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MANAGEMENT OF MUNICIPAL REAL ESTATE PROPERTY

Local and regional authorities in Europe, No. 70

MANAGEMENT OF MUNICIPAL REAL ESTATE PROPERTY

Report by the Steering Committee on Local and Regional Democracy (CDLR)
prepared with the collaboration of Professor Massimo Balducci

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1. INTRODUCTION

The subject of municipal property management forms part of the broader field of public management. Public management emerged as a discipline once the public sector began to take on the management of infrastructure and services in addition to its legislative and executive roles. It was felt necessary to marry management science with the constraints arising from observing the law. Public management is thus a classic example of an interdisciplinary approach.

The problem with this approach lies in knowing how best to apply the right discipline at the right time. Legal tools should not be used in an attempt to solve problems of efficiency and effectiveness because this will result not only in a failure to attain the anticipated efficiency but also in a danger that the existing legal system may be distorted: efficiency not being achieved, and legitimacy being sacrificed. On the other hand, one should not think that effectiveness justifies failure to observe a legal principle because an *a priori* refusal to observe the law will in the medium or long term produce appreciable diseconomies in the system.

It is therefore necessary to set out the objectives of this report (especially as regards the two types of instrument – legal and management – to which reference must be made). Moreover, it is useful to clarify the methodological problems in order to highlight the scientific and practical value of the analysis. It goes without saying that it is necessary to define what the term “municipal real estate property” means (this will involve consideration of cultural and legal questions).

1.1. Object of the report

In virtually all member states of the Council of Europe, municipal real estate property represents a significant management concern for municipalities. It is therefore a classic field of public management.

The object of this analysis is to formulate suggestions relating to the efficiency and effectiveness of the management of this type of property.

Given the specific nature of public management demands, this will mainly be a technical study, the legal element merely providing a frame of reference. The legal aspect impinges on the management aspect only indirectly, if at all.

Generally speaking, this influence may be of four types:

- the legal framework may or may not encourage the accountability of decision-makers for the results of their decisions;
- legal rules may be a hindrance to efficiency and effectiveness. This occurs with rules which attempt to govern everything in detail, or with those requiring management decisions to be submitted for prior vetting by central government, and those which relieve office-holders of the power to take decisions. It is also the case for municipal property which is subject to rules governing public ownership, inasmuch as these rules limit the possibility of disposing of this property freely (although it should be pointed out that these rules are made not for efficiency and effectiveness but for the purpose of legitimacy, which must not be underrated either);

- legal rules may permit efficient practice but could be too inflexible, thereby allowing municipal property to be used for strictly commercial purposes, which may overrule any public service constraints or social character of the public property and therefore raise problems of legitimacy (which in the medium and long term might lead to extremely heavy systemic costs);
- legal rules may be sufficiently flexible, but the legal system does not underestimate the problems of safeguarding general public policy; local authorities are subject not to *a priori* procedural control but to *ex post* monitoring of the actual results.

We should not infer from different legal frameworks the existence of influences on efficiency and effectiveness which have never been proved by empirical analysis and which do not tally with the analysis models of management science. It would therefore be theoretically wrong to say that the act of entrusting the resolution of conflicts to the civil courts or the administrative courts (if they exist) may have a certain impact on management efficiency or effectiveness.

Nor should we yield to the illusion of wishing to impose efficiency and effectiveness simply by laying down legal rules and procedures. To clarify this matter, it is perhaps worth referring here to the introduction of management accounting systems for local authorities in Belgium and Italy.

The accounting system used by these authorities is, as in all Roman-law countries, an administrative system, setting up procedures for authorising expenditure and recovering revenue. Since they deal with the use of public funds and the possibility of imposing payment of taxes on the citizen, the laws governing the preparation and management of local authority budgets are concerned mainly with procedures for approving and managing these budgets.

These laws say nothing about the possibility of cost accounting and a management control system. This fact does not, however, mean that municipalities cannot use these management tools. It should be noted that, even in private companies, cost accounting and management control are based on “non-book” entries. In Belgium in 1989 and Italy in 1995, cost and management accounting was imposed on local authorities through national legislation.

All observers agree that the result has been far from satisfactory. The local authorities all comply with the formal requirements, but there are serious doubts as to the accounting orthodoxy of what they are doing, not to mention the fact that central government cannot resist the temptation of using the cost accounting instrument to verify the expediency of policy decisions taken by local authorities. However, many local authorities (especially in Italy) had introduced cost and management accounting even before it became law.

It follows from all this that the suggestions made in this report will relate not so much to the legal aspect as to the introduction of public management strategies. For the latter, central government should act above all as a pole for gathering and distributing information. Nor is this report an assessment of the validity of policy decisions on municipal property management. Analysis will be exclusively technical and will deal with management forms and methods.

1.2. Methodological problems

As with all studies, this analysis contains a number of methodological problems, which ought to be explained inasmuch as they will always, to some extent, limit its validity. They are, in substance, as follows:

- the accounting and management practices employed in member states of the Council of Europe differ considerably; it is therefore difficult to compare systems of property management which are based on significantly different accounting systems. For example, depreciation costs are not included under costs in all countries;
- with the exception of Ireland and the United Kingdom, the administrative practices and philosophies of local authorities in Europe are geared not to management efficiency but to the legitimacy of administrative action. It is thus hard to comment on differences in cost-effectiveness between systems of municipal property management which are not primarily concerned with this aspect;
- even if here we are talking about municipal property management problems rather than legal problems, this analysis cannot disregard the legal element, which provides a frame of reference within which the various levels of management system operate. It should be noted that we are dealing with three different legal systems: the common-law system, the Roman-law system, and the former system of socialist law now in a transitional phase, which was grafted onto the first two systems. Nor should we forget the situation of countries governed by Scandinavian law, which combines elements of both common and Roman law;
- this study makes use of scientific knowledge in the field of public management as well as the replies from thirty member states of the Council of Europe to a questionnaire sent out by the CDLR (see the appendices).

This comparative study, aims to identify the main similarities and differences between the types of management of the selected categories of municipal property and to assess local authorities' room for manoeuvre. This is all for the purpose of developing practical suggestions that can be used by member states. However, it is first necessary to point out a number of problems in using the replies to the questionnaire sent out by the CDLR. These difficulties concern the fact that:

- answers given deal mainly with legal and institutional matters. Consequently, it is not easy to comment on management aspects from this information;
- some member states have provided little or no statistical information, which means that it is impossible to assess the cost-effectiveness of the solutions used;
- the small amount of data supplied has in most cases been gathered using different methods and are therefore hardly comparable, if at all.

1.3. Study outline

In view of the above, this report will first analyse the legal rules which constitute the framework within which the various forms of management develop. Consideration must next be given to the different forms of municipal property management as empirically recorded and analysed. The report will then examine the financial aspects of these forms of management. Although business management, in particular, requires managerial qualities if it is to be effective, property management, on the other hand, requires a minimum of operational management skills (as regards upkeep of property and revenue recovery) and a maximum of financial management skills (ability to assess when to buy or sell real estate in the light of two variables: trends in market prices and changes in local authority needs).

The comments made here apply to all property (based on a classification according to the nature of the real estate). Some details may vary according to property use. It will therefore be necessary to make specific observations concerning particular categories. Given the object of the report, special attention will be paid to property with the following uses:

- housing;
- real estate let or sold to individuals for business activities;
- real estate used by local authorities for cultural purposes.

In this respect, one must not confuse a classification by intended use and a classification by nature. Property that is classified by nature, such as a field, may have for intended use agriculture, pasture, entertainment or building purposes. A building, by its nature, may be equally intended for use as a dwelling, office, cultural or commercial centre. Most legal constraints aimed at limiting the intended use of real estate are dysfunctional from the management point of view and are not even always justified from a legal one. An obvious exception to this is the need for the state to ensure the sustainable development of its territory; in this case, strategic benefits derived from limits to real estate usage may largely compensate for any management drawbacks.

On the basis of this analysis, the report will then try to draw some general conclusions and propose a number of guidelines.

For a better understanding of the study, the different member states' summary replies to the questionnaire sent out by the CDLR appear in the appendices. This reveals two extremely important points:

- the absence of any proven link between the legal system and the efficiency or effectiveness of municipal property management methods;
- the lack of statistical data, which demonstrates that public authorities are not accustomed to monitoring their own efficiency and effectiveness.

2. THE CONCEPT OF MUNICIPAL REAL ESTATE PROPERTY

We must begin by defining the subject of our study, namely “municipal real estate property”. This term consists of three elements: the adjective “municipal”, the adjectival phrase “real estate” and the noun “property”.

2.1. The concept of real estate property

The noun “property” has a different meaning in Roman-law countries from that in common-law countries. In the former, the concept of property (or *patrimoine*) has an exclusively physical meaning and refers to all the land physically at the disposal of a legal person. In common-law countries, the same term is not restricted to the static aspect (physical assets) but also includes elements relating to the property relationship between the holder of the rights and the assets. Put differently, the Roman-law concept of property takes as its starting point the physical assets themselves (which are bound into an ownership relationship with a specific legal person), whereas in common-law countries the concept of “real estate” is, conversely, based on the rights and interests of a property holder in relation to certain assets.

As for the term “real estate”, in French there is no difficulty in defining its equivalent – *immovable* – in Roman-law countries (where it originated); it qualifies physical assets which cannot be moved (from the Latin verb *movere*, to move). However, definition of the term under English common law is more complicated, since “real estate” not only implies that the subject of an ownership right is a material object (*real* from Latin *res*, thing) but also implies a whole series of legal relationships of varying degrees between this object and a legal person. The concept is therefore much vaguer.

Briefly, in the Anglo-Saxon interpretation, the concept of “real estate” puts more emphasis on all the legal relationships possessed by a legal person with regard to the assets, whereas the Roman-law interpretation identifies “real property” primarily as the subject of exclusive rights; that is, immovable property at the disposal of a legal person.

These two different concepts may have consequences for management practices and their effectiveness, especially in terms of culture and behaviour. If the emphasis is on ownership of material assets (as in the Roman-law concept), it is only the existence of these assets which matters and not their management, upkeep or the possibility of deriving economic benefit from them. If, on the other hand, the emphasis is on legal relationships and not the assets themselves (as in the common-law concept), it is the preservation of these relationships which is essential, and the legal person must therefore be careful to maintain them, benefit from them and prevent them from losing value. It is thus easier to understand the development, in common-law countries, of a type of financial accounting which does not differentiate between public and private, in other words, a management method which aims to maintain the economic value of the asset. However, this does not mean that the interpretation of ownership used in the common-law system should be adopted by everybody.

As far as central and east European countries are concerned, socialist law seems to be a development of Roman law, and they have therefore adopted a static approach to property relationships. There is the added fact that ownership of property rights is hypothetically vested in an abstract entity: the people. The risk of inadequate accountability because of the emphasis placed on assets rather than on rights is therefore compounded by a similar risk arising from the failure to identify the actual holder of the right to an asset. During the transition process that these countries are experiencing, it must be noted that some common-law elements are being introduced; with the consequence that there is a risk of major conceptual confusion.

2.2. The concept of municipal property

The adjective “municipal” refers to a subject of a specific right: the municipality, a public community.¹ This implies three types of problem:

- in Roman-law countries, where a distinction is made between public law and private law, there may be, where real property is concerned, private-ownership rights and public-ownership rights (see section 3.1.);
- since the municipality represents a collective interest, decisions concerning its property must usually be taken according to procedures designed to ensure that this interest is observed;

¹ In a number of systems (whether Roman law or common law) there is a form of collective ownership vested not in the municipality as representing the local community but in a certain section of the community that is clearly identified in historical terms. This “ownership” usually involves a right of common, gathering of firewood, and so on.

- the municipality is in the rather unusual position of being at the same time a holder of regulatory power (for example producing town-planning regulations) and a holder of property. This combination of functions may have positive or negative repercussions depending on how it is managed. If it results in the municipality not applying its own planning rules to its own property, the repercussions are obviously negative.¹ However, if the municipality takes the opportunity of coupling its own regulatory measures with its activities as an economic agent, a very positive multiplier effect can be achieved.²

With regard to the ambiguity of these roles, it must be noted that, in order to guarantee proper and effective co-ordination between regulatory and economic activities, there is an obvious need for the organisational separation of the bureaucratic structures responsible for regulation from those responsible for financial management (to ensure that the municipality observes the rules).

This result may be obtained in various ways: financial management of property may be entrusted to a legal entity separate from the municipality whilst leaving the municipality to carry out its regulatory activity; otherwise, the two tasks may be assigned to completely different departments of the same municipality.³ In this case, it would appear necessary to subordinate both structures to an independent co-ordinating body (which could be the municipal council itself, an *ad hoc* committee of the council, a deputy mayor, or a mixed body of councillors and local government officers).

2.3. An empirical analysis of municipal real estate property

If we abandon theory and move on to empirical analysis, we can classify municipal property in two different ways:

- according to the nature of the legal relationship between the municipality and its assets. This classification is based on the three elements that characterise ownership of an asset: *usus*, *fructus* and *abusus*. This is a division which goes back to Roman-law and which takes account of the possible uses of an asset: *usus* signifies immediate use, *fructus* is the natural produce or monetary proceeds from use of the asset, and *abusus* is the full power to dispose of the asset. Only the combination of all three elements constitutes a complete property relationship with regard to the asset;
- according to the intended use of the property, this being determined not only by the physical characteristics of the property but also by the owner's requirements.

As regards the nature of the legal relationship between the municipality and its assets, municipal real estate consists of the following types of property:

- property belonging exclusively to the municipality. This combines all three elements of ownership, even if in some instances *abusus* is not total; in the case of state property (see section 3.1.) the municipality does not have complete disposal of such assets, since it must "declassify" them before being able to sell or demolish them;

1 See the case of Italy, where municipalities often own pharmacies which do not comply with the municipality's own legal rules of authorisation for the opening of such establishments.

2 See the cases of Denmark, Finland and Sweden as regards management of housing.

3 Mention could be made of the German situation, where council staff are supervised differently according to whether they exercise public authority (employer/employee relationship governed by public law) or are responsible for technical or economic activities (employer/employee relationship governed by private law).

- property belonging to other public bodies but of which the municipality has tenure. Here the municipality has *usus* and possibly *fructus*, but *abusus* belongs to a different holder; this is the case in several central and east European countries;¹
- property whose disposal (*abusus*) belongs to the municipality but whose management (*usus*) is transferred to other bodies (whether under public law or private law) and whose *fructus* may either belong to the municipality or remain in the hands of these bodies. This is, for example, the case of housing in France and the Netherlands; the Italian situation is very similar.

As regards use of municipal real estate property, the categories are generally as follows:

- administrative facilities;
- council housing;
- other housing;
- real estate (land and buildings) for business activities (primary, secondary, tertiary and quaternary);
- social facilities;
- hospitals and health facilities;
- cultural facilities;
- sports centres;
- public parks and gardens;
- forests;
- cemeteries;
- slaughterhouses;
- markets (covered and open-air);
- mains services;
- roads.

3. LEGAL SYSTEMS GOVERNING MUNICIPAL PROPERTY

In western countries there is virtually no special legislation regarding municipal ownership, since the latter comes under the general rules relating to ownership, which are applied irrespective of the owner. In central and east European countries, on the other hand, there are frequently specific legal rules on municipal ownership.

We must bear in mind the different historical contexts in which ownership by local authorities in western and eastern Europe have developed. In west European municipalities, municipal ownership is the outcome of a lengthy historical process. However, in central and east European countries the municipalities acquired ownership almost instantaneously with the change of political system. Thus when transferring ownership of property from central government to local authorities, the legislature felt the need to regulate municipal ownership specifically.

¹ This is more a relationship of use than a genuine property relationship. It must also be emphasised that the holder of *abusus* is not the state but an outside public body to which the state grants *abusus* together with a right of supervision or control over the holder of *usus* and *fructus*.

For both general and specific legal systems, there are four factors that have the most immediate influence on property management. They are as follows:

- nature of the law applied;
- methods of acquisition;
- methods of disposal;
- rules on use.

3.1. Nature of the law applied

In common-law countries, legal rules on municipal property are no different from those governing the property of other legal persons.

In Roman-law countries, legal rules vary according to the type of ownership:

- public-law ownership;
- private-law ownership.

Public-law ownership is distinguished by legal restrictions on both the use and disposability of property. Normally it is inalienable, and its use cannot be freely decided or altered. This does not mean that property cannot ultimately be sold or undergo a change of use; however, before this can occur, the municipality must go through long, complex and rigid procedures to “declassify” the property (if it is to be sold) or to change its use, even if the new use is still a public one.

Under public-law ownership, property is distinguished according to whether it is alienable or inalienable. This distinction is based on the extent of formal requirements to be met and authorisations needed before the property can be alienated.

Legal classification as publicly owned property (especially if inalienable) often stems from the fact that the property was bought or constructed with a substantial financial contribution (covering all or part of the costs) from the state. This means that the application of public-law rules limits a municipality’s independence in the management of its own property.

Under private-law ownership, the municipality manages its property in the same way as any other private-law entity, although it must be remembered that the owner (municipality) is a body representing the public interest. This means that decision-making procedures, especially those concerning sale and purchase, must comply with firmly established rules. Here again, some countries make a distinction between alienable and inalienable property. The difference from public law, however, is that the legal classification is decided by the local administrators themselves rather than by an outside supervisory body.

One can note that private-law rules allow easier and more flexible management of municipal property, while the restrictions accompanying the public-law system make effective business management difficult (such as a need for prior authorisation from supervisory authorities; restrictions on disposability of property; slowness and cost of procedures).

Analysis of European countries' experience also points to the following assessments:

- in common-law countries the absence of a distinction between public-law and private-law rules is mitigated by the fact that sale and also purchase of municipal real estate must comply with European law on public contracts (see sections 3.2. and 3.3.). Roman-law countries are showing a trend towards cost-effective management of municipal property.¹

Hence, the distinction between common-law and Roman-law countries has been considerably reduced because common-law countries are introducing the formal safeguards of Roman-law countries, while the latter are introducing management methods resembling those in common-law countries:

- the distinction between public law and private law (where this distinction exists) has become weaker. More and more emphasis is being placed on the need to manage public property generally according to the principle of cost-effectiveness (this principle is often defined, in a category specific to Roman-law, as “administering with due diligence”). Moreover, management of property governed by private-law rules is, in any case, subject to the policy-making rules of the municipality as an authority representing the public interest (clearly specified and formalised internal decision-making procedures, supervision by internal and external bodies, etc.);
- in certain central and east European countries there is no clear distinction, since legal instruments are sometimes confused with management instruments. Furthermore, there seems to be a blurred distinction between the municipality as a regulating authority of civil society on the one hand and holders of private-ownership rights subject to this regulation on the other;
- the problems of co-existence between property governed by public law and property governed by private law must also be noted. Where the distinction exists, it is considered that property governed by public law – being assets serving the general interest – in certain cases can and must be exempt from the planning requirements applicable to private individuals. Although this may be justified for property of military, historical or architectural value, as well as for mineral resources, water resources and forests, it is far less justified for a number of other assets, especially housing and commercial property.

3.2. Methods of acquiring municipal ownership

Municipal ownership may be acquired in five ways:

- original acquisition through the creation of the property (construction of a swimming pool, road, theatre, etc.);
- two forms of acquisition similar to that by private individuals: purchase of property on the market, and legacy or donation;
- two forms of acquisition specific to public authorities: legal attribution, and expropriation.

¹ It should here be noted that countries such as Belgium, Spain, Portugal and Italy have very recently introduced cost accounting for local authority management.

As regards original acquisition through creation of property, if this acquisition involves funding from another public body, this will generally determine restrictions governing the property (disposability, change of use, repair obligations, etc.). This is, for example, the case for municipal housing in Sweden.

For legacies, donations and purchase of property on the market, municipalities are, unlike private individuals, subject to rules specific to government administration. Where purchase is concerned, this amounts to ensuring optimum use of public money and impartiality of choice (this is the goal of all rules governing public contracts). The local authority may also be restricted in its purchase of property by the prevailing political or cultural interpretation of the public interest being represented. Thus in some countries, such as San Marino, local authorities are not allowed to acquire housing, while in others, such as Scandinavian countries, local authorities are not allowed to purchase commercial or industrial property. Purchase of land may also, as in Scandinavia, be used for regional development; the municipality divides the land into plots and decides on the land to be released for development, which it then sells to private individuals although not necessarily at subsidised prices.

With regard to acquisition through legacies or donations, it must be underlined that the often strict limitations on the right to accept donated property are designed to prevent the municipality from taking on property which would engender excessive costs for the public interest which it is appointed to represent.

Finally, on the subject of forms of acquisition specific to public authorities, it may be noted that since, by definition, a public authority represents a higher interest, it may oblige another legal person to transfer to it his/her ownership of a specific property (expropriation). This may be accompanied by payment at the market price, by a fixed payment lower than the market price, or by no compensation at all (known as *ouster*). In Council of Europe countries which have ratified Protocol No. 1 to the European Convention on Human Rights, this type of compulsory purchase can, in principle, occur only in cases clearly specified in national legislation and in return for proper compensation.

As regards attribution of property through the law, such transfers often occur in parallel with a transfer of jurisdiction. Thus a process of regionalisation has led to transfer of ownership from central government to the regions in Italy, Belgium, Spain and France.

These five methods of acquiring ownership exist in all member states of the Council of Europe.

As for central and east European countries, we have witnessed and are still witnessing, in certain cases, the large-scale use of transfer processes by means of the law, with the creation of municipal real estate for local authorities through transfer of property from the state.

3.3. Methods of property disposal

Local authorities have two possible methods of disposing of their property: sale, or transfer to another legal entity (either public or private).

The following remarks need to be made on the subject of sale:

- property governed by public law (see section 3.1.) is subject to quite stringent restrictions; in general it must be declassified as public property before it can be disposed of;

- property governed by private law must under all circumstances comply with the policy-making rules specific to the municipality as a public authority;
- in the case of Sweden, financial transfers from central to local government may be affected by the amount of municipal property sold; it is worth pondering this type of “selective incentive”;
- sale of property may aim to maximise the municipality’s financial advantage, in which case it is conducted according to public contract procedures (invitation to tender, private auction, selection of the best offer, etc.). It may also have a social objective, such as sale of council houses to the most disadvantaged. In this case, the rules of the sale are not those for public contracts but consist of procedures for drawing up a waiting list of the most needy candidates.¹

As in the case of purchase on the open market (see section 3.2.), transparency in local government decisions is essential in order to prevent municipal property transactions from favouring individual interests at the expense of public interest. We may also note a certain crystallisation of established positions where the tenant renting a property has the right of pre-emption when it is sold, as is the case in the United Kingdom, Italy, and central and east European countries.

