

**Officially and Unofficially – Processes of Land Development in
Chinese Planning**

by

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Abstract

In the Chinese planning system, there are two planning processes: a rule-based process and *guanxi*. In a rule-based process, planning processes are based on legal procedures whereas in *guanxi*, the planning process is based on "relationships", which can lead to corruption. These dual processes are a controversial aspect of the Chinese planning system. However, the two often opposing processes operate in conjunction. Scholars have debated the fate of *guanxi* for several years. Some believe that *guanxi* will disappear gradually with the enhancement of "rule of law" whereas other scholars believe that *guanxi* will continue to occur. Therefore, investigating whether *guanxi* practice will remain a part of the Chinese planning system is a meaningful endeavor that may help to decrease corruption in Chinese planning.

This thesis argues that *guanxi* works for two reasons: benefit seeking and abuse of discretionary power. Benefit seeking is a part of human nature that cannot be gotten rid of - as is culture. Therefore controlling the abuse of discretionary power is the main purpose of decreasing the practices of *guanxi*. Chinese planners are aware of this. However, they are attempting to limit discretionary power by using statutory means. This thesis argues that the focus should be placed on how to supervise the abuse of discretionary power instead of the removal of discretionary power. Simply speaking, this thesis examines opportunities to supervise decision-making processes within the planning system.

Within the gradual progress of globalization, Chinese planners must realize the importance of bottom up planning processes in the transparency that it offers. It is the key to supervising the abuse of discretionary powers in the current Chinese context. Many meaningful planning methods, such as design charrette and open house, should be the next step for Chinese planning practices.

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Chapter 1 Introduction

1.1 *Guanxi*, official process, and unofficial process

In the People's Republic of China, it is widely accepted that *guanxi* (relationship) is an important principle in social exchanges. It is common for someone to say *la guanxi* (*guanxi* practice) or "open the back door" in order to get the resources they need. This is a common practice throughout China, in Beijing, in Shanghai, and throughout the countryside. The practice of *guanxi* is deeply embedded in Chinese culture and is an essential tool for successfully completing tasks in virtually all spheres of social life (Gold, Guthrie & Wank 2002, p. 3).

Because of the significant status *guanxi* has in Chinese society, it is important to have a solid understanding of it in order to research activities focused on or related to social exchanges.

In China, land development is based primarily on one particular social exchange – land transfer. According to statutory law, all Chinese land belongs to the state therefore the first step in the process of land development is almost universally an exchange in which land use rights are bought by developers from the central government. In this exchange process, there are at least two parties involved,

government and developers, representing the resource allocator and the petitioners respectively. The resources that will be allocated in this process include potential development lands, permits for land development, and permits for construction, to name a few. There are rules which guide the exchanges between petitioner and allocator known as planning procedure law and local planning procedure regulations. All land exchange interactions are to follow the principles of these planning laws and regulations. For example, in the process of obtaining potential development lands, planning regulations require that the government organizes a bidding process in order to best select the right developer for the endeavor at hand. These formal rules are considered to be an official process and by following this process it is assumed that certain outcomes can be guaranteed, such as predictability and equity, to name a few. However, in reality, there are other procedures developers use alongside the official procedures. Generally speaking, these special procedures could be understood as an unofficial process. For instance, in the land distribution process, a local government might allocate lands to a developer directly without bidding. Though this is no longer often the case since the creation of the Land Bidding Center, this might still happen in some small Chinese cities (interviewee). In this scenario, the government's role in land allocation is different from what the legal requirements call for, therefore this process could be deemed as an unofficial process which is problematic because it creates inequity. Many people believe that *guanxi* plays an

important role in this unofficial process. From here on in, these processes will be referred to as rule-based patterns (official process) and *guanxi* patterns (unofficial process).

Rule-based patterns and *guanxi* patterns in the Chinese planning system have their own respective preconditions. Rule-based patterns infer that planning officials' actions in the process of land development are bound by procedural laws. In this model, all of the actions have to follow a pre-established statutory "process instruction". If the real process of land development does not follow the instruction, people who are affected have statutory resources to apply for a judicial review to protect their inalienable human rights. This way, at least theoretically, equity and fairness can be ensured. On the other hand, the *guanxi*-based system allows planning officials to determine the land development process alone, without significant legal constraints. To a certain extent, they have the autonomy to do what they choose. There are two conditions that allow this to happen. First, there is no procedural law to guide the planning process or in some cases, the procedural law is simply ineffective. Second, there is no effective supervision on officials' discretions.

In Chinese land development process, the official process and the unofficial process are in play simultaneously (interviewee). The coexistence of these two

processes in the Chinese planning system conflicts with scholarly studies on *guanxi*, an issue which many researchers have debated. Some believe *guanxi* will disappear with the gradual enhancement of the rule of law. Others argue that it will continue operating, with different degrees of abatement. Yang and Guthrie provide seminal works that attempt to predict the fate of *guanxi*. Yang argues that *guanxi* will continue to be a part of the Chinese transaction system (1994, 2002) while Guthrie thinks *guanxi* practice will decline with the enhancement of "rule of law" (1998, 2002). Their different perspectives are likely the result of research in different Chinese communities. Therefore, there remains much confusion regarding the relationship between *guanxi* and statutory process.

One focus of these scholars' debates is whether a well-developed legal system would increase or decrease *guanxi* practices. In my opinion, the key to understanding the existence of *guanxi* practice is not determined by the existence of well-developed procedural law. Although procedural law clearly institutionalizes the decision-making process, it will not necessarily prevent *guanxi* practice from occurring.

Guanxi works because of two reasons: the abuse of administrative power, especially abuse of discretionary power, and the desire of resource allocators and petitioners to seek benefits. Officials working as resource allocators have the

administrative powers to distribute materials that the petitioners need. Conversely, petitioners can provide benefits to officials, no matter what form the benefits may take. A well-developed legal system helps set up rules for officials' practice of administrative power and therefore decreases opportunities for *guanxi* practice. However, the legal system cannot eliminate the other factor influencing *guanxi* practice – officials' discretionary power. It is the officials' discretionary power that creates opportunities for *guanxi* practice in many planning procedures. Officials could use their discretion to exchange benefits by practicing *guanxi* without breaking laws. Therefore legal reform could decrease *guanxi* however it is not appropriate to say it will eliminate all *guanxi* practice. This is why *guanxi* and procedural laws operate in unison throughout China. I believe we want to limit *guanxi* practice, hence limiting the potential for corruption. We must focus on improving transparency of officials' decision-making process in order to supervise officials' discretionary actions.

1.2 Scope of study and research questions

The research questions of this thesis are: why does *guanxi* work in the Chinese land development system? And, how to limit *guanxi* practice in the Chinese planning system?

In order to understand why *guanxi* works, we need to understand what *guanxi* is and its role in the Chinese land development process. Additionally, one also needs to know the current supervision system on officials' behaviors in order to comprehensively understand the roots of *guanxi* practice. Therefore this paper begins with literature review of *guanxi*, followed by a review of Chinese administrative law and its cadre rotation system. These two reviews of Chinese administrative law and cadre rotation system reveal how the Chinese government is trying to limit *guanxi* through legal and institutional reforms. Following the literature review is two case studies. The first case study investigates a real estate development project initiated by a company called "Xin", located in a village. This case examines the land development process in the rural context and all stakeholders involved represent ones in rural land development process. The case supports the thesis that *guanxi* exists primarily because of officials' discretionary powers. Even though many of the appropriate legal procedures were followed, *guanxi* played a role in this case, demonstrating the role of officials' discretionary power. The second case examines how Chinese planners are trying to remove officials' discretionary powers, which, in my opinion, is not the solution. Therefore, as a conclusion, I am stating two opinions. First, improving transparency of decision-making process could help to ameliorate the situation. Second, public supervision methods used in Western planning system, such as open houses, design charrettes, to name a few, could be introduced into the

Chinese planning system in order to improve the transparency of decision making process.

1.3 Methodology, limitation and organization

This thesis is based on field research in China during the summers of 2003 and 2006 as well as a review of current social, political, and legal literature from journals and other publications.

The fieldwork component of this research took place predominantly in the city of Wuhan, Hubei Province - where I interviewed a number of scholars, government officials, and members of the private sector. I also participated in a government project to help prepare new legal planning documents related to zoning. Through my work with Wuhan's planning department, I was able to access many valuable government documents and meeting minutes, which further added to my understanding of current Chinese planning and its planners. To gain additional perspectives, I also visited professors from my undergraduate university as well as officials in the planning bureau, in order to hear their opinions of the Chinese planning system, particularly their analyses of its constraints and opportunities.

It must be noted that the physical context of China creates limitations for this

thesis. Different cities have different methods to oversee planning practices; therefore, it is somewhat inappropriate to assume that the conclusions of this thesis adequately represent the whole country. However, the conclusions generally reflect the current context of the Chinese planning system. To guarantee anonymity and confidentiality in my interviews, I have labeled the in-text citation of interviews as “interviewee” and interview documents (appendix) as “interviews” without reference to actual names.

The content analysis of this thesis includes two main parts, that of the scholars' works and that of the planning documents of the City of Wuhan. The scholarly literature includes many different areas ranging from political science, sociology, and legal studies to special planning journals.

This thesis is essentially structured in three parts. The first part is a literature review on *guanxi* and a review of the Chinese legal and cadre management system. The second part introduces the case study components of this work. Through interviews and other data collection methods, readers can see a realistic picture of how *guanxi* happens in day-to-day planning practice in China. As the final part of this thesis, a conclusion provides an analysis of why *guanxi* can still work with the enhancement of legal planning reform. Furthermore, some planning methods used in Western countries are indicated as these may help to decrease

guanxi practice in the Chinese land development system.

