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Public-Private Partnerships in Urban Regeneration Areas in Denmark

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Key words: Public-private partnerships, PPP, urban renewal, urban regeneration, spatial planning, planning implementation, implementation tools, harbour re-development, neighbour interest, subsidy, co-financing, good governance, the rule of law, renewing Danish planning, The Foundation Realdania.

SUMMARY

The paper focuses formal as well as informal public-private partnerships (PPP) in Danish urban regeneration areas.

The concept 'urban regeneration areas' was introduced in the 2003 Planning Act as old, remaining industrial areas within the city boundaries by now were recognized as an resource for re-development. In 2001 it was estimated that 2.700 hectares – equivalent to 6-8% - of Denmark's total industrial and commercial built-up areas were mature to be re-developed. However, despite this considerable re-development potential there has been a reluctant attitude to start re-developments. The structure of landownership is usually complex in the urban regeneration areas which are often a mix of ongoing and closed down industries etc. This makes it a challenge to start a re-development before all the industries in the area have closed down - at least if the intention is to convert the area into housing while neighbouring noisy industries go on.

Beyond this, from a municipal point of view there are several public interests to manage when old, remaining industrial areas face re-development. The motive of the municipal council can either be *regulative* (safeguarding certain financial or other public/neighbour interests, e.g. exceeding what is directly permitted by written law) or *supporting* (encourage developers to re-develop an area, e.g. by subsidies).

The purpose of the paper is to describe the range of possible partnerships between public and private partners, and to investigate their legal background as well as their efficiency regarding start and implementation of re-development.

The analysis will be based on traditional legal method and a description of a single illustrative case-example from the Copenhagen region.

Public-Private Partnerships in Urban Regeneration Areas in Denmark

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1. URBAN REGENERATION AND THE NEED FOR PPP

An amendment of the Danish Planning Act in 2003¹ made it possible for municipalities to point out old industrial areas as so-called ‘urban regeneration areas’ for future re-



1: Re-development of a harbour area (source: Danish Ministry of The Environment)

development. The only precondition to point out an urban regeneration area in the municipal planning is that the industrial activity in the area is to be phased out within c. 8 years. During these 8 years the situation in the area – e.g. commercial harbour area – will typically be that some of the enterprises already have closed down, while others still have ongoing production.

The amendment from 2003 does only add one new (implementation)tools to the tool box. A time-limit of 8 years to reduce noisy activity has been introduced to allow housing and other ‘noise sensitive’ land use next to industrial enterprises. In other word, since 2003 it has been possible to exempt from the standard dB-noise limits within the first c. 8 years, and thus easier to start re-development before all enterprises are wound up and closed down.²

But the Planning Act does still not solve the other basic implementation problems.

- *How to support and encourage re-development, e.g. by direct or indirect subsidies?*

The usually complex structure of landownership in the urban regeneration areas are often a mix of ongoing and closed down industries etc. This makes it still a challenge to start up the re-development process, because some of the landowners are usually not interested in the area to be re-developed at all. How do municipality and developer – both highly interested in

the area to be redeveloped - then motivate such landowners to move out of the area? Can they form a kind of PPP and buy out a landowner of the area, eventually by paying a higher price than market price? Are municipalities allowed to participate in such arrangements?

- *How to regulate and safeguard certain financial or other public/neighbour interests, e.g. exceeding what is directly permitted by written law?*

From a municipal point of view there are several public interests to manage when old, remaining industrial areas face re-development. The motive of the municipal council can be to safeguard certain financial interests, e.g. secure private co-financing of technical and social infrastructure necessary after re-development from industry to housing (silencers towards neighbouring industries, schools, kindergartens, etc.). Or the motive can be to secure other public interests, e.g. secure public paths, places or even seaside resorts at the waterfront, eventually paid by private developers.

These questions are very much discussed in Danish planning practice at the moment. In itself this is a clear indication of the need for at sort of PPP. However, neither the Planning Act nor other written legislation give direct answers. Many municipalities have therefore started to examine the limit between the allowable and the unlawful. And they have felt encouraged to do so in the light of Act no. 384/1992³ that allows municipalities to participate in private companies selling products and services based on municipal knowledge. This searching practice gives another presumption that there is a need for PPP or similar.

