 2.1 : Spatial Typology of Urban Transformation.

Type A: Area-based Transformation
Type A1: Area-based Rehabilitation
Type A2: Area-based Redevelopment
Type A3: Area-based Regeneration
Type A3a: Regeneration of Squatter Settlements or Unauthorized Development Areas
Type A3b Regeneration of Deteriorated Formal Sites (Slums)
Type A3c: Regeneration of Formal Sites Not Responding to Current Needs
Type B: Building-based Transformation
Type B1: Building-based Rehabilitation
Type B2: Building-based Redevelopment
Type C: Urban Relocation (Property Transfer)
Type C1: Relocation due to Hazards
Type C2: Relocation for Better Land-use

(Type A) Area-based transformation projects cover a living area or a zone. These areas are generally determined by public authorities, however people can also apply to public authorities after determining their transformation zones. *Type A* projects contain three different subtypes: *(Type A1) area-based rehabilitation*, *(Type A2) area-based redevelopment*, and *(Type A3) area-based regeneration*.

(Type A1) Area-based rehabilitation targets physical improvements of living areas by renovating them rather than demolishing and rebuilding. Changing facades of buildings, improving sidewalks, planting trees and flowers, painting walls, opening up squares and setting up artistic monuments can be some examples for the rehabilitation approach.

(Type A2) Area-based redevelopment targets physical renewal of neighborhoods through major construction works. The motivation for these projects is mainly the earthquake threat in Turkey. Deteriorated or low quality buildings become very vulnerably against earthquakes and renewal of these buildings save the lives. Considering the statistical potential of a major earthquake within every 10 years in Turkey together with millions of low quality and deteriorated dwellings in cities, renewal of those neighborhoods is considered to be a race against time.

(Type A3) Area-based regeneration targets the improvement of living spaces with the consideration of physical, social, economic and environmental aspects. Urban regeneration can only be done with area-based projects, rather than building-based projects. There are three subtypes of this approach:

(Type A3a) Regeneration of squatter settlements or unauthorized development areas: There are large squatter settlement areas in many metropolitan cities in developing countries. In the Turkish case, these areas emerged due to the large rural-to-urban migrations and lack of affordable housing supply during the 1950s-1990s period. The newcomers who could not find a home constructed squats generally on the state lands. Step by step, those squatter areas grew and became neighborhoods and even districts especially in Istanbul, Ankara and Izmir. Regeneration initiatives of those areas hold an important part in the Turkish regeneration experience. Squatter and unauthorized development areas have lack of public facilities, insufficient transportation, lack of police security and very low construction quality. Poverty and

low education is highly seen. Therefore, regenerating those areas should not only improve the building quality, but also solve the social problems.

(Type A3b) Regeneration of deteriorated formal sites (slums): Formal inner city neighborhoods can turn into decay areas because of many different reasons. One version is that the building quality in a neighborhood may drop to a level where higher income residents prefer to move away and leave the neighborhood and those available homes are filled up by lower income people. Without proper maintenance, the values can keep going down, and eventually they attract even lower income groups. The results are unpaid rents, unpaid maintenance fees, decreasing municipal services such as street cleaning. Also, due to economic downturn and large job-losses, the residents of a neighborhood can face economic problems and looking after their neighborhood becomes an extra burden. Together with the incoming low income and low educated people (disadvantaged communities), this situation actually provides organizations with a chance to attempt social, educational and economic improvement and development initiatives. Therefore, designing regeneration projects with the consideration of physical, social and economic aspects can be relevant in these areas, rather than physical redevelopment only.

(Type A3c) Regeneration of formal sites not responding to current needs: As explained above, urban regeneration approach targets more than physical improvement only. For instance, an area may not have social or economic problems, but may have environmental and health problems. For instance, a formal neighborhood may have been seen "nice" in the past in terms of the size of public use areas such as roads, sidewalks and parks or green areas. The previous town planning decisions may have been fine in the past, but the increasing population and building density require larger open and green areas. Therefore those formal neighborhoods can become insufficient for today's needs. It can also be a flagship project for a strategic location. Those projects increase the value of the town and help attract more capital.

(Type B) Building-based transformation is associated with urban regeneration in Turkey, however it cannot be considered as "regeneration". Because renewing a single building cannot be considered as regeneration by ignoring other needs. However, building-based renewal has an important function in Turkey that cannot be overlooked: saving people's lives in case of an earthquake. Due to the great risk of

earthquakes on the Turkish terrain, deteriorated and low quality buildings, even though they can be formal buildings, are required to be renewed before an earthquake disaster occurs. Building-based approach has two subtypes:

(Type B1) Building-based rehabilitation: Many buildings in Turkey become "tired" due to aging and lack of maintenance. Rehabilitating without demolishing an aging inner city building can improve the aesthetic of not only the building but also the neighborhood. The facades can be improved, units can be redesigned and structure can be supported by extra reinforcement bars. The rehabilitation therefore can increase the value of the building and also the neighborhood as well. Rehabilitated buildings can also provide a resistance for earthquakes and save people's lives.

(Type B2) Building-based redevelopment: Many formal inner city buildings lack building quality because of the use of low quality materials and engineering from the start, or, due to aging because of lack of proper maintenance and previous earthquakes make them ware out in Turkey. With the consideration of the earthquake risk in the country, renewal or redevelopment of those buildings is a must, otherwise they can literally collapse.

The last group is the relocation of living spaces rather than regeneration. *(Type C) Urban relocation* can either be required when there is a case of natural hazard, such as land sliding or flooding in a neighborhood, or, when there is a better land-use option for a specific area. Therefore it has two subtypes:

(Type C1) Relocation due to hazards: Buildings can be built on dangerous lands if no initial ground investigation is made. For instance, without proper geological tests and soil survey, buildings can be built on sliding lands or on river beds. If this is the case, the area must be evicted as soon as possible before the emergence of any disasters. Those living spaces, whether a neighborhood or a building, can be transferred to somewhere safer.

(Type C2) Relocation for better land-use: City councils or other public authorities may decide to change the use of an area for a greater benefit. For example changing the land-use type of an area from residential to industrial. In this case, the whole area should be relocated somewhere else and it can have similar issues as in Type C1 projects. Therefore *urban relocation* projects bring many new questions such as where the new settlement will be, its finance, its design, ownership transfers etc.

This typology is developed to cover all kinds of transformation initiatives in urban areas. The use of this typology can help authorities to identify their goals and publicly announce their purposes in a clearer way to dissolve ambiguities.

2.2 The Main Needs for Urban Regeneration

Turkey is facing a series of urbanization problems dating back to the 1950s. Rapid and uncontrolled urbanization has emerged due to the rural-to-urban mass migrations since that time. Job opportunities in metropolitan cities attracted millions of unemployed rural migrants with the hope of finding new livelihoods. However, there had been a lack of affordable housing supply resulting with the occurrence of squatter settlements, unlawful development, low quality apartment buildings, lack of green areas, narrow traffic and pedestrian roads, lack of car parking lots, traffic jam and so on [13; 14]. The top three largest cities of Turkey, namely Istanbul, Ankara and Izmir are suffering those problems the most [15]. In addition to that, the earthquake risk is toughening the situation even more. An overview of some important needs for urban regeneration in Turkey is summarized below.

2.2.1 Earthquake Risk

According to the estimates, there are around 19 million dwellings (including illegal ones) in Turkey [16]. The majority of them were built earlier than 1999 [17], and large part of those buildings do not comply with the current earthquake regulations. It means the majority of them were poorly constructed [18] when there were huge housing demand and insufficient supply. In that period, any failure or slowness in affordable housing supply immediately turned into unauthorized development or squatter settlements, therefore every sides took its share and turned a blind eye to the quality of constructions. Homeowners wanted to have their buildings fast, contractors wanted to build the buildings fast, and local authorities simply ignored and leave the responsibility to the contractors' and land owners' shoulders. In addition to that, many homeowners simply did not pay attention to the needs of their buildings, ignored the maintenance requirements to slip away from the maintenance costs as if they were unnecessary cosmetic expenses. Therefore, many buildings had been built poorly from the very start, and have not been taken care of well until today.

Aging has a negative effect on building quality if they are not maintained properly. This is a common problem of current Turkish housing stock. Periodic facade maintenance and repair can protect buildings from cracks which are one of the most important threats for building safety. Because simple cracks let in moisture and they can get deeper until they reach the steel in reinforcement bars and cause corrosion. This is one of the many reasons that make buildings very vulnerable against earthquakes.

Large part of Turkey lays on earthquake zones (Figure 2.1), and around one third of the total dwelling units in the country is estimated to be non-quake-proof and needs to be renewed [19]. Therefore being prepared to earthquakes is considered by many as the first and most significant goal of urban regeneration in Turkey which differentiates it from many other countries in the world. The threat of earthquake may seem vague without remembering the past devastations; Table 2.2 lists the great earthquakes that occurred in Turkey from 1900 to 2015, each of which caused more than five hundred life losses. There were also many other earthquakes in that period which caused deaths less than five hundred people as well. The statistics show that, within almost every ten years there were a great earthquake that took lives and also damaged buildings in the country [20]. Now taking this fact into account, the urban regeneration issue in Turkey is dominated by the anxiety of earthquakes due to having a great number of unsafe buildings, rather than other forms of needs.

Rather than holistic area-based regeneration projects, building-based redevelopment approaches are largely implemented in Turkey primarily because of the earthquake risk. There are hundreds of thousands of structurally unsafe buildings inhabited by millions of citizens in earthquake zones in the country which are in desperate need of physical renewal. It is a fact that statistically another great earthquake disaster is at the door.

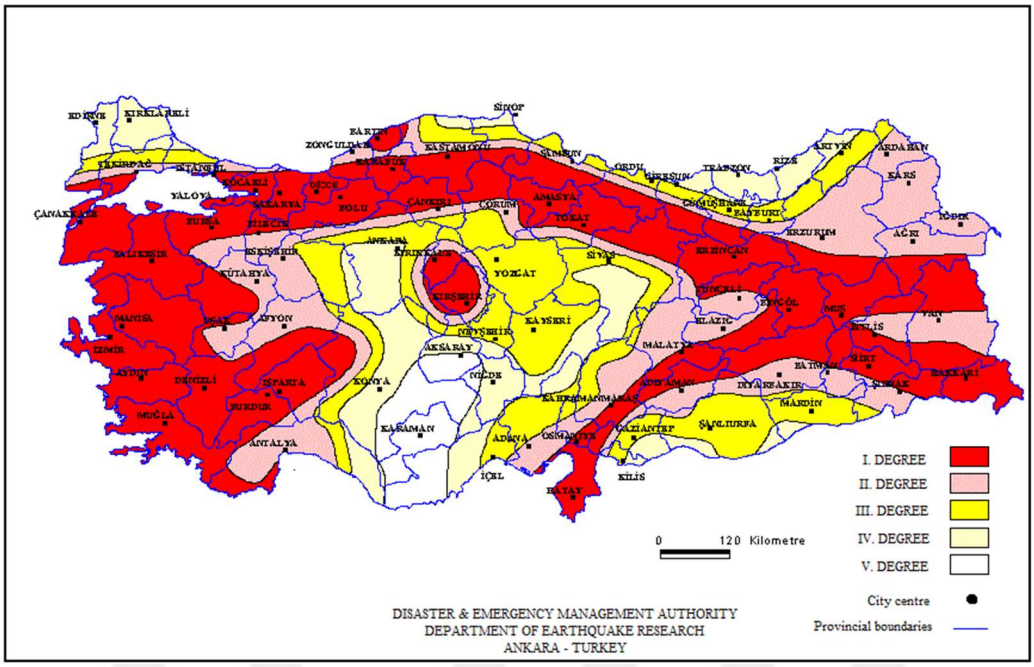


Figure 2.1 : Earthquake Hazard Map of Turkey [21].

Table 2.2 : Earthquakes in Turkey between 1900-2015 that caused more than 500 deaths [20].

DATE	PLACE	MAG(Ms)	DAMAGED BUILDINGS	DEATH
29.04.1903	Malazgirt (Muş)	6.7	450	600
07.05.1930	Türk –İran Sınırı	7.2	-	2514
27.12.1939	Erzincan	7.9	116720	32968
20.12.1942	Erbaa (Tokat)	7	32000	3000
27.11.1943	Ladik (Samsun)	7.2	40000	4000
01.02.1944	Gerede-Çerkeş (Bolu)	7.2	20865	3959
31.05.1946	Varto-Hınıs (Muş)	5.9	3000	839
19.08.1966	Varto (Muş)	6.9	20007	2396
28.03.1970	Gediz (Kütahya)	7.2	19291	1086
22.05.1971	Bingöl	6.8	9111	878
06.09.1975	Lice (Diyarbakır)	6.6	8149	2385
24.11.1976	Muradiye (Van)	7.5	9232	3840
30.10.1983	Erzurum – Kars	6.9	3241	1155
13.03.1992	Erzincan	6.8	8057	653
17.08.1999	Gölcük (Kocaeli)	7.8	73342	17480
12.11.1999	Düzce	7.5	35519	763
23.10.2011	Van	7.2	17005	644

2.2.2 Squatter Settlements

The terms “squatter areas” (in Turkish, *gecekondu alanları*) and “slums” are used interchangeably [22]. In this study, the “slums” term is used for the formal buildings in inner-city decay areas. Due to the physical deterioration, prices and rents in slum areas decrease and thus become attractive areas mostly for low income people. Slums can be seen anywhere in the world whether in the developing or developed countries. “Squatter areas”, on the other hand, are the areas where illegal settlements arise in time with constructions of buildings illegally on government -or third party- owned land without consent of the owners [23-25]. By nature, these areas are illegal, unplanned and spontaneous neighborhoods (Figure 2.2).

Figure 2.2 : A photo from a squatter area in Izmir (Photo taken by Yunus Konbul in 2015).

Starting from the 1950s, mechanization in agricultural technology caused large job-losses and unemployment in the rural areas. New industrial factories, in the same time, were built in the peripheries of large metropolitan cities. With the hope of finding a job, large migrations occurred from rural to urban areas. The problem was that there was not enough housing stock to accommodate the massive newcomers. Neither the private sector nor the state could provide sufficient number of affordable housing. Therefore newcomers built their houses particularly on state-owned lands

[13; 14]. The governments and municipalities compulsorily condoned this illegal housing activity by acknowledging the sheer difficulty that the newcomers faced. In the course of time, the squatter houses eventually turned into squatter neighborhoods and even into districts in the metropolitan cities. Today, there are some studies which show that around 50% of many metropolitan cities in Turkey consist of squatter settlements and also unauthorized buildings (unauthorized buildings will be explained in the following section) [14; 26].

Squatter sites are very problematic areas. Squatters do not only suffer from living in dangerous buildings due to low quality construction materials and methods but there are also social, economic and environmental problems. Most of the squatter "neighborhoods" in Turkey receive municipal services such as sanitation and electricity, however, because of unplanned settling of those buildings, traffic roads are narrow; pedestrian roads, open and green spaces and setbacks of the buildings from the roads and empty spaces between buildings almost do not exist in those neighborhoods. From the cadastral perspective, land parcels in squatter neighborhoods are generally owned by the state, however there are also occupied lands which originally belong to natural or legal persons and foundations. Informal sector is highly seen in those areas and it is a common problem that their residents suffer from low education, low income, and economic problems. Therefore regeneration of those areas is very critical.

2.2.3 Unlawful Development

Another important distinction is required to be made between "squatter areas" and "unauthorized development areas" (in Turkish, *kaçak yapı alanları*). Unauthorized development areas differ from squatter areas in terms of land ownership. Unlike squatters, owners of unauthorized buildings are actually owners of the land parcels on which the buildings are constructed. However their buildings are unauthorized or illegal which occur due to illegal subdivision and unauthorized construction [14; 15; 26]. In order for a building to be legal, it needs to obtain two permissions, (i) a construction permit in order to begin to construct, and (ii) a habitation certificate in order to start using it after the completion. Due to the rapid and unplanned urbanization in the last couple of decades, large part of the building stock constructed in that period have not been registered. According to a study, only 62% of all

housing stock has construction permits, and only 33% has habitation certificates in Turkey [27].

Even though their extent and intensity may vary, unlawful development areas have common problems with squatter areas such as poverty and low education, low construction quality, narrow and unplanned roads, lack of sidewalks and building setbacks, lack of open and green spaces, lack of parking lots, low quality municipal infrastructures such as water and electricity, lack of police security, and so on [15; 24]. Unauthorized development areas will be analyzed deeply in the property rights perspective in the following sections (Figure 2.3).

Figure 2.3 : A photo from another decay area in Izmir. (Photo taken by Yunus Konbul in 2015).

The housing shortage mentioned above caused not only squatter settlements but also unlawful or unauthorized development. Owners of agricultural land parcels which are close to city centers built buildings without getting construction permits. Illegal subdivision also took place by subdividing and selling land parcels without getting recorded in the land registry books. Therefore today there are buildings constructed without permission, and also buildings constructed on land parcels owned by someone else in the land registry due to not informing land registry administration

about the sales. Urban regeneration on those areas can help improve physical and social problems and provide healthy and sustainable living spaces for their inhabitants, and also help update land registry records.

2.2.4 Housing Need

Housing is the driver and the crucial ingredient of urban regeneration and renewal programs [1; 28] in Turkey. There is a huge housing need especially in metropolitan cities of Turkey mainly because of the fact that the large part of metropolitan cities consist of squatter settlements and unauthorized buildings, demolition of buildings through earthquakes, and most importantly population growth through natural increase and in-migration. Population growth puts 1,5 million people on average every year in urban areas [16]. The low quality and unhealthy housing stock constitute around 50% of the metropolitan housing stock and are mostly owner-occupied [14; 26; 29]. Today private developers are very active in supplying the demand and it can be seen from the intolerance of authorities towards squatting and unauthorized development. However, the response of local authorities to supplying the housing needs has mainly been granting new housing provisions in the peripheries of cities rather than transforming and bringing out the hidden potential of misused inner city sites (i.e. squatter and unauthorized development areas) through urban regeneration projects due to the technical and political difficulties of bringing this illegal housing stock into the legal system.

