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LAND MARKETS AND LEGAL CONTRADICTIONS IN THE PERI-URBAN AREA OF ACCRA GHANA: INFORMANT INTERVIEWS AND SECONDARY DATA INVESTIGATIONS

by

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All views, interpretations, recommendations, and conclusions expressed in this paper are those of the author and not necessarily those of the supporting or cooperating organizations.

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TABLE OF CONTENTS

	Page
LIST OF TABLES, FIGURES, AND BOXES	vi
CHAPTER 1: INTRODUCTION	1
I. Introduction	1
II. Purpose of study	2
III. Research project design	3
IV. Overview of study	3
CHAPTER 2: LAND LAW AND ADMINISTRATION	5
I. Land statutes and regulations	5
A. Governance	5
B. Conveyances	6
C. Lease terms and rents	7
D. Compulsory acquisition of land	9
E. Public lands	11
II. Land administration	11
A. Registration	11
B. Private conveyances	15
C. Public land	16
D. Service fees	16
III. Concluding comments	17
CHAPTER 3: RESEARCH METHODS: FOCUS GROUP INTERVIEWS WITH CHIEFS, YOUTH, AND WOMEN'S GROUPS	19
I. Research objectives	19
II. Research methods	19
A. Study design	19
B. Site selection	20
C. Sampling frame	21
D. Structured informal interviews	22
E. Preliminary contacts and rapid appraisal survey	22
F. Introductions and interviewing procedures	23
G. Open village forum	23
H. Follow-up informal interviews and secondary data collection	24

CHAPTER 4: VILLAGE CASE STUDIES 27

I. Gbawe case study 27
A. Settlement history 27
B. Employment 27
C. Land markets 28
D. Distribution of benefits 29
E. Land administration 30

II. Ofankor case study 30
A. Settlement history 30
B. Employment 31
C. Land markets 32
D. Distribution of benefits 34
E. Land administration 34
F. Assessment 35

III. Ashongmang case study 35
A. Settlement history 35
B. Employment 36
C. Land markets 36
D. Distribution of benefits 37
E. Land administration 37
F. Assessment 37

IV. Concluding comments 38

CHAPTER 5: CONTEXTUAL AND THEMATIC ANALYSIS 39

I. Gbawe 39

II. Ofankor 40
A. Land expropriation 40
B. Beneficiaries 41

III. Aburi 43

IV. Thematic issues 45
A. Compulsory land acquisition 45
B. Administrative lapses 47
C. Town planning regulations 48
D. Lease processing and surveys 50
E. Fiscal revenues and distribution 52

V. Conclusions 55

CHAPTER 6: DEFINING "GOODS": RIGHTS BUNDLING IN THE PERI-URBAN ACCRA LAND MARKET 57

I. Introduction 57

II. Unit of analysis 57

III. Rights bundling patterns 59
A. Gbawe 59
B. Ashongmang 61
C. Ofankor 62

IV. Implications for applied economic analysis 63

CHAPTER 7: CONCLUSIONS, POLICY IMPLICATIONS, RECOMMENDATIONS, AND FURTHER QUESTIONS 67

I. Customary tenure 67

II. Statutory tenure and land administration 68

III. Tentative recommendations 69

IV. Further questions 70

ANNEX A: STRUCTURED QUESTIONS: CASE STUDY INTERVIEWS 71

ANNEX B: RULES FOR RESIDENTS IN RESIDENTIAL AREAS OF THE REPUBLIC OF GHANA 73

ANNEX C: SCHEDULE OF LAND AREAS UNDER DISPUTE IN GREATER ACCRA 77

ANNEX D: FREEHOLD CONVEYANCE, NSAWAM, 1978 81

REFERENCES 83

LIST OF TABLES, FIGURES, AND BOXES

		Page
Table 2.1:	Land Transfer Restrictions by Land Use	9
Table 2.2:	Rent Schedule for Stool Land, 1980 to 1995, Residential	14
Table 2.3:	Rent Schedule for State Vested Land, 1980 to 1995, Residential	15
Table 5.1:	Socioeconomic Characteristics of Government Plot Allottees, Kumasi	42
Table 5.2:	Administration of Lands Act, 1962: Ground Rents Position For Gbawe	53
Figure 3.1:	Sampling Design	21
Figure 6.1:	Rights Bundles in Gbawe	61
Figure 6.2:	Rights Bundles in Ashongmang	62
Figure 6.3:	Rights Bundles in Ofankor	63
Box 5.1:	Classification of Buildings by the Town and Country Planning Department	49
Box 5.2:	Provisions of a Layout	50
Box 5.3:	Inaccuracies in Property Delineations and Surveys	51

Note on exchange rate

13 May 1994: 922 cedis = US$1
12-18 September 1994: 975 cedis = US$1
3-9 October 1994: 1003 cedis = US$1
22-28 May 1995: 1147 cedis = US$1
4-10 September 1995: 1206 cedis = US$1

CHAPTER 1: INTRODUCTION

I. Introduction

The peri-urban area of Accra is experiencing a rapid transformation. Newly opened residential stands, partially built compounds, and piles of cement blocks are becoming ever more predominant at the city's fringe. Areas used for subsistence agriculture and dispersed rural settlement only a decade ago are rapidly becoming transformed into highways, residential parks, commercial buildings, and utility easements. A robust urban and agricultural land market has emerged, one characterized by purchases, rapidly rising real land prices, and outsiders from Accra acquiring agricultural holdings for residential and commercial use.

Chiefs and their councils of elders play a central role in customary land allocations in the Greater Accra Region and Central Region, while, in parts of Eastern Region, land rights are vested in landholding families. Ghana's constitution confers to central government an important role in the land market, although the actual nature of this role varies from place to place. Government directly holds and maintains public lands, and has jurisdiction over title issuances and transfers. In the case of customary land, the constitution requires that government intervene in transactions between buyers and sellers.

Any individual has the right to register (lease) land. By law, the lease term cannot exceed the term agreed upon by the negotiating parties involved, although the Lands Commission and its secretariats can and do act to inform the "acquirer" of the upper limits allowed by law, and in some cases recommend that a longer term be negotiated. Under the terms stipulated constitutionally, leasehold rents and other public fees must be paid to the Administrator of Stool Lands, and then distributed by fixed schedule to the Administrator, stool authorities, traditional authorities, and District Assembly. Hard evidence on the percentage of transactions in which leasehold payments are actually made to the Administrator of Stool Lands is not known with certainty, but observers suggest the percentage is quite low.

Land acquirers frequently decline to register their acquisitions. Ostensibly registration is sought by those seeking credit or greater tenure security than they believe is possible under customary tenure arrangements. Commercial banks require registered land as security for loans. Those seeking registration appear to be well-connected individuals with political or economic influence. Once registration is attained—through a process that is often lengthy and with significant transaction costs—the actual annual ground rents are typically nominal.

Transactions in customary land greatly resemble freehold transfer, despite laws prohibiting them. Purchasers pay "drink money" (or "earnest money"), which traditionally is a token payment of kola nuts or schnapps in deference to traditional authorities, but presently can amount to millions of cedis (see exchange rate, p. vi). These payments are entirely retained by customary authorities rather than distributed according to constitutional formula. Once the drink money is paid, no additional payment is typically required, hence the resemblance to freehold.

Land tenure in the peri-urban area runs the gamut from customary land that is clearly delineated and uncontested to land where ownership is disputed by two or more chiefs or families. The government periodically acquires customary land in the "public interest," theoretically on the basis of fair compensation paid to the disaffected. However, in some instances communities have failed to receive payment, and chiefs have begun selling the land to outsiders. The result is a very ambiguous state of land rights or interests between landholder, central government, and the chiefs. Very little is reported in the literature on the state of land disputes on the ground, although it is not an uncommon phenomena for two or more landholders to be allocated the same plot of land, or for a landholder to pay drink money to two or more chiefs to secure property rights.

In general, the relationship among ground rents, demand for leaseholds, payment rates, and the constitutional distribution formula are not clearly understood, nor have the effects of these institutions been adequately assessed. Customary systems have generally acted to facilitate land transfers, but the effects have not been uniform. In some cases, particularly where traditional institutions are strong, or the council of elders exert substantial authority over their chiefs, the chiefs return acquired funds from land transactions to their subjects in the form of cash payments, new lands, or village improvements. In other cases, funds accruing from land transactions may largely be retained by chiefs and a select circle of political allies, to the detriment of other members of the indigenous community.

II. Purpose of study

The fact that residences are being built, commercial firms are being established, and large firms are acquiring land for commercial interests attests to the ability of the customary system to enable transfers for productive activity. Nevertheless, limited or uncertain property rights increase investment costs, and differential access to information in the land market affects equity. The purpose of this research, of which this study is the first in a series, is several fold:

- It seeks to gain a better understanding of the land market in peri-urban Accra. In particular, it seeks to document the characteristics of those participating in the land market, sources of capital used to acquire land, terms and conditions associated with those transfers, and levels of transactions costs involved.

- It further seeks to gain a better understanding of the process by which land held by indigenous communities is transferred to outsiders enabling the conversion of unoccupied or agricultural land into residential or commercial uses. Some populations within the indigenous community will benefit from such transfers according to their social status, while others will lose. The study will seek to document such correlations.

- By examining land transfers under customary and statutory systems, the study also seeks to gain a better understanding of the contradictions and frictions that exist at their interface. It further seeks to examine the possibility that uncertain property rights and high litigation costs are constraining commercial and agricultural investment.

- Finally, it seeks to identify the economic and social factors that determine levels of "drink money" or premiums associated with transactions, and the duration of the customary allocation. The terms and conditions of these transactions have important implications for land access, land affordability, tenure security, and credit supply.

III. Research project design

After careful consideration of costs, resources, and the complexity of tenure institutions, a multifaceted and sequential research program was developed involving three components:

A. **Village case studies**. Using focus group methods for data gathering, responses of three principal groups—(1) chiefs and elders, (2) Queen Mothers group, and (3) young males group—were carefully triangulated across three community sites to compare perspectives on land market operations and issues.

B. **Archival disputes research**. A review of land disputes based on archival research and careful review of court cases.

C. **Land market and disputes household survey**. A statistical survey of roughly 345 households that have either acquired land or are directly or indirectly affected by transactions made to outsiders.

Component (A), involving primarily participatory appraisal and focus group research methods, and component (B) are the focus of this study. The statistical analysis of the household survey data in (C) are contained in a follow-up companion study.

IV. Overview of study

Chapter 1 is introductory. In chapter 2, legal and administrative aspects of the official land policy are reviewed in both theory and practice. Chapter 3 discusses various elements of the research design associated with the implementation of the case study research, including village selection, lines of inquiry, and limitations. The empirical findings of the three case studies are presented in chapter 4, and identification and assessment of crosscutting themes and issues in chapter 5. An attempt is made in chapter 6 to abstract from the empirical findings to obtain a more general economic theory of the land market as a basis for assessing linkages between land rights and land prices in the land market for purposes of component (C) above. Chapter 7 concludes with final comments, further research questions, and policy recommendations.

CHAPTER 2: LAND LAW AND ADMINISTRATION

I. Land statutes and regulations

A. Governance

Statutory tenure and land administration in Ghana are generally governed by provisions in the 1992 Constitution. Two separate tenurial systems are legally recognized: public and customary (including private).

Public lands are vested in the President in behalf of and in trust for the people of Ghana. The provisions in the 1992 Constitution leave intact the provisions of the Administration of Lands Act 123 and the State Lands Act 125, both of 1962, which specify the authority of government to acquire and maintain lands for the common good. Public lands are administered by the Lands Commission and its Secretariats, as provided for in the Lands Commission Act, 1993. The Commission, in coordination with other relevant agencies and governmental bodies, is charged with managing public land and any lands vested in the president by the constitution or by any other law; advising the government, local authorities, and traditional authorities on the policy framework for the development of particular areas of Ghana to ensure that development activities are carried out in accordance with relevant development plans; formulating recommendations on national policy with respect to land use and capability; and advising on and assisting in the execution of a comprehensive program of land registration throughout Ghana in consultation with the Title Registration Advisory Board.

Customary lands are those generally deemed to be managed in common by traditional authorities. Private lands are the residual (after customary and public land), managed by individuals. The specific arrangements by which customary land is governed depends on the area of the country, but in the Accra area the allodial[1] or fundamental rights to land are typically held by stools[2] represented by chiefs and to some extent by families. This is indeed the case in two of the case-study areas, Gbawe and Kasua. In some areas (for example, Aburi located to the north of Accra), however, allodial title is vested in smaller administrative structures (families) led by a family head. In such communities, several families share joint administration of community affairs and elect a community chief. Actual control of family land resides not with the chief as in stool areas, but with a committee comprised of the family head and senior family members.

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[1] The term allodial in its original sense means land free from the tenurial rights of a feudal overlord. In practice in Ghana it refers to the fundamental land rights holder. For example, land reverts to its allodial holder, typically a chief and elders acting in behalf of the community, upon termination of an individual's usufruct.

