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Developer obligations as an alternative financing instrument for Nature-based Solutions in Flemish cities: an urban planning law perspective

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Implementing Nature-based Solutions (NBS) will be crucial in the context of the urban environment, as the global share of greenhouse gas emissions attributed to urban areas is - according to the latest IPCC report - increasing. In 2020, urban emissions were estimated at 29 GtCO₂-eq. These emissions represent 67-72% of the global share. In that sense, NBS can play an important role. On the one hand, by reducing emissions, and on the other hand, by adapting the environment to the consequences of climate change, such as making the urban environment more resilient to the heat island effect and the increased risk of flooding.

Although investments in NBS infrastructures are considered a cost-effective way to achieve future societal and environmental benefits, the current public spending in Flanders (Belgium) still needs to be increased. As a result, the gap between investments and the societal need for NBS is growing. In contrast to the limited public spending, the private capital seeking for investments is abundant. Yet, the potential to invest private capital in NBS is not fully exploited. NBS projects typically have sizeable upfront costs and diffuse and long-term societal benefits that are not easily captured in steady cash flows. In order to attract private investments to NBS, new business models and alternative financing mechanisms are needed.

This research focuses on land value capture instruments as an alternative financing mechanism for NBS. The interest in this topic, and especially in developer obligations as an alternative financing instrument, has recently grown exponentially among scholars. The developer obligations are related to permits for additional buildings/constructions. In Flanders, however, the legal preconditions imply that the developer's obligation must have a direct link with the project. This leaves little room for using (incomes from) developer obligations in a non-site-specific way. Although, those additional buildings and the associated sealing of soil, have a clear link with its heat island effect in the cities. Mitigating measures such as cooling nature, forestry, and water surfaces in and near the cities are therefore of vital importance in this era of climate change.

In this research, the legal context in Flanders will be assessed through in-depth doctrinal legal research. By illustration, the legal framework will be applied to the *Stiemervally* NBS case in Genk.

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