Land Acquisition in Delhi - The Legal Provision,
Procedures and Practices
The practice of public control on urban land in India basically started with the "Scheme of large scale acquisition, development and disposal of land" in Delhi, popularly known as the 'Delhi model'. This model is considered the harbinger of state controlled urban planning in India. The policy of en-masse land acquisition which subsequently rendered massive public control on urban land was supposed to (a), curb speculation and protect the economically weaker section of the society from being priced out of the land market and (b) facilitate regular supply of land to cater to the growing urban population.

The major legal tool behind the implementation of the 'Delhi model' has been the Land Acquisition (LA) Act of 1894 as amended till 1984. This act enabled the implementing authority to acquire land deemed necessary for 'public purpose' against a compensation payable for the compulsory nature of acquisition. In the urban sector, land thus acquired is developed for urban use and distributed to the beneficiaries identified by the authority.

One of the objective, of state intervention in land acquisition which was the basis of the Delhi model was to ensure "social justice" through equitable distribution of urban resources. However, there was no legal provision for such an outcome, within the framework of the L.A. Act. Therefore, it was considered necessary to have a legislation which could procure land from people having land above certain ceiling and redistribute it in favour of the poor or use it for other social purposes.
This resulted in the incubation of the Urban Land Ceiling and Regulation Act (ULCAR) in 1976. This act had an added emphasis of redistribution of urban resources through acquisition of vacant land beyond certain stipulated ceiling. Besides, the state now could play the role of the single privileged buyer in a monopsonistic land market. The ULCAR was applicable in all cities with population of more than 0.3 million. As stated in the body of the act, the ceiling on vacant land is 500 Sq.mts. for the four metropolis; 100 Sq.mts for Bangalore, Hyderabad, Ahmedabad, Kanpur, and Pune; 1500 Sq.mts for eight other cities with population between 0.5 and 1 million and 2000 Sq.mts for 35 smaller cities. The ULCAR applied not only to the limits of the city concerned but an agglomeration identified by 4 km. belt around the city. The ULCAR act was applied in Delhi but only with limited success. Land acquisition in Delhi has been done principally through the L.A. Act.

The discussion of the system of land acquisition in Delhi, in this chapter, would largely be focussed on the adaptation and implementation of the Land Acquisition Act, the successes and failures there in. The present chapter analyses the following:

(a) The step-wise procedure of land acquisition through the enactment of Land Acquisition Act (the relevance of the different sections of the act as issued in the acquisition process is also studied in detail).
(b) The amendments made in the act to streamline the process of acquisition.

(c) The method of determination of compensation for the acquisition.

(d) The empirical data on land acquired and the compensations awarded against acquisition.

(e) A critique on the limited success in land acquisition through the ULCAR act.

(f) The existing loopholes in the legal-administration framework responsible for delay in acquiring land and which makes the programme exhorbitantly expensive.

STEPS AND PROCEDURES OF LAND ACQUISITION IN DELHI AS PER THE PROVISIONS OF THE L.A. ACT.

The process of land acquisition by the application of the L.A. Act was supposed to be executed by the Delhi Administration. The Delhi Administration with its infrastructure and legislative experts was the competent authority to execute 'bulk acquisition' through the application of the Land Acquisition Act. In fact the process of acquisition consists of a joint venture of the DDA and the DA whereby the operation is initiated through the 'formulation of the scheme' in the planning wing of the DDA. Thereafter 'processing of the Case for acquisition of land' is done in the land wing of the DDA. In the third stage the matter in handed over to the land and building
department of the Delhi Administration. This office of L and BD finally forwards the case to the Land Acquisition collector of the concerned zone for the application of the L.A. Act. As a first step the LAC with the L and BD office prepares a Draft note for acquisition. This makes the LAC competent to notify the land required for development under section 4 of the Act. The issuance of article U/S 4¹ is accompanied by article U/S 6² (within 1 year). Thereafter the collector makes an award by article U/S 11³ of the act within a period of two years of the publication of declaration (i.e. article U/S 6). Finally by issuance of article U/S 16⁴ the LAC, by virtue of the award made U/S 11 of the act, can take possession of the land without any encumbrances.

For urgent acquisition, as mentioned, by application of article U/S 17⁵ the LAC has the special power of acquisition before the issuance of article U/S 11 i.e. the land is acquired before announcement of award. A pre requisite for the issuance of article U/S 17 is the issuance of article U/S 9⁶ (which in any case is issued under normal circumstances). In case of the issuance of U/S 17 the provisions of U/S 5-A⁷ becomes invalid. In other words if the government wishes to acquire land on emergency the purpose of such acquisition cannot be questioned.

Appeal against acquisition can be made at various stages and on various grounds. On issuance of article U/S 4 i.e., notification for acquisition, the interested person can make an appeal questioning the ‘purpose’ of such
acquisition within 30 days of issuance of article U/S 4. The pleader makes a written application to the collector who if necessary refers it to the appropriate government. The decision of the appropriate government on the objections becomes final. Reference to the court is also made by the issuance of article U/S 18 of the act. Here objections are related to (a) measurement of the land (b) the amount of compensation vide article U/S 11, (c) The persons to whom it is payable or (d) the apportionment of the compensation among the persons interested. The provision of U/S 18(2) b, fixes a time-frame for the appeal to be made only under the condition that articles U/S 12(1) and U/S 12(2) has been issued previously. In other words the non issuance of articles U/S 12(1) and U/S 12(2) allows the pleader to appeal at any time of his choice. Incidences of non-issuance of articles U/S 12(1) and U/S 12(2) and the complications arising thereon would be discussed at a latter stage.