[2] A stool is a community governance structure similar to chieftancies or dynasties in other cultures. The term, similar in use to "throne" of England's royalty or "chair" of a committee, refers at once to the administrative structure and the actual chair on which the community leader sits. In the north of Ghana, a roughly equivalent administrative term is "skin".

Irrespective of the specific governance structure, all allodial title holders hold the land in trust for the subjects of the stool or family in accordance with customary law. According to the Constitution, Section 36(8):

> The State shall recognize that ownership and possession of land carry a social obligation to serve the larger community and, in particular, the State shall recognize that the managers of public, stool, skin and family lands are fiduciaries charged with the obligation to discharge their functions for the benefit respectively of the people of Ghana, of the stool, skin, or family concerned and are accountable as fiduciaries in this regard.

Family land at once appears to be subject to the same regulations as govern stool land and free of such regulations. Family land and stool land were treated equally by the 1979 constitution as well as section 63 (Interpretation) of the Provisional National Defence Council (Establishment) Proclamation (Supplementary and Consequential Provisions) Law, 1982 (PNDCL 42). However, the 1992 constitution distinguishes between stool and family land, though the Lands Commission, through its departmental instructions entitled "Documents on Family Lands" (Circular No. 720/Vol. V) of 17 June 1993, continued to treat family lands as stool lands until July 1994. Further confusion has been created by the 4 July 1994 court decision (Republic versus Regional Lands Officer, Ho, Ex-parte Prof. A.K.P. Kludze), which held that grants affecting family lands do not require concurrence of the Lands Commission. The status of family lands in this regard is in legal hiatus.

B. Conveyances

All stool land transactions (family lands remain in question) involving monetary consideration require the consent of the Lands Commission in order to be deemed valid. Only valid transactions in stool land are enforceable in government courts. Cash dealings in land are strictly prohibited according to Section 47 (1) of PNDCL 42:

> An assurance of stool land to any person by a stool or by any person who by reason of his being entitled under customary law, has acquired possession of such land shall not operate to pass an interest in or right over a stool land unless it was executed with the consent and concurrence of the Lands Commission unless such assurance is to a person entitled by customary law to the free use of land within the particular area and the assurance does not involve the payment of any valuable consideration whether in cash or in kind.

Article 267 (3) of the 1992 constitution also stipulates that any transfer must comply with an authorized development plan:

> There shall be no disposition or development of any stool land unless the Regional Lands Commission of the Region in which the land is situated has certified that the disposition or development is consistent with the development plan drawn up or approved by the planning authority for the area concerned.

No regional Lands Commission was set up in the first two years after the promulgation of the constitution. Most of the Regional Lands Commissions were set up between July and September 1995. Thus, while the constitution does not legally disallow dispositions, the absence of an effective land administration effectively curtails legal transfers in practice.

Land transfers are governed by the Conveyancing Decree (1973, NCRD 175), of which part 1(1) stipulates,

> A transfer of an interest in land shall be by writing, signed by the person making the transfer or by his agent duly authorized in writing, unless relieved against the need for such a writing by the provisions of section 3.

Documents drawn up in consonance with the Conveyancing Decree (or English law) were formally required to be registered under the Land Registry Act, 1962 (Act 122). However, this act contained a number of limitations. Purchasers and mortgagees of land were not protected against any liability should the title of the vendor or mortgagor be affected by fraud or mistake. No provision was made for the description of land by reference to a plan approved by the Director of Surveys or his delegated authority, resulting in some instruments being registered with vague and meaningless plans.

These and other limitations led the PNDC to introduce the Compulsory Land Title Registration Law, 1986 (PNDCL 152). This law provides for the registration of title to land and nearly all existing interests in land including allodial title, usufructory title, leaseholds and freeholds, and tenancies including *abunu* and *abusa*. It seeks, among other things, to provide a safe, simple, and economic system of land transfer, to reduce litigation, and to protect purchasers and lending institutions against fraud and clandestine dealings in land. Despite its great potential in conferring certainty and finality to landownership through current records, however, the law is operative in practice only in the Greater Accra and Ashanti Regions.

The Stamp Act (1965, Act 311) provides a last check on the authenticity of claims to land. Section 14(5) of this act states,

> Any instrument executed in any part of Ghana or relating wheresoever executed to any property situate or to any matter or thing done or to be done in any part of Ghana shall not...be given in evidence or be available for any purpose whatever unless it is duly stamped in accordance with the law in force at the time when it was first executed.

An aim of the registration process, apart from the prevention of fraud, is to verify that land transfers comply with government restrictions. These restrictions seek to assure that land transfers and the benefits that accrue therefrom are in accordance with the public interest.

C. Lease terms and rents

The administrator of stool lands, established under the Office of the Administrator of Stool Lands Act of 1994, is charged with the (a) establishment of a stool land account for each stool

into which are paid rents, dues, royalties, revenues, or other payments collected whether in the nature of income or capital from stool lands; (b) collection of all such revenues; and (c) disbursement of such revenues in the public interest according to Section 9 of the act:

- 10 percent of the revenue accruing from stool lands shall be paid to the office to cover administrative expenses; of the remaining 90 percent, the Administrator is to pay;
- 25 percent to the stool, through the traditional authority, for the maintenance of the stool in keeping with its status;
- 20 percent to the traditional authority; and,
- 55 percent to the District Assembly within the area of authority in which the stool lands are situated. This latter entity was recently established by government, and consists of members partly elected by residents of each district (two-thirds) and partly nominated by government (one-third). District Assemblies exist parallel to traditional authorities such as stools and the chieftancy institution. However, some traditional authorities, including chiefs, serve in assemblies as elected or nominated members.

Not only are cash transactions restricted by the Lands Commission, as indicated in section B above, but so also are the duration and size of land transfers. Limits and restrictions on size and duration of land transfers, as stipulated in the Administration of Lands Act (Amendment) Decree (1979, AFRCD 61), are detailed in table 2.1. Since 1969, non-Ghanaians can only acquire residential interests in land for a maximum period of 50 years. Ghanaians can acquire rights in residential land for a period of 99 years, but mining interests are restricted to 60 years, commercial interests to 50 years, timber interests to 30 years, and rights to raise poultry or grow cereals to only 10 years. Given the considerable delays often experienced in registering transfers, it is not surprising that registrations tend to be self-selected by land uses of longer duration, principally residential, commercial, and mining interests. Lower and upper size limits are also mandated for non-residential interests. Permissible transfers for commercial and poultry/cereal operations range between 640 and 1,920 acres, between 1,433.2 and 38,400 acres for mining interests, and between 25,551 and 153,600 acres for timber concessions. The principles underlying these statutory limits on land grants are not specified in the statute books, ministerial directives, circulars, or pronouncements. Except in a few isolated cases, farm size limits appear to grossly exceed the realities of farm size economies and the agrarian structure of present day Ghana.

The administrator of stool lands (central and regional offices) and the Regional Lands Commission are further given the responsibility by sections 10 and 11 to consult with the stools and other traditional authorities on matters relating to the administration and development of stool land, and to work with other relevant public agencies, traditional authorities, and stools, in preparing a policy framework for the rational and productive development of stool lands. Under Article 267(3) of the present Constitution, there is to be no disposition or development of any stool land unless the Regional Lands Commission has certified that the disposition or development is consistent with the development plan approved by the local planning authority. The Local Government Act of 1993 (ACT 462) further stipulates that all development, particularly in urban centers, requires both planning permission and development permits from the District Assembly, and for urban areas, from the Metropolitan Assemblies.

Table 2.1: Land transfer restrictions by land use

Land to individuals	Lower size limit		Upper size limit		Upper time limit
	km^2	acres	km^2	acres	years
Residential	—	—	—	—	99[a]
Commercial agriculture[b]	2.59	640.0	7.77	1,920.0	50
Poultry and cereals	2.59	640.0	7.77	1,920.0	10
Mining	5.80	1,433.2	155.40	38,400.0	60
Timber	103.4	25,550.6	621.60	153,600.0	30
Land grant [c]	12.95	3,200.0	25.90	6,400.0	—

[a] Non-Ghanaians are restricted to 50-year residential leases.
[b] Ranching, mixed or permanent crops.
[c] Body corporated or unincorporated.

D. Compulsory acquisition of land

According to the State Lands Act, 1962 (Act 125), any land—stool, family, private—may be compulsorily acquired where the government considers it in the public interest. An executive instrument must be published specifying the site, land dimensions, and time of acquisition. The Act is effectively aimed at extinguishing all prior interests and encumbrances on the land. Once applied, the only right remaining to previous holder(s) is lump sum compensation currently determined and processed by the Land Valuation Board. Conflicts over claims of interest, or disagreements over the level of compensation, are to be taken to the State Lands Tribunal, whose decisions are appealable to the Court of Appeal. In addition to the State Lands Act, Section 7 of the Administration of Lands Act, 1962, provides a facility by which the administration and management of stool land may be vested in the state in trust for the stool concerned. Under section 10 of the same act, the president may authorize occupation and use of any stool land for any purpose which in his opinion is conducive to the public welfare.[3] Other statutes governing compulsory acquisition include the Lands (Statutory Wayleaves) Act, 1963

[3] In both these cases (Sections 7 and 10), the interest of the stool is not extinguished, hence compensation is not necessary. However, any revenues collected by the state from its management of the land is to be paid to the stool lands account.

(Act 186), under which land is acquired for roads, highways and other utilities; and the Public Conveyancing Act, 1965 (Act 302), under which stool land can be declared a "selected area" for certain purposes (E. Nii Ashia Kotey, Inter-faculty lecture, University of Ghana, 23 June 1994).

According to Kotey (1994), roughly 14,763 hectares (or one-third of the land) in metropolitan Accra are held by the State, having been compulsorily acquired over time. This figure excludes Tema, another 64 square miles, and acquisitions in rural *Ga*. Overall, about half of all *Ga* lands are reported to have been compulsorily acquired. As noted by Kotey (1994), for the three cases below, and further evidenced by the case of Ofankor in chapter 5, the agreed upon compensation in some cases is never paid, rates are so low as to render the population landless, or the land area compulsorily acquired is excessive:

- **Tema Development Corporation (TDC)**. The TDC was established by the Tema Development Corporation Ordinance No. 35 of July 1952, and charged with developing the new town and port of Tema. The land acquired was leased to TDC in 1952 for a term of 125 years at a rent of £4,212 per annum. The ordinance stipulated that the land value will be what a willing purchaser is prepared to pay at the acquisition date. The Tema, Kpone, and Nungua stools brought claim that the value of the land ought to be higher because there was no alternative site on which the harbor and town could be built. However, the government, maintained that since the land was to be used for the public welfare, a high market value ought not to be placed on it. Total compensation, based on discounted future annualized payments, was assessed at £70,582, of which the portion due to the Tema stool was £28,871 for roughly 50 sq. miles of land. Whereas individual and family claimants were paid a lump sum, Ordinance No. 38 provided that where compensation was due to a stool, then an annual sum equivalent to 3 percent of the lump sum shall be paid to the stool in perpetuity—an amount equal to £887/year. No rent, however, has been paid in the past 15 years. Presently, substantial areas of the acquired land lie unused.

- **Dansoman Estates**. An area of roughly 4 sq. miles or 1,716 acres was acquired from the Sempe stool by the government for the State Housing Corporation (SHC). The area contained several villages including Damba and Jonkobri and land cropped in maize, cassava, vegetables, coconuts and palm. In the representations following publication of notice, the stool requested: (1) preferential treatment of stool citizens in the allocation of houses built on the land; (2) yearly rent paid to the stool in addition to lump sum compensation; and (3) exemption of families who had already built houses on land (large portions of the area had largely been parceled out to subjects of the stool). While SHC agreed to a portion of the estate being reserved for those affected by the James Town Slum clearance, it refused preferential treatment in general. Also, while it agreed not to demolish first class buildings (see box 5.1 for definitions) on the land, it refused to save other structures. Finally it rejected payment of the annual rent, despite recognition given in the official valuation report of permanent economic crops being cultivated, considerable building activity going on, and brisk land sales indicating rising land value.

- **La lands**. The ancestors of *La*, through conquest and settlement, had by 1700 acquired a large tract of land which at the time of acquisition comprised three sub-areas—the village of *La* or "town land," immediate farm lands dispersed with small cottages adjoining the main settlement, and outlying lands with a few farming households and reserves for hunting. The present town of *La* is less than 3 sq. miles. Living conditions are crowded and unsanitary. Town limits are confined by land compulsorily acquired by government; to the south is South La Estates; to the northwest is Labone Estates; to the North is Labone and the Wireless Acquisition, to the east is East Cantonments, Cantonments, 37 Military hospital, Airport, Burma Camp, and Trade Fair site; and to the southeast are the Pleasure Beach and Labadi Beach Acquisitions. Their traditional rural lands have also been compulsorily acquired as well, including the Airport Extension (Shiashie/East Legon) Acquisition, Centenary House, Secaps, the Old Brigade Camp, Standards Board, and the vast University of Ghana Acquisition, Presbyterian Secondary School Acquisition, North Legon Acquisition, and the Adenta/Prafraha Acquisition. These sites in their entirety represent the complete expropriation of the ancestral heritage of the *La* people largely without or at low levels of compensation.