The following sections aim to approach a clarification of the circumstances under which a Danish municipality can enter into a PPP; and to what extent a municipality itself - or when it participates in a PPP - can regulate conditions that exceed the legislation, support implementation (financially), insist on private co-financing of public (technical and social) infrastructure.

Parts of the discussions, analyses and conclusions in this paper will be derived from the report "*Planlovens muligheder for aktiv regulering – og samspillet med partnerskaber og byudviklingsselskaber (The Potential for Active Regulation in the Planning Act – and the interplay with PPP)*" (Jørgensen, Klint & Sørensen 2006). This report was one of the significant contributions to the project "*Fornyelse af planlægningen (Renewing Danish Planning)*" supported by the Danish Forest and Nature Agency, Ministry of the Environment and The Foundation Realdania.

2. THE CURRENT WRITTEN DANISH LEGISLATION DOES NOT ALLOW PPP IN URBAN PLANNING

Apart from Act no. 384/1992 the written Danish legislation gives no answer under which circumstances PPP can be used in relation to urban re-development⁴. Thus, there is much room for improvement compared to many other countries' legislation.

However, other implementation tools can be – and are – used in practice to start up, regulate and implement urban re-development (see section 2.2).

2.1 Act no. 384

Act no. 384/1992 allows municipalities to participate in private companies selling products and services based on municipal knowledge. According to recent subordinate legislation from The National Agency for Enterprise and Construction (NAEC) it is assumed that the act also allows formation of so-called re-development companies registered as a limited company owned by municipalities jointly with private development companies.

As a principal rule municipalities may not own the majority of the shares, and the invested share capital of a municipality is limited to 10 million DKK⁵. However, the share capital limit has almost as a matter of routine been exempted up till 50 million DKK. The two restrictions shall be seen in the light of the wide range of legal doctrines of the so-called ‘municipal authority’ (see section 2.2.4) that among others seeks to prevent the public sector to inflict the private sector on inequitable competition, and to avoid or prevent potential waste of the taxpayers money.

But in itself Act no. 384/1992 did only add little news to the state of the law. At best it can be considered as an interim act allowing co-operation between public authorities and the private sector – despite it does not mention PPP explicitly.

Whatever a PPP is formed on legal basis on Act no. 384/1992 or not, the PPP is in any circumstances fundamentally subordinate to the – very complex and user-unfriendly – unwritten legal doctrines of the ‘municipal authority’ developed through administrative practice and case law (see section 2.2.4).

Probably therefore, Act no. 384/1992 has not yet been used as legal basis for forming PPPs.

2.2 The other Implementation Tools

To start, regulate and implement re-development municipalities have instead used the old traditional implementation tools, including the ‘municipality authority’.

2.2.1 Local Planning

Binding local plans are unavoidable when urban regeneration areas are to be re-developed. Pursuant to the Planning Act (cf. paragraph 13,2) “*A local plan shall be produced before large areas are parcelled out and before major development projects, including demolition, are carried out, and also when it is necessary to ensure the implementation of the municipal plan*” (Ministry of the Environment 2002. p. 16).

In a binding local plan the municipality can regulate a wide range of land use factors in details (cf. paragraph 15,2).

When it comes to implementation the local plan tool is less appropriate. However, paragraph 15,2 no. 11-13 and 18 provide the municipalities a few tools for implementation. For example no. 11 gives municipalities the right to demand construction of common facilities (e.g. recreational areas, etc. – and perhaps even kindergartens) in the local plan area as a precondition for a landowner to get permission to utilize a new building or construction (commissioning certificate)⁶.

Similarly can establishing of noise shields and insulation against noise be demanded prior to permission to utilize new houses and offices.