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As is mentioned above, the land owner can makes an appeal claiming enhanced compensation in a written application to the collector. The collector forwards this application to the office of the Additional District Judge or ADJ. Both the land owner and the LAC whichever party is aggrieved can thereafter move to a higher court appealing against the decision of the ADJ. In case the ADJ gives a judgement in favour of enhanced compensation the LAC is vested with the obligation of calculating and finalising the enhancement amount. Alongwith his judgement, the ADJ issues a ‘notice of attachment’ asking the
LAC to remitt the compensation amount to the court within a time-frame. Hence the LAC have to remitt the sum of enhanced compensation to the court within a time-frame failing which the LAC have to pay a penalty. The LAC is also under strict instructions from the ministry of Law and Justice to release the money to the court against bank guarantees whereby compensation to the interested person can be paid only against specific bank guarantees. If the interested person is not satisfied with the judgement of the ADJ, a Regular First Appeal (RAF) can be made under section 54 of the act to the High Court seeking redressal. The interested person is thereafter allowed to make a second appeal to the Supreme Court when unsatisfied with the decision of the High Court.

Appeal against compensation amount can also be made by the provision of U/S 28(A). If the court allows an enhancement on the award made by the LAC; i.e., if a person has appealed to the court under the provisions of U/S 18 to the ADJ and received an enhancement then all other persons whose land was notified by the same notification (U/S 4) would now under the present circumstances be eligible to appeal for enhancement of compensation. This appeal can now be made despite the fact that the pleader had not made any appeal previously under U/S 18. The appeal U/S 28A is made to the collector within three months from the date of the award of the court on the basis of which this appeal is being made. It is perhaps worthwhile to mention here that
the provisions of U/S 11(3) states that "The determination of compensation for any land.... shall not in any way affect the determination of compensation in respect of other lands in the same locality or elsewhere in accordance with the other provisions of the act"; by similar logic enhancement of compensation for any plot/chunk of land should not in any way follow the re-determination of other land in the same locality... or elsewhere. Or conversely if the provisions of 28(A) are acceptable in spirit, the sub-section U/S 11(3) needs re-thinking.

While discussing the methods of determination of compensation for land acquisition, it may be noted later that land prices of the same locality and over the years is infact taken into consideration. From the contents of U/S 23 (1-A) and U/S 28 it can be inferred that while determining the interest for delayed payment the time during which the court might give an injunction or stay on acquisition proceedings will not be taken into consideration. But if consequent to an appeal made by article U/S 18 there is an enhancement, then the collector shall pay interest on the excess amount from the day of possession to the day of payment of the excess amount excluding the time spend on legal procedure to the court.

The payment of compensation is made by U/S 31 of the act. If there is no appeal against the compensation award made by article U/S 11 of the act then the collector makes the payment directly to the interested person. If the interested person makes an appeal to the court according to the provision of
article U/S 18 then the collector deposits the amount ascertained by him to the court.

AMENDMENT OF THE L.A. ACT AND THEIR IMPLICATIONS

The procedural delay associated with the implementation of Land Acquisition Act has been a matter of serious concern in Delhi as in case of other cities in India that follow the Delhi Model. The major stages of this delay has been (a) in issuance of U/S 6 i.e., declaration for acquisition, after the issuance of U/S 4 i.e., notification for acquisition, (b) the announcement of award under U/S 11 after the issuance of U/S 6 and (c) finally delay in payment of the award due to which interest accrues by Section 34 of the act. In view of this, several amendments have been made from time to time to reduce the time involved in land acquisition. In the present section an attempt has been made to study the latest amendments (1984) brought in the L.A. Act and access whether these made any impact in the land acquisition process.

The 1984 amendment was the first serious attempt on the part of the government to reduce the procedural delays in land acquisition. Before discussing the actual amendment it would be worthwhile to discuss the situation prevailing before 1984.
The Land Acquisition Act of 1894 amended by act 13 of 1967 however established that section 6 has to be issued within 3 years of section 4 or the preliminary notification will lapse. Thus, hereafter the major fallacy was contained in the delay made in announcement of award. Prior to 1967 for a delay of more than 3 years between issuance of notices under section 4&6 an interest @6% was paid on the market value from the day of notification U/S 4 till the day of announcement of award U/S 11, less three years.

After 1967, since time period between issuance of section 4&6 was fixed to 3 years and hence delays could be envisaged only in the announcement of award. It may be noted that ever since there has been no attempt to pay any interest on the time period incurred in delayed announcement of award even if it is of an abnormal proportion.

A third area of delay exists in the payment of the award (after taking possession of land), the norms of which are decided by the provision of section 34.10

In case of urgent acquisition by issuing section 17(i) along with sections 4&6 the LAC can take possession of the land before announcement of awards. Thereafter if announcement of award is delayed, before the amendment of the act an interest @6% per annum on the market value was included in the
compensation package by the provision of section 34. After the amendment of 1984, section 34 has been revised and it has been stated that if possession of land is taken before announcement of award then an interest @9% for the first year and @15% for the second year onwards becomes payable.

A bill with certain proposals highlighting the above mentioned issues was introduced in the Lok Sabha on 30th April 1982. But the bill was turned down in both houses of the parliament on the ground that the proposals were not adequate enough to streamline the Act for proper implementation.