E. Public lands

The above laws and regulations apply to stool and perhaps family lands. With regard to public lands, there exist a number of highly specific restrictions on day-to-day land use. Annex B presents a list of "Rules for Residents in the Public Residential Areas of the Republic of Ghana." They include restrictions on the number of persons who may inhabit houses of a given size, special restrictions for servants, rules for the disposition of rubbish, and limits on the keeping of livestock. On environmental, health, security and safety grounds, the regulations are commendable. However, some appear to have been adopted directly from colonial rules and, being enacted in the interest of colonial public servants, have outlived their usefulness in post-independence. Local agricultural committees referred to in the regulations are non-existent, while density standards regarding the number of people to a room and the maximum of 15 persons per acre are hopelessly out of date given land constraints throughout the country. In their current form, many of the provisions would be impossible to implement or ruinous to enforce.

II. Land administration

A. Registration

While the law stipulates requirements for land transfers, individuals do not always find it in their best interests to comply. An individual may seek to register a customary holding if there is need for greater breadth or certainty of rights than customary arrangements can provide; for example, when someone not indigenous to the community (an "outsider") acquires land for plantation farming or residential construction. Persons requiring permits or other services from the state may also find it essential to secure registration, as for example in the case of a petrol station that cannot sign a contract with a fuel wholesaler unless the commercial property is formally registered. It is rare for an indigenous resident of a community to seek registration, since under both statutory law and traditional custom the tenure of an indigenous person is assured.

The title deed indicates the form of the transaction—a lease of stool land, or a conveyance of private land. It also reports the monetary amount transferred (rent for leases, or consideration for conveyances), although various officials of the Lands Commission indicate that sums negotiated between parties often are much higher than the amounts reported because of tax evasion. The deed is drawn up as a formal indenture by a lawyer, and a site plan is prepared by a professional surveyor, both engaged by the acquirer. At least four copies of each must be submitted (always by the acquirer) to the regional office of the Lands Commission Secretariat (hereafter "Lands"), along with a cover letter asking the Lands Commission Regional Secretary to register the deed.

Receipt of the indenture, site plan, and accompanying letter is recorded by Lands in a register. The regional offices of Lands assign identification numbers unique to their offices in order to track documents that are in the process of registration until a final identification number is assigned by the central office in Accra. For example, in Koforidua, capital of the Eastern Region, this is an RE (Region East) number, while in Cape Coast it is a CR (Central Region) number. The initial recording register in Koforidua lists the identification number plus the names of the parties involved and the acquirer's address. In Cape Coast the register also lists the depositor and address, description of the type of transaction (lease, conveyance—for vacant land, assignment—for buildings, deed of gift), from whom the land or structures are being given, to whom, and the date of the indenture itself.

Once receipt of documents is acknowledged in the register, a Lands Officer (LO), who in some important cases may be the Regional Lands Secretary, "vets" or checks the received documents and adds "minutes" or notations requesting information or approval from various offices, and also indicates what actions should next be taken. These typically appear as handwritten initialed notes at the bottom of the cover letter. In the case of leaseholds (for either stool lands or family lands processed as stool lands), a notation is added to ask that a concurrence fee first be collected from the acquirer.

The LO must then send the forms to records to verify that the proposed acquisition and land use does not conflict with any government claim or any previous transaction on record, and that a land use plan is present if required by local ordinance. The records office in each region maintains official cadastral maps indicating previously registered lands. It reports back in writing to the LO, who, assuming all is in order, requests that an executive officer "open a correspondent file" into which all documents and subsequent memoranda and forms be placed. This becomes a permanent record. If a file is not opened, for example because documents are not in order, the forms may be destroyed or returned to acquirer so as to conserve already crowded storage space. This correspondent file is assigned an identification number of its own, along with a reference to the initial register number noted above.[4]

[4] In the Central Region, no files are presently being opened for land in Kasua, pending the completion of a formal land layout, which is expected soon.

The next step is to issue a letter to the District Planning Officer of the Town and Country Planning Office in the district where the land is located for verification that no conflicts have been found with plans for roads, schools, or other public works, and that the proposed land use is consistent with accepted practice for the area. Once verification is received, the LO must next direct the records officer to plot the land provisionally in pencil on the cadastral map on which is attached the correspondent file number.

A clerk next vets the forms to assure that concurrence requirements have been met if necessary. This includes a review of the annual lease payment (ground rent) specified on the indenture, which may be amended by Lands if it does not conform with their assessment of comparable land in the area. Ground rents of ¢8,200 for a 150 feet by 150 feet residential plot are typical in the Accra area (see tables 2.2 and 2.3). The meaning of ground rent is not clearly understood. In the view of one Lands officer, the ground rent represents the capital value of the land apportioned over a 99 year lease, and does not take into consideration any payments made directly to stools in violation of the Administration of Lands Act (Amendment) Decree (1979, AFRCD 61). However, another Lands officer suggests that officials at Lands are well aware of payments to stools and therefore do not assess a full capital valuation of the land. Instead, past assessments are typically simply incremented by a fixed percentage. Nevertheless, if all concurrence requirements are in order, a concurrence certificate is prepared, and a staff lawyer does a final vetting of all forms as a last check to assure that all legal requirements have been met. This final approval is noted in the minutes returned to the LO.

The Regional Lands Secretary must then send all four copies of the deed by courier to the Executive Secretary of the Lands Commission in Accra, who then forwards them to the Chairman of the Lands Commission for signing, indicating that concurrence has been granted. The seal of the Lands Commission is affixed to the four copies of the deed. The four copies are then returned to the Regional Lands Secretary. One copy of the deed is retained by Records at the Regional Lands Office. One copy is sent to Accra Central Records at the Lands Secretariat, which also assigns an LS number and maintains a master cadastral file. The LS number is then communicated to the regional office, and a final plotting is made in red ink on the cadastral map.[5] A page is prepared in the rent ledger for leaseholds, and a bill is prepared.

[5] Where there are delays in receiving an LS number from the head office, the regional office may assign its own identification number to the plotting on the map. For example, in the Eastern Region, a KDA (Koforidua) number is assigned in chronological order for the region. One of the four site plan copies is placed in a land registry ledger in which is also noted the basic details of the transaction. In the Eastern Region, the information recorded is the date the registration request was filed, rent or consideration, acreage, RE number, date of the actual transaction from the deed, the KDA number, the type of transaction (lease, conveyance), the party disposing, and the party acquiring.

Table 2.2: Rent schedule for stool land, 1980 to 1995, residential

	No Class	1st Class	2nd Class	3rd Class
1980 to 1985:				
Rent	8.00 cedis			
Acreage	0.25 acre			
Term	99 years			
1986 to 1990:				
Rent		4,500 cedis	3,500 cedis	2,750 cedis
Acreage		0.25 acres	0.25 acres	0.25 acres
Term		99 years	99 years	99 years
1991 to 1993:				
Rent		6,000 cedis	5,250 cedis	4,500 cedis
Acreage		0.25 acres	0.25 acres	0.25 acres
Term		99 years	99 years	99 years
1994 to 1995:				
Rent		9,000 cedis	8,000 cedis	7,500 cedis
Acreage		0.25 acres	0.25 acres	0.25 acres
Term		99 years	99 years	99 years

Source: Lands Commission Secretariat, Kumasi, February 1995.

Once the bill is paid by the acquirer, the remaining two copies of the deed (including the original) are returned to the acquirer. The acquirer must then submit them to the regional valuation board for assessment of the stamp duty (a percentage of the consideration or rent), and once paid, must take them to the Internal Revenue Services for a Tax Clearance Certificate to verify that no taxes are owed. This certificate is attached to the two deed copies and submitted to the deed registry in Accra. Once stamped, one copy of the deed is kept by the deed registry, and the original is returned to the acquirer.[6] The process is now complete.

The process of registration is a cumbersome one. If the acquirer is not prepared to follow up the submission of documents with perhaps daily personal visits to Lands, the process can take several years. It is reported that some acquirers in urgent need of registration have made incentive payments to Lands clerks to speed the process.

[6] It is curious that the lessor gets or keeps any copy of the Deed, especially in the case of Family and Stool land. How for instance can such lessors enforce convenants in the events of any breaches?

Table 2.3: Rent schedule for state vested land, 1980 to 1995, residential

	No Class	1st Class	2nd Class	3rd Class
1980 to 1985:				
Rent	100.00 cedis			
Acreage	0.25 acre			
Term	99 years			
1986 to 1990:				
Rent		5,250 cedis	4,500 cedis	3,500 cedis
Acreage		0.25 acres	0.25 acres	0.25 acres
Term		99 years	99 years	99 years
1991 to 1993:				
Rent		9,000 cedis	8,000 cedis	7,500 cedis
Acreage		0.25 acres	0.25 acres	0.25 acres
Term		99 years	99 years	99 years
1994 to 1995:				
Rent		10,250 cedis	9,000 cedis	7,800 cedis
Acreage		0.25 acres	0.25 acres	0.25 acres
Term		99 years	99 years	99 years

Source: Lands Commission Secretariat, Kumasi, February 1995.

B. Private conveyances

The above procedures are essentially the same when the land in question is to be conveyed rather than leased, except that concurrence from the state is not sought.[7] While conveyance of freehold title is permitted in the case of private land or freehold, there is some confusion over transfer of family land. The Koforidua Lands Secretariat presently treats transfers of family lands as stool lands requiring a lease and concurrence as technically, under the existing constitution, private transfer of family land is illegal. The Regional Lands Secretary in Koforidua mused that further court cases are likely to occur as a result of this confusion, with individuals desiring title to family lands suing the government. A prominent land acquirer has already filed a case.

[7] Further verification is not required by the state as the original lease issuance theoretically removes all other claims to land through adjudication.

C. Public land

Allocations and transfers of government held land are handled somewhat differently. Individuals must make an application to Lands to acquire public land. Lands must then review the application and allocate land according to availability. As public land is usually offered for sale by government at highly concessionary rates and is in short supply, the process favors rent seeking and acquisition by those with privileged access to information, knowledge of government procedures, or influence.

Ground rents comparable to those on stool lands are assessed. In addition, if government has improved the land through provision of utilities or roads, then the acquirer is required to pay for the improvements. A typical 150 feet by 150 feet plot in the Accra area was recently assessed ¢1.2 million for improvements—a relatively small fee in comparison with similar prices for improved property on the private market. Some special rules also may apply on government held public land. For example, individuals who begin development on government land in the Eastern Region prior to completing all documentation of the acquisition may face a fine of 15 percent or double the market value (30 percent of the market value).

Formally, registration of public land simply requires the acquirer to obtain necessary documentation (deed, layout plan) and to deposit them at Lands with a cover letter. When the matter is urgent, the acquirer may visit the Lands office, perhaps daily, to check on progress and facilitate the process.

D. Service fees

The Lands Commission Secretariat has additional responsibilities beyond lease issuance and conveyances. The accounts office of the revenue branch of Lands must keep track of fees paid, ensure that the funds are properly deposited by clerks in a local bank account, and see that payments are properly credited in a separate ledger. Once a large quantity of funds has accumulated in the account, the Assembly may petition the Regional Minister that the funds be released for a particular project. Similar actions take place for funds credited to the stool or family, except that they apply directly to the Regional Lands Commission for their allotments.

Lands also performs title searches for a small fee, about ¢2,000 for a typical residential plot. Such a search only guarantees the latest acquisition registered with Lands and does not assure the absence of conflicts among families or stools. Such conflicts when taken to court may eventually result in the invalidation of particular registrations.

Many deeds submitted to the Lands office in Koforidua list 1979 as the date of transaction, even when registration is sought more than a decade later. The Regional Lands Secretary in Koforidua speculates that many of these are cases where the acquirer is attempting to circumvent a law that came into effect in 1979 outlawing freehold transfers thereafter. The Lands Commission is now treating freehold applications as leaseholds no matter when the transaction is said to occur, and registration applications listing 1979 as the transaction date are assessed rents from that date, probably to the dismay of many applicants.

Many of the transactions in the Aburi area are conveyances rather than leases, but the Regional Lands Secretary in Koforidua speculates that the considerations noted on the forms are likely to be quite less than the actual amount paid. Sellers wish to conceal their income from relatives and from the Internal Revenue Service which assesses a capital gains tax of 5 percent. Buyers wish to evade a stamp tax of 2 percent.

