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► **To cite this version:**

Natacha Aveline-Dubach. Urban Land Market and Land Policy in France. Comprehensive Urban Studies, 1997, 62, pp.139-152. halshs-00397377

HAL Id: halshs-00397377

<https://shs.hal.science/halshs-00397377>

Submitted on 22 Jun 2009

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International Symposium on Urban Land Policies and Land Use Systems

Center for Urban Studies

Tokyo Metropolitan University

September 13-14

**Urban Land Market and Land Policy
in France**

Référence

Natacha Aveline, « Urban Land Markets and Land Policy in France», *Sôgô toshi kenkyû* (Comprehensive Urban Studies) n°62, mars 1997, p.139-152.

Introduction

The French urban planning system and land policy often arises interest or admiration in Foreign countries. French urban planners have created original land-use tools, such as the Legal Density Ceiling, a kind of land tax that the Brazilian Government has been considering adopting, and that American experts have studied with much interest. Furthermore, the strong land-use control policy enforced after the second World War in France has enabled the government authorities to face the huge demand in public facilities induced by the rapid post-war urban growth, and to fulfil part of the needs of housing, particularly in the public housing sector.

Nevertheless, 50 years on, it can be seen that although some quantitative objectives have been satisfied, it is not the case for the qualitative goals. The recent events in some French "grands ensembles" (equivalent to Japanese *danchi*, high-density housing areas located in the outskirts of cities), although far from reaching the levels of violence of American riots in the black ghettos, have highlighted the mistakes and the limitations of the public-oriented urban planning policies of the 1960s and 1970s. The results of the original land tools created or developed in France are no better. These tools have generally missed their targets, and have had repercussions on land and real-estate markets. Moreover, the economic and political context has changed dramatically since the beginning of the 1980s, thus challenging the objectives and practice of land policy, forcing it to move towards a new "land paradigm".

In order to comprehend the importance of these transformations, we must return to the origins of the public land policies, which go back to the late 1950s.

I. From the post-war to the decentralisation period (1950-1982).

Before the end of the 1950s, land was not considered an important issue in France. There is no dramatic lack of space. Of the 55 million hectares (130 million acres) cities occupy only 3% (as opposed to 10% in other European countries), industry takes up 0,4%, the entire transport infrastructure 2%, agricultural land accounts for 60%, forests 27% and fallow fields 7%. In other European countries, greater human density obliged government authorities to implement land markets regulation and land-use control measures as early as the beginning of this century, while French cities could easily absorb urban growth by extending their urban areas.

But soon after the end of the second World War, France experienced a shortage of housing, worsened by the numerous damaged areas. Faced with the necessity to take emergency measures, the central government and the local authorities started to intervene on the land markets, mainly in suburban areas.

In 1958, Priority Development Zones (ZUPs, Zones à Urbaniser en Priorité) were created. In these zones, the government authorities could acquire land (by compulsory purchase, pre-emption¹ or negotiation), develop land, provide the necessary public facilities, and sell developed land to private developers. The purpose was to reduce the chronic shortage of public facilities to boost levels to equal those of urban growth, and to provide the population with new housing.

The ZUPs were to become the well known "grands ensembles" (*danchi*) which are so problematic today. They were generally created in remote parts of the cities, where land was comparatively cheap. Badly served by public transport, they were to become a kind of ghetto, with a high concentration of jobless people living in decaying high rise tower blocks.

Despite the strong government intervention in the ZUPs, this procedure turned out to be ineffective in preventing land speculation. On the contrary, the rise of developed land prices in the ZUPs spread over

¹The procedure of compulsory purchase was introduced in 1810 (the Baron Hausmann made wide use of it at the end of the 19th century). In 1953, its use was extended to the building of houses and industrial plants, then it was widely used in the ZUP zones after 1958. The pre-emption right was introduced in the ZUP zones in 1958. It gives the local authority priority in purchasing land or real-estate put up for sale.

neighbouring areas, causing a land-price boom in the large cities from 1958 to 1963. To struggle against land speculation and to control land-use, the local authorities were then empowered in 1962 to exercise a pre-emption right (the right to purchase in priority a property put up for sale) in new zones that they could define within future urban zones in the suburban areas. These new zones were called ZAD ("Zones d'Aménagement différé", Deferred Development Zones).

