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THE IMPACT OF CAPITAL GAIN TAX ON LAND SPECULATION PHENOMENON-EVIDENCE FROM LAHORE, PAKISTAN

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By

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Abstract

The Government of Pakistan imposed Capital Gain Tax (CGT) in 2016 on disposal of immovable property like vacant plots and revised the tax regime for real estate sector. This research attempts to demonstrate the impacts of CGT on real estate market especially in the context of land speculation in Lahore. The methodology involved, collation of data about transaction rate of plots from records of Lahore Development Authority (LDA) and interviews with different stakeholders including regulators, property dealers and plot owners. The analysis of data reveals that with the introduction of CGT, the sale purchase transactions reduced significantly leading to reduction in land speculation. Although, CGT failed to curb rise in prices of plots, but it has generated market trend of shift from short term trading towards mid-term and long-term trading besides significantly increasing the construction rate.

Keywords: Capital Gain Tax, Land Speculation, Lahore Development Authority, Real Estate, Land Prices

Introduction

Land speculation is always manifested by increase in land prices specifically in metropolis area. Several factors are responsible for land speculation around the globe including provision and availability of low cost land / property, inflation rate, weak enforcement mechanism because urban land especially has been used as a commodity for financial gain. People invest in the land which is profitable as well as safe. Even the middle class buy plots and hold them for some family purpose such as educating their children, marrying them or building their houses etc. Their intention may not be speculation but still they are holding property which promotes speculation in cities. Government all around the world have imposed taxes to control the land speculation and ignorance of tax payers affect the overall economy of the country (Youngman, 2016).

Land speculation is a phenomenon which is being observed in large cities of developing countries. Land speculation pushes prices of plots unrealistically high and seriously affects housing affordability of various income groups. People of high and middle income group buy more land with the intention to make highest profit and left the land reserved for housing undeveloped that causes several issues relating to urban planning, agricultural productivity and housing shortage resulting in an inefficient land market.

It has various negative consequences including high economic, social and environmental costs i.e. expensive land and housing units, high cost of labor, high taxes, unmet demand of land which resulted to eliminate urban poor from land market and forcing them to make and live in squatter settlements, slums and illegal subdivisions. Due to this, Government faced several health, social and environmental issues. (Foldvary, 1998)

Different approaches have been adopted around the world in order to control and discourage the land speculation i.e. land holding tax, short term gains taxes, transaction taxes etc. (Cui,

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2014). One of the best ways is to impose capital gain tax to discourage land speculation (Norregaard, 2013).

In 1978, in the District of Columbia, the local government imposed a tax on 70 percent of the profits earned by residential speculation. In 1978, the City Council included a speculation tax in the law. That law taxed 3 to 97 percent of the profit earned from speculation. The tax rate depended on the duration of the ownership. That tax expired in 1981 (Wells, 2015). Nowadays, we can see variety in the taxation of capital gains in USA. The observations show that lesser the value of capital gains tax, more will be the percentage of buying demand of non-owner-occupied homes for their sake of future profits (Gao et al, 2017).

Capital Gains Tax (CGT) in overall UK has been implemented and operational since for years. CGT is imposed only for UK property holders but PST is applicable to both residents as well as non-residents of UK. In London, this case is strong there with a high percentage of overseas investors (Var et al, 2017).

In Hungary, the land tax is payable on January 1st by the owner of the land. According to local government decision, one of the two techniques of calculating land tax is selected. First way is to calculate it by the area of the land in meter squares which is maximum HUF 200 per meter square per annum. The second way is to calculate it through adjusted market value of the land which is maximum 3 percent of the total adjusted market value of the land (Accace, 2019).

In case of France, the capital gains tax is not imposed on the primary source of living, i.e. home. But tax is applicable in case it is else than the primary shelter, like vacation home or rented home that has been sold out. High rate of capital gains tax is not applicable since 2015 (Brown and Hepworth, 2002).

In Germany, if real estate has been kept for more than 10 years, it is held separated from capital gains tax (Bach et al, 2011). In Switzerland, the Capital gains tax ranges between 20% (or less) in Obwalden and Vaud communities, and 40% (or more) in Thurgau, Schaffhausen and Valais communities. During the duration of years 1985 and 2005 total of eight communities of Switzerland raised the amount of tax value (Basel-Stadt increased tax from 32% to 48%), but also, four of the communities reduced it (Valais reduced tax from 40% to 26%) (Aregger et al, 2013).