Chapter 2 Guanxi

2.1 Introduction

Guanxi is a general term for various interactions in China. Many scholars have noticed this phenomenon and have researched it from many different perspectives since Chinese reforms began (Gold et al. 2002, p. 77). In this chapter, I will examine three issues related to *guanxi*: its connotations, how it works, and the predominant reasons for its existence.

2.2 What *guanxi* is and how it works

In Chinese, *guanxi* roughly means “connections” (Gold et al. 2002, p. 3), “relationships”, or “social networks”. It does not have a precise definition in the Chinese dictionary because it is more of a cultural phenomenon than a descriptor. In my opinion, it mostly refers to the relationships between people who have strong interpersonal connections.

Guanxi is a relationship, but any relationship is not necessarily referred to as *guanxi*. The difference between *guanxi* and an ordinary relationship is that *guanxi* is more specific. According to Jacobs, *guanxi* refers to those relationships that have “particularistic ties” (1979, p. 243). For instance, kinship, native place,

ethnicity, schoolmates, military mates, and shared experiences - these are all particular ties. These ties make the people who have *guanxi* have stronger connections than general relationships.

Secondly, *guanxi* suggests reciprocal obligations. Yang argues that “once *guanxi* is recognized between two people, each can ask a favor of the other and expect the other will repay for his/her kindness” (as cited in Gold et al. 2002, p. 7). This is true and very familiar to the Chinese. In China, if a person does not repay another’s kindness without question, he/she will be deemed an unthankful and abnormal person. Without fulfilling this obligation, nobody will help them in the future. Therefore, reciprocal obligation is at the core of *guanxi* as a rule for social exchange.

Chen mentions how the use of *guanxi* is called *guanxi xue* (as cited in Gold et al. 2002, p. 6). The way *guanxi* works depends on how strong people’s relationships are. It may include entertainments, gifts, meals, or money, to name a few. If the relationship is general, entertainments and meals are almost always used. If people know each other well, money can be transferred because there is less risk of being caught. This is a negative aspect of *guanxi*. Through these actions among particular relationships, people interact with one another over time, maintaining *guanxi* and furthering their own agendas. This allows for great

potential for corruption.

2.3 Why *guanxi* works

People like to interact with others they have *guanxi* with because their interactions are rooted in trust. Trust is an important factor in Chinese transactions, especially in a society without sufficient legal recourse (Wong & Leung 2001, p. 40). Wong and Leung called this trust-based relationship a “defense theory” (2001, pp. 37-41). According to them, China does not have a well-developed legal system and market. As a result, people prefer to deal with others they already know because it can make their interactions more secure, predictable and expedient. Redding argues that for survival purposes, Chinese tend to interact with others by using *guanxi* (as cited in Wang & Leung 2001, p. 39). It is a way of smoothing relationships.

Furthermore, *guanxi* not only can secure a transaction; it can also lower transaction costs. Carr and Landa argue that the “club-based transactions” can lower costs (1983, p. 156). Economists know this as a “Transaction Cost Analysis (TCA)”. In their book, “Guanxi: Relationship Marketing in a Chinese Context”, Wong and Leung explain expressively:

One of the principles of TCA is that decision makers have limited information and may

pursue their self-interest with incomplete or misleading information disclosure. Even in a well-developed market economic system, markets may fail to allocate services and goods efficiently due to natural and government-induced operation conditions such as market and regulatory barriers (Kogut 1988; Root 1987; Teece 1986). Therefore in China, with a developing market economy, people prefer to get information through their Guanxi networks. Each of the two partnering actors can improve its efficiency because the costs of transaction in terms of production and technology innovation, are minimized in this manner (2001, p. 21).

Some scholars believe that the reason for *guanxi* practice lies with the institutional structure of Chinese society (Guthrie 1998, p. 255). Because there is no well-developed procedural law that can formalize interactions in China, *guanxi* works as a substitute. Therefore, they believe that with the enhancement of the rule of law, *guanxi* practice will eventually disappear. According to Guthrie, as the state constructs a rational-legal system and the market economy emerges gradually, society begins to accept the formal official procedures and people begin to trust the system of law instead of *guanxi* (1998, pp. 272-274). Consequently, people alter their behavior away from using informal processes toward more formal legal procedures. From his argument, we can conclude that Guthrie presumes formal legal processes could lead to a standard procedure and this legal procedure could regulate all of the behaviors and interactions. Therefore

resource allocators and petitioners would no longer have the option to practice *guanxi*.

Some other scholars suggest otherwise. For instance, Yang argues that *guanxi* was revived in the midst of the Cultural Revolution and has historical connections with Confucianism (1994, p. 153; 2002, p. 472). Furthermore, China has its own particular type of legal culture in history, which did not stop the *guanxi* practice; thus, she argues that *guanxi* will not disappear.

In the system of Confucianism, *lun* is an important principle that formulates the basis of people's relationships. *Lun*, also called *five lun*, determines hierarchies in the Chinese community by describing human relationships in five categories. The five categories respectively are parent-child, ruler-subject, husband-wife, friend-friend, and elder-younger. In this system, everybody is connected to others through one of these five relations. Chen and Chen argue that *lun* has three implications for a society, which are the "human relationships", "orderly society" and "moral principles" (2004, pp. 307-308). The "Human relationships" theory suggests that every Chinese person is connected to others and that Chinese society is a relationship oriented one (Chen & Chen 2004, p. 307). Therefore *guanxi* actually is just a basic reflection of social structure. "Orderly society" argues that the "human relationships" are categorized by different kinds of ties

and that each person has his/her own responsibilities according to his/her position in the web of *guanxi* (Chen & Chen 2004, pp. 307-308). This connotation could be used to explain why some relationships work better than others. As an example, developers A and B separately asked official C to allocate a parcel of land. C only satisfied A because the *guanxi* between C and A is stronger than C and B. Finally, "moral principles" determines how the responsibilities of different people depend on how strong their *guanxi* is (Chen & Chen 2004, pp. 307-308). A general relationship and a *guanxi* relationship are therefore very different.

Jen is another important aspect of Confucianism meaning goodness and benevolence. *Jen* educates people and points them in the direction of goodness. One way to achieve this is reciprocal behaviour. By using reciprocity, a person becomes righteous because he/she shows favour to others. In Chinese ethics, the obligation of reciprocity is quite important (Wong & Leung 2001, p. 74). In this way, reciprocal interaction is rooted in the core of Chinese philosophy. Because Confucianism has dominated Chinese society for thousands of years, *guanxi* is deeply embedded in Chinese culture.

Yang argues that the reason for *guanxi* is not simply due to the absence of a well-developed legal system (2002, p. 463). To support her argument, she claims that *guanxi* will continue to operate in China despite the construction of a formal

legal system in recent years (1994, pp. 222-244; 2002, p. 472; see also Chapter 3).

2.4 Further investigation on why *guanxi* works

The debate between Yang and Guthrie represents a major scholarly disagreement. The focus of the debate is how far the rule-based process can regulate peoples' behaviors in social exchange. This focus cannot be adequately investigated to date as Chinese legal reform is still underway. However, I argue that if we step back from the inquiry into the usability of law, if we view the primary subjects of exchange (power and capital), we will find there are some other reasons as well.

In my opinion, the reasons for *guanxi* practice lie within two issues: benefit seeking, and abuse of administrative power, especially abuse of officials' discretionary power.

Guanxi practice is used for benefit seeking. In the interaction between resource allocator and petitioner, trust is one significant requirement and reason for *guanxi* practice. However, benefit seeking is another and perhaps the more important reason. For instance, in the land allocation process, the official works as the allocator who determines the distribution of land. This person is a benefit seeker

as well. In this interaction, he/she can receive benefits from developers. Therefore the practice of *guanxi* is an exchange between administrative power and the power of money.

Officials' administrative power is not problematic. What is problematic is the abuse of administrative powers. If officials use their administrative powers to exchange benefits, problems will occur. Therefore supervising officials' behaviors becomes important. In order to limit officials' abuse of administrative powers, China has undertaken many reforms regarding, for instance, the cadre rotation system and Chinese administrative law, to name a few. The purposes of these reforms are to decrease the use of personal relationships in administrative work and provide procedural rules for officials' behaviors. However, since these reforms are still being undertaken, it is difficult to say whether or not these new methods could regulate all officials' behaviors. Furthermore, within the range of officials' abuse of administrative power, there is a special situation in which officials do not necessarily break the procedural administrative regulations in order to get benefits, meaning that officials could use their discretion to exchange benefits without breaking legal requirements in their day-to-day practices. For instance, in the land development process, officials could influence a project by using their subjective opinions on design proposals. Planning officials' subjective opinions are their discretion. As we know, discretion is necessary in government

administrative work therefore we cannot remove them by procedural administrative legislations. Thus officials always can use their discretion to gain benefits from their clients through the practice of *guanxi*. For this reason, I believe *guanxi* practice will keep occurring if we cannot limit abuse of officials' discretionary power. In order to supervise officials' practice of discretionary power, the transparency of officials' decision-making must be improved.

The Chinese government is using legal and institutional reform to supervise officials' behaviors. Legal reform helps create rules to govern officials' work and regulate officials' behaviors and institutional enhancement could help to improve the accountability of government work. The next chapter will review two important Chinese reform methods: Chinese administrative law reform and the cadre rotation system. The review of these two systems will provide readers with an overview of current methods being used to limit *guanxi* practice in China.

Chapter 3 Chinese Cadre Rotation System and Administrative Law

3.1 Introduction

As noted in Chapter two, *guanxi* works for two reasons: benefit seeking and officials' abuse of administrative powers. In order to limit officials' abuse of administrative powers, we need to understand where administrative powers come from and the current system for supervising officials' administrative work. Understanding the root of officials' administrative powers is thus the first issue to be examined.