The land boom of 1958-1963 aroused discussions on how to control further urban growth while preventing land speculation. This led to the adoption of a determining Act in 1967, known as LOF ("Loi d'Orientation Foncière", Basic Land Act). This Act can be compared to the Japanese City Act of 1968 (*toshi kihon hô*), in the sense that it still constitutes the framework of the urban planning concepts and practices. The LOF Act brings into general use the two levels in urban planning rules existing since 1958. The SDAU ("Schémas Directeurs d'Aménagement et d'Urbanisme", Structure Plans) replace the former "Plans Directeurs" (Master Plans) and the POS ("Plans d'occupation des sols", Land Use Plans) replace the former "Plans de Détail" (Comprehensive Plans).

The SDAU (which became "Schémas Directeurs" in 1982) provide the general details of land-use on a long-term basis (about 15 years). These plans generally concern several local authorities. They provide details concerning the transport network, public facilities, the location of the main services and activities and the preferred location of any future urban areas. They can be compared to the Japanese *masterplan*, but the difference is that they can cover a greater number of municipalities (up to 160 in the Metz area !).

The POS are much more detailed, and generally concern only one local authority. They establish the conditions of land-use in various zones, ranging from urban to rural areas ; they also specify sites for public use and the various land charge affecting the area. Unlike the SDAU, they are legally binding. They can be compared to the Japanese land-use plans.

The main innovation of the LOF Act is the introduction of a new kind of urban planning zone called ZACs ("Zones d'Aménagement Concerté", Comprehensive Development Areas). Like the Japanese *toshi saikaihatsu kuiki*, the ZACs are aimed at transferring the financing of new public facilities to the private sector by promoting the partnership between public and private bodies (by negotiating the land-use rules within the zones).

Two different kinds of ZACs are to be distinguished : the "public ZACs", which replace the ZUP, and the "private ZACs" where private developers undertake the risks of the development. In fact, most of the ZACs were to be developed by semi-public companies (SEM) in "public ZACs", where the loans were usually guaranteed by the local authorities. In these zones, housing for sale and rented housing were mostly subsidised by the State.

From 1965 to 1975, many changes occurred in the urban planning general context. With the decreasing pace of urban growth, the burden on the housing market became less worrying, and the rise in land value tended to slow down. The oil crisis of the mid-1970s also marked the end of the 30 "glorious years" of high economic growth of the post-war period (ranked second in the world, after the Japanese *Kôdô Seichô*). After having built a huge number of high rises in the suburbs of cities all over France (in the ZUPs), the government authorities were eager to redevelop the decayed areas around town centres, by bulldozing the old buildings in order to build medium-density projects. On the other hand, the blossoming of ecological issues focused on the quality of life and promoted the construction of houses on the urban fringes.

The government authorities were therefore more preoccupied in controlling the density of the projects in the centre of towns, whilst trying to secure part of the benefits induced by the higher building density. This led to the passing of the Galley Act in 1975, which instituted two new urban planning tools : the PLD ("Plafond Légal de Densité", Legal Density Ceiling), and the ZIF ("Zones d'Intervention Foncière", Land Intervention Zones).

1) The PLD limits the right to build of the land owner to a certain density ceiling, fixed to ONE square meter of floor area per square meter of land area. Originally, this rate applied to the whole of France, except in Paris where it was 1,5 (both ceilings correspond to a Japanese Floor Area Ratio of respectively 100% for France and 150% for Paris). In places where town planning rules allow, an owner may build at a density higher than the PLD, on condition that he/she pays a fee equivalent to the value of the area of extra land needed in order not to be over the PLD.