Instead of regenerating inner city decay areas, provision of development far from the city centers causes two problems. The first one is that the development in the peripheries require urban facilities of all sorts (from roads to sewage systems) and it puts financial weight on the limited budget of local authorities. It also increases energy consumption and transportation costs because of commuting [30; 31]. The second problem is that the illegal housing stock (about 50% of all) in metropolitan cities is not marketable. Those estates are not changing hands regularly and they are mainly used by their owners. This means the 50% of the housing stock is not circulating in the housing market and it serves mainly to their owners and their families, not to the general community. Because of this, there is a greater competition on the legal 50% by the general community including squatters and unauthorized building owners and their distances to the centers are increasing every

day through new provisions in the peripheries. The competition on the legal 50% results in high prices and high rents, higher commuting costs and it is the low-income families in the legal realm who bear the aftermath.

Transforming illegal housing stock into the formal system through urban regeneration does not only help reduce costs, reduce home prices and rents, but also improve social conditions of their inhabitants and stimulate economic improvement through new investments and new job opportunities [1; 7; 32].

2.2.5 Physical, Social, Economic and Environmental Reasons

Design and maintenance of buildings are not simple cosmetic issues. Aesthetic plays a very important role in the establishment of healthy built-environments. Physical appearance of neighborhoods and cities are strong symbols of their comfort and well-being of their inhabitants. Lack of maintenance of formal buildings cause unaesthetic physical environment. Unaesthetic living spaces affect residents negatively, it reduces their self-esteem and sense of belonging. When neighborhoods become unattractive places due to physical deterioration, it repels people from living there. Affluent people who have options gradually leave their neighborhoods for a better place. It also prevents entrepreneurial incentives. It directly decreases property prices and job losses occur because enterprises leave those neighborhoods for better places that they can make better business. The vacant homes attract lower income people, and this goes on until the neighborhood turn into a ghetto. Therefore, physical deterioration gradually makes beautiful neighborhoods into concentration centers of poverty and neglect. Physical transformation is a very important ingredient of regeneration initiatives [1]. Because, worn-out buildings repel investments, decrease real estate values and self-esteem of the inhabitants of their neighborhoods [33].

Social and economic problems can be addressed in holistic urban regeneration projects. Increasing educational opportunities can help low-income residents develop new professional skills and increase their job searching skills. These educations can help them learn how to use their limited earnings more effectively, how to save money without falling into the unnecessary consumption behavior, how to use their saved money back in their education again to learn even more money-earning skills in an upward spiral. Health problems can be addressed basically by improving the environmental conditions of the neighborhoods, by simply increasing the number of

hospitals, green fields, play grounds and recreational areas [1]. These are all common facts that should be considered in regeneration areas around the world and so they are required in regeneration projects in Turkey as well (Figure 2.4 and Figure 2.5).

Figure 2.4 : Current situation of an unauthorized development area in Izmir [34].

Figure 2.5 : Images of the new project for the above mentioned area [34].

2.2.6 Regaining Historical Assets

There are many examples in Turkey that historical sites are covered with concrete buildings and squatter settlements. In many places, those valuable assets almost unreachable and invisible. They can be uncovered and reclaimed for the city by

implementing regeneration projects in those areas by simply removing the damaging features and put forward those assets for the tourism and city culture [11; 35].

2.3 Legal Basis of Urban Regeneration

Urban regeneration projects are large development projects which contain lots of legal concerns. These projects cannot be implemented without a legal basis [36]. In Turkey, there are three main laws concerning urban regeneration projects. Those are; the *Municipality Act; Renewal of the Areas under Disaster Risk Act;* and *Renovation, Conservation and Use of Dilapidated Historical and Cultural Immovable Assets Act.*

The Municipality Act (Year: 2005, No: 5393): Clause 73 of the Act authorizes municipalities to implement urban regeneration projects within their purviews. It outlines how municipalities can carry out regeneration projects [37].

Renewal of the Areas under Disaster Risk Act (Year: 2012, No: 6306): This law was enacted mainly to facilitate the renewal of dilapidated buildings in inner city areas. When considering the risk of earthquakes, the idea behind this Act was the speeding up the renewal of dilapidated buildings before an earthquake hits them. It serves for other types of hazardous situations as well, such as land-slides or flooding. The Act allows authorities to give financial support to people whose homes are demolished according to this Act. The financial supports can be credit support and rental support, giving each right-holder a predetermined amount of money monthly for their rental expenses for a period of time until their new homes are built [38].

Renovation, Conservation and Use of Dilapidated Historical and Cultural Immovable Assets Act (Year: 2005, No: 5366): The purpose of this Act is to regain the cultural and historical assets that are surrounded with legal or illegal buildings. It targets the regeneration of historical areas, in order to make a healthy living space and also increase the accessibility of the urban assets. Increasing accessibility will not only help urban cultural advancement but also increase the tourism which can generate more retail income for the area. It is called the *Renovation of Historical Assets Act* hereafter in this study [39].

2.4 Organizational Background of Urban Regeneration

According to the legislations, there are national and local institutions authorized to carry out the regeneration projects in Turkey. Local authorities are municipalities for urban areas and special provincial administrations for rural areas. Metropolitan municipalities on the other hand are authorized to carry out regeneration projects in both urban and rural areas within their provincial boundaries. National authorities are the Ministry of Environment and Urbanization, and the Housing Development Administration (HDA). The Ministry is authorized to carry out regeneration projects by the *Renewal of the Areas under Disaster Risk Act*. The HDA is a national housing agency that is independent in its financial investments and reports to the Prime Ministry [15; 40].

2.5 Parties of Urban Regeneration

There are three main actors in the area-based urban regeneration projects: The authority, the stakeholders and the developers (contracting companies) (Figure 2.6). The authority represents national or local regeneration authorities who lead and control the projects. Developers are private companies carrying out the construction works. Stakeholders are owners or right holders in real properties in the regeneration areas. However the term "stakeholders" can also be used for a more general way, such as for non-profit organizations defending the right holders in the project areas. There can also be environmentalist groups to protect the environment and the groups that have architectural concerns to protect city culture. However in this study, the "stakeholders" term is used to mention real estate owners, right holders, squatters and tenants in regeneration projects.

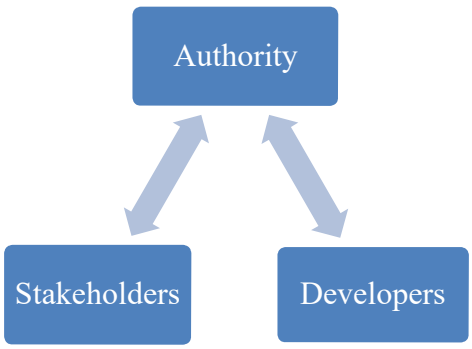


Figure 2.6 : Parties in area-based regeneration projects.

In building-based renewals, however, the projects are generally carried out between stakeholders and developers. Owner(s) of a building can contact to a developer in order to renew the building.

3. REAL ESTATE ISSUES IN TURKISH REGENERATION PROJECTS

This section analyzes the issues that are experienced during the implementation of the urban regeneration projects in Turkey. It starts with identifying different types of real estate possession. Then, it continues with the issues of determining stakeholders and their development rights, pressure to increase building density, ownership transfers, compulsory renewal of at-risk buildings, condominium owners, land share problems on the condominiums, renewal of buildings with liens and encumbrances, expropriation and determination of regeneration area boundaries.

3.1 Types of Real Estate Possession in Turkey

Turkey has a capitalist free market economy which grants legal or natural persons to own real estate. The lands can be owned by official authorities and organizations, legal and natural persons and foundations in the country.

"Real rights" are defined as the rights that give authorization to the right-holder to gain dominance over the thing, that can be defended against others, and therefore everyone is obliged to abide those rights. In the Turkish laws, there are four types of real rights: "ownership (*mülkiyet*)", "easement (*irtifak*)", "land charges (*taşınmaz yükü* or *gayrimenkul mükellefiyeti*)" and "pledge or lien (*rehin*)". Ownership is the most powerful type of possession among them. The owner can own the thing, use it, gain its fruition (*semerelerinden faydalanma*), ask legal protection for it against the third parties actions. Real rights other than ownership can only include one or few of these rights [36; 41].

"Easement", on the other hand has different types. Those are "usage right (*intifa*)", "right of habitation (*sükna*)", "right of construction (*üst hakkı*)", "mineral rights (*kaynak hakkı*)" and "other easements" [42]. Types of land possession are either formal ownership with a title, or it can be invasion. Building possession (dwelling or workplace), on the other hand, includes more complicated types of possessions in Turkey. In addition to legally owning a building, there are also squatting, unlawful development and also development amnesties in the country, each of which must be clarified.

Even though construction of illegal housing is almost over today, there is a very slow-paced construction of unauthorized structures especially in squatter and unlawful development neighborhoods because it is difficult to detect them by authorities very quickly when they are built slowly and quietly and their neighbors do not snitch on them.

Both squatter areas and unauthorized neighborhoods are illegal. The buildings in those areas do not have construction permits and habitation certificates. There are also "unauthorized floors" which are constructed on existing formal and authorized buildings without municipal permissions. These are also another type of illegal housing.

In summary, a squat is an illegal structure that is built by someone on another person's land (preferably public lands) without the land owner's approval. The squatter only owns the building material and other commodities such as planted trees and vegetables, for that matter, but do not have any ownership or usage rights on the invaded land. Unauthorized buildings and floors on the other hand are also another type of illegal housing because these buildings do not have municipal permissions and do not comply with land-use decisions and buildings codes. However they are constructed by the land owners, instead of invasion of another person's land.

Some people may raise the question of "Why have authorities let people build those illegal buildings?" Firstly, those structures were built in extraordinary circumstances of massive migrations and housing shortages. That is why the previously built squats generally received some sort of official usage permissions and the ones that do not have those permissions solely depend on hope and *de facto*. For the newly built squats and unauthorized buildings and floors (although especially construction of squats significantly rare today), when authorities detect them and send their bull-dozers to the area to demolish those illegal structures, what generally happens is that squatters and especially unauthorized building owners (since they own the land and they think that they should be free to build anything upon it) react very fiercely and riots arise. It can even turn into low-intensity warfare in the streets between squatter activists against state police and municipal officers. When the disturbance come up in the news in visual and written media, general viewers around the country see the pity images, and what they generally perceive is that houses of poor people are destroyed by the state and they are left outside in cold streets. Therefore, due to

political and humanitarian reasons, authorities are reluctant to implement forceful actions in squatter and unlawful development areas. However, it also became a common knowledge today that authorities will not let squatters and unlawful development owners get away with it, thus the reluctance of squatting and also of constructing illegal buildings can also be seen clearly. In fact, it is empowered by the amendment in the *Turkish Penal Code* in 2004, in Article 184 stating that "*Any person who constructs ... a building without obtaining license ... is punished with imprisonment from one year to five years*."

3.1.1 Development Amnesty in Turkey

There is another important aspect of real estate ownership in Turkey which complicates the situation even more. There were a number of legalization attempts for illegal structures in the previous decades in the country. The most notable one is the *Act No.2981 of 1984* known as the "*Development Amnesty Act*" enacted in order to legalize unlawful development and squatter houses that were built on public or private lands illegally, and also to provide ownership for the invaded lands on which squats were constructed [43]. The idea behind the law was to support low income people for their housing needs in extraordinary circumstances due to the huge housing demand and lack of supply. And also if those squats were legalized, then squatters could be provided tenure security and they could invest in their houses to improve them physically; local taxes could be collected effectively and more transparently [15], the dead capital of squats could be reactivated [32] and eventually the illegal but highly common property problem could be resolved to a degree. The law covered only the squats and unauthorized buildings that were built earlier than the enactment dates of the law. According to this law, in certain circumstances, squatters cannot be forced for eviction, and cannot be imposed *mesne profits* or *usage charges* for the occupied lands until they are provided a home or a land for their housing needs.

One of the most important innovations in the *Development Amnesty Act (1984)* was the introduction of the "*title allocation document (TAD)*". The *title allocation document (TAD)* is an official document which grants a personal usage right to its holder for the squatted land if their squat was in the frame of the *Act*. Granting TADs was the initial phase towards granting a formal title for the occupied land. TADs

have given security for tenure to squatters to some extent until local authorities make improvement plans for the occupied lands which belong to the Treasury, municipalities, special provincial administrations and the General Directorate of Foundations. TADs are not regular title documents, instead they are signs of possession that acknowledge the existing usage and provide special personal usage right to the holder to a certain degree [44].

The *Development Amnesty Act* outlined a set of procedures for the full legalization of squatter settlements and unlawful development. The problem is that some people completed those procedures and fully legalized their buildings and received their titles for the occupied lands, some of them commenced the procedures but have not completed them and thus could not receive the land titles, and some people did not even apply to it or their structures could not be covered by the Act due to technical reasons.

The first stage of the legalization procedure was receiving TADs. In order for the holder of a TAD to gain the full ownership and receive a formal title for the occupied land, there were certain prerequisites to be fulfilled. In order to convert a TAD into a title, the most important prerequisites can be summarized as follows:

1. Holding a valid TAD;
2. A development plan (zoning plan) or improvement plan for the squatted area must be made;
3. Applicant must not own another land title or a TAD somewhere else;
4. The occupied land must be situated in residential-use area in development or improvement plans, i.e. it cannot be situated on a public-use area such as on a road or a green space on the layout plan; and
5. The price of the occupied land must be paid.

Making a development (zoning) or improvement plan is the responsibility of local authorities. However, the problem today is that many squatter “neighborhoods” still lack a development or improvement plan. Therefore those squatters cannot obtain their legal titles. In this case, squatters blame local authorities for not doing their responsibility. However, according to the Act, TADs are not formal ownership documents. Therefore TAD holders cannot file a lawsuit against authorities to

receive a title, which means that courts cannot order authorities to give squatters a formal title for the occupied lands based solely upon holding a TAD [44]. Holding a TAD does not guaranty obtaining a formal title due to such technical reasons as explained above. Another problem is that some squatters may have applied to receive a TAD, but somehow did not receive it. However, they expect the same relevance as TAD holders, and authorities generally accept them as TAD holders.

Because of the incomplete legalization procedures as explained above, three types of squats emerged in Turkey:

a) Legalized squats;

b) Semi-legalized squats; and

c) Non-legalized squats.

Legalized squats are, since they are legalized, formal and legal buildings, there is no difference between a legal building and a legalized squat in the legal perspective. The owners of legalized squats bought the occupied land through the *Development Amnesty Act*, and received municipal permissions and habitation certificates for their structures.

Semi-legalized squats occur when the legalization procedure is not completed due to personal or technical reasons. The reason why they are called "semi-legalized" is that the owners of these buildings (or squatters) have a TAD, and it gives them a usage right and a guaranty that they will not be evicted and their squats will not be demolished unless another place is allocated to them. There are also people who applied to benefit from the *Development Amnesty Act* but did not receive their TADs. They are generally considered as TAD owners anyway.

Non-legalized squats are illegal buildings that their owners did not apply to benefit from the Act, or they were built after the enactment of the Act. Because the Act only covered those squats that were already built before the enactment of the Act.

Some of the unauthorized buildings and floors were legalized by changing their development plan decisions and they received construction permits; some of them were not legalized and left illegal because either their area do not have a development plan or the existing plans are not readjusted for the current usage (such as increasing building heights to open the way for legalizing excessive illegal floors).

3.1.2 Types of Building Possession

There is also an incomplete condominium (in Turkish, *kat mülkiyeti*) ownership process problem in Turkey. In the Turkish legislation, the preliminary contract for establishing condominiums is called “floor easement” (in Turkish, *kat irtifakı*). Floor easements are established and used before inhabiting the condominium units. When the construction is complete and “habitation certificates” (which are issued by local authorities) are obtained by each condominium unit owners, these floor easements are transformed into condominiums and it makes each condo-unit as an independent freehold real estate. However many apartment buildings in Turkey do not have habitation certificates and therefore their owners have an incomplete condominium ownership, i.e. floor easement. According to the laws, buildings that do not have habitation certificate cannot be provided municipal services such as water and electricity. However, considering the massive squatting problem in the metropolitan cities, ignoring (i.e. implicit approval of) the activity of squatting and providing them municipal services, but on the other hand asking habitation certificate for formal buildings and not providing them municipal services until they get those certificates would be irrelevant. Therefore obtaining habitation certificates were left to the desire of apartment building owners and they were provided municipal services, even though this is a violation of the law. Main reasons of why there are so many buildings without habitation certificates are neglect and economic reasons. Because when obtaining a habitation certificate for an apartment unit, there is a fee to be paid to the local authority. Many people chose not to pay that money and keep using their units without any obstacles. They can sell and buy those estates freely because there is no legal obstacle to selling or buying those units. Also, there are buildings which could not receive habitation certificates because of not complying their original architectural and engineering projects. Even minor differences can prevent getting the certificate until improving them.

With the consideration of all these different types of possessions, possession of buildings in Turkey can be categorized as:

a) *Formal ownership:* Houses, legalized squats, condominiums, workplaces;
b) *Incomplete condominium ownership:* Floor easement;
c) *Unauthorized buildings and floors*: They own the land but their structures are unauthorized;
d) *Squats with TAD; and*
e) *Squats without TAD.*

These are types of building possessions in Turkey and defining their rights in regeneration projects is one of the most important difficulties that hinder or even block regeneration initiatives.

3.2 Determining Stakeholders

This section describes potential stakeholders in Turkish urban regeneration projects and the rights given them. After determining a regeneration area, in order to identify the stakeholders, firstly the people who live there or have real property right in that area must be analyzed. The potential residents of a neighborhood can be all listed as below.

1) House owners
    a. A person may have title of his/her land parcel and the building constructed on the parcel with construction permit and habitation certificate.

Land Title	Construction Permit	Habitation Certificate	Type of Possession
+	+	+	Legal Building

    b. A person may have title of his/her land parcel and the building constructed on the parcel with construction permit but without habitation certificate.

Land Title	Construction Permit	Habitation Certificate	Type of Possession
+	+	-	Non-habitation-certificated Building

c. A person may have title of his/her land parcel and the building constructed on the parcel without construction permit and habitation certificate (unauthorized buildings or floors).

Land Title	Construction Permit	Habitation Certificate	Type of Possession
+	-	-	Unauthorized Building

2) Condominium owners

a. A person may have a share from a land parcel and his/her condo-unit may have a construction permit and habitation certificate.