Some conveyance considerations are likely to be more accurate. Non-Ghanaians and also some lawyers may prefer not to take the risk of underreporting. A typical risk is the case when a non-Ghanaian purchases land from a family head, but another family member challenges the transaction as not in accord with approved practice. A judge, seeing an extraordinarily low consideration amount, may disallow the transaction on that ground alone, hence an incentive to declare the real transaction amount where this risk is anticipated. Accurate specifications of consideration are easy to spot, according to the Regional Lands Secretary in Koforidua, simply by looking at the price per acre; prices in the millions are likely to be accurate, whereas prices in the tens of thousands are not.

III. Concluding comments

Preceding sections describe in general terms the body of law that governs land rights, land markets, lease terms, rental prices, compulsory land acquisition for the public domain, and land registration relevant to the Accra peri-urban economy. The body of law in its own right is impressive, yet not without weaknesses. Ambiguity over whether family lands are or are not to be treated along with stool lands under the general rules governing customary tenure are creating uncertainties regarding which rights are held, and which government provisions apply. Land restrictions that strictly prohibit cash dealings in land stand oddly in contrast to lots (100 feet by 100 feet) that are routinely being sold for 1.5 to 5.0 million (US$1600 to US$5,400) throughout the peri-urban area. Restrictions that call for the concurrence of the Lands Commission and related departments in transferring land and ensuring that its use complies with authorized development plans belie the capacity of the concerned institutions to adequately and fairly enforce the law given the highly centralized management, shortages of skilled personnel, and limited supplies and budgets.

Similar problems are evident for land registration services. Long and onerous processes for leasehold registration combined with weak capacity act to limit the supply of leaseholds that the Lands Commission is physically able to process, while insecurity in the land market combined with rapidly rising land values encourages economic rent seeking and bribes by influential citizens to facilitate paperwork. Not surprisingly, registrations tend to be biased toward applicants with influence or wealth.

However, the compulsory acquisition of community lands by government without adequate compensation, and the reassignment of those lands to outsiders at highly subsidized prices, is the most divisive land policy issue in the communities visited. Any government must have rights of eminent domain to serve the public interest. Yet, as will be seen shortly, particularly for Ofankor, the government appears to have seriously overstepped its bounds by either failing to administer the law under which acquisitions are carried out, or by disregarding fairness principles that were intended to help ensure fair and adequate compensation.

CHAPTER 3: RESEARCH METHODS: FOCUS GROUP INTERVIEWS WITH CHIEFS, YOUTH, AND WOMEN'S GROUPS

I. Research objectives

Land access in the process of urbanization can potentially evolve along a rich variety of paths, some of which enhance the welfare of a broad spectrum of individuals within the community, while other paths result in inequitable income distribution. The conversion of agricultural holdings into urban property around Accra generally appears to be generating flows of benefits that are being distributed quite widely in the community. Land acquirers are paying "drink money," which then through the chief is being redistributed to community members in cash or in-kind, or members are reallocated new landholdings. However, there are notable exceptions. As will be seen shortly, serious disputes have arisen between landholding groups contesting long-term settlement claims to family land. Disputes arise in other contexts where members of the community perceive their land wealth dissipated to the benefit of outsiders or to only a select few within their community. Such disputes indicate the potential risk that those seeking to acquire land for investment or productive purposes will find their transactions hopelessly and expensively embroiled in controversy. From the perspective of the national economy, productivity is impaired.

A number of pertinent questions arise in this context. Why does the land market appear to work well in some instances in peri-urban Accra whereas in other instances it has not. Where the market appears to have failed in general, in what directions have the benefits of property flowed? To what extent have the regulations of government enhanced or impaired these flows? To what extent have individuals within the community received fair and adequate compensation in the conversion of land from agricultural to residential uses? Finally, to what extent have limited or uncertain property rights impaired commercial investment? These were the empirical issues investigated in the course of this study. This chapter explains the research methodology underpinning the investigations involved in the case study research and briefly assesses data strengths and weaknesses.

II. Research methods

A. Study design

Based on reconnaissance visits throughout the peri-urban area of Accra in 1993 and 1994, four contextual situations were observed that reflect varying degrees of tenure security or conflict associated with land access and transfers:

T1. **Type I.** Land transactions under customary tenure occur expeditiously and generally without serious disputes over land among households within the community. Communities widely disseminate the proceeds of land sales to residents through cash transfers, land allocations, or community improvements.

T2. **Type II.** Proceeds from land sales are not widely distributed to residents, but rather benefit the chief or other influential families in the community.

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T3. **Type III.** Customary tenure systems exhibit conflict or stress; serious disputes are present or at risk between neighboring or competing stools or families.

T4. **Type IV.** The central government through compulsory acquisition acquires stool or family land and allocates land to outsiders at subsidized prices. Rates of compensation negotiated between government and the community, however, are subsequently not paid by government causing resentment and welfare loss in the concerned community. Serious disputes arise between local authorities and central government.

T5. **Type V.** Community lands are registered, and government plays a positive role in protecting the land rights of its citizens.

B. Site selection

Four research sites were selected that exhibit to greater or less degrees one or more characteristic of the above typologies:

1. **Gbawe and Amasaman (T1, T3, and T5).** Gbawe village, located roughly 9 miles from Accra, represents the customary land tenure system at its best. Once a small village, it has now been entirely engulfed by the wave of residential settlement moving outward from Accra city. Village lands have been sold by the chief to outsiders investing in residential improvements. But unlike some chiefs in Accra city, the traditional authority has been using the "earnest" or "drink" money obtained in land transactions to make infrastructural improvements in the area and to help Gbawe residents. Amasaman is a medium sized village located on the Accra-Nsawam road about 14 miles from Accra city and 7 miles north of Gbawe. Residential developments are emerging in the area, but the village is also a site of commercial pineapple production. Both sites are located in the Greater Accra Region.

2. **Ofankor (T2 and T4).** The village of Ofankor is a site where government has acquired a substantial portion of the village landholdings through administrative edict and allocates land for residential development. Ofankor is located just west of the Nsawam/Kumasi road north of Accra.

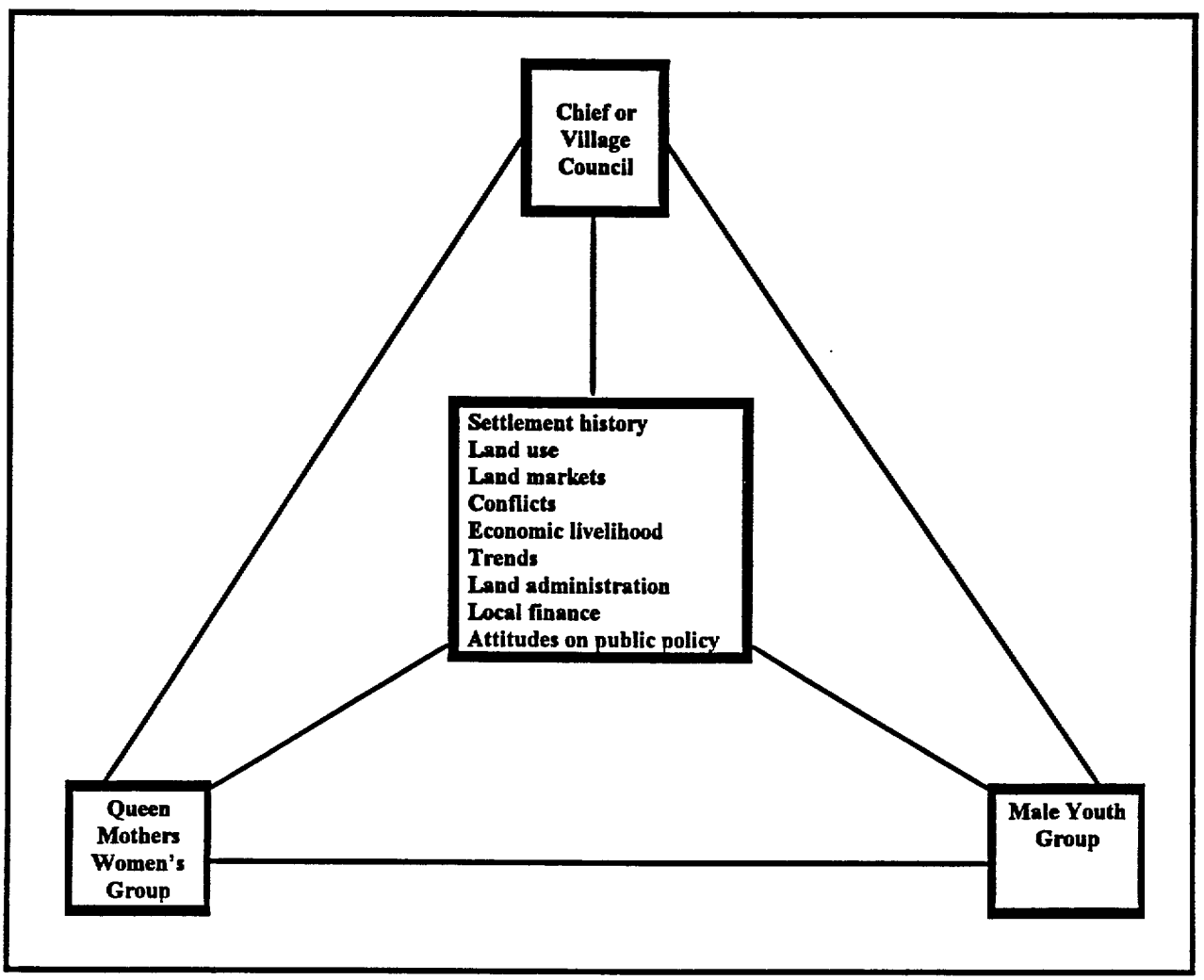
3. **Ashongmang (T1, T4, and T5).** In the Atomic Energy residential area, a tacit dispute has arisen between the government and a chief over the right to allocate residential land. These two areas are adjacent to each other in the northern suburbs of Accra.

Gbawe, in the far western suburbs of Accra, and Amasaman are located nearest to the urban Accra center. Gbawe has already been entirely engulfed by the residential influx. Ashongmang and Ofankor, both near Gbawe, are suffering duress, the former from a poorly functioning customary land market, and the latter from state intervention in the control of land assets.

C. Sampling frame

Researchers opted for focused group techniques based on participatory research methods for data gathering. A triangulated survey design was chosen, whereby a one-round structured interview was held with each of three groups within the village: (1) Chief and council of elders; (2) Queen Mother and representatives of other women groups; and (3) youth groups, entirely male. While it would have been desirable to separately interview young women, they tended to be represented by, or included within, the Queen Mother's group represented by category (2). The conceptual model underlying the survey design is depicted in figure 3.1. To each group were addressed a standard set of questions directly and indirectly related to land tenure issues within the Accra peri-urban area, depicted in the center box of the triangle in figure 3.1.

Figure 3.1: Sampling design



D. Structured informal interviews

The structured interviews consisted of nine general areas of inquiry: settlement history of village; principle mode of land access by group members; incidence and type of land conflicts being experienced by group members; principle modes of livelihood by group members; trends in employment, land scarcity, and land markets; local land administration; distribution of receipts of land sales (local finance); and attitudes toward public land policy. The structured informal questionnaire in Annex A served as a general guide to help focus the interview. In practice, researchers had considerable latitude to emphasize and de-emphasize specific lines of inquiry to tailor the interview as much as possible to the immediate issues and interests of the community concerned. Additional questions for clarification and extension were interjected by the research team based upon responses received. Interviews were conducted by a team of three investigators who before the respective interviews divided responsibility for note taking and writing of summaries based on work load and language skills.

In theory, each group's response could be cross-checked through sequential and second-stage interviewing. However, in practice, there was remarkable consistency and agreement among all three groups in all lines of inquiry that in most cases would have minimized the need for triangulation if such information had been known a priori. Interviewing all three groups nonetheless proved important in filling gaps and rounding out perspectives that might otherwise have been missed due to time constraints interviewing any single group and to the open interview format used.

E. Preliminary contacts and rapid appraisal survey

Prior to the commencement of the actual case studies, the researchers, with the help of officials of the Lands Commission and its Secretariats, and the Town and Country Planning Department, spent two weeks visiting various neighbourhoods within and outside Accra to:

- Develop a feel of the peri-urban land market generally and its various subsectors—state, private, and customary.
- Identify active peri-urban land markets with visible investments/developments—residential, agricultural, and commercial.
- Ascertain conflict and dispute areas generally, as well as possible study centres for in-depth case studies and for the administration of the statistical surveys.
- Collect secondary data and interact with other researchers.
- Evaluate data gaps in the peri-urban land market.

The rapid appraisal helped shape the research design and determined the choice of study areas.

F. Introductions and interviewing procedures

The researchers entered various communities through familiar public officials—land administrators, planners, and land surveyors—who were well-known to chiefs and had already gained their confidence. While presence of officials entailed some risk of researchers becoming too tightly associated or linked with government, this concern in practice proved to be unfounded. The communities concerned openly voiced their concerns—sometimes with harsh criticism pointed at government officials. From the perspective of officials involved in the research, the exercise proved enlightening and educational. Despite their wealth of knowledge on matters of land administration, the project presented the first practical research experience for most.