Later on the bill was again brought in the Parliament in 1984 and passed with retrospective effect from 30th April 1982. The major issues which were incorporated or debated on are being discussed below:

One, the delay that generally occurs in the issuance of different sections of the act were taken into consideration. subsequently it was proposed again reacting to grievances that delay is generally made in announcing awards made under U/S 11, it was thus proposed that the award has to be made within a period of 2 years of the declaration made under U/S 6. Otherwise, the entire proceeding of the acquisition will stand null and void.
Two, reacting to the issue of fair compensation it was proposed that maintenance of records regarding the announcement of the collector's award should be given emphasis. Solatium paid for the nature of compulsory acquisition of land which was previously fixed at 15% of the market value was increased to 30%. Again a revision on the rate of interest paid on excess compensation subsequent to upholding of appeals made in the court both under normal circumstances as also in urgent cases, needs consideration.

Three, apart from revisions made in interest rates, a fair land price policy was proposed. This rate was to be fixed with respect to prevailing free market land rates.

Four, it was again assumed that persons making reference to the court under U/S 18 are actually those who have better access to judicial facilities and are generally better-off. People in the lower strata of the society often cannot make use of available facilities to uphold their grievances. So it has been proposed that if enhancement of compensation is made for any land, then all land covered under the same notification (U/S 4) will also be liable to get similar enhancements.

Five, the fact that a large number of cases were pending with the court also drew the attention of the authority. The long delays due to pending cases added to the hardship of the landowners. Hence it was proposed that for all
cases pending as on 30th April 1982 a simple interest of 10% would be paid on all compensations for the period between notification under U/S 4 and payment or deposit of compensation amount to the court.

The amendments that were actually made in the act in 1984 are highlighted below:

1) The Land Acquisition Act amended in 1984 as interpreted by the Delhi Administration indicates that the time period between Section 4 and Section 6 has been fixed to 1 year. Though there is no mention of this time ceiling in the body of the act, when read along with the provision of the limitation and validation act such inference can be made. 11

2) The time gap between Section 6 and Section 11 is fixed to 2 years (Section 11A). If Section 11 is not declared within 2 years of declaration of Section 6 then the notification under Section 4 stands null and void.

3) By the provision of Section 23(1-A) an interest @12% per annum becomes payable on the market value from the date of notification U/S 5 to the date of award US 11.

4) By the provision of Section 28A if an enhancement is made for an acquisition award, then for all other interested persons whose land has been notified under the same notification U/S 4 gets an opportunity to appeal U/S 18 on the basis of the above said enhancement.
5) In case of enhancement an interest @ of 9% for the first year and @15% for the following years is paid on the enhanced amount from the date of possession to the date of payment (article 28). Again for delayed payments prior to the amendment an interest @6% was paid on the market value from the date of possession to the date of payment. After the amendment the interest rate has been increased to 9% for the first year and 15% thereafter.

DETERMINATION OF COMPENSATION

Historically the origin of the L.A. Act of 1894 lies in the Act-X of 1870 which had the provision for acquisition of land for public purpose. As for payment of compensation for the compulsory nature of acquisition, the collector determined the amount under given guidance. The interested persons could make an appeal against such award to the court of the District Judge who was in turn helped by assessors who helped determination of compensation amount. The role of assessors was, however, defective. Apart from their not possessing the required level of competence, they were also considered corrupt. Hence while formulating the land acquisition act of 1894 it was agreed upon that the capability of the court will not suffer due to the absence of the assessors.

In case of Delhi, before the enactment of the Delhi Development Act, planning was done by using the Delhi Land Regulation Act. By the latter act,
land was acquired under the provisions of the Land Acquisition Act and the competent authority adopted a method for determination of compensation. Accordingly, for any land notified in a particular year, the highest and the lowest bid registered in the preceding five years was taken into account. The mean of this two values was taken as the compensation amount. This method was popularly known as the "panchgosala". After 1975 onwards the number of preceding years to be taken into account was reduced to three. However for the purpose of determining market value of acquired land, when sales transactions do not appear to be substantial basis for determination of land prices the LAC takes into account awards granted for adjoining land acquired. The basis on which market value of land would be determined is an absolute discretion of the LAC. There is a dormant policy of the government to adjudge the market value of land on the lower side in the office of the LAC. Corresponding to this the claimants do not furnish substantial evidence in support of their claim while the executive proceedings take place in the office of the LAC. Thereafter the claims are made more substantially in reference under section 18 of the L.A. Act in the court of the ADJ or the High Court where a judicial proceeding starts. In this case as indicated by the report of CAG enhancement of the amount declared in the office of LAC takes place. It may be noted here that the basis of determination of land prices changes in the higher courts where legislative logic is applied to consider the case of the petitioner. This method was in practice till recently when the fair price policy (Rs.4.65 lakhs/acre since
1990) was declared by the government. Obviously such an ill-framed methodology provided ample scope for large number of litigations to be filed in the court. A CAG report (1984) on the issue states that almost everybody whose land has been acquired goes to the court demanding enhanced compensation.

Responding to severe criticism denouncing the compensation policy the govt. introduced the fair price of Rs. 4.65 lakhs per acre with effect from April 1990. The fair land price policy is reportedly a gross underestimation considering the fact that in free market land value soared to more than Rs 1 crore per acre. Thus the ad-hocism in determining land values for compensation awards remains. This fosters more litigation demanding enhanced compensation.