Chinese local governments have acquired increased administrative power since the beginning of reforms. As Ting argues, "the economic reforms and administrative reorganization since 1978 have resulted in a diffusion of state power to local governments..." (2006, p. 88). In the process of reform, local governments have "obtained increased discretionary power to make and implement policies" (Ting 2006, p. 86). This distribution of power from central government to locals benefits economic development. China is undertaking its economic reform to move from a plan-oriented to market-oriented economy. In a market economy, the central government cannot make decisions regarding local development issues because each local government has its own unique situation. Therefore transferring management powers for economic and administrative

decisions from central government to locals can provide a better environment for the market economy.

With the transfer of managerial power from central to local governments, local governments also gain responsibility for “local economic principals to protect, promote and even directly manage local economies” (Ting 2006, p. 86). Local governments not only acquire more discretionary powers from central government, but also take more responsibilities for their own revenues. Therefore their incentives to advance economic development have been raised significantly. The increased interest on monetary value provides possibilities for local governments to seek benefits by using their increased managerial powers. Many scholars also see this phenomenon as “rent-seeking”.

According to Lu, “rent-seeking” is one attribute that has become an issue in the Chinese administrative system since reforms (1999, p. 354). “Rent-seeking” refers to “public agencies seeking profits generated by their monopolies over certain resources or powers for their own gains” (Lu 1999, p. 354). Because local governments have more administrative powers after reform, they can use their powers to exchange benefits. Furthermore, officials in local governments are the people who practice the administrative powers in day-to-day work; they also have big potential to abuse their increased administrative powers for their own

purposes. As one interviewee in Lu's research said, "Government power has become departmentalized, departmental power personalized, and personal power privatized. It has become a terminal disease in some state agencies and one hard to cure" (Lu 1999, p. 362). It is very true in current Chinese administrative system that officials use their administrative power to exchange benefits by practicing *guanxi* with their clients. In recent years, more and more high-rank local officials, such as, Chen Kejie (former vice-chairman of the Standing Committee of the National People's Congress), Chen Liangyu (former CCP Shanghai chief), to name a few, have been arrested, giving a picture of how officials use their administrative powers to exchange benefits with their clients. In these exchanges, *guanxi* works as a way to bridge officials' administrative powers and their clients' benefits.

3.2 Chinese cadre rotation system

In order to limit the exchange between officials' administrative powers and their clients' benefits, the Chinese government initiated administrative reforms to enhance supervision of officials' behavior in recent years. In these administrative reforms, the cadre rotation system is one important mechanism aimed at decreasing *guanxi* relationships between officials and their clients.

Legalized by Civil Servant Provisional Regulations in 1993, the cadre rotation system requires that officials regularly rotate among equally-ranked positions (Huang 2002, p. 72). The rationale behind this system is that the rotation of officials' positions can limit factionalism and *guanxi* relationships. If officials know they will be rotated to different positions in a short time, their behaviors will abide policies because "they gain little by pursuing interests associated with their current positions that they will leave shortly" (Huang 2002, p. 72). The transfer of cadres might occur among any provinces or administrative systems, even in different systems. For instance, "the governor of Jiangsu may be appointed as the governor of Zhejiang, or the minister of electronic industry may be reassigned to head of People's Bank of China". (Huang 2002, p. 72)

However, the rotation system has its own limitations. According to Edin, the rotation is selectively applied in the Chinese administrative system. "Leader cadres of local governments are primarily rotated however ordinary local cadres are not rotated. Party leaders are more often rotated than government leaders" (2003, p. 49). Furthermore, "the CCP takes greater care to control important local leaders, especially from economically successful areas" (Edin 2003, p. 50). This means that the rotation system only works in a limited scope in reality. It is also impossible to apply the cadre rotation system to all positions in the Chinese

administrative system because many positions are technical ones that require officials' professional knowledge. For instance, in the Planning Bureau, many planning officials are also professionals who have planning degrees. Even in the same planning bureau, it is hard for an economic planner to take on a position which is responsible for physical design. Therefore in reality, the rotation system is limited in its application. It is clear why the cadre rotation system cannot remove officials' *guanxi* practice because not all officials will be rotated.

China has applied another reform in the cadre management system in order to increase its administrative accountability. An examination system is used for cadre appointment in its civil personnel selection process. Every official is required to take an exam in order to acquire a position. However, the problem with officials' abuse of administrative powers is related to their incentives for seeking benefits, not whether a person can pass exams or not. "One person may be very eligible for a position, but he may not be willing to perform his public function". (Chang 2004, p15) Furthermore, implementation of these new cadre management methods has also met local challenges. According to China Daily, the new cadre management methods were being refused in some areas, "in some government departments, civil servants continue to follow the old rules and refuse to innovate although China has promoted civil service system for 10 years" (Sep 23, 2003, China

Daily).

The Chinese government is willing to introduce new methods to enhance accountability of government work. There is little doubt that all these cadre management reforms help to a certain level, yet the effectiveness of these methods is still not clear. Put another way, whether these new methods could limit officials' abuse of their administrative powers is still not discernable. Therefore one is not able to say that institutional reform at its current stage works very effectively. At the same time, China has also applied other reforms in order to formalize its government administration. Chinese administrative legal reforms also deserve to be mentioned in this discussion.

3.3 Chinese administrative law reforms

China began its modern legal reforms after 1978. The first landmark of this process was the 1982 Constitution, which upheld the principle of equality. Article 5 confirms that "the state shall uphold the dignity of the socialist legal system and article 33 declares that all citizens are equal before the law" (Peerenboom, 2002, p. 57). At the same time, the judiciary and legal profession were reestablished and education programs were introduced. In this legal reform process, the concept of "rule of law" is being introduced to China. Rule of law focuses on controlling officials and rulers by restricting their monopolistic powers. The basic character of

“rule of law” is that rulers are bound by law. Therefore administrative law which limits governments’ power is essential to the rule of law.

The beginning of Chinese administrative law started in the 1990s. There is no accepted definition for administrative law among Chinese scholars (Lin 1996, p. 3). Some scholars believe that administrative law should focus on controlling government monopoly power whereas others argue that the role of administrative law is to meet the needs of public administration (Lin 1996, p. 3). Generally speaking, the concept of Chinese administrative law covers substantive administrative legislation and procedural administrative legislation. Substantive administrative legislation grants power to administrative bodies to make decisions, whereas procedural administrative legislation has two functions. First, procedural administrative legislation sets up procedures for administrative bodies to follow; and second, procedural administrative legislation grants challenging powers to parties who are affected by administrative behaviors (Lin 1996, p. 13).

Issued in 1989, Administration Litigation Law (ALL) represents the creation of Chinese administrative law. Protected by this law, individuals could sue the government if they believe government actions violate their rights. This also requires that government administrative work should be undertaken according to legal requirements. The Administrative Litigation Law “actualizes the

constitutional concept that the Chinese government is itself constrained by law and accountable to its citizens at least in certain respects” (Horsley 2006, p. 4). Soon after the adoption of the ALL, in 1990 the Administrative Supervision Regulations and the Administrative Reconsideration Regulations were passed (Peerenboom 2002, p. 398). In order to set up regulations for controlling cadres, the Chinese government issued the Civil Servant Provisional Regulations in 1993; the examination mechanisms for cadre appointment and cadre rotation system were introduced and legalized by these regulations. In 1994, the State Compensation Law was published. It provides legal rights to individuals to receive compensation when their rights are neglected by unlawful government work (Horsley 2006, p. 4). Enacted in 1996, Administrative Punishment Law introduces “procedural due process” into Chinese legal system. With gradual publication of these laws and regulations, a comprehensive administrative law system is being established in China. In all of these administrative laws and regulations, the Administrative Licensing Law is a landmark.

The Chinese Administrative Licensing Law was adopted on August 27, 2003 and came into force on July 1, 2004. One aim of this law is to prevent officials’ seeking benefits from issuing licenses and franchise rights. According to Horsley, the purpose of the Chinese Administrative Licensing Law is to restrain government

activity by “restricting the number of government agencies that have authority to issue approvals in the form of licensing and limiting the types of activity that can be so regulated” (2006, p. 4). In day-to-day government administrative work, officials could use the rights for granting permits or franchises to seek profits. This explains how administrative powers have been abused by officials. The creation of this Administrative Licensing Law is a legal attempt by government to prevent abuse of administrative powers. As one Chinese official argues, in the past, Chinese viewed law as a means to control the people; now law is also being used to control government behavior (as cited in Horsley 2006, p. 5).

These administrative laws clarify officials’ administrative powers. However it is difficult to say whether these administrative laws will remove officials’ abuse of their administrative powers anytime soon, for a number of reasons. First, “rule of law” in China actually is far removed from the western definition. “Rule of law” is a western concept of law which follows a basic assumption that rulers are bound by law. However in China, the legal culture in history is referred to as “rule by law”. In a “rule by law” system, law is simply a pragmatic tool for obtaining and maintaining political control and social order (Peerenboom 2002, p. 33). The “rule of law” focuses on controlling officials and rulers by restricting their monopolistic powers whereas “rule by law” suggests controlling people and achieving social order by promulgating general commands reinforced by punishments. Although Chinese

“rule of law” has in theory been operating since reform, it is still not appropriate to say the current Chinese legal system is a “rule of law” system. Therefore, it is not clear whether officials’ behaviors will be strictly bound by law.

Second, the weak Chinese court system could undermine legal rationality. The Chinese court is not independent because it is a part of the government structure answerable to National People Congress (Horsley 2006, p. 6). Local government provides financial support for local courts therefore courts naturally are reluctant to challenge administrative agencies (Peerenboom 2002, p. 399). Furthermore, judges sometimes refuse to accept cases that will challenge government officials in order to avoid breaking *guanxi* with local government (Peerenboom 2002, p. 399). Therefore it is impossible to predict whether or not Chinese administrative laws will work as expected and remove all abuse of administrative powers in reality.