In case of Russia, General tax framework is managing capital gains of resident corporate taxpayer and they taxed at standard rate of 20% as ordinary business profit in spite of ownership period. Small business pay no tax on capital gain, but on gross receipt at 6% or 15% and is managed by general tax framework (Bahl and Martinez-Vazquez, 2007).

In Philippines, the disposal of real estate includes six percent of CGT and documentary stamps @ 1.5%. However, CGT is charged on actual gain assumed to have been obtained and supposed by any seller from any sale / exchange of any capital asset in Philippines. Taxes of these nature are necessary and are imposed on actual price on which the said property is sold, or on the basis of its current Market Value, or implement on its Zonal Value whichever is higher as per record.

In Philippines, agency to collect the taxes is Bureau of Internal Revenue who sets the zonal valuation (Rosengard, 1998). Mostly, transactions in real estate on actual price is considered as high secure as compared to the conforming Market or Zonal value. As per law and the policies, the Capital Gain Tax will be paid by seller only, whereas, Documentary Stamp dues are paid by the buyers. However, there is also a provision that two parties pay these taxes through negotiation according to their commitment and agreement (Navarro & Llanto, 2014).

In Pakistan, Government realized the issues faced by land speculation and Federal Government imposed CGT first time in the history of country in 2016 to minimize the rate of speculative transactions, to maintain equitable market, and to avoid the non-documented economy invested in real estate sector. The above scenario of land speculation was expected to be changed with the revision of tax regime to stop short term investment regime in real estate sector and to meet the basic need of housing.

CGT in Pakistan is a tax liable to be paid by seller, when anyone makes profits by selling immoveable asset on the basis of time span (A-F-Ferguson & Co., 2017). Previously till 2018, CGT was calculated and imposed only when any immoveable asset is sold within a span of three years of its purchase ranging 10% on profit within 1 year, 7.5% tax on profit for holding property up to 2 years and 5% tax on profit ranging 2 to 3 years based on the rates of FBR's valuation table and fair market value. For holding immovable property for more than 3 years, then seller shall not be liable to pay CGT.

Through Finance Act, 2019, rate of CGT and holding period was revised and increased to 8 years, whereas, the provision for constructed houses/ property was restricted to 4 years. After that in 2020, holding period was restricted to 4 years only.

Lahore is the second largest city of Pakistan and growing at faster rate. The continuously increasing housing demand resulting from high growth rate has led to proliferation of housing schemes. Moreover, real estate sector has long been supposed as one of the most profitable areas of investment, offering maximum Return on Investments (ROI) even of over hundred percent within a span of a few years. This phenomenon was observed due to the Government's oversight and minimal tax liabilities in the past. As a result, investors with substantial capital have benefited greatly and Lahore like other major cities of Pakistan faced massive land speculation. This created artificial price rambles and a consequent demand-supply gap (Jakvani, 2017). Owing to land speculation, prices of residential plots have reached beyond the capacity of various income groups especially lower, middle and low income families.

After imposition of CGT, real estate market in Lahore affected badly as short term investors left the market and the buyers with the intention to build houses entered in the market. This research attempts to demonstrate the impacts of CGT on real estate market especially in the context of land speculation in Lahore. The next section explains the brief methodology of the research. It is followed by a results of analysis of data collected from different stakeholders. The final section presents conclusions and recommendations.

Methodology

Review of literature helped in identifying the different approaches adopted in different countries to curb the land speculation in international context. Five LDA housing schemes with maximum number of plots transferred during the period from 2010 to 2020 were selected for detailed investigation using secondary data. These included LDA Avenue I, Subzazar housing scheme, Quaid-e-Azam town, and Jublee town. Primary data was obtained through structured interviews using interview schedules with relevant officials of LDA, FBR, and Excise and Taxation Department to determine their views and seek suggestions to analyze the impacts of capital gain Tax on land speculation in Lahore.