Three conflicting goals were set for the PLD, namely to bring down land values, to limit building density, and to increase the financial resources of the local authorities. In fact, this tool which gave rise to passionate discussions and arguments (it was even accused of setting out the "collectivisation" of land) only managed to achieve the third goal. It became an ordinary tax mainly levied in the rich municipalities of the Western part of the Paris area, where the land values are extremely high and where a tremendous amount of office space was created in the late 1980s. In these areas, the PLD did not prevent the land boom, nor the construction of a great number of high-rise office buildings.

2) The ZIF were aimed at completing the pre-emption zoning system in the suburbs (ZADs), introducing the pre-emption right into existing urban zones. The ZIFs were to be designed in towns having more than 10 000 inhabitants and being endowed with a POS. They were expected to reach two goals, namely to secure the public land-use control for future projects, and to put land in reserve by taking advantage of opportunities of purchasing land in the centre of cities.

The major innovation of the ZIF was the introduction of a three year grant by the central government to the local authorities, to help them acquire land. However, in 1982, the decentralisation process brought an end to this timid financial endeavour, while the local authorities having a POS were entitled to exercise an "urban pre-emption right" in the existing and future urban zones (replacing the former ZADs and ZIFs). The results of the pre-emption right were no better than those of the PLD, because the local authorities did not use it at all as expected. They did not use it as a means to acquire land or real-estate (only 1% of sale notifications are followed by a public purchase), nor as a way to prevent speculation, but mainly to achieve a particular objective, which was to survey the land markets on their territory (information on land markets being hard to access in France, as explained later). Some local authorities also used the pre-emption right for hidden objectives, such as to avoid "undesirable" projects (i.e. residences for immigrants) by filtering prospective land purchasers.

II. The decentralisation of urban planning prerogatives (1982-1983).

The 1980s was a decade of great change in the context of land policy. The drastic modifications of the economic and urban environment, as well as the transfer of the urban planning prerogatives to the local authorities, gradually demolished the traditional conception of land policy, whose main features were an almost single-path developing process (the public development path) and a general desire to remove land from the market economy by exerting strong public control over land-use. The new context brought an end of the large projects implemented in the city suburbs .

1) A dramatic change of economic context

The early 1980s marked the end of a long period of inflation, during which actual interest rates (nominal interest rate - inflation rate) had been maintained at a negative value. Before the 1980s it was very profitable to get into debt and to make land reserves. The sudden rise in the actual interest rates to rather high positive values (6-7%) suddenly made the saving of land very costly, and forced developers to take into account the enormous financial risks of the urban planning projects.

2) The transformation of the urban context

The exceptional post-war urban growth had come to an end. The purpose of urban planning policies was no longer to urbanise new areas around cities, but to limit the use of non-urban space by increasing the density of urban zones. Future urban development thus concerned already existing zones and land purchase became more difficult and more costly.

3) The modifications of the institutional environment.

The local authorities were empowered with the whole range of land and urban planning tools, although the central government could intervene if necessary. However, the decentralisation process was the root of the various problems :

-problems of co-operation between municipalities.

The use of urban planning prerogatives at a municipal level made the lack of supra-municipal structures more problematic than before. One must remember that France has no less than 36 551 municipalities, that is about 10

times the Japanese figure, whereas the Japanese population is twice as high as the French one ! In France, the municipal level is thus too narrow to enable efficient land policies. What is more, the lack of supra-municipal bodies (municipal co-operation systems) prevents the creation of public land agencies whose financial resources could be based on additional taxes at supra-municipal level. Such agencies were created to build new towns and proved to be very efficient. The lack of municipal co-operation also hampers the creation of Structure Plans in large cities. In 1995, only 6800 municipalities (among 36 551) were covered by a properly approved Structure Plan.