Furthermore, as noted in Chapter 2, there is a special situation in terms of abuse of administrative power which is abuse of officials’ discretionary power. The creation of an administrative law system helps to regulate officials’ behaviors. However, procedural laws cannot remove all officials’ discretion because the amount and role of discretion desirable in an administrative system is debatable. As Davis argues, “every government and legal system in world history has

involved both rules and discretion. No government has ever been a government of law and not of men in the sense of eliminating all discretionary powers." (1969, p. 17)

If officials' discretionary powers cannot be removed, opportunities for abuse of administrative powers will continue to exist. In order to limit abuse of officials' discretionary powers, we should not only focus on bureaucratic reform and administrative legal reform, but also on improving the transparency of officials' decision-making processes, which will further help supervise officials' behaviours. Currently it is not clear whether the cadre management system and administrative legal system can remove all abuse of officials' administrative powers or not. Other methods to improve transparency of officials' decision-making processes need to be developed.

The following case study verifies my assumption that abuse of officials' discretionary power should be noted in order to regulate abuse of officials' administrative power. It exams how *guanxi* was used in a land development project and it explains that although administrative laws were established, *guanxi* was still used in the exchange between officials' discretionary powers and developers' benefits.

Chapter 4 Case Study – Xin Real Estate Development Project

4.1 Introduction

The Xin Real Estate Development Company (Xin) was initiated in 1998 in the city of Wuhan. It was a subsidiary of another company in Shenzhen which is very successful. In Wuhan, Xin was a small new company which had just entered the market. Normally in China it is not easy for a company to enter a new city (market) due to various forms of protection set out by the local government. The owner of Xin, Lu Chang, was definitely aware of this difficulty but because of close *guanxi* with Wuhan's municipal officials he decided to enter Wuhan market.

The connection between Wuhan municipal government and Lu Chang dates back to the middle 1990s. At that time, a municipal government-owned company which was located in Hong Kong experienced a serious financial crisis. The Wuhan government was unable to help because of central government restrictions on local authority's participation in the market (which were in place to decrease the possibility of government corruption). Because of this, the company had to find other means to gain assistance. Lu chose to help the company, creating a scenario where the municipal government was indebted to Lu, i.e. owed him a favor. As a reciprocal gesture, the leaders within the Wuhan government

supported Xin's entrance into its market.

This *guanxi* has provided many benefits for Xin. As many are aware, project implementation processes are controversial in China. *Guānxi* plays a role and creates many opportunities for corruption in the land development process. Chinese central and local governments are trying to develop a legal system to regulate the officials' behaviours and in doing so; many new planning regulations have been developed in cities throughout China. Before investigating the case, some background information, most of which is related to the formal implementation process – Process Manual and Planning Law – will be introduced.

4.2 Chinese planning law

Chinese planning law is currently in a transitional reform phase. The City Planning Act was enacted by the National People's Congress on 26 December 1989 and has been effective since 1 April 1990 (Yeh & Wu, 1998, p. 181). This is the landmark act for the legal reform of the Chinese planning system. Since then, many new regulations have been published by local jurisdictions in order to enhance the City Planning Act at local levels. According to the Planning Act, there are four steps in a development process which involve selecting land, acquiring planning permits, obtaining land use rights, and acquiring construction permits.

These four steps could be considered the first procedural administrative rules in Chinese planning system.

4.2.1 Selecting Land

Chinese cities are planned cities. Each parcel of land is designated by land use type(s) prior to any development. The process of land selection guarantees that the proposed land development conforms to local urban planning and is subject to planning administration. When a developer initiates a project, he/she goes to the Planning Bureau for the "Opinion on Site Selection". The project is checked against the Master Plan and Detailed Development Control Plan (DDCP) for the agreement of the proposed land development (Leung 2003, p. 28).

4.2.2 Land Use Planning Permit

If the land development proposal conforms to the urban plan, the developer then acquires a planning permit which provides controls of physical design for his or her subdivision or site design. With the Land Use Planning Permit, the Planning Bureau will provide a sheet of codes for the developer which tells him/her what he/she can do and what is forbidden. These codes are used to direct subdivision planning and site designs.

4.2.3 Land Use Right

In China, all land belongs to state. At the municipal level, the representatives of the state comprise of three parties: the municipal government, Danwei (or other land owners, such as military army), and village collectives. Before the creation of the Land Distribution Centre, developers had to lease the land use right from one of the three parties before undertaking construction. In order to acquire state-owned lands, most of which are located in the city's core area, a developer needed to go to the Planning Bureau to pay the lease directly. To acquire collective-owned lands, most of which are located in the peripheral villages around the city, a developer needed to negotiate with the village collective, in order to obtain land-use right. For a Danwei-owned land, the developer followed the same process as he/she did for village lands.

Before the creation of the Land Distribution Centre, there was major problem in the rural land development process, as seen in conflicts occurring between developers and village collectives. Developers were able to acquire land selection permits (opinions on site selection) from the Municipal government agency, the Planning Bureau, when the land use right in fact belonged to village collectives. In other words, the municipal government was allocating village-owned land to developers. Theoretically municipal government had the right to decide future development within its jurisdictions but in reality, the municipal government did not

own village collectives' land use rights, and therefore conflicts occurred. For instance, municipal government might designate a current village's land to become a new urban residential area in its development plan. By doing this, the municipal government was able to decide how to use a village's land in the future. The municipal government, however, does not own the land use right of the village. Therefore when a developer obtained land selection permits from the City Planning Bureau, he/she had to negotiate with the village first in order to acquire land use rights. Although village people could not refuse the government's decision, they could always ask a high price for their reimbursement from the developer because they knew the developer could obtain more value from the land. The negotiation between the developer and the village collective therefore became crucial for a project. In reality, much violence occurred in this process, as seen in newspaper reports in different cities (Wang 2003, para 1). The creation of Land Distribution Centres ended this problem.

A Land Distribution Centre is a government organization that controls ownership of all state lands. It is responsible for the transfer of land use rights from the village to the state. In other words, the Land Distribution Centre takes responsibility for the transfer of land use which was previously conducted by developers. The Land Distribution Centre, rather than the developer, now negotiates with the village collectives in order to obtain village-owned land use rights, a transaction which

can occur at any time without any developers involved. The rationale for this transaction is based on the fact that the state wants to regain land use rights from village collectives in order to reserve lands for the city's future development. Therefore the Land Distribution Centre works as a "land savings bank" in this process. It buys land use rights from villages and keeps land as "state-owned". This process eliminates the conflict between developers and villages because the state has many methods and options in negotiating with village collectives. First, there are many optional lands around the whole city that the Land Distribution Centre could buy. For instance, in negotiating to buy a parcel of land, if the village collective asks for an unreasonable reimbursement, the Land Distribution Centre could give up this transaction and buy other villages' lands instead. Furthermore, city government always sets up a "directive price" for reimbursement around the city. Although this "directive price" is not law and villages are able to negotiate it, in reality, the village will not ask for an unreasonable price for reimbursement since collectives do not want to damage relationships with city.

The Land Distribution Centre is also responsible for selling land to developers. After transferring village land use rights to the state, the Land Distribution Centre can place the land into a land market. In this market, developers bid for the land they want. In the case of transferring of Danwei's or village collectives' lands, the Land Distribution Centre also works as a land market. For instance, if a Danwei

wants to sell its land use right, the Danwei needs to ask the Land Distribution Centre to provide a bidding opportunity for it (interviewee).

In the current situation, most big cities in China now have a Land Distribution Centre although the Land Distribution Centre might take different forms and have different names in different places. For instance, in the City of Wuhan, there are two departments within the Planning and Land Management Bureau that conduct Land transfer and selling. They are called the Land Management and Banking Centre (*tu di zheng li chu bei zhong xin*) and the Land Bidding Centre (*tu di jiao yi zhong xin*) respectively. With regard to rural land management, the Land Management and Banking Centre (LMBC) buys village collectives' land use rights according to city plan in order to transfer rural land use rights to state first. The Land Bidding Centre (LBC) provides a bidding market in which developers are able to bid for land. For Danwei-owned land, if the Danwei wishes to sell its land use right out, it is required to ask the LBC to provide a bidding opportunity for it in order for it to put its land on the market.

4.2.4 Construction Permit

After acquiring the land use right, the developer can apply for the construction permit for the final product. The construction permit is used for checking whether the site design or subdivision plan conforms to the development codes and

planning permit.

These four steps constitute the major procedural administrative legislation for development. They address the interactions among government agencies, developers, and other stakeholders, such as collective farmers. These four steps however, are not entirely sufficient for regulating the whole implementation process. Officials therefore have numerous opportunities to use their administrative powers to exchange benefits. For example, these four steps do not impose a time limitation for developers to acquire a planning permit. Therefore officials can strategically delay a review of a project and influence the implementation. This creates many problems for planning systems in all cities. The fundamental problem is the abuse of administrative powers of officials' in day-to-day practice. To solve this problem, many cities have conducted further legal planning reforms by publishing their own set of regulations to provide greater detail for these four steps.

Issued in 2002, the Wuhan Planning Process Manual instituted formal procedures for the land development process. It provides substantive administrative regulations as well as procedural administrative regulations. Through substantive administrative regulation, it grants administrative powers to planning officials. The administrative powers include issuing a planning permit and a construction permit,

to name a few. For procedural administrative regulation, the manual sets up procedures for planning officials to follow as well as systems for those affected by unlawful behaviour to challenge administrative powers. Written in two volumes, the procedures established through the manual provide greater detail than the four steps required by Planning Act. The first volume directs the planning official's work outlining how to deal with the project application from beginning to end. During early stages of the planning permit application process, planning officials are told what they need from developers and how long they have to reply to the application. Additionally, the manual oversees the requirements for the developer to follow. Prior to the development of the manual, there was no formal document that defined the process in detail, creating the scenario where officials' discretionary powers were more or less unchecked. The publication of the manual formalized this process. In the first volume, most of the regulations are related to the time requirements of officials' work. The second volume - for the developer - dictates the process which they should follow in order to deal with the different permissions within the corresponding allotted time. This manual is the first official regulation in Wuhan in terms of local planning administrative regulation, which organizes a formal detailed process for project development from beginning to end. The case study below investigates a project development in order to provide the reader with insight into the effect of legal planning reform in Wuhan.