Structured interviews with 30 property dealers with offices in and around five selected schemes were also conducted regarding the current situation of real estate market, and impacts of capital gain Tax on land speculation. Structured interviews with 100 plot owners were also conducted with the view to collect the information regarding purchasing of plot for specific purpose, viewpoint about imposition of Capital Gain Tax by the Government and its impact to curb land speculation and policy options adopted by the LDA to curb land speculation. Attempt was made

to identify plot owners for interview using two different approaches to cover two types of plot owners i.e. those who were still holding the plot, and those who were buying the plot. The data so collected has been be analyzed and presented in tables and graphs where appropriate.

Analysis and Results

Plot transfer trend in selected LDA housing schemes: The data collected regarding plot transfer in LDA housing schemes has been analyzed and presented in figure 1. It was clear that all in all 40635 plots were transferred during the last ten years from 2010 to 2020 in randomly selected 21 LDA housing schemes. Figure 1 also indicates downward trend from 2016 onwards in number of transactions in LDA housing schemes thus reflecting the impact of CGT.

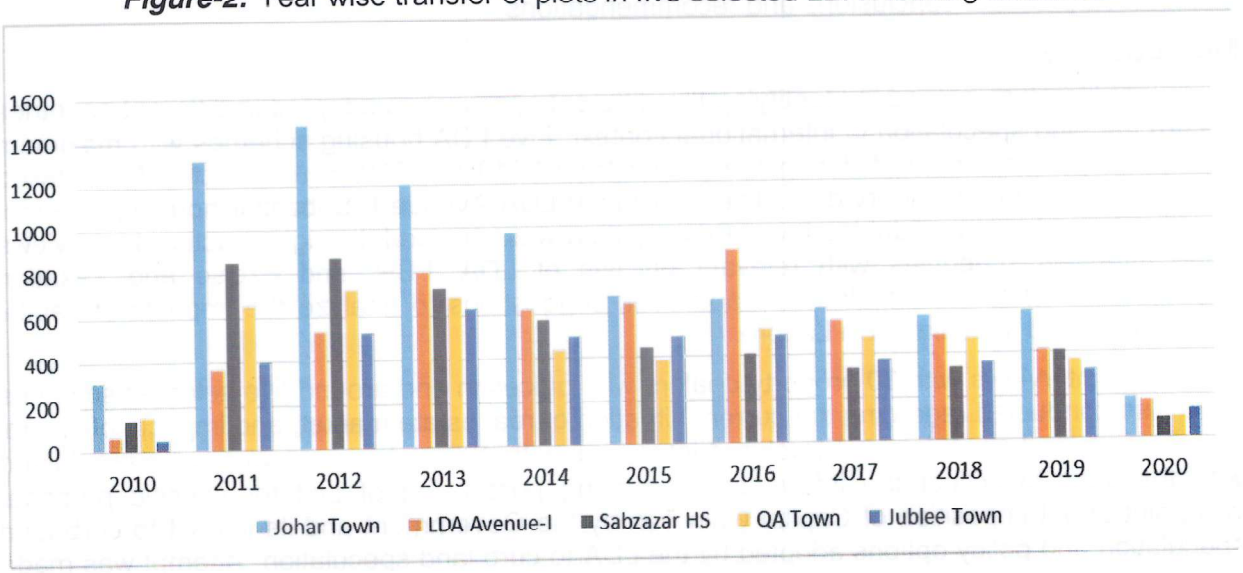
Figure-1: Year wise transfer rate of plots in 21 LDA Housing Schemes