As for transfer of property, this is a functional type of disposal which occurs either as an automatic accompaniment to the transfer of jurisdiction to another legal entity, or upon creation of a body which is controlled by the municipality and responsible for managing certain public services or utilities. Two problems arise: on the one hand, assessing the value of the property, which is not necessarily the same as its market value but which often determines the extent of the municipality’s control over the other legal entity, or; on the other, the property’s intended use, since this use is often blocked and the body to which the property is transferred is unable to have this use changed on its own initiative.

3.4. Rules on the use of property

Where use of property is concerned, the first question to be asked is whether the municipality is, or is not, under the obligation of using the property at its disposal. Municipal property is frequently allowed simply to become derelict. This is often linked to the problem of inventorying the real estate that constitutes municipal property. Since in many countries municipal property has come into being over the course of time, municipalities may have lost track of it, especially in systems where property is inventoried in chronological order.

¹ This type of sale is found especially in the United Kingdom and Spain. Yet in other countries, council houses can be sold only once they have been let.

In the case of Italy, two special circumstances should be noted:

- at the selection phase, the beneficiary can decide whether he will rent the allotted property or buy it in reduced monthly installments;
- access to property is encouraged by the support given by municipalities to housing co-operatives, for example by granting building leases for land owned by the municipality; people wishing to become house owners must therefore first become members of these types of house-building co-operatives.

As regards actual use of property, there is usually a duty to manage it properly, as embodied in the principle of “administering with due diligence”. In most countries there is a more or less explicit duty to keep property in good repair; this duty is generally not mentioned in the questionnaire replies from central and east European countries. It is important here to analyse the type of expenditure classification used in municipal budgets. If the traditional Roman-law classification into ordinary and extraordinary expenditure is employed, there is no formal possibility of systematically making provision for maintenance expenses that are at all extensive, even if they are recurrent but not annual expenses. The situation is made even more difficult by the fact that under such systems it is not customary to take account of depreciation costs.

As for the way in which property is used, all countries seem to observe the principle of using it in the municipality’s general interest. It remains to be seen how the municipality’s general interest fits in with the principle of “administering with due diligence”. As stated in section 3.1., in Roman-law countries that differentiate between public and private ownership, municipalities are often limited by rigid procedures concerning the way in which they can use their property. Furthermore, for property of which the municipality only has tenure, the limits to its use are inherent in this relationship. This is particularly the case in certain central and east European countries, where a system of tenure seems to prevail.

4. FORMS OF MUNICIPAL PROPERTY MANAGEMENT

4.1. Internal management or external management

In between management by the municipal administration and management entrusted to an entirely independent body, several solutions are possible. The report will briefly examine these solutions.

4.1.1. Management by the municipality’s administrative departments

Management by the municipality’s administrative departments has the particular advantage of not involving appreciable transaction costs. There is no need to draw up management or service contracts, and there is no risk of litigation with such a management relationship.

The first disadvantage is the problem of ascertaining the full cost (including both direct costs and overheads). A second drawback is the slowness of decision-making, while a third drawback, which has already been mentioned, consists in the difficulty of separating the municipality’s regulatory function from its management function.

4.1.2. Management by a public body controlled by the municipality

In the case of management by a public body controlled by the municipality (an institution or local government enterprise), the following are the main benefits:

- it is possible to ascertain the full cost of the services provided;
- decision-making is relatively quick.

The main drawbacks are as follows:

- problems of supervision which are not offset by direct accountability. On the one hand, it is difficult for a municipality to monitor all the decisions of the other body, while on the other, this body is able to hide behind the authority controlling it in order to escape its own responsibilities (for the quality of the services provided and also for balanced management, which must ultimately be guaranteed by the municipality);
- the management of a local government enterprise or an institution often lacks transparency (not being subject to the standard policy-making rules of elected bodies while at the same time enjoying an economic monopoly).

4.1.3. Management by a private-law body supervised by the municipality

In the case of management by a private-law body supervised by the municipality (for example a public limited company in which the municipality has a controlling interest), there are a series of restrictions in European Community directives aimed at guaranteeing the principle of free competition which are often ignored by local authorities. It would seem doubtful whether, in legal terms, a public limited company of which the municipality is the only shareholder (or in which it has a controlling interest) can be given management of a service on behalf of the municipality, thus disregarding not only the principles of administrative law (designed to ensure that the general interest is observed at the cost of a certain slowness in decision-making and a certain lack of economic effectiveness) but also the rules of free competition (designed to guarantee economic effectiveness and quick decisions at the expense of maximising the general interest).

4.1.4. Management by an independent body

Management by an independent body may take the following forms:

- management awarded to a private company. This particularly concerns upkeep of housing and cultural facilities; it is also most frequently the case as regards the running of property for business activities;
- management awarded to a public corporation. This is the case in several central and east European countries, where state-owned companies manage municipal services; it is also the case in Italy and France, where management of housing is entrusted to public corporations (municipal or intermunicipal);
- management awarded to a non-profit-making body (association, foundation, non-governmental organisation, etc.). This is the case with housing in the Netherlands, and for the management of many cultural facilities in Italy and the Netherlands.
- management awarded to bodies in which municipality, private non-profit-making organisations and/or users are represented more or less equally. Cases where management is entrusted to users' representative bodies may be found in several countries including Scandinavia and Italy, where the legal instrument used for this type of management is the "institution". Leaving aside the legal distinction between a public authority (which possesses or manages real estate) and the citizen-user and using the political-science concept of "public property" applied to municipal property, this type of management can probably ensure the greatest respect for public areas. However, it must be stressed that these two forms of management entail the risk of a certain lack of transparency, which is never desirable in public activities.

4.1.5. Comparison of the benefits and drawbacks of various types of management: management contracts and service contracts

Table 1 provides a summary of the benefits and drawbacks of the four types of municipal property management discussed above.

It shows that whenever management is external, it will be good management if an open and transparent relationship between both contracting parties can be guaranteed.

With the attempt to make management more transparent, we are witnessing a proliferation of external management forms. The latter undoubtedly have the advantage of clarifying the cost of (or revenue from) management of the various services taken individually. However, externalisation of management does not necessarily mean more cost-effectiveness or the provision of a better quality of services. This can be guaranteed only by a clear contractual relationship between the municipality and the body (whether public or private, supervised or not) responsible for running the service.

This contractual relationship must be based not only on specification of the services to be provided (which services) but also on a clear definition of such services (how they are to be provided) and determination of unit costs for each service. In the case of bodies supervised or controlled by the municipality, it is absolutely necessary to ensure that an operating loss incurred by the body supervised is not automatically covered by the municipality, otherwise the body supervised may easily exceed the spending limits which it undertook to observe.

Table 1: Comparison of management contracts and service contracts

Form of management	Benefits	Drawbacks
By the municipality's administrative departments	No appreciable transaction costs	Problem of ascertaining full costs Slow decision-making Problem of separating regulatory from management function
By a public body controlled by the municipality	Awareness of full costs Quick decision-making	Lack of transparency Problem of supervision Lack of direct accountability
By a private-law body supervised by the municipality	Flexibility and quick decisions characteristic of private firms	Possibility of disregarding principles of administrative law and rules of free competition
By an independent body	Clear separation of roles	Heavy transaction costs

4.2. Centralised management and management by the responsibility centre

In the case of management by the municipality's administrative departments, it is important to draw a distinction between centralised management and management by the responsibility centre.

With centralised management, all municipal property is administered by a central department (which may be the finance or the technical department) but is used by individual departments: the welfare department for council housing, the cultural department for theatres and museums, and so on.

With management by the responsibility centre, property is managed directly by the department using it. This second type of management is more effective provided that it is also possible to recognise applied overheads for departments other than those using the property (for example maintenance costs for the technical department, administrative costs for the accounts department, etc.). This requires adoption of cost accounting rather than administrative accounting (see section 4.3.).

4.3. Cost management and administrative management

In Roman-law countries, management of municipal property satisfies mainly administrative and not necessarily economic criteria.

These systems are concerned above all with ensuring that decisions concerning public financial sources are taken according to procedures established to protect the public interest. Such systems are therefore more concerned with the legitimacy of administrative action and tend to underrate the question of economic effectiveness. Government accounting is not usually double-entry. The main concern is with spending authority and the legitimacy of the power to collect. In this administrative accounting system the management of actual cash flows is therefore neglected.

This means that management decisions are also taken according to principles of legitimacy and not of cost-effectiveness. It should be pointed out that, in most Roman-law countries, municipal budgets make no allowance for depreciation.

Under this philosophy, property is inventoried chronologically and not according to management logic (that is according to its nature, intended use, and term). Similarly, the “book value” of the property is generally its acquisition cost (not converted to current value).

Therefore, in all countries, any action to improve the quality of municipal property management must necessarily start with the inventorying of this property.

4.4. Management aims

Municipal property management may be inspired by various aims:

- the aim of maintaining the *status quo* (this is the most common situation);
- economic aims: this is the case when the municipality runs businesses for the revenue which they provide (such as certain pharmacies owned by Italian local authorities, petrol stations owned by certain municipalities in central and east European countries);
- social, cultural and general public-interest aims: in this case, property management does not automatically have to provide revenue or even be able to cover the costs it generates. Here it is a matter of being able to assess the added value provided by the property in question and comparing it with the social costs that it is helping to reduce. This is, for example, the case for housing stock managed by Bonn city council;
- reinforcement of the basic aims of regulatory action by the local authority: This is the case in Scandinavian countries as regards the housing market and in countries such as France, Belgium, Italy and Spain for industrial estates.

Even when aims are not linked to economic profitability, the municipality must ascertain the precise management costs of the services provided and assess the effect of these services on the socio-economic environment. This involves the following:

- when choosing possible forms of management it is desirable to select one which, for the case in point, will enable costs to be ascertained as accurately and quickly as possible;
- systems of assessing the effect of local government policies must be introduced in order to ascertain the impact of the public service, and the service's unit cost in terms of its result (for example how much a theatre building costs in relation to each member of the public who has attended performances there).

5. FINANCIAL ASPECTS OF MUNICIPAL REAL ESTATE PROPERTY MANAGEMENT

5.1. Market value and use value of municipal real estate property

In order to illustrate this aspect, two concrete examples may be quoted: the cities of Florence and Prato.

In the 1970s these two cities – like most other modern cities – experienced a geographical redistribution of families and businesses. The families living in the city centres gradually moved to the outskirts, and their place was taken by firms' administrative headquarters and service-company offices. As a result, in the space of a decade the rolls of the city-centre schools were virtually empty, while the school population in the suburbs had rocketed.

The city of Florence failed to draw the lessons from this population trend to such an extent that in the early 1980s there was a serious shortage of classrooms in the suburbs, whereas school buildings in the city centre virtually had to be abandoned.

The city of Prato, on the other hand, had been monitoring this tendency and drew the relevant conclusions in terms of decision-making and practical action. At a certain stage of the population drift, Prato city council sold its school buildings in the city centre and built new schools in the suburbs with the proceeds. In addition, it tried to sell its city-centre buildings when their market value was highest and buy the necessary land in the suburbs while its purchase price was still relatively low. In this way, not only did this transaction cost the council nothing but it also provided a capital gain that allowed the council to finance the construction of social centres.

Comparison of these two cases demonstrates the need to ensure that municipalities have the professional skills required to carry out this type of assessment and to propose the most appropriate programmes of action.

5.2. Practical aspects of financial management

It is first necessary to ask whether municipalities are aware of the expenditure relating to their real estate. The data supplied seem to prove the opposite. It is especially doubtful whether they know what are termed the "full costs" (which include overheads). Moreover, even if municipalities are able to ascertain the revenue from their real estate, it is far from obvious that they are aware of the potential revenue.

In the case of internal management, funding of real estate is totally non-specific, and in accordance with the municipal budget's pooling principle, revenue from property is not allocated directly to its management. Accordingly, the revenue ends up in a general fund and cannot be earmarked. Central government funding constitutes an exception to this rule when provided for purposes previously specified by the state. Enforcement of the pooling principle (which logically applies only to revenue from duties and taxes) for all municipal revenue prevents specific assessment of the management of various property in the same way as management of any other municipal service.

It would seem desirable to have a classification of municipal purchases (expenditure) according to its nature and use, and a classification of income (revenue) according to source (who pays) and grounds (reason for payment). It is possible to introduce such a classification of revenue and expenditure without changing the structure of the municipal budget, especially with the tools available through modern information technology. It seems less desirable to concentrate the management of all real estate in municipal property in a single centralised department because, as shown above, this would separate accountability for management from that for use.

From the data provided in the national reports (see the appendices) it is impossible to obtain information on the cost/benefit ratio. This is owing to two facts:

- the structure of municipal accounting systems makes it difficult to allocate costs to the various municipal departments (no analytic accounting system);
- there are no systems for monitoring the effect of local government policies.

Another important aspect of financial management concerns the increasing need to evaluate external factors (both positive and negative) produced by the property in question and to identify those people obtaining indirect benefit from it in order to be able to prepare a proper financial policy.

Moreover, the use of administrative management systems not only fails to indicate costs but also makes it difficult to recover revenue that is owing by users of municipal real estate. If real estate is inventoried chronologically this means that it is recorded according to its date of acquisition and not according to its nature or intended use. There is thus a serious danger that the municipality may lose track of it.

Many local authorities resist using a multiple criteria inventory system (which includes not only date of acquisition but also nature, intended use, source and user). This resistance is due to the fact that these systems increase administrative transparency. This is one of the few instances where a regulative requirement may have a positive impact on management efficiency and effectiveness. However, if it is beneficial to impose the use of a multiple criteria classification system, the type of system itself should not be imposed. This is because there is no universal multiple criteria classification system; any system of this kind must be adapted to the strategic goals of the administrative authority in question. Each local authority will normally have different goals.

It would seem advisable, however, to create a benchmarking system enabling different municipalities to compare themselves with each other in terms of costs incurred and income derived from management of their property. The benchmarking method consists in comparing specific crucial items whilst ensuring that the same data-gathering criteria are observed in order that information is actually comparable.

The advantages of benchmarking are the following:

- it enables members of the system to assess their own efficiency and effectiveness by comparing it with that of other members;
- it allows more effective dissemination of good practice.

Attention may here be drawn to the positive and extremely important experience of the Audit Commission in the United Kingdom.¹ The Audit Commission must audit all local authorities in England and Wales in order to evaluate the legality of the spending procedures of these authorities. The Audit Commission also evaluates the effectiveness and the efficiency of the expenditure of the local authorities concerned. This evaluation is mainly performed using a benchmarking system.

Two observations may be made on the basis of this example. The first one is that imposing a benchmarking system allows a comparative evaluation of costs for each local authority but not of all profits, as they may be estimated only in political terms. The second observation refers to the fact that this system is imposed by an organisation (the Audit Commission), which also instigates studies to promote “value for money” in the provision of services by audited bodies.

6. MANAGEMENT OF SELECTED REAL ESTATE CATEGORIES

Most of the analyses developed by this report apply to all municipal real estate; however, it is now necessary to study the specifics of the three types of real estate selected.

6.1. Housing

In this section, the following points shall be considered:

- the different types of property which make up this category;
- ownership and control of housing;
- management forms, methods and instruments;
- rules governing selection of persons to whom the municipality sells or lets housing;
- market impact;
- the question of co-ownership in central and east European countries.

As regards the first point, in most western countries, municipalities own only council housing. On the other hand, in Denmark, Sweden and Finland, municipalities own and let various types of housing. Local authorities in the republic of San Marino own no housing.

¹ The Audit Commission is statutorily accountable only to Parliament and is independent both of the bodies under audit and of the government of the day. It appoints auditors to audit accounts of local authorities and certain other bodies and it prescribes the way in which auditors carry out their functions through a Code of Audit Practice rather than carrying out the audits itself. It funds its activities from fees paid by the bodies under audit as it receives no central government grant. It is not a Crown body and its employees are not civil servants.

Ownership and control of housing may take any one of the following forms:

- ownership and control are both vested in the municipality (as in most western European countries);
- ownership is vested in the municipality while control belongs to other bodies (agencies, state-owned companies, non-profit-making associations, etc.); this is how municipal housing is managed in France, Italy and the Netherlands;
- ownership falls to a central body (state-owned or regional), while control is vested in the municipality: this is the case particularly in several central and east European countries where the legal situation of public goods is not yet fully defined;
- mixed situation, where, for example, the municipality owns the land, the state owns the building, and management is entrusted to an *ad hoc* public body (which is often the case in Italy).

As regards forms, methods and instruments of management the case of the Netherlands may be cited here, where management of housing is entrusted to non-profit-making associations. It should also be pointed out that, as already noted, there is a general unavailability of information on expenditure and revenue for this type of property.

With regard to the rules governing selection of third parties to which the municipality sells or lets housing, the situation varies considerably:

- the principle of economic return is frequently not applied. There are no invitations to tender; instead housing is sold or let at a political price (below the market value, sometimes even below the maintenance costs) and the buyer or tenant is selected from a waiting list of the most disadvantaged;
- a right to buy (sometimes directly, sometimes by pre-emption) is often but not always enjoyed by the tenant already occupying the property;
- the tenant often enjoys the (in some cases virtually permanent) right to renew the lease. The term of the lease frequently depends on the tenant's particulars remaining the same as at the time of selection; if they change, there may be a rent increase (as in Italy) or the agreement may be terminated (as in Belgium);
- as regards sale, the questionnaire replies often quote the rule of invitation to tender and acceptance of the best offer. It would seem that the replies relate to municipal real estate in general and not necessarily housing.

In terms of market impact, two specific situations are of note:

- in the city of Bonn, management of municipal housing is expressly designed to influence market prices. The rents aim to minimise social costs but not necessarily to cover management costs. In this particular example management costs can be ascertained, and it is possible to assess the social impact of the service provided;
- the acquisition by Scandinavian municipalities of land to be resold as development land may also be considered a good example of how to co-ordinate regulatory and economic activity in the housing sector. In Scandinavian countries, municipalities are able to acquire land in order to divide it into building plots, carry out basic urbanisation work and then resell it, thus mitigating the effects of the free market rules.

In central and east European countries, under the system of state ownership, the question of managing private areas in co-ownership did not arise. A similar situation is to be found with the housing co-operatives for joint ownership that are very common in central Italy. This problem is currently one of the greatest barriers to privatisation of property. From the national reports there can be inferred a tendency to produce laws on creating co-ownership of buildings whose legal status is rather unclear. Here the problem is not the creation of buildings in co-ownership but being able to distinguish in both theory and practice between private property belonging to an individual or a family and common property belonging to a number of flats which use the same areas and services. In order to solve this problem, the countries concerned should not adopt any law aimed at regulating the creation of condominiums, but rather enact legislation which clearly regulates the different aspects of the so-called “forced co-ownership” of common private property (or parts of property).

6.2. Real estate used for business activities

It should first be pointed out that the bulk of information provided by the national reports concerns housing and that, consequently, there is not much information available on real estate used for business activities.

As in the case of housing, the data collected do not actually allow the relative importance of this type of municipal property to be determined. Municipalities in some countries cannot legally possess real estate for business activities. This is the case in Scandinavian countries except Sweden (unless forests are included with this type of property) and San Marino. However, in central and east European countries where the privatisation process has not yet been completed we find a considerable amount of property used for business purposes.

The types of asset constituting this real estate depend on the country’s geo-economic structure. In countries with a developed agrarian economy, such as the Netherlands, we find agricultural land forming part of municipal property. We should also mention the case of the “industrial parks” developed in a number of European Union countries. These are municipal facilities of which *usus* is transferred to firms as a form of business aid.

Among the real estate used for business activities we should not forget thermal baths, which may be either run directly by the municipality or granted in the form of a concession to private firms. Both types of management involve not only the natural springs which constitute the thermal baths but also the real estate appertaining to them, which is also owned by the municipality and which is included in the concession with the thermal baths themselves. There is also the further case of some countries, such as Italy, where local authorities allow disadvantaged elderly people the use of small market-garden plots. One last category of real estate for business activities is that in which a municipality lets or sells property to private companies.

As regards ownership and control, the property is usually in the disposal of the municipalities, which transfer *usus*. *Fructus* may also be transferred in full, as in the case of industrial parks or gardens. However, *fructus* is not transferred in the case of property let at market prices.

There are various forms, methods and instruments of management. The following situations are to be found:

- in countries which make a distinction between public law and private law, the municipality may make use of concessions for property subject to the rules governing public ownership (thermal baths being a typical example);
- in the case of real estate let at market prices, responsibility for managing the property is divided between owner and tenant according to the lease management rules; the finance department of the municipality is usually responsible for rent collection;
- in the case of industrial parks, management of the facilities is usually undertaken by a body in which the local authority and the local industry association are represented equally;
- for market gardens, the municipality often takes responsibility for providing water and maintaining the access roads.

With regard to the rules or practices governing the selection of third parties to whom the municipality sells or lets property, there are two situations:

- in the case of property to be let or sold by the municipality, public law contract rules are in widespread use;
- for facilities made available by the municipality for business activity, the criteria used are either policy related (industrial parks or development support for certain business activities) or social (job creation, support for elderly people, etc.).

Business activities conducted on municipal real estate, whether the latter is sold or let, are limited by the intended business use, resulting from legal and formal constraints.

As for management of real estate used for business activities, it is mostly only in the case of industrial parks that it is co-ordinated with the municipality's regulatory functions.

6.3. Real estate used for cultural activities

Municipal real estate used for cultural activities may generally be divided into the following four categories:

- schools;
- libraries;
- theatres and cinemas;
- museums.

Ownership and control may take any one of the following forms:

- ownership is vested in the municipality, while management is assigned to a different body (as in Scandinavia and the Netherlands);
- ownership is vested in the municipality, while management is shared between the municipality and the body enjoying *usus*. Thus school buildings in France, Spain and Italy are owned by the municipalities, which are responsible for their upkeep, but are used by teaching staff who are government employees;
- ownership is vested in a government body, while *usus* is granted to the municipality. This is particularly the case in several central and east European countries.

With respect to the forms, methods and instruments of management, all the management forms listed in section 4 are to be found. *Ad hoc* bodies are often set up for theatres and museums. In this case, ownership of the property remains with the municipalities while *usus* is granted to these bodies. Libraries, on the other hand, are mostly run directly by municipal departments. It should also be noted that profit-making activities are often conducted on theatre and museum premises: sale of publications, drinks, etc. These activities are usually contracted out to private firms according to the public contract system, the aim being to provide additional receipts for the body running the service.