Danish Planning Act, paragraph 15,2

A local plan may contain provisions on:

- 1) transferring areas covered by the plan to an urban zone or a summer cottage area;
- 2) the use of the area, including reserving specific areas for public use;
- 3) the size and extent of properties;
- 4) roads and paths and other matters related to traffic, including the rights of access to traffic areas and with the intent of separating different kinds of traffic;
- 5) the location of tracks, pipes and transmission lines, including electric power lines;
- 6) the location of buildings on lots, including the ground level at which a building shall be constructed;
- 7) the extent and design of buildings, including provisions that regulate the density of residential housing;
- 8) the use of individual buildings;
- 9) the design, use and maintenance of undeveloped areas, including provisions that regulate the ground, fences, conservation of plants and other matters pertaining to plants, and the lighting of roads and other traffic areas;
- 10) conserving landscape features in connection with the development of an area allocated to urban or summer cottage development;
- 11) the production of or connection with common facilities located within or without the area covered by the plan as a condition for starting to use new buildings;**
- 12) providing noise-abatement measures such as plantings, sound baffles, walls or similar construction as a condition for starting to use new buildings or changing the use of an undeveloped area;**
- 13) establishing landowners' associations for new areas with detached houses, industrial or commercial areas or areas for leisure houses, including compulsory membership and the right and obligation of the association to take responsibility for establishing, operating and maintaining common areas and facilities;**
- 14) conserving existing buildings, so that buildings may only be demolished, converted or otherwise altered with a permit from the municipal council;
- 15) keeping an area free from new construction if buildings may be exposed to collapse, flood or other damage that may endanger users' life, health or property;
- 16) cessation of the validity of expressly mentioned negative easements if the continued validity of the easement will contradict the purpose of the local plan, and if the easement shall not lapse as a result of §18;
- 17) combining flats in existing residential housing;
- 18) insulating existing residential housing against noise;**
- 19) banning major construction projects in existing buildings, so that such projects may only be carried out with a permit from the municipal council or if they are required by a public authority in accordance with legislation; and
- 20) the establishment of allotment associations for new allotment garden areas, including mandatory membership and the association's right and duty to adopt provisions that shall be subject to approval by the municipal council on the termination or annulment of contracts governing the right of use and on the relinquishment of the right to use allotment gardens.

Finally, the municipalities can dictate establishment of landowners' associations, including compulsory membership, and they can regulate the rights and obligations of the association to take responsibility for establishing, operating and maintaining common areas and facilities.

These four legal provisions are together quite powerful implementation tools to secure private co-financing of social and technical infrastructure – despite their application are of course limited. And especially the reach of no. 11 must be considered a limited regarding kindergartens etc. At least from the point of view of the two authors of this paper, it is doubtful⁷ if this provision can be used to demand kindergartens co-financed by private individuals and corporations, because the costs to build and run such (common) facilities are in Denmark per tradition covered by municipal income-tax. In other words, here seems to be

an inconsistency between the planning legislation and the ‘municipality authority’ (see section 2.2.4).

2.2.2 Compulsory Purchase

Pursuant to paragraph 47 in the Planning Act “*The municipal council may expropriate real property that is privately owned or private rights to real property when the expropriation is materially important in ensuring the implementation of urban development in compliance with the municipal plan or in realizing a local plan or town planning by-law*” (Ministry of the Environment 2002. p. 30).

In accordance with the text municipalities particularly have to satisfy two basic criteria. Firstly, a (lawful) municipal plan or binding local plan must be produced in advance as a basis for the expropriation. The plan is an absolute procedural prerequisite.

Secondly, the purpose of the expropriation must fulfil a ‘criterion of necessity’ cf. the phrase “...*when the expropriation is materially important in ensuring...*”. The phrase is equivalent to the Danish Basic Law, paragraph 73, that says compulsory purchase only can be used to enforce acquisition of land for public or common purposes, and expropriation is always subject to payment of compensation. In other words, the ‘criterion of necessity’ – and thus municipalities’ right to expropriate – is a matter of proportionality. Only domination public/common interest can give reasons for intervention in private property/landownership.

Compulsory purchase is undeniably the most efficient tool in the tool box (when the two basic criteria are fulfilled). But namely the ‘criterion of necessity’ that has to be satisfied limits the usability of the tool considerably.

2.2.3 (Threat of) Rejection of Planning and Building Permission

The second most efficient implementation tool is probably the municipalities’ power to (threat to) reject a Planning and building permission.

