

# 建築使用執照與建物登記關係之研究

## 摘 要

建築物在合法興建完成至產權登記之過程中，因「資訊不對稱」現象，所導致之現狀，思考我國建築管理、地政登記之作業結果，何以相同建築物卻呈現不同訊息，以此二者連動性作為關係探討。

依建築法規所核准的「樓地板面積」，與地政登記機關所公示財產權的「權狀面積」有一定的落差，在實際使用的空間範圍，亦延伸出變更或施工之適法性疑異等問題；建管單位在建築物興建完竣核給使用執照後，續由地政機關辦理登記成為物權效力，然而，一幢合法建築物，在建築使用管理與地政單位所公開之資訊卻不盡相同。

基於上述緣由，本文以建築管理、地政登記資訊為比對分析，主要目的在探討：

- 一、建築使用執照與區分所有建物登記之差異性關係。
- 二、建築使用執照與產權登記面積落差的問題。
- 三、研擬作業一元化之改善對策。

在研究架構上從建築使用執照的核准展開，接續由物權登記制度，探討集合住宅之現況問題、議題以及共識課題，並提出資訊一元化的改善對策。本文共五章、二十一節，謹摘要各章略述如下：

第一章為緒論。首先概陳建築物合法使用對現行區分所有建物之關係，概括提出問題之核心及研究重點，續陳本文之研究動機目的、研究範圍內容、研究步驟方法與流程等。

第二章回顧建築、地政法令之理論基礎，縱向性瞭解建築物使用管理以及物權登記制度，以行政程序資訊化之發展建立研究架構。

第三章以區分建物使用管理與登記，其現況與問題之分析，探究公部門從制度面及資料庫所形成之現象，與市場操作要素作橫向探討，歸納其間差異性因素與對應其影響性。

第四章實證調查與分析，以相關法規及實務操作過程之調查，輔以購屋者問卷與深度訪談作為分析依據，發掘建築行政管理作業與建物登記之議題和課題，並提出可行性之改善對策。

第五章結論與建議。本研究經由論述中獲得符合研究目的之結果有：

- 一、以使用執照為計算標準，將建物登記與使用執照資料達成一致性。
- 二、修改面積落差之法令：依建築使用執照所計製之範圍辦理測繪及登記。
- 三、改善公示資料之登載，建置使用執照與建物登記作業一元化模式。

總結所陳，本研究結果，可將建管與地政之公示訊息一致，達到提昇行政效能、降低交易紛爭的價值，明確建立資訊作業一元化的貢獻，並將所發掘之問題提供後續相關研究之建議，期為未來政策研擬之參考。

**關鍵詞：**資訊不對稱、樓地板面積、權狀面積、物權、一元化



# **Study of Relations between Building Utilization License and Building Registration**

## **Abstract**

In the current process from the completion of a legally constructed building to its property ownership registration, there exist "information asymmetry" phenomenon. Therefore, this paper tries to discuss and explore the interactive relationships between the above said two factors through answering the question why the same building presents different information due to the operative results of building management and registration of land or property ownership in our country.

The "floor area" approved by related building laws and regulations usually differs from the "ownership license area" which is made public by Land Registration Office. Meanwhile, within the area of actual utilization there also exist derived problem of application of law for revision or construction. It is the procedure that property ownership takes effect when it is registered in Land Office, after building management office issues utilization license to a completed building. However the public information of a legally built construction released by building management office is not always in conformity with the information of the Land Office.

Due to the above-said background, this paper tries to make comparative analysis on building management and land registration data, aiming to explore:

- (1) differentiation between building utilization license and division of all building registration;
- (2) area shortage between building utilization license and property ownership registration;
- (3) policy in improving the unity of operation.

The research framework begins with the issuance of building utilization license, following by study of the system of property ownership registration, with purpose of exploring the current situation, problems and general issues of collective housing. In the meantime, it tries to present solutions for improvement of information unity. This paper includes 5 chapters which are divided into 21 sub-chapters as follows:

Chapter one: Introduction. Firstly the relationship of legal building utilization with current division of all buildings will be stated in general term, including presentation of the core of problems and the highlights, motive, goal, scope, contents,

method and process of this research.

Chapter two will review theoretical basis of construction and related land regulations, through the vertical understanding of building utilization management as well as registration of property ownership. Therefore, the research framework based on development of administrative procedural information can be established.

Chapter three studies phenomenon formed by institutional aspects and data base through analysis of current situation and problem of dividing building utilization management and registration. In the meantime, horizontal research on market operational factors has been done to induce the differential factors and consequences.

Chapter four presents empirical survey and analysis through investigation of related laws, regulations as well as practical operational procedure. Besides, house-buyers' questionnaires and in-depth interviews are supplemented as the analysis base. It is hoped that it presents counter proposal for improvement, after uncovering issues and problems of building administrative management operation and building registration.

Chapter five: conclusion and recommendation. It sums up the results secured by arguments in this research as follows:

(1) standardizing calculation based on utilization license to achieve the unity of building registration and utilization license

(2) revising laws and regulations that affect area difference: in other words, measurement, mapping and registration done by the area calculated in accordance with building utilization license.

(3) Improving registration of public released information to establish unified model for operation of utilization license and building registration.

In conclusion, the findings of this paper can keep public released information of both building management and land administration in line, so that administrative efficiency can be promoted, transaction dispute be reduced and unity of information operation be clearly established. Meanwhile it is intended that this paper can uncover issues and therefore presents recommendations for further study. It is also much hoped that the findings of this research can be useful reference for future policy making.

**Keywords: Information asymmetry, floor area, ownership license area, property ownership, unity**