Land Title	Construction Permit	Habitation Certificate	Type of Possession
+	+	+	Condominium

b. A person may have a share from a land parcel and his/her apartment-unit may have a construction permit but may not have a habitation certificate. So it is still in the *floor easement* phase and therefore *condominium agreement* is not established.

Land Title	Construction Permit	Habitation Certificate	Type of Possession
+	+	-	Non-habitation-certificated Building or Incomplete Condominium (i.e. Floor Easement)

c. A person may have a share from a land parcel and the building constructed on it may have neither construction permit nor habitation certificate.

Land Title	Construction Permit	Habitation Certificate	Type of Possession
+	-	-	Unauthorized Building

3) Squat owners

a. A person may apply to benefit from the *Development Amnesty Act*, get a TAD, follow the procedures and purchases the occupied land,

get a title for his/her land, and receive a construction permit and a habitation certificate for the structure.

Land Title	Construction Permit	Habitation Certificate	Type of Possession
+	+	+	Legalized Squat (Legal Building)

b. A person may apply to benefit from the *Development Amnesty Act*, get a TAD (usage permission), but may not (or cannot) complete the procedures. Therefore he/she may have neither a title, nor a construction permit and a habitation certificate.

Land Title	Construction Permit	Habitation Certificate	Usage Permission (TAD)	Type of Possession
-	-	-	+	Squatter with usage permission

c. A person may not apply to benefit from the *Development Amnesty Act*, or his/her squat may not be covered by the Act. Therefore the building and the occupied land is completely illegal.

Land Title	Construction Permit	Habitation Certificate	Usage Permission (TAD)	Type of Possession
-	-	-	-	Squatter without usage permission

4) Land Owners
   a. Solely land parcel ownership with title.
   b. Common land parcel ownership with title.

5) Tenants

3.3 Determining Development Rights of Stakeholders

There is a great difference between stakeholders-led projects and authority-led projects in terms of determining "participation shares" (the contribution of real

property of the stakeholders to the project) and “distribution shares” (the distribution of real property rights in a project back to the stakeholders) in Turkey [45].

In stakeholders-led regeneration projects, the right holders in the area decide on their own to have their neighborhood regenerated or renewed, and they realize the project together. If the project is financed by developers completely or if it is carried out by mixed method such that some amount of the project expenses is paid by the residents and the other part is paid by the companies, hard-bargaining negotiations are conducted between stakeholders and developers. By nature, both residents and companies try to maximize their own profits from the project. In this case, residents can talk to different companies and eventually companies try to outbid each other by giving up some of their profits. If the project is planned to be financed by the right holders completely, then the determination of who-gets-what is made by hard-bargaining negotiations among stakeholders. The negotiations of the stakeholders can be more personal. They can negotiate their shares by using secondary contracts with each other, such as one resident can give some amount of money to another to get the larger dwelling unit, for instance. Also, in stakeholders-led projects, the old buildings to be demolished would probably have no value in the calculation of participation and distribution shares of each resident. Because those buildings are going to be demolished, they do not add value to the new project, instead their demolitions cost money. Therefore, set aside adding value, there would even be a deduction of value from the participation shares of building owners due to the demolition and excavation costs that is left to the shoulders of the building owners. Therefore, mainly the rights on land parcels would be important when determining the participation share of each right holder, not to-be-demolished old buildings.

However, when a regeneration project is decided by a regeneration authority in an area by using its regulatory power, this is a far more difficult approach than the stakeholders-led approach, because most probably there can be less motivation for the right holders. There will be need for more effort of the authority to increase right holders’ motivation not only in monetary but also in psychological terms. Otherwise, the residents may refuse the project and their refusal can directly block the entire program. For instance, even though it is not clearly stated in the regeneration laws, it is almost always expected by stakeholders that their to-be-demolished old buildings should be taken into consideration and should be added on their participation shares

under the principles of the *Expropriation Act*, as if their properties are expropriated rather than renewed. Because this obviously increases their participation shares and so they will be able to receive larger pieces from the development gain. Judiciaries also tend to think this way, and it is prevalent in many court decisions as well.

This study primarily focuses on authority-led regeneration projects. The calculations of participation and distribution shares of the stakeholders are analyzed in the following sections from this perspective. The size of the floor area of a stakeholder that he or she receives from a regeneration project is called "distribution share" or "floor area right" in this study. There is no regulation or an official guideline which outlines how the calculation of floor area rights of stakeholders should be in Turkey. Therefore, every local or national regeneration authority makes those calculations on their own and they do not publish which method they use. A method that's being used by an authority may differ from one another. Example methods are developed in this research by studying and interviewing some regeneration authorities' approaches. In the following sections, some example calculation methods to figure out floor area rights of each property type is explained by using numerical examples.

3.3.1 House Owners

3.3.1.1 Legal Houses

In this example, the calculation of "distribution share" or "floor area right" of a formal house owner are investigated. In order to make it easier to understand, imaginary real estate examples are used.

The person owns a legal house in a regeneration area. The land parcel he/she owns is 200 m^2 in size, and the house has a 100 m^2 size. According to the current planning permission, the land parcel has a FAR (floor area ratio) of 2.0, which gives permission to build (200 m^2 x 2) 400 m^2 total floor area on that land parcel (which means that the owner of the land uses only 100 m^2 part of the permitted 400 m^2 of his or her land). According to the appraisal report, the value of the 200 m^2 land parcel is 100,000 USD (500 USD/m^2), the *replacement cost less depreciation value* of the building is 23,000 USD. Therefore the final value of the total real estate is 123,000 USD. For the new project to be developed, the anticipated *per-square-meter cost value* of the construction (including construction, engineering, entrepreneurial profit, fees etc. except land acquisition) is estimated to be 230 USD/m^2.

Method 1:

The market value of the real estate (land and building combined) is 123,000 USD. In this method, the authority can allocate equivalent dwelling units or stores from the new project that counts for 123,000 USD in total for the stakeholder. It can be, for instance, only one store that has an estimated market value of 123,000 USD (minor differences can be balanced out by taking or giving the difference to one another), or it can be two dwelling units, one is 50,000 USD and another unit of 73,000 USD, thus 123,000 USD together, or another way. The details can be a case of negotiation. In short, the real estate owner receives 123,000 USD worth of units and stores in return.

This method is probably the most equitable way of determining the shares. However, it has some difficulties. The real estate values of the new project are much higher than the values of the old buildings. Comparing the values of old and new homes and stores, the distribution share can get so little if it is strictly based on the values, and the stakeholder can refuse the offer of the authority. And if many of the stakeholders refuse their offers, the project can be blocked. The stakeholder may find it more useful to keep his three old condominium units than getting only one new unit that is worth the three old units combined. Because he may give the other two old units to his married children or he may receive a substantial income from renting them out [7]. Why would he want to let his children go, in order to have only one new unit in return? Stakeholders tend to maximize their benefits from these projects and expect to get as many apartment units and stores as possible in return for their participation shares [29]. Therefore the motivation to accept the lesser offers can be low.

This method can be used differently as well. This time instead of using market value (i.e. sales value) of the new homes and stores, the authority can use the project's *anticipated per-square-meter cost value*. In this method, the value of the real estate is divided by the *anticipated per-square-meter cost value* of the new project:

$$123{,}000\ USD \div \left(230 \frac{USD}{m^2}\right) \cong 535\ m^2$$

The real estate owner can get units or stores from the project for 535 m^2 in total size. Taking the cost value into account (instead of sales value) obviously provides larger floor area rights or distribution shares for stakeholders.

Method 2:

In the second method, the land and building are considered separately. The "*cost value*" (replacement cost less depreciation) of the old building can be divided by the *anticipated per-square-meter (m^2) cost value* of the new project. In our example, the cost value of the old building is 23,000 USD, the anticipated per-m^2 cost value of the new project is 230 USD/m^2.

$$23{,}000\ USD \div \left(230 \frac{USD}{m^2}\right) = 100\ m^2$$

Now, 100 m^2 is the first part of the floor area right (or distribution share) of this real estate owner. The valuation of the land is the second part.

The value of the land is 100,000 USD. This value can be divided by the anticipated average residential and commercial land parcel market value per-m^2 of the new project. It is estimated that the average per-m^2 value of the residential/commercial land parcels of the new project will be 1000 USD/m^2. Then the value of the land parcel is divided by this value in the new project:

$$100{,}000\ USD \div \ \ 1000 \frac{USD}{m^2}\Big) = 100\ m^2$$

This is the second part of the calculation. Finally, the first part of the calculation for building, and the second part of the calculation for land parcel is summed:

$$100 + 100 = 200\ \ m^2$$

is the final floor area right (distribution share) of the stakeholder.

Method 3:

In the third method, the *replacement cost less depreciation value* of the building is divided by the *anticipated project cost per-m^2* of the new project, as was done in the Method 2.

$$23{,}000\ USD \div \left(230 \frac{USD}{m^2}\right) = 100\ m^2$$

The land parcel, this time, is used differently. The land parcel has a 400 m^2 development right according to the current zoning plan. Normally, if there was no regeneration project, the land owner could work with a developer to build a four-

floor apartment building which has a 400 m^2 total floor area. Each floor has one apartment unit of 100 m^2 in this example. The land owner could share this development gain without paying anything to the developer. In the conditions of today in Turkey, the share of the land owner generally falls somewhere between 30% - 60%. In our example, it is 50%. So the land owner could agree on, for instance, to get two apartment units (the ground and second floors), and leave the other two units to the developer. Such contracts between land owners and developers are called "flat-for-land contract", "preliminary purchase contract" or "development gain contract" (*in Turkish, kat karşılığı inşaat sözleşmesi*). The same principle can be applied in regeneration projects. The development gain can be shared among the land owner and the developer for the project costs. In this example, 50% of the development gain of the owner can be deducted for the project costs. In this case:

$$400\ m^2 \times {}^{1}/_{2} = 200\ m^2$$

200 m^2 is allocated for the real estate owner. Finally, the first part (building) and the second part (development rights) of the calculation are summed, the final floor area right of this owner is:

$$100 + 200 = 300\ \ m^2$$

In the conditions of the project, if this amount is not allocable, then the building can be expropriated, i.e. the 23,000 USD can be paid in cash to the owner and the remaining floor are right of 200 m^2 which is derived from his/her land parcel can be allocated (Figure 3.1).

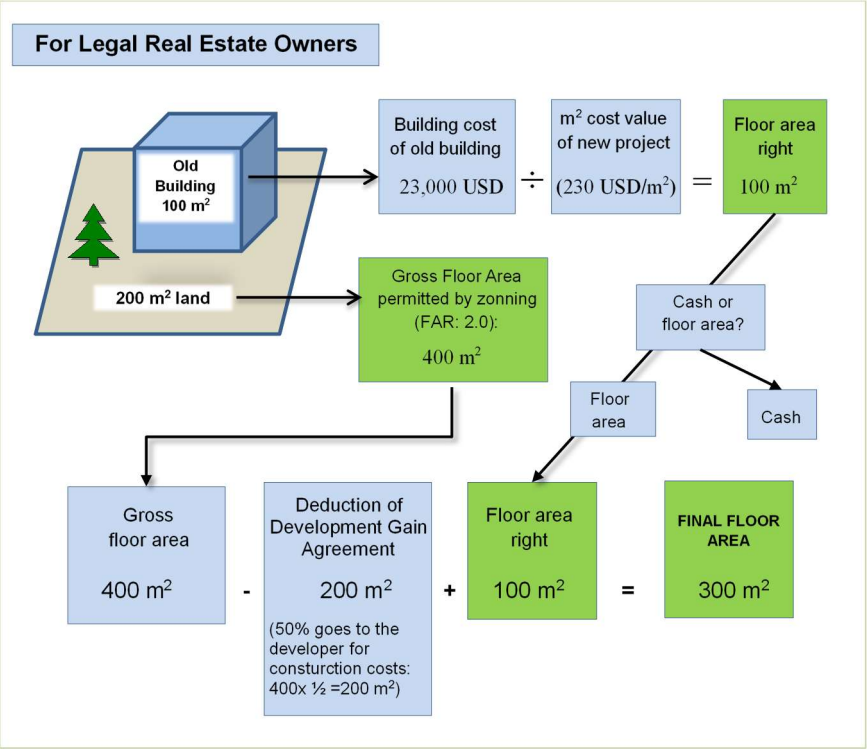


Figure 3.1 : Calculation of floor area rights of legal house owners.

The calculation method that is explained in this example is based on the assumption that the land parcel lays on the residential area which permits 2.0 FAR. But what if the land parcel lays on a road or a park in the zoning plan? How the floor are right of the land parcel can be calculated if the calculation is solely based on the FAR? If the parcel lays on a park, then there is no FAR to use in the calculation. In this case, the floor area right for the land parcel can be derived by using the neighboring land parcels' FARs that lay on residential areas in the zoning plan. If there are two different FARs for the two neighboring land parcels such as the one on the west has a FAR of 2.0 and the one on the east has a FAR of 4.0, then the FAR of the parcel to be calculated can be (4+2)/2 = 3.0 FAR. Of course, there is no tangible scientific basis for this approach, however it must be acknowledged that zoning plans, by nature, are not completely scientific decisions either because they are highly influenced by estimates, assumptions and political decisions [30]. For the sake of the calculations and for the distribution of the planning gain equitably among stakeholders and developers, such assumptions can be integrated.

3.3.1.2 Non-habitation-certificated Buildings

In this type, the owner of the building has a title for his/her land parcel and a construction permit for his/her building but does not have a habitation certificate.

Today newly built buildings that do not have habitation certificate cannot receive municipal services based on the *Land Development Act (1985)*. But considering the migration boom and lack of affordable housing supply in the previous decades, the law practically was not applicable, buildings received municipal services without any official requirements even though it was a violation of the law.

Non-habitation-certificated buildings can emerge by that the building may have started in compliance with its architectural designs, engineering designs and planning decisions, but later the owner may have changed the architectural or engineering plans which did not comply with the earlier permission. In this situation, the owner of the building could not receive a habitation certificate until aligning it to the regulations. Normally the owner could have been imposed an administrative fine and also the building could be demolished. But in extra-ordinary circumstances of the 1950s-1990s period, authorities were reluctant to do that. Therefore, today habitation certificate for an old building can be a matter of a simple application and a fee, or there can be a larger obstacle, such as demolishing some or large part of the building to comply with the engineering and planning decisions in order to get the habitation certificate.

For determining the distribution share (or floor area right) of a building that has a construction permit but does not have a habitation certificate, the three methods, which are explained in the last section, can be used. But after finding a value, a deduction can be made based on the situation of the building. If the lack of habitation certificate is solely because of neglect and that the building complies with projects and regulations, then it can receive a habitation certificate after paying the fee to the local authority. This amount can be deducted from the value of the real estate that was found earlier, and the final development right can be found for the owner of that building. However, if the building does not have a habitation certificate because of a larger problem such as if it does not comply with the projects and regulations and requires renovation or demolition of some parts of the building, then the costs of this work can be deducted from the participation share of the owner.

3.3.1.3 Unauthorized Buildings

The owner of an unauthorized building owns the land parcel with a title, but he or she constructed the building without getting a construction permit and a habitation

certificate. In this case, the building is illegal or unauthorized, and normally it must be demolished according to the laws. But there are two occasions for this case. The first one is that even though the building does not have a permit and certificate, it may still be legalized if the building is still in compliance with the planning decisions. In such case, applying to receive these documents may require some administrative fines, long paper works and bureaucracy and also some fees, but it can be possible to legalize the building and obtain a construction permit and habitation certificate. The sum of all these works and fees can be deducted from the value of the real estate, or the deduction can be made from the floor area right for that person.

The second occasion is that if the unauthorized building does not comply with planning decisions, then there is no chance that it can be legalized unless making an amendment on the zoning plan which would be a very slim chance. In this case, determining a value for the building becomes complicated.

In the regeneration laws, there is no specific information about how to determine participation shares of unauthorized buildings. As explained above, the *Expropriation Act* is the only place to look. According to the *Article 11(h),* "buildings must be appraised by the building cost method less depreciation (wear and tear)" [46]. However the article does not state if this method can also be applied for unauthorized buildings. Therefore, even though it is ambiguous, it is generally accepted that if a person is the owner of the land, then the same appraisal method is used in expropriation for his unauthorized building. However *Article 19* of the same law states that the appraisal method for squats (a squat owner does not own the occupied land) is *"minimum materials cost value"* (in Turkish, *asgari levazım bedeli*) which refers to the minimum costs of materials that were used in the structure less depreciation. This approach only includes the materials used in the building such as cement, bricks and steel, and excludes all other costs such as luxurious appliances, craftsmanship, and developer profit. But it is clearly stated that this is applicable only if the owner of the building is a squatter, i.e. he or she built the squat on someone else's land without their consent. But there is no specific explanation for unauthorized buildings that is owned by the land owner. This brings us to the realization that there is no information in the laws about how to expropriate an unauthorized building.

Due to this loophole in the laws, the appraisal method for the expropriation of unauthorized buildings generally seem to be the same as legal buildings' expropriation method. The three methods to find "floor area rights" of stakeholders explained above can be used for unauthorized buildings as well. However, in order to ensure justice, there should be a deduction for the illegality.

3.3.2 Condominium Ownership

3.3.2.1 Condominiums

According to the *Condominium Act (1965)* in Turkey, each dwelling unit in condominiums must have a share from the land parcel in proportion to the value of the dwelling unit [47].

The calculation of floor area right of condominium unit owners (in Turkish, *kat malikleri*), method 1, method 2 and method 3 explained above can be used just as it was used for the legal house owners.

3.3.2.2 Incomplete Condominium (Floor Easement)

According to the *Condominium Act (1965)*, "floor easement" (in Turkish, *kat irtifakı*) is the preliminary agreement when establishing a condominium. These agreements are useful when there is no building yet, or when the building is under construction. However, they can be valid until the end of the construction. After the completion of the construction and receiving a habitation certificate from local authorities, the "floor easement agreement" must be converted into "condominium agreements" (in Turkish, *kat mülkiyeti*). Again, in the conditions of mass-migration period and lack of affordable housing supply in the last couple of decades, there was no obstacles to use buildings without a habitation certificate and no obstacle to receive municipal services. Therefore many completed buildings today do not have habitation certificates and therefore their legal background is still in the preliminary phase of floor easement, not condominium agreement.

When calculating the floor area right of each apartment unit owners for an apartment building that has a construction permit but does not have habitation certificate, the floor area rights of each unit owners can be calculated with method 1, method 2 and method 3 but the cost of the nonexistence of habitation certificate and the cost of

obtaining condominium agreement can be deducted from the floor area right of the unit owners.

3.3.2.3 Unauthorized Apartment Buildings

Same as the unauthorized house owners, unauthorized apartment buildings do not have any construction permit and habitation certificate. Their appraisal and calculation for floor area rights will require a deduction for the illegality.

3.3.3 Squat Owners

3.3.3.1 Legalized Squats

Legally, there is no difference between legalized squats and legal houses or condominiums. With the help of the *Development Amnesty Act (1984)*, a number of squatters purchased the land parcel that they occupied, and received construction permit and habitation certificate for their squats. Therefore, the calculation for their floor area right is the same as formal buildings.

3.3.3.2 Squatters with Usage Permissions

Although the squatters with a TAD do not have a title but have applications to benefit from the *Development Amnesty Act*, the general tendency is that these people should have a right to be counted as stakeholders in the regeneration projects. However, the calculation of their floor area right differs very much than the calculations for the types of real estate owners explained above.

But firstly, their position should be clarified in the perspective of different regeneration laws. There is an ambiguity in the laws whether squatters should be considered as stakeholders in the regeneration projects and whether they should be provided homes within the project areas. Different regeneration laws have different clauses about this issue, therefore it should be investigated within the frame of each law.

When calculating the participation share and the floor area right (distribution share) for squatters, there is no land parcels to put into calculation. These people do not own the lands that they occupied. Therefore only their structures and trees -which is the only commodity they own- must be taken into consideration.

According to the laws, there are three options to appraise a structure: (1) *building (or replacement) cost less depreciation value* (in Turkish, *yapı maliyeti bedeli*); (2) *minimum materials cost less depreciation value* (in Turkish, *asgari levazım bedeli*); and (3) *demolition waste value* (in Turkish, *enkaz bedeli*). The regeneration authority must decide which option to use. However there are large differences between these methods and also there are ambiguities about their definitions. The problem is that neither the regeneration laws, nor the *Expropriation Act* explains what the 2nd and the 3rd approach are.

Since there is no definition for it in the *Expropriation Act*, the 2nd approach, *minimum materials cost*, can be understood from court decisions: This approach only considers the materials of the structure such as cement, stone and wood, and ignores all other costs such as fees and taxes, labor costs and entrepreneurial profit [48]. The value found by this approach is much lesser than the *replacement cost approach*.

The *demolition waste value,* on the other hand, is mentioned in the *Municipality Act* and the *Renewal of the Areas under Disaster Risk Act* however both of them do not explain what it is and how to calculate it. It does not only confuse the authorities and people but also lawyers, and even the Council of State and Court of Cassation of Turkey. Actually, there is a definition for the *demolition waste value*. The *Northern Ankara Entrance Urban Regeneration Project Act (2004)*, which is the first regeneration law of Turkey, was enacted in 2004 mainly for the clearance of squatter settlements in a specific part of Ankara [49; 50]. This law was enacted for a specific place and for a specific time, therefore it cannot be applicable anywhere else in Turkey. This is the reason of why it is not mentioned in the Legal Basis of Urban Regeneration section. In the Regulation of this law, there is a definition for the *demolition waste value* in Article 18: “The *demolition waste value* is the 10% of the value of the squat which is determined by the valuation commission of the authority” [51]. Here, “the value” is the *replacement cost value*, and 10% of it is accepted by the Regulation as the *demolition waste value*. This is an article of a regulation of a specific law that is not applicable today anywhere else. It can be thought that the other regeneration laws may refer to this definition, however it is not clear. Since this law, *Northern Ankara Entrance Urban Regeneration Project Act*, was used only in Ankara for a time, and therefore mainly the regeneration authorities of Ankara are familiar with, it is still unknown to many other regeneration authorities around the

country. There are many authorities which use different coefficients, such as multiplying *replacement cost value* with 0.2, or use another method, and due to this, they become subject to lawsuits.

When calculating the floor area right of a squatter in a regeneration area, the value found by *minimum materials cost approach* or *demolition waste value approach* does not make enough floor area right from the new projects because first they appraise only building materials and excludes all other costs or multiply the cost value with 0.1 coefficient. Also there is no land parcel to put into equation. In this case, the value difference between the squat and the new home to be allocated for the squatter should be taken from the squatter. Considering the high unemployment rates and the poverty in squatter settlement areas, the payments should be made by affordable monthly installments. Because of the economic conditions in Turkey today, banks are reluctant to give credits for more than 10 years term. Therefore, monthly payments are generally exceeding the affordability criteria of the urban poor. In these situations, according to the laws, the Housing Development Administration (HDA) of Turkey can provide long-term (more than 10 years) and low interest-rate credits from its own resources or through protocols with national banks for the low income households. Then municipalities can collaborate with the HDA to supply affordable homes for people in this situation [40].

If the larger part of a regeneration area consists of squats, then the *replacement cost approach* can be used by the authorities if the regeneration law does not specify which method to use. This approach will provide more floor area right for the squatters who have TADs (Figure 3.2). However, it will raise the question of fairness and will be a violation of the *Expropriation Act*.

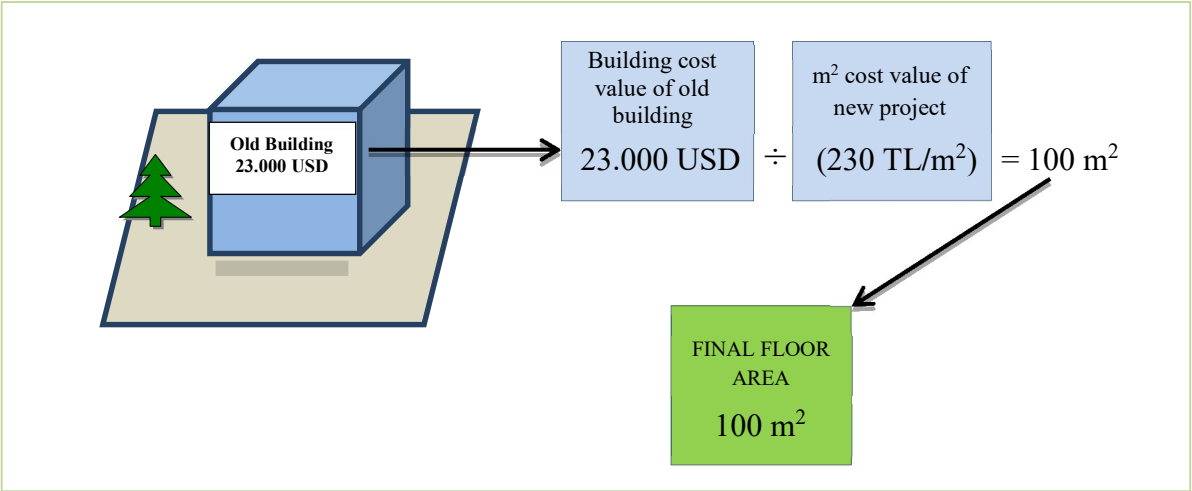


Figure 3.2 : An example calculation of floor area rights of squatters with TAD.

From the perspective of the *Municipality Act*:

In the seventh paragraph of the *Article 73* of the *Municipality Act,* which is dedicated to urban regeneration, states that;

"After mutual agreement, the rights of real estate owners and squatters who are covered by the Development Amnesty Act shall be given in regeneration project areas."

Therefore, according to the *Municipality Act*, in addition to the real estate owners, the squatters who applied to the *Development Amnesty Act* to legalize their squats but could not complete the legalization procedures are also accepted as stakeholders. Their consents and approvals must also be sought and they should be provided homes or stores insofar as their participation share allows in the regeneration project areas under the principles of this law. However, the law does not state how to make the valuations and calculations for their participation and distribution shares. The part in the article which says "their rights shall be given" does not specify what their rights are and how to give them. This ambiguity could be resolved by enacting a regulation that describes the details, however there is no regulation for the *Article 73*.

From the perspective of the *Renewal of the Areas under Disaster Risk Act (2012)*:

In the *Article 5* of the *Renewal of the Areas under Disaster Risk Act*, it is stated that;

"(1) In demolishing at-risk buildings and in projects that are implemented within at-risk areas or reserve areas, seeking mutual agreement with the real estate owners is the priority. Providing temporary homes/stores or rent assistance (housing benefit)

may be made to those whose buildings are demolished and who are evicted with mutual agreement, or to tenants or right holders of any kind who live in these at-risk buildings.

(2) In case the project requires, the provisions stated in the previous paragraph may also be applicable for the people who are left outside the mentioned ones in that paragraph. The terms and principles of agreements made with these people (people outside the mentioned ones in the last paragraph), of helping these people, and of paying demolition waste value (for their buildings) to these people are determined by the Council of Ministers after the offer of the relevant Minister." [38]

According to the first paragraph, it is the priority to reach an agreement with the real estate owners, rather than top-down implementations. Real estate owners, tenants and any other right holders can receive rent subsidies and temporary homes for a specified time. In the second paragraph, "people who are left outside the mentioned ones" are squatters. Therefore squatters "may" also get homes within the project areas, and they "may" receive financial support from authorities as legal real estate owners (again, under convenient circumstances, by the decision of the Council of Ministers). The appraisal method is also described for the squats, *demolition waste value* must be used, and the article does not make any separation between semi-legalized squats (squatters with TAD) or non-legalized squats (squatters without TAD).

According to this law, real estate owners are the primary stakeholders and their consents and approvals must be sought. However, according to the second paragraph, there is a possibility that almost anyone (including tenants and non-legalized squats owners) who live in a regeneration area which is determined by this law can be accepted as stakeholders in convenient circumstances and the terms of contracts and subsidies for these people are determined by the Council of Ministers. This means that identification of stakeholders and calculations of participation and distribution shares are left to the regeneration authority and can vary from project to project.

Another important difference of this law is that it describes the valuation method for squatter settlements: it is *demolition waste value approach*. Therefore the calculations of participation shares of squatters can be found only by this valuation approach.

In the *Article 6* of the same law;

"(4) The values of dwellings that are constructed ... (in regeneration projects) ..., when deemed necessary, can be determined lower than the project costs, and costs of social and physical infrastructure may not be incorporated into the project costs by the decision of the Council of Ministers, with the consideration of economic conditions, disastrous situations, real estate market values and demolition waste values, and considering the assets and incomes of the people in project areas."

This article also clarifies that the values of dwelling units to be constructed in a regeneration/renewal project can be determined lower than the construction costs to be sold for financially disadvantaged people by the decision of the Council of Ministers by using state subsidies.

The Regulation of the *Renewal of the Areas under Disaster Risk Act* gives more details about this issue. Article 12 of the Regulation states that "real estate values are determined on the basis of the *Expropriation Act*" [52].

After the amendment (2004) of the *Clause 19 of Expropriation Act (1983),* it states that "when expropriating a squat, the appraisal method should be *minimum materials cost approach"*. This clause does not make any separation between semi-legalized squats and non-legalized squats. Because it could have drawn a distinction between them by saying "squats that are covered by the *Development Amnesty Act*" as it is seen in the *Municipality Act* to separate semi-legalized and non-legalized squats. But it is not the case in the *Expropriation Act*: all kinds of squats must be appraised by the *minimum materials cost approach*.

For squatters with TAD, based on the *Renewal of the Areas under Disaster Risk Act*, again there is no land parcel to put into calculation. Therefore only the squat structure can be used for calculation. In our example in the Figure 3.3, the *demolition waste value* is found, for instance, 4,600 USD for our imaginary squat. This value is then divided by the *per-square-meter cost value* of the new project. The floor area right is found 20 m^2 and this is not enough to make an eligible dwelling unit. Therefore the difference can be paid by the squatter with affordable installments to the regeneration authority. As the law authorizes the Council of Ministers, the payment amount of monthly installments can be decreased by using subsidies as well (Figure 3.3).

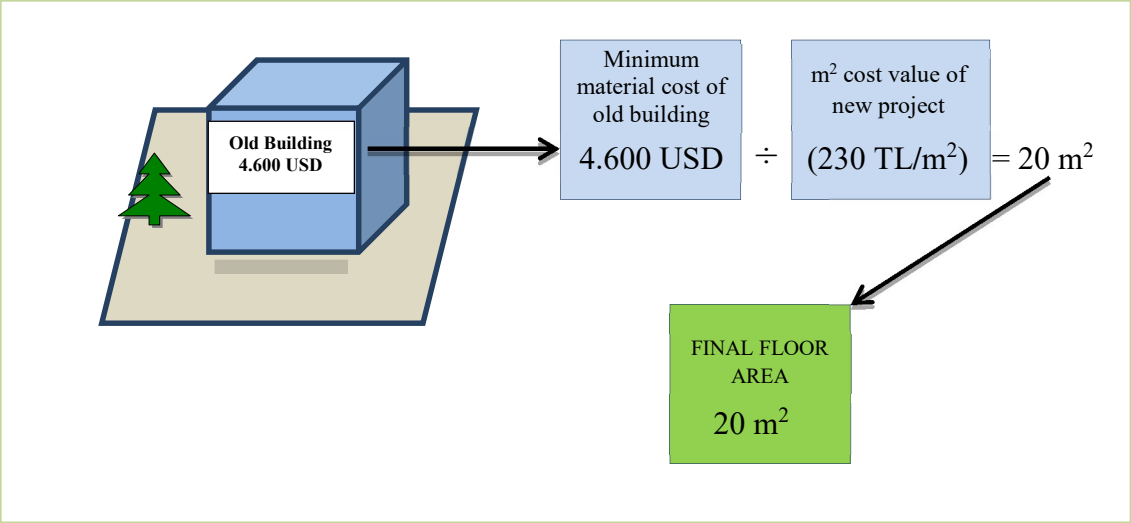


Figure 3.3 : Determining floor area right of squatters.

At this point, the two laws clashes. In the *Renewal of the Areas under Disaster Risk Act*, it is stated that *demolition waste value* is used for squats, however it does not define how to calculate it. If it refers to the Regulation of the *Northern Ankara Entrance Urban Regeneration Project Act*, it describes *demolition waste value* as the 10% of the *replacement cost value*. On the other hand, the Regulation of the *Renewal of the Areas under Disaster Risk Act* states that the *Expropriation Act* must be used in the projects based on the *Renewal of the Areas under Disaster Risk Act*. The problem is that there is no information about *demolition waste value* in the *Expropriation Act*, but instead there is information about *minimum materials cost value*, but again it does not define how to calculate it, either. However, Court of Cassation have tried to fill that gap in their decisions and tried to define *minimum materials cost value* by stating that "in the doctrine and in the practice, *minimum materials cost value* of a structure is the minimum cost value of only the materials that are used in the structure excluding other expenses such as workmanship and developer profit, less depreciation" [48].

From the perspective of the *Renovation, Conservation and Use of Dilapidated Historical and Cultural Immovable Assets Act (2005):*

Neither in the Act, nor in the Regulation of it, there is no information about the stakeholders, the valuation methods or the calculation of floor area rights. The law gives basic information about the principles of the projects, how a regeneration area is determined, who is responsible etc. Therefore, the position of squatters is unclear in the projects based on this law. The valuation and calculation methods are left to

the regeneration authority. The regeneration authority may accept the principles of other laws or implement their own methods as long as they do not violate the *Civil Code of Turkey* or other general laws. The law states that when expropriating a real property, valuations are made by real estate appraisal companies under the principles of the *Securities Exchange Act* and the *Expropriation Act*. However these are considered when expropriating a real property, rather than defining participation shares of stakeholders.

3.3.3.3 Squatters without Usage Permissions

Squatters who did not apply to benefit from the *Development Amnesty Act (1984)* or their squat cannot be covered by the law (such as squats built after the enactment of the law) do not have any title allocation documents. These squats are completely illegal and according to the laws they must be demolished. However due to the housing shortages in the past as well as its social difficulties, demolishing could not be implemented.

As it is the case in semi-legalized squat owners which is explained in the last section, there is an ambiguity about whether squatters whose squats cannot be covered by the *Development Amnesty Act* (non-legalized squat owners) should be considered as stakeholders in a regeneration project and whether they should be provided homes from new projects. It should be investigated within the frame of each law.

From the perspective of the *Municipality Act:*

In the seventh paragraph of the *Article 73,* which is dedicated to urban regeneration, of the *Municipality Act* states that;

"The demolition waste value of the squats and the value of the trees, if any, are given to squatters who are not covered by the Act No. 2981 (Development Amnesty Act) (1984), or, lots and homes outside the regeneration project area can be sold to them under municipality's convenient circumstances. Homes can be sold to these people in collaboration with the Housing Development Administration as well. In that case, demolition waste value and the values of their trees are deducted from the value of the new homes."

The article clearly states that squatters who are not covered by the *Development Amnesty Act* (non-legalized squat owners) cannot get homes within the regeneration

area, therefore they are not accepted as stakeholders. They can either accept the *demolition waste value* of their squats, or they can purchase homes or lots outside the regeneration area that belong to the municipality or Housing Development Administration. If so, the *demolition waste value* of their squats and the value of their trees are deducted from the value of the new homes that they purchase.

From the perspective of the *Renewal of the Areas under Disaster Risk Act 2012:*

In the *Article 5,* it is stated that;

"(1) in demolishing at-risk buildings and in projects that are implemented within at-risk or reserve areas, seeking mutual agreement with the real estate owners is the priority. Providing temporary homes/stores or rent assistance (housing benefit) can be made to those whose buildings are demolished and who are evicted with mutual agreement, or to tenants or right holders of any kind who live in these at-risk buildings.

(2) In case the project requires, the provisions stated in the previous paragraph can also be applicable for the people who are left outside the mentioned ones in that paragraph. The terms and principles of agreements made with those people, of helping those people, and of paying demolition waste value (for their buildings) to those people are determined by the Council of Ministers after the offer of the relevant Minister."