The Planning Act, paragraph 14, gives the right to reject any building application – even those that are in accordance with the actual plans – if the rejection is motivated by matter-of-fact considerations/objective grounds. This also includes regrets of actual plans that lead to rejection of a building permission in order to change the actual planning.

Of course, municipalities easily will become liable to prosecution if they pursue subjective interests. So they have to take care – not only to avoid prosecution, but namely for reasons of good governance, democracy and the rule of law.

However, if municipalities can manage not to cross the line between objective and subjective grounds, the ‘(threat of) rejection’-tool is a very efficient and lawful tool in order to obtain negotiating strength.

2.2.4 The Municipal Authority (Kommunalfuldmagten)

Municipalities in Denmark are self-governed under supervision of the central government, cf. the Danish Basic Law paragraph 82. In addition they have the right to levy taxes (income tax and property tax).

The right of the municipalities to manage their own affairs independently and their local tax revenues are together what forms the ‘municipal authority’ (kommunalfuldmagten): The municipalities are free to decide how to use and spend their resources – in respect towards the legal doctrines (see below for the most important ones).

Many municipalities have sought to use the ‘municipal authority’ to attract industry and commerce to stimulate long term employment and - among others - to secure a high ‘retail profile’ in the cities. Municipalities normally consider good housing conditions, employment and a good public service and connections, local authority schools and institutes, public sport grounds, etc. as essential to maintain and attract new enterprises and taxpayers. Therefore, local authorities traditionally have used considerably economic resources on building social and technical infrastructure to support commercial and industrial undertakings to be set-up (Harder 1973, p.176-177).

Typically, support and financial aid from municipalities has taken form of guarantees for loans, buying and selling property or establishment of technical infrastructure (traffic circles, roads, road extensions, etc.) necessary for the new company, e.g. a superstore with a flow of car-borne costumers (Harder 1973, p. 100 and 177; Ministry of the Interior 1997, p. 283).

However, the usability of the financial aid-tool is limited. As principal rules – according to administrative practice and case law - local authorities can only use taxpayers money for the common good (“the common good criterion”) ; when it does not affect other municipalities considerably (“the jurisdiction criterion”) ; and local authorities’ intervention in the private sector with regard to distortion of the competition between companies is in general forbidden (“the intensity criterion”).

These criteria means, local authorities are prevented from giving economic benefits or grants to particular commercial and industrial undertakings in order to attract them to the area. Nor may they make building sites or other facilities available at reduced costs. Competition between local authorities over the provision of grants to industry and commerce would directly and undesirably affect prices in particular industries and would result in the best equipped authorities having a further advantage (Harder 1973, p. 177).

“Local authority purchase and sale of property often occur in situations where there are no other buyers or sellers and where the transaction is not directly subject to the normal business principle of competition. In these circumstances it might be possible for a local authority, by buying dearly or selling cheaply, to bestow advantages on the other party of the deal which would clearly be illegal if they were conferred in the form of cash. Financial concessions are most frequently made in connection with sale of land to industrial

enterprises to encourage them to build in the local authority's area. Sometimes, too, a local authority has been tempted to purchase a factory building for cash and then lease the building cheaply for the extension of the factory with the object of preventing the enterprise from moving to another district" (Harder 1973, p. 101). Especially in the 1970'ies to mid 80'ies such actions were never approved by the national supervisory authorities. However, in recent times - after the supervisory authorities no longer shall approve land transactions in advance - there has been a softening compared to the former hard line.

When (indirect) financial support occurs through property transactions case law as well as administrative practice have shown that such transactions are lawful if local authorities ensure that the financial support (i.e. the authority's spending) is equivalent to (the "value" of) safeguarded "municipal interests" (Heide-Jørgensen 1993). Municipal interests that are namely accepted to give reasons for legal spending of taxpayer's money to support private companies are: safeguarding of *local planning interests* and *infrastructure interests*, but among others also *environmental interests* (Garde og Revsbech 2002, p. 19). The lawfulness to safeguard these interests by the 'municipal authority' is partly a tradition, and partly it goes hand-in-hand with the local authorities' obligations according to the Planning Act and other legislation.