4.3 Case Study

When Xin entered the Wuhan market in 1998, there was no local regulation for directing a detailed project implementation process aside from the Planning Act. Therefore many early administrative powers were still in the hands of officials. Xin's project is located on rural land therefore the rural land development process is the topic of this case study. Another issue which needs to be noted is that in the City of Wuhan, there is only one department which deals with land use management and planning management together, called the Planning and Land Management Bureau (PLMB). PLMB has many departments which are responsible for different work. For instance, the Land Management and Bank Centre and the Land Bidding Centre are managed by PLMB.

As soon as Xin was set up in Wuhan in 1999, it initiated a project. Although the Wuhan Planning Process Manual was not published at that time, the Planning Act was already in effect. Therefore the process follows the general guidelines only.

4.3.1 Site Selection and Land Acquisition

As soon as Xin entered the Wuhan market, it received 100 hectares of village land directly from the Planning and Land Management Bureau (*cheng shi gui hua yu guo tu zi yuan guan li ju*) based largely on having good *guanxi* with municipal

government. At that time, the developer did not have a clear idea of what he would do with the land and how much money the project would require for making this a unique project, even for a local company. Normally, a private company initially selects potential land then makes an application to the Planning and Land Management Bureau (PLMB) to buy it. Occasionally, the PLMB will not sell, after considering the reputation of the private company. However for this project, the PLMB allocated the land to the company directly because Xin has good *guanxi* with the municipal government. It should be noted that it is very difficult for even a local private company to acquire such a large parcel of land at one time. Thus, in this process, *guanxi* played a very important role. Acquiring land is always looked at as the most important issue for a developer considering most of their ability for profit derives from the land.

Prior to the establishment of a land market, personal *guanxi* was the easiest way to obtain land. However, this soon changed. With the introduction of a land market and establishment of the land distribution system in 2002 in Wuhan, the municipal government's interventions into land allocation process decreased rapidly. The Land Bidding Centre created, for the first time, a market for urban land.

When asked whether government interventions into land allocation were likely to occur again in the future, an interviewee said, "I think it is impossible, because

after 2002 (creation of land distribution system), all of the potential development lands will be sold through land markets (Land Bidding Centre) in which every company, theoretically, is allowed to make a bid in order to get the lands it wants. The bidding process is relatively transparent for public supervision by allowing people to hear. Even if the company has a good *guanxi* with the municipal government, the government dares not do that (interventions on land allocation process) because of the transparent bidding process and public supervision. So government cannot intervene too much" (interviewee). In other words, after 2002 the major determinant of land allocation is the market. However, in October 2006, when I called another interviewee to gather stories about the land allocation process in Wuhan, he provided me with an interesting story on rural land allocation process after creation of the land market.

As introduced above, within Wuhan's current land allocation system, there are two departments: the Land Management and Banking Centre (LMBC), and the Land Bidding Centre (LBC). The major work of LMBC is to buy lands and save them as state-owned lands for future development. As we know, rural land use rights belong to village collectives living on the rural lands. Therefore the municipal government is required to buy the land use rights from village collectives before any new project application can occur on the land. However this does not mean LMBC will buy all village collectives' lands around city. The LMBC selectively buys

rural lands according to the master plan and its own criteria. This creates problems because officials of LMBC have the discretionary power to decide which parcels of rural land to buy.

There is another case that explains the problem of the LMBC. In 2005, the director of the LMBC, Zhu Jisheng was arrested because he leaked a secret to someone with whom he had a *guanxi* relationship, Wang Kerong, that LMBC was ready for buying 800 hectares of rural land within a village. After acquiring this internal information, Wang approached that village and signed a contract with the village, allowing Wang and the village to share the profits from the transfer of land use right to State in the future if the government were to buy those land use rights. When the village signed the contract, it was unaware of the impending plans of the municipal government to buy its land in the near future, therefore the village agreed to share the profits with Wang in exchange for very little. Soon, the government bought the land and Wang earned 18 million RMB (Chinese Yuan) for his share. Through reciprocal obligation, Wang gave 400 thousand RMB to Zhu.

The *Guanxi* relationship not only works in the LMBC, but also applies in the work of the LBC. According to the same interviewee, every company is theoretically allowed to bid for land in the LBC. However, in reality, the LBC will set up many requirements for the selection of companies. For instance, if Company A has good

guanxi with officials in the LBC and wants to bid for land, before a bidding process, the LBC will issue a sheet of requirements for companies who want to bid for the land. These requirements will uniquely satisfy Company A and eliminate other potential companies. Therefore Company A can easily get this land by "bidding" without facing serious competition. This also happens as a result of officials practicing their discretionary powers. This explains how in light of continuing legal planning reform and the development of many new methods to control *guanxi*, *guanxi* still can work.

In Xin's case, because the formal land distribution system had not yet been created, *guanxi* played a major factor in land acquisition. The municipal government asked PLMB to allocate the entire land to Xin directly.

4.3.2 Acquisition of the Land Use Right

Following land selection, the acquisition of land use rights was a crucial step and many projects have encountered conflicts at this stage. In this process, major conflicts consisted of disagreements regarding the reimbursement for the people who were living on rural lands. This is an issue which came into play during Xin's project development.

In the case of Xin's project, the farmers on the land desired more money than the

developer wished to contribute. To solve this disagreement, the municipal government came to the assistance of Xin. According to my interviewee, municipal government staff stood on Xin's side and negotiated with village collectives in order to ask them decrease their expectation. This tactic was successful because village collectives are unlikely to totally refuse municipal governments' opinion since the municipal government is the village collectives' boss. Furthermore, the village collectives needed to appear to maintain good relations with the municipal government in order to ensure good *guanxi*. Many officials were involved in the negotiation process, such as municipal government officials who supervise this village's work and the leaders of local communities. All this does not mean Xin was able to get the land for free, as Xin also paid significant reimbursements. For instance, Xin helped the farmers who lost their land to obtain new jobs and helped the village to prepare its village development plan. Therefore the best outcome was acquired without conflict between them. Although my interviewee refused to mention the price they paid, I believe the price they paid was reasonable because other interviewees indicated there was no serious conflict in Xin's project in terms of transfer of land use rights.

After solving the negotiation with the collective community, Xin was required to pay the land tax to the government. Because of *guanxi*, Xin received additional benefits from the government. According to land management law and regulations,

there are many different types of land tax in China such as land lease fee (*tu di you chang shi yong fei*), land transferring fee (*tu di chu rang jin*), land value improving fee (*tu di zheng zhi shui*), to name a few. For the requirements of these fees, central government issue "directive policies" to local governments. However local governments have discretionary powers to decide how much developers should pay for different fees, creating opportunities for *guanxi* practice. Because Xin has *guanxi* with the municipal government, many types of land tax were removed for Xin's project (interviewee), helping Xin to save a great deal of money.

When I asked my interviewee whether or not this phenomenon still occurs, he said it does (October 2006) because there is no law or regulation to strictly control officials' decisions (administrative powers). Many regulations only stipulate minimum and maximum for these fees.

4.3.3 Acquisition of the Land Use Planning Permit

The planning permit is issued by the PLMB. A major component of the planning permit is the development codes which are very important for the company. For instance, the height limitations have a far-reaching influence because this affects how many stories the developer can build and therefore determines the monetary value the developer can obtain. Although the developer may have a good relationship with the municipal government, this does not mean that every official

of the PLMB which oversees the day-to-day planning practice will necessarily follow the developer's wishes. Planning officials who oversee day-to-day planning practice can use their discretionary power to influence developers' projects, as indicated by my interviewee.

As a legal administrative regulation, the Planning Process Manual sets up project procedures and time limitations for the issuing of planning permits. Once the developer delivers his application, officials in the PLMB have 18 days in which to provide feedback. This is a significant amount of time (i.e. delay) for a project development in China. Therefore, for the processing of one's case, developers need to practice *guanxi* with officials on an informal basis. For instance, developers could treat officials to meals and buy many gifts for him or her.

This phenomenon is very common, especially in the case of planning permits. The plethora of development codes provides huge discretionary power to officials, who are free to criticize a developer's site plan and architectural design. The codes predictably regulate maximum and minimum limitations. For instance, typical sentences in the codes, in no particular order, are as follows:

(1) The new buildings should not be higher than 30 meters.

(2) The style of the buildings should respect the historical context.

(3) *The windows should reflect the context of the street.*

(4) *The minimum height of a floor should be 2.7 meters.*

(5) *The minimum of green space should be no less than 30%.*

Such criteria for officials' evaluation provide ample space for their professional assessment and officials could easily use their negative opinions to defer the process of a project. For this reason developers are inclined to find ways of accelerating the process, leading to a scenario in which *guanxi* could take place.

After receiving a planning permit, the major work is construction. According to my interviewee; the construction of the Xin project went well. Currently (October 2006), the project is still ongoing because it was divided into different stages. The first and second stages were sold out and third stage is just now ready for selling. For each stage, Xin needs to follow the process described above and *guanxi* continues to work throughout the whole project.