Against the background in the early 1980s of freezing and confiscating people's assets, imprisoning many, and executing a few, it would have been difficult to extract land information from the communities without a cautious research approach. To further allay any fears and suspicion, the researchers used local opinion leaders—teachers, assemblymen, and religious leaders as liaison officers with the various groups. At Gbawe, for instance, the liaison was the District Assemblyman, the Chief Imam, as well as the youth leader. He fixed appointments with the chiefs, youth and women's groups, and acted as interpreter when needed.

Formal meetings were arranged according to Ghanaian custom, which includes offering gifts of drinks (usually schnapps) and a token amount of cash. Officials of the Lands Commission Secretariat, who are generally well acquainted with the subject communities, were engaged to introduce the research team to the community. After an introductory meeting at which the purposes of the research were explained to the Paramount Chief and elders, interviews were held first with the Youth Committee, then with the Queen Mother and her elders, and finally again with the Paramount Chief and his elders. Interviews, were normally carried out in *Ga*, although English was sometimes used and required.[8] Most of the meetings ran about one and half hours, although some ran up to three hours.

G. Open village forum

The interviews took the form of open village forums, under trees, within court-yards, or in rooms. The researchers sat in front of the respondents with a lead interviewer doing most of the questioning using the structured questionnaire. The other two researchers kept notes and interjected comments or queries from time to time to either close gaps and/or to clarify points.

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[8] In Gbawe, the meeting with the youth committee was attended by approximately ten men ranging in ages from 25 to 50. All but two seemed conversant in English. After an initial attempt to translate questions into *Ga* proved cumbersome, the interview proceeded in English. In the meeting with the Queen Mother and her entourage, about eight women flanked the Queen Mother in a front row of chairs, but at various times up to twenty others listened in, with some in a back row occasionally offering comments. These interviews were entirely conducted in *Ga*. In the meetings held with the Paramount Chief and his elders, most of the elders spoke English, although protocol demanded that the interview be conducted in *Ga*. In this situation, questions were posed in English to the Imam, who then translated them into *Ga* for the rest of the council.

The groups elected spokespersons who did most of the answering. However, open consultation was evident, particularly when researchers asked unexpected, controversial, or ambiguous questions.

The researchers usually opened the topic with greetings and introductory remarks about the research and its objectives. The various groups were then encouraged to ask their own questions about the research or any other related matters at the end of the formal interviews. The questions proved interesting. Most groups asked about the possible benefits they would derive by partaking in the research. The researchers explained that the findings of the study would be documented and widely distributed to policymakers, government officials, investors, donors, educational and research institutions, and to the community. Progressive Gbawe with a secure and flourishing peri-urban land market might then attract investors through this exposure. Furthermore, the progressive customary land management principles could be recommended for inclusion in appropriate educational curricula in the country and beyond. Also, the policy implications and recommendations could be persuasive enough to induce policymakers and the government to address current land conflicts and tenurial insecurity in the interest of stability, social justice, and sustainable development.

Approximately five weeks were spent on the village case studies and interviews with public sector officials—a schedule that proved extremely tight. Unfortunately, the chiefs and some family landholders had a very tight and busy schedule attending court and local arbitrations, celebrating funerals and festivals, and attending to other community matters. It was not easy for the chiefs and elders to honour fixed appointments with the researchers; appointments sometimes had to be rescheduled (three times in one case) before the researchers could be given audience. On the day the Gbawe chief and his elders were interviewed, the researchers waited under a tree for about two hours, while the chief and his elders were attending to a local arbitration. After the arbitration, the interview did take place and lasted another three hours.

Though logistical constraints proved frustrating and exhaustive, the interviews once held were open, frank, and lively. Draft and final copies of the report were delivered to representatives in each of the three study sites for comments.[9] To the fullest extent possible, the views expressed by individuals and groups in the three study sites, and by local authorities, are a true reflection of what obtains on the ground.

H. Follow-up informal interviews and secondary data collection

Information gathered from the village forums at Gbawe and Ofankor lead to further informal interviews with officials of the Internal Revenue Services who are charged, among other functions, with the collection of Capital Gains Tax, as well as officials of the Deeds Registry, who are responsible for the processing of deeds. This enabled the researchers to reconcile seeming contradictions at the village forums.

[9] While always advised, it is worth noting that respondents in each study site strongly insisted that they be given copies of the report, partly for interest, and partly to ensure that they are not misquoted.

Whilst waiting to fix appointments for the village forums, the researchers spent one week collecting secondary data (both published and unpublished), as well as informal interviews with officials from the Lands Commission, the Land Valuation Board, regional and district Town and Country Planning offices, the Survey Department, and District Assemblies. The aim was to evaluate their perceptions of achievements and constraints, to assess land related problems in the peri-urban land market generally. Their views, along with those of the village forums, follow-up interviews, as well as the secondary data, give a comprehensive coverage of the issues at stake.

CHAPTER 4: VILLAGE CASE STUDIES[10]

I. Gbawe case study[11]

A. Settlement history

Gbawe is an old farming village situated some 10 kilometers west and slightly inland from the center of Accra. Oral tradition has it that hunters migrated to the area in the 15th century, claiming some 10,000 uninhabited acres as their own. The stool lands are not formally demarcated; rather boundaries are recognized by natural landmarks—trees, hills, streams, and stones—some of which have become destroyed by development. In more recent and populated times, half of that area has been subjected to dispute with neighboring stools. The core of the old village still exists, but the mud constructions of traditional housing have now become surrounded by cement block and "landcrete" homes of a more modern and expensive design, complete with electricity and, in some cases, piped water.

The land was originally covered in forest, but has gradually been cleared over time by community members for agricultural use, mainly the cultivation of yam, vegetables, maize, and cassava. The dramatic decline in rainfall in the 1970s sharply increased the number of migrants moving into the area from the country's interior and lessened economic returns from farming, trends that continue to the present day. Around 20 years ago, a distinct and rapid transition began, one characterized by the conversion of agricultural land into residential and commercial uses, with migrants and people from Accra acquiring property in Gbawe.

B. Employment

Stone mining in the town quarry provides the primary mode of employment in the community, for which the chief grants work permits. Unemployment among the youth is as high as 80 percent, but upon clarification the group agreed that any able-bodied person who wanted to work in the quarry could do so and earn a better income than available from most menial civil service jobs, particularly after transportation costs to Accra are deducted. Of the 800 or so able-bodied workers in the community, perhaps 200 do regular quarry work. This figure seems low given the importance ascribed to quarrying as a source of livelihood, but nevertheless is consistent with the high rates of unemployment reported. Those workers who do not work in the quarry work as drivers, masons, carpenters, and general laborers in the construction

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[10] The field research was undertaken by Kasim Kasanga, Associate Professor in the Land Economy Department and Acting Director of the Land Administration Research Centre, and Rudith King, Research Fellow in the Department of Housing and Planning Research, both of the University of Science and Technology in Kumasi, Ghana, and by Jeffrey Cochrane, Research Associate of the Land Tenure Center, University of Wisconsin-Madison, USA.

[11] In Gbawe, the meeting with the youth committee was attended by approximately ten men ranging in ages from 25 to 50. In the meeting with the Queen Mother and her entourage, about eight women flanked the Queen Mother in a front row of chairs, but at various times up to twenty others listened in, with some in a back row occasionally offering comments. Meetings with the Paramount Chief included himself and his council of elders.

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industry. Some still farm, particularly in an area roughly north of town. In the past, commercial farming of tomatoes and pepper was important, but now quarry work generates more revenue. By and large, less time is spent on farming, and people are turning to work in the commercial and service sectors. Such trends are observed for both men and women, young and old.

C. Land markets

For a non-indigenous resident to acquire land, procedures in Gbawe are indicative and have remained remarkably stable over time. A fee[12] is first paid to inform the stool of one's interest in acquiring stool land. The stool authorities then direct the potential land acquirer to particular individuals with land for disposition; these individuals may be representatives of the stool itself, or they may be families having lands outside the boundaries of the stool.

Once a plot is located, a "drinks" payment is negotiated. The purchase of a 70 feet by 100 feet plot for residential construction would typically require a "drinks" payment of ¢500,000 (roughly US$538 at the then prevalent exchange rate of ¢930 = US$1.00) to the stool or family, but could reach as high as ¢2.0 million. A higher price may be paid for prime land well situated for business development. Fees of about ¢75,000 are then normally paid to a lawyer and a surveyor to prepare the necessary legal documents and a formal site plan.

Land sales represent an important source of revenue for the community; as much as 4 to 6 million cedis are earned in some years depending on the number of plots sold. While constitutional provisions stipulate that a fixed percentage of ground rent collections are to be returned to the stool, no funds have been paid to the stool for some years now. The stool has asked for the funds on various occasions but has been informed that no money is available. Gbawe's residents are unhappy with this, but communities generally feel helpless in challenging government.

Land is sometimes allocated by the stool to businesses at a discounted rate in exchange for commitments to provide infrastructure or employment for the benefit of the community. One firm, for example, has promised to improve a road in Gbawe in return for land. However, it is also recognized by local authorities that there are risks in setting up a business, so allowances are granted to persuade investors to come in. Despite the willingness of the chief in some cases to give the land away for free, investors nonetheless are reluctant to come and make investments.

Land is sold for a particular purpose (for example, residential use or for a clinic). Anyone who later wishes to use the land for a different purpose may be able to do so, but must petition the Chief and perhaps pay a fee. Landholders failing to obey stipulated covenants are called before the stool and may be fined a sheep, a bottle of schnapps, or a small cash payment. An example was offered in which a priest acquired land for a church but later disposed of some of the plots for residential use. The stool confiscated the land because of the unauthorized use. The most serious crimes are dealt with by banishment from the community or calling in the police. The

[12] In the past, sheep, cows, or chickens were offered in exchange for land. Today, the need for a cash payment is universally recognized by community members and nonmembers alike.

vast majority of members of the community, however, obey the covenants set by local authorities.

There are few reported instances of land conflicts among families within the community, between Gbawe residents and outsiders, or between Gbawe community and the government. However, boundary disputes are common between the Gbawe stool and neighboring stools. Of the 9,836 acres originally claimed as Gbawe land, only 4,918 acres are undisputed lands held by the community. The rest has been lost through litigation to other stools, or stools encroaching on Gbawe lands including the Anyah stool to the east, the James Town stool to the west, the Ablakuma stool to the northeast, and the Sempe stool to the south. The only borders that are not yet being contested lie to the north on the boundary with the Jomah and Manhia families.

Despite these conflicts with neighboring stools, less than half the current holdings are fully utilized, so, barring any major changes in migration or settlement patterns, land shortages do not appear to be a significant problem. Residents do not see land shortages emerging in the next 10 or even 50 years. The land market is in fact seen as an important mechanism for stimulating development. While the chief and his elders could theoretically act to block land to outsiders, they wish to see Gbawe community expand. And in order to pay for roads, drains, schools, and clinics, sales of land are looked upon as an important source of revenue. But the need for funds to cover litigation costs was also mentioned to help reproach encroachment by neighboring stools.

D. Distribution of benefits

The stool pays for most infrastructure development, including electricity, which was installed in the past two years, KVIPs,[13] piped water, schools, clinics, public bathrooms, showers, a football park, a petrol station, and so forth. The Queen Mother and her elders, as well as the Youth, were quick to point out that this is a key benefit of the land market for everyone in the community. Funds for infrastructure come primarily from direct payments made by land acquirers to the stool. While money allocated to the stool accounts by the district assembly should in principle help with such improvements as well, the *Imam* and paramount chief emphasized that no such help has been received from the District Assembly in recent years, despite a formula being prescribed in the Constitution.

Income from land sales generally flows first to men. However, women seem well informed about the sums involved and do not feel alienated from the benefits of sales within the community. The traditional institution of the Queen Mother and her elders is the most visible mechanism by which women's particular concerns are voiced, though there are a variety of women's committees and associations, for example, the 31st December Women's Movement and the Women's Social Club of the Planned Parenthood Association of Ghana. Funds accumulated by the stool in the course of land transactions are regularly allocated to these organizations upon application for specific projects, for example, a poultry farm.

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[13] Kumasi Improved Ventilated Pit Latrine, so called because the technology was developed by the School of Engineering, University of Science and Technology, Kumasi, Ghana.

In addition to such financial benefits, families who lose land to land alienations or development are allocated new plots on land reserved for expansion purposes or able to acquire new plots from the chief at no charge. Indigenous residents are allocated land for building personal homes after paying a token amount to the chief in addition to possible fees for acquiring the indenture and site plan. Other plots are awarded to individuals generally for some kind of service to the community, or when their farming land is dispossessed for residential development by the Chief. In addition, a large tract near the present traditional village has been reserved and laid out for modern residential construction, with specific plots allocated to every resident family in the community. This planned residential area cannot be sold, but other plots acquired for various reasons can be sold to outsiders.