Components of Compensation Amount as per the Amendment of LA Act in 1984

The land acquisition collector after determining the market value declares the "summary of compensation" which includes solatium and interest components. In order to access the different components in the summary of compensation a sample of 13 statement of award made by the LAC were taken up for a detail analysis. Of these five awards were made before the amendments of 1984 while the other eight were made after the amendment. The purpose of this exercise is to ascertain as to how the components of
summary of compensation has changed over time. It was observed that before the amendment of 1984, the summary of compensation consisted of:

i) Market value of the land for the total area acquired at the rate fixed by the LAC.

ii) Solatium at 15% of market value.

iii) An interest payment @6% for the period from the date of issue of Section 4 to the date of award less 3 years. This interest payment was made under Section 4(3).

iv) There were also frequent instances of interest payment under Section 34, @6% on the market value, from the date of possession to the date of award.

The components and their importance in the award of compensation has changed significantly after the amendment. The solatium amount was increased from 15% to 30%. The second important change was that interest payment U/S 4(3) was abolished. Instead, under the provision of Section 23(1-A) an interest of @12% was paid due to the compulsory nature of acquisition. Incidentally awards made after the amendment (1984) no longer contained any interest payment U/S 34.

In case of emergency if possession of the land is taken before announcement of award then by the provision of Section 34, an interest @9%
for the first year and @15% for the second year onwards is added to the summary of compensation. It may be noted that acquisition under emergency provision was done even before 1984. However the interest payment was kept at 6% only as has been mentioned above.

From the above discussion it appears that through the amendment of 1984 the government has adopted measures to compensate the land owners for the compulsory nature of acquisition through the requirement of increased rate of solatium and higher interest payments. Unfortunately all this have not reduced the grievances of the landowners. This is because the method of determining the market value of land has not been altered through this amendment. The increased value of compensation due to incremental solatium/interest payments would be a small fraction of the values of the land which prevails in the free market. As a result, the number of litigations has remained very high.

TEMPORAL ANALYSIS OF LAND ACQUIRED BY THE DELHI ADMINISTRATION FOR THE DELHI DEVELOPMENT AUTHORITY

In this section data relating to land acquired and placed at the disposal of DDA is being analysed. As has been mentioned earlier, the process of land acquisition involves various legal-administrative stages following which land is acquired and vested with the public authority. As mentioned above land
Table: 3

Land notified under Land Acquisition Act till 1965

<table>
<thead>
<tr>
<th>Date</th>
<th>Land Notified (Acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.9.57</td>
<td>3094</td>
</tr>
<tr>
<td>13.11.59</td>
<td>30967</td>
</tr>
<tr>
<td>10.11.60</td>
<td>1808</td>
</tr>
<tr>
<td>24.10.61</td>
<td>16000</td>
</tr>
<tr>
<td>25.1.65</td>
<td>8000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>59878</strong></td>
</tr>
</tbody>
</table>

Source: Howland Marie (1975)
### Table 4

**Performance of "Large scale acquisition and development and disbursement" (Till 1.4.75)**

<table>
<thead>
<tr>
<th>Description</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total urbanisable area of Delhi</td>
<td>110,487</td>
</tr>
<tr>
<td>Developed land 58-59 (Master Plan)</td>
<td>33,053</td>
</tr>
<tr>
<td>Land notified under sec 4</td>
<td>72,614</td>
</tr>
<tr>
<td>Land notified under sec 6</td>
<td>59,878</td>
</tr>
<tr>
<td>Land taken possession by D.A.</td>
<td>36,000</td>
</tr>
<tr>
<td>Land handed over to D.D.A.</td>
<td>25,182</td>
</tr>
<tr>
<td>Cannot be taken possession due to encroachment</td>
<td>3,968</td>
</tr>
</tbody>
</table>

*Source: Howland Marie (1975)*
required for public purpose is notified under section 4 and subsequently under section 6 of the L.A. Act. Thereafter, for the announcement of award under section 11, there was no time limit in the provision of L.A. Act before the amendments of 1984. However, as per the stipulations in the Amendment the administrative procedure for announcement of the award is to be completed within a period of 3 years.

Volume of land that was notified for the purpose of bulk acquisition by section 4&6 by the Delhi Administration as per master plan directives is given in table34\textsuperscript{12}.

Apart from this, land required for specific purpose was notified from time to time. The statement given above indicates notification for bulk acquisition only.

It may be noted that until 1964-65, i.e. the year major notification notices ended, only 5367.63 acres of land could be acquired. This was only 8.96% percent of the total land notified until then. Again, till 1974-75, 26542.95 acres or 44.32% of total land notified till 1965 was acquired and handed over to the DDA. Within this 10 years period 21,175.32 acres of land could be acquired, though irregularly over time (CV-1.08). During the years 1969-70 and 70-71 no land was handed over to the DDA while in the years
Table: Yearwise break-up of land acquired and placed at the disposal of the DDA under section 22(i) of D.D. Act 1957 by the Delhi Administration from April 1961 to March 1993