In order to understand the system for supervision officials' *guanxi* practice, I contacted my interviewees again in October 2006 to ask them how often planning officials are rotated. No one was able to give me an exact time because it seems to be the case that if a planning official does not make a serious mistake, he/she will stay there. As an example, the former director of the PLMB, Zhang Lin, was

just rotated to be the head of Xin Zhou District in July 2006. Before her rotation, she stayed as director of the PLMB for more than 10 years (interviewee).

Land is very important in China and every government agency which has powers related to land has the potential for corruption. For instance, the LMSC and the LBC, although they are quite new, have much more opportunity for corruption than other departments because land is a valuable resource. Furthermore, officials who have discretionary powers have opportunities to practice *guanxi* without breaking regulations. Because these officials are decision makers who can influence development projects, developers have to practice *guanxi* with them in order to expedite their projects.

4.4 Findings

4.4.1 Guanxi Practice

From this case study, we can determine that *guanxi* practice is effective and is still popular in this industry though it has perhaps reduced in importance in other industries as some scholars have argued. Within the real estate development industry, *guanxi* will likely continue to play an important role since discretionary power remains as part of the nature of government. One responsibility of the government is to regulate market uncertainty in order to benefit the public. Therefore the nature of planning could be seen as a tool used by government to

regulate negative impacts on society. Government cannot abandon the power of planning; therefore officials' discretionary power in planning system will be perpetuated. The developers desire to build *guanxi* with officials because the officials have the power to control the project development process. Therefore good *guanxi* plays an important role in this industry. This suggests that even well developed administrative law is unable to entirely control officials' behaviours because it is necessary to maintain the role of discretion in government decision making.

4.4.2 Administrative law works to a certain level

As is demonstrated in this case, the Wuhan Planning Process Manual does help to regulate officials' administrative powers. Before its publication, planners were able to use their discretion related to time requirements to influence a project. The Planning Process Manual provides time requirements for a project which planning officials are required to follow in their day-to-day practice. This illustrates how administrative legal reform helps decrease officials' abuse of administrative powers. However because the Planning Process Manual only limits the maximum time, which is 18 days, developers are still likely to practice *guanxi* with officials in order to shorten the waiting time. It is probable that there are no administrative laws which can provide further limitation for the time requirement. In other words, there is no administrative law which can eliminate officials' discretions and

officials' discretionary powers provide opportunities for *guanxi* practice.

4.4.3 *What is the point?*

The major problem in this case, probably in the whole planning system, is the abuse of the officials' discretionary power. The officials in the Planning Bureau who deal with day-to-day practice could use this power for personal benefit. In a project development process, the developer wishes to obtain all of the permits as soon as possible and with the fewest possible changes and postponements. Planning officials who have the power to regulate the process (the four steps) can easily slow down the process. Currently, detailed regulations do not exist to control the officials' discretionary power and to set up a formal detailed process. The Manual does not clearly address issues related to the officials' discretionary power, allowing a grey area for the potential abuse of power. Regardless, it is impossible in reality to create clear guidelines to regulate discretionary powers. This problem greatly troubles Chinese planners and planning officials, which has prompted an effort to decrease the abuse of discretionary power. Legal planning reform remains as a mechanism to control officials' discretionary power; though there are other ways Chinese planners could think about solutions. For instance, they could consider ways to increase the transparency of officials' decision making processes. In my next chapter, a case study will show how Chinese planners are trying to solve these problems in terms of officials' abuse of

discretionary powers, illustrating Chinese planners' wills and efforts for planning reform.

Chapter 5 Case Study 2—Zoning Practice in China

5.1 Introduction

As noted earlier, abuse of officials' discretionary power represents an important instance of *guanxi* practice. Chinese planners are aware of this problem and they are interested in finding ways to control this abuse. The implementation of zoning is an attempt by planners to control the abuse of discretionary powers, the rationale being that by creating legislation and using the 'rule of law', the need for officials' discretion is reduced. In other words, Chinese planners want to be able to use legal documentation to control officials' discretionary power.

Prior to 1997, the term 'zoning' did not exist in the Chinese planning system. The method planners used to regulate development in day-to-day practice was titled Detailed Development Control Plan (DDCP), which designated many codes for different land parcels in order to regulate new development. As seen in the previous chapter, the codes are not so detailed as to prevent officials from using his or her discretionary power, opening up the possibility for corruption to take place. In 1998, zoning was proposed by the city of Shenzhen as a mechanism to bring legitimacy to the land development process. Learning from Shenzhen, Wuhan planners proposed the implementation of zoning in 2002. Wu Zhiling, the

director of the Wuhan Planning and Design Institute, was the lead official advocating this idea.

In the summer of 2003, I returned to the Wuhan Planning and Land Management Bureau to undertake field research on this subject. In a conversation with Wu, I was asked to join the “zoning team” as no one in the office at the time had any experience with zoning. I accepted this internship opportunity as the subject of my second case study. In the following section, I will provide details to further the reader’s understanding of Chinese planning.

Before examining this case study, some background on the Chinese planning system is needed. This chapter begins therefore with an introduction to the motivating forces in Chinese Planning.

5.2 Attributes of the Chinese planning system

The Chinese planning system is currently in a period of transition with many social and economic reforms taking place, making it difficult to generalize in many cases. This thesis is intended to discuss only the most obvious attribute of the Chinese planning system, that is, a lack of appropriate legislation. As discussed in the last chapter, discretionary powers in the Chinese planning system play a large role in

determining outcomes, creating many opportunities for corruption. It is said that the reason for this is the lack of appropriate legislation which can regulate the abuse of discretionary power.

5.2.1 Lack of Appropriate Legislation

According to Khakee, during the pre-economic reform period, urban planning in China was characterized by a lack of appropriate legislation (as cited in Yeh & Wu 1998, p. 171). There was no need to employ legal measures in planning since planning was a management tool of the socialist government (Yeh & Wu 1998, p. 171). Its only use was to allocate resources and to control development. After the adoption of economic reforms in 1978, China began to recognize the importance of a legal system in a market economy. However, because the nature of planning is to control and direct development, there was not a lot of conflict between the old system and the new requirements in terms of planning. The only difference lies in the level of control.

The first issue that underwent change in the planning system is the control of the allocation process, from state control to the market, in order that government could not designate specific projects for each parcel of land as before in a planned economy. Now, the control of land in the market economy is limited to designation of land use type, i.e. agricultural use, industrial use, for example. This is precisely

what was described in the 1989 Planning Act, the purpose of which was to define a comprehensive planning system in line with the reform period goals (Yeh & Wu 1998, p. 181). It was in this Act that the most critical planning tool, the master plan, was created.

The master plan, which is authorized in the Planning Act making it a legal document, outlines the general land use pattern of a city and provides a vision for a city's future development. According to the explanatory note of the Planning Act, the master plan usually has a planning horizon of 20 years (Yeh & Wu 1998, p. 183). Because of its relatively large scale however (normally 1:10 000), it cannot direct the small parcel development in day-to-day practice. For instance, in development projects on a single parcel, the developer needs to know the controlling codes, such as the maximum height, density and stories, which he or she can follow for site design, architectural design and construction. The master plan does not provide information on these set limitations; therefore a plan focused to regulate the specific site developments is needed in addition to the Planning Act. The Detailed Development Control Plan (DDCP) meets this need (Yeh & Wu 1998, p. 196). In 1991, the Chinese Ministry of Construction issued NO. 12 Command— Plan-Making Methods (*Cheng Shi Gui Hua Bian Zhi Ban Fa*). In this report, DDCP was instituted as a new planning tool for instructing day-to-day practice (Xiong 2002, p. 27).

“DDCP is prepared for the area facing immediate construction; it includes the implementation regulation of land use and building management, such as building height, density, floor space ratio (Yeh & Wu 1998, p. 184)”. In other words, DDCP is the management tool used by planning officials in day-to-day development. Because the DDCP was not legislated by the central government and the local government carried the responsibility, problems ensued. For instance, according to the Command, the local planning bureau has the responsibility to issue the DDCP and to change it according to special circumstances. In reality, the local planning bureau legislates, executes and supervises. Furthermore, the DDCP can easily be changed according to the officials’ subjective opinions. The changes will be determined by the level of power. As an interviewee explains:

DDCP is a government tool designed by professional planners; planners thought that officials who deal with planning practice should strictly follow the implementing codes in DDCP to evaluate the project application. But in reality, officials often can find some reasons to change them if they really want, such as inadaptability, etc. So the officials’ discretionary power is very important for developers. It decides whether or not a project can be implemented easily and how much a developer could get. The lack of appropriate legal status is assumed as the major problem of DDCP by

planners (interviewee).

Planners believe that if DDCP was legislated by the local People's Congress this problem could be solved (interviewee). It was felt that the discretionary power would be decreased if the DDCP was legislated because it then becomes difficult to change a law. This represents an attempt by planners to introduce more legal rationality to planning, as in the case of zoning. Chinese planners believe that the legal rationality of zoning would reduce the discretion of the urban planning system and equip the planning authorities with the rule of law (Yeh & Wu 1998, p. 196). Under this circumstance, Shenzhen initiated its urban planning reform in 1998. Later on, Wuhan began its own zoning practice in 2002.

5.3 Zoning practice in Wuhan

As noted in Chapter 4, the Wuhan Planning and Land Management Bureau comprises many departments including the Planning and Design Institute which provides technical support in a role similar to a design company in the Western context. The Planning and Design Institute (PDI) has planners and designers preparing the master plan, the DDCP and other technical documents. These are professionals who devise physical development plans. The director of PDI, Wu Zhiling, leads the zoning practice in Wuhan.

Wu, a new director (beginning in 2002) of PDI, is a vigorous young leader. He convened several meetings within the PDI and devised a plan to organize a special team to work on this project at the beginning of 2002. A senior planner in PDI, Duan Yu (Wu's classmate in university) was appointed the leader of this working team. Wu also asked other people in his agency to provide support to this working team. As a department, they began to concentrate their work on initiating zoning in one particular street (*jie dao*).