E. Land administration

Women as well as men are actively involved in nearly all aspects of land administration. They regularly attend court hearings in Accra on important cases that involve land disputes with other stools or government. They remain vigilant as they pass through their lands, identifying encroachments and planting white flags to inform encroachers that they must either contact authorities or face eviction. Young men in the community also form vigilante patrols to assure that rules are obeyed and land use is duly registered with the Chief. Unauthorized developments are marked with a flag, and if not regularized, developments are demolished by the men.

Reportedly, relations are very cordial with the Lands Commission, Town and Country Planning Department, Survey Department, Land Title Registry, and even the District Assembly, despite funds not being returned from the stool account. And in the case of unauthorized encroachment or development, the police are invited to help work out a solution. Gbawe's remaining lands have now been registered. Every residential acquirer is advised by the chief to obtain a formal lease to protect their rights in case of a dispute with a neighboring stool. Plots obtained in the interior of Gbawe presumably are not at risk due to few disputes among Gbawe residents over land. However, disputes with neighboring stools, several of which are now being heard by government courts, represent a major concern bearing on the minds of local leaders. All in all, the local government machinery is reported to be working well, and to the benefit of all community members. There is, no doubt, some hyperbole in these statements. Yet, Gbawe stands in stark contrast to Ofankor and Ashongmang where open conflict exists between government and the community.

II. Ofankor case study[14]

A. Settlement history

Ofankor is one of the traditional *Ga* communities believed to have been founded in the 16th century. From their original settlement at Ayawaso, the people are said to have moved twice

[14] Respondents for the Ofankor case study included the *mantse* (that is, chief), the assemblyman, four landowning family heads, two elders, three women groups (including representatives of the Queen Mother, and two benevolent cooperative groups, numbering about 10 women), and about 40 representatives of the youth group of young and mature men that constitutes the *asafo* company (local police force).

(due to ailments) before finally settling at the present site. The Ofankor stool is presently occupied by the Awulemana-Apenteng family. The *mantse* (chief), along with his elders are responsible for local administration, arbitration and the settlement of disputes. Land generally is owned and controlled by five landowning families, namely Awulemana-Apenteng, Guo Dzano, Olila, Nikoi-Tsuru and Asofa. Stool land, which is separate from family or private land, is controlled by the Awulemana-Apenteng family—the stool occupants.

Families know their land boundaries by natural markers, for example, mountains, valleys, and die-hard fire resistant trees such as *ntome*. It is customary for the old men to dig a hole along boundaries and bury a bottle of schnapps before planting *ntome*. In case of dispute, the bottle is excavated to prove the boundary line. Although families do not know the exact extent of their land area, there is local harmony, facilitated partly by inter-marriages. Land disputes among indigenous families are said to be rare. A patrilineal system of inheritance predominates where property devolves from father to brother and/or sons, and, to some extent, to daughters.

The size of Ofankor has witnessed phenomenal growth in the past 10 years due to in-migration of people from other parts of Ghana, Accra, and abroad. Today, apart from the five founding families, Ofankor has become a cosmopolitan center, with virtually a representative of every tribe in Ghana. Ofankor's leaders have been receptive to outside requests for land by private citizens. The far more intractable problem has been the government's compulsory acquisition of the majority of Ofankor's lands, which has had enormous repercussions on the welfare of the indigenous population.

B. Employment

Prior to the early 1980s, land was abundant, population was small, and demand for land was dormant. Land was largely used for subsistence farming based on family and individual enterprise. Cassava, maize, yam, pineapples, and vegetables were cultivated. Women handled the marketing of foodstuffs. There was, however, some limited commercial farming, including a few large European farms. Livestock raising on open-range was once a small but important part of the local economy. While some subsistence farming remains, farm land is now in very scarce supply due to government appropriations. Livestock are now looked upon as a nuisance; the excessive confinement of open-grazing lands combined with ticks and disease have greatly undermined the local livestock economy. Residential construction has become the prevailing land use and an important means of livelihood. Artisan labor and petty trading are important sources of employment for women, as men are often employed in Accra.

Like Gbawe, the mining of soil and gravel has also become an important source of household income. But serious conflicts are arising with government over access to the quarries. Prior to government acquisition of land, women were able to obtain work permits to mine stone from the chief. With government acquisition of land, however, women who seek income from gravel and sand mining are harassed, and sometimes driven away, by the police.

C. Land markets

Until recent times, land acquisition was fairly easy. Any man or woman of age wishing to acquire land could contact the head of a landholding family, who would identify a plot. Marriage was (and still is) the decisive factor as justification for land to build a house or feed the family. Given the relative abundance of land until recently, invariably the plots were given out free of charge. Strangers could also acquire agricultural land with minimal consideration: a customary drink (that is, one bottle of schnapps) and a token yearly rent, termed *adode*, of roughly ¢1,000 per acre. However, the shortage of agricultural lands is now forcing families into commercial and service jobs. Men tend to leave more so than women, but migration away from the community is being felt by men and women, young and old alike.

For any person wishing to acquire a plot upon which to build a house presently, the terms have changed drastically. Housing plots measuring 100 x 100 feet are currently being sold by the chief for between ¢500,000 and ¢1,500,000. The ultimate price depends on the relationship among agents, land acquirers, and family landowning groups as well as location, and availability of infrastructure and social services.

Disputes over land rights among families within the community are rare; all families reportedly know their boundaries and abide by them. However, there has been substantial conflict and duress over government appropriation of land, and, in turn, with outsiders who have benefited from government allocations. There are also conflicts with neighboring stools, in particular the Sempe and Niikoi-olai.

Rapid urbanization and government intervention in the Ofankor land market have radically changed the nature of the customary land tenure system. By Executive Instrument (EI) 82, 1978, on the strength of the State Lands Act, 1962 (Act 125), the government compulsorily acquired most of the Ofankor lands in the public interest. Based on estimates of the Chief and elders, about 85 percent of all Ofankor lands have been expropriated under the Executive Instrument. Adding insult to injury, local leaders came to know of the expropriation only when they saw prisoners and others cutting boundary lines in the late 1980s.

In 1990, when the affected families first contacted the Lands Commission to state their case, the layout for "Ofankor sector one residential area" had already been completed and all the land sold to outsiders. Compensation, assessed to be ¢17,200,000 in 1980 and not less than ¢2 billion as of February, 1994, has yet to be paid. The ultimate effect of the Executive Instrument on Ofankor lands is summarized below:

- Shortage of land for all land uses, including residential, agricultural, and commercial.
- Population pressure on limited lands and landlessness amongst indigenes.
- Out-migration by young men and women to central Accra and the suburbs and changing occupations with many villagers becoming laborers, artisans, and clerical officers. A few are in business and general trading.

- Sand winning along with stone/gravel quarrying (with disastrous environmental consequences) now form a major source of employment for men and women alike. According to the women's groups who are quite active in the sand/stone quarrying business, they resort to it out of necessity; they live from hand to mouth. Quarry workers not from the landowning families pay a customary drink, a premium of ¢2,000, and a monthly rent of ¢1,000 per lot to family heads before gaining access to quarry land. Until recently, the women were unaware of the government acquisition.

- The greatest problems, however, are the serious land conflicts and open confrontation between the landowning families and government/public officials, as well as private developers who have acquired Ofankor lands from the Lands Commission. With the possibility of the payment of compensation claims, the Sempe stool in particular is now contesting the ownership of Ofankor lands. The case is currently in court.

- The non-payment of compensation is one thing; the inclusion of the families' groves, shrines, graveyards (as at Okai Koi), and the first settlement of Ayawaso as part of the acquired land is quite another. The lack of respect for the people's cultural and traditional heritage has resulted in a polarized and sour relationship between the people and government officials.

- The harassment of women and other quarry/sand winners by the police on the government-acquired lands has not helped the situation. The people perceive these harassments as a deliberate attempt by government and its officials to exclude them from the benefits of their own lands. The Ofankor respondents claim that in contrast to the misery and untold hardships unleashed on them, the State Land machinery has delivered no apparent benefit to the neighborhood or its indigenous people. Neither the stool nor family heads have ever collected their share of ground rents from the Administrator of stool Lands.

Consequently, the chiefs, women, and youth groups were unanimous in their questioning government's right to acquire their land in the first place and government's capacity to allocate residential land to outsiders. When asked about their future land status, all three groups predicted dire consequences stemming from no more land available for development, strangers occupying and claiming their land through the guise of government acquisition programs for the public good, and strangers with official documents showing blatant disregard for local authorities. Despite their unhappiness with the present situation, all groups felt powerless in seeking justice, and openly voiced their anger via threats of war, destroying the efforts of government or developers.

Given the problems with government acquisition, it is not surprising that landholders voiced considerable advantages to traditional land management expressed by community members: appropriate size of land allotments, every family's needs being met, and appropriate land use (otherwise land is taken away and reallocated to others in the community). Community elders in turn voiced sharp criticisms at government authority—revenue sharing by the District Assembly has yet to materialize, just compensation for land has not been paid, government

decisions on plans and layouts are non-transparent, lack of involvement by local communities in planning efforts, and little or no dialogue between government and the people.

Also, given the problems with government and outsiders over land access, one might expect local authorities to hold animosity to newcomers. Instead, local authorities feel obliged to make land available to all Ghanaians, particularly in cases of humanitarian need, marriages, and the plight of migrants. Most people know and obey traditional land covenants. When infractions do occur, violators are asked to appear before the chief and fines may be levied. Persistent violators may be banished, and the police or government officials may be called upon in cases of serious infractions.

D. Distribution of benefits

The revenue from sales and rental of stool land appears to be generally widespread. In addition to the upkeep and defense of the stool and the celebration of festivals, revenues are channeled into general development projects—KVIPs, schools, electricity/poles, lorry parks, markets, and burial grounds. However, according to women, the revenues are not distributed equally among households. Individual families determine how revenue from the land is utilized. Families have bank accounts into which revenues are paid. Family heads and elders appear to be taking care of their own in the distribution of the proceeds. For individuals not belonging to one of the five landholding groups, of which there are many, no or few benefits are derived from land sales, a situation unlike Gbawe.

E. Land administration

The youth group, the "Asafo company," is acting as the local law enforcement body against trespassers and encroachers on family and stool lands. Their erected white flag is a warning sign, while a red flag commands that the work stop. The Asafo company has effectively challenged, confronted, and physically harassed developers and government officials on Ofankor lands. Some developments are known to have been razed to the ground. The only developers who are able to execute their developments are those who have seen the wisdom in negotiating directly with the stool and families for the regularization of their leases, which emanated from the Lands Commission.

The people are demanding back their land and entreat government to rethink its land acquisition policy. In their opinion, until the present and future needs of stools and families are duly taken on board in the public land acquisition process, there will always be confusion and local opposition to public land acquisitions. Residents would welcome industries, hospitals, and other infrastructure on some of the public land, as well as just monetary compensation. Most humiliating is government's failure to provide compensation at the same time that land is parceled out to privileged outsiders who then mock the wretched existence of the previous landowners.

Frustrated and disappointed by the government/public land machinery, the chief, elders, and family heads posed the following questions: Why cannot the government acquire land outside Accra? (Indeed, government does and has acquired plenty of land outside Accra.) Why acquire

land to build quarters for retired military personnel in Accra when retirees could have gone back to their home towns or villages of their choice? This could prove beneficial to government in respect of financial savings on developments, while retirees could gain by avoiding the hardships of an inflation-torn capital city.

F. Assessment

Ofankor demonstrates a peri-urban land market in crisis. The dual and diametrically opposed land administration systems (the customary and the government/public) appear to have reached a stalemate. Government has compulsorily acquired about 85 percent of stool and family lands. The Lands Commission has duly allocated most of these lands to various developers and outsiders. Yet, neither the government nor the Lands Commission has the administrative machinery or power to adequately police the acquired land. Furthermore, the public land acquirers cannot freely develop their lands without atoning fresh tenancy (entailing additional expenses/costs) to the stool or family heads. Those who refuse to take this course of action have been effectively harassed and their building works brought to a halt by the Asafo Company.

The stool and family heads appear to be in control. However, for fear of the coercive power of the State (that is, the police, the commandos, the army and security services, the courts) they have managed to allocate only between 40 to 70 plots that currently have structures. These are termed as encroachments by the public/government land officials. The bulk of the land, however, is currently lying fallow in the face of high unemployment rates, rural poverty, and general stagnation. Without a resolution of the apparent tenure conflicts, the extent to which the Ofankor peri-urban land market could promote sustainable investments is limited.

III. Ashongmang case study[15]

A. Settlement history

Ashongmang village was established in the 16th century when the *Ga* people migrated from Egypt through Nigeria. The settlement was founded by Odan Nto, a hunter, and his descendants who are now the landholding families of Ashongmang. Odan Nto made a claim to all the land area he was hunting, an area of some 12,000 acres, including Asere, which is now known as *Ga* (Accra). Since the migrants were made up of people from many villages, the chief decided to assign each family a piece of land (for example, Ofankor). All lands formerly claimed by Odan Nto, including the Ashongmang lands, are not stool land per se but purely family lands. Disputes have arisen in recent years between the present custodians of Ashongmang lands and surrounding families. Rates of settlement, once fairly stable, have grown dramatically in recent years due to many migrants settling in Ashongmang.