The costs, as with those of other types of real estate, are generally not known.

It is obvious that the profit from running this type of property cannot be measured in purely economic terms. It is therefore necessary to develop indices for assessing the impact of the management of this property.

7. CONCLUSIONS AND GUIDELINES

Before drawing any conclusions from this study, we cannot help but note the lack of quantitative information that would permit a comparison of different forms of management. For a more detailed analysis, it would be necessary to identify a sample of statistically significant cases in order to measure, on the basis of common criteria, the results and, in particular, the degree of cost-effectiveness of various management forms.

We can, however, put forward a number of guidelines that may be divided into three main groups referring to: the legal framework of reference; the *a priori* conditions for good management; and to management principles and strategies.

7.1. Guidelines concerning the legal framework

This section is aimed at avoiding malfunctions stemming from inappropriate legal choices, and at suggesting legal choices which could foster an effective management of municipal real estate. Mainly, it would be necessary to ensure the following:

- to clarify, if need may be, the notion of property; this means that the three constituent elements of any property (*usus, fructus, abusus*) should be clarified and the owners of each of these three elements should be identified;
- not to confuse, where appropriate, standards relating to property in general with standards aimed at setting up a body of municipal real estate;
- not to confuse, where appropriate, standards in the management of common spaces and services (lifts, heating systems etc.) in condominiums with standards relating to the setting up of the condominiums themselves. The creation of a legal framework to regulate the setting up of condominiums should be avoided; it is preferable to create a legal framework which regulates clearly the different aspects of private property, especially the so-called “forced co-ownership” of common private property (or parts thereof).

7.2. Guidelines concerning the conditions of good management

Availability of adequate professional skills and of relevant information is necessary to any good public management system.

7.2.1. *Professional competence*

Effective management hinges above all on the professional competence of the public officials in charge of it; the same legal instrument may be either effective or ineffective depending on the skills of the person using it. It is no accident that the countries with the most effective administrative structures have an established tradition of training their administrative officers. On the other hand, the best practice may often be to turn to management professionals as it may prove less expensive and/or offer better results than training civil servants. This derives from three consequences:

- the need to stipulate, in standards governing municipal staff skills, the necessary qualifications for an economically effective management of municipal real estate;
- the need to implement a staff training and/or re-qualification system which could develop specific professional skills;
- the need to evaluate “value for money” obtained by contracting out the management of municipal real estate property or by receiving professional advice in this field.

7.2.2. *Proper information*

First, it is necessary to create inventories for municipal real estate aimed to register its existence, date of procurement, and, in particular, its management. The idea is to classify the property according to several criteria (such as nature, use, technical features, maintenance parameters, value of insurance risk etc.). Variables concerning management are not necessarily the same in all cases and it is important to give some freedom of choice to local authorities; no legal solution enforced from outside can give good results. However, it might be useful to publish a form of technical compendium aimed at identifying the main criteria of classification, the links between these criteria and management goals, and ratings for each parameter. One should not confuse an inventory with a cadaster; a cadaster is a register of real estate property rights (extent, value, ownership) and all the legal entities that hold those property rights. An inventory is a list of the property *per se*, which can provide certification for external purposes and provide management information for internal needs.

The implementation of systems for evaluating the impact of different public policies must also be recommended, especially policies concerning management of municipal real estate. The question is not to create a mere collection of statistical data (with the target of enhancing knowledge itself) but to implement a data collection system that enables local authorities to understand the social impact of their management techniques and evaluate the results. This must be done according to economic effectiveness criteria (which may not necessarily be lucrative), and the profitability of management policies must be seen in a global perspective not limited to that of a company economy.

7.3. Guidelines concerning public management strategies

In the framework of the public management strategies, it is necessary:

- to make the distinction between the regulating activity of the municipality and its activity as an economic agent and to be able to co-ordinate the two; this means that the service in charge of spatial planning which grants building permits must be separated from the body (which might be an internal service of the municipal administration or an external entity) which manages the municipal real estate. This also means that the municipalities must know how to use their margins of freedom concerning their real estate in order to achieve the strategic goals of their urban development plan. In this area, municipalities mainly have at their disposal an instrument to limit the freedom of action of the real estate owner (guidelines for spatial development through prohibition); therefore, the municipalities can, in the management of their real estate, guide urban development through promotion and stimulation measures;
- to analyse the possibility of engaging voluntary organisations in the management of certain types of public property, especially those which can be used for cultural, social and sports activities. If appropriate, attention must be paid to obtaining maximum transparency in the choice of these bodies in order to avoid awarding special political favours or preferences;
- to create integrated business plans able to offer all necessary information to policy-makers. On the basis of objective forecasts and evaluation these plans should make strategic decisions possible and also set goals to be followed, measures to be taken and means to be used by managers to adapt real estate management to political choices made by the local authority in question;
- to adopt, together with authorisation-type accounting systems, accounting systems which offer sound information on costs and income related to the management of these properties. The idea is to take every initiative to motivate municipalities to establish an accounting system that can guide the decisions, or a system of management control or, more simply, a control panel;
- to establish a service contract (if management is awarded to an outside body) which sets out the type of service supplied, the quality of this service, the price per unit of this service, avoid a contract entrusting an external body with the management in exchange for a fixed sum, and avoid a deficit resulting from the work of the managing body being charged to the municipality;
- to perform regular property and management reviews and evaluations or have them performed by professionals; these reviews must help improve the effectiveness and efficiency of municipal real estate management and therefore should also be used to stimulate and evaluate managers;
- to create a coherent benchmarking system in order to make comparison possible between management performances obtained by different municipalities. The objective of such a system should be not only to increase transparency but also to improve performance; therefore, it should be used to stimulate services or contractors in charge of the management of the municipal property.

APPENDICES

Appendix 1: Legal framework for the management of municipal property

Country	National legal regulations	Observations
Albania	No standard-setting legal framework	There are two draft measures pending on: (1) classification of public property; and (2) local authority competencies
Austria	Law on the transfer of land	A municipal resolution is necessary
Belgium	New municipal law (1988), specific regional laws	
Bulgaria	Constitution and law on municipal property (1996)	The law determines the difference between management of public and private municipal property
Croatia	Local government law	Restitution of expropriated property
Cyprus	Municipal law (1985)	There is little municipal real estate
Denmark	Local government law concerning the sale of municipal real estate property, and unwritten legal principles	The authority cannot purchase property for the purposes of renting it out
Estonia	Law on local government arrangement and specific legislation	A new draft law sets up increasingly restrictive conditions on local government property. Under the present law, councils follow regulations for the management of municipal property that are similar to those used for the state property. The new law will create minimum standards for the management of municipal property
France	Law on territorial organisation	A large part of the real estate is owned by specific public bodies
Germany	Civil code, <i>Länder</i> laws	
Greece	Municipal and communal code and specific legislation	Different status for public and private property
Hungary	Civil code and specific legislation	
Iceland	Municipal law and specific legislation	
Italy	Civil code and specific legislation	
Latvia	Civil code, municipal law and specific legislation	
Liechtenstein	Municipal law (1996)	The communes are not concerned with private law

Lithuania	National legal regulations concerning municipal property: Law on Governing, Owning and Disposal of Municipal Property (1998); Law on Transfer of State Property to Municipal Ownership (1998); Law on Privatisation of State and Municipal Property (1995)	
“the former Yugoslav Republic of Macedonia”	Constitution; Law on Local Self-Management (1995)	Municipal property is used for municipal services; sharing of property between the state and the municipalities is under way, for the 34 “former” municipalities and the 89 recently created municipalities alike
Malta	Regulations on the administration of public property and land disposal legislation	Local authorities are allowed to lease public property (in particular public gardens and places of cultural and historical interest); this arrangement empowers councils to rehabilitate, and promote access to and use of, these properties by local inhabitants and tourists
Netherlands	Law on housing, law on housing allowances	No specific legislation as the municipalities have little property
Norway	General law on leases (1939)	No specific legislation
Poland	Constitution; law on local and regional authorities	A large quantity of real estate transferred from the state to municipalities
Portugal	Constitution; decree-law 100/84, 29 March and its amendments (law on competencies of local governments); Law 42/98, 6 August (law on local finance); decree-law 54-A/98 (on the national accounting system)	
San Marino	Law 22/1994, rule on national compatibility	Practically no real estate
Slovakia	Law on municipalities, law on municipal property	
Slovenia	Law on financing of public expenditure, local government law, law on financing of municipalities	The process of sharing property between municipalities is still underway
Spain	Law on the basis of the local regime (1985); royal decree (1986) on public property	National law is supplementary, in many fields, to the law of self-governing municipalities
Sweden	Local government law; land-use code	Tendency towards corporatisation
Turkey	Municipal law, law on public procurement	
United Kingdom	Specific legislation	38% of housing needs are met by municipal property

Appendix 2: Municipality obligations and the nature of contracts

Country	Limitations on selling	Maintenance obligations for municipalities	Public or private leasing contracts	Maintenance contracts
Austria		Buildings law; the tenant is responsible for the inside, the owner for the outside	Mixed	Private law; efficiency, economy and convenience
Belgium	Property bought with subsidies cannot be sold	Regional laws; principle of civil responsibility: respect for architectural criteria	Private law	Private law
Bulgaria	The law on privatisation limits selling; public municipal property cannot be sold	Law on municipal property	Public law	Private law
Croatia	Public competitive tendering, respect for the market value, specific regulations for property acquired during the communist regime			Private law
Cyprus	Prior approval from the Ministry of the Interior	The municipality has certain obligations	Private law	
Denmark	Respect for market value of public property	General principle of cost-effectiveness	Private law	Private law
Estonia	Law on privatisation, specific legislation; municipal property can be sold according to privatisation programmes adopted by the council which sets general privatisation terms (environment protection etc.) and restricts potential buyers must fulfil	Specific legislation	Mixed	Mixed
France		The municipality has certain obligations		
Germany	Obligation to inform the supervising authority	Administering with due diligence	Private law for rented property; public-law regulations for homeless	Public market regulations
Greece	Limitations only for public property	The municipality has certain obligations	Usually private law; public law for public property	Private law

Hungary	Pre-emption right for the tenant; specific authorisation to conclude a contract beyond a certain value	Civil code; area laws for cultural institutions	Civil code and specific legislation	
Iceland	Authorisation to sell off property destined for public uses	Obligations under the law on leases	Private law (law on leases)	Private law
Italy	Public property cannot be sold off; declassification procedure can be made by local authorities according to law. Other types of property can be sold off.	The municipality has certain obligations	Private law and specific legislation	
Latvia	Limitations specified under the privatisation law; prohibition to expropriate the properties which are needed for the implementation of permanent functions	Private law	Standard contracts and contracts to be ratified by central government	Private law
Liechtenstein	No limitations	Ordinary maintenance	In theory the municipalities are free	Choice of the municipalities
Lithuania	Limitations specified under the specific law			
Malta	Limitations determined by terms of lease agreements	Certain obligations depending on the type of property	Public law for public property and commercial law for private leasing	Mixed
Netherlands	No limitations	Private-law obligations	Private law	Private law
Norway	The proceeds from the sale cannot be used to cover running costs	No specific legislation	Mixed	Mixed
Poland	Restrictions for foreigners to purchase	Obligations foreseen by the law on renting	Mixed	Mixed
Portugal	Public competitive tendering if the value exceeds a certain amount. Specific legislation for property or architectural merit	Decree-law 54-A/98	Public law	Public law
Slovakia	No sale to foreigners, regulations on the maintenance of intended use of certain property	Civil code; public law		
Slovenia		Principle of the “good administrator”	Public law	Public law

Spain	Public property cannot be sold off; declassification procedure can be made by local authorities according to law. Sometimes this is automatic (mainly when changing the urban plan)	Obligations foreseen by law	Private or public law according to the nature of the real estate (public or private)	Public law
Sweden	If the municipality sells more than 25% of its housing property it loses government subsidies	Urbanisation regulations		
Turkey	Authorisation from the Land Administration; Law on Public Procurement	The municipality has certain obligations	Mixed	Mixed
United Kingdom	State consent needed to sell at “less than best price”	Specific legislation	Specific legislation	Specific legislation

Appendix 3: Legal framework relating to procurement

Country	Procedures and criteria for choosing buyers	Procedures and criteria for choosing tenants	Procedures and criteria for choosing maintenance companies	Length of the lease
Austria	Private procurement standards		Competitive tendering standards	
Belgium	Public procurement standards	Limitations of a social nature based on non-discrimination	Public procurement standards	Municipal council's choice, according to civil code and law on leases
Bulgaria	Public procurement standards; law on privatisation	Private procurement standards	Leasing (for public municipal property); tendering (for renting, granting the right to use or to build)	Leasing for 15 years, but this term may be extended
Cyprus	Public procurement standards and highest price obtained except if legal to grant economic support (e.g. cultural activities)	Highest obtainable price	Public procurement standards	No limits
Denmark	Public procurement standards	Public procurement standards	Public procurement standards	Civil legislation on leases
Estonia	Law on privatisation. If the property is sold by auction, the winner must offer the highest price while accepting all additional privatisation terms. In case of sale by negotiation, the offer must be acknowledged as the best by the privatisation organiser (nominated by the council).	Law on leases; residential law	Law on state procurement	Determinate or indeterminate, according to law on leases
France	Public procurement standards	Public procurement standards	Public procurement standards	
Germany	Public procurement standards	Consideration of social circumstances	Public procurement standards	Private-law standards

Greece	Public procurement standards	Public procurement standards	Public procurement standards	Specific legislation or agreement between the contracting parties
Hungary	Public procurement standards (1995)	Public procurement standards (1995)	Private-law consortium according to the law on concessions (1991)	Depends on the type of contract
Iceland	Social housing may be sold to non-commercial entities having social aims	Criteria of a social nature and revenues when leasing social housing	Public procurement standards	Law on leases; determinate or indeterminate for social housing
Italy	Public procurement standards	Criteria of a social nature and specific legislation	Public procurement standards	Civil law on leases and social legislation
Latvia	Competitive tendering; first refusal	Law on company rental; competitive tendering	Public procurement standards	Determinate or indeterminate length
Liechtenstein	Public interest regulation and the conservation of land property	Municipalities do not own buildings for housing use	Law on competitive tendering, the most economically advantageous offer	Contractual freedom
Lithuania	Law on public procurement	Law on governing, owning and disposition of municipal property	Public procurement standards	Government resolutions
Malta	Housing legislation	Housing legislation	Public procurement standards	No particular regulations
Netherlands	General principles of public action	Law on the allocation of housing (according to social priority)	Public procurement standards	Civil code; law on leases
Norway	Public procurement standards	Law on Leases (1939), public procurement standards	Public procurement standards	No particular regulations
Poland	Ministerial order on regional planning, right of first option for tenants		Ministerial order on regional planning	Depends on the type of lease
Portugal	Public procurement standards	Public procurement standards	Public procurement standards	Maximum 20 years
Slovakia	Law on the Sale to Tenants (1993), public procurement standards (1993)	Law on Renting and Sub-renting of Housing (1990); public procurement standards	Public procurement standards	Civil code and specific legislation

Slovenia			Law on competitive tendering	
Spain	Law on Administrative Contracts (1995)	Law on Administrative Contracts (1995)	Law on administrative contracts (1995)	Maximum for administrative lease is 99 years; a minimum lease (in general 5 years) is stipulated only for housing leases
Sweden	No particular regulations	No particular regulations	Public procurement standards	Indeterminate
Turkey	Public procurement standards; priority given to civil servants and people on low salaries	Public procurement standards; priority given to civil servants and people on low salaries	Public procurement standards	Maximum 10 years
United Kingdom	Law on housing (1985)	Law on housing (1985)		Special laws

Appendix 4: Main categories of municipal property – 1

Country	Council houses	Other housing	Buildings used for economic activities	Cultural infrastructures	Sports complexes
Belgium	x	x	x	x	x
Bulgaria	x	x	x	x	x
Cyprus	x	x	x	x	x
Denmark	x	x		x	x
Estonia	x	x	x	x	x, few, mixed ownership
France	no			x	x
Germany	x	x	x	x	x
Greece	x	x	x	x	x
Iceland	x	x	x	x, except theatres	x
Italy	x	x	x	x	x
Latvia	x	x	x	x	x
Liechtenstein				x	x
Lithuania	x	x	x	x	x
Malta				x	x
Netherlands	x	x	x	x, few	x

Norway	x	x	x	x	x
Poland	x	x	x	x	
Portugal	x	x	x	x	x
Slovakia	x	x	x	No schools, or theatres	x
Spain	x	x	x	x	x
Sweden	x	x	x	x	x
Turkey	x	x	x	x	x
United Kingdom	x	x	x	x	

Main categories of municipal property – 2

Country	Forests	Cemeteries	Abattoirs	Shopping Centres/ Markets	Canals	Roads	Administrative services	Public parks	Other
Albania									Nurseries, disinfection services, part of road network
Belgium	x	x	x	x	x	x	x	x	(Churches), hospitals
Bulgaria	x	x	(Private)	x	x	x	x	x	Health institutions
Croatia							x		
Cyprus	(State)	x	x	x	x	(State)	x	x	Nurseries, homes for the elderly, building plots, water supply infrastructure
Denmark	x					x	x	x	Building plots, hospitals
Estonia	State, municipal or private			x, few	x	State, municipal or private	x	x	
France				x	x	x	x	x	Coasts for specific use and ports
Germany	x	x	x	x	x	x	x	x	Hospitals and ports
Greece	x	x	x	x	x	x	x	x	Coasts and ports
Iceland	(State or private)	(State)	(Private)	(Private)	x	(State)	x	x	Hospitals, ports (partially)
Italy	x	x	x	x	x	x	x	x	Land property
Latvia	x	x			x	x	x	x	Urban heating, hospitals
Liechtenstein	x	x			x	x	x	x	
Lithuania	x	x		x	x	x	x	x	Urban heating network

Netherlands	x	x	x	x	x	x	x	x	Hospitals, ports, airports
Norway					x	x	x	x	Hospitals, ports, power stations
Portugal	x	x	x	x	x	x	x	x	Land and natural resources
San Marino						For management		For management	The only real estate in the ownership of "Castelli" are historic buildings; they will soon be transferred to the state
Slovakia	x	x		Market places	In transition	x	x	x	In small towns: water reservoirs
Spain	x	x	x	x	x	x	x	x	
Sweden	x	x	x			x	x	x	Ports
Turkey	x	x	x	x	x	x	x	x	Ports, airports, laboratories
United Kingdom		x				x	x	x	Homes

**CASE STUDIES CONCERNING THE MANAGEMENT OF
MUNICIPAL PROPERTY**

MANAGEMENT OF FOREST PROPERTY IN FINLAND

1. General legislation on forestry and forest management

Towns and municipalities are regarded as private forest owners. This means that all legislation pertinent to forestry and forest management is incorporated in the Private Forest Act. The main principle in the Private Forest Act is that Finnish forests cannot be destroyed. Forests must be managed systematically so that the basis of forest utilisation is the principle of sustainability. As well as wood production, the most important objectives of forest management are to maintain the sustainable development of forestry and safeguard the multiple use of forests. These principles must also be respected when using forests for economic purposes. Living conditions for endangered or rare species must also be secured. Forests must be managed so that they maintain their vitality. In sustainable forestry, forests and forest land are managed and taken care of so that their multiplicity, productivity, power of regeneration and vitality are preserved. In addition, the possibility of carrying out important ecological, economic and social activities is maintained. This is how potential environmental damage can be avoided.

There are eleven regional district forestry boards, which come under the authority of the Ministry of Agriculture and Forestry, and ensure the implementation of the Private Forestry Act. Other than these, the local forest management associations, founded by the forest owners, aim to provide professional help and to guide forest management. In Finland, the private wood industry buys wood. The trade of forestry products is considered as normal trade where the general trade of legislation of the European Union and Finland apply.

2. Kajaani

Introduction

Kajaani is a town with 37 000 inhabitants, located in central Finland. It was founded in 1651. Count Per Brahe, representing the Swedish King, donated a large area of land to the town of Kajaani for its future needs. This property remains the main basis of the land property of Kajaani.

The land property of Kajaani covers an area of 108.6 km² and water property 4.1 km². 17.2 km² of this is located in the town-planning area and consists mainly of building sites, streets, rambling areas and other public areas. 2.1 km² has been reconditioned for peat production, 10.5 km² has been designated for special use or rambling and 78.8 km² is used for forest production. The total value of land property and forest property amounts to FIM 800 million.

Kajaani acquires land areas mainly inside the town planning area.

Organisation of forest management in Kajaani

In Kajaani, the land-use unit has total responsibility for land property. The land-use unit consists of general planning and town planning, land-use politics, real estate administration and forestry. A forest engineer and six forestry professionals subordinate to him or her manage the forest unit of Kajaani. Municipalities which have less forest area do not have a forestry organisation of their own. They have an agreement on forestry and forest management with the Forest Management Association. In this case, the Forest Management Association provides the municipality with the requisite expertise.

Kajaani has systematically managed its forests for more than a hundred years. The first systematic forest management plan was conceived in 1892. The most recent plan was drawn up this year and the planning period will cover ten years. The forest management plan is a general study on the possibilities for felling and carrying out forest improvement work. It contains information about the soil which has an effect on the growth of timber, information about the timber structure and an estimate on the amount of timber and increases in this. It also gives recommendations on tree felling and forestry work to be done over the next ten years.

Recently, the forest organisation of Kajaani drew up a forest management plan in collaboration with the State Forestry Centre and the local environmental and nature conservation organisations. It was approved by the town board according to the procedure for general municipal affairs. The plan divides the forest property of Kajaani into the following land-use categories:

Table 1: Division of Kajaani forest property in 1996

Category of land use	Area of land (in hectares)
Forest land > 1 m ³	6 941
Forest land with low productivity, growth > 0.1-< 1 m ³	374
Non-productive land, growth < 0.1 m ³	200
Peat bog, electric wires, gravel pits	367
Total area	7 882

In the forest management plan, forest land is divided into the following categories depending on the diversity of use.

Table 2: Division of forest land into different categories depending on use of land

Use of forest land	Quantity of forest land (as a percentage)	Area of land (in hectares)
Commercial forest	82.5	5 723
Landscape forest	5.8	402
Protection forest	0.1	8
Recreational forest	8.9	619
Conservation areas based on one's own initiative (80 hectares are more than 100 years old)	2.7	189
Total forest land	100.0	6 941
Level of productivity		
Low productivity:		
conservation areas based on the owner's own initiative		374
Non-productive land:		
conservation areas based on the owner's own initiative		200
swamp, electric wires, gravel pits etc.		367
Total		7 882

In the forest management plan, an area of 764 hectares, i.e. 9.7 per cent of the total area, has been designated as conservation area (see above). In the forest management plan, total standing timber in the town area is 593 218 m³.