-the disengagement of government authorities from land markets

Although the local authorities had the use of land control tools, they did not have the financial means to enforce them. Moreover, the disengagement of the central government in the social housing sector dramatically changed the conditions of financial equilibrium in the ZACs. Up until the early 1980s, the budgets of ZAC projects had been consistently balanced by regular investments in the public housing sector by the State. The economy of these projects was therefore the concern of the planned economic sector, concerned with housing unit numbers as well as housing prices. After the beginning of the 1980s, the flow of public housing construction tended to dry up, while new urban planning projects became more difficult to implement on account of their location within existing urban zones. The local authorities tried consequently to increase new projects, within ZACs, involving partnerships with private developers. The early 1980s also marked the rapid development of the tertiary sector. Combined with the financial deregulation process, this factor led to an increase in the demand for office space. This began in the Paris area, then spread to other metropolitan areas. The urban planning process fits in well with this new demand, by subjecting the projects to market conditions and by granting the private developers a determining position.

-the unstable nature of the POS.

Although a great number of small municipalities did not have enough financial means to be endowed with a POS, the majority of large cities seized this tool (in 1995, 18 000 municipalities were endowed with a POS, concerning about 93% of the French population). However, the town councils which are closer to local interests than the State, tend to abuse of procedures allowing, in certain cases, changes in the provisions of the POS.

There are two procedures allowing such a change:

- i) the "modification" of the POS. This is a flexible procedure, easy to implement, but only concerning minor points (however, some town councils use it to extend the urban zones on land under their administration).
- ii) the "revision" of the POS. This procedure is much more time-consuming and complicated to put into practice (it is quite similar to the creation of a POS), but the town council can enforce in advance a POS under revision. Among municipalities having more than 10 000 inhabitants, about 40% of the approved POS were under revision in 1995. This means that their economy is going to change drastically in the short-term.

This unstable nature of the urban planning documents is a major cause of uncertainty for developers, and paved the way for speculative anticipation of all sorts during the late 1980's.

-the growing complexity of the decision-making process

In increasing the administrative powers at local level, the decentralisation multiplied the number of local figures in a position to intervene in the urban planning decisions and thus complicated the context of the public action. During the 1980s, a great number of associations of various kinds, ranging from NIMBY² to ecology-oriented types, have emerged. Since there is no room, in the French legal framework and practices, for negotiation before implementation of a project (like *nemawashi* in Japan), the conflicts between local authorities and associations tend to be solved through legal procedures, after the construction process has started. The severe increase in litigation is a constraint for developers, and often provokes a freezing of projects. Between 1975 and 1991, the number of cases in the field of urban planning increased tenfold (from 1 980 to 20 000 applications). The average period for judging a case is close on 2 and a half years, which is extremely long when considering the high interest rates.

III. The land boom of the late 1980's.

²"Not In My Back Yard", associations promoting the interests of the land-owners in the vicinity of a project.

In the early 1980s, the progressive transition from an administratively controlled land economy to a more market-oriented land economy, provoked the emergence of a "land bubble" in Paris, around 1985, which surprisingly shared similar features with the Japanese *tochi baburu*. As in Tokyo, the bubble formed around the commercial land market (office buildings), more volatile and less regulated than the housing land market, and the land values increased threefold in Paris (20 wards) from 1985 to 1989 (from 6 900FF/sqm to 22 600 FF/sqm³). In 1985, the removal of the "agrément" procedure⁴ in the Paris area allowed developers once again to erect office buildings in the municipalities of the Western Paris area, where foreign investors were eager to invest their money. ZAC projects involving office space construction or mixed development (office space and housing construction) increased dramatically in this part of Paris and next in the major metropolitan areas, thus causing a land boom in other large cities.

