



# **Agriculture and Foodsecurity Network: "Inclusive Land Governance – Road to Better Life"**

**Field Days September 7, 2016:  
Land Governance in Switzerland**

## **Visit 4: Spatial Planning**

compiled by **AGRIDEA**

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ENTWICKLUNG DER LANDWIRTSCHAFT UND DES LÄNDLICHEN RAUMS  
DÉVELOPPEMENT DE L'AGRICULTURE ET DE L'ESPACE RURAL  
SVILUPPO DELL'AGRICOLTURA E DELLE AREE RURALI  
DEVELOPING AGRICULTURE AND RURAL AREAS

## 4 Spatial planning, land register, taxation of land - "Governing scarce land resources"

Field day example: **Spatial planning and zoning in Willisau**

### 4.1 The land register in Switzerland:

The land register is the registry of parcels and of the private law rights and encumbrances (servitudes and liens on property) attached to them. It is not one single register, but consists of:

- the journal ("Tagebuch"), containing the land register announcements listed in the order of their entry
- the main book ("Hauptbuch"), containing all land register folios
- the plans of registered parcels which are based on official surveys
- the records ("Belege"), containing sale contracts, mortgage deeds etc.
- the auxiliary registers ("Hilfsregister"), containing lists of owners, creditors etc..

The Swiss register has a parcel-related structure in the so called real folio system ("Realfoliensystem"), meaning that there is one register folio per parcel. The owner can be identified through one of the auxiliary registers, the so called owner register ("Eigentümerregister").

#### How is the land registry sector organized?

The installation, the definition of the land registry districts, the appointment and remuneration of the employees as well as the organization of the cantonal superintendence is a duty of the cantons, the Federation merely supervises the land registry.

There is no central land registry for the whole of Switzerland. The registers are maintained by the land registries in the cantons. In some cantons there is but one land registry, other provide land registry districts for several municipalities together or one registry per municipality, and some big cities have more than one registry.

#### Which data of land registries are public?

Any person can without proof of authorization get information about a parcel's owner and its encumbrance with servitudes and mortgages (see example below directly from the internet). That applies to most of the notes in the land register ("Grundbuchanmerkungen") too. Registry notes inform about property restrictions under public law like for example measures in connection with nature, landscape and cultural heritage protection or the acceptance of boundary and survey marks etc.

The screenshot displays the 'GEOPORTAL KANTON LUZERN' interface. On the left, a map shows a parcel plan with parcel numbers (e.g., 77, 63, 76) and a building footprint. On the right, a search results window titled 'Abfrageresultate' is open, showing details for two parcels:

Parzellen / Grundstücke	
<b>GRUNDSTÜCKBESCHREIBUNG</b>	
Grundstücknummer	77
Eidg. Grundstück-ID (EGRID)	CH827449503546
Gemeinde (BFS-Nr.)	Alberswil (1121)
Grundbuch (GB-Nr.)	Alberswil (501)
Flurnamen	Allmend
<b>Bodenbedeckung</b>	
Gebäude (Nr. 163)	2'360 m <sup>2</sup>
Strasse, Weg	15 m <sup>2</sup>
übrige befestigte Fläche	2'947 m <sup>2</sup>
Acker, Wiese, Weide	18'138 m <sup>2</sup>
Fläche (grundbuchlich)	23'460 m <sup>2</sup>

  

Selbständige und dauernde Rechte ("Baurechte")	
<b>Art</b>	
Grundstücknummer	392
Eidg. Grundstück-ID (EGRID)	CH154250743548
Gemeinde (BFS-Nr.)	Alberswil (1121)
Grundbuch (GB-Nr.)	Alberswil (501)
Fläche (grundbuchlich)	13272 m <sup>2</sup>

  

Bodenbedeckung	
<b>Art</b>	
Acker, Wiese, Weide	
<b>Gemeinde</b>	
Alberswil	

Information on the parcel with the collective stable of APMB Alberswil (chapter 3.6), obtained in 3 minutes (source: <http://www.geo.lu.ch/map/grundbuchplan>)

Whoever can establish a legitimate interest is entitled to get further information from the, in particular about mortgage deeds or priority notices ("Vormerkungen"). Priority notices don't establish rights themselves, but they secure

the rights they refer to, like for example rent or leasing contracts, pre-emptive rights, seizure of the parcel by a debt enforcement office etc. Furthermore: Who holds claim to additional information can demand an extract from the land register as well. And the cantons can preview the publication of the purchase of real estate (usually in the official journal of the canton).

### **How to purchase real estate in Switzerland?**

The purchase of real estate in Switzerland has to be entered into the land register. In some cases, for example by way of inheritance, the purchaser already gains ownership before his new land property is registered. He will have to properly enter his land into the land register later in order to have the real estate at his disposal.

The transfer of property contract, which normally provides the basis for the ownership acquisition, needs a public certification ("öffentliche Beurkundung"). The public certification runs according to specific proceedings based on qualified written forms in front of a notary. As the cantons are responsible for the organization of notary's offices, they differ in procedures and status: some cantons have free professional notaryships, in others notary's offices are official bodies (their costs differ as well...).

