Abstracts

TAKAHASHI Juichi, Die Bedeutung der Wandelung vom Bodenrecht zum Städtebaurecht

Das „Bodenrecht" bedeutet in Deutschland normalerweise das Recht über den Boden oder das Grundstück nicht nur im ländlichen Raum sondern auch im städtischen Raum. Beim „Städtebaurecht" z. B. beim Bauleitplan im Baugesetzbuch kann man nicht nur die Bodennutzung der städtischen Art, sondern auch der landwirtschaftlichen Art festsetzen. Das bedeutet, dass das Städtebaurecht auch auf den ländlichen Raum angewendet werden kann. Der Unterschied zwischen dem Bodenrecht und dem Städtebaurecht liegt darin, dass das Städtebaurecht das Ziel hat, den Raum zu ordnen, andererseits das Bodenrecht oder das Grundstücksrecht betrifft nur den Boden oder das Grundstück.

Aber der Anwendungsbereich des Städtebaurechts in Japan wird nur auf den städtischen Raum und das Umland begrenzt. Auf den ländlichen oder forstlichen Raum werden das einzelne und selbständige Bodenrecht (z.B. Landwirtschaftsflächengesetz, Forstgesetz usw.) angewendet. Im welchen Zusammenhang soll das Bodentrecht mit dem Städtebaurecht in Japan stehen ?

In diesem Aufsatz wird die Entwicklung dieser Begriffe seit 1970er Jahre in Japan analysiert und wird das wünschenswewrte Verhältnis zwischen dem Bodenrecht und dem Städtebaurecht vorgeschlagen.

MIKAMI Takahiro, An essential element in Modern urban law theory and Administrative law

Theory of "Place" is an essenntial element in Modern urban law theory. It is similar to theory of "administrative domain" in Administrative law theory. Both of these theories take into consideration as important factors in making public policies intrests of habitants.

Now Japanese Suprem court begins judicial control on administrative planning considering various factors as leagal. One of these factors, interests of habitants that were not formally estimated as leagal are different by places and social domains. So in judicial control on administrative planning, modern urban law theory, especially theory of "Place" offers important suggestions to administrative law theory.

YAMADA Yoshiharu, A Theoretical Consideration on the Formation of Urban Space

Since the land problem in the postwar period have been evolved as a part of the urban problem, the study of law has also emphasized "the urban law" rather than "the land law". At the same time the social changes in the formation of urban space has accelerated the changes in the study of economics on this kind of issue from "the land economics" to "the urban economics". This paper examines how the both changes have arisen and how they relate reciprocally from the view point of land economics. The key concepts of this consideration are "social common use-value" and "public benefit". The study concludes the necessity and inevitability of establishing new "Land Law".

TERAO Hitoshi, Land use tendency in the Japanese local city and the course of urban planning law—a case of Niigata City

We analyse land use tendency of Niigata City for the purpose of constructing the new urban planning law, which is effective for the local city. Its central district has slightly increasing population. For the land use, it loses big retail shops and business but accepts small shops which sell strong tastes goods. In suburb areas, generally they lose populations. A village gains young artists and craftsmen and winery areas besides transform agricultural products and land use nearby. In those two areas, classic infrastructure is no longer effective, but social network drawing the new comers is very important for the land use transformation.

TAKAMURA Gakuto, Essay for the theory of the contract law on real estate in the era of population decreasing

This paper aim to sketch the new theory of the contract law on real estate in the era of population decreasing, housing stocks overflowing, and urban landscape more evaluated.

To promote empty housing's lease, people have to charge the transaction cost of contract negotiation and the reform cost. The term-fixed contract system, which was considered as the solution for activation of leases, aimed to avoid the charge of the a priori transaction cost by facilitating the a posteriori dissolution of contract, and to impel for the owner to reform the old housing by the guarantee of his long-term profit.

But, from field research on Hateruma Island and Imai-cho, the local community has

the important role to elaborate the trust between house owner and leaseholder and to support new comer's life.

From survey research in Hateruma, the tourists, who are beneficiary of nice landscape, have the intention to participate the reform cost through the payment of local environmental tax.

The success of reuse of empty housings is not only benefit for both contract's parties, but also benefit for the local community which could improve the nature of his community more openly, find the value of local heritage and old housings, construct the new local identity.

The contract processes of real estate must to be understood more broadly and in the relationship with local community.

KADOMATSU Narufumi, Interaction of private and public interests in urban space management: On the Administrative Case Litigation Act Art.10 para.1

City planning regulations should function as a set of rules for coordinating and distributing various interests surrounding a particular urban space. The actual implementation of regulations, however, tends to focus on the bilateral relationship between property rights and the "public interest", putting the interests of other stakeholders out of sight.

The Administrative Case Litigation Act, Art.10 para.1, does not allow a plaintiff to allege illegality of an administrative disposition when such illegality has no relationship to the plaintiff's own interest. Recent attempts to re-interpret this article shed some light on the possibility of constructing such a stakeholder's interests as legally protected interests, upon which the administrative disposition infringes.

WATANABE Shun-ichi J. • ARITA Tomokazu, The Reform of the City Planning System and the Expectation to 'Urban Law'

The purpose of this paper is to clarify the underlying structure and main issues of the recent proposals for the reform of the city planning system and also to present hypothetical perspectives as for the basic direction of the reform. With an overview of the Japanese planning history and an international comparative study, this paper formulates 6 fundamental problems of the Japanese city planning, namely 'expanding-city image,' 'single-tier system,' 'construction-emphasis,' 'bureaucrat

initiatives,' 'centralized system' and 'unestablished professionalism.' The direction the authors propose for the reform is towards such corresponding 6 characters as: 'shrinking-city image,' 'two-tier system,' 'management-emphasis,' 'citizen initiatives,' 'decentralized system' and 'established professionalism.' At the end of the paper, some points will be presented as the expectation to 'urban law.'