However, after 1990, the supply in office space exceeded demand, and the "bubble" burst, provoking a structural crisis in the real-estate sector. In 1996, vacant office space totals 5 million square meters in the Paris area (Ile de France). Many real-estate developers and equivalent to *jiage-ya* went bankrupt, and some financial institutions were also severely affected (namely the Comptoir des Entrepreneurs, Crédit Lyonnais and Crédit Foncier). The real-estate crisis will cost the French State more than 40 billion francs. That is to say at least 2500FF (50 000 yens) per household. But, for the moment, the public funded rescue has been applied only to public financial institutions and in such a way that there has been no resulting shift in public opinion against the tax-payers participation in the rescue plans.

IV. From 1990 to nowadays

The speculative phenomenon aggravated the tensions in the housing market and favoured riots in the "grands ensembles" (*danchi*). The government authorities thus tried to set up a complete plan of action against spatial segregation, by promoting combined housing for various social levels within central areas of towns. In 1991, the Basic Town Act (LOV, Loi d'Orientation pour la Ville) was adopted. This Act promotes various new land tools allowing the local authorities (or failing that, the central government) to build public housing in city centres. These tools are as follows :

- creation of public land agencies at a supra-municipal level, allowed to levy an additional tax in order to buy land

- obliging the developers to pay a tax for each new construction project, devoted to the construction of new public housing units (also levied by the Land Agency). This tax may take the form of a gift of land.

- obliging municipalities having more than 200 000 inhabitants to maintain a ratio of public housing above 20%. In the negative case, these municipalities must pay a yearly tax.

However, the adoption of the LOV Act occurred at the very moment of the bursting of the bubble, and the government authorities then got reluctant to enforce it. The enforcement of The Act was first delayed to 1994, and finally the Act itself was taken to pieces in 1995, with the removal of the tax on new construction projects.

V. Towards what land policy for the future ?

The failure of the LOV Act has not stopped the local authorities from continuing to think through future land policies. From 1991 to 1995, several committees of experts were formed to think over measures regarding land to be taken. The outlines of their reports are as follows :

³From 138 000 to 452 000 yens/sqm. Yet the land values in Tokyo remained on average 14 times higher than those observed in France.

⁴The "procédure d'agrément" was introduced in 1960 to slow down the concentration of office space in the Western part of the Paris area. In this region, developers wanting to develop more than 1000 sq.meters office space were obliged to submit their project for the agreement of the Ministry in charge of Urban Planning. The removal of this procedure, by raising a 20 year constraint, provoked a dramatic surge in the office buildings construction, in the same proportions as in Tokyo (between 1985 and 1991, the stock of office space in Paris area increased by 40%).

1) To put an end to the freezing of ZAC projects.

The real-estate crisis (particularly in the office-space market) has dramatically affected ZAC projects where the construction of public housing units was to be balanced by selling at a high value land devoted to office space. Most of these projects are now on stand-by, because developers prefer to keep their land (and shoulder the financial burden) and wait for better times, than to sell it at a vastly discounted price. Many of these projects are being carried out by semi-public developers, and the local authorities have generally guaranteed their loans, so the burden is going to be transferred to the citizen by means of the local tax. The contents of these ZAC projects should thus be rapidly transformed (for example, to provide housing instead of office space), and the land should be quickly sold, even at a much lower price.

According to the nature of the ZAC, two ways out are recommended by the experts. In the public ZAC, the local authority should take care of the financial deficit created by the decreasing land values, but this should in return allow the building of public housing. In the private ZAC, the private developers should try to find solutions with their financial partners.

2) To strengthen the land control of the local authorities

Land agencies should be created on a supra-municipal level. In the metropolitan areas where municipal co-operation is lacking, the central government could take the initiative in creating such agencies. However, considering the failure of the LOV Act in this respect (only two land agencies have been created up to 1995 on a national level), doubts are cast over the value of this advice.

3) To improve the implementation of the urban planning law.

There is an urgent need to stabilise the POS, to reform the urban pre-emption right and to better specify the conditions to submit for an out-of-court settlement against urban planning decisions.