In October 2002, the working team took an investigative trip to the Shenzhen Planning Bureau and upon return initiated Wuhan zoning, which was named as "Statute for Management of Urban Planning" or the "Statutory Plan" (SP).

The major component of zoning is a physical plan (diagram). This physical plan dictates land use types and development codes. From my observation, this physical plan is the same as the DDCP, the only difference being that the zoning plan is accessible to the public and legalized by local legislative body, the People's Congress. In contrast, the DDCP is used only for planning officials and is a policy legislated by the planning bureau itself. During the creation of the physical plan, planners put a great deal of time into discussing land use types, intensity and spatial relations. More importantly, there was much discussion on the extent

to which they should regulate a development. For instance, they discussed the “best maximum” height restriction of a building in a designated parcel so that once legalized by the local legislative body, the “best maximum” could not be altered by officials’ discretions. This increases accountability within the government administration because it decreases the potential for abuse of power. As noted earlier however, no legal system is able to remove all discretion in administrative work and zoning is no exception. The development codes in zoning are similar to the DDCP (see chapter 4, also see online zoning documents of city of Wuhan). Therefore officials still have discretion to influence a project. For instance, officials can argue that the building height of a proposal conflicts with city skylines although it is in the scope of “best maximum” height. This demonstrates how legal rationality cannot remove all of discretionary powers in administrative work and why *guanxi* continues to occur.

Another contribution of Wuhan zoning is the introduction of various methods of public participation. Prior to the Wuhan zoning implementation, public participation in urban planning was limited to handouts and questionnaires (Chen, J. 2000, p. 54). The Wuhan zoning practice included the use of more forms of public participation, such as in-depth interviews, focus groups, and an online survey, to name a few. Specific steps in the process for developing zoning were as follows:

(1) 2003.3-2003.5 Site Investigation

The purpose of this step was to clarify which landowners were involved and to determine their intent for future development in order to ensure the planned land use pattern in the Statutory Plan (zoning) would match the landowners' preferences. In doing this, planners hoped to decrease the likelihood of conflict and of having to make continual adjustments to the plan in the case that landowners' were unhappy with the plan (interviewee). In this step, planners established goals prior to visiting the site and so had a general vision in mind. Through negotiations with landowners (land use right owners), planners were able to obtain the results they wanted (interviewee). Goal setting is the first step of their work.

(2) 2003.5-2003.6 Public Opinion Collection

In this goal setting and visioning step, the planners attempted to involve the public in order gather their opinions. Three different methods were devised in order to accomplish this. First, planners went to the local community unit, called the "Street" (*Jie Dao*) in China, to organize workshops and convene public representatives (*Jie Dao Wei Yuan Hui*). Second, questionnaires were designed and handed out by street committees. Planners helped the street committees select the samples groups in order to accurately reflect the diversity of opinion of the masses. Third, planners used in-depth interviews to collect the opinions of

staff working for the street committees since these staff work with local people every day and know what they need better than those separate samples typically selected in a questionnaire survey. Through these three steps, planners were better able to grasp public opinion which in my opinion represents significant progress in the land development system. This influences the role of the planner, making them more of a facilitator or mediator than an expert.

(3) 2003.6-2003.8 Plan Making

In my observation, the methods for making the plan and the contents of Statutory Plan are exactly the same as in the DDCP. After completing the public consultation, planners analyzed public concerns, introduced the site analysis, and then formulized the problems at hand. Therefore, they used their own knowledge to solve the problems which they identified and were able to propose development policies and regulations for the future. This could be seen as a blueprint process, where first problems are defined, followed by a gathering of information, the development of a plan, action and then the actual implementation. Planners have a passion for this process, seeing themselves as “technicians” or “experts”. They assume their work would be the best solution for the future development and that the behavior of the public will follow their designated course (interviewee). This is what many scholars call a “rational” perception.

(4) 2003.8-2003.9 Public Reflection

After finishing the physical plan portion of the Statutory Plan, planners organized a public show (*gong.shi*) in order to obtain public feedback on the physical layout and implementation regulations. In the lead up, the event was advertised in Wuhan's most popular newspaper, the Chang Jiang Daily. The physical plan was on display for two weeks, during which the concept plan was shown to the public. Unfortunately, public feedback was not collected in this phase, i.e. the public was given a phone number to call if they had any concerns, yet in reality few took advantage of this service (interviewee). In order to further gather public opinions on zoning, the working team also posted physical documents for zoning on line, which could be seen on the PDI website.

(5) 2003.9-2003.10 Revision of the Plan

This step was devised to allow for any revision of the plan following the public reflection stage. According to an interviewee, not a lot of changes required since not a lot of feedback was actually provided (interviewee). In addition, planners do not perceive the public being smarter than they are. The reasoning behind this is that planners still have the idea that they are the technicians. Seldom do planners view themselves as real facilitators; instead they see themselves as experts and do not really give much consideration to public input. Public participation is only a requirement by government and planners did not seriously commit to it.

(6) 2003.10-2003.11 Acquirement of Authorization

The Statutory Plan (zoning), as devised by the planners, is to be authorized by the Wuhan People's Congress, giving it legal status. From the end of 2003 until the end of 2004, there was no tangible progress for this because the Planning and Land Management Bureau was focused on trying to finish the zoning for the whole city. In the years 2004, 2005 and early 2006, other streets (*jie dao*) went through a similar zoning implementation process. Currently, the working team has finished 11 zoning documents for selected streets (*jie dao*) and all the zoning documents have been posted online in order to collect more public reflection. There are a number of streets (*jie dao*) on the working team's schedule to be brought into the process in the coming year (interviewee). Although zoning documents have not yet been legislated by municipal People's Congress, planning officials have already begun to strictly follow it (interviewee).

In the summer trip of 2006, my research was specifically focused on the current effects of the zoning practice. In other words, the research focused on determining whether or not zoning helps to control abuse of officials' administrative powers thereby decreasing *guanxi* practice in land development. Many planners reported that, as of right now, it is more like the DDCP. There are still problems relating to how to control the details of design codes and

discretionary powers. Furthermore, they raised many questions, for instance, will public opinions in community planning process dominate the physical plans if the bottom up methods used are too broad? For this reason, planners are hesitant to further increase public participation. On the contrary, one developer said the zoning practice was effective in regulating officials' behaviors to a certain degree. Currently, officials strictly follow the development codes in zoning documents in their administrative work. For instance, a planning official will not change the "height limitation" required by zoning therefore officials administrative power is bound to a certain degree. This same developer also agrees *guanxi* still influences the land development process and officials still have discretionary powers to influence a project.

5.4 Findings

Chinese government and planners are trying to limit *guanxi* in the planning system by using legal planning reform. Zoning practice is a method Wuhan planners are using to try to decrease officials' abuse of administrative powers. It limits abuse of administrative powers only to certain degree however since no law can remove all officials' discretionary powers and so, in reality, zoning still cannot remove *guanxi* entirely from the land development process. Put another way, as long as officials' discretions exist, there will always be the potential for *guanxi* and

corruption. Therefore it is not appropriate that focus only on legal planning reform. Other ways of supervising officials' discretionary power must be devised, for instance, we could consider how to improve transparency of officials' decision-making process.

In the North American planning system, one method which has been used to supervise officials' decision-making process is using a bottom-up planning process. In this process, many planning methods such as public hearings, open houses, design charrettes, etc are integrated in order to improve transparency. These methods could be introduced to Chinese planning system in the future. In the next chapter, as a conclusion, two planning methods - the design charrette and the open house are explained as future potential research directions.

Chapter 6 Conclusion

6.1 What is the purpose?

As noted earlier, the lack of effective supervision on officials' administrative powers is what allows the practice of *guanxi* to persist. In Chinese land development processes, planning officials use their administrative powers in order to obtain benefits and profits from developers. The Chinese government has created numerous methods, such as the cadre rotation system and administrative legal reform to formalize and supervise officials' behavior. However, the effectiveness of these methods is not discernable at the current stage. Through case studies, readers can see that although many administrative planning regulations have been introduced into the planning system, officials are still to use their discretionary powers to accrue benefits. This phenomenon will likely continue to occur for a certain amount of time because the "rule of law" cannot remove discretionary powers entirely from any system. With this said, it is my opinion that in order to supervise officials' behaviour, we must increase the transparency of officials' decision-making through public supervision. The rationale behind this idea is that officials have to be responsible for their own behaviours which are evident to public. Officials must maintain their reputations in order to keep their positions or be promoted in the future. Officials are

disadvantaged by public complaints regarding their work and so public supervision on officials' decision-making process could enhance the governments' administrative accountability as well. When people are involved in the process of decision-making, officials' behaviours will become more rational. Therefore the abuse of officials' discretions may decrease and, as a result, *guanxi* practices may decrease as well.

Public supervision is not limited to public observation, with the public having opportunities to provide input and being informed, since this already exists in some Chinese cities. Public supervision means that citizens are not only able to express themselves but also have opportunities to be involved in the actual decision-making process. Methods originating in Western countries such as the open house, the design charrette, should be considered by Chinese planners as useful tools to gather public opinion. These are public participation methods which help decision makers understand public opinion, while simultaneously indicating to the public what decisions are being undertaken by officials. Therefore the transparency of the decision-making process is improved.

Design Charrette

A design charrette is a method often used to create a physical design or plan by public and professionals together. It provides an opportunity for stakeholders, such

as decision makers, architects, designers, consultants, developers, and public to work closely in a particular time period in order to develop planning and design ideas. In this collaborative process, participants are encouraged to express their ideas on different design topics. Through a design charrette, many different opinions on development can be visually represented. This is an effective way to collect public opinions on a decision and also provide an opportunity for decision makers to express the rationale behind their decisions to the public.