In addition, the number of young timber and seeding plants is about 40 439 m³. The annual growth of timber is about 22 000 m³ as planned. The forest management plan recommends an annual felling quantity of 16 750 m³. This means that the forest management plan has been drawn up in such a way that annual growth far exceeds annual felling and production is about 5 000 m³ yearly.

Timber sales

Kajaani and the *UPM-Kymmene Oy*, which owns a paper mill in Kajaani and other wood-processing industries, have concluded a general agreement on timber sales to ensure timber sales also during downward trends. According to this agreement, the town sells and the *UPM-Kymmene* buys the timber in accordance with the harvesting plan.

The share of the sales at the delivered prices is 40 per cent¹ and that of standing sales is 60 per cent.² To ensure multiple use of forests, sales at delivered prices mainly occur in recreational forests and in the forest industry areas they are carried out by thinning. The Finnish competition authorities have examined the agreement and stated that it fulfils the criteria of Finnish and European Union competition legislation.

Forest management work

Forest management work includes harrowing, making hummocks, seeding, tree planting, management of seedling plants, improving drainage and environmental protection. These measures are carried out in an area of 300 hectares per year. Forest improvement work is done by the town's own forestry organisation and machine work is carried out by private forest contractors with whom the Forestry department concludes normal agreements. The implementation of the forest management plan is annually supervised by the closing of the accounts and the annual report. These measures taken are carefully written down in the follow-up charts.

Economic data on forestry and its importance in Kajaani

Kajaani receives FIM 3 million a year by selling forestry products. The value may vary a little depending on the market price. The forest management costs in Kajaani are about FIM 5 million. This means that the net income from forestry is about FIM 1.5 million per annum. The budgeted income of Kajaani was FIM 927 million in 1994, FIM 893 million in 1995 and FIM 930 million in 1996. In addition to the financial impact, forest property plays a central role when planning hiking routes and ski tracks and, in the future, it will be of central importance as a stock of planned area.

Peat production

Kajaani and its wood processing industry, i.e. the *UPM-Kymmene Oy* jointly own a peat power plant. It produces electricity and steam for paper production and provides heating for the town. Therefore Kajaani has acquired areas suitable for peat production among which 222 hectares have been reconditioned for peat production. The forestry unit is also responsible for the town's peat production.

Kajaani organised its peat production by concluding a peat production contract with a private company called *Vapo Oy*. *Vapo Oy* is assigned to lift the peat and transfer it to the peat power plant. The price of peat depends on the price of coal. The price that the peat power plant pays Kajaani depends on the energy content of the delivered peat. Correspondingly, Kajaani pays the *Vapo Oy* a price which depends on the energy content of lifted and delivered peat. The town's own organisation is responsible for supervising the contracts. At present, Kajaani receives a net income of FIM 0.5 million from its peat production.

1 Sale at delivered price means that the town's own forest organisation has the trees felled using manpower and has a contractor transport them to the roadside where the buyer collects them.

2 Standing sale means that the buyer harvests the trees with machines in the forest.

3. Somero

Introduction

The town of Somero lies in south-west Finland, in the province of Turku and Pori.

Population: approximately 10 000;

Area town covers: 669 km²;

Water area: 37 km²;

Field area: approximately 270 km²;

Forest area: 362 km²;

Total budget: FIM 200 million.

Organising the forest economy in Somero

Two forest management associations are active within Somero. From these associations, the town buys the services needed for silviculture, felling sales and the planning of its forest areas.

Forest management associations and their executive managers are in charge of silviculture.

Decisions on the use of forests are made by the town board, assisted by the forest management committee set up by the town board. The forest management committee works in close co-operation with the forest management associations. The committee prepares the decisions for the town board and supervises the implementation of the decisions made by them. The services bought by the town from the forest management associations provide employment for three people per year.

A forest economy plan is drawn up for a ten-year period. The present plan will expire in 1998, and then a new forest plan will be drawn up covering the next ten years and a long-term forest economy development plan covering the next twenty to thirty years.

Table 3: Division of forest land into different land-use categories in the town of Somero

Forest land-use category	Area of land (in hectares)
Forest land, growth > 1 m ³	1 648
Forest land with low productivity, growth > 0.1-1 m ³	30
Non-productive land	37
Total	1 714

Table 4: Types of forest in Somero

Category of forest	Area (in hectares)
Groves and grovelike forest soil	177
Fresh forest soil	654
Dryish forest soil	493
Dry and infertile soil	69
Spruce swamp	156
Pine swamp	99
Total forest land	1 648

The total volume of timber is 183 000 m³ and the average amount of standing timber is 111 m³ per hectare.

Timber sales

According to the felling plan, 7 300 m³ of timber is to be sold annually. There are seven timber delivery companies in the town. These companies make quotations for the timber to be sold according to the felling plan. The town board makes sale decisions based on these quotations.

Economic data on forestry

Income from the forest economy amounted to FIM 1 774 921 in 1995 and the expenses amounted to FIM 985 925. A positive net income from forestry of FIM 786 996 was obtained.

The cost items are illustrated in the appendix, which shows the final accounts for the last three years.

A positive result is usually used to cover the cost expenditure or investment costs in the budget. A theoretical negative result is also covered by the cost expenditure of the budget.

*Agricultural farms and woodland estates***Table 5: Expenditure and income**

Expenditure	1993 (FIM)	1994 (FIM)	1995 (sFIM)
Meeting fees	2 760	1 845	–
Wages paid by hour and by piece	543 135	296 821	344 340
Wages	545 895	298 666	344 340
Social security charges	25 465	16 672	35 585
Old age pension insurance premiums	32 059	20 468	47 066
Social insurance premiums	57 524	37 140	82 651
Clothing	–	–	1 093
Material purchases	–	–	1 093
Mailing & telecommunication	–	–	270
Insurance	36 626	32 940	25 156
Building maintenance & environment	–	80 493	168 275
Travel expenses	13 412	12 077	21 554
Other services	282 454	347 036	340 871
Purchases of other services	332 504	472 546	556 126
Indirect taxes	–	1 204	
Direct taxes	39 152	32 140	1 315
Taxes	39 152	33 344	1 315
Forest truck road	22 812	7 580	400
Other expenses	22 812	7 580	400
Total expenditure	997 887	849 276	985 925
Income			
Income from forest sales	1 644 306	1 560 495	1 774 921
Other income	1 467	-	-
Total income	1 645 773	1 560 495	1 774 996
Net income	647 886	711 219	788 996

MANAGEMENT OF MUNICIPAL HOUSING IN GERMANY

1. Hattingen

Brief overview of applicable legislation

Distinction between private and public law

A basic distinction is made between private and public law. Even if concluded by a local authority, tenancy agreements fall under the scope of private law, the main features of which are regulated by the German Civil Code (BGB).

Public law applies only to special legal relationships, e.g. the confiscation of living space by the administrative services in charge of regulation and public order (*Ordnungsamt*) to avoid homelessness or the allocation of official residences to holders of specific posts. These cases are based on special statutory provisions such as the German Act on Administrative Services in charge of regulation and public order (OBG) or the German Ordinance on Official Residences (DWVO). No closer reference will be made in this context to these exceptions.

Sources of private law

As specified above, the legal relationships between private persons (and local authorities are also generally viewed as such when they operate as entities under private law) are basically subject to the provisions of the German Civil Code (BGB).

However, the provisions contained in the German Civil Code have lost much of their significance in practice. This is because, firstly, the provisions pertaining to the law of debts in the German Civil Code are not obligatory, (i.e. they can be amended by contractual agreement) and, secondly, the legislator has intervened in the housing market through regulation in order to compensate for the imbalance of power between owner and tenant.

Examples of this are the New Building Rent Ordinance and the Act on Fixing of Rent Levels. Special regulations also additionally apply to government assisted housing. These regulations relate to the entitlement to occupy as well as the calculation of the so-called cost-covering rent (Second Calculation Ordinance).

The statutory provisions are supplemented by supreme court decisions which fill gaps in legislation and virtually assume the character of an act, at least in their external effect.

Standardised agreements/clauses

Standardised agreements assume great importance in administrative practice. These are usually developed and issued by associations of landlords and adjusted to amendments in the laws and jurisdiction on a regular basis.

It is not possible to provide a conclusive rendition of the statutory provisions applicable to rental agreements within the scope of this presentation owing to the complex nature of the subject matter.

Analysis of the management of municipal rental housing

Analysis of existing housing stock

Hattingen's total housing stock

No exact details on the structure of all housing in the municipal area of Hattingen are available. However, the Regional Office for Data Processing and Statistics does collect appropriate details and publishes these on a regular basis. The following figures have been derived from the latest available statistics (status: 31 December 1992).

Table 1: Breakdown of the municipality of Hattingen's stock of flats

Size of flat	Number of flats
1 room	302
2 rooms	1 277
3 rooms	6 386
4 rooms	10 074
5 rooms	4 433
6 rooms	1 739
7 rooms or more	1 308

The total number of flats in the municipal area of Hattingen is 25 519.

Statistics on the equipment or the age of the individual flats are not available.

Structure of the housing stock owned by the municipality of Hattingen

The municipality of Hattingen rents out a total of 295 flats for residential purposes. Of these flats, 127 were built before 1948 (old buildings) and 168 after 1948 (new buildings). The majority of the flats have a bathroom/WC (257 flats) and double glazing (248 flats).

Organisational methods for the management of rental housing stock

The town's land office is responsible for the management of municipal housing. Many local authorities are giving or have given consideration to transferring management of the housing stock to the private sector or selling it.

These considerations usually arise under the growing pressure of costs facing public administrations and thus the local authorities.

A distinction is made in this context between privatisation under adjective law and privatisation under substantive law. Privatisation under adjective law is understood to be the establishment of an enterprise organised under private law in the form of a company with limited liability, for example, or a public limited company which, however, remains wholly or predominantly under the ownership of the municipality.

Reference is made to privatisation under substantive law when the municipality, in this case the local authority frees itself entirely from the responsibility, in this case the provision of housing, i.e. sells the entire housing stock.

In 1991 the municipality of Hattingen considered privatising its housing stock or transferring its management to a housing management company. However, after detailed scrutiny it came to the conclusion that it would be better, both for economic reasons and in view of the objective being followed, to continue to manage the housing itself in future.

Breakdown of income and expenditure resulting from property management

Income and expenditure pertaining to the municipal housing stock are shown in the municipal budget.

The income (primarily from rent) for the year 1994, came to a total of DM 1 061 162.13.

Table 2: Expenditure pertaining to municipal housing stock for 1994

Forms of expenditure	Expenditure in DM
Personnel costs	67 200
Material costs	231 075
Building maintenance	165 807
Management costs	99 873
Court costs	1 855
Administrative cost contributions	150 363
Gardening expenses	49 752
Depreciation	51 755
Interest on investment capital	242 781

There is a surplus of approximately DM 180 000 which is used to cover general budgetary requirements.

Responsibilities of municipal property management

The flow of resettlers from eastern Europe and social developments (a rise in the number of households with one person only, high birth years) has meant that there has been a deficit on the housing market for some years.

Socially problematic home-seekers or those who have great difficulty in finding a home for other reasons (e.g. many children) encounter great housing problems in this situation.

The municipality is trying to ease this situation by attaching particular importance to social aspects when allocating municipal housing. Families threatened with homelessness, single parents and similarly disadvantaged persons are therefore given preferential treatment in the allocation of municipal housing.

In this context special importance is attached to providing housing for the homeless. Some of the municipal housing stock is reserved for these individuals. The social welfare office is responsible for allocating these homes and then assumes the function of the administrative service in charge of regulation and public order.

Problems of municipal property management

Social aspects which are given special consideration in the allocation of housing lead in some cases to tension which places special demands on the municipal property administration.

Homeless people who are housed in individual flats in “normal” residential buildings in order to promote their reintegration into society, resettlers from a broad variety of east European countries and large families may raise specific problems. This situation has led to disadvantages on the housing market for these groups of tenants, which require considerably more intensive support and more frequent intervention, e.g. with regard to observing house rules.

2. Bonn

The municipalities organise the management of municipal property within the framework of local self-government. In Bonn, the principle which is still applicable is that the land and building property is managed according to that used by the municipal offices, i.e. the offices of the municipal administration manage the buildings and the land which they use. The principal office thus manages all public administrative buildings, the schools office all schools, the cultural office all cultural institutions, the green spaces office all public parks and similar areas, and so on.

Within this organisational structure, the land office (*Liegenschaftsamt*) is answerable to the financial administration department and is responsible for the management of municipal property which is not used by the individual municipal offices.

This includes 780 buildings containing:

- 2 800 flats (870 social welfare flats and 1930 flats in old buildings);
- 260 commercial businesses including municipal caterers;
- 120 club and association rooms;
- 70 municipal establishments of a varied nature.

(There is a total of 260 000 m² useful available space).

This also includes approximately 2 900 plots of land of which:

- 850 are used by farmers and individual allotment gardeners;
- 1 000 are used by twenty allotment gardener associations;
- 200 are used commercially;
- 850 have been placed at the disposal of home-builders with hereditary building rights.

In addition, several foundation premises are managed by the municipality and are subject to special laws in accordance with their purpose.

Sixteen trained administrative clerks work in the office for land property (including five examined technical employees in the main building trades).

Table 3: Financial situation of municipal housing

Expenditure	Amount in DM
Personnel and workplace expenses	1 870 000
Building maintenance expenses	4 000 000
Building modernisation expenses	6 000 000
Operating and energy expenses	5 800 000
Total expenditure	17 670 000
Income	
Rental income	24 000 000

The current surplus of DM 6 330 000 is used to cover the cost of other obligations of the municipality of Bonn.

The housing construction activity of the municipalities has only assumed a peripheral role in satisfying acute demand, with the housing sector primarily left to private initiatives including non-profit housing associations and self-help through housing co-operatives. This continues to be the case.

Municipal housing construction assumed importance after the second world war when it was necessary to build housing quickly and inexpensively with the aid of emergency plans in the wake of extensive destruction of the housing stock. With the onset of economic recovery in the Federal Republic of Germany, private housing construction initiatives were revived and municipal assistance in the form of municipal housing construction increasingly diminished until it was completely discontinued at the end of the 1950s and emphasis was placed on providing financial assistance to private housing projects. For this reason larger municipalities such as Bonn have a relatively high level of housing stock even today.

Municipalities manage their property as entities under private law. In all decisions and contractual matters they act as any other private property owner and are bound by the laws contained in the German Civil Code. The legislation on renting and leasing also has a number of requirements ranging from the law on the level of rent (stating when rent and operating expenses may be increased) to the

second calculation ordinance (calculation pertaining to the housing sector). Reference is made here to the collection of works on renting and leasing legislation published by C. H. Beck. This collection also contains a specimen rental agreement which was drawn up with the co-operation of the Federal Ministry for Justice and which has standardised contractual clauses on rights and duties of owner and tenant.

Municipal housing policy is not limited to the creation of new living space or assistance in the creation of new housing. Municipalities are also obliged to ensure an extensive supply of housing. The municipal housing sector has proved to be an indispensable instrument of social policy in view of the fact that there is great demand for inexpensive housing from low wage earners, which is continuing with the current high rate of unemployment, and with the influx of foreigners. Municipal housing administration and the allocation of homes can also be conceived as targeted intervention in order to avoid the creation of undesirable ghettos and new focal points of social unrest.

The direct administration of municipal homes by municipal offices naturally provides the municipalities with the best opportunity to influence the selection of tenants, to structure the contractual relationship and the rents and to offer financial support to tenants. In accordance with the duty incumbent upon the municipalities to primarily provide living space to socially needy citizens, problem cases, who cannot be helped by financial assistance alone or who have a particularly urgent housing need, are particularly eligible for municipal housing.

The municipalities can then take the action they consider necessary to supply housing in accordance with the existing demand, to structure rental agreements as required, allocate homes or make a suitable tenant selection, influence the level of rent and take the requisite action for housing stock administration and maintenance.

The supply of appropriate housing to socially problematical tenants at an acceptable level of rent requires sensitivity and circumspection in order to avoid tension between individuals and differences between communities. When allocating homes, a major distinction must be made between home-seekers who face difficult situations for which they are not responsible, as a result of a long period of unemployment, coupled with financial and possibly psychological problems, and those who have problems because of their social inadaptability. The elderly who live without the support of family members and have only a modest income may also be dependent on inexpensive homes. These are only a few examples of the intervention of the municipal housing administration in co-operation with the remaining individual social welfare offices. The list could be continued with the problems of single mothers or large families who need to rent suitable living space.

Every municipality regulates these requirements by means of fundamental decisions taken by the municipal bodies. The following decisions have been taken for the municipality of Bonn:

- regulation of the town mayor which lays down the competencies and co-operation of the housing office (selection and naming of tenants) and the municipal land office (management of housing, contractual formalities with the tenants) (see Note 1);
- basic council decision that the rents for homes in the areas in which predominantly large families and elderly people live must be orientated to the lower level of usual comparable rents in the area;

- decision by the principal committee on priority levels in the allocation of homes (see Note 2);
- council decision on the socially compatible raising of rents for homes which are no longer subject to rent restrictions and thus to the cost-covering rent (see Note 3);
- council decision to modernise municipal homes as inexpensively as possible so that low wage earners will still be able to afford these homes (see Note 4).

Municipal offices are expected to have special skills in dealing with these people and in selecting an appropriate home and suitable social surroundings for them so as to avoid any later tensions in the living environment. Municipal housing management does not only entail the mere allocation of homes and the regulation of associated questions under landlord/tenant legislation, but is also extended to include attempts to re-integrate social cases.

This work is performed by special municipal offices. It also requires specially trained social workers, who regularly provide assistance to such persons in coping with simple matters of everyday life, for example, through home visits. They ensure basic financial security and decent living space. Municipal employees are expected to have persuasive interpersonal skills. Admittedly, these efforts are not always successful, but they are often the only way to show the path which many then do follow.

The implementation of decisions on municipal housing entails a larger amount of administrative work and more expenses than in the private housing sector. On the one hand, this is the result of the intensive support required for the numerous problem cases and on the other, the result of the unfortunately indisputable fact that social dropouts do not handle homes allocated to them with the requisite care. The expenses involved in renovating damaged housing is therefore disproportionately high. The municipality nevertheless faces these problems in the knowledge that an improvement in the living conditions of these individuals also depends on a financially secure personal environment. The alternative to this problem would be the strict application of tenant obligations on the basis of landlord and tenant legislation, which could lead to homelessness and thus to even more serious social consequences, and is something which must be avoided.

The major proportion of municipal housing originates from the time of the most serious housing shortage. The buildings were constructed then using the simplest means; heating systems, bathrooms, thermic insulation were not constituent elements of social welfare housing in the 1950s. The low rents and the lump sum for maintenance and repair contained therein do not cover the expenses of these residential buildings. The rent restrictions placed on the buildings are slowly being lifted and a process of reorientation is currently taking place which is geared to modernising this type of housing whilst keeping the rent level within an economically acceptable framework. This allows the social groups described above to rent living space with the aid of state assistance under appropriate conditions.

The municipality of Bonn embarked upon a programme of modernisation of its housing stock in the early 1980s. The programme has been systematically continued. With a stock of 2 800 homes, a total of DM 10 million per year is now earmarked for building maintenance and measures for the modernisation of housing in the municipal budget. This figure was smaller at the beginning but has been at this level for the past six years.

Legislation permits rents to be increased by 11 per cent of the expenses of modernisation after the implementation of measures for modernisation. The municipalities are also bound by budgetary law to make use of the possibility of rental increase within acceptable limits. The rent levied on housing financed by public funds is calculated according to an economic efficiency analysis to cover costs, whilst the rent levied on privately funded housing is geared to comparable rents in the vicinity, i.e. in accordance with a representative list of rents which is constantly adjusted to developments in the rented housing market.

The regulations which apply to rent determination cannot, however, be asserted in socially difficult cases. This is why municipalities always try to take a middle path for their own housing stock in order to raise rents within an acceptable framework which complies with all social aspects whilst taking budgetary law into due consideration.

As already mentioned, rent restrictions are slowly coming to an end for many of the homes built after the war. As a result, the stock of privately financed housing and the homes available for rent on the housing market are increasing to an equal extent. In addition, large municipalities usually have a large stock of old buildings, dating back to the turn of the century or earlier, which have been purchased during the course of time by municipalities as part of a long-term urban development policy in order to have appropriate land available for new and varied projects.

A change has since come about in the evaluation of old building stock. Valuable old building stock is increasingly being kept for its original purposes. Living in the inner cities is becoming more attractive again; the houses, often listed buildings, and the stylish face of many streets are being maintained. Against this background municipalities have therefore been motivated to modernise the old building stock in their possession and offer the buildings for rent to potential tenants. Homes of this nature usually have a larger living space and a different layout. Since these homes are often located in attractive inner city situations and appeal to a large number of potential tenants when modernised, the social criteria of housing management described above can only be applied if they are economically acceptable and proportionate to the investment made for building modernisation. This housing is therefore rented out under normal market conditions to persons who are prepared to take care of this valuable stock and where the municipality has a particular interest in offering living space, e.g. to artists or scientists.

The entire process of building maintenance and modernisation is planned and implemented by the land office in accordance with the guidelines on auctions. Since some DM 10 million is earmarked every year in the municipal budget for these measures, a pleasing side-effect for the local artisan trades is that they are required to professionally refurbish and repair the buildings.

As far as the current situation is concerned, it can be said that the housing situation continues to be strained since the supply of inexpensive living space is decreasing as demand increases. But the municipalities can merely use their housing stock selectively to ease problems arising locally. The municipalities are confronted with the housing problems of the unemployed and low income sector, of large households and particularly with the supply of housing to elderly people who require adapted living space. The municipality of Bonn is attempting to find solutions for these cases from the available municipal housing stock.

NOTE 1**Responsibility for the allocation of housing**

1. Responsibilities for housing issues were laid down in the order dated 3 March 1978; accordingly, the allocation of municipal housing (with the exception of official residences) and homes for which the municipality has a right to nominate tenants, is the exclusive responsibility of the housing office.

2. To supplement the above-mentioned order, the following regulations have also been laid down:

2.1. Office 64 receives notification of all municipal homes – with the exception of official residences – which are designated without restriction for allocation.