-stabilisation of the POS : the "revision" of a POS should be prohibited for a period of three years after adoption of the POS by the town council. The "modification" a POS should no longer allow the creation or the extension of existing or future urban zones.

-the reform of the pre-emption right : the peculiar use of this tool by the town councils leads to some experts calling for its suppression. Most of them are favourable to maintain it, provided the local authorities give special justification when exerting it, and provided the owners are guaranteed not to be abused in their right.

-better specification of the conditions to submit for an out-of-court settlement against urban planning decisions : conciliation procedures should be developed to free the civil courts.

4) To reform the land tax system.

The French land tax system has the major drawback to hit more the "flow" than the "stock", in other words to hamper the construction and to favour the keeping of land.

-the taxation on urban development

Unlike other many European countries, the French development tax is paid by the developers and not by the land owners, except in three departments (equivalent to the Japanese *ken*) where the German right has left some traces⁵. The Local Development Tax (Taxe Locale d'Equipement, TLE) introduced in 1967 is imposed on the developer for each new project, except in the ZACs. However, the income of this tax only covers 1/5 to 1/3 of

⁵These three departments are located in the north-est of France, in a region formerly occupied by Germany (Haut Rhin, Bas-Rhin and Moselle). They have kept a rule of local law which imposes a "tax on residents" (taxe de riveraineté). Namely on the owners of plots adjoining a new municipal road. We also have in France a procedure of urban land readjustment where the land owners must make a contribution to the development costs, but it has never been very popular in France, because of the inflexibility of the legal procedure (for a comparison between Japanese and French land readjustment systems, see François et Natacha Aveline, "remembrement urbain à la Japonaise" *Urbanisme et Architecture* n°252, November 1991, p.54-55.

the development costs of the new projects. Additional taxes have consequently flourished, and the system has become extremely complicated. There are now 16 different taxes, some of them being simultaneously imposed. The experts propose that this system be simplified. In order to increase the participation of land owners, they call for a new yearly tax on land property, based on market values. While plans for a new tax on land have been regularly proposed, every 10 years, since the early 1960s (1962, 1967, 1975, 1982,1995) they has never succeeded.

-taxation on land and real-estate property

As in Japan (at least before the tax revision of 1991), the tax on land hits land transfer more than land ownership, thus hampering the fluidity of the land markets. The tax on real-estate transactions in France appears to be one of the highest in the European countries (about 8% on the purchasing value, as opposed to only 2% in GB). Moreover, the taxation of land and real-estate property is completely archaic ; the tax on land (Taxe Foncière sur les Propriétés non bâties) is based on land rental values which have not been revalued since 1961, and tends to under-estimate the taxation of idle land within urban zones (because the tax is very light as long as the land owner has not declared his intention to build).

In 1990 a reform was adopted to solve this problem. A new fiscal category of idle land, called "building land" (terrain constructible), was introduced in urban zones. The local authorities can decide to introduce this new category in order to increase noticeably the taxation on urban land (but no one has done it yet). Furthermore, the reform revalues all the tax bases at a national level (90 million parcels are concerned).

Although the revision of the tax bases cost the French tax-payers 2 billion francs, no government (no matter its political leanings) has been courageous enough to enforce the new bases yet. According to estimations of the Ministry of Finance, it would increase the tax bases for residential use by 78% ! Nevertheless, the deadline for implementation of the new bases is fixed on the 1st January 1997. It will be very interesting to observe the results if and or when it is brought in !

5) More transparency in the land markets

In France, information on land transactions is subjected to very strict rules, thus making the surveillance of land markets extremely difficult for interested parties, both public and private. This is why local authorities use their pre-emption right to collect information on land values (prices proposed by sellers) on land under their administration.

Yet we have in France a registration system for land transactions, which allows the tax administrators and the solicitors to collect comprehensive information on land (values, surface etc.). These data has been recorded since 1955 in a file called "The Real-Estate File" (Fichier immobilier), which can be considered a source of reliable information. However, access to this data is extremely difficult and costly to obtain, except in the three departments of Alsace-Moselle mentioned before⁶. Besides, the tax administrators are exceedingly reluctant to reveal this information.