<table>
<thead>
<tr>
<th>Sr.No.</th>
<th>Year</th>
<th>Area in Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>1961-62</td>
<td>258.45</td>
</tr>
<tr>
<td>2.</td>
<td>1962-63</td>
<td>1748.44</td>
</tr>
<tr>
<td>3.</td>
<td>1963-64</td>
<td>1619.84</td>
</tr>
<tr>
<td>4.</td>
<td>1964-65</td>
<td>1740.90</td>
</tr>
<tr>
<td>5.</td>
<td>1965-66</td>
<td>2406.72</td>
</tr>
<tr>
<td>6.</td>
<td>1966-67</td>
<td>33.44</td>
</tr>
<tr>
<td>7.</td>
<td>1967-68</td>
<td>6847.41</td>
</tr>
<tr>
<td>8.</td>
<td>1968-69</td>
<td>349.83</td>
</tr>
<tr>
<td>9.</td>
<td>1969-70</td>
<td>--</td>
</tr>
<tr>
<td>10.</td>
<td>1970-71</td>
<td>--</td>
</tr>
<tr>
<td>11.</td>
<td>1971-72</td>
<td>3040.66</td>
</tr>
<tr>
<td>12.</td>
<td>1972-73</td>
<td>4574.12</td>
</tr>
<tr>
<td>13.</td>
<td>1973-74</td>
<td>3802.15</td>
</tr>
<tr>
<td>14.</td>
<td>1974-75</td>
<td>120.99</td>
</tr>
<tr>
<td>15.</td>
<td>1975-76</td>
<td>1142.99</td>
</tr>
<tr>
<td>16.</td>
<td>1976-77</td>
<td>465.71</td>
</tr>
<tr>
<td>17.</td>
<td>1977-78</td>
<td>1459.32</td>
</tr>
<tr>
<td>18.</td>
<td>1978-79</td>
<td>2220.90</td>
</tr>
<tr>
<td>19.</td>
<td>1979-80</td>
<td>94.12</td>
</tr>
<tr>
<td>20.</td>
<td>1980-81</td>
<td>8455.91</td>
</tr>
<tr>
<td>21.</td>
<td>1981-82</td>
<td>4578.35</td>
</tr>
<tr>
<td>22.</td>
<td>1982-83</td>
<td>1250.00</td>
</tr>
<tr>
<td>23.</td>
<td>1983-84</td>
<td>1531.87</td>
</tr>
<tr>
<td>24.</td>
<td>1984-85</td>
<td>636.59</td>
</tr>
<tr>
<td>25.</td>
<td>1985-86</td>
<td>1161.05</td>
</tr>
<tr>
<td>26.</td>
<td>1986-87</td>
<td>7342.07</td>
</tr>
<tr>
<td>27.</td>
<td>1987-88</td>
<td>73.75</td>
</tr>
<tr>
<td>28.</td>
<td>1988-89</td>
<td>104.88</td>
</tr>
<tr>
<td>29.</td>
<td>1989-90</td>
<td>17.92</td>
</tr>
<tr>
<td>30.</td>
<td>1990-91-92</td>
<td>945.26 including possession taken</td>
</tr>
<tr>
<td>31.</td>
<td>1992-93</td>
<td>1468.68 over from L &amp; B Deptt</td>
</tr>
</tbody>
</table>

Total 59492.32 Acres

Source: DDA Land Department
Table 6  
Land Acquisition Performance (1961-62 to 92-93)  
by Delhi Administration  

<table>
<thead>
<tr>
<th>Year</th>
<th>61-62</th>
<th>64-65</th>
<th>65-66</th>
<th>74-75</th>
<th>75-76</th>
<th>83-84</th>
<th>84-85</th>
<th>92-93</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total land acquired</td>
<td>5367.63</td>
<td>21175.32</td>
<td>18417.3</td>
<td>11768.2</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Coeff. of variation</td>
<td>0.47</td>
<td>1.08</td>
<td>1.05</td>
<td>1.55</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
1966-67 (33.44 acres), 1968-69 (349.83 acres) and 1974-75 (120.99 acres) small amounts of land were transferred to DDA. A study by Marie Howland (1976) on land acquisition indicates that during the period from 1961 to 1975, 72614 acres of land was notified under section 4 of which 59878 acres of land was notified under both section 4&6. Delhi Administration has taken possession of 36,000 acres of land of which 25182 acres was handed over to the DDA. It also indicated that 3968 acres of land could not be acquired due to encroachments. Land acquisition data for the present study as presented in the table 5 indicates that 26542.95 acres of land has been handed over to the DDA during the same period. The difference i.e. 1360.95 acres of land can be accounted for by some urgent acquisition that might have taken place during this period.

The year '84 saw major amendments in the Land Acquisition Act to streamline the process of acquisition. The amendments made in 1984 were put to action with retrospective effect from 1982. A study of acquisition process till this period shows similar trends as observed previously. Till 1983-84 - 47,742.12 acres of land or 79.7% of land notified till 1965 was acquired. Between 1975-76 and 83-84, 21,199.17 acres of land was acquired and brought under the disposal of DDA though equally irregular as the previous period of 65-66 to 74.75 (CV - 1.05). Interestingly after 1983-84, land brought under public control has been quite low compared to the previous periods. During this
### Table 7

**Land placed at the disposal of D.D.A. under section 22(i) of D.D. Act, 1957 upto 31.7.93**

<table>
<thead>
<tr>
<th>Description</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Last balance upto 30.6.93</td>
<td>59510.32</td>
</tr>
<tr>
<td>During the month of July 93</td>
<td>Nil</td>
</tr>
<tr>
<td>Total</td>
<td>59510.32</td>
</tr>
</tbody>
</table>

1. Residential scheme                        | 26494.90  |
2. Industrial scheme                         | 2790.82   |
3. Horticulture Deptt.                       | 8289.66   |
4. Govt. Semi Govt. and other Departments    | 10048.70  |
5. Slum and J.J. scheme                      | 5876.01   |
6. Co.-op. Society (C.H.B.S.)                | 5806.15   |
7. Balance                                   | 204.89    |

Total                                      | 59510.32  |

Source: D.D.A. Land Department
period a total volume of 11768.2 acres of land has been acquired. The yearly volume of acquired land handed over to the DDA has also been extremely unequal. It may be assumed that the administrative delays corresponding to the streamlining of the L.A. Act resulted into lapsing of notifications in some cases. Since the break up of land acquired under bulk acquisition notifications and urgent cases is not known it is not possible to infer in how many cases notifications have lapsed under the bulk acquisition scheme, or land can no longer be acquired due to encroachment.

