

# 自辦市地重劃之法律定性及 相關問題探討

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## 摘 要

自辦市地重劃乃以私有人力及資金完成市地重劃，國家不僅得以免於建設資金的支出，更得利用私人參與公共行政的效率及專業的優勢，是為公私協力行為的具體實現。

本文以學說與理論說明私人參與公共行政的源起與目的，釐清自辦市地重劃多階段行為中所兼具的公、私法特質，探究私人參與公共行政的合法性。次以自辦市地重劃抵費地的執行，說明自辦市地重劃私法性質特色及規範內涵。末針對行政機關對辦市地重劃乃多階段行為，因其行為性質不同，而應為不同程度行政監管。而說明國家對私人參與公共行政之公共任務，仍應具有國家擔保責任，得因其所具備予以不同適法性及合目的性監督行為，亦即自辦市地重劃之公私交錯的私人參與公共行政之定性及法律問題。

## Discussion of Legal Issues Relating to Urban Reconsolidation and Implementation by the Private Sector

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### Abstract

Urban Reconsolidation and implementation by the private sector is to direct non-governmental resources and capital for implementing the land readjustments. As a result, the government can not only avoid the public construction expenditure but also can take advantage of the private sector's flexibility and efficiency while implementing the land readjustment policy. This is an actualization of a joint effort by both the private and public sectors.

First, the related legal theories are used to explain the origin of urban Reconsolidation and implementation by the private sector and to clarify its nature of combining characteristics. Secondly, the examples are given to explain the unique characteristics. Finally, the public administration's regulations for the approval process of urban Reconsolidation and implementation by the private sector will be examined, along with the legal issues that may arise when public and private sectors work together in delivering public services.