2.2. Offices 23 and 64 must agree upon a mutually acceptable regulation in respect of all privately financed homes if it is necessary to transfer tenants as a result of municipal projects or if the homes are used in the public interest.

2.3. The tenant structure is to be taken into consideration in all activities associated with the allocation of housing.

2.4. Office 23 will continue to notify office 64 of all homes – with the exception of official residences – managed by office 23 and becoming available in a housing stock list, updated on a monthly basis, which shows both the time the home became free and the completion date for repair and modernisation work.

2.5. Should office 64 be unable to arrange tenants for municipal homes within a period of six weeks, for example because of excessively high rents, office 64 shall notify office 23 of its waiving of its right to name tenants so that the latter can offer the homes on the free market in order to avoid loss of rent.

NOTE 2**Programme**

The aim of this programme is to move from a passive towards an active arrangement of housing with priority given to solving urgent housing cases correctly and in good time. The use of the housing stock is to be optimised by a more intensive, and thus more selective and precise matching of existing homes with demand and *vice versa*.

At the same time, empty homes and incorrect allocations are to be reduced or at least a further increase in the level of empty homes and incorrect allocations is to be prevented, e.g. through housing exchanges.

Procedure

The classification into priority levels lays down the order of priority in the arrangement of housing. Only three priority levels have been chosen for reasons of simplicity:

Priority level 1

1. Absence of own home for:
 - young married couples or single pregnant women;
 - large families /single parents;
 - single elderly people;
 - people with severe disabilities.
2. Inadequate living space or unacceptable living conditions (e.g. no bathroom, inadequate lighting and ventilation, stove heating etc.) for the same groups of persons specified above.
3. Families living in shelters for the homeless looked after and proposed by the social services.
4. Ditto – eviction cases for whom housing can be arranged.
5. Inhabitants of women's hostels.
6. People with severe disabilities, in wheelchairs in particular.
7. Resettlers living in transitional hostels.
8. Persons of no fixed abode.

Priority level 2

1. Other medical reasons certified by a medical certificate (e.g. ground-floor flats or lifts in building necessary, etc.).
2. Effective termination of lease by landlord.
3. Persons affected by refurbishment measures.
4. Reunification of families (particularly to ensure care of family members).

Priority level 3

1. Cases of divorce.
2. Adults living with parents without a room of their own.
3. Distance to school too far.
4. Distance to work too far.
5. Poor shopping facilities.
6. Difficulties with neighbours or landlords.
7. Miscellaneous reasons which cannot be classified and which are therefore rather to be attributable to the personal wishes of the flat-seeker.

Foreigners are not given their own priority level since, in accordance with the law on ensuring the correct use of social welfare housing, they are given the same treatment as German home seekers.

The existing home-seeker card index is being systematically updated according to these priority levels and the sequence of priority processing is being observed. Over and above the activity of arranging housing, the general social services are also required to support each case from the scrutiny of current living circumstances to the creation of the necessary contacts to the landlord/housing company. This includes comprehensive advice, starting with the period of notice for the old home through to housing grants and hardship allowances for the new home.

This comprehensive support of a particular case also includes the application of the existing instruments, such as the basic plan to avoid and eliminate homelessness, the completion of the skeleton agreement to be made with the *Bonner Wohnungsbau AG* as well as the intensification of contacts to charity associations in all housing matters.

This also includes the organisation of housing exchanges and transfers which are tried and tested means of solving problem cases and instruments to prevent incorrect housing allocations.

A computer-supported procedure for the more selective and precise matching of existing housing to demand and *vice versa* is also to be developed. A file of all state-assisted housing is currently in preparation and provides a good starting point here.

A lump sum grant for removal and other associated expenses of DM 3 000 is awarded to those cases which at least fall under priority level 1 and for whom no other solution is possible following a detailed scrutiny which includes making use of other financial assistance.

To qualify for this grant, cases must not only fall under priority level 1 but must also be accompanied by special accommodation difficulties which are to be observed through all social groups and which are essentially attributable to the financial background or the known social behaviour. All other social groups with special difficulties are traditional targets of social welfare housing construction and are therefore not associated with any particular difficulties in the arrangement of housing.

In an effort to increase incentive, the granting of this removal expenses assistance does not require proof of expenses.

At the same time, the landlord who is willing to accept such problem cases can be assured a rent guarantee for six months as a deficiency guarantee.

Support covering a period of at least one year is to be provided by the general social services or a charity association working in the respective area.

As a supplementary part of this programme, the removal expenses guidelines are to be adjusted appropriately to the requirements of this programme, i.e. guidelines which have hitherto been aimed exclusively at making inexpensive homes available, are in future to offer incentives to make available conveniently situated homes which are often in demand in good housing estates and to offer incentives for the sensible exchange of homes as well as the financial assistance already described to solve problem cases.

In all home allocation measures the maintenance or improvement of the tenant structure in the housing estates is to be given due consideration.

NOTE 3**Decision proposal**

The rents of all municipal homes for which the rent restriction ruling expires as from 1 January 1996 and 1 January 1998 are to be adjusted in accordance with paragraph 2 of the law on the regulation of rent level.

The average local rent level calculated in accordance with the Bonn rent reference list according to location, appointment, year of construction and size should not be exceeded. The administration is to present the Committee for Economic Promotion and Landed Property with a report on the development of the rents of municipal homes before any further rental increases are made following the statutory period of three years even if the rent level usual in the vicinity in accordance with the Bonn list of reference rents has not yet been reached.

In so far as an increase in the rents of social housing leads to a rise of 30 per cent, rental adjustment of 15 per cent shall first be made, followed by a further 15 per cent one and a half years later. This ruling shall not apply to homes for which an incorrect occupation charge has had to be paid.

NOTE 4**Subject matter of the petition**

Measures for the modernisation of municipal housing must be implemented as cautiously and as cost-effectively as possible to ensure that they remain accessible to persons specified in paragraph 25 of the second housing construction law.

Reasons

As has been the case in the past, housing managed by the land office is to continue to be subject to the allocation rights of the housing office. At the same time, the homes allocated by the housing office should be able to house the recipients of income support.

According to the municipality's currently applicable guidelines, only homes which have acceptable levels of rent may be rented out to the recipients of income support with the permission of the social welfare office. Measures for the modernisation of municipal housing stock should not therefore cause these rents to be exceeded since otherwise the small amount of housing stock to which the municipality has recourse, will become even smaller. According to an analysis of the housing market, the percentage of allocable homes is approximately 11 per cent, whilst the regional average is approximately 20 per cent. It must also be assumed that it is those people in the low and middle-income bracket who will suffer the negative aspects of the general trend in the housing market. This is why it is all the more important to maintain the allocable stock.

At the council meeting, the above petition was referred to the Committee for Economic Promotion and Land Property for the purposes of deliberation.

Comments of the administration on the council meeting of 29 February 1996

The Housing Office has always been notified of all 2 850 municipal homes managed by the land office for purposes of allocation. The right to allocation is exercised on the basis of priority levels decided on by the principal committee on 30 April 1986 in accordance with the programme for the improvement of the housing situation.

The allocation of municipal homes by the Housing Office covers both the existing 845 social flats and the remaining flats in old buildings which were never or are no longer subject to rent restrictions. Municipal official residences and homes for which the housing office has been unable to arrange tenants within an appropriate period of time are exempt from this ruling so that lengthy periods of empty housing which can be rented and thus the associated loss of rent is avoided. The Land Office also views the provision of appropriate and inexpensive living space for home seekers with low family incomes to be an essential constituent of municipal housing policy. A wide supply of inexpensive housing must be maintained.

The level of rent is established in accordance with the following criteria every time a home is allocated:

- in the case of all social housing, the cost-covering rent is far below the comparable rent level in the surrounding area in accordance with Bonn's list of reference rents;
- in respect of the 437 flats no longer subject to rent restrictions as from 1 January 1996, the council of Bonn has resolved a socially-acceptable rent regime which ensures that these levels of rent continue to be below the comparable rents in the surrounding area and which are also below the rates set by the Welfare Office for the granting of accommodation costs to recipients of income support;
- in respect of municipal flats in old buildings, rents are based on the council decision of 29 October 1981 according to which these rents basically correspond to the pertinent rents specified in Bonn's list of reference rents for comparable homes and must be orientated to the lower level of comparable rents in residential areas in which predominantly large families and elderly persons live. This means that the majority of municipal flats in old buildings have levels of rent which are still below the rates recognised by the welfare office as acceptable accommodation costs;
- the municipality also owns a few valuable old residential buildings which have been completely modernised in recent years. The refurbishment of these houses has been more costly than for that of comparable buildings which were constructed after 1948. Calculations are made by the Land Office to determine rents for such buildings in order to decide how high the rents must be to cover the ordinary maintenance costs, the fictitious interest, the depreciation and the management costs without burdening the municipal budget. These homes are generally let rent at between DM 11 and DM 14 per square metre. According to Bonn's list of representative rents, this level is still within the average range of acceptable levels of rent.

The homes specified here – only a few in comparison with the total stock – are basically not suitable for income support recipients. It should be remembered that in the current period of structural change, the municipality of Bonn must also make an effort to take into account the demands for adequate living space of employees of institutions and authorities wishing to locate in Bonn. These requests are becoming more frequent and should be taken into consideration even if this is only possible to a very limited extent.

To sum up, it can be said that all the possible ways of establishing appropriate and above all socially acceptable rents for the municipal housing stock have been exploited. Only in the case of homes whose modernisation has required substantial investment should the criteria of economic acceptability and budget-conformity be considered.

The cautious and cost-effective modernisation of occupied municipal housing is implemented only in agreement with the tenants after consideration of the work which can be acceptably be performed by the tenants and after clarification of the rent payable following modernisation. With regard to the modernisation of empty homes which temporarily cannot be rented out owing to their unacceptable standard, the land office is at pains to create a standard of living which is in line with contemporary standards whilst at the same time making use of all cost-saving instruments. Adequate sanitary facilities, environmentally compatible heating and energy-saving heat insulation are a must even in inexpensive rented housing.

As these measures for modernisation are taken into account when calculating cost-covering rents of social housing, and as the pertinent local rent level as specified in Bonn's list of reference rents is not exceeded for homes which are not subject to rent restrictions, these homes can also be rented by people who belong to the group specified in paragraph 25 of the second housing construction law.

MANAGEMENT OF MUNICIPAL PROPERTY WHICH CAN BE SOLD OR RENTED OUT FOR BUSINESS ACTIVITIES IN THE NETHERLANDS

1. Tilburg

General

On 1 July 1996 the municipality of Tilburg had 164 190 inhabitants and a surface area of some 8 000 hectares, of which almost one third was urban. At this point in time the municipality owned buildings covering an area of approximately 190 000 m² (gross floor area) and some 450 hectares of land, the majority of which was used for agricultural purposes.

Organisation

The Public Works Department of the municipal organisation has a Land and Building Affairs department. This section has two functions. First of all, commercial exploitation of the land: that is, the acquisition and development of land within the municipality for residential and industrial purposes and the building of facilities. This function also includes management of premises and sites that are owned by the municipality, but which have not yet been developed. The second function is the commercial exploitation of buildings, including, building, maintaining and managing buildings that are used by the municipality. This includes all kinds of buildings such as schools, neighbourhood centres, swimming pools and sports halls as well as the concert hall and theatre.

A more general organisational philosophy within the municipality of Tilburg is that the municipality should only perform those tasks that cannot be contracted out. As far as the management of municipal property is concerned, this means that the planning and administration are performed by the above-mentioned department itself. The work includes such disparate activities as drawing up and monitoring maintenance schedules, concluding and managing major insurance contracts, letting buildings that are temporarily vacant and arranging for the preparation of a planting plan for land that has not yet been developed. Approximately four staff (expressed in full-time equivalents – FTEs) are to a large extent, permanently involved in the commercial exploitation of land and buildings. Most of them have qualifications in structural engineering at MBO (senior secondary vocational education) or at HBO level (higher vocational education).

All other activities are contracted out. Usually this is done by means of a procurement procedure through which a number of pre-selected firms can submit tenders.

For example, general specifications are drawn up by the staff of the Building Section for the painting work which has to be carried out as maintenance in a current budget year.

To ensure that firms cannot make price agreements among themselves, the specifications are sent in phases to varying firms in Tilburg and the surrounding area at arbitrary times, and the firms are given a relatively short period of time in which to bid. Larger projects are awarded on the basis of a full-scale public competitive tendering procedure in accordance with European Union directives.

Management of municipal property: procedure and problems

The buildings of the municipality are bought and let to all kinds of social institutions on the instructions of the municipal council. Needless to say, the municipality in particular has a duty as property owner to conclude good tenancy agreements and carry out thorough maintenance and management. Use of the buildings is generally fixed because it is clear for what purpose they will be used by the tenant. Municipal buildings are, in principle, not let to tenants wishing to practice commercial activities in them. The only exception which is sometimes made is when part of a building is temporarily let, with prior approval of the municipal council, to a health care institution or family doctor. In this situation too, the municipality acts as a good owner/manager in accordance with Dutch law, with all the expenses and duties which this entails.

Use of the building is regulated by means of a local plan (*bestemmingsplan*) and, when necessary, by means of extra provisions in what is in other respects a normal tenancy agreement. If a building is no longer of use to the municipality and the institutions connected with it, it is sold. As a rule, this is arranged by means of a public auction with a tendering procedure. The minimum price is that of a valuation checked by independent experts. The decisive factors in the valuation are above all what the building will be allowed to be used for in the future in relation to its usability and maintenance condition. The municipality is required to approve each individual transaction.

The agricultural land owned by the municipality is farmed by a private firm. Each year this firm submits a quotation together with a planting plan and an estimate of the expected income and expenditure. If the municipality accepts the quotation (this is a matter for the officials), the firm carries out all the related work and reports on the actual income and expenditure. The municipality carries out random checks by arranging for another firm to submit a quotation at the same time or by obtaining a second opinion in respect of parts of the work. The woods that are owned by the municipality are maintained by the employees of a sheltered workshop.

In addition to the usual procedure described above, there are circumstances in which buildings and the related land remain vacant for anything from a few months to two years. This happens, for example, with dwellings on agricultural land which is bought by the municipality for the purpose of residential development. After the farmer has left, some time may elapse before a start is made preparing the land for building work. Another example is a school building that stands vacant because it is surplus to requirements and no alternative use has yet been found for it. In situations of this kind too, the municipality does not, in principle, let buildings for commercial activities.

If there is a likelihood that larger buildings may become temporarily vacant, the municipality (through its local government officials) makes use of the services of a specialised firm. A legally tested agreement is concluded with this firm for each building. The firm ensures, against payment, that there is a reliable 24-hour presence in the building, but vacates the building immediately if the municipality so requests. The municipality ensures that the building is habitable. Information was recently requested from a firm that offers comparable services. Although this firm is admittedly cheaper, it takes less care of the actual occupants. In view of its social responsibility, the municipality considers that it should take account of this aspect of temporary letting too and will therefore continue to work with its existing partner. Dwellings which are temporarily empty pending redevelopment are generally still fully capable of being used. These buildings are contractually let for a low rent to individuals who are expressly looking for temporary accommodation. In this case the municipality has the normal duties of an owner, but can obtain possession of the dwelling whenever it wishes.

Income and expenditure

The letting of both buildings and land is exceptional within the municipal budget because these are closed forms of commercial operation. In the case of buildings, a statement of the income and expenditure in the past year is prepared. Any profit or loss is then credited or debited, as the case may be, to an equalisation reserve. Only when the amount of the profit or loss differs by a substantial amount from a standard figure is money credited to the general funds or, as the case may be, paid into the equalisation reserve. The decision on this is taken by the municipal council. It should be noted that the costs of dwellings which are not let are relatively low in comparison with the costs of buildings that are let.

An annual statement on income and expenditure in connection with the commercial letting of land is also prepared annually. There is no equalisation reserve for the letting of land. Such lettings should always be on a break-even or a profit-making basis. If this is not the case, solutions must be found in connection with the product, for example by increasing the price of the land. A survey of the position regarding the commercial letting of land is submitted each year to the municipal council for approval. It should be noted that the temporary management of land and buildings for the purpose of land letting accounts for only a small proportion of the total costs and proceeds.

Table 1: Commercial exploitation of buildings in Tilburg

Year	Maintenance costs of let buildings (NLG)	Income from let buildings (NLG)	Proceeds from sale of buildings (NLG)
1994	3 302 000	18 255 000	349 000
1995	3 356 000	19 254 000	-
1996	3 531 000	20 895 000	748 000

Table 2: Commercial exploitation of land

Year	Total reserve for land letting (NLG)	Costs of agricultural land (NLG)	Proceeds of agricultural land (NLG)
1994	32 200 000	594 000	907 000
1995	78 400 000	621 000	824 000
1996	83 100 000	576 000	797 000

Future

It is quite conceivable that the views and role of the municipality of Tilburg in relation to the property for commercial activities will be adjusted in some respects. First, because there is a definite need of premises for businesses that are unable to afford expensive rents. Examples are buildings for shared use by different small firms and premises for firms that are tied to particular neighbourhoods and provide work for the socially disadvantaged. Since the private sector is unable to provide or operate

such buildings, the municipality is considering whether it should do so. Secondly, there is a divergence between the wishes of the municipality to develop the station district (*Stationszone*) and the way in which the Tilburg offices market operates in practice. The municipality is considering resolving this “chicken and egg” situation by building and letting offices itself as a risk-based operation or by participating in such a project.

2. The Groningen Trade and Industry Buildings Foundation (SIG)

Introduction

The Groningen Trade and Industry Buildings Foundation (SIG) was founded by the municipality of Groningen, in co-operation with the Chamber of Commerce in 1947. The object of this foundation is to strengthen the economic fabric of the municipality of Groningen by providing business premises for firms in the industrial, commercial, trade, craft and services sectors. The founders believed that by offering affordable business premises they would be able to give the city’s post-war economy an extra boost. Having a foundation such as the SIG present in the city was recognised as an important asset – something which is still the case today, indeed perhaps even more so. Commercial investors (institutional investors) choose to concentrate their funds in “non-risk” investments such as office, retail and residential property. There is no interest in investing in multi-tenant business premises and factory halls, even though there is a demand for them. To an increasing extent, firms wish to have their property off the balance sheet.

After the war the municipality of Groningen decided not to carry out these activities itself, but instead to contract them out to an independent legal entity with its own management. However, the municipality continues to be able to influence the policy and projects of SIG. The municipal executive (i.e. the burgomaster and aldermen) has the power to appoint and dismiss the management of the foundation and the chair of the foundation has hitherto been occupied by a member of the municipal executive, usually the alderman responsible for economic affairs. At present, the head of the property department of the municipality sits on the main board of the foundation, together with the alderman responsible for economic affairs. The other seven members of the main board come from the business community in Groningen.

Since the management is appointed by the municipal executive and any assets of the foundation remaining after a liquidation would be paid to the municipality of Groningen, the foundation is a quasi-government body and is therefore exempt from corporation tax.

The day-to-day management of the foundation is entrusted to the board of directors (director and assistant director). Investments in and the purchase of buildings must be submitted to the executive board (chairman, secretary and treasurer) for approval if the amount involved is under NLG 1.5 million. Where the amount is in excess of NLG 1.5 million, investments and purchases must be submitted to the main board. The foundation has a staff of four, in addition to the board of directors. The activities of the foundation consist mainly of letting buildings which it either buys or builds. The premises in question are multi-tenant business and office buildings and separate factory premises. The tenants are firms that are starting up or restarting and firms that have decided as a matter of policy not to invest in property. The geographical area in which SIG operates is the municipality of Groningen and adjacent municipalities.

The municipality of Groningen

Table 3: Data on the municipality of Groningen on 1 January 1997

Number of inhabitants	168 692
Number of people in work	102 363
Number of unemployed	19 285 (26% of the working population)
Land area within municipality	8 001 ha
Business premises let	18.7 ha

General information about business premises

SIG does not own any undeveloped business sites. If we wish to develop new buildings, we buy land from the municipality of Groningen. On 31 December 1996 SIG owned the following properties:

- twenty factories (surface area of approximately 31 000 m²);
- fifteen multi-tenant factory buildings (surface area of approximately 32000 m²);
- five multi-tenant office buildings (surface area of approximately 9 000 m²).

The buildings vary in size from around 400 m² to 8 000 m². On 31 December 1996 there were some one hundred and forty tenants employing approximately 1 550 people.

The letting and management of the buildings and the invoicing and administration are all carried out internally by the foundation. Maintenance of buildings is arranged by a technical manager employed by the foundation, who contracts out the actual maintenance work to third parties. As mentioned earlier, the letting of properties that are already or are becoming empty, is carried out by the foundation itself. Occasionally an estate agent may be called in for this purpose.

The occupancy rate of the properties in recent years was as follows:

- 1994: 98.82 per cent;
- 1995: 97.20 per cent;
- 1996: 97.80 per cent.

The low occupancy rates in 1995 and 1996 were due to the commissioning of a new multi-tenant business building in September 1995, some of which remained empty at the start.

In 1997 the foundation bought two existing buildings with a surface area totalling 9 500 m² and has started the construction of a new building with a floor area of 4 000 m². Moreover, two properties with a floor area totalling 1 175 m² have also been sold to the tenants.

SIG only buys a building if a tenant is interested in it. However, this is not possible in the case of a multi-tenant factory or office building. In such cases there may well be no tenant available or perhaps only a tenant for part of the property. In such cases there are almost always start-up losses. Properties are, in principle, sold only to the tenants. Often these tenants have a tenancy agreement containing an option to purchase. Tenants can buy the premises at their market value, but never at a price lower than the book value of the property.

Financial matters

When the foundation was established fifty years ago, the starting capital was 100 guilders. Since SIG is a non-profit making organisation, the increase in its equity capital in relation to the total assets has been extremely limited. Nor has the foundation received any structural subsidies. At present the ratio of equity capital to total assets is around 11 per cent, which is not sufficient for an organisation engaged in the property sector. In order to be able to borrow external money, this ratio should be increased to at least 30 per cent.

It follows that SIG has made agreements with the municipality of Groningen regarding the financing of projects. SIG indicates which projects are expected in the next two years and the funding that will be required for them. The municipality of Groningen is asked to provide the funds through what is known as a framework credit agreement. This means that the municipality need not grant separate approval for each project, and can instead grant approval for project financing for a number of years. SIG then draws down on this credit for the projects to be implemented. In this way, projects are not held up by time-consuming financial procedures. At present the municipality of Groningen has provided SIG with loans of NLG 57 million. The SIG meets its interest and repayment obligations in the normal way.