As has been mentioned earlier, the difference in the total volume of land acquired shown in the table and total volume of land notified under section 4&6 accounts for urgent acquisition. However the fact that 59510 acres (approx.) of land has been acquired so far out of 72614 acres of land notified under section 4 till 1975 (further notifications have taken place in subsequent years till 1982) shows that land acquisition performance is far behind expectations raised in the master plan policies. Presently bulk acquisitions are taking place only in Rohini, Dwarka, Narela and Dhirpur. In other areas minor acquisition notifications are served for non-plan purposes.

Analysis of Data Relating to Compensation for Compulsory Acquisition

The table depicts the total compensation paid against total land acquired in acres, the market value of that volume of land and the total number of
## Table 8

### Awards of Land Acquisition in Delhi under planned and non-planned schemes from 1982-83 to 1988-89

<table>
<thead>
<tr>
<th>Year</th>
<th>Area (Bhigas)</th>
<th>Area (Acres)</th>
<th>Market value</th>
<th>Total compensation</th>
<th>Percentage of extra payment to total compensation</th>
<th>No. of awards</th>
</tr>
</thead>
<tbody>
<tr>
<td>1982-83</td>
<td>11764.19</td>
<td>2450-0567</td>
<td>37321788.05</td>
<td>80502051.41</td>
<td>53</td>
<td>93</td>
</tr>
<tr>
<td>1983-84</td>
<td>12936.98</td>
<td>2964-3001</td>
<td>77923273.25</td>
<td>105429302.33</td>
<td>26</td>
<td>120</td>
</tr>
<tr>
<td>1984-85</td>
<td>3987.00</td>
<td>830-3475</td>
<td>49209372.43</td>
<td>67838941.97</td>
<td>27</td>
<td>38</td>
</tr>
<tr>
<td>1985-86</td>
<td>17777.57</td>
<td>3702-4308</td>
<td>256803719.05</td>
<td>321767983.41</td>
<td>20</td>
<td>139</td>
</tr>
<tr>
<td>1986-87</td>
<td>38814.69</td>
<td>8083-7057</td>
<td>471214604.75</td>
<td>912905523.28</td>
<td>48.38</td>
<td>321</td>
</tr>
<tr>
<td>1987-88</td>
<td>43575.98</td>
<td>9075-3202</td>
<td>565379165.80</td>
<td>1021454373.85</td>
<td>44.6</td>
<td>41</td>
</tr>
<tr>
<td>1988-89</td>
<td>954.54</td>
<td>198-7951</td>
<td>16263723.00</td>
<td>23221780.80</td>
<td>29.96</td>
<td>21</td>
</tr>
</tbody>
</table>

Source: Delhi Administration - Land and Building Department
awards ensuing out of the volume of land acquired for each year. The compensation amounts consists of interest payments as well as payment for damages and are however based on the market values on the date in which the land acquired was notified. The act as amended in 1984 indicates that the process of land acquisition would take a maximum of 3 years (1 year between issuance of article 4 & 6 and 2 years between issuance of article 6 & 11). After payment of solatium and interests for the maximum period on market value, the market-value works out to be approximately 60% of the total compensation.

Hence whenever an amount of more than 39.7% of the market value is being paid, public policies to conduct land acquisition smoothly is being flouted. If the process of land acquisition is completed within a period of 1 year then normally an amount 29.6% on the market value becomes payable. Hence the data on total compensation paid per acre compared with the data on market value of land/acre as it existed 3 years back may reveal the degree of extra-expenditure that has been incurred. It may however be noted that land acquisition data for different areas in Delhi has been compiled in the table, and hence it has been assumed that price of land earmarked for acquisition is more or less the same.
When data of compensation award for particular year is compared with 3 year's previous value, it is found that an extra amount of 50% to 80% approximately has been incurred on the market value. This is obviously on the exhorbitant side when compared with the standard 39.7% which is paid under normal circumstances.

When the compensation awards for any year are compared with the market value for the same year an average extra payment of 41.8% has been recorded. For three years i.e. 1982-83, 1986-87, and 1987-88, the compensation award has been particularly exhorbitant. It may be assumed that for these years cases pending for a long period of time are cleared. This data compiled by the CAG has however made the observation that an extra expenditure of Rs.105.9 crore on the market value has been incurred and the above analysis has been conducted on this backdrop. This value has accounted for interests on various grounds due to bureaucratic and administrative delays made by the administration. However it may be noted from the above discussion that basis for determination of market value of land changes in the higher courts. Hence the basic fallacy lies in the system whereby it becomes a routine affair to appeal against the decision of the LAC to the higher costs where enhancement is somewhat speculated.
ULCRA AS IMPLEMENTED IN DELHI

The formulation of the ULCRA was considered a significant step towards imposing public control on urban land, for the purpose of affecting redistribution of urban resources at the national land. Progressive components were contained in (a) removing skewness of land holding and (b) compensating the land owner against acquisition. By the provision of the act, holding land, defined as 'vacant' by the public authority or transaction of such land was declared illegal. The nature of compensating was also innovative. By the provision of article a 'token' payment was to be made which included a cash compensation of 25% of the total compensation subject to a ceiling of Rs.25000. The rest of the compensation amount was adjusted as negotiable bonds carrying an annual interest of 5% redeemable after 20 years.