Source: Lahore Development Authority, 2020

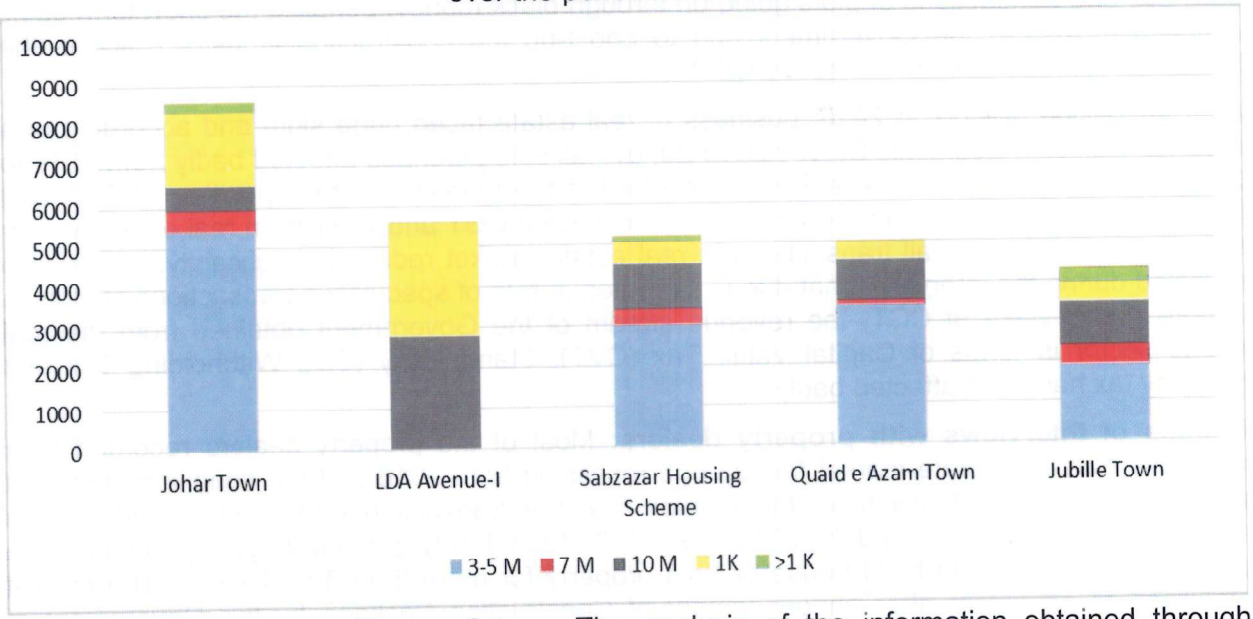
The detail of number of transfers of plots per year in five selected housing schemes is presented in Figure-2. It is clear that in absolute terms, most plot transfer occurred in Johr town, followed by LDA Avenue-I, Subzazar housing scheme, Quaid-e-Azam town, and Jublee town. Moreover there is declining trend in plot transfer after imposition of CGT in 2016 in nearly all the selected schemes.

Figure-2: Year wise transfer of plots in five selected LDA Housing Schemes



The detail of number of transfers of plots per year for each category of plot is presented in figure 3. It shows that mostly smaller sized plots of 3-5 marla have been involved in transfer from one owner to another in these selected housing schemes.

Figure-3: Transfer of plots in terms of various sizes in five selected LDA Housing Schemes over the period 2010-2020



Results of interviews with regulators: The analysis of the information obtained through interviews from LDA officers/officials revealed that land speculation is going on in Lahore and it has contributed to increase in the land prices, sprawl of Lahore city, rendered large tract of land useless which led to inefficient land market housing as well as unaffordable housing. Many key factors were reported that have played a major role in land speculation in Lahore i.e. weak enforcement mechanism, lack of policies, influence of land mafia, no policy of the Government to impose tax for non-construction of houses in Private Housing Schemes, migration trend towards Lahore from other cities, job opportunity in Lahore city, earning easy money through keeping land in housing schemes for some years etc. Moreover, not developing vacant pockets between housing schemes was also a key reason contributing towards land speculation.

The role of property dealers in real estate market was pointed out as very influencing i.e. playing major role in artificially enhancing the prices of plots and houses, by means of artificially promoting the area for investment and attracting investment opportunities, manipulating prices of plots, and creating hype in the market as dealers know the market trend and they fix rate by malpractice with other dealers.

It was also observed that Master Plan of Lahore does not contain any policy to impose tax for persons who left the plot undeveloped for a very long time thus contributing to land speculation, although this needs to be incorporated in byelaws. The concerned LDA officials acknowledged that imposition of Capital Gain Tax by the Federal Government has reduced the rate of speculative transactions of plots/houses in Lahore at a significant rate. However, the prices of plots remained stable as per marketing trend. They also revealed that the rate of submission of Building plans in LDA scheme have also been significantly increased which shows that there was more tendency for approval of plan and construction on already lying vacant plots than before just due to imposition of Capital Gain Tax and building period surcharge from 2016. However, in case of private housing schemes, the trend for approval of building plan remained slow as no such tax has been imposed by the Government in these schemes.