As explained in the previous sections, in the paragraph "people who are left outside the mentioned ones" are squatters. Therefore squatters "may" get homes within the project areas, and they "may" receive financial support from authorities as legal real estate owners if approved by the Council of Ministers. The appraisal method is also described for the squats, *demolition waste value* should be used, and the article does not make any separation between semi-legalized squats or non-legalized squats.

In case non-legalized squat owners are not provided homes from the new project, then they should find a place for rent or use other options somewhere else. However the authorities can choose to sell homes to these people as well after deducting the expropriation value of the squat from the value of the new home. When the regeneration area is inhabited predominantly by non-legalized squat owners, then their displacement could be much harder. In this case authorities may sell homes to

these people with affordable monthly payments. However this is not an obligation according to the law.

From the perspective of the *Renovation, Conservation and Use of Dilapidated Historical and Cultural Immovable Assets Act (2005):*

As explained in the semi-legalized squat owners section, there is no information in this law whether squatters can be provided homes from the regeneration or renewal areas.

3.3.4 Vacant Land Owners

Calculation of participation shares and floor area rights of vacant land owners can be done by the three methods as explained in the previous sections only excluding the buildings.

3.3.5 Tenants

According to the regeneration laws, tenants "may" be accepted as stakeholders and may receive homes from the projects based on the *Renewal of the Areas under Disaster Risk Act* if approved by the Council of Ministers. However, tenants cannot be accepted as stakeholders according to Municipality Act, and there is no information about them in the *Renovation of Historical Assets Act*.

3.4 Pressure to Increase Building Density

Urban regeneration or renewal projects are massive construction and engineering projects which cost significant money. Finance of the projects plays the most critical role in the realization of these projects [53]. There are four methods for financing urban regeneration projects in Turkey:

a) Residents pay the costs;
b) Authorities pay the costs;
c) Developers (contracting companies) pay the costs; and
d) Mixed method.

In the *residents pay the costs* method, the residents of an area to be regenerated or of a building to be renewed pay the costs and expenses of the project. By this way, developers do their services and get money in return. The regeneration authorities

only play a regulator role in the process. This is probably the most easy-to-implement and time-efficient method. However, it is not common especially in area-based regeneration projects due to financial difficulties or lack of motivation of the owners. But it is common in building-based renewal projects.

In the *authorities pay the costs* method, the costs and expenses of the regeneration or renewal projects are paid by the state or by the regeneration authorities through national or international funds and subsidies. This is also another easy-to-implement method especially for financing projects, however, it probably has never been used in Turkey because of its significant financial weight on authorities' budgets.

In the *developers pay the costs* method, costs of projects are paid by companies' own reserves. In this case, since the stakeholders and authorities are not paying any money, companies do their job and get homes and workplaces from the projects in return for their services. Then, they can sell those estates, cover their expenses and make profit in the long term. This way, the sleeping capital of companies are poured into the market without any direct payment of residents or authorities. This is the most used financing method in regeneration and renewal projects in Turkey and its effects will be discussed in detail in the following paragraphs.

In the *mixed method,* different methods are used together. For example, residents may pay some of the costs and authorities support them with subsidies. Or it can be done by residents pay some of the costs and the remaining part can be paid by companies to get homes and stores in return. Or residents, authorities and companies all contribute to the payments. Also, there are examples that municipalities or the Housing Development Administration can establish companies in partnership with private companies.

In order for residents to pay the project costs, they either need to have that money in cash or they must take long-term debts from banks as mortgage credits. Due to economic conditions in Turkey (for instance, high inflation rates) long-term credits are generally given by banks for mostly up to 10 years of repayment time. Therefore, monthly installments are generally significantly high and thus people are reluctant to get credits from banks. Considering that the regeneration projects generally focus on decay areas where poverty is pervasive, bank credits become a luxury option for the low-income residents.

National and local authorities do not pay the complete costs of projects in Turkey either [54]. The regeneration or renewal projects are supported by the authorities through tax-cuts and financial support for rental accommodation during the reconstruction period for up to 36 months but these are only minor supportive approaches. According to the laws, authorities can contribute economically as well, such as determining sales prices below the project costs with the help of subsidies by the decision of the Council of Ministers, however there is no certainty about that.

As the first two options, *residents* or *authorities pay the costs*, have not worked well in Turkey up till now, the most used method for financing the regeneration or the renewal projects is that *developers pay the costs* and take homes and workplaces from the new projects in return. However, this method has some side-effects. In order to avoid the refusal of stakeholders (stakeholders has the right to refuse the offer if they have higher expectations, i.e. asking more homes or stores) or to avoid the displacement of residents, i.e. to avoid gentrification, authorities try to make sure that each resident gets as many homes or stores as they had before the project started. Therefore building density, at least, must be kept the same. However, if the costs are paid by contracting companies, then extra homes and stores must be allocated or developed for them. If the estates are allocated for the companies without increasing the building density, then a large part of the estates of residents will shrink and some of them will have to move away from their neighborhood, i.e. gentrification or displacement of the poor will occur. In order not to be stigmatized with these negative claims, authorities generally require to change development plans and increase building densities for the regeneration areas. Increasing building density means that there will be more people in the area and more pressure on physical and social infrastructure: more cars in the roads and in the parking lots, more people on parks and public spaces; more electricity and water consumption and more pressure on sewage system in that particular area of the city. In addition, many people have concerns that increasing building density (or increasing building heights) will damage urban aesthetic [55]. Increasing building density is one of the most criticized points of regeneration authorities in Turkey because almost all regeneration projects require the financial involvement of developers, and increasing building density has been one of the few solutions of financing and avoiding displacement, until now.

Increasing building density has another negative downside as well: it made the topic of “urban regeneration” very politicized in the county and almost always associated with “economic rent”. Economic rent (unearned revenue that is generated with planning permissions) is shared between residents, companies and sometimes regeneration authorities. This raises some eyebrows: “Where all this money go?” Therefore identifying stakeholders and sharing the planning gain is one of the most critical points in the regeneration projects. How will we keep the building density as small and in the same time share the economic rent as equitably as possible? The general tendency of the regeneration authorities, whether national or local ones, are that they do not make these identifications and calculations publicly. This secretive approach opens the way for speculation and manipulation even though authorities have a good will. The main reason of this secretive approach can be because of different reasons, however the most important one is the ambiguities and contrasting clauses in the laws that forces regeneration authorities to make their own calculations, which then put them in lawsuits and become a subject to court cancellations or long delays.

3.5 Ownership Transfers

The term “property ownership transfer” has negative connotations such as dislocation of indigenous residents and gentrification of neighborhoods. But there are sometimes compulsory conditions that require the transfer of property ownerships of stakeholders to somewhere else. For instance, the transfer can be required due to hazardous situations such as being located in a land-slide area or a riverbed. The residents must be, by the power of laws, evicted and moved to somewhere else safer. These are obligatory situations and the transfer of the property rights is a must. There can be technical reasons as well, for instance building density of a neighborhood can be decreased (very unlikely) so some of the people must move away. Or it can happen because of financing method of a regeneration project such as there may be not enough units or stores for the indigenous residents because reserve homes must be allocated for the developers in return for their investments. In this case, with mutual agreement, property owners can swap their property rights with the authority for other properties outside the regeneration area. This method is used for

expropriation purposes as well. The subject of property ownership transfers is analyzed in the perspective of different laws in the following paragraphs.

Municipality Act, Article 73:

According to the *Municipality Act*, non-legalized squat owners cannot get a home or store within regeneration areas. They are given the *demolition waste value* for their structures, or authorities can sell them homes or stores outside the regeneration area with affordable installments after deducting the *demolition waste value* for the squats and the value of their trees, if any, for that matter. Even though it can be disputable, this is also a type of property ownership transfer (or property "possession" transfer in this case), the possession of a building (even though through squatting) is transferred to somewhere else.

Also there are no restrictions for municipalities to swap properties with other stakeholders with mutual agreement. If the stakeholder does not agree with the terms, he or she can refuse it. Then the municipality must make another offer. In case there is no agreement and there is no other option, the authority can apply to the court for the expropriation.

Renewal of the Areas under Disaster Risk Act, Article 6, Paragraph (5b):

"The Ministry is authorized … to purchase real estate in urban regeneration areas, to use its pre-emptive right, to swap real estate including condominium units, to transfer property ownership or property rights to somewhere else…"

Based on these statements, the Ministry is authorized to carry out different types of property transfers.

Article 13 (2) of the Regulation of the *Renewal of the Areas under Disaster Risk Act* states that:

"The value of a real estate in a project which is determined by the 12th article of this regulation is deducted from the building cost value of the (new) dwelling or store that is to be given to the real estate owner. After the calculations,

a) If the regeneration authority owes money to the real estate owner, the debt amount can be given in cash, or a real estate (which is not assigned to a public use) of the authority can be given to the real estate owner, or the development right of the property owner can be transferred to somewhere else.

It states that the debt of the authority to a stakeholder (after calculations) can be given in different forms, it can be a cash payment, giving a property outside the regeneration area or the development right of the stakeholder can be given somewhere else. The latter is a unique way of compensation.

Article 15 (11) of the Regulation of the *Renewal of the Areas under Disaster Risk Act* which describes the latter option says:

"In an urban regeneration area, due to quality problem of ground, or risk of any disaster, or if construction is not allowed because of development restrictions, the new building that is going to be constructed in replacement of the old building can be built on another land parcel outside the regeneration area. In such case, an official letter is taken from the administration describing that the legal rights are going to be used on another land parcel outside the regeneration area. This letter is given to the relevant municipalities and land registry offices by the administration."

This article states that in compelling situations such as hazard or technical, the legal development right of the owner of the property can be transferred onto another parcel outside the regeneration area. In such case, the administration of the Ministry in that province issues an official letter which is assuring that the development rights are going to be used on another land parcel outside the regeneration area.

Renovation, Conservation and Use of Dilapidated Historical and Cultural Immovable Assets Act:

There is no specific explanation about property transfers in this law. However in its Regulations [56]:

"Article 23- The agreement can be done in different forms as the property can be sold to the authority from its reconciled value, or it can be swapped for another property of the authority … or in any other forms.

It means that in case of need, property transfers can be made by mutual agreement.

According to the laws, property transfer is possible and can be used effectively. However, it is also seen by many as another method for gentrification. The difference between the property transfer and the expropriation is that the first one seeks approval of stakeholders while the latter is mandatory. Even though authorities can agree with stakeholders on the terms of property transfer, people outside the

regeneration areas and non-stakeholders (media and academics, for instance) closely watch the demographics of the regeneration areas to see if there is any displacement, even though it can be the decision of the stakeholders. Therefore authorities are cautious about using this right in order not to be discredited and stigmatized.

3.6 The Need for the Compulsory Renewal of At-Risk Buildings

As explained in the previous sections, there is a time pressure on urban regeneration and renewal projects in Turkey because the country lays on the seismic zones. Statistically, major earthquakes have been experienced in almost every few years that took away thousands of human lives. In addition, a large part of gross national product of the country evaporates in those earthquakes.

The clock is ticking on non-earthquake-proof buildings. In order to motivate the owners of those at-risk buildings and facilitate their renewal, a financially supportive and mandatory law is required, otherwise there will always be individuals who do not want their buildings (even though dangerous) to be renewed. Protecting the public rights against individual rights requires enactments of such legislations.

When dilapidated and low quality apartment buildings in the Turkish cities are considered together with the earthquake hazard, renewal of those buildings is a must and urgent. However, realizing this idea has been a hard task due to the *Condominium Act* and the *Civil Code* until recently. According to the *Condominium Act* and the *Civil Code*, any major changes and improvements on a condominium building require unanimous approval of all independent unit owners. Even only one disagreeing unit owner could block any renewal decisions. For instance, if there are 50 units and 49 of them agree on the renewal of their building and only one unit owner disagrees that, the renewal could not be made. In short, the general laws have always protected the rights of the few against the majority in renewal initiatives.

The *Renewal of the Areas under Disaster Risk Act* (2012) has surpassed this barrier by implementing “seismic performance assessment” and “the 2/3 rule”. By this Act, a building that has a negative expert report on construction quality can be demolished without the approval of the independent unit owners at all. After the demolition, the unit owners must get together within 30 days to make the decision about who gets which unit from the new building. Those decisions should be made by at least 2/3 of

the shareholders. Shares of the disagreeing shareholders are sold to the other shareholders by auction. If they cannot be sold, relevant authorities can expropriate those shares and join to the decision of the 2/3 in order to start the new project.

In order to financially support and motivate entrepreneurs and citizens, the regeneration and renewal laws decreased or even removed taxes and fees. In the framework of the *Municipality Act*, all taxes and fees are reduced to one-fourth, while all kinds of taxes and fees are removed completely for the regeneration or renewal programs in the *Renewal of the Areas under Disaster Risk Act* and the *Renovation of Historical Assets Act*.

3.7 Negotiation Issues of Condominium Owners

The 2/3 rule for condominiums is highly criticized by many that it crushes the rights of the 1/3. However, the reason for implementing such rule can also be seen as a motivation for the shareholders to reach an agreement in a short period of time.

When at least 2/3 of the shareholders agree on a new project, the shares of the remaining 1/3 is either sold to the other shareholders or expropriated by the authorities [36]. However the question of "Why is it necessary?" can be asked. After the demolition, why is it necessary to bring a 30-day time limit for shareholders for deciding on a new project? The dangerous situation is already eliminated by demolishing the at-risk building. What is the public interest about deciding on a new plan within 30 days by at least 2/3 of the shareholders? The Act does not tell why it is required, thus it can only be guessed. In case there is no 2/3 rule, i.e. if the unanimous approval of the shareholders was sought, then only one individual in a large building complex could block any project, and victimize all other shareholders by not letting them get their homes and stores back. Therefore it makes sense to have such rule. However, the number 2/3 was decided by discussions in the Parliament. Therefore this number can be discussable, it could have been 3/4 or 4/5 or any other way.

The problem of "acting in bad faith" can also occur with the 2/3 rule. The 2/3 rule is designed by and functions with good will and can be very vulnerable against people in bad faith. For instance, the 2/3 of the shareholders may agree on their homes from the new building project, however it does not always mean that the homes were

chosen fairly. It is possible that the 2/3 may choose the most valuable units and leave the less valuable ones to the 1/3 of the shareholders. This unpleasant scenario may not be shown as the justification of abolishing the 2/3 rule completely, however it has a point. There is a solution for this, in such situation the victims of injustice can always go to courts and sue the decision of the 2/3 of the unit owners and ask for a real estate appraisal for the old and new homes, and determine who-gets-what under the observation of judicial officers.

There is also another possibility that the 2/3 may not be reached. In such case, the rent support for those people can be removed by the authorities. In extreme situations, the law gives another authorization for the regeneration authority: it can expropriate the land parcel completely. The *Renewal of the Areas under Disaster Risk Act*, Article 6 (2) states that "in case an agreement cannot be reached by the minimum 2/3 of the shareholders within the 30 days after the demolition, the Ministry, regeneration authority or the HDA (Housing Development Administration) can choose to expropriate the real estate." This is an implicit warning by the authorities that urges shareholders to reach an agreement for the new building project as soon as possible.

3.8 Land Share Problems on Condominiums

When establishing a condominium for the first time according to the *Condominium Act (1965)*, each unit gets a proportional share from the land. It is maybe expected that all units should have the same proportional share from the land parcel. Such as, if there are 3 units, each unit gets 1/3 share; if there are 10 units, each gets 1/10 and so on. However the rule defined in the Turkish legislation is different. According to the Article 3 of the *Condominium Act (1965)*, the form of determining the sizes of the proportions must be based on the value of the respective units which is determined by regular real estate appraisal.

Now the problem is that the land-shares of many condominiums in Turkey have been determined equally, rather than being based on the values of the units, as a violation of the law. They were generally done mistakenly. This problem gets revealed when those buildings are demolished. Because after the demolition, the ownership of condominium units and stores becomes obsolete and it is then turned into mere land-share ownership which are indicated on the titles of each unit. When shareholders

notice that their shares do not correspond to the values of the demolished or to-be-demolished units, they file a lawsuit against the other shareholders for a recalculation of all the land-shares [57].

The problem is that the recalculation of the correct land-shares for each condominium unit must be done by the consideration of the time that the condominium complex was first established. The condominium may have been built 20 or even more years ago. Therefore the conditions of the units at that time may have been different today so the expert who determines the correct shares in a court case cannot figure out the past conditions comprehensively. For instance, a 20 year-old unit might have had a very open view from its balconies 20 years ago which was highly valuable at that time, but after progressive construction projects around the building over time, the view of that unit might have been blocked completely today. Therefore the unit might have been much more valuable in the past than today. The expert cannot figure out that condition properly after years [57].

3.9 Renewal of Buildings with Liens and Encumbrances

Majority of the housing stock in Turkish cities is apartment buildings, rather than single-family houses. In the Turkish legal system, apartment buildings are structured mostly by the *Condominium Act (1965)*.

According to the *Civil Code*, any property right must be registered in the land registry books. The rights cannot be valid unless they are registered with some exceptions, such as court decisions and inheritance. Encumbrances on properties, such as mortgage liens or easements, are recorded in their relevant pages in the land registry books. Therefore, when buying a property, for example a condominium unit, the title contains its encumbrances as well.

The problem occurs if the building is required to be demolished when a unit has mortgage lien on it. Normally, the unit owner (debtor) cannot get his building demolished without the approval of the lender (or creditor). When the payments are overdue, the lender will want to sell the home in order to compensate the remaining debt amount. If the building is demolished, the land will remain and may inherit the liens. However the value of a vacant land will not cover the total debt amount and will automatically cause a loss of the secured value. In addition to this, selling a land

generally takes longer time than selling a home, and also the lender will not own the whole land, instead will have a proportional share because of the condominium. Therefore the demolition cannot take place without lien-holders approval, in ordinary circumstances. The same applies to legal houses as well.

According to the *Renewal of the Areas under Disaster Risk Act*, buildings that are found to be dangerous are demolished even if they have liens or encumbrances on them. The liens or encumbrances are then transferred to the land parcel. However, as explained above, after demolishing, the real estate value reduces dramatically. And secondly, some liens and encumbrances may only be compatible with homes rather than land parcels. For example a caregiver contract. A person can be granted to receive the home on the condition of looking after an elder person for his or her life-long. The right can be obsolete because the right will only cover that specific home.