For determining land rates for compensation, land value for the excess land is fixed at 8.3 times the net average annual income from the land during the preceding 5 consequetive years. In case no income was derived from the land during that period price of land in the past 20 years is taken into account. The state government had in practice divided the urban agglomerations into various zones and fixed land prices for each. Land price was however not to exceed Rs.10/- per Sq.mt. for categories A&B and Rs. 5 per Sq.mt. for categories C&D cities.

1. Number of persons who have filed statement of vacant land held by them in excess of ceiling: 8290

2. Extent of vacant land in excess of the ceiling as intimated in the statements filed by the landlords: It is noticed that in all statements the holders have claimed that they do not hold any excess vacant land and there is hardly any statement in which excess vacant land has been declared voluntarily. They have claimed that the land is either agricultural, unfit for construction or covered under the municipal bye-laws. However, the excess of vacant land located while issuing final statement as on 28.2.92 is 15,75,763.78 sq. mts.

3. Extent of land acquired and vested with the state Govt. Several notifications have been issued under sec 10 of the Act. However, the parties have obtained stay of further proceedings in all cases. Hence the area acquired is nil.

4. Number of applications disposed off under sec 20: 3,135

5. Extent of vacant land exempted: 8,60,067.49 sq. mts

Source: Bhangara Gopal: Socio-Economic and Legal Implications of Urban Land Ceiling and Regulation.
It may be noted that the legislative logic behind land price fixation is strictly formulated in the Act, and hence no grievances regarding compensation amount can be entertained unlike the L.A. Act. The short coming is however contained in (a) identifying urban land as vacant as per definition contained in the act and (b) exemptions allowed under section 19-22. In the first case a stay on acquisition can be obtained from the court.

Land acquisition by ULCRA, in case of Delhi was extremely limited. This is because of various legal hurdles and procedural difficulties as noted below.

Much of the land identified as vacant were located in the fringe areas. As a result land, when notified did not fit in the definition of 'urban vacant land' as embodied in the act. Owners of such land therefore could easily get stay from the court against acquisition of their land. Moreover much of the land in the urban periphery intended to be covered under the preview of ULCRA, were either freezed by notification U/S 4 of LA act or earmarked as 'Development Area' U/S 12 of the DD Act. As a result these land could not be covered by the provision of Section 2 of the Act.

Again under section 20 of the act the landowner could, without much difficulty, satisfy the competent authority that the vacant land is to be used for
a charitable purpose or the acquisition of the vacant land would cause undue hardship to the owner. Under the Act such land are exempted from acquisition. Thus, out of the 15 lakhs Sq.mts. (approx.) of vacant land identified by Delhi Administration, 8 lakhs Sq.mts has received stay from the court and the remaining land were been exempted under section 20.\(^{13}\)

It may be concluded that in Delhi the prior functioning of the 'Scheme of Large Scale Acquisition' had not only obstructed the implementation of the ULCAR but has complicated the scenario through juxtaposition of two sets of legal framework supposedly achieving the same goal. The landholders have taken full advantage of the situation using one act against the other and in the process escaped from both.

**CRITICISM OF THE 'DELHI MODEL' OF URBAN PLANNING - THE LEGAL ASPECT**

According to the Delhi Master Plan, the acquisition was to be carried out in three stages aggregating a total of 60,000 acres of land. In the first stage of planned development for Delhi, according to the Master Plan, area as given below was notified under section 4 of the LA act; 30,000 acres in 1957, 16,000 acres in 1959 and 34,000 acres in 1961. The reason behind notifying the huge chunk of land (53,000 acres) was to stop the private builders from operating in land market for speculative purposes. However, acquisition of land under
it was limited as has been noted above. The factors responsible for it may be identified as follows:

*One,* the specification of plots which were to be notified were not given in sufficient detail in the master plan. Khasra number, field number etc. were not properly mentioned in the master plan. This led to difficulties in notifying land with precision leading to legal complications.

*Two,* there was not enough fund to finance the huge chunk of land earmarked for development. Thus though notification under section 4 was issued, in a hurry, further proceeding regarding acquisition was stalled. As a result issuance of Section 6 and consequently announcement of award was unduely delayed.

Hence there evolved a category of land in Delhi which was notified U/S 4 for acquisition for public use, but due to non-issuance of declaration of notification under Section 6 was not vested with the government. These land were thus neither public non private and became breeding ground for unauthorised settlements. There were also a number of instances of benami transactions of these land.

The shortcoming in the planning procedure again accrued to legal
loopholes to make the land acquisition process extremely time-consuming. The major junctures in the legal process which are responsible for procedural delay are, (a) the time taken between the issuance of articles U/S 4 (i) and U/S 6 and (b) the time taken to announce the award after the issuance of article U/S 6(i).

However by the amendment of 1984 the first two loopholes were taken care of; the time limit between the issuance of sec 4(i) and sec6 (i) was fixed to one year and it was stated that the LAC should make the award under the act within a period of 2 years of issuance of U/S 6(i). In the second case a delay of more than 2 years would makes the acquisition proceeding null and void.

One would therefore argue that the lack of specific detail in the master plan and absence of adequate resources for land acquisition were responsible for the limited success of the Delhi model.