In 1982, the Giraud Bill made an attempt to create freer access to land information. The bill stipulated that each recording of land transactions should be copied and sent to the relevant local and county authorities and that this information should be open to the public. But this bill was not even submitted to Parliament. The experts demand the adoption of this bill, and suggest that the files be computerised in order to fit in with the computerisation of the cadastral matrices.

Conclusion

⁶ In these 3 departments, there is a "Land Book" (Livre Foncier), a legacy of the German law, which contains the same information as in the "Real-estate File", but access to which is easy and quite free.

As one can see, there is no attempt to enforce drastic reforms regarding land policy, despite the serious changes that occurred in the 1980s on the land markets. There is a consensus amongst experts and officials to keep the existing urban-planning tools, and to accept the disengagement of the State. The tendency is to "adjust" the application of these tools, by correcting or preventing their side effects.

The only "drastic" measure called for by the experts is the introduction of a new tax on property, based on the market value. Such a tax would be aimed at fulfilling two objectives : i) to involve the owners in the development costs; ii) to discourage the retention of urban land by increasing the tax burden. However, a similar proposal has been put forward several times since the 1960s and there is no reason why it should be taken seriously this time. Furthermore, one can also doubt that the enforcement of the new tax bases and the adoption of the Giraud Bill will come into effect in the near future.

Consequently, the only measures that may be expected in the short-term are the progressive "thaw" of the ZAC projects (this will finally affect the tax-payers), and an improvement in the practice of the urban planning law.

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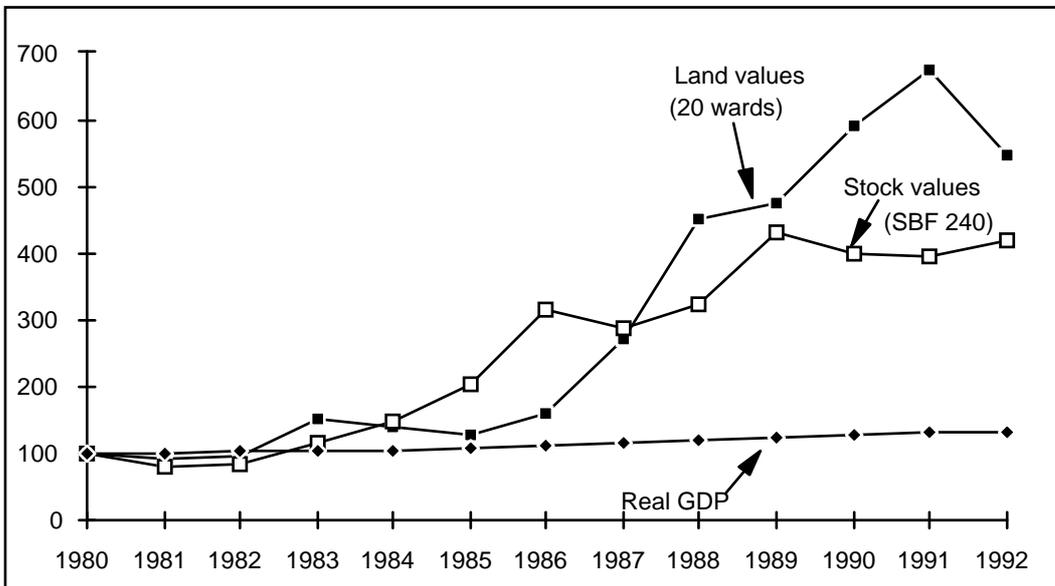
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The bubble of land and stocks markets in Paris during the late 1980s



Note : there are no reliable data on land prices in Paris 20 wards after 1992.

The bubble of land and stocks markets in Tokyo during the late 1980s