A charrette will normally be held over a weekend or holiday and includes public discussion and small group design sessions. A public discussion provides an opportunity to openly address design topic, problems, and findings and collect public opinions on these issues. Following the public discussion, participants are divided to different small groups, each group having one or several designers who will facilitate a visual expression of group discussions in addition to a facilitator and note takers as needed. People in a group can also be encouraged to draw based on their own interpretations. At the end of a design charrette, the drawings of different small groups are shown to the entire public.

Open House

An open house is a participatory method that is used to collect public opinions on proposed decisions by decision makers. Through an open house, the public has

an opportunity to understand officials' decisions and to express their opinions on these decisions. The open house is a good method for the public to better understand the rationale behind officials' decisions, and provides a means for the public to supervise officials' work. An open house can be held in local community centre. When the government implements a project, neighbors can be invited to drop-in and view government plans. In this way, local people can also better understand government's efforts. An open house could be used at any stage of a project, it should be well advertised and the time should be limited to four hours and it can be repeated over two or more weeks.

These planning methods, used in Western planning systems, help the public supervise officials' decisions. If they could be used in Chinese planning practice, I believe the transparency of officials' decision-making process would be improved. *Guanxi* practice could be reduced through the use of these methods since they expose officials' discretion to the public.

6.2 Implications

Guthrie and Yang are both correct to a certain degree. As Guthrie argues, procedural law is absent to a degree in China, consequently, officials' behaviours have no legal constraints to a certain level. I agree with his point on procedural

law regulating *guanxi* practice. Yang argues that *guanxi* has strong cultural roots. I believe this argument is solid as well. However, one needs to understand the reasons behind *guanxi* practice in a comprehensive way. Discretionary power and benefit seeking are the forces behind *guanxi* practice. Therefore it is clear to see why discretionary power will not disappear since benefit seeking is human nature. We can only try to increase the transparency of the decision-making process and involve the public in decision-making processes in order to decrease the possibility of corruption. Chinese planners can learn from and adapt methods from the West in order to realize these aims. Therefore, how to incorporate Western methods into Chinese contexts should be a meaningful direction for future research.

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Appendix: Selection of Interviews

The questions in this part are highly selected because of the number of interviews. Questions were asked focusing on different topics from planning to politics.

Interviews with planning officials (2003, 2006)

Interviewer: nice to meet you, I heard about many people complain that Guanxi is important in land exchange, is it true? Could you explain the major problem of current system?

Interviewee: nice to meet you. Well, your question is hard. I have to say in 1990s, it was true Guanxi played a very important role in land exchange, even in the whole process of land development. The reason for that was we didn't have a legal document or policy that could provide instruction for our work at that time. As officials, we had to supervise development according to our own knowledge, therefore there was a potential for Guanxi practice. However, with the enhancement of policies, it decreased dramatically. Currently I don't think Guanxi is very important in terms of land development process, but I won't deny there is no Guanxi work. As a government agency, we issued many policies, for instance, Zoning practice, DDCP, and the planning manuals to legalize the development process. We have many problems in terms of planning, I don't know which one is major, but I know in our office, corruption is very little because Wuhan is a big city, many people are putting their eyes on our work.

Interviewer: could you explain more about planning manual? What is that for?

Interviewee: In 2002, our bureau issued planning manual. It has two books, one is for our own work, and the other is for developers. It sets up a process that tells people how to develop a land. You can see that it is a formal document that everybody has to follow. Therefore it can enhance our work.

Interviewer: how about land exchange center?

Interviewee: that is another try of ours to decrease corruption of land exchange. Actually it was required by central government. It was initiated in 2002 at Wuhan. Before 2002, land distribution major depended on developers' reputations. After the establishment of land exchange center, every developer has to go through a bidding process in order to get a piece of land.

Interviewer, do you think there will be corruption in the future in terms of land distribution?

Interviewee A: I think it is impossible, because after 2002, all of the potential development land is sold through a land market in which every company can bid for it. Even if the company has a good relationship with government, the government dares not do that because of the transparent process and public supervision. In addition, the decision makers are now Danwei or the village, so government cannot do the intervention. Actually I think it works well right now, more transparency.

Interviewee B: I won't predict that. But I think there will be. Although land market works, there are some exchanges among Dan Wei and developers, which I don't know exactly how it happened. But corruption happens I know.

Interviewee C: actually just before you came back (summer of 2006), many officials in land distribution center were arrested, I think they might corrupt, that is the only reason.

Interviews with developer (2003 summer; 2006 summer):

Interviewer. Do you think guanxi is important in land development process?

Interviewee: I think so. It worked as a major factor to get lands. Also we need to practice guanxi with planning officials in order to get the planning process faster. These officials are hard to communicate. They are always criticizing.

Interviewer: could you explain why your company came you Wuhan?

Interviewee: Our company is from Shenzhen as you know. We had no interests to come here before 1998 because we did not know anything about Wuhan market. It was Wuhan government that invited us to come here. We had a good relationship with it because we did a favor to them in 1997. We helped them to pay debts in Hongkong. Therefore as reciprocal benefits, Wuhan government gave us lands.

We got 200 hectares land in 1999. At that time we have no idea how to develop such a big land therefore we divided it to four phases. Currently we are only working on phase 1 and 2. We also sold out a piece of land in phase 4. Please don't tell others.

Interviewer: Could you explain the problems of development?

Interviewee: I don't like the negotiation with farmers; you know they always ask money. Government helped us negotiate with them in terms of land exchange fees, therefore it was not that difficult and we helped the village to provide them some jobs as reciprocal benefits.

Interviewer: Do you need Guanxi in the planning process? Did you get some benefits from city government?

Interviewee: Although we have a good relationship with city government, we still need to create Guanxi with planning officials because they are the people who deal with the day-to-day planning practice. They control many details for development, such as building styles, height, etc. We cannot always ask officials at city government to help up in the whole planning process. Therefore relationship creation with these guys is necessary. I treated meals for them. This is not bribery because we are friends; meals do not mean corruption I think. City governments helped us in many ways, such as negotiation with farmers, and our project was deemed social housing, therefore we saved some taxes.

Interviewer: Do you think the Guanxi will decrease or disappear in the future?

Interviewee: Impossible, in China everything is about Guanxi. If you don't have Guanxi, you can't do anything. For instance, if you don't have a good relationship with these guys (planning officials), your projects might be carefully taken care of. It is too hard, I cannot imagine.

Interviewer: how about land distribution center?

Interviewee: it works in a certain level. I think it is a good thing. Before it was enacted, government had the absolute power to allocate lands, we were pretty hard to get lands, right now if we select a land, we could ask for bidding process. So I think it is useful. But as I said, it works in a certain level. Corruption happens there.

Interviewer: as friend, please give me some advice for my career.

Interviewee: to be honest, if you don't have Guanxi, stay abroad. But if you had, come back as soon as possible.

Interviews with professor (2003, 2006)

Interviewer: what is your opinion on planning manual?

Interviewee: after the planning manual issued, the formal process was established in a certain level. But I don't think Guanxi practice will disappear since the planning manual is not that detailed. There are still a lot of room for official's discretion.

Interviewer: Do you think land distribution center could solve corruption?

Interviewee: No, early this year (2006) many officials in that center were arrested, that means they were corrupted probably. One way to do that is they can do the exchange with Danwei and developers. Everybody knows that.

Interviews with planners (2003, 2006):

Interviewer: Could you explain to me why did u like to do zoning practice?

Wu: Firstly I like to correct your words, it is our bureau director who likes this idea and I think it is a good proposal. You know Shenzhen did a practice in 1999, but there are some problems. As the fifth biggest city, we think it is good if zoning can success here. Furthermore we could get help from Shenzhen. Therefore we all think this is a good proposal after director Zhang suggested on a meeting in September 2002. We therefore went to Shenzhen to learn in October 2002.

Interviewer: Do you think there are problems in terms of planning tools?

Wu: Yeah I think so, one problem we met in practice is the changes of DDCP. We designed it and the officials have to power to change. That is a problem. It makes our work stupid.

Interviewer: Why DDCP does not work well?

Kuang: DDCP is a government tool designed by professional planners; planners thought that officials who deal with planning practice should strictly follow the implementing codes in DDCP to evaluate the project application. But in reality, officials often can find some reasons to change them if they really want, such as inadaptability, etc. So the officials' discretionary power is very important for developers. It decides whether or not a project can be implemented easily and how much a developer could get. The lack of appropriate legal status is assumed

as the major problem of DDCP by planners. So we think if DDCP has legal status, it will constraint abuse of power.

Interviewer: what do you think the problem of planning?

Interviewee: we need legal document to regulate all codes of DDCP, otherwise it is too easy to change it and it might raise corruption. Legal rationality, big term, we need.

Interviewer: How did you research the zoning practice and avoid problems of Shenzhen practice?

Interviewee: We used internet to check planning systems in Western countries. And we also learned from Shenzhen. In order to avoid the problem of re-zoing, we did a great deal of ground research for the land use types. We visited every landowner and asked their opinions for future development on their lands and after that we visualized those opinions on maps. Through this work we can make sure the re-zoning requirements will be decreased tremendously.

Interviewer: what is your opinion in terms of public participation?

Wang: In the site visit, I found public is very positive to express their opinions. But I found their opinions are a little bit ridiculous and I don't think they are right. If they have planning education, their advices might be useful.

The feedbacks for the questionnaire were not positive. Therefore the plan actually was made by our opinions mostly. Currently we are working on another 3 parts and will work on the others in HanKou in 2006.

Interviews with Public (2003,2006):

Interviewer: what is planning problem you think?

Interviewee: (the problem lies in un-transparent decision making process), I don't really know when our houses will be torn down (when government initiates re-development project of inner city). Government should tell us what is their plan (in order to let us know the whole planning process).