If there is a new building project after the demolition, the new condominium units will inherit back the older liens and encumbrances, and this seems to be fair for the lenders. However this is not always the case. Shareholders sometimes cannot come to an agreement and the land may be left vacant. The *Renewal of the Areas under Disaster Risk Act* therefore outlines the expropriation option if the shareholders cannot agree upon a new project. However, when expropriation takes place, the value of liens, such as mortgage, to be paid to the lender may not cover the whole debt. By this way, the lender loses a substantial part of the secured value. It can be exemplified in Figure 3.4.

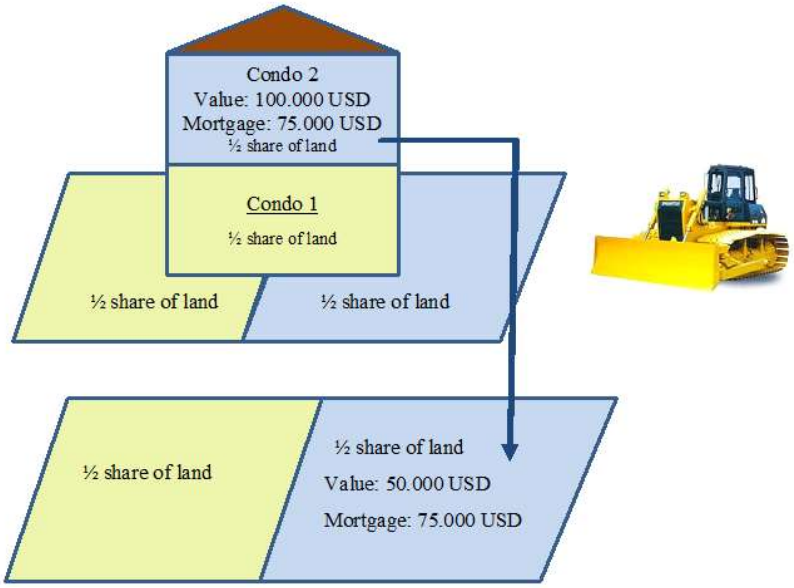


Figure 3.4 : Demolition of buildings with liens.

According to the example, after demolishing, the property loses 50% of its value by dropping down from 100.000 USD to 50.000 USD. When transferring mortgage lien of 75.000 USD from the condominium unit to the land, the value of the land will not compensate the complete debt amount. In such case, one solution can be that the lender can file a lawsuit against the debtor to get the remaining debt amount.

There are also rental agreements for properties. If the renter of a home has an agreement to use the property for a specified period of time, the order of a demolition will cancel the agreement and the renter must leave the home, and obviously cannot blame the homeowner for this decision. In this case, the terms and paid moneys will be settled between the renter and the homeowner otherwise they can always go to courts for reconciliation.

3.10 Issues in Expropriation

As Turkish metropolitan cities suffer from rapid growth and informal urbanization in the last couple of decades, expropriation becomes one of the few ways to correct old mistakes such as narrow and insufficient roads, lack of inner city green areas, insufficient parking lots and other public facilities.

Urban regeneration projects must be carried out with cooperation and participation of stakeholders. However, in some projects, some people do not cooperate with the regeneration authorities and block the process. Considering the expenses of

contracting companies, any delay becomes a large loss in their economies. In this case, authorities choose to expropriate those properties in order to carry out the projects. However the expropriation decisions of authorities must contain the reason for the expropriation clearly, otherwise the decisions become a subject to cancellations by courts. For instance, after a lawsuit against a municipality, the Council of State of Turkey recently ruled a decision that public authorities cannot expropriate a private property just because it lays on an urban regeneration area, stating that "the reason of the exercise of the expropriation must be explained properly and a concrete public interest must be identified" [58].

Another important aspect is that expropriation is seen by many people as a way of dislocating the urban poor in order to open room for wealthier people into the regeneration area, i.e. a way of gentrification. Therefore, authorities must be cautious when there is a need for expropriation. Urban regeneration subject is very politicized and discredited by many people even though it is the only way to repair the old urbanization mistakes today. In order not to face these criticisms and court cancellations, public relations and documentation play an important role especially in the expropriation.

3.11 Issues in Determination of Regeneration Area Boundaries

Another thing that becomes a subject to court cancellations is the determination of urban regeneration areas. Determining a regeneration area gives superior power over relevant authorities to carry out projects, and it facilitates expropriation exercises. When determining a regeneration area, the reason to determine such boundaries must be explained clearly. For instance, a recent court cancellation occurred about the determination of the boundary of a regeneration area. A large part of the regeneration area was covered with vacant lands, and according to the expert report, it did not show any correlation with the purpose of the regeneration [59]. Therefore, authorities are required to determine regeneration area boundaries with valid ground and for solid public interest in order to convince the people and courts, rather than "we did it, so it's done" style. Otherwise, projects are being canceled and large amount of money, time and energy are being wasted.

Whether it is determined by municipalities, governorships, the TOKI or the Ministry, the boundaries of all urban regeneration or renewal areas must be approved by the

Council of Ministers (there are few exceptions in the Municipality Act). Why are the boundaries so important that require the approval of the Council of Ministers, rather than a local authority? What happens when a neighborhood is announced as a regeneration area? It is important because once an area is announced as a regeneration area, all the development activities are halted and construction permissions can be canceled in that area. Zoning plans can be changed, even new and safe buildings can be demolished in order to keep the integrity with the rest of the project.

Urban regeneration projects require a long phase of planning and preparation and they take long time to implement. In addition to that, projects can be canceled or slowed down by court decisions as well. Therefore, restricting construction in those areas for a long period of time can violate the basic property and housing rights of the people. For that reason, projects are required to be completed as early as possible.

4. DISCUSSIONS

In this section, real estate problems faced in urban regeneration projects in Turkey are analyzed in legal, institutional and technical perspectives.

The findings of this thesis show that the legislation about urban regeneration and renewal in Turkey do not function well. There are many ambiguities and also contradicting clauses in different laws and regulations. The regeneration authorities try to implement projects with the unclear legislation which do not help them define who the stakeholders are and how to calculate their participation and distribution shares. Therefore, each authority tries to implement projects in their own way and try to share the development gain as equitable as possible among stakeholders and developers. However, the mathematical model that they develop for each project can become a subject to court cancellations. Because of this reason, the authorities experience difficulties when determining their mathematical models and they tend to not share them publicly in details. Because, they are aware that, some details in their mathematical models, most likely, will violate something in the laws and the projects will be subject to cancellation by courts. This problem puts pressure on the authorities not the share every detail in their models.

In order to exemplify the ambiguities in the laws, the *demolition waste value* can be analyzed. The *demolition waste value* (in Turkish, *enkaz bedeli*) is used in the *Renewal of the Areas under Disaster Risk Act* and the *Municipality Act* both, however there is no definition for it. It is an unknown term for many professionals including competent real estate appraisers. Many people logically think that *demolition waste value* must be the value of the debris (or demolition waste) that occurs after the demolition of a building, such as crashed steel bars that can be reusable. There are actually destruction companies which accept the demolition waste as a payment option for their services because they can recycle the materials and make profit. However the *demolition waste value* stated in the laws is different than the mentioned recycling materials. According to the Regulation of the *Northern Ankara Entrance Urban Regeneration Project Act*, *demolition waste value* is the 10% of the *cost value* of the squats. It is a possibility that the Turkish legislative may have thought of referring to this definition in the *Renewal of the Areas under Disaster Risk Act* and the *Municipality Act*, but it is unclear. This confusion rises to

the top in the *Renewal of the Areas under Disaster Risk Act* because in the Act it is stated that *demolition waste value* must be used for squats. However according to the Regulation of it, the *Expropriation Act* must be used when determining property values. The problem is that there is no information about *demolition waste value* but instead *minimum materials cost value* (in Turkish, *asgari levazım bedeli*) for the valuation of squats in the *Expropriation Act*, and it does not explain what it is, either. Appellate courts in Turkey have tried to fill this loophole in their decisions and tried to make definitions for it. According to them, *minimum materials cost value* is the cheapest value of the materials that are used in the squats excluding all other costs such as workmanship and developer profit, less depreciation. This shows that *demolition waste value* and the *minimum materials cost value* are two different things. It is important because their calculation methods are different and squatters receive different amount of payments from these two methods. If they are unhappy with the amount, they go to courts and courts can make different decisions in different lawsuits because of this confusion.

The situation of non-legalized squat owners in the project areas is also unclear. According to the *Municipality Act*, they cannot get a home or store from the new projects. They must either accept leaving the project area by taking the *demolition waste value* for their squats or they can purchase homes outside regeneration area from the municipality or the HDA in convenient circumstances. However there is no such rule in the other two regeneration laws.

There is a great difference between stakeholders-led and authority-led regeneration or renewal projects. When it is done by the stakeholders, participation share of each stakeholder is determined mainly by his or her contribution of land to the project, rather than the old buildings to be demolished. Even the demolition of old buildings cost money to the project therefore there may even be a deduction from the participation share of the owners of those buildings. However there is a completely different scenario if the project is decided by regeneration authorities. There will be less motivation for stakeholders because it would not be their decision. In order to increase their motivation and the likelihood of mutual agreement, authorities require to give more value, i.e. more floor area right for those people. Adding the values of their old buildings to their participation share is a compromise that authorities generally make, as if expropriating their old to-be-demolished buildings.

Another problem occurs when determining the rights of unauthorized building owners. There is no information in the regeneration laws about how to determine the participation shares of unauthorized buildings in authority-led and area-based urban regeneration projects. If they look at the *Expropriation Act*, there is no definition in that Act, either. There is only one definition for the valuation of buildings in the *Expropriation Act*, it is the *replacement cost approach* (in Turkish, *yapı maliyeti bedeli*). It does not tell if it is for legal buildings or not. This problem comes on the scene when determining the participation shares of legal building owners and unauthorized building owners in the same project. If the *cost approach* is used for both of them, then an injustice occurs. Because, the legal building owners have paid the fees and taxes and dealt with all the bureaucratic procedures, on the other hand, the unauthorized building owners did none of them, and both owners get the same amount of floor area right from the project. In order to resolve this injustice, regeneration authorities try to multiply the *replacement cost value* of the unauthorized buildings by different coefficients such as 0.8. But this time, the owner of the unauthorized building files a lawsuit and complain about that multiplying by a coefficient is against the law. If the method is canceled by the court then all the mathematical model collapses. It is important because urban regeneration projects are based on mathematical models of determining participation and distribution shares, therefore agreements are made with developers based on these models. If these models are canceled in any phases of the projects, the projects must be started all over again, then all the time, energy and money are wasted. This is one of the most important reasons of why regeneration authorities cannot prepare projects 100% transparently, they try to hide the details of the mathematical models from the stakeholders. The ambiguities and contradicting clauses in the Turkish legislation push authorities to carry out projects in a secretive manner. They determine the participation shares of stakeholders in their offices and make their offers to the stakeholders without telling them how they determined what they offer.

Therefore, there is a huge and urgent need of a complete review of all the legislation about urban regeneration in Turkey. The ambiguities must be resolved, and contradicting clauses must be removed. There is also a need for an official regulation and/or guideline to show how to determine the stakeholders and their rights. The terms “participation share” (in Turkish, *katılım payı*) and “distribution share” (in

Turkish, *dağıtım payı*) can be integrated in the laws and regulations. It should also be acknowledged that it is a very difficult approach to develop one mathematical model fit-for-all. Every project has its own conditions, such as having different types of ownership, building densities and economic background. However, after establishing the fundamental principles about stakeholders and their rights by means of an official guideline, an "elbow room" can be provided for authorities to make the best fitting mathematical model for each project area.

There are three different laws about urban regeneration enacted for different needs in Turkey and the differences between them can be compared as in Table 4.1.

Table 4.1 : Complete Comparison of Regeneration Laws.

	Municipality Act	**Renewal of the Areas under Disaster Risk Act**	**Renovation of Historical Assets Act**
Regeneration authorities	Municipalities	Ministry of Environment and Urbanization	Municipalities, special provincial administrations
Supporting authorities	Housing Development Administration	Municipalities, special provincial administrations, Housing Development Administration	Housing Development Administration
Boundaries are approved by	Council of Ministers, municipalities (under some circumstances)	Council of Ministers	Council of Ministers
Purpose	To develop residential, commercial, industrial, technological parks, public utilities fields, recreational areas, any kind of social infrastructure; renew and restore aging urban areas; protect historical and cultural texture of cities; take precautions against earthquake risk	To determine methods and principles about rehabilitation, clearance, and renewal in order to constitute healthy and secure living environment complying with scientific and artistic norms and standards upon land parcels that lay on areas under disaster risk and on areas that have at-risk buildings	To reconstruct and restore dilapidated protected areas; create zones of housing, business, culture, tourism and social facilities in such areas; take measures against risks of natural disasters; renovate, conserve and actively use historical and cultural immovable assets
Requirements	Areas of minimum 5 hectare and maximum 500 hectare	Areas or buildings must be under disaster risk	In areas registered and announced as protected areas by the cultural and natural heritage conservation boards and in protection zones
Stakeholders	Legal building owners, unauthorized building owners, land owners, semi-legalized squat owners (squatters with title allocation document)	Legal building owners, unauthorized building owners, land owners, (and not obligatorily: semi-legalized squat owners, non-legalized squat owners, and tenants)	No information
Principles of determining participation shares	No information	According to the Expropriation Act No.2942	No information
State subsidies	Environmental adjustments and façade maintenance of neighborhoods can be paid by municipalities completely or partially; Housing Development Administration can build affordable homes and can sell them below cost value	Costs of seismic performance assessment and demolition can be paid by authorities; authorities can give stakeholders grants, low interest rate credits, homes and workplaces with affordable installments; values of homes and workplaces can be determined below project costs;	Housing Development Administration can build affordable homes and can sell them below cost value
Tax-cuts	75% reduction of all kinds of taxes and fees	Free from all kinds of taxes and fees	Free from all kinds of taxes and fees

Turkey lays on the seismic zones and faces major earthquakes frequently. In the same time, a large amount of the housing stock in the country consists of non-earthquake-proof buildings. Due to this combination, Turkey have experienced many devastations in the past. In order to eliminate at-risk buildings, those buildings must

be renewed as soon as possible. However, the legislations had not allowed to renew them, especially condominiums, until recently. Because the laws always protected the rights of the few against the many. Only one condo-unit owner could have blocked the renewal of a large building because the laws had looked for the unanimous approval of the shareholders for a renewal decision. The *Renewal of the Areas under Disaster Risk Act* was enacted in order to surpass this barrier by introducing the "seismic performance assessment" of buildings. After the tests, if a building gets a negative test report and is announced as "at-risk" then the building must be demolished within 60 days, without the approval of the shareholders at all. This law is criticized by some people about its mandatory actions, however millions of people are living in non-earthquake-proof buildings in Turkey, a country that lays on seismic zones, therefore there is a public interest in demolishing those buildings, and mandatory actions are required in this respect.

From the institutional perspective, urban regeneration projects should be carried out by local authorities, i.e. municipalities. The reason is that the municipalities can have better relations with residents or stakeholders of a regeneration area than the central authorities. They can have more and better information about the area and its conditions. Just like preparing development plans is the major responsibility of the municipalities, urban regeneration projects are also local problems and should be held locally. It is a fact that many municipalities in Turkey do not have technical and financial capacities to carry out such projects, however, the central authorities can help municipalities with technical and financial support in this regard. Another important aspect with authorities is that public relations and documentation play an important role in successful projects. Stakeholders can be informed about the goals of the projects and how much everyone will benefit from them. Close relationships with stakeholders can reduce the likelihood of lawsuits. Also, authorities should always keep the records and document their decisions. Documentation plays a great role against court cancellations.

The financing is one of the most critical parts of regeneration projects. In Turkey, area-based projects are mainly financed not by stakeholders or authorities, but by developers to get homes and stores from the projects in return for their investments and services. This causes need for increasing building density, otherwise a large part of the residents need to move away from the project areas in order to open room for

the homes and stores for the developers. In such case, the projects and the authorities are immediately accused of displacing poor people out of their homes [12] and cause inner-city migration that ruins urban social topography [29]; and it even goes on to the level that the term “urban regeneration” itself is defined as a government-assisted gentrification project [12]. On the other hand, if authorities increase building densities in order to avoid or at least decrease the displacement, then this time they are accused to make cities more crowded [29] and use urban regeneration as a tool for the enrichment of not only the contracting companies, but also undeserving squatters and unauthorized building owners. In order to avoid the increase of building density, instead of providing homes for every person including squatters and unauthorized building owners, authorities can provide an option to sell affordable homes especially for squatters and unauthorized building owners outside the regeneration area. However this approach is also criticized that it is another version of gentrification of valuable inner-areas to open room for the wealthier people. Therefore, there is a paradox of the building density-displacement (or gentrification). Authorities can try not to do the both, however it will come to a point where the authority will need to make a political decision: building density or displacement. It will always happen unless someone pays the bill of the project costs. There are some subtle ideas about this paradox, such as instead of providing homes for companies, workplaces can be built in the area such as shopping malls. This way, instead of allocating many dwelling units, a small and valuable commercial area can be provided for companies. This way the authority can suppress the need of increasing building density. However the problem is that this method is not convenient everywhere. Firstly, authorities cannot produce shopping malls in every neighborhood. Secondly, a shopping mall or a similar workplace would not work well in a squatter neighborhood to be regenerated which is covered by other squatter settlements. Alternative models should be searched in order to “suppress” the need of increasing building density or displacement. Because avoiding both of them is a slim chance, unless the bill of the projects are paid by the stakeholders or by the state.

Expropriation is a very important tool for authorities to get success in the regeneration projects. Even though the target must be to convince and satisfy every stakeholder, in reality it is not always possible. In order to protect the public interests against individual benefits, expropriation plays an important role. However the

regeneration authorities sometimes fall into the mistake of not identifying the benefit of general public when implementing expropriation in Turkey. When the reason of expropriation is not documented and explained clearly, they become a subject to court cancellations. Not only cancelations, even court proceedings cause delays in the projects, which affects authorities, developers, stakeholders and general community. According to the Council of State of Turkey, the reason of expropriation must clearly be explained and public interest must be shown in the decisions. If they cannot convince people and courts, those expropriations can be canceled. Time, energy and money can be wasted due to precarious expropriation decisions.