Basically the public certification should guarantee the highest degree of legal security and serves various aims:

- true and unbiased notification of the intentions of the parties
- protection of clients against haste or carelessness in legal transaction with important values at stake
- legal instruction of clients about all legal consequences of an intended obligation
- clarity and certainty of documents to avoid misunderstandings
- objective determination of relevant facts by an independent person's evidence by inspection

These aims can be ensured by obliging notaries to comply with severe professional standards, including observing professional confidentiality.

The notary will demand a number of relevant documents from seller and purchaser. Subsequently he will invite the concerned parties to a counselling interview and set up a draft contract. After its adjustment and approval by the parties a date for the signing and executing of the contract will be set. This usually includes the entering of the transaction in the land register.

## **4.2 Taxation of agricultural land**

### **General wealth tax:**

Agricultural land is an asset and thus subject to a general wealth tax in Switzerland. The wealth tax is basically calculated by multiplying the taxable assets with the tax rate. The taxable assets are determined as follows:

value of gross assets  
 ./ . debts  
 = net assets  
 ./ . deductions (differ from canton to canton – either based on social criteria or defined as a general tax allowance)  
 = taxable assets

The tax rate on assets in Switzerland is generally designed as a progressive tariff, increasing with growing taxable assets. The actual rate varies from canton to canton between 0.1 and 0.5 percent.

### **Tax value of agricultural assets:**

As a general rule, real estate is assessed by its market value for tax dispositions, and movables by their carrying value. For agriculture, extra rules apply: As long as agricultural land and buildings are in use (meaning that they are managed by the owner himself and subject to the law on peasants' land rights), they are assessed at their capitalized earnings value (see chapter 3.4.6), which is considerably lower (around 1/3 – 1/5 of the market value). However, should the agricultural land be transferred from business to private assets (for example when a farmer gives up his agricultural business but keeps the real estate of his farm in possession), the value assessment will change from capitalized earnings value to market value and alter the sum of taxable assets for general wealth tax accordingly.

### **Income tax on restored depreciations ("wiedereingebrachte Abschreibungen"):**

As depreciations on real estate lower the yearly income of a farmer (and subsequently income tax), the sale of the real estate restores the depreciations to the seller. That's why these restored depreciations are subject to income taxation in the year of sale. And because income tax runs on a progressive tariff, an exceptional rise of earnings due to restored depreciations can increase income tax considerably, even multiply it if need be.

The restored depreciations are calculated as follows:

initial investment costs of real estate  
 ./ . carrying value of real estate in the year of sale  
 = taxable restored depreciations

Income tax on restored depreciation is also due when the real estate is transferred from business to private assets. This can occasionally force an owner to sell the concerned real estate just to be able to pay his tax bill...

**Real estate profit tax:**

When real estate is sold with a profit, the seller has to pay real estate profit tax with a tariff varying from canton to canton again. But basically the cantonal tariffs are all following a progressive system that increases the tax rate with growing taxable profit: rates starting from about 5% can thus rise up to 40% of the taxable profit.

The taxable profit is calculated as follows:

- proceeds from the sold real estate
- ./. purchase price and costs (including restored depreciation)
- ./. value-adding expenditures
- ./. sales costs
- = raw real estate profit
- ./. deduction depending on duration of ownership (the longer the ownership, the higher the deduction)
- = taxable real estate profit

In case of a sale, real estate profit tax comes in addition to the income tax for the related restored depreciations (provided there is a profit...).

**4.3 Zoning plan of Willisau**

As an example, the section of the zoning plan of Willisau below shows the different building zones with houses, "green zones" (in grass green: non-building zones inside the building zone), public zones (in dark grey), the boundary to the non-building zone and some buildings outside the building zone on the upper left.

1. Building zones:

- Old town zone:
- Surrounding zone of old town
- Residential zone 1 storey
- Residential zone 2 storeys A
- Residential zone 2 storeys B
- Residential zone Adlermatte
- Residential zone 2 storeys C
- Residential zone 3 storeys A
- Residential zone 3 storeys B ZA
- Residential zone 3 storeys B ZB
- Residential zone 3 storeys B ZC
- Special building zone Sonnmatte
- Special building zone Railway Station
- Working and living zone 3 storeys
- Working and living zone
- Working zone III
- Working zone IV
- Hamlet zone
- Zone for public purposes
- Zone for sports and leisure facilities
- Green zone

2. Non-building zones:

- Agricultural zone
- Remaining area A
- Remaining area B
- Remaining area C
- Danger zones:
- Flood medium risk
- Gravitational processes medium risk
- Slipping medium risk
- Low risk
- Open space zone
- Open space overlapping

3. Protection zones:

- Agricultural zone overlapping
- Archaeological protection zone overlapping
- Landscape protection zone
- Nature protection zone
- Nature protection zone overlapping forest