Interviews with FBR officials dealing with land matters were also held. They were of the view that land speculation in the city of Lahore has contributed to increase in the land prices, sprawl of Lahore city and unaffordable housing. They told that Capital Gain Tax was imposed with multiple objectives including: to force people to come into tax net and promote the documented economy, encourage the foreign investment in the equity market, reduce the rate of speculative business and transactions of plots going on through black money, penalize the short term gains resulting to loss to the Government and to boost-up the construction industry which is the backbone of Government to increase GDP.

After imposition of CGT in 2016, business of real estate faced huge slum and according to a report of Pakistan Economic Survey 2019-20, overall sale purchase affected badly from 2016 to 2020. Moreover, investors in real estate sector left the market due to imposition of CGT and high taxes. It has also been reported that FBR collected CGT and WHT from real estate at very slow pace and the overall transactions in real estate market reduced significantly. It was also revealed during the interviews that due to reduction in rate of speculative transactions of plots in Lahore in the wake of CGT, the revenue stream of the Government obtained from the real estate sector in terms of Capital Value Tax (CVT), Stamp Duty (SD), Withholding Tax and property tax has been affected badly.

Results of interviews with property dealers: Most of the property dealers recorded their viewpoint that real estate market faced huge recession from 2016 and the condition of market was very unstable. Mostly have the opinion that the transaction rate of plots and houses decreased up to half during July, 2016 to April, 2020 and only genuine buyers purchased the property who wanted to build house or hold property for more than 3 to 4 years. The market stabilized to an extent after announcement of Construction Package by the Government of Pakistan in April, 2020 and transaction rate seems to be increasing day by day.

Most of the property dealers agreed on the points that land speculation has contributed in increase in the land prices as well as prices of plots, sprawl of Lahore city up to district boundary, vacant pockets left within and also in the surrounding of housing schemes, and plots and houses have become unaffordable for lower middle and low income people which has contributed to inefficient land market.

When asked about the opinion regarding impact of CGT on prices of plots, 21 out of 30 property dealers were of the view that the prices of plots have increased day by day even after the imposition of CGT due to currency devaluation, market trend and shortage of housing for further adjustment of population. However, the property dealers believed that transaction rate was slow and prices increased during this tenure at relatively slower rate. Only 4 out of 30 respondents were of the view that prices decreased after imposition of CGT in 2018 when the condition was imposed to hold the property for eight years after its purchase. Whereas, remaining took the stance that due to CGT, the prices remained stable and increase was not observed in the prices.

Out of 30 property dealers, 21 had the point of view that only Government is taking benefit of CGT and people related to real estate sector have affected badly due to this policy which affected the overall real estate market. Government through imposition of CGT has forced the people to pay tax on selling the property within 4 years which has affected the overall land market. On the other hand, 9 out of 30 property dealers were having the opinion that Buyer/investor were investing in land for long time with the intention to get more and more profit in future.

It was also argued by majority (48%) of the interviewed property dealers that Government was not justified to impose such type of tax on sale of immoveable property because various taxes

on property had already been imposed i.e. CVT, stamp duty, withholding tax & property tax and plot owners paid these taxes on transaction of properties while selling or transfer of any immoveable property. 34% of the respondents showed indifference. Whereas, 18% of respondents believed that Government should impose this tax to check the sudden increase in prices of plots and to ensure the stability in prices and to reduce the land speculation phenomenon which was going on in housing schemes in Lahore.

Results of interviews with plot owners: As many as 67% plot owners were of the view that prices increased gradually and prices would increase any way even after imposition of any tax due to market trend, devaluation of money, inflation rate, and recession in overall market as well as continuously increasing monetary value of US Dollar. Whereas, 11% of the respondents reported that prices remained stable after imposition of CGT in 2016 and Government had been successful to control the phenomenon of continuously increasing prices in real estate. 16% of the plot owners have no idea about the current market trend whereas another 6% replied that prices decreased after imposition of CGT.

Some 34% of the respondents recorded their stance that general public received the benefit of imposition of CGT while 39% were of the view that no benefit whatsoever was received by general public whereas, 27% of the respondents showed indifference. Likewise, 60% of the respondents agreed that construction trend changed as compared to previous scenario and many houses were under construction in LDA schemes whereas, 19% disagreed and argued that construction rate was the same as was earlier while 21% had no idea about it.

Majority of the respondent (39%) informed that there were several drawbacks / disadvantages of CGT on the overall real estate market. On the other hand 35% had the opinion that there were no disadvantages of imposing CGT as it was necessary to control the hype in real estate market and to reduce land speculation. The remaining 26% refused to give any suggestion and feedback stating that they had no idea about this policy matter

Conclusions

The review of literature reveals that there is trend of imposing tax with different names in many developing and developed countries to control land speculation and to fulfill the basic need of housing. However, there is a need to implement a uniform policy for the real estate sector that should be viable for the Government, stakeholders, residents and prospective buyers ensuring minimal land speculation.

Historically, several factors have played a major role in land speculation in Lahore which include lack of policies to curb speculation, weak enforcement mechanism, malpractices of property dealers and influence of land mafia and investors. With the introduction of CGT, real estate market has been affected significantly as the transactions of plots has reduced considerably in Lahore and particularly in LDA housing schemes. Further, market trend has been shifted from short term trading towards midterm and long term trading in real estate.

However, the information obtained from the officials of concerned departments clearly depicts that due to reduction in rate of speculative transactions of plots in Lahore in the wake of CGT, the revenue stream of the Government obtained from the real estate sector in terms of Capital Value Tax (CVT), Stamp Duty (SD), Withholding Tax and property tax has been affected badly.

The imposition of CGT has not played significant role in reducing prices of plots. The trend for abrupt increase in prices of plots has been varied. However, prices of plots have been increased even after the imposition of Capital gain Tax, but at a slower rate.

Transaction rate for smaller plots i.e. 3 to 5 Marla in proportion to larger plots has been recorded maximum even after the imposition of CGT. This may indicate that genuine buyers are

purchasing the plots for constructing the houses, an observation which may be true given the rise in construction activities.

The study revealed that construction rate has increased significantly in LDA housing schemes due to imposition of CGT as the procedure for transfer of plot is transparent and seller is bound to pay CGT at the time of transfer of plots. To counter the dwindling economy, the current Government announced relief package for the construction industry in April 2020 and granted relaxation in CGT. This along with provision of loans and reduction in building material prices have also helped for starting the construction activities thus minimizing land speculation.

In addition to CGT, high taxes of building period surcharge by the LDA for non-construction of houses on vacant plots has also played a role to control the land speculation. However, this trend is not being followed in private housing schemes due to non-existence of any policy to levy tax for non-construction on vacant plots for any specific time period, hence creating land speculation.

Recommendations

Based on analysis of data and conclusions drawn, following recommendations are made to address the phenomenon of land speculation:

Revenue department should ban the transfer of plots on transfer letters only and must ensure that all transactions should be done through registries and sale deeds and proper record should be maintained to boost up the economy.

In addition to CGT, LDA should device policy for imposing non-construction charges and non-utilization fee on vacant plot based on the size of plots which may be imposed on keeping any plot vacant for more than five years.

LDA should amend the byelaws (LDA Private Housing Schemes Rules 2014) and apply the condition for every developer to sell 20 percentage of land only after building houses

Concerned Government agencies need to ensure timely provision of infrastructural services in approved public and private housing schemes with nominal standards enabling and focusing the timely construction of houses in order to fulfill the basic need of housing and to control land speculation.

Federal taxes (CGT and WHT) would continue to be encouraged by the Government to make the land market stable and to discourage land speculation. However, the time span should be fixed for CGT as earlier in 2016 i.e. 3 years keeping in view the public choice and behavior.

FBR should implement bar on people to buy land i.e. certain square meter per household as per concept of urban land ceiling which limits land holding per person.

Government should enforce the price control mechanism for construction industry and provide the assistance, loan facility and easiness for the people who want to do construction for their houses thus curbing land speculation.

To secure the prime agriculture land and to avoid land speculation, high density development including mix land use development should be promoted in future.

Pockets of land lying vacant between housing schemes are also the reason for land speculation. LDA should focus these areas and there should be a policy to acquire these pieces of land through land Acquisition Act 1894 by the nearest housing scheme at the market rate and these areas should be developed first instead of developing the areas at the end of city district boundaries.

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