Determination of urban regeneration project areas can also be subject to court cancellations. When determining an area, the reason of choosing such boundaries must be explained. There are different principles in different laws. According to the *Municipality Act*, a regeneration area can be determined by the council of the relevant municipality to develop residential, commercial or industrial areas and other public service areas. It is quite easy to determine an area as a regeneration area in the frame of the *Municipality Act*. However in the *Renovation of Historical Assets Act*, the area must contain historical and cultural assets. The area may also contain the peripheries of the historical area, however it must be explained why it is necessary to include those parts as well. In the *Renewal of the Areas under Disaster Risk Act*, the area must show a certain level of hazardous situation. It can be a problem of the ground such as land-slides, or the buildings may show dangerous situation because of dilapidation or being substandard. The area must show a correlation of a hazardous situation.

There are different levels of state subsidies in these three laws. If compared, the best one in terms of state subsidies is the *Renewal of the Areas under Disaster Risk Act*. Because of this, local authorities sometimes choose to determine a regeneration area based on this law rather than the *Municipality Act* in order to benefit from those subsidies. The problem is that the area may not contain a great deal of hazardous situation. It may just not function properly within the city, and it is required to be renewed because of this reason, rather than hazard. When it is done this way, some people file a lawsuit against the decision and the projects are cancelled in the implementation phases, and it causes a waste of time, money and energy of all sides. In order not to have such problems, state subsidies can be included in the other

regeneration laws as well. This will directly remove the need of using the *Renewal of the Areas under Disaster Risk Act* in order to benefit from its financial support in other types of regeneration projects. Before the conclusions, an overview of general processes of different ways of urban regeneration projects, the potential problems and solution ideas are provided in the figures below (Figure 4.1, Figure 4.2,Figure 4.3, Figure 4.4).

General Process of Urban Regeneration Projects in Turkey

PROBLEMS

1. The decision can be canceled by courts if it does not show relevancy.
2. The boundaries can be canceled by courts if it does not show relevancy.
3. There are difficulties at determining stakeholders and their contribution shares.
   There is ambiguity on determining the contribution shares of unauthorized building owners.
   There is ambiguity on determining the contribution shares of squatters: *demolition waste value* or *minimum materials cost value*? The definitions are missing.
4. The 'density-displacement paradox' occurs due to the developers-financing method.
   There are difficulties at determining distribution shares and overall mathematical models.
5. If the majority of the stakeholders reject the offers, the authority can either renew the project, or cancel it.
6. Expropriation decisions can be canceled by courts. Mathematical models can be canceled by courts.
7. If there is a cancellation by courts, the authority can either renew the project, or cancel it.
8. After the completion of the projects and delivering the properties to the stakeholders and developers, stakeholders may apply to the courts (even if they accepted the offer earlier) and complain that their share was miscalculated and ask for the remaining amount from the authorities (preferably in cash). If found right, the authority must pay the money together with the annual interest rate.

SOLUTION IDEAS

1. Documentation of the authorities plays an important role. The reason of the decision should be clearly explained.
   Act No.6306 should not be used as a mask in order to benefit from its financial support if there is no such disaster risk in the area.
   Financial support can be extended to the Act No.5366 and Act No.5399.
2. Documentation of the authorities plays an important role. The reason of the decision should be clearly explained.
3. Regeneration laws should be reviewed.
   Stakeholders should be identified.
   Appraisal method for unauthorized buildings and squats should be developed.
4. Example mathematical models can be introduced by guidelines.
   New financing models should be developed in order to suppress the need for increasing building density and displacement.
5. Public relations of authorities can decrease the potential of the refusal of stakeholders.
6. Expropriation decisions should be well documented and clearly explained. Legislation should be reviewed.
7. Legislation should be reviewed.
8. Legislation should be reviewed.

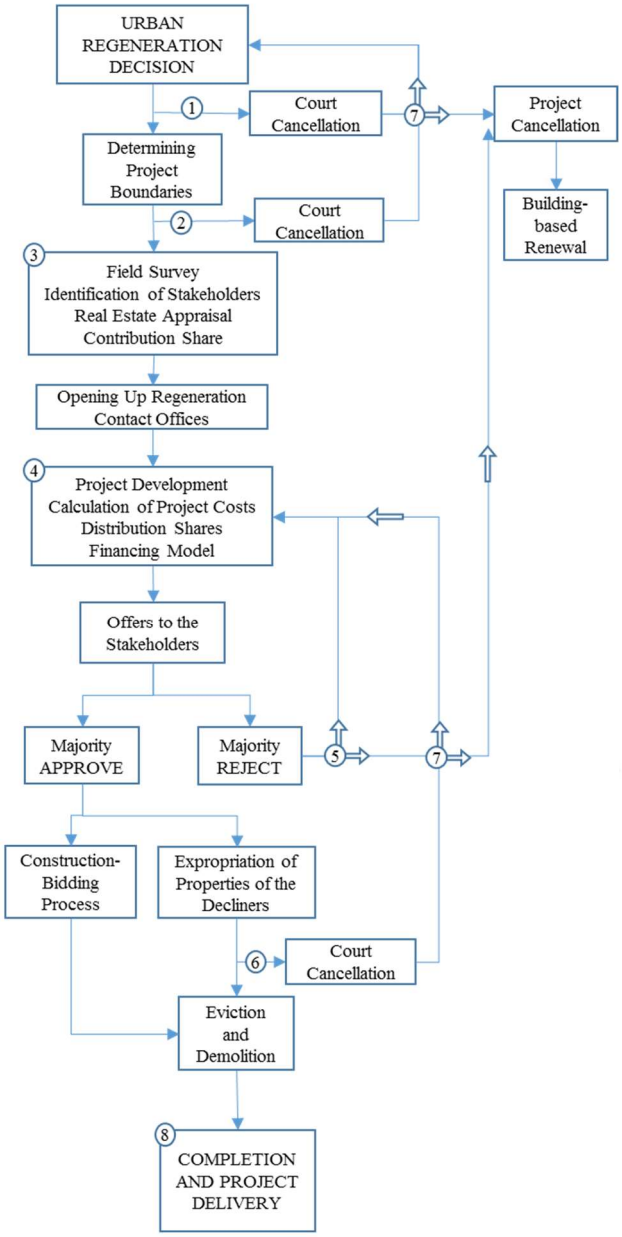


Figure 4.1 : General process of urban regeneration projects in Turkey.

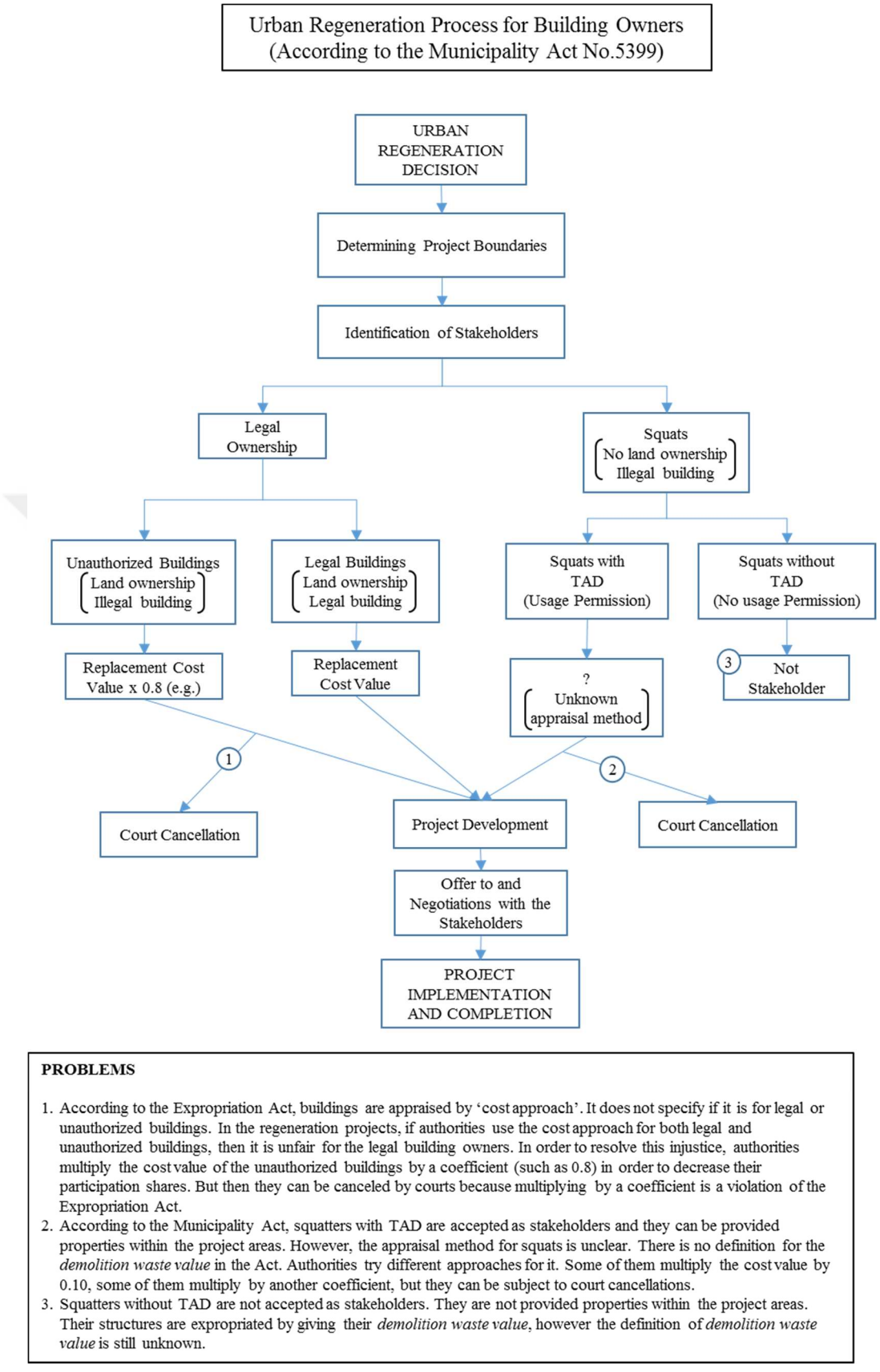
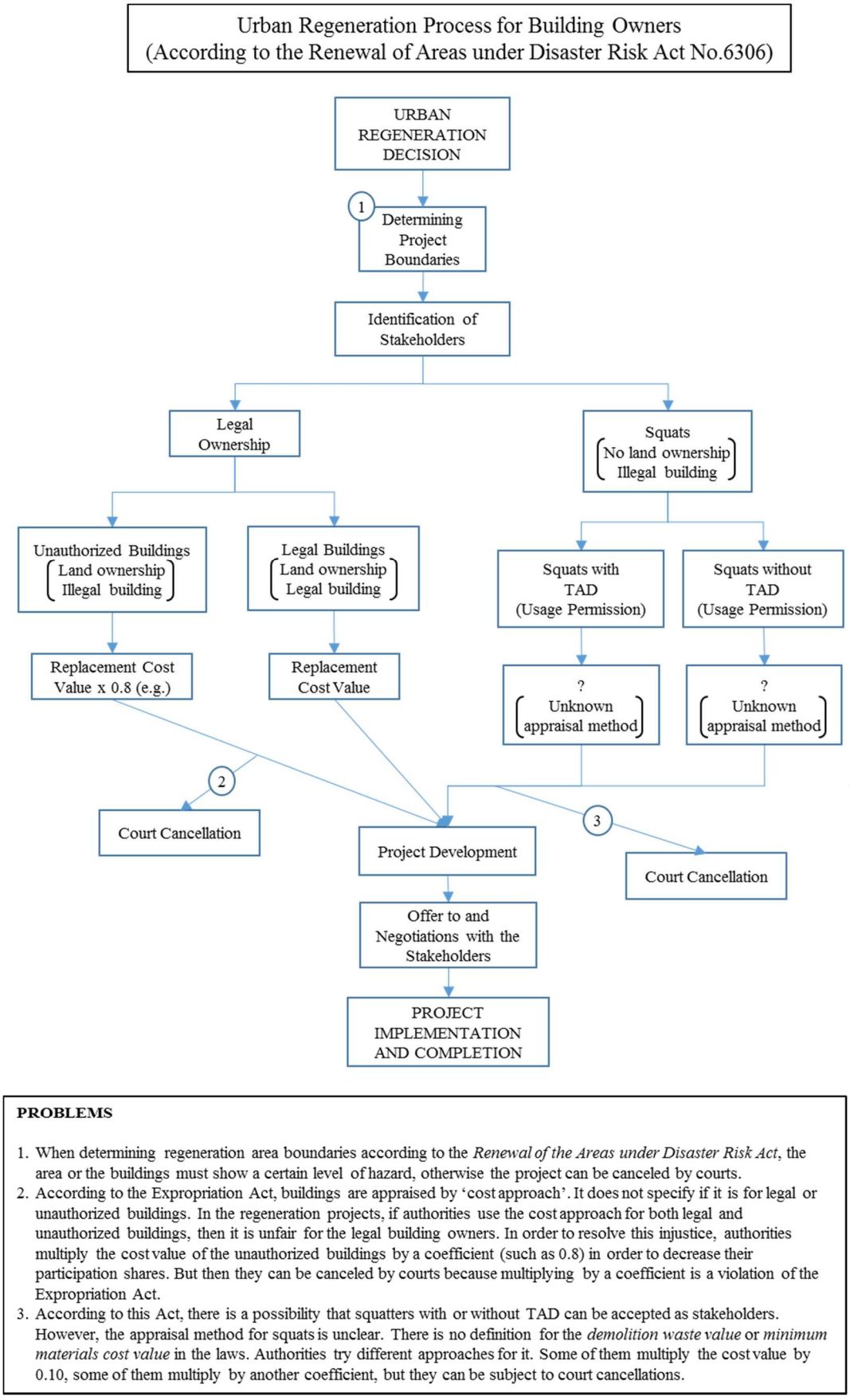


Figure 4.2 : Urban regeneration process for building owners according to the Municipality Act.



PROBLEMS

1. When determining regeneration area boundaries according to the *Renewal of the Areas under Disaster Risk Act*, the area or the buildings must show a certain level of hazard, otherwise the project can be canceled by courts.
2. According to the Expropriation Act, buildings are appraised by 'cost approach'. It does not specify if it is for legal or unauthorized buildings. In the regeneration projects, if authorities use the cost approach for both legal and unauthorized buildings, then it is unfair for the legal building owners. In order to resolve this injustice, authorities multiply the cost value of the unauthorized buildings by a coefficient (such as 0.8) in order to decrease their participation shares. But then they can be canceled by courts because multiplying by a coefficient is a violation of the Expropriation Act.
3. According to this Act, there is a possibility that squatters with or without TAD can be accepted as stakeholders. However, the appraisal method for squats is unclear. There is no definition for the *demolition waste value* or *minimum materials cost value* in the laws. Authorities try different approaches for it. Some of them multiply the cost value by 0.10, some of them multiply by another coefficient, but they can be subject to court cancellations.

Figure 4.3 : Urban regeneration process for building owners according to the Renewal of the Areas under Disaster Risk Act.

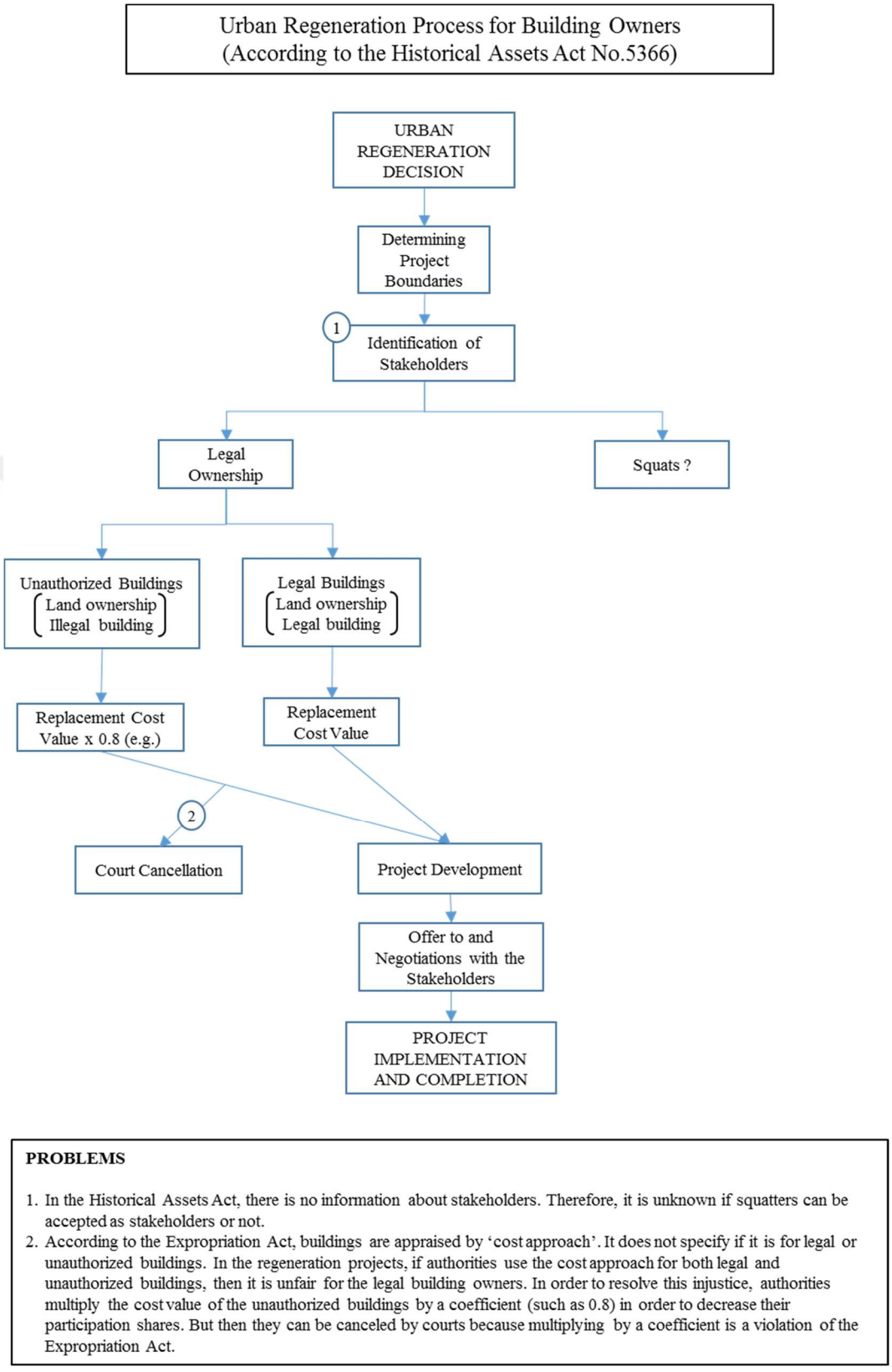


Figure 4.4 : Urban regeneration process for building owners according to the Historical Assets Act.