2.2.5 Easements and other Agreements in the Frame of Civil Law

To safeguard 'municipal interests' in relation to financial support of companies (cf. section 2.2.4), or to safeguard agreements in continuation of (threats of) rejection of planning and building permission (cf. section 2.2.3), easements are almost a natural choice.

Furthermore, easements can be used to secure more intensive and other regulation than municipalities are entitled to according to the Danish Planning Act, paragraph 15,2.

Municipalities can only impose easements on local authority owned properties. In case a property is private owned the municipality has to negotiate with the private landowner to convince him to impose an easement on his property. In such cases municipalities may use (threats of) rejection of planning and building permission to obtain negotiation strength.

Easements are in Denmark registered in the land register, and thus they remain in force and commit all current as well as new landowners. It is possible to register both independent declarations and agreements written in a contract of sale or a deed.

3. EXTENSIVE PPP-PRACTICE IN SPITE OF ABSENCE OF WRITTEN LEGISLATION

All Danish municipalities know – more or less - the traditional tools mentioned above in section 2.2. But almost all feel uncertain regarding the reach of the tools, namely the ‘municipal authority’-tool. Therefore, when they use the tools in urban regeneration areas it is often on a trial-and-error basis.

3.1 PPP-practice in General

In general, the tools are mainly useful and powerful when the municipality is located in a so-called ‘development pressure-area’. Here developers are almost queuing for taking part in the re-development processes in the municipality. Under such circumstances local authorities can probably demand co-financing of infrastructure etc. much easier than neighbouring municipalities situated outside a ‘development pressure-area’. The initial negotiating position of a municipality situated in a ‘development pressure-area’ is much stronger, and a developer is presumably from the very beginning prepared to contribute to infrastructure etc. because he is in competition with other developers. Thus, about the tools it can be said that they are as designed for development steering.

However, the tools are less useful for local authorities outside the ‘development pressure-areas’. This also applies to municipalities – including those situated in a ‘development pressure-areas’ – when they want to secure e.g. a portion of cheap dwellings in a new housing area at the waterfront, where it is much more advantageous for the developer to build luxury homes with private landing stages for yachts; or when local authorities want to secure public access to the waterfront or even a public bathing resort, which - from the developer’s point of view - will devalue a luxury housing area.

In such cases, however, a PPP could soften the conflicting interests between the local authority and the developer – given that they produce the plan of the re-development area together, and hence both feel ownership for the plan.

Furthermore a PPP can promote the implementation of the plan.



2: Public bathing resort in central Copenhagen. (source: Danish Forest and Nature Agency, Ministry of the Environment and The Foundation Realdania 2006, p. 27)

According to (Jørgensen, Klint & Sørensen 2006, p. 40) a well-functioning PPP requires at least:

- Consensus about goals,
- Partners with different but complementary competences,
- Partners who can contribute with the necessary resources (knowledge, finance, etc.) to achieve the goals.

Despite these requirements may seem achievable most municipalities have had a reluctant attitude to PPPs as they are in general uncertain regarding the reach of Act no. 384/1992 as well as the reach of the other tools. But nevertheless some municipalities have taken up the PPP-challenge and tested the limits of the tools in the tools box. One of the most advanced local authorities that have taken up the PPP-challenge is probably Municipality of Copenhagen.

3.2 PPP-practice in Copenhagen

Municipality of Copenhagen and Port of Copenhagen Ltd. established in 2003 the first formal PPP in Denmark to re-develop an area at Sluseholmen with 1,000 dwellings (135,000 square meters floor space). This housing project was meant to be the first stage in developing totally 5,000 housing units in the Sydhavnen. The area was solitary situated, and noise or other nuisances from the surrounding industries were not a problem.

The main purpose for Municipality of Copenhagen to join into a PPP was (hopefully) to kick-start the re-development process. In the beginning of the 2000's investors and developers were not (yet) queuing to re-develop the waterfronts in Copenhagen.

The PPP was formed as a limited partnership company. Municipality of Copenhagen and Port of Copenhagen Ltd. put in 10 million DKK each in the company and in addition they together put in another 80 million DKK as subordinated loan capital. The PPP was formed with legal basis in the 'municipality authority' – and not Act no. 384/1992 despite this was possible. This only stresses the conclusion in the above section 2.1 that Act no. 384/1992 really does not add any news to the state of the law.

The capital of the PPP was used to buy land at Sluseholmen. After the land acquisition the different plots were re-sold to investors and developers. In the sale agreements there were integrated regulations about burden sharing etc. regarding the site preparation. Also regulations with the object of safeguarding special architectural qualities according to a certain architectonic concept provided by the municipality were integrated in the sale agreements.

The two partners in the PPP took of course a risk to loose money as well as Municipality of Copenhagen and Port of Copenhagen Ltd. had the chance to gain profit. As the state of the market changed around 2004 it happened to be so that the two partners ended up earning money, and it turned out that the difference between the expenses to acquire the land and the profit from selling could finance the site preparation. When the limited company will be

liquidated at some future stage it is the intention that the rest of the profit returns to Municipality of Copenhagen and Port of Copenhagen Ltd.

So far, the case has shown that the partnership between Municipality of Copenhagen and Port of Copenhagen Ltd. has been a success - and not only as a result of change in the state of the market. In relation to start up re-development the case has shown that it is possible to kick-start and catalyze a development process when the PPP takes the lead with regard to lay in services in a re-development area, and with regard to develop the overall architectural identity so it becomes an attractive housing area for citizens and, thus, attractive for investors and developers to realize.

Furthermore, it has shown that after Municipality of Copenhagen and Port of Copenhagen Ltd. by the Sluseholmen-project 'uncorked' the development, it has since been no problem to attract investors and developers to realize the other 4,000 housing units in Sydhavnen. And financial engagement of Municipality of Copenhagen has not been necessary after the first Sluseholmen-stage. (Jørgensen, Klint & Sørensen 2006, p. 42-44).

4. CONCLUSIONS AND FINAL REMARKS

4.1 Unwritten and Law Restricts the Urban Re-development Potential

Due to the user-unfriendliness, and thus the municipalities' uncertainty of the reach of the 'municipality authority' as an implementation tool, written legislation and specific guidance in the field are necessary. It is almost to demand the impossible, if municipalities are expected to keep up with administrative practice and case law to be updated with the current legal position. Currently it is highly unclear under which circumstances and to what extent financial transactions may occur across the public and private sector. It would be appropriate at least to incorporate the legal doctrines from the 'municipal authority' in the written legislation, e.g. the Planning Act. In that way municipalities would know when they can support development financially; when they can demand private co-financing; etc. – and when they cannot.

Of course it is difficult to incorporate such complex case law-developed legal doctrines in the written legislation. However, it is not impossible. The amendment to the Norwegian Planning and Building Act in 2005, containing the framework for possible agreements between public and private partners, shows this⁸.

Another thing, clear legislation and guidance regarding the use of the other traditional tools would be expedient, too. Namely the reach of the Planning Act paragraph 15,2 no. 11 (regarding kindergartens etc.) is difficult as it is quite ambiguous to what extent kindergartens can be co-financed by private individuals and corporations when costs to build and run such (common) facilities per tradition are covered by municipal income-tax.

Finally, it would be desirable to have guidance on the legal boundaries regarding the power to (threat to) reject a planning and building permission. Without proper guidance or clear

regulation municipalities risk to cross the thin line between (legal) objective and (illegal) subjective grounds when they attempt to obtain negotiation strength in their dialogue with investors and developers.

There are, in other words, quite many unclear points as regards the central implementation tools usable in connection to PPP and other interplay between local authorities and private actors. Firstly, this weakens the efficiency of the implementation tools, and thus restricts the urban re-development potential. Secondly, the unclear points endanger the rule of law as it means a latent risk that municipalities – by choice or accident - violate the civil rights of landowners, developers etc. who are subject to the local authorities' regulation and steering. And in addition local authorities run the risk to be liable for prosecution or compensation.

4.2 The Minister of the Environment's New Attention

The above mentioned conclusions were presented at a conference in spring 2006 arranged by Danish Forest and Nature Agency, Ministry of the Environment and The Foundation Realdania. Also the Danish Minister of the Environment attended.