Apart from this there are certain legal-administrative shortcomings which creates irrevocable deadlocks. They are being listed below:

(a) The LAC after announcing the awards is required to issue notice U/S 12 (2) intimating the date on which the award has been announced. As per provision contained in U/S 18(2), the interested persons can file references against the award within a prescribed period of 6 months from the issuance of notice U/S 12(2). It was observed that notices under section 12(2) were not issued by the department in many cases. As a result interested persons were free to file references U/S 18(2) at any
time. In one such case pertaining to village under Karkardooma the land acquired and handed over to DDA in 1965. An award of Rs.0.58 lakh (excluding interest) was announced in March 1965 but notice under U/S 12(2) was not issued. The interested persons filed reference under U/S 18 for enhancement of compensation after a lapse of about 19 years in Jan. '85. The reference was referred to the court of the Additional District judge in Oct. 1986. The judgement of Nov. 1986 enhanced the compensation to Rs.6000/bigha against Rs.400 to 1100 per bigha in March '65. Consequently a sum of Rs.43.24 lakhs including interest upto Feb '87 and solatium under the amended Act '84 was remitted to the court in March 1989 for payment to the interested persons. Thus, in this case, the lapse on the part of the department in not issuing notices U/S 12(2) resulted in avoidable expenditure of Rs.43.24 lakhs.

(b) According to U/S 18 of the act the interested person, by written application to the collector may ask his grievances concerning (i) compensation amount, (ii) the person to whom it is payable, (iii) the apportionment of the compensation among the interested or (iv) measurement of land, be forwarded to the court. This process of forwarding application from the office of the LAC to the ADJ often is extremely time consuming. A test check of the concerned operation made by the CAG in 1989 revealed that 19 applications received during 1982-83 to 1986-87 was delayed by 11 to 40 months from the date of
receipt by the LACs. In 9 cases where judgements on the applications were announced by the court during 83-84 to 87-88 the LACs had to pay enhanced compensation, solution and interest amounting to Rs.67.17 lakhs including interest of Rs 5.82 lakhs. The decision of the court in the remaining 10 cases had not been received so far. Apart from this there are 4025 applications received by the LACs under U/S 18 of the act between '78-'79 to '88-'89. They have not yet been referred to the ADJ. Once they are referred interest for the time period for which delay is being made have to be paid.

(c) When the interested persons appeals against the award announced by the LAC to the ADJ, the later on scrutiny, if and when admissible announces an enhancement. The total amount is then remitted to the office of the ADJ to be finally paid to the interested persons. There has been an instruction from the ministry of law and justice that compensation amount is to be paid to the interested persons against a bank guarantee in each case. A scrutiny of the operation has however revealed that in 93 cases of acquisition of land under plan schemes, the LACs released Rs.440.95 lakhs during 1985-86 to the ADJ for payment of enhanced compensation with the assurance that the payment would be made to the interested persons against a bank guarantee. But the ADJ actually made those payments without a bank guarantee. The scrutiny made by the CAG further revealed that during 1988-89 a sum
of Rs.1861-62 lakhs was released for 508 cases as enhanced compensation without bank guarantee. If any money becomes due to the Government on the finalisation of appeal cases the department would not be in position to ensure refund from the interested persons. Infact in certain cases appeal against the judgement of ADJ in a higher court could not be made because the ADJ had earlier paid compensation without bank guarantee. This is a major discrepancy in the legislative functioning of the authority.

(d) Pertaining to the provision of U/S 18 the interested persons can make an application to the LAC for redetermination of compensation amount. This application is forwarded to the ADJ for reconsideration. In case there is an enhancement the LAC have to workout the amount payable to the interested persons and make payment of enhanced amount of compensation alongwith interest as ordered by the court. In case the payment is not made within the prescribed time limit, the amount of award is attached by the court after giving a notice. The notice of attachment contains a deadline before which the payment is to be made failing which the department have to incur extra expenditure in terms of payment of interest for delayed payment. Again there is a provision that the LAC may appeal to a higher court against the decision of the ADJ when the ADJ have given an enhancement. If the logic of determination of land price by the LAC in turned down by a higher
the date of the Collector's award;
(b) in other cases, within six weeks of the receipt of the notice from the
Collector under Section 12, sub-section (2), or within six months from
the date of the Collector's award, whichever period shall first expire. (LA
Act 1894).

9. Section 12. Award of Collector when to be final - (2) The Collector shall
give immediate notice of his award to such of the persons interested as
are not present personally or by their representatives when the award
is made. (LA Act 1894).

10. Section 34. Payment of interest - When the amount of such compensation
is not paid or deposited on or before taking possession of the land, the
Collector shall pay the amount awarded with interest thereon at the
rate of [nine per centum] per annum from the time of so taking
possession until it shall have been so paid or deposited:
[Provided that if such compensation or any part thereof is not paid or
deposited within a period of one year from the date on which possession
is taken, interest at the rate of fifteen per centum per annum shall be
payable from the date of expiry of the said period of one year on the
amount of compensation or part thereof which has not been paid or
deposited before the date of such expiry]. (LA Act 1894).

Singh vs Govt. of UP AIR 1964 Allahabad Pg. 42.

12. Howland Marie: Delhi's Large Scale Land Acquisition, Development and
Disposal Policy: An Appraisal, Urban and Rural Planning Thought,

13. Bhargava Gopal: Socio Economic and Legal Implications of Urban and
Ceiling and Regulation.


15. CAG Report: The Issue of Compensation on Land Acquisition based on
Audit Files of Land and Building Department, Delhi Administration
(1982-89).