5. CONCLUSIONS

Leaving decay areas on their own and turning a blind eye to them is probably the easiest way for authorities to do. However, national and local authorities take political risks and try to carry out regeneration projects for those areas not only for their residents but also for general community, and they face with many problems. Those problems should be examined in academic researches and solution proposals should be developed. In this context, this thesis investigates real estate ownership problems experienced at the beginning of the urban regeneration projects in Turkey and tries to provide some solution ideas for those problems.

First of all, urban transformation should be carried out with the consideration of not only physical, but also social, economic and environmental aspects. After making these political decisions and developing a framework for the projects, authorities can then focus on more technical aspects.

There are many ambiguities and contrasting clauses in the Turkish regeneration legislation. Even local and appellate courts in the country do not know how to handle real estate related problems that occur in the regeneration and renewal projects. Therefore, the Turkish urban regeneration legislation should be reviewed and the required improvements discussed above sections should be made.

Determining stakeholders and their property rights is a hard task. In this thesis, the major stakeholders are identified. Different types of building ownership are also shown. Difficulties of determining the rights of unauthorized building owners and squat owners are explained. Different mathematical methods for determining participation and distribution shares for different types of stakeholders are introduced. The identification of potential stakeholders and their property rights in this thesis can help objectify the issue and help authorities determine the participation and distribution shares in their project areas. It can also be helpful for the lawmakers to understand the seriousness of the situation and can be seen as a call to make required amendments in the legislation.

The need of increasing building density in regeneration projects occur due to the financing model. Because, neither the stakeholders nor the state pays the project costs, and the most used method until today has been developer financing. Developers carry out the projects without asking any money, they need to get homes

or workplaces in return. This requires increasing building density. If the density is kept the same, then the shares of stakeholders will shrink which will then be called "gentrification" or displacement. Because some part of the residents will need to move away from the area in order to open room for the developers. More research is required for the finance of urban regeneration in order to suppress the need of increasing building density or displacement. But one solution to be considered is to carry out projects through the municipal corporations which get homes or workplaces for only costs of the projects.

One another method to suppress the need of increasing building density can be property transfers. In case of mutual agreement between authorities and stakeholders, stakeholders can be provided homes outside regeneration areas. However, many interested people (such as organizations or academics) watch the demographics of the areas closely to see if there are any displacement of indigenous residents without considering the possibility that the stakeholders who left the area may have chosen to leave the area themselves. Making "before-after" surveys in regeneration areas about the demographic changes without thinking this possibility would not be helpful to any sides. Again, public relations of authorities play a great role here. The authorities can make these surveys and publish them by showing the reasons of why those stakeholders left the area. This can dramatically reduce the potential speculations.

Turkey lays on seismic zones and one third of the building stock is considered as non-earthquake-proof buildings. The earthquake risk and unqualified buildings together is a very bad combination. The low quality building stock must be renewed, otherwise the country will keep experiencing results of devastating earthquake disasters in every few years. Even though it is more desirable in every way to make holistic area-based regeneration projects, building-based renewal plays an important role in this respect and it is not a good idea to discredit it completely.

The 2/3 rule in the *Renewal of the Areas under Disaster Risk Act*, which is explained in the above sections, is also another part which is criticized. According to it, after demolishing an at-risk building, the shareholders must agree on the terms of the new building project. However it is a fact that especially in large condominium complexes, it is a difficult task to make a unanimous approval of shareholders on even very simple management decisions such as painting of the building. Considering the rebuilding, it is even harder. Therefore, the 2/3 rule can be seen as a

motivator for the shareholders. It is true that unfair situations may arise such as the 2/3 may try to take more valuable homes than the 1/3 gets. In such cases the 1/3 will, of course, refuse such decisions. In these cases, the victimized 1/3 can always file a lawsuit against the 2/3 in bad faith, and ask from the courts to share the development gain equitably under the supervision of judiciaries. Also, homes may have liens on them such as mortgage. When they need to be demolished, the secured value on those building will be disappeared. In such cases, it must always be remembered that those buildings are "at-risk" and must be demolished. Lien holders or lenders can go to courts and ask the remaining debt from that person anyway.

Even though it is the most desirable thing, because of human nature, it is a low chance to satisfy every single stakeholder in regeneration project areas. It should be acknowledged that when projects reach to a certain level of public or stakeholders' support, the disagreeing minority's properties can be expropriated by authorities in order to carry out the projects. Expropriation plays and important role in this respect. However, authorities should be cautious about using this power, and document the reason of expropriation clearly in order to convince the general public and also courts. Public relations play an important role in this field too.

Urban regeneration projects are massive development projects which include many different aspects. Things could be much easier if people in decay areas would be wealthy and pay the project costs or the state would be wealthy enough to completely subsidize the projects. The reality is different. Until today, the finance of projects has mainly been done by private companies to get real properties in return from the new projects. In order to suppress the need of increasing building density or cause dislocation of the residents, further studies are required to find alternative financial solutions.

Urban regeneration projects should be carried out by local authorities rather than national authorities. Because local authorities can have better relations and better ties with the stakeholders, it is easier for them to implement more successful projects. On the other hand, it is a fact that many local authorities do not have capacity to carry out such projects in technical and financial aspects. Therefore, national authorities can support local authorities with their expertise and their finance, in order to realize projects more successfully.

REFERENCES

[1] Roberts, P., & Sykes, H. (1999). *Urban regeneration: a handbook*: Sage.

[2] Zheng, H. W., Shen, G. Q., & Wang, H. (2014). A review of recent studies on sustainable urban renewal. *Habitat International, 41*, 272-279.

[3] Couch, C., Sykes, O., & Börstinghaus, W. (2011). Thirty years of urban regeneration in Britain, Germany and France: The importance of context and path dependency. *Progress in Planning, 75*(1), 1-52.

[4] Peng, Y., Lai, Y., Li, X., & Zhang, X. (2015). An alternative model for measuring the sustainability of urban regeneration: the way forward. *Journal of Cleaner Production, 109*, 76-83. doi: http://dx.doi.org/10.1016/j.jclepro.2015.06.143

[5] Hassan, G. F. (2012). Regeneration as an approach for the development of informal settlements in Cairo metropolitan. *Alexandria Engineering Journal, 51*(3), 229-239.

[6] Pugh, C. (2000). Squatter settlements: their sustainability, architectural contributions, and socio-economic roles. *Cities, 17*(5), 325-337.

[7] Parsa, A., Nakendo, F., McCluskey, W. J., & Page, M. W. (2011). Impact of formalisation of property rights in informal settlements: Evidence from Dar es Salaam city. *Land Use Policy, 28*(4), 695-705.

[8] Erman, T., & Eken, A. (2004). The "Other of the Other" and "unregulated territories" in the urban periphery: gecekondu violence in the 2000s with a focus on the Esenler case, Istanbul. *Cities, 21*(1), 57-68. doi: http://dx.doi.org/10.1016/j.cities.2003.10.008

[9] Fernandes, E. (2011). *Regularization of informal settlements in Latin America*: Lincoln Institute of Land Policy Cambridge, MA, USA.

[10] Parés, M., Bonet-Martí, J., & Martí-Costa, M. (2011). Does participation really matter in urban regeneration policies? Exploring governance networks in Catalonia (Spain). *Urban Affairs Review*, 1078087411423352.

[11] Peerapun, W. (2012). Participatory planning in urban conservation and regeneration: A case study of Amphawa Community. *Procedia-Social and Behavioral Sciences, 36*, 243-252.

[12] Güzey, Ö. (2009). Urban regeneration and increased competitive power: Ankara in an era of globalization. *Cities, 26*(1), 27-37.

[13] Erman, T. (2001). The politics of squatter (gecekondu) studies in Turkey: the changing representations of rural migrants in the academic discourse. *Urban Studies, 38*(7), 983-1002.

[14] Baharoglu, D., & Leitmann, J. (1998). Coping strategies for infrastructure: How Turkey's spontaneous settlements operate in the absence of formal rules. *Habitat International, 22*(2), 115-135.

[15] Uzun, B., Çete, M., & Palancıoğlu, H. M. (2010). Legalizing and upgrading illegal settlements in Turkey. *Habitat International, 34*(2), 204-209.

[16] Keleş, R. (2015). *100 Soruda Türkiye'de Kentleşme, Konut ve Gecekondu*: Cem Yayınevi.

[17] Turkish Statistical Institute. (2011). Population and Housing Census, 2011.

[18] Bayraktar, E. (2012). Kentsel dönüşümde 1'e 3 sınırı, *NTV.com.tr*. Retrieved from http://www.ntv.com.tr/turkiye/kentsel-donusumde-1e-3-siniri,PoCHr1_DqkOf-OZAvdUO5A

[19] Gunes, O. (2015). Turkey's grand challenge: Disaster-proof building inventory within 20 years. *Case Studies in Construction Materials, 2*, 18-34.
[20] Kandilli Rasathanesi. (2015). Büyük Depremler. Retrieved 09.07.2015, from http://www.koeri.boun.edu.tr/sismo/2/deprem-bilgileri/buyuk-depremler/
[21] AFAD. (2015). Deprem Bölgeleri Haritası. Retrieved 09.07.2015, from http://www.deprem.gov.tr/sarbis/Shared/DepremHaritalari.aspx
[22] UN-Habitat. (2003). The Challenge of Slums: Global Report on Human Settlements 2003.
[23] Erman, T. (1997). Squatter (gecekondu) housing versus apartment housing: Turkish rural-to-urban migrant residents' perspectives. *Habitat International, 21*(1), 91-106.
[24] Potter, J. J. (1993). The impact of change upon rural-urban migrants in Turkey. *Landscape and urban planning, 26*(1), 99-114.
[25] Yasin, M. (2005). Kentsel Dönüşüm Uygulamalarının Hukuki Boyutu. *TBB dergisi*(60).
[26] Keleş, R. (2006). Kentleşme Politikası, Dokuzuncu Baskı. *Đmge Kitabevi, Ankara, 780s*.
[27] TMMOB. (2004). Kaçak Yapılaşma İle İlgili Süreçler, Sorunlar, Çözüm Onerileri Değerlendirme Raporu (K. v. Y. Y. Ç. Grubu, Trans.): TMMOB.
[28] Turcu, C. (2012). Local experiences of urban sustainability: Researching Housing Market Renewal interventions in three English neighbourhoods. *Progress in Planning, 78*(3), 101-150.
[29] Dündar, Ö. (2001). Models of urban transformation: Informal housing in Ankara. *Cities, 18*(6), 391-401.
[30] Bertaud, A., & Brueckner, J. K. (2005). Analyzing building-height restrictions: predicted impacts and welfare costs. *Regional Science and Urban Economics, 35*(2), 109-125.
[31] Pérez, M. G. R., & Rey, E. (2013). A multi-criteria approach to compare urban renewal scenarios for an existing neighborhood. Case study in Lausanne (Switzerland). *Building and Environment, 65*, 58-70.
[32] De Soto, H. (2000). *The mystery of capital: Why capitalism triumphs in the West and fails everywhere else*: Basic books.
[33] Jeffrey, P., & Pounder, J. (2000). 5 Physical and Environmental Aspects. *Urban Regeneration: A Handbook*, 86.
[34] Izmir Büyükşehir Belediyesi. (2015). Urban regeneration projects in Izmir. Retrieved 18.12.2015, from http://www.izmir.bel.tr/
[35] Emlakkulisi. (2014). Trabzon Ayasofya Kentsel Dönüşüm Projesi kapsamında 44 bina yıkıldı. Retrieved 14.12.2015, from http://emlakkulisi.com/trabzon-ayasofya-kentsel-donusum-projesi-kapsaminda-44-bina-yikildi/255398
[36] *Kentsel Dönüşüm Hukuku*. (2013). (M. Yasin & C. Şahin Eds.): İstanbul Üniversitesi S.S.ONAR İdare Hukuku ve İlimleri Araştırma ve Uygulama Merkezi Yayınları.
[37] Belediye Kanunu No.5393. (2005).
[38] Afet Riski Altındaki Alanların Dönüştürülmesi Hakkında Kanun No.6306. (2012).
[39] Yıpranan Tarihi Ve Kültürel Taşınmaz Varlıkların Yenilenerek Korunması Ve Yaşatılarak Kullanılması Hakkında Kanun No.5366. (2005).
[40] Palancioglu, H. M., & Cete, M. (2014). The Turkish way of housing supply and finance for low- and middle-income people. *Land Use Policy, 39*, 127-134. doi: http://dx.doi.org/10.1016/j.landusepol.2014.04.001

[41] Ayan, M. (2014). *Eşya Hukuku II, Mülkiyet* (Vol. 2). Konya: Mimoza.
[42] Ayan, M. (2014). *Eşya Hukuku III, Sınırlı Ayni Haklar* (6th ed.). Konya.
[43] İmar Ve Gecekondu Mevzuatına Aykırı Yapılara Uygulanacak Bazı İşlemler Ve 6785 Sayılı İmar Kanununun Bir Maddesinin Değiştirilmesi Hakkında Kanun No.2981. (1984).
[44] Ilgezdi, A. R. (2013). *100 Soruda Tapu Tahsis Belgesi*. Ankara: Seçkin Yayıncılık.
[45] Ülger, N. E. (2010). *Türkiye'de arsa düzenlemeleri ve kentsel dönüşüm*: Nobel Yayın Dağıtım.
[46] Kamulaştırma Kanunu No.2942. (1983).
[47] Kat Mülkiyeti Kanunu No.634. (1965).
[48] Yargıtay, 13. Hukuk Dairesi, 2000/7344 E., 2000/8356 K. (2000).
[49] Uzun, B., & Celik Simsek, N. (2015). Upgrading of illegal settlements in Turkey; the case of North Ankara Entrance Urban Regeneration Project. *Habitat International, 49*, 157-164. doi: http://dx.doi.org/10.1016/j.habitatint.2015.05.026
[50] Kuzey Ankara Girişi Kentsel Dönüşüm Projesi Kanunu No.5104. (2004).
[51] Kuzey Ankara Girişi Kentsel Dönüşüm Projesi Yönetmeliği. (2006).
[52] 6306 Sayılı Kanunun Uygulama Yönetmeliği. (2012).
[53] Adair, A., Berry, J., McGreal, S., Deddis, B., & Hirst, S. (2000). The financing of urban regeneration. *Land Use Policy, 17*(2), 147-156. doi: http://dx.doi.org/10.1016/S0264-8377(00)00004-1
[54] Ulger, N. E., & Yomralioglu, T. (2014). *A Model for Sustainable Urban Regeneration in Turkey*. Paper presented at the FIG Congress 2014, Kuala Lumpur.
[55] Brueckner, J. K., & Sridhar, K. S. (2012). Measuring welfare gains from relaxation of land-use restrictions: The case of India's building-height limits. *Regional Science and Urban Economics, 42*(6), 1061-1067.
[56] Yıpranan Taihi ve Kültürel Taşınmaz Varlıkların Yenilenerek Korunması ve Yaşatılarak Kullanılması Hakkında Kanunun Uygulama Yönetmeliği. (2005).
[57] Yılmaz, A., & Demir, H. (2015). *Kentsel Dönüşüm Uygulamalarında Arsa Payı Sorunu*. Paper presented at the 15. Türkiye Harita Bilimsel ve Teknik Kurultayı, Ankara.
[58] Danıştay, 6. Daire, 2011/8665 E., 2013/9005 K. (2013).
[59] Danıştay, 6. Daire, 2007/7539 E., 2009/9074 K. (2009).

CURRICULUM VITAE

Name Surname: **Yunus KONBUL**

Place and Date of Birth: **GAZİPAŞA 06.09.1985**

Address: **İzmir Katip Çelebi Üniversitesi, Mühendislik ve Mimarlık Fakültesi, Harita Mühendisliği Bölümü, Baltçık/Çiğli/İzmir, Turkey**

E-Mail: **yunuskonbul@gmail.com**

B.Sc.: **Geomatics (Geodesy and Photogrammetry) Engineering**

Professional Experience:

Company/Institution	Duty	Year
Izmir Katip Celebi University	Research Assistant	2013 - ….
Contracting Company – Antalya Highway Administration	Expropriation Project – Coordinator	2013
Construction Company	Consultant	2012
Konbul Surveying Engineering Firm	Owner and Technical Responsible	2010-2012
The Ministry of Defence of Turkish Republic, Construction and Real Estate Regional Administration	Surveying Engineer	2010

List of Publications:

Conference Papers

Konbul, Y., & Çete, M. (2014). *An Overview of Urban Regeneration Projects in Turkey.* Paper presented at the Places and Technologies, 3-4 April 2014, Belgrade, Serbia.

Çete, M., & **Konbul, Y**. (2014*). Property Issues in the Turkish Urban Regeneration Projects*. Paper presented at the Places and Technologies, 3-4 April 2014, Belgrade, Serbia.

Konbul, Y., & Çete, M. (2015). *Role of Private Surveyors in Cadastre: The Turkish Case.* Paper presented at the WCS-CE - The World Cadastre Summit, Congress & Exhibition 20 –25 April 2015, Turkey, Istanbul.

Konbul, Y. (2015). *Role of Surveyors in Urban Regeneration Projects in Turkey*. Paper presented at the FIG Working Week 2015, 17-21 May 2015, Bulgaria, Sofia.

Book Chapter

Çete, M., & **Konbul, Y.** (2015). An Overview of Urban Regeneration Projects in Turkey. *Keeping Up with Technologies to Improve Places*: Cambridge Scholars Publishing.