The many unclear points that weaken the development potential in the urban regeneration areas, and especially the user-unfriendliness and the municipalities' uncertainty regarding the reach of the 'municipality authority' were met with sympathy and had an impact on the minister.

In her speech at the end of the conference she promised to give serious consideration to incorporate regulations about PPP and the legal doctrines in the Planning Act to improve the implementation-efficiency in urban development. At least, it would be obvious to write down what is already possible according to current municipal law and the legal doctrines concerning the 'municipality authority', the minister said. And it would be evident to look at the Norwegian Planning and Building Act as a model, the minister said when she signed off.

REFERENCES

- (Aunsborg and Sørensen 2006)** "*Environmental Conflicts in Urban Regeneration Areas*", proceeding, XXIII FIG Congress Munich, Germany, October 8-13, 2006
- (Danish Forest and Nature Agency, Ministry of the Environment and The Foundation Realdania 2006)** "*Byomdannelse (Urban regeneration)*", debate material, Danish Forest and Nature Agency, Ministry of the Environment and The Foundation Realdania, 2006 (ISBN: 87-91643-07-4)
- (Garde og Revsbech 2002)** "*Kommunalret (Municipal Law)*", Jurist- og Økonomforbundets Forlag, København 2002 (ISBN: 87-574-0693-6)
- (Harder 1973)** "*Local Government in Denmark*", Det danske Selskab, København 1973 (ISBN: 87-7429-0053)
- (Heide-Jørgensen 1993)** "*Den kommunale interesse – studier over kommunalrettens udvikling (The Municipal Interest – a Study on the Development in Municipal Law)*", GAD, København 1993 (ISBN: 87-12-02451-1)

(Jørgensen, Klint & Sørensen 2006) “*Planlovens muligheder for aktiv regulering – og samspillet med partnerskaber og byudviklingselskaber (The Potential for Active Regulation in the Planning Act – and the interplay with PPP)*”, Report no. 1, Fonden Realdania & Skov- og Naturstyrelsen, 2006, 62 pp. (available on:

<http://www.byplanlab.dk/projekt/fornyelse/delrapport1.pdf>)

(Ministry of the Environment 2002) “*The Planning Act in Denmark, Consolidated Act No. 763 of 11 September 2002*” (English translation of the Planning Act - available on:

http://www.lpa.dk/Topmenuen/Publikationer/Andre_sprog/2002/planning-act-2002.pdf

(Ministry of the Interior 1997) “*Landdistrikternes udviklingsmuligheder (The Development Opportunities of the Rural Districts)*”, Report no. 1333, (Copenhagen, Ministry of the Interior).

(Ministry of the Interior 2002) “*Municipalities and Counties in Denmark - Tasks and Finance*”, 5th edition, The Ministry of the Interior and Health, København, 2002, 65 pp.

(available on: <http://www.im.dk/publikationer/Municipalities/html/hele.pdf>)

BIOGRAPHICAL NOTES

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¹ Act no. 440, 10/06/2003 (Byomdannelse – *Urban Regeneration*).

² For further description of the amendment Act no. 440, see (Aunsborg and Sørensen 2006, section 4.2).

³ Now Act no. 548, 08/06/2006 (Kommuners udførelse af opgaver for andre offentlige myndigheder og kommuners og regioners deltagelse i selskaber – *Municipalities as Contractors for other Public Authorities and Municipal Participation in Private Companies*).

⁴ This is despite the Urban Policy Committee established in 1999 by the Minister of Housing came up with several proposed amendments to the Planning legislation to make municipalities able to manage urban regeneration. See further (Aunsborg and Sørensen 2006, section 4.1).

⁵ The share capital limit has recently been abolished by the amendment Act no. 548/2006.

⁶ In Denmark not only a planning and building permission is requested prior to construction, but also a commissioning certificate is requested before landowners can move in and utilize the building.

⁷ It is doubtful even though the purpose (of kindergartens etc.) is explicitly mentioned in the legislative history behind the Danish Planning legislation.

⁸ Cf. Odelstingsbeslutning no. 65 of 19th April 2005.