A market rent is, in principle, charged for each property in which money is invested. The following matters are included as costs in the calculation:

- interest and depreciation (annuity);
- maintenance costs (fixed addition to provision for maintenance);
- administration and management costs;
- insurance;
- property tax and water control corporation charges;
- sewerage charges and fees for encroachments over public land;
- the right to erect and have buildings on land belonging to another's rights (superficies) and succession duties.

This calculation results in a given income per property. The maintenance costs of the property are paid from the provision per property which is replenished each year by a fixed allocation. At present some NLG 275 000 is spent each year on maintenance. A sum of NLG 300 000 is still allocated each year from the general operating budget to the provisions for start-up losses on multi-tenant buildings, soil clean-up operations and premises standing empty (NLG 100 000 per provision).

Although SIG does not receive any structural subsidy, it is sometimes able to obtain a subsidy for a specific project. This may be a subsidy from an urban regeneration fund, from the Monuments and Historic Buildings Council or from the structural funds ISP (Integral Structure Plan for the North of the Netherlands) and EFRO (European Fund for Regional Development). Generally speaking, payments from these structural funds may not be made to individual firms, but may be made to a foundation such as SIG which operates in the public interest. In addition, the municipality of Groningen has in the past issued operating guarantees for risky projects which were initially likely to run at a loss.

Problems

The main problem which we are currently facing is the large number of projects and the rapid increase in the amount borrowed which this entails. Although the municipality of Groningen believes that SIG is a valuable instrument in promoting the economic development of the municipality, the growth of its borrowing is a matter of concern to the municipality. If this means that the municipality does not wish to continue financing the foundation, there are two conceivable scenarios, namely either to freeze the property portfolio at its present level and not to undertake new projects or to finance new projects externally.

If it is decided to freeze the portfolio at its present level, the foundation would become a property manager and would cease to play a part in boosting the local economy. In fact, this would be tantamount to phasing out the foundation. The alternative – continuing to grow but seeking external project finance – would require the capital position of the foundation to be improved. It is questionable whether this can be achieved with the present legal form of a foundation and whether SIG should not be converted into a private company (BV).

This debate is under way at present, and the outcome is still unclear. Other factors too play a part in the debate. More and more requests are being received from other municipalities in the north of the Netherlands to undertake activities in their area. And we are also receiving an increasing number of requests to undertake commercial projects such as project development, construction supervision and so on. Finally, we are coming across new players in the property market who are out to take the choice projects. This may mean that we are left with the more risky projects.

All of this is now obliging us to carry out a review of our aims, structure and field of work.

MANAGEMENT OF MUNICIPAL PROPERTY IN POLAND

Introduction

In Poland, the concept of municipal property is defined by the Constitution, by the Local Government Act of 8 March 1990 and by several other acts.

As well as establishing local autonomy, the Constitution (amended most recently in December 1989 and November 1992) provides a guarantee of municipal revenues and requires the state to set up a system of subsidies. Guaranteed municipal assets are considered essential if local communities are to be autonomous and capable of carrying out their appointed tasks. Before this fundamental legislative change, democratic representation did not exist at local level; the national councils (*rad anodonte*) present at this level did not have separate budgets but were funded by the voivodeship budget set by the budget laws.

The Act of 10 May 1990 (introductory provisions to the Local Government Act) laid down the procedure for transferring to municipalities state property previously managed by the national councils and the government's regional bodies. This act distinguishes two different situations: a free transfer *ex lege*, which merely requires confirmation by a declaratory decision of the voivodeship, and discretionary transfer, which is dependent on a decision by the voivodeship to this end. The first case (*ex lege* transfer) involves state property belonging to the national councils or to the government's regional bodies which, because of its nature and location, could directly help to satisfy local needs (e.g. in the fields of housing, education or health or by providing a location for business activity). The second case concerns other types of property remaining under voivodeship management which could play a part in the performance of municipal duties: upon application of the municipality concerned, the voivodeship had the right to transfer it to a particular property by taking a decision to this end.

The municipalities have received a large quantity of real estate through this transfer of property.

1. Housing

Legislation applicable at national level concerning housing management

Restrictions on the sale of housing

It is the city council which decides to sell housing in its possession, by taking steps to put it up for auction. The only restrictions on freedom to choose which real estate to sell are:

- the municipality's legal obligation to meet the needs of its inhabitants as specified *inter alia* in the Local Government Act of 8 March 1990 and in the Act of 2 July 1994 on the letting of residential accommodation and on hardship allowances for low-income tenants. These stipulations oblige municipalities to constitute a municipal housing stock by building or acquiring dwellings and to maintain this property to a satisfactory standard in order to meet the needs of low-income families and to provide social welfare premises in cases specified by the law. By the terms of Article 5.2 of the Act of 2 July 1994, municipalities wishing to

- sell housing accommodation must respect criteria for the rational management of housing stock. The Act of 24 June 1994 sets down ground rules for selling municipal housing stock to tenants, by establishing separate ownership of independent housing accommodation and defining the obligations of the municipality and of the new owners (who constitute a co-owners' committee in each building) with regard to the building's upkeep;
- the obligations of the municipality stemming from civil contracts of tenancy made with tenants or from administrative decisions to award (in theory on a permanent basis) municipal housing accommodation to natural persons for a moderate rent (subsidised or otherwise, subject to regulations). Municipalities are increasingly selling such accommodation to tenants.

Obligations of municipalities regarding upkeep of housing stock

Municipalities are obliged to maintain their housing stock to a standard enabling the needs of low-income families to be met. Details of this are specified in Article 9 of the Act of 2 July 1994 which requires the municipality, as the owner, to carry out repairs to the building and to its premises and facilities, whatever the cause involved, with the proviso that tenants must cover damage they have caused.

Tenancy contracts sometimes require tenants to carry out certain duties with regard to the upkeep of premises. Accordingly, tenants often carry out repairs, and the cost is later deducted from the rent. The cost of day-to-day upkeep of premises (minor repairs, taxes on the provision of media services, etc.) must be paid by tenants.

The act lays down the procedure for establishing separate ownership of independent accommodation (forming part of the municipal building but sold to tenants), specifying the rights and obligations of owners, who set up a co-owners' committee in each building, and also the arrangements for managing the building. Owners are required to make a pro rata contribution to the cost of maintaining the building (based on the proportion of common property they own).

In practice, many co-owners refuse to pay their contribution towards the repair of communal parts of the building (repairs to the roofs, stairwells, lifts, etc.).

Relations between municipalities and tenants

Municipal housing accommodation may be let to tenants by means of contracts in civil law, or may be allocated by administrative decision, usually as a life tenancy and for a subsidised rent (in any case for a moderate rent, subject to municipal regulations).

Pursuant to the act, the city council sets the ground rules for the management of housing stock and the criteria for choosing who has priority with regard to contracts of tenancy. The law requires society to monitor such matters.

Housing management in selected cities

Bytom (population 227 000)

Data available on municipal housing stock (council housing or other)

Bytom municipality owns 2 814 residential buildings containing 21 793 residential units with a total usable area of 1 477 211 m² which break down into three categories:

- A. premises let for a moderate rent, subject to municipal regulations : 21 594 units;
- B. premises let for a “free” rent, not subject to municipal regulations: 40 units;
- C. premises let for a special low-income housing rent: 159 units.

Decisions about the classification of housing accommodation and levels of rent are submitted to the city council.

The municipal housing stock is very old and the standard of its facilities is no more than modest.

Table 1: Age breakdown of municipal housing stock

Age of building	Number of buildings
Less than 20 years old	108
21 to 30 years old	125
31 to 40 years old	47
41 to 50 years old	98
51 to 60 years old	171
Over 60 years old	2 334

The definition of a residential building includes not only single-function buildings (residential only) but also mixed-function buildings (with business premises for commercial or service use, usually situated on the ground floor).

General provisions regarding procedures and criteria for choosing tenants

Choice of tenants for accommodation classified in categories A. and C. (above) is governed by socio-economic criteria, taking into account potential tenants’ income, family situation, state of health, and so on.

Housing stock is managed by the City Buildings Office (with its own budget), which is represented on the ground by fourteen local housing departments and which is responsible for upkeep. The office is empowered by the municipality to make tenancy contracts with tenants, specifying respective obligations.

*Municipal housing management: revenue and expenses***Table 2: Breakdown of revenue and expenses for municipal housing management in Bytom (1996)**

Category of premise	Income (PLN)	Expenses (PLN)	Financial result (PLN)	Revenue/cost (as a percentage)
Category A (regulated rate)	8 904 071	11 167 143	-2 263 072	79.73
Category B ("free rate")	205 752	41 864	+163 888	491.48
Category C	8 943	60 565	-51 622	14.77
Aggregate	9 118 766	11 269 572	-2 150 806	80.91

*Kielce (population 213 000)**Data available on municipal housing stock (council housing or other)*

The District Housing Management Office currently manages municipal buildings with a total area of 578 920 m² (of which 51 166 m² are business premises). This represents 595 buildings containing 12 557 residential premises and 470 business premises.

Table 3: Breakdown of municipal housing stock in Kielce

Residential premises: surface area	527 754 m ²
Residential premises: total number	12 557
Number of council housing buildings	113
Number of council housing units	503

General provisions regarding procedures and criteria for choosing tenants

The choice of tenants for low-income housing is governed by socio-economic criteria, which take due account of potential tenants' income, family situation, state of health, and so on. At present the municipality has little occasion to apply these criteria since it has no unoccupied premises to let; even low-grade buildings which were intended for low-income tenants continue to be occupied by "normal" tenants. In view of the lack of opportunities to offer these tenants accommodation of a higher standard, the allocation of low-income housing to those who need it most is unresolved for the moment.

Municipal housing management: revenue and costs

Many of the buildings are rundown and considerable investment is required to prevent them from deteriorating further. Maintenance expenses for residential premises rose from PLN 5 076 000 in 1994 to PLN 7 444 000 in 1995 and are continuing to rise.

Rents for low-income housing (PLN 0.36-0.40 per square metre) are well below running costs (PLN 1 per square metre on average).

In 1996 the municipality earned PLN 2 591 068 from the sale of residential premises.

Olkusz (population 40 000)

Data available on municipal housing stock (council housing or other)

Municipal housing stock consists of fifty-one buildings containing 1 491 housing units with a total area of 64 867 m².

These premises, both residential and commercial, are administered by the Municipal Management Company, a limited liability company (of which the municipality of Olkusz is sole owner).

Municipal housing management: revenue and costs

Revenue from the management of business premises helps to finance essential repairs to residential premises.

Swietochlowice (population 59 000)

The municipality of Swietochlowice owns 314 residential buildings containing 4 578 residential units with a total area of 236 850 m². More than 120 units are unoccupied because of their rundown condition and the high cost of the essential repairs required.

Most (65 per cent) of the inhabited units date from before 1917, and around fifty of these buildings are more than 100 years old. For this reason, rents for residential premises (and the municipality's revenue from them) are relatively low, lower than the cost of repairs carried out and often even lower than running costs.

Table 4: Breakdown of revenue and expenses for municipal housing management in Swietochlowice in 1996

Revenue (PLN)	Expenses (PLN)	Financial result (PLN)
5 206 349	6 384 137	-1 177 788

Revenue from the management of business premises helps to finance essential repairs to residential premises. In 1996, however, almost 50 per cent of the cost of these repairs was covered by subsidies from the municipal budget.

2. Real estate for business activities

Legislation applicable at national level concerning the management of real estate which can be sold or leased for business activities

Because a large quantity of real estate has been transferred to the municipalities, many state-owned companies have been converted into municipal companies.

The decentralisation process did not, however, include state-owned companies operating nationwide or at any rate outside local boundaries. Nor did it include agricultural land since agriculture is not covered by local government. This does not, however, restrict the right of municipalities to lease real estate in their possession to other persons for business activities, including agriculture.

The Act of 20 December 1996 defines the concept of a municipal economy, stating that it includes work of public interest whose purpose is to meet the population's everyday collective needs by providing widely available services.

The same act suggests two ways of running the municipal economy: a body with its own budget and firms constituted under commercial law (with the proviso that activities outside the realm of public interest may not be carried out through a budgetary body). Bodies of this type, whose legal and organisational status had not been settled by the municipality before 30 June 1997, were converted as of 1 July 1997 into companies of which the municipality is sole owner. The assets of a budgetary body which has been converted into a company become the assets of that company.

By the terms of this act, a municipality may farm out work which forms part of the municipal economy to natural persons, legal entities, or bodies without a legal personality by means of a contract based on general principles, with due regard to the rules governing public works contracts.

Municipalities may set up limited liability companies or public limited companies and have a right of access to such companies.

Outside the field of public interest, municipalities may set up companies constituted under private (commercial) law provided the following conditions are met:

- the local market does not satisfy the needs of the local community;
- unemployment within the municipality has a considerable impact on the standard of living of the local community and the adoption of other approaches has failed to stimulate the economy or the local market or to check unemployment.

A municipality may set up commercial companies (or accede to such companies), even if it has to dispose of some of its assets to finance its investment in the company and when a different way of using these assets might cause the municipality to suffer considerable financial loss.

Municipalities may only engage in business activities themselves if these activities are in the public interest (Article 9.2. of the Local Government Act of 8 March 1990). They may, however, put real estate belonging to them (land, buildings, etc.) at the disposal of other persons (natural or legal) empowered to engage in business activity. Municipalities may use various legal forms for this purpose.

Instruments of civil law (particularly contracts) are the legal procedures most often used by municipalities wishing to put their assets at the disposal of other persons for business activities in exchange for remuneration.

Various forms of contract are used (section 3, Real Estate Conversion and Expropriation Act of 29 April 1985):

- transfer;
- permanent usufruct;
- operation;
- leasing or tenancy;
- loan.

At the same time, it is compulsory to invite bidding, according to a procedure laid down by law. Guidelines for auctioning real estate forming part of national or municipal assets are set out in the Order of 19 June 1991 issued by the Minister for Land Use, Planning and Building.

The length of the lease (or tenancy) is not limited by law and depends solely on the signatories to the contract, who must also specify in the contract the terms for cancellation. Matters not settled in the contract are governed by the general provisions of the Civil Code.

Sale of real estate is subject to certain statutory restrictions (Act of 24 March on purchase of real estate by foreign nationals).

Examples of local regulations on management of real estate that may be sold or leased to third parties for business activities

Whereas national legislation lays down the general guidelines, local authority proceedings contain more detailed regulations.

Bytom

On the basis of the Local Government Act of 8 March 1990, the city council has laid down rules for acquiring, transferring and exchanging municipal real estate, and for leasing it for a period of more than three years. Its decisions are based on the following principles:

- land (built on or otherwise) may only be leased out if it is impossible to sell or if the leasing serves municipal interests;
- leases must be for a period not exceeding twenty years;
- conditions for the payment of rent (annually or quarterly) and its amount must comply with the relevant decision of the municipality's administrative board;
- the length of the contract, the type of conversion of the municipal real estate in question and its planned use must comply with the opinion of the municipality's administrative board (more specifically with its Architecture and Buildings Department) to ensure that they fit into the general framework of municipal development planning;
- bids must be invited for the leasing of municipal real estate (except in specific cases where this is not essential) as stipulated in the Minister for Land Use Planning and Building's Order of 19 June 1991 on bidding for real estate belonging to the State Treasury or to the municipal historical heritage.

The city council passed a resolution on tenancy contracts for premises to be used for business activities based on the Local Government Act of 8 March 1990, which stipulates:

- that bids shall be invited for leasing of premises to be used for business activities; auction regulations require rents to be approved by the municipality's administrative board;
- that the town shall be divided into zones corresponding to different rent bands;
- the ground rules for exchange of premises for business use;
- tenancy rights when tenants retire or die.

The rent of vacant business premises is fixed after verbal bidding. The highest bidder signs a tenancy contract for the premises transferred by public auction for an unspecified period.

Swietochlowice

On the basis of the Local Government Act of 8 March 1990 (as amended by the Act of 6 November 1992), the city council passed a resolution setting the ground rules for the acquisition, sale and exchange of municipal real estate, and for its leasing for periods exceeding three years.

This resolution stipulates that the amount payable for leasing (or renting) municipal real estate shall be decided either by auction or in line with directives issued by the municipality's administrative board which provide guidelines for negotiations about the contractual rent.

The administrative board fixes the rent by referring to market prices; it must bear in mind the need to optimise municipal revenues, but must also be mindful of citizens' needs and how far these needs may be met by the business activity in question.

Leases for land without buildings are signed after a taker has come forward and are not usually preceded by an auction. The contract's content must comply with the general provisions of the Civil Code. The use stated in the application and specified in the contract must fit in with the municipality's overall development plan. Leasing contracts are signed for the municipality by the administrative board.

Following an administrative board decision, a public auction must be held when business premises are let in buildings managed by the City Housing Department. Auctions are handled by the auction commission. The basic rent per square metre is calculated on the basis of the state of the premises, the amount of essential investment required and the location. Letting without an auction is only allowed if no tenant has been found after two successive auctions. When this happens, the lessee or tenant may fix the rent.

The length of lease or tenancy agreements for an unspecified period (the usual practice) made by the municipality's administrative board should not be less than nine months and not more than twenty years. The duration of the lease or tenancy is fixed by negotiation, taking due account of any investments the taker will need to make in order to enable him/her to use the real estate specified in the contract, and also the grounds for the firm's tenancy in the building in question.

Lease and tenancy contracts for an unspecified period may be terminated by cancellation in writing by either of the contracting parties at three months' notice.

Fixed-term leasing contracts may also be terminated by the lessor in the following cases:

- if the lessee fails to discharge the obligations stipulated in the contract or uses the real estate which is the subject of the contract for a purpose different from that specified in the contract;
- if the lessee does not agree to a new rent indicated in a rider to the contract.

The ground rules outlined below define the obligations of the lessee to the lessor and the tenant to the owner.

Lessee's obligations to the lessor

- The lessee undertakes to use the real estate for its intended purpose;
- the lessee shall pay the rent and VAT (at the rate of 22 per cent of the rent), except in the case of leases for agricultural use;
- the lessee shall pay all charges in connection with the leased property, including paying real estate tax to the lessor from the time when the contract was signed;
- the lessee may not transfer to third parties, either in whole or in part, his/her rights arising from the agreement without the lessor's consent;
- the lessee may not build any permanent structures on the leased land;
- the lessee shall pay stamp duty on the contract and shall also register the contract.

Extension of the contract shall be in writing, at the request of the interested party and with the consent of both parties to the contract.

The tenant's obligations to the landlord

These obligations are as follows:

- to pay rent when due;
- to obtain consent for alterations to the premises and have the work accepted by the owner;
- to report any damage or defects that should be put right by the owner;
- to preserve the appearance of the interior and exterior;
- to maintain the premises and their surroundings in a state of good order and hygiene.

Management of business property in selected cities

Bytom (population 227 000)

Data available on municipal business premises

Table 5: Breakdown of municipal real estate leased for business activities (industrial or commercial) in Bytom

Type of real estate property	Number of properties	Area (in m ²)	Revenue in 1996 (in PLN)	Percentage of municipal revenue
Land with buildings	22	98 500	144 000	0.9
Land without buildings	8	15 150	242 400	1.5

Market places

There are nine market places covering a total area of 150 m² in the city. In line with directives from the municipality's municipal office (strictly speaking, from the city architect's office) they have been organised and managed by lessees to whom the city leased the land (after an auction had been held) for a ten-year period. Municipal office staff do the work involved.

Kiosks and stalls

The length of leases signed by interested parties for the conduct of business at sales points such as kiosks and stalls in various parts of the city varies between one month and a year.

Financial information about business real estate

Real estate varies so much in type, potential use and state of repair that almost all decisions about property transfer have to be examined individually. Dilapidated buildings taken over from previous owners may be leased on preferential terms involving rent exemption for a period equivalent to the cost of repairs paid by the lessee, enabling the condition of these buildings to be improved.

The City Buildings Office is empowered by the municipality to organise auctions for the letting of business premises and to sign tenancy contracts. Many of these premises are dilapidated and in need of repair. The tenant carries out the necessary repairs and the cost is subsequently deducted from the rent. Tenancy contracts for business premises are signed for unspecified periods. Revenue from these contracts (the office's revenue) ran to PLN 6 005 300 in 1993, PLN 6 798 300 in 1994 and PLN 7 823 500 in 1995 (without VAT). The municipality's monthly income from market places amounts to PLN 20 200.

Maintenance costs for business premises (minor repairs, taxes on media services provided, etc.) are borne by the tenant.

The City Buildings Office employs some twenty-five members of staff to deal with matters related to the letting of business premises.

The city's administrative board fixes the rent of kiosks and stalls. Some 100 agreements are currently in force yielding an average monthly income of PLN 50 000 which provides revenue for the municipality. These matters are handled by municipal office staff.

Methods of managing municipal property are currently being examined by a task force of elected representatives and administrators, which was convened to modernise current approaches and to kick-start business activity in the city of Bytom.

Kielce (population 213 000)*Data available on municipal real estate for business use***Table 6: Statistical data on municipal real estate for business use in Kielce**

Total number of buildings belonging to the municipality	595
Number of business premises	470
Number of residential premises	12 557
Total area of buildings	578 920 m ²
Total area of business premises	51 166 m ²
Total area of residential premises	527 754 m ²

Table 7: Statistical data on municipal land for business use in Kielce

Total area of municipal land	948 ha
Total area of leased land	71 043 m ²
Area of land leased for small-scale farming activities	28 000 m ²
Area of land leased for industrial activities and warehousing	17 500 m ²
Area of land leased for car parks	19 000 m ²
Area of land leased for garages, kiosks, stalls, etc.	6 543 m ²

The work involved is carried out by a division of the municipal office's Property Transfer Department. Decisions on day-to-day administration of this real estate are taken by the city's administrative board on the basis of data and information collected by the Property Transfer Department. This real estate is administered by the District Housing Management Agency.

*Financial data about business property***Table 8: Municipal income from management of real estate in 1996 in Kielce**

Income from:	Amount (PLN)
Lease of land	474 128
Sale of buildings	498 658
Sale of premises	2 591 068
Other	2 193 107
Aggregate	5 756 961

The above revenue represented 3 per cent of all revenues in the municipal budget.

Problems posed by management of this real estate and solutions adopted

As it adapts to recent changes in the legal framework governing real estate management, the municipality is in the process of changing the status of the District Housing Management Agency from a state agency to a company in commercial law capable of performing important executive tasks in municipal housing administration. A body with its own budget will also be set up (the City Housing Department) to perform management functions on behalf of the owner (planning – supervision of work – funding).