[15] One meeting was held in the home of the family head for the Ashongmang area, whose signature is required whenever land in the family is disposed. He was joined by the Queen Mother and two persons assigned by the family to manage their land.

B. Employment

Hunting and farming once comprised the main forms of livelihood. Crops cultivated included cassava, yam, pepper, maize, water melon, tomatoes, and okra. Cattle grazing has never been popular or economically important. Hunting is no longer possible due to the economic development of the region. Members of the original founding families still rely on farming as their main source of income, although most of the youth now seek employment in the public sector. Others also find jobs as artisans. Older women tend to seek work in Ashongmang, while the men and the youth migrate out, seeking work in Accra or elsewhere. Residential development now overshadows all other forms of land use.

C. Land markets

Land is not scarce. Of the present 1,468 acres of land within the boundaries of the stool, only about 800 acres have been developed. There is still enough land for both residential and farming purposes. Some of the excess land has been earmarked for future developments including schools, hospitals, and churches. Through numerous court cases, the elders of Ashongmang have had lands carefully demarcated, and the boundaries are well recognized by all in the community. Teak and mahogany trees are used to demarcate the land, but other landmarks such as rivers also serve as boundaries. Unless government acts to expropriate land, the family does not foresee any land shortage emerging within the next 20 years.

Descendants from Odan Nto's family had free access to land in the past, but a small gratuity was expected to be paid to the family head out of respect and deference. Unlike family members, strangers were expected to pay drink money to the family head every year. However, annual rents of drink money are no longer sufficient to secure land rights. Members of the family are still requested to pay only drink money for residential land, while strangers, in addition, must pay a purchase fee up to ¢3.5m for a 100 feet by 100 feet plot. However, while strangers are now expected to pay more for land, they also are given liberties to formally register the lands they occupy.

Women are treated the same as men. Women members of a landholding group enjoy the same rights in the past and present. Any woman who wants to acquire land aside from that of her husband or father would undergo the same process of paying drink money, unless she is a stranger, in which case she is expected to pay for the land.

A 100 feet by 100 feet plot currently sells for ¢3.5 million because of improvements in roads, water, and electricity. The Town and Country Planning Department was engaged to carry out layouts, which formally delineate land in the name of the Ashongmang people. According to the family head, he was advised to put in the infrastructure to avoid uncontrolled development because lack of such facilities in the past has led to uncontrolled development in New Town, where vital facilities such as playgrounds, schools, and open spaces are lacking. Demand for land has been high from outsiders seeking land, which, coupled with land scarcity in Central Accra, has driven up land prices in recent years. Migration from rural areas to Ashongmang has not been a significant factor in settlement rates.

Land conflicts among indigenous families have not been a serious problem, although land disputes between community members and the government have been a major source of friction. Land expropriated for the establishment of the Atomic Energy Commission years ago has yet to be paid for by government. Compensation has been paid only for crops planted in the year of acquisition, that is, 1977. The family is now planning to take up the issue with government in court. Disputes with other families or stools, having already been resolved in court, are no longer a serious concern. The Odan Nto family is one of two families in Accra that has registered their land. Rarely is encroachment a problem. However, anyone caught encroaching is brought before the law. The Lands Commission also helps by directing land seekers away from settled property. With regular site inspection that goes on in the settlements, unlike other places in Accra, the family is able to successfully deter land seekers who do not have the necessary documents.

D. Distribution of benefits

Proceeds from the sale of land is used to finance investments that benefit the entire community, including electrification, road construction, water supply to the settlement, and schools. The beneficiaries see these visible developments and are aware that they are being provided from the proceeds of the family lands that are sold. The family has also used some of the proceeds to build houses for family members at Korle Wei as well as paying for the education of their children. Part of the money is also invested in bonds and treasury bills. Some of the money is shared among the family members.

The family head sees the sale of land to other people as a means of helping those in need of land for residential development. It is also a way of opening up settlement to other people who can develop the town, since the community lacks the resources to do it themselves.

E. Land administration

Two of the family head's children are responsible for day to day administration of the family's land. They are intimately involved in all aspects of planning and sought the help of the Town and Country Planning Department to assist with layouts. They also see that developers abide by the building code, ensure all documents are legally acquired, and prevent unauthorized structures and developers from building on the land without the necessary permits, a problem that is not easy to control. In general, the family maintains a good working relationship with the District Assembly, Town and Country Planning Department, the Land Title Registry, and the Lands Commission Secretariat, a situation that has helped control the wanton actions of developers on family land.

F. Assessment

The family head and elders feel cheated when rightful compensation is not paid by government, particularly when they see government allocating it to others for commercial development. Most land disputes and unrest are created through such processes involving the government indirectly. For peace to prevail among families and stools, the community continues to press for compensation.

IV. Concluding comments

Land law and legal practice need not precisely correspond. Laws that are out of touch with economic reality encourage non-compliance unless deterred by enforcement. In situations where traditional property institutions no longer provide adequate or secure rights, the presence of a strong central authority (the state) to define rules and ensure their enforcement is needed. Yet, the need for such governance by no means ensures that the appropriate rules are created, laws are evenly applied and enforced, or that equitable access to government services is assured, as evidenced by government involvement in Accra's peri-urban land market.

All three communities in the study had experienced severe conflicts with neighboring families under various forms of customary tenure and lost land as a result. While a good case can be made for strong and effective government, the experience has been mixed. Court systems seemed to have served the public interest well in resolving conflicts as in the case of Gbawe and Ashongmang, sometimes despite severe limitations in the law. In Gbawe, where land rights have been assured through land registration, the relationship between local authorities and government is good, and government has intervened on a number of occasions to protect the land rights of Gbawe's citizenry. However, strong complaints against government actions were voiced in all three communities—government expropriation of land, lack of compensation, failure to return the designated share of ground rents back to the stools and community, subsidized sales of land to outsiders, high transaction costs to convey or register property, or failure to adequately resolve land conflicts between stools.

One might expect that government's reallocation of community lands might create animosity towards outsiders moving into the community. Surprisingly, there appears to be relatively little resentment harbored. All three communities view the land market as an important mechanism to acquire income to help fund community improvements (less so in Ofankor), and to cover litigation costs against claims from rival stools or families (particularly in Gbawe). One might even surmise that relations between government and the communities in Ashongmang and Ofankor might today be substantially better had government acquired land with adequate compensation, that might in turn have helped fund improvements in the communities concerned. Until the compensation issue is resolved, the answer may never be known. The problems of compulsory acquisition and inequitable access to registration services nonetheless raises the larger question of whether government is acting in its own self-interest (at least not in the general public interest), or are there more fundamental constraints at play that act to curtail government's ability to properly administer land policy? This question is the focus of the next chapter.

CHAPTER 5: CONTEXTUAL AND THEMATIC ANALYSIS

I. Gbawe

Gbawe represents the customary land tenure system at its best. The chief, the allodial title holder, and his elders collaborate with all public land agencies—Lands Commission, Town and Country Planning—as well as its own professionally qualified surveyor to carry out planning schemes prior to land disposal. Gbawe has also registered its lands in accordance with the Compulsory Land Title Registration Law, 1986 (PNDCL 152). Even though there are no local disputes over land within Gbawe's domain, the stool has major disputes with other stools that are encroaching on its lands.[16] Serious land disputes currently pending in peri-urban Accra generally, which have warranted a government ban on the sale and processing of land in certain parts of the peri-urban land market, are catalogued in annex C.

Fighting the claims of outside interests involves considerable expenditure of community resources. According to a leading member of the Gbawe Land Allocation Committee, the chief and his people spent between ¢20 million and ¢30 million in lawyers' fees, remuneration and/or favours to Judges, court clerks, and bailiffs in suit no. 561/1981 (see footnote 5.1). In addition, well over 50 building plots had to be freely allocated to some of the officials (judges, lawyers, surveyors, planners, and court clerks) in lieu of monetary payments. Background preparations leading up to court—including the offering of sacrifices to the gods and ancestors, transportation to and from court, and payments to witnesses—are said to be substantial. Without any family reserves to fall back on, nor any valuable asset except land to dispose of, court expenses are indeed a driving force behind land sales in Gbawe.

The current land registration system was implemented in 1986 without regard being given to the lessons and experiences of the already existing Deeds registration system. Instead of making the Deeds Registry the nucleus of the Land Title Registry, a new department was created with new staff. Hence, currently, the Land Title Registry operates in isolation and scarcely co-ordinates or consults with the major departments like the Deeds Registry, Survey Department, Town and Country Planning Department, and Lands Commission. These could have helped the department to avoid some of the mistakes it is currently making.

Though the current achievements of the Compulsory Land Title Registry are not readily available, its past record from 1986 to 1990 speaks for itself:

> As of 6 March, 1990, 148 out of about 5,000 applications received by the Land Title Registry had been dealt with and certificates issued. This works out to an average of 37 completed cases a year from 17 February 1986 to 8 March 1990. At this rate of operation,

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[16] See for example No.L.107/1961 involving Kwatei Asuansah Owoo-Papafio (plaintiffs), Acting Kwashong Mantse and Head of Akwashong Kpakpatsewe Family of Accra (c/o Asere Chambers) versus Amadu Wangara (Mile 6, Malam Quarry, Winneba Road, Accra) defendant. See also suit No.561/1981 involving Augustus Kpakpo Brown (plaintiff), versus S. Bosomtwu & Company Limited (defendant) and Adamkwatei Quartey (co-defendant).

> it will be difficult to accurately forecast the time it will take to register all lands in a country covering approximately 92,100 square miles. (Kasanga, 1991: 13)

Though the law provides for compulsory title registration (PNDCL 152, 1986), the Deed and Title registration processes currently co-exist side by side. Indeed, the evidence suggests that there is lack of confidence in the compulsory land title registration exercise as indicated by the recent quashing of some compulsory land title certificates by the Courts.[17] Open spaces, uncontested registered deeds, state land,[18] football parks are all known to have been registered in the interest of individuals with mere site plans. The banks are more inclined towards deeds registration than mere title certificates which do not trace the root of title.

II. Ofankor

A. Land expropriation

In 1977, a former Lands Department representative on a government site advisory committee asserted (Asibey 1977):

> The Lands Commission, responsible for allocation of residential plots to individuals within the Accra metropolitan area, had asked that a piece of land situated at Ofankor (1720 acres—696.60 hectares) be acquired for residential development. This had become necessary because the plots within the existing residential estates were all exhausted.

Exercising the powers conferred on the Supreme Military Council by section 1(1) of the State Lands Act, 1962 (Act 125) Executive Instrument (EI) 82, dated 12 May 1978, the said land was acquired in the public interest without further ado. At the stroke of a pen, and without any prior consultation, the State had without any hindrance boldly entered the Ofankor land market as the only major player on the supply side.

Compensation for the victims of expropriation was assessed in September 1980 to be ¢17,200,000. In February 1994, due to inflation, the outstanding compensation claims were said to be not less than ¢2 billion. Victims of expropriation became aware of the government's acquisition only when they saw prisoners and others cutting their land boundaries in the late 1980s. By the early 1990s when the victims started protesting and sending petitions to the Lands Commission for a redress, the "Ofankor sector one residential layout" had already been completed and most plots had been allocated to outsiders by the Lands Commission.

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[17] In the Republic versus Chief Registrar, Land Title Registration, Exparte Nii Ashitey Kwame held in Accra, 18 July 1994, the High Court of Justice ordered that a Land Title Certificate No. GA 3200, dated 23 July 1993, in favour of one family be brought to the court and quashed. Accordingly, the certificate was quashed for want of good title.

[18] On 28 November 1991, a Land Title Certificate (registration number 15/15/25/1) was issued to a private individual for a parcel containing 2.226 acres situated at West Cantonments in district 3 of the Greater Accra Region. However, it is alleged by registry personnel that the title has been subsequently withdrawn by the Chief Registrar of Lands upon the realization that the land belongs to the state.

Allocations were made on a "first come, first served" basis under the principle of one person, one plot.

The terms of state land allocations, compared with what obtains in the private land market, are overly generous and highly subsidized. A token ground rent, negligible surveying and pillaring charges and a premium of ¢1,500,000 to ¢1,700,000 for infrastructural costs for a standard plot of 100 x 120 feet are normally charged. Similar serviced plots (that is, with infrastructure) at Ashongmang are currently going for ¢3,500,000 to ¢5,000,000, and even more elsewhere in the city. Moreover, assignments involving state lands are readily available on the market for prices currently ranging from ¢7,000,000 to ¢90,000,000 depending on location, plot size, and services and infrastructure in place.