These institutional changes should help create transparent and efficient structures designed to make optimal use of the income from real estate management for renovation, preservation and upkeep.

Olkusz (population 40 000)

Data available on municipal real estate for business use

Table 9: Area of leased or rented municipal real estate in Olkusz

Land	Area
Total area	2.60 ha
Land for commercial activities	2.00 ha
Land for service activities	0.20 ha
Land for agricultural activities	0.40 ha
Buildings (total area)	2 200 m ²

In addition to real estate already used for business activities the city has other buildings for sale, lease, or rental.

Table 10: Buildings for sale, lease or rental for business activities in Olkusz

Location	Number of plot building (PLN)	Area of land (m²)	Area of building (m²)	Value of building (PLN)	Value of land (PLN)	Purpose
Mickiew Street	1 476	898	471	165 000	12 617	Sale, lease or rent
Szpitalna Street	2 221/1	241	236.5	74 410	6 650	Sale, lease or rent
Rynek Street	1 584	2 256	580	431 695	32 840	Rent

Both residential and business premises are administered by the Municipal Management Company, a limited liability company of which the municipality of Olkusz is sole owner. Land belonging to the municipality is managed by the Land Management and Surveyor's Department.

Pursuant to a city council resolution on ground rules for leasing or letting real estate within the municipality, lease or rental for a period of more than three years is possible only in the case of land which cannot be transferred on a long-term basis, or if essential investments would require too much time.

The availability of land for leasing is publicly announced. Details of land available for lease or rental for business activities are displayed on the municipal office notice board six weeks before the date of auction so that offers can be looked into.

In line with the wishes of the city council and the provisions of the Civil Code, lease and tenancy contracts are made for ten years or for an unspecified period. Notice required for cancellation must not exceed three months. The municipality has the right to terminate the contract at shorter notice – although fourteen days notice of cancellation must still be given – if the leased land is earmarked for uses connected with implementation of the municipality's socio-economic programmes.

Financial data available on real estate for business use

Table 11: Revenue and costs linked to management of premises in Olkusz

Year	Revenue (PLN)	Costs (PLN)	Financial balance (PLN)
1996	340 000	150 000	+190 000
1997 (7 months)	340 000	103 000	+237 000

Now that the statutory provisions in force have been modified and market economy principles have been introduced, the resulting financial balance is positive. In previous years income from rents was not sufficient to cover the maintenance costs of this real estate.

Lessees and tenants pay for repairs and the costs are subsequently deducted from their rent.

Swietochlowice (59 000 inhabitants)

Data available on municipal real estate for business use

The municipality of Swietochlowice owns 704 hectares of land, more than half of all land in the city (1 324 hectares).

Table 12: Area of land and premises belonging to Swietochlowice and leased for business activities

Land	
Type of activity	Area (m²)
Production activity	392.00
Commercial activity	2 110.00
Service activity	24 687.00
Agricultural activity	568 320.00
Total	595 509.00
Premises	
Type of activity	Area (m²)
Production activity	4 765.98
Commercial activity	20 873.16
Service activity	23 417.48
Total	49 056.62

Municipal land is administered by the municipal office or, more precisely, by the Property Management Division of the Surveying, Geology and Property Management Department where one member of staff is employed to deal with such matters. Premises are managed by the City Housing Department, a municipal body, where two members of staff are employed for this purpose.

Available financial data on real estate for business use

The minimum rent per square metre of land leased depends on the type of business activity, as specified in the following table.

Table 13: Minimum rent for land leased in Swietochlowice

Type of business activity	Minimum rent per m² of land leased (PLN)
Production activity	1.4
Commercial activity	2.5
Service activity	2.5
Agricultural activity:	
market garden, less than 2 500 m ²	0.05
market garden, less than 2 500-5 000 m ²	0.025
agricultural land, 5 000-1 000 m ²	0.01
farms of 10 000 m ²	0.005

Higher rents than the above-mentioned minimum rents may of course be charged for leased land. As the table below shows, the highest rents were paid for land leased for commercial activities and for services.

Table 14: Actual rents for leased land in Swietochlowice

Type of business activity	Actual rent per m ² of land leased (PLN)
Manufacturing activity	1.4
Commercial activity	8.1
Service activity	5
Agricultural activities	0.05

Variations in the rent per square metre of rented premises are not due to the type of business activity but to the location, as the following table illustrates.

Table 15: Variations in minimum rent for rented premises owing to location

Location of premise	Variations in minimum rent per m ² (PLN)
City centre streets (Katowicka Street, Bytomska Street part of Pocztowa Street)	6.0
Streets near the city centre (Kubiny, Findera, Wyzwolenia, Chorzowska, Lagiewnicka and Barlickiego Streets)	4.5
Other parts of the city, further from the centre	4.5

The minimum rent for premises let for purposes subsidised by the municipal budget such as education, culture and public health is PLN 2 per square metre.

If premises are in a bad state of repair and a tenant cannot be found after a lengthy search, they may be let at a lower rent, albeit not less than the cost of upkeep.

Table 16: Revenue from real estate leased or rented for business activities in 1996

Leased land	PLN 348 433.51
Rented premises	PLN 4 011 623.80

Rental income from business premises cannot be broken down according to type of business activity since these distinctions do not appear in the accounting of costs and receipts. Nor is it possible to calculate maintenance costs for business premises, since they are usually situated in residential buildings and recorded costs refer to the building as a whole.

However, by way of example, it is possible to show receipts and costs for some specific buildings, as the following table shows.

Table 17: Income and costs from management of certain buildings in Swietochlowice

Type of building	Receipts (PLN)		Expenses (PLN)	
	1995	1996 (9 months)	1995	1996 (9 months)
Library	14 364.1	8 252.97	12 770.54	7 918.28
Police building	12 936.0	4 984.20	12 309.12	4 708.67
Medical Centre	19 419.7	8 029.58	1 880.23	7 045.07

All surplus income (after costs) from rental of business premises goes towards the negative balance resulting from the cost of maintaining the housing stock administered by the City Housing Department.

Problems posed by management of this real estate and solutions adopted

The municipality of Swietochlowice intends to computerise its system of administering land without buildings.

The main problem in managing business premises is the rundown condition of buildings which makes it difficult to attract tenants. The City Housing Department sometimes reduces rents or allows rent exemptions for specific periods of time if premises are in a very bad state of repair and require substantial investment.

3. Cultural and educational facilities

Legislation applicable at national level

Cultural facilities

Pursuant to Article 7.9 of the Local Government Act of 8 March 1990 (with the later amendments), the municipality has responsibilities for culture including municipal libraries and other cultural institutions.

The principles governing management of municipal real estate used for cultural activities are set out in the Organisation and Management of Cultural Activity Act of 1991, the most recent amendment to which dates from 27 June 1996. Article 2 specifies institutions for organising these activities including theatres, operas, operettas, philharmonic societies, orchestras, cinemas, museums, libraries, cultural centres, arts clubs, art galleries, research and documentation centres covering various cultural fields.

In line with Article 9.1 of the act, municipalities or associations of municipalities organise cultural activities by setting up municipal cultural institutions whose statutory purpose is to manage these activities. Article 12 of the act requires municipalities or associations of municipalities to provide the municipal cultural institution with the requisite resources for cultural activities and for upkeep of the premises where the activity takes place.

Municipal cultural institutions like museums, art galleries, arts centres, libraries, cultural centres, clubs, centres of artistic creation and arts clubs organise their finances and settle their accounts with the municipal budget according to guidelines laid down for bodies with their own budget (Article 2).

In line with Article 27, cultural institutions manage the municipal property assigned to them autonomously and tailor their activities to their resources, which they use as effectively as possible. Article 28 stipulates that cultural institutions shall cover their running costs and expenses out of their own incomings. The receipts of cultural institutions consist of income from their activities, their budget allocation, and resources contributed by natural and legal persons.

The municipality fixes the annual allocation for the activities of the cultural institution.

Educational facilities

In line with Article 7.8 of the Act of 8 March 1990 (with later amendments) the municipality has responsibility for the education system, including primary schools and nursery schools.

As part of the remit the municipality must renovate buildings belonging to it which are used for educational activities (Article 7.2 of the Act). Article 5a requires the state to provide funding for maintaining public schools managed by the municipality, including staff remuneration. These funds are transferred to municipalities in the form of grants and subsidies. The size of these is calculated according to a system rigorously defined by law.

Management of real estate for cultural and educational use in selected cities

Bytom (population 227 000)

Data available on management of municipal real estate for cultural and educational use

The cultural facilities belonging to the municipality are as follows:

- Silesian Dance Theatre;
- Arts centre;
- Karolinka Cultural Centre;
- Municipal Public Library.

Table 18: Area and volume of buildings for cultural use in Bytom

Name of centre	Usable area (m ²)	Volume (m ³)
Karolinka cultural centre	1 674.40	20 074
Arts centre	822.87	
Silesian dance theatre	2 888.00	51 840
Municipal library		
Central building	3 200.00	15 054
Branches:		
Hlonda Street	659.80	
Knosaly Street	230.80	
Strzelców Street	48.20	
Okukickiego Street	95.00	
Grota Roweckiego Street	77.12	
Powstańców W-skich Street	70.00	
Sródmiejska Street	188.50	
9 Maja Street	49.39	
Czecha Street	57.00	

Table 19: Cultural infrastructure of Bytom

Type of educational institution	Number of schools	Number of buildings	Area (m ²)
High school	8	12	15 300
Vocational school	14	24	27 000
Art school	2	2	3 000
Education centre	4	3	1 000
Special primary school	6	5	3 600
Special vocational school	2	2	2 000
Boarding school	5	5	4 500
Primary school	40	38	134 700
School reception centre	36	-	-
Nursery school	55	34	35 000
Total	172	125	226 500

The heads of the institutions listed above report to the head of the City Education Department.

Table 20: Staffing of cultural centres in Bytom

Name of centre	Number of staff		
	in 1994	in 1995	in 1996
Karolinka cultural centre	23	25	25
Arts centre	6	6	6
Silesian dance theatre	29	29	29
Municipal library			
Central building	66	67	69
Branches:			
Hlonda Street	7	7	7
Knosaly Street	3	3	3
Strzelców Bytomskich Street	2	2	2
Okulickiego Street	2	2	2
Grotta Roweckiego Street	2	1	2
Powstańców W-skich Street	1	2	1
Œródmiejska Street	2	2	2
9 Maja Street	1	1	1
Czecha Street	1	1	

Table 21: Staffing of educational institutions in Bytom

Type of educational institution	Number of staff (in 1996)
High school	220
Vocational school	940
Art school	169
Education centre	68
Special primary school	230
Special vocational school	83
Boarding school	41
Primary school	1 920
School reception centre	224
Nursery school	889

*Available financial data about real estate for cultural and educational use**Buildings for cultural use***Table 22: Breakdown of expenditure and income of cultural institutions in Bytom**

Karolinka cultural centre					
Year	Income (PLN)		Total expenditure (PLN)	Expenditure on maintenance	
	from the municipality	from other sources		in PLN	as a percentage of total expenditure
1994	229 229	64 864	294 093	111 327	37.80
1995	387 684	104 020	491 703	173 115	35.20
1996	455 198	123 409	587 606	162 200	28.00
Arts Centre					
1994	199 002	30 183	227 985	17 495	7.60
1995	252 000	31 631	282 451	23 058	8.16
1996	338 420	34 702	375 191	31 551	8.40
Silesian Dance Theatre					
1994	360 205	135 668	535 157	144 241	27.00
1995	435 474	193 654	826 553	369 120	44.60
1996	490 960	468 904	1 005 838	235 602	23.40
Municipal library					
Central building					
1994	1 275 045	33 935	851 408	52 865	6.20
1995	1 588 380	47 332	1 085 954	80 588	7.40
1996	2 013 869	63 411	1 281 397	127 315	9.90

Branches of the municipal library: Hlonda street branch					
Year				Expenditure on maintenance	
				in PLN	as a percentage of total expenditure
1994				17 083	2.00
1995				20 582	1.90
1996				24 798	2.00
Knosaly Street branch					
1994				6 012	0.70
1995				7 243	0.60
1996				8 727	0.70
Strzelców Street branch					
1994				1 147	0.10
1995				1 541	0.14
1996				2 340	0.2
Okulickiego Street branch					
1994				5 59	0.06
1995				8 26	0.07
1996				8 24	0.06
Grota Roweckiego Street branch					
1994				1 670	0.2
1995				2 123	0.19
1996				3 464	0.30
Srôdmiejska Street branch					
1994				4 335	0.50
1995				6 168	0.56
1996				8 715	0.70
9 Maja Street branch					
1994				2 98	0.03
1995				4 35	0.04
1996				4 57	0.04
Czecha Street branch					
1994				6 94	0.08
1995				7 79	0.07
1996				2 264	3.60

*Buildings for educational use***Table 23: Expenditure on education facilities in Bytom**

Type of institution	1994		1995		1996	
	Total expenditure (PLN1000)	Expenditure on building maintenance (PLN1000)	Total expenditure (PLN1000)	Expenditure on building maintenance (PLN1000)	Total expenditure (PLN1000)	Expenditure on building maintenance (PLN1000)
High school	2 847.0	813.8	3 119.8	633.6	3 839.3	686.0
Vocational school	9 121.0	1 312.2	12 796.8	1 927.6	15 373.4	2 111.9
Art school	1 613.0	131.2	2 011.2	202.0	2 467.1	155.5
Education centre	527.2	100.0	738.4	123.8	851.0	195.4
Special primary school	-	-	-	-	3 894.9	343.6
Special vocational school	-	-	-	-	1 427.4	117.8
Boarding school	733.1	242.6	757.9	180.3	587.3	108.8
Primary schools	18 132.0	3 777.7	24 721.8	6 448.6	32 209.0	7 997.7
School reception centre	1 521.7	18.3	1 613.2	65.8	2 142.6	57.0
Nursery school	6 645.0	1 619.3	9 257.5	1 722.3	11 316.3	3 320.4
Total	41 140.0	8 015.1	55 016.6	11 304.0	74 108.3	15 094.1

Problems posed by management of buildings for cultural and educational use

The main problems are posed by the repairs that need to be made to real estate used for cultural and educational purposes because of the age of the buildings and the damage caused to them by coal mining in the vicinity.

The funds needed to rebuild and renovate educational facilities are always lacking.

From 1996-1997, the heating systems in fifty buildings used for educational activities were modernised and environment-friendly systems installed.

Kielce (population 213 000)***Data available on management of municipal real estate used for cultural and educational activities******Cultural facilities***

The municipality of Kielce possesses the following cultural institutions:

- Kielce Cultural Centre;
- the Toy Museum;
- the Arts Centre;
- the Art Exhibition Centre.

Each of these institutions has its own building. Each has its own budget and is separate both on an organisational level and on a financial level.

Although these institutions are mainly funded by subsidies from the municipality, they also have their own revenues. In 1996 they received a total of PLN 3 681 073 from the municipality, their own revenues for the same year being PLN 53 713.

Table 24: Subsidies from the municipality of Kielce to cultural institutions in 1996

Name of cultural institution	Subsidies given by the municipality (PLN)
Kielce Cultural Centre	2 786 600
Toy museum	237 333
Arts centre	275 000
Art Exhibitions Centre	382 140
Total	3 681 073

Educational facilities

The following educational institutions belong to the municipality of Kielce:

- thirty-four primary schools;
- ten high schools;
- five boarding schools;
- seventeen vocational schools.

These institutions are financed entirely by the municipality.

Table 25: Financing of educational facilities by the municipality of Kielce in 1996

Number of educational institutions	Amount given by municipality (PLN)
34 primary schools	37 843 005
10 high schools	9 833 938
5 boarding schools	2 110 430
17 vocational schools	21 945 521
Total	71 732 894

Each of these educational institutions has its own separate building.

Buildings for educational use are run by the education service (a body with its own budget) as a whole.

Olkusz (population 40 000)

Data about cultural and educational facilities

Cultural facilities

The municipality of Olkusz owns the following cultural facilities:

- an Exhibition Pavilion;
- an African Museum;
- Machniki Manor;
- the Youth Cultural Centre;
- the Municipal Library;
- the Community Centre Building;
- Olkusz Tower.

Educational facilities

Table 26: Data on educational facilities

Type of educational institution	Number of buildings	Staff
Primary school	23	756
Nursery school	10	227
Kindergarten	1	7

Financial data available on real estate for cultural and educational use

Table 27: Expenditure and revenue on the upkeep of buildings for cultural institutions

Municipal library				
Year	Expenditure on upkeep of building		Revenue from management of building	
	in PLN	as a percentage of total expenditure	in PLN	as a percentage of total revenue
1994	4 103	1.25	192	25.09
1995	10 472	2.73	-	-
1996	20 384	3.76	370	29.44
Cultural centre				
1994	17 015	3.17	3 832	2.35
1995	27 900	4.07	2 929	1.38
1996	49 554	6.22	4 184	1.54
Museums and clubs				
1994	11 417	7.72	-	-
1995	22 358	12.07	558	0.90
1996	21 887	10.22	7 202	23.95

Table 28: Expenditure in connection with upkeep of buildings for educational institutions (1996)

Type of educational institution	Expenditure on upkeep (PLN)	as a percentage of total expenditure
Primary schools	1 767 113	17
Nursery schools	418 592	16
Kindergartens	23 195	20

Problems posed by the management of real estate for cultural and educational use

The main problem is that there is a shortage of funds for repairing, renovating and modernising cultural and educational buildings. The Exhibition Pavilion, for example, needs major repairs but not enough money is available.

Swietochlowice (population 59 000)**Data available on cultural and educational facilities***Cultural facilities*

The municipality of Swietochlowice possesses the following cultural institutions:

- the Cavern Cultural Centre;
- the Concord Cultural Centre;
- a municipal museum;
- a municipal public library.

Table 29: Data on municipal buildings for cultural activities in Swietochlowice

Name of cultural institution	Number of buildings	Area of buildings (in m ²)	Staff
Cultural centre	3	2 233	
Cavern Cultural Centre	1	1 110	26
Sports centre	1	780	
Modelling club	1	343	
Concord Cultural Centre, Wallisa Street	1	3 304	18
Municipal museum		758	9
Municipal library (Total)	7	1 557	35
Central branch		561	
Branch 1, 37 Chorzowska Street		313	
Branch 2, Lagiewnicka Street		281	
Branch 4, Hibnera Street		48	
Branch 5, Krauze Square		80	
Branch 6, 73 Chorzowska Street		110	
Branch 7, Kamionki Street		164	

Municipal library buildings are managed respectively by:

- the Housing Co-operative:
 - municipal library central building on the ground floor of a residential building;
 - Branch 2 (Lagiewnicka Street), also in a residential building.
- the Municipal Housing Department:
 - Branch 1 (37 Chorzowska Street), in a separate house;
 - Branch 4 (Hibnera Street) on the ground floor of a residential building.

- the Cavern Cultural Centre:
 - Branch 6 (73 Chorzowska Street), on the 1st floor of this cultural centre;
 - Branch 7 (Kamionki Street) in a building administered by this cultural centre.
- the Concorde Cultural Centre:
 - Branch 5 (Krauze Square), situated in this cultural centre.

Educational facilities

Table 30: Data on municipal buildings for educational use in Swietochlowice

Type of institution	Number of buildings	Total area (m ²)	Number of staff
Primary school	13	38 816.08	514
Secondary school	5	14 505.98	178
Out-of-school education centre	2	2 443.00	21
Nursery school	10	9 022.40	193

Financial data available on real estate for cultural and educational use

Table 31: Revenue and expenditure from management of municipal buildings for cultural use

Year	Revenue from cultural institutions		Expenditure for upkeep of buildings including repairs and renovations	
	in PLN	as a percentage of total municipal revenue	in PLN	as a percentage of total municipal expenditure
1994	52 323	0.16	1 860 478	5.70
1995	130 002	0.31	2 696 217	6.48
1996	239 496	0.42	3 546 433	6.50

*Cultural facilities***Table 32: Financial data on cultural centres in Swietochlowice**

Cavern Cultural Centre						
Year	Total revenue (PLN)	Municipal subsidies (PLN)	Institution's own revenue (PLN)	Total expenditure (PLN)	Expenditure on building maintenance (PLN)	Expenditure on investments and repairs (PLN)
1994	363 876.00	319 835	44 041.00	334 233.00	51 851.00	60 609.00
1995	426 359.00	36 419	62 168.00	45 307.00	54 579.00	87 549.00
1996	509 921.00	442 628	67 293.00	476 398.00	61 809.00	40 942.00
Concord Cultural Centre						
1995	353 802.00	296 809	56 993.00	323 413.00	61 817.00	73 020.00
1996	465 827.42	297 008	16 073.42	429 196.41	96 264.30	59 891.39

(The Concord Cultural Centre opened in January 1995).

Table 33: Financial data on the municipal museum in Swietochlowice

Year	Total revenue (PLN)	Municipal subsidies (PLN)	Institution's own revenue (PLN)	Total expenditure (PLN)	Expenditure on building maintenance (PLN)
1994	111 426	108 000	2 449	111 415	20 863
1995	135 618	130 730	4 877	134 778	26 117
1996	167 148	163 000	3 308	166 830	31 024

Table 34: Financial data on the municipal library – expenditure on upkeep of buildings

Building	Area (m²)	1994 (PLN)	1995 (PLN)	1996 (PLN)
Central building	561	35 756	42 894	47 756
Branch 1	313	12 341	15 030	18 737
Branch 2	281	17 125	20 514	23 777
Branch 4	48	1 311	1 550	1 677
Branch 5	80	4 492	5 500	3 421
Branch 6	110	4 702	5 020	5 674
Branch 7	164	7 012	7 483	8 460

The library's own revenue amounted to: PLN 5 833 in 1994, PLN 5 964 in 1995 and PLN 8 722 in 1996.

*Educational facilities***Table 35: Expenditure on upkeep of municipal buildings for educational use**

Year	Primary schools expenditure (PLN)	Secondary schools expenditure (PLN)	Out-of-school education centres expenditure (PLN)	Nursery schools expenditure (PLN)
1994	962 509	277 880	40 440	363 587
1995	1 452 880	350 506	64 388	427 470
1996	1 800 632	724 235	80 720	541 414

Problems arising from the management of real estate for cultural and educational use*Buildings for cultural use*

The buildings are rundown because investment on repairs, renovation, etc. has been insufficient over the last few years.

There is an urgent need to renovate these buildings and to modernise the stages in the cultural centres.

Buildings for educational use

Most primary schools are in pre-war buildings which are now rundown so that frequent repairs are necessary.

The secondary schools occupy buildings that are more than forty years old and also frequently need repairing. The heating systems need modernising.

Most of the nursery school buildings, on the other hand, are in good repair. There are problems with the outdoor facilities of nursery schools, however. Play areas need to be modernised and brought into line with modern educational standards.

MANAGEMENT OF MUNICIPAL HOUSING IN SPAIN

1. Legal powers of local municipalities in the field of housing

Law No. 7/1985 of 2 April 1985, which regulates the basis of the local system of government does not directly establish any minimum municipal obligation in this area, although it states in Article 25.2.d that “the municipality will in all cases exercise powers in accordance with the laws of the state and the Autonomous Communities in the following areas: (...) development and management of housing (...)”.

Article 7c of the revised pre-constitutional text of the laws on low-rent housing, which was approved by Royal Decree No. 2960/1976, already authorises local authorities to become property developers for low-rent housing by means of all legally established procedures governing the provision of services.¹ Royal Legislative Decree No. 31/1978 on low-rent housing policy stipulates that natural persons or legal entities, whether public or private, profit-making or not, can be property developers or owners of low-rent housing.

Royal Decree No. 1/1992 regulates “municipally owned land”, a stock of which must be constituted in every municipality with a general urban development plan (and although it is only being met gradually, the requirement of having a general plan applies to every municipality). The purpose of this stock of land is “to regulate the land market, to obtain reserves of land for public development schemes and to facilitate the implementation of the plan”.

The decree stipulates: “once municipally owned land has been incorporated into the town planning and building process, it must be earmarked for the construction of housing subject to public welfare rules or for other socially beneficial uses, in accordance with the urban development plan”. Municipally owned land may be developed and built on by the municipal administration itself, although such land may be sold through a tender procedure.

Direct, free-of-charge transfer of land between public administrations is possible “for the purposes of public housing development, the construction of municipal amenities or other amenities for public use or social benefit”. Land intended for low-cost housing may also be transferred by municipal councils free of charge or at less than the market price, through a tender procedure. In some cases these transfers may be direct, when the developers of low-rent housing are charitable or social institutions.

¹ Note that there is a strong trend towards property ownership in Spain, affecting all social classes. The market for rented property has traditionally been private, so that public property development itself has focused mainly on the construction of housing for sale (and sometimes awarded free of charge or at almost nominal prices) to people in low or medium-income categories: as a consequence, public administrations had housing available for rent only occasionally.

This situation is beginning to change, albeit slowly, and nowadays many public property developments are intended either totally or partially for renting.

2. Housing development by local authorities

The rented housing market has traditionally been private, but this situation is beginning to change with the emergence of public companies which are now building numerous housing developments for rental. This is a new situation when one considers that previous public property development in this sector was concentrated mainly on building housing for sale, or for transfer without charge to marginalised or low-income population groups, while the councils rarely had accommodation for rent. The principal players at local level – the municipal councils – are active in the following ways in housing development:

- collaboration with property developments instigated by the Autonomous Communities, usually by providing the land necessary for housing construction free of charge;
- becoming property developers themselves, usually through the creation of a limited liability company with municipal capital. This kind of activity, which requires greater organisational and financial resources, is normally confined to the municipal councils of large or medium-sized towns.

Social demand has led to a proliferation of municipal housing companies which are building a large amount of housing, not only for sale but also, increasingly, for rent (a trend which is increasing slowly and gradually, at least in some sectors).

The following data give an idea of the size these companies have reached: the housing stock built by them amounts to 174 419 units, of which 96 094 are rented and 7 257 are in precarious tenure (that is, they have been allocated rent-free to low-income families). The total number of residential units begun during 1993, 1994 and 1995 was 24 845, 31 543 and 28 118 respectively.

3. The situation in selected municipalities

Madrid Municipal Council's Empresa municipal de la Vivienda, S.A.

La Empresa municipal de la Vivienda, S.A. (EMV), is a municipal limited company belonging to Madrid Municipal Council, the sole holder of its authorised capital. It operates in the field of construction (new buildings, as well as restoration work, including that of public areas) in a city with three million inhabitants.

Table 1: Construction work by *Empresa municipal de la Vivienda S.A.*

		1992	1993	1994	1995
New housing units completed		462	1 007	1 049	1 339
Public restoration work	Housing	79	60	31	218
	Other premises	21	15	1	23
	Garages	55	58	-	41
Help with private restoration of buildings (number of buildings)		91	49	26	31

It should be stressed that a growing number of the buildings constructed (currently about a third) are allocated for renting.

Furthermore, the company has carried out structural modifications and improvements to hundreds of buildings, affecting thousands of homes (in the majority of cases under agreements between the Autonomous Community of Madrid and the state), and is providing the land for the “18 000 Plan”, under which co-operatives are building this number of housing units in the Madrid area.

In addition to these activities, housing has been built for marginalised groups (in association with the Autonomous Community of Madrid) and there has been major rehabilitation work on infrastructures and public areas in the historic city centre.

The Municipal Council of Valdepeñas

Valdepeñas, is a well-known medium-sized town in the province of Ciudad Real, in the Autonomous Community of Castilla-La-Mancha, about 200 km south of Madrid. The town has about 25 000 inhabitants and is the chief town of a *Mancomunidad* (a union or public association of municipalities which combine to provide public services), which comprises twenty three municipalities (around 80 000 inhabitants) and has a healthy local economy based on wine growing services and medium-sized industry.

Here, there is no municipal housing company but, like many similar municipal councils in Spain, Valdepeñas municipal council has actively collaborated in the activities conducted in this field, firstly by the state and later by the Autonomous Community of Castilla-La-Mancha.

From 1978 to date there have been four public housing development programmes in the town, the names of which are given below, together with the number of housing units and how they are allocated.

Table 2: Public housing development programmes

Year	Name of programme	Number of housing units	Allocation
1979	Extension to General Mola	110	Rented 50% Owned 50%
1980	La Consolación district	190	Rented 50% Owned 50%
1993	San Nicasio district	128	Rented 100%
1995	San Nicasio district	60	Not yet decided, but renting will have priority

Municipal collaboration takes the following forms:

- free transfer of land to the administration concerned (currently the Autonomous Community of Castilla-La-Mancha);
- registering and processing applications. This is done by awarding a number of points according to an objective grading system. This is an essential activity, carried out by the municipal social services, who check the veracity of the information provided by applicants. This makes it possible, later on, to adopt provisional and definitive lists, a task which falls to the Autonomous Community's Provincial Housing Department.

The municipality of Aranjuez

The municipality of Aranjuez belongs to the Autonomous Community of Madrid, and is situated forty-seven km from the capital. Much of its economy is based on agriculture and the municipality covers an area of 201.10 km². According to the 1991 census, there is a population of 36 162, of which a large number (13 210 people) are in the 20-40 age group.

The total number of housing units existing at the beginning of the 1990s was 13 353, of which 10 621 were main homes, 470 were second homes and 2 262 were unoccupied.

Table 3: Municipal properties allocated for rented housing

Unoccupied housing units belonging to the municipal council	7
Housing units belonging to the municipal council and rented to individuals	36
Housing units belonging to the state, rented to the municipal council and sub-let to individuals	17
Housing units belonging to the state, rented to the municipal council and unoccupied	1
Total housing units	61

The municipality of Majadahonda

The municipality of Majadahonda belongs to the single province Autonomous Community of Madrid and is situated 18 km from the capital. The municipality covers 38.50 km², and according to the 1991 census has a population of 33 475. The majority of these (13 259 people) are in the 20-44 age range.

The total number of housing units at the beginning of the 1990s was 11 118, of which 8 945 were main homes, 875 were second homes and 1 298 were unoccupied.

The creation of the Majadahonda Limited Company in 1992 by the Municipal Council of Majadahonda marked a new step in municipal activities in the property sector. Before the creation of this limited company, the council had taken responsibility itself for housing development in the town.

The following data show the types of rented housing belonging to the municipality.

General data

Flats constructed by the Majadahonda Municipal Council

Table 4: Public housing development, Antonio Machado Street

Category of accommodation	Number of units	Occupied
1 bedroom	4	4
2 bedrooms	4	4
3 bedrooms	6	5
Total	14	13

Hand-over date: November 1993

Table 5: Public housing development, Granadilla Street

Category of accommodation	Number of units	Occupied
1 bedroom	20	20
2 bedrooms	14	14
3 bedrooms	32	32
4 bedrooms	2	2
Total	68	68

Hand-over date: May 1994

In order to manage the town's property assets, Majadahonda Municipal Council set up the *Sociedad patrimonio municipal de Majadahonda, S.A.*, with 100 per cent municipal capital, during the financial year of 1992. This company is responsible for managing the rents as well as the Administration Committee set up by the tenants. It is staffed by an executive treasurer and an administrative assistant, and the management bodies are the Administrative Council and a delegated councillor.

Buildings constructed by the Sociedad patrimonio municipal de Majadahonda, S.A.

Table 6: Low-rent housing for young people on Granadilla Street and Sta. Catalina

Type	Number of units	Occupied
Disabled access	2	2
2 bedrooms	55	55
3 bedrooms	18	18
Total	75	75

Hand-over date: 1 June 1996

The *Patrimonio municipal de Majadahonda S.A.* company is entirely responsible for both management and construction.

Financial data

A Tenants' Administrative Committee and a Landlords' Committee have been set up in each development to manage the property; both are administered by the municipal company *Patrimonio municipal de Majadahonda S.A.* Under this system, ordinary maintenance of the buildings is financed by the tenants' subscription.

Table 7: Maintenance expenditure over the last three financial years

	1994	1995	1996
Rue Antonio Machado	207 055	187 716	210 500
Rue Granadilla (Town Council)	2 302 145	3 904 570	3 768 080
Rue Granadina and Sta. Catalina			2 289 000

As they were only built recently, there has been no expenditure on repairs to these buildings.

Table 8: Income from rent

	1994	1995	1996	Percentage collected
A. Machado Street	2 385 612	2 385 612	2 403 461	96.0
Granadina Street (town council)	9 720 634	16 888 944	17 004 628	97.0
Granadina St. and Sta. Catalina	-	-	17 983 514	98.8

These sums correspond to the total income from rent due from each development. The rate of non-payment as of 31 December 1996, as a percentage of income for this financial year, is also shown.

Problems in the management of the buildings

There are basically two types of problem in managing municipal property: collecting rents, and managing the buildings.

For the purpose of rent collection, the municipal council created a municipal company which would have greater control and flexibility. The aim was also to bring management as close as possible to the tenants and to maintain close links with them.

The high collection of rates are clear proof that this solution has been successful.

As mentioned above, Tenants' Administrative Committees were set up to involve them in the administration and maintenance of the buildings. The municipal company is responsible for the administration of these committees and aims to manage the properties comprehensively and efficiently.

MANAGEMENT OF MUNICIPAL HOUSING IN THE UNITED KINGDOM

1. Derby

Introduction

Derby is a city with a population of about 232 200 inhabitants. This figure is rising by around 1 per cent per year, although this is outstripped by the growth-rate in the number of households. This is reflected in the steady fall in the average household size in Derby from 2.71 people per household in 1981, to 2.50 in 1991 and to 2.43 currently.

Stock Details

Of Derby's 96 973 residential properties (at 31 March 1997), 16 378 (16.9 per cent) are directly owned and managed by the city council.

Table 1: Residential properties directly owned and managed by Derby City Council

Number of rooms	Type of building	Pre-1945 construction	Post-1945 construction	Total
Bedsit	Bungalow	0	24	24
	Flat	1	161	162
1 Bedroom	House	72	2	74
	Bungalow	155	798	953
	Flat	119	2 890	3 009
2 Bedroom	House	1 051	1 306	2 357
	Bungalow	3	265	268
	Flat	10	1 439	1449
	Maisonette	0	97	97
3 Bedroom	House	4 088	3 542	7 630
	Bungalow	0	106	106
	Flat	0	25	25
	Maisonette	0	61	61
4 Bedroom	House	65	93	158
5 Bedroom	House	4	0	4
6 Bedroom	House	1	0	1
Total stock		5 569	10 809	16 378

Of these dwellings, 1 374 are designated specifically for elderly people, incorporating a resident warden and/or an alarm call system, with another 1 188 homes providing "very sheltered" accommodation including additional care.

In April 1997, 2.0 per cent of the stock was empty awaiting letting. The average time taken to relet properties during 1996/97 was six days. This represents a considerable drop over the last two years from twenty-two days taken on average to relet a property in April 1995 and 16.5 in April 1996.

Allocation of city council properties

Under the Housing Act 1996, Derby city council has a duty to maintain a housing register including the names of all those seeking, and eligible, to be housed by the authority. The register differentiates between new applicants (those not already Council or housing association tenants, 2 790 at 30 June 1997) and those wishing to transfer from a city council or housing association property to another Council property (2 555 at 30 June 1997).

The city council is required under the act to allocate its housing in accordance with a locally defined allocation scheme which must give “reasonable preference” to specific groups determined by the Secretary of State. The city council is prohibited from allocating housing except in accordance with this allocation scheme. The revised allocation scheme came into effect on 1 April 1997. Between 1 April 1997 and 30 June 1997, 986 households were allocated secure tenancies from the housing register (702 new applicants, 284 transfers).

Under the act the city council has a duty to a homeless applicant who is eligible for assistance, in priority need, and not intentionally homeless, to arrange temporary accommodation for two years. Between 1 April 1997 and 30 June 1997, the city council placed fifteen homeless households in its own stock.

Despite a total of 3 409 lettings to city council stock in 1996/97, and 1 352 lettings (excluding transfers) made by housing associations in the city, detailed analysis of need and supply reveals an annual shortfall of 390 affordable rented homes. Development of new affordable housing has been unable to match this need. In 1996/97, the housing association provided 275 new units in the city; only 123 new units are anticipated for 1997/98.

Delivering the housing service

The department’s housing service includes management and maintenance of the stock, with duties split between “client” and “contractor”. The client function entails policy formulation, monitoring of the provision of housing management standards and planning of the capital improvements and programmed repairs. The contract function includes day-to-day provision of the housing management service (including management of day-to-day repairs).

Additional services beyond management of the city council’s own stock include advice and support to homeless people and community care groups with specific needs, support for private sector renewal, and the enabling of affordable housing development by housing associations. A departmental organisational chart follows.

Figure 1: Housing and environmental services

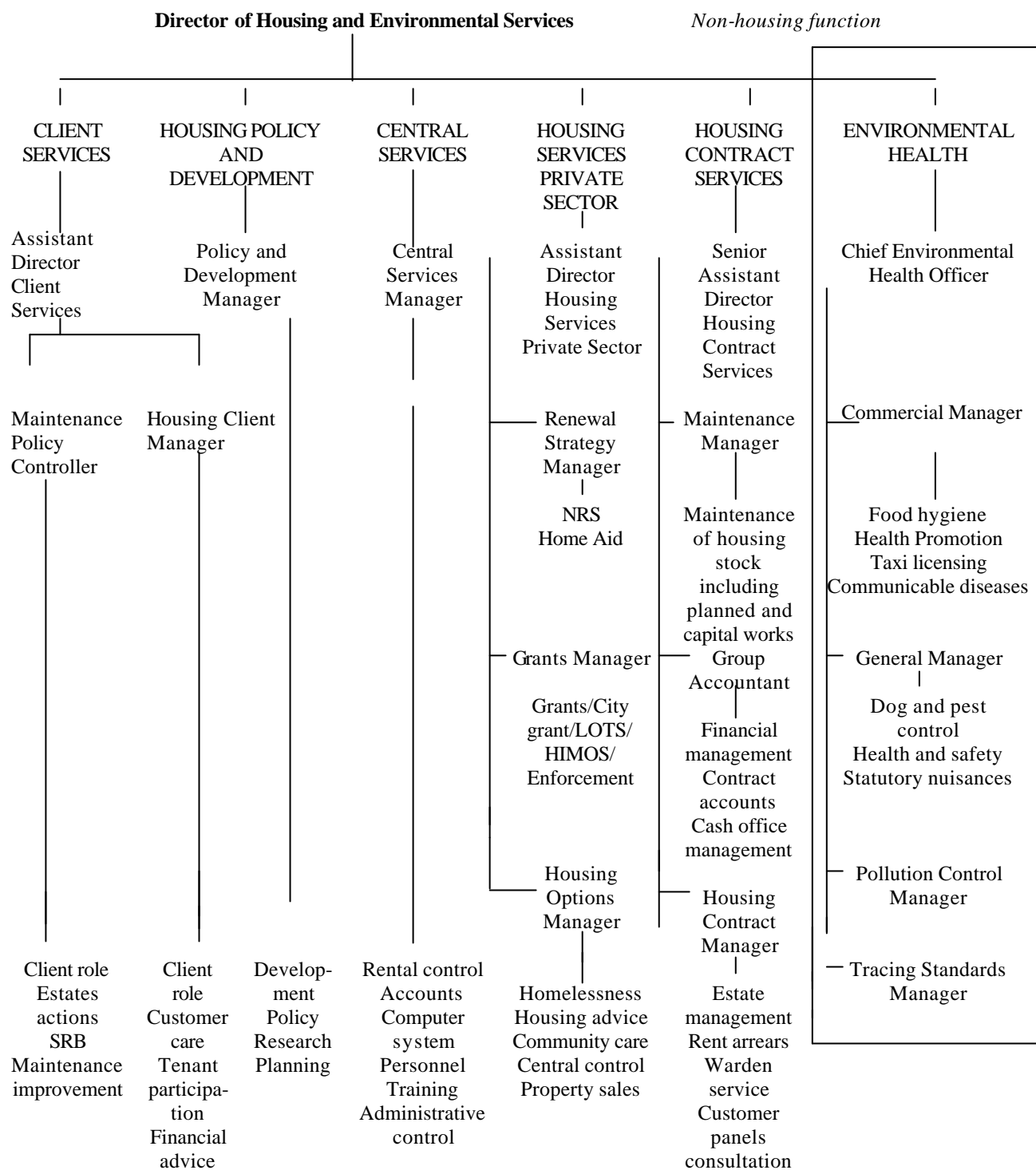


Table 2: A breakdown of staff numbers

Field of work	Number of full-time equivalents (FTEs)
Housing management & maintenance: contractor function	165.5
Housing management & maintenance: client function	17.5
Caretaking, security and support services for city council tenants	52.0
Warden service	62.0
Private sector housing support	61.0
Total	358.0

Delivery of the housing management contractor function is decentralised, with services provided at fifteen local housing offices located in areas with the highest concentrations of city council properties.

Financial information

The scope for capital investment in the city council's stock, as well as support for private sector renewal, has reduced markedly over the last three years as the table below shows. In cash terms, capital investment in the city council's stock has declined by over £5 million in the last five years. Capital investment constraints have had a severe impact upon the programmed repair schedule, resulting in a backlog of repairs amounting to £120 million.

Table 3: Capital investment from 1994/95-1996/97

Type of investment	1994/5 (amount in £1 000s)	1995/96 (amount in £1 000s)	1996/97 (amount in £1 000s)
Investment in public sector housing stock	15 874	13 867	10 622
Investment in private sector housing stock	4 743	3 682	3 459

Since 1 April 1990, the Housing Revenue Account has been required by legislation to be "ring-fenced" from the general fund. This means that there can be no cross-subsidies between the two accounts. A summary of income and expenditure within the Housing Revenue Account over the last three years is illustrated in the following table.

Table 4: Housing revenue account for 1994/95-1996/97

Income	1994/95 (amount in £1 000s)	1995/96 (amount in £1 000s)	1996/97 (amount in £1 000s)
Gross rent	26 559	27 604	28 805
Housing revenue account subsidy receivable	17 192	17 666	18 145
Housing benefit transfers	66	78	105
Investment income:			
mortgage interest	191	162	137
other	150	116	63
Other income	405	413	426
Total income	44 563	46 039	47 681
Expenditure			
Contribution to repairs account	7 271	7 420	7 506
Supervision and management	7 357	7 654	8 010
Capital expenditure charged to revenue	1 500	2 300	1 500
Rent rebates	16 521	17 531	18 443
Provision for bad/doubtful debts	320	262	324
Capital financing costs	11 818	12 057	12 206
Total expenditure	44 787	47 224	47 989

Current housing management issues

Since the introduction of council tenants' statutory right to buy their home, the number of properties owned and managed by the city council has dropped considerably. In the last seven years alone, the total stock has dropped by 1 752. As those able to purchase have left the tenure, households with low incomes or wholly reliant on benefits are becoming increasingly concentrated in city council housing. On 31 March 1997, 68 per cent of city council tenants were receiving housing benefit. The concentration of social disadvantage is compounded by the lack of funds to carry out substantial physical improvements to estates as discussed above. The city council is now experiencing severe difficulty in letting homes on certain estates suffering social and physical deprivation. On 1 April 1997, the city council had 4 749 difficult-to-let properties.

With only one tower block above six floors, the city council does not have the management and maintenance problems associated with high-rise blocks to any significant degree. However, the stock does include 1 715 properties (1 448 houses, 267 flats and bungalows) built using non-traditional methods, typically using precast concrete sections and steel and concrete frames. These properties, though not in themselves defective, have serious maintenance problems. In addition, because they were badly constructed, they are hard to heat and prone to damp and mould, thus adding to management problems. An estimated £34 million is required to fully modernise these non-traditional properties.

Increasingly, the city council is working in partnership with tenants and leaseholders. A network of thirty customer panels has been established throughout the city, together with an umbrella group, the Derby Association of Customer Panels (the DACP). The DACP has direct links to senior officers and members of the Housing Committee. There is also a tenant representative on the Housing Committee. Members of the panels are consulted on all major issues facing the housing service – including introductory tenancies, changes to allocation policies and environmental improvements. Derby's tenant participation structure is presented below.

Environmental and security issues are important to tenants and the department alike. Over the last year, the department has begun a community watch patrol to monitor void properties and vulnerable areas on estates and we have established safer estate agreements with the police in recognition that closer working, relationships can help cut down crime. In addition, one of the main duties of the customer panels is to identify local priorities for improvements to the environment and security. A total budget of £365 000 was set aside in 1997/98 for customer panels' bids. Work carried out following panel bids include installation of security lighting and CCTV, refurbishment of vandalised communal drying areas, and re-landscaping to both enhance the local environment and reduce "hiding areas" and thus the fear of crime.

Figure 2: Derby City Council’s Tenant Participation Structure