B. Beneficiaries

Who are the beneficiaries of the Ofankor public lands? Researchers were unable to locate information for Ofankor or Accra, but table 5.1 presents selected socioeconomic characteristics of persons acquiring government residential plots in the Kumasi metropolis. Though not exhaustive, and based on a random sample survey of 200 allottees only, the table is indicative of the beneficiaries: the educated, professionals, businessmen and women, public/civil servants, firms and organisations, and the well-to-do.

There are a number of reasons why only certain classes of individuals appear to be chosen as beneficiaries of government land allocations:

1. Government policy since colonial times has been geared towards providing free and/or highly subsidized housing and/or plots for public/civil servants who were considered to be enjoying lower remuneration and less favourable incentive packages in comparison with their counterparts in the private sector.

2. In the past, government plots used to be directly allocated by civil servants based at the then Ministry of Lands and Natural Resources, Accra. The contention is that most of the plots went directly to the civil servants themselves and officials of the government of the day.

3. Today, government plots are allocated by the Lands Commission and its Secretariats (that is, the professionals). Since the plots are invariably limited in supply compared with soaring demand, only those who have knowledge of the existence of plots, those with contacts and access to land administrators, and those with power and/or money capable of influencing land allocation decisions receive government residential plots.

4. To acquire land from the Commission for residential purposes in Kumasi, the applicant must have a banker's reference which shows that s/he can spend an amount of five million (¢5,000,000) on developing the land. This means that wealth has been used as a pre-selective agent for participation in the market (Asiama, 1991: 17).

5. In the case of Ofankor lands, according to an informed land administrator at the Lands Commission (Accra), the Commission had originally agreed to allocate 10 percent of all

residential plots in the Ofankor layout to the indigenous people, in addition to payment of compensation claims, neither of which has been honoured. Though the allottees of the Ofankor public land is a highly guarded secret, the beneficiaries cannot deviate much from the Kumasi example. No victim of expropriation has been allocated a single plot. Nor has any disadvantaged person among the silent majority—the rural and urban poor, the unemployed, the disabled, the aged—been considered for plot allocations.

Table 5.1: Socioeconomic characteristics of government plot allottees, Kumasi

	No.	Percent
1. Marital status:		
Married	161	80.5
Single	16	8.0
Others (that is, divorced, widow/widower, separated)	23	11.5
2. Educational background:		
Primary school	72	36.0
Secondary	77	38.5
Tertiary (university, etc.)	27	13.5
Undetermined	24	12.0
3. Occupation:		
Professional	35	17.5
Business/trading	68	34.0
Public/civil servant	18	9.0
Farmer	31	15.5
Artisan	7	3.5
Clergyman	6	3.0
Public corporation/institution	13	6.5
Others	22	11.0
4. Source of funding:		
Bank loan	63	32.0
Personal/own resources	133	67.0
Others	1	-
Sample size	200	100.0

Source: Lands Commission Secretariat, Kumasi. A Random Sample Survey of Lands Commission Secretariat Files, October, 1994.

Other land uses earmarked for the remainder of the acquired lands would seem to confirm the conclusion that the land has been expropriated mainly for the welfare of individuals outside of Ofankor community. All layouts (planning schemes) in government-acquired neighbourhoods are

prepared solely by the public land administrators, planners, and surveyors. Zoning and all other land uses are determined by the public land administrators. In the case of Ofankor, the major zoning proposals were:

- residential—including individual plots;
- sports complex;
- army quarters;
- police depot;
- timber market; and
- complementary infrastructure, including roads, water, and electricity.

The army quarters was for the resettlement of retired army officers, whilst the police depot was to meet the needs of the Police Service - both influential government institutions. The timber market was geared at centralising timber marketing in the Accra-Tema Metropolis—in the interest of big business. The proposed National Sports Complex was to be an all-embracing centre for all sporting and recreational purposes comparable to a standard Olympic stadium. Given the conflicting interests between the government and the indigenous population, the proposed National Sports Complex acquisition is being contested by as many as 375 different compensation claimants. These include Osu Stool, Gbese Stool, Ga Mantse, Asere Stool, Otublohum Stool, Sempe Stool, Onamorkor Adain Family, Nikoi Olai Stool Family of Asere, and Nii Lartey Ahiaku Family, among others.

III. Aburi

Allodial title in Aburi is mostly vested in family heads and a few individuals, with a small fraction vested in the stools. Freehold grants are most prevalent. Cases of leasehold grants are minimal.

The 1979 constitution defined stool land to include family lands. Hence conveyances of family lands were supposed to receive concurrence. Regulations on alienation of stool lands were called into play, which automatically reduced freehold grants in family land to leaseholds on statutory terms.

Implementation of the new provision became difficult. Conveyances were almost always back-dated to pre-1979. Since these transactions were deemed to have proceeded the 1979 constitutional provisions, the Lands Commission Secretariat and Deeds Registry passed the deeds for freeholds. In 1993, the Lands Commission decided that all deeds submitted for registration, irrespective of the date of transaction, should receive concurrence along with its standard regulations. Deeds purported to grant freeholds were concurred on condition that they revert to leaseholds. These were mainly done without due consultation with the real parties to the transactions. The legal capacity of the Lands Commission to act unilaterally to change deed transactions which had been privately negotiated is questionable, and has been recently debunked by the *High Court in the Republic versus Regional Lands Officer, Ho, Exparte Prof. A.K.P. Kludze*, where the Commission's circular was declared a nullity.

One leading player in the Aburi land market (a lawyer), narrated his bitter experience with the deed registration exercise. For over one year, he had 70 conveyances to process, 45 of which were duly presented at the Lands Commission Secretariat, Koforidua. The Secretariat would not entertain his documents, since they were all given out on a freehold basis. The reason: the unilateral powers of the Lands Commission curtailing all freeholds to leaseholds prior to the July 1994 ruling. According to the lawyer, he lost about ¢30 million within one year, being interest on loans raised to purchase various lands. Worse still, all his foreign partners had to leave without committing any financial resources to proposed housing projects since their local partner could not secure the necessary title documents on any of the lands.

The Commission's actions as a regulator of stool land transactions, appears to have overstepped the bounds of law. In the case of one private indenture (see annex D) in Aburi, two individuals (one a buyer, the other a seller) willingly negotiated the private sale of 15.08 acres of land near Nsawam on 2 January 1978 at a price of ¢500,000 plus one live sheep and one bottle of schnapps. The sale conformed to all legal statutes existing at the time, and the formal indenture was signed before the Registrar of Lands. However, the Commission's actions to back date all freeholds and convert them to leaseholds had the following effect on the above transfer:

1. The transaction was deemed by the registrar to be a lease of 99 years from 2nd January, 1978.

2. The rent reserved under the lease was ¢100 per annum subject to revision at the end of every 7th year of the term.

3. The rent payable under the lease was deemed payable to the Administrator of Stool land or his duly authorised agent.

The imposition of rent and rent revision clauses appears reasonable. However, the curtailment of a freehold conveyance to a 99-year lease, however well-intentioned, given the 1992 constitutional provisions on family lands and with the benefit of the recent High Court ruling in favour of Professor Kludze, appears unilateral and *ultra vires*. At a minimum, the conversion has imposed a welfare loss on the purchaser of the land involved, since he willingly bought land rights for a period ad infinitum, when subsequent to the transaction a ceiling of 99 years was imposed. This case is similar to the land purchases made by the Aburi lawyer above. Since the learned lawyer could not adhere to the lease conditions on his freehold conveyances, the Lands Commission directed that his 45 documents should not be processed.

In the Aburi Traditional Area, the proprietary rights of the numerous landholding families have not been registered and therefore are unknown in the Lands Commission Secretariat records. As a result, there are cases of unscrupulous people selling land belonging to others.

The Deed registration system is operational in the Aburi Traditional Area, and there is a very high incidence of deed registration by individual land acquirers. As corroborated by preliminary results of the statistical surveys (see activity C, chapter 1, section III), the reasons include:

- a high percentage of the land acquirers are "foreigners";

- there is a high literacy rate among the acquirers, who are often middle- and high-income groups, knowledgeable in the advantages of deeds registration;
- there is a relatively high demand for land on the Ridge, and landowners have a good possibility of re-selling land;
- there is an effort to deter potential encroachers.

IV. Thematic issues

A. Compulsory land acquisition

The Ofankor example is not unique. Findings from previous research (Kasanga 1992) confirm that the State land market operates along similar lines throughout the country. In a 1990 High Court of Justice ruling, an Executive Instrument, 1979 (EI 58) and the compulsory acquisition of land measuring 52.6 acres in the interest of the State Insurance Corporation (SIC) in Accra, was held to be *ultra vires* and null and void. In this case, the state, after 11 years of an assumed acquisition, never bothered to publish the Executive Instrument as stipulated by Section 2 of the State Lands Act 1962 (Act 125).

Uncertainties in the legal and institutional framework have resulted in protracted land disputes, expensive litigation, and the sterilisation of buildable land in the land market generally. A case in point is the investigations into an alleged ¢70 million scandal involving the sale of Ashaiman lands involving 1,080 plots by one chief and 5 others; the land formed part of the Tema Development Corporation acquisition (Adjetey 1993).

Article 18(1) of the 1992 constitution stipulates "Every person has the right to own property either alone or in association with others." Article 18(2) states:

> No person shall be subjected to interference with the privacy of his home, property, correspondence or communication except in accordance with law and as may be necessary in a free and democratic society for public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedoms of others.

Article 20(2) provides:

> Compulsory acquisition of property by the State shall only be made under a law which makes provision for the prompt payment of fair and adequate compensation.

In an interview with a Deputy Chief Valuer in June 1993, he confirmed that outstanding compensation claims, country-wide, were approximately ¢8 billion. Some of the claims date back to the 1960s. Can such claims be termed as fair and adequate as stipulated by the law? And yet, however distant into the future that the sums may be paid, interest payment is not mandatory and would not form part of the claims. The delay is mainly attributable to government, which is unable and/or unwilling to honour its legal obligations in respect of compulsory acquisition and compensation, and has even banned compensation payments altogether, as happened between 1981 and 1990.

Despite virtuous constitutional provisions governing public land acquisition, land use, and land regulation, contradictory legislation exist which are used by government without appreciation of the legal safeguards of mandatory compensation claims, even when villages and families are physically expropriated. Some of these include:

- The Administration of Lands Act 1962 (Act 123) which enables government to vest and manage vast areas of customary/private lands but makes no provision for mandatory compensation payments except for negligible disturbance payments to the victims of expropriation.

- The Wildlife and Game Protection Act 1962 (Act 43) has been used to create Game Reserves and to regulate land use without any provision for compensation payment, as has happened at Damongo in the North.

- The Public Conveyancing Act 1965 (Act 302) which empowers government to declare any state land or stool land to be a selected area for specific purposes.

A recent National Task Force on Land Policy Review[19] sums it up:

> A fundamental defect in the powers with which the government acquires land is the multiplicity of the enactments involved. This multiplicity makes the law unnecessarily complicated and difficult to locate since they are scattered all over the statute books. . . . The multiplicity of laws only emphasises the fact that the laws have been passed in each instance to deal with a particular problem on [an] ad-hoc basis.

In effect, they do not form part of a comprehensive policy of land acquisition or land use planning.

On the whole, the courts over the years have been trying their best under difficult circumstances to uphold the law. Where the courts have been bold enough to quash a government decision, the government has obliged. A recent court decision involving the Land Valuation Board and the landowners of the University of Cape Coast is a case in point. The site for the University was acquired in the late 1960s but compensation was determined only in 1993. Under the State Lands Act 1962 (Act 125), compensation was to be based on the date of publication of the Executive Instrument in the early 1970s, a historic market value of ¢5,000 per plot. However, relying on the 1992 Constitution, the court ruled that compensation should be based on current market value of ¢500,000/plot and the Land Valuation Board, representing the government, obliged.

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[19] Kasanga, R.K. & Aidoo, J.B. (Co-ordinators—Committee on Land Policy), October, 1994: *National Land Policy Review, Interim Draft Report*. Submitted to the Ministry of Lands & Forestry, Accra.

B. Administrative lapses

Section 1(3) of the State Lands Act 1962 (Act 125) denotes:

> On the publication of an instrument made under this section, the land shall without any further assurance than this sub-section, vest in the President on behalf of the Republic, free from any encumbrance whatsoever.

The evidence throughout the country is that publication is never done, comes too late, is inaccessible and/or unavailable to a majority of a predominantly illiterate rural and peri-urban population. The publication is done in English and advertised in the Ghanaian dailies, which have a limited circulation, even in the major cities and urban centres. Even though Ofankor lands were purportedly acquired in 1978, Ofankor residents came to know of the acquisition only in the late 1980s.

According to a Regional Lands Officer (Accra), the lack of publication is partly due to clerical staff who handle the publication and notification schedule at the Lands Commission. Such clerks (usually middle school leavers who have risen along the line) have little or no appreciation of the importance of prompt publication. Publication clerks often have to be pushed, cajoled, harassed, or even threatened with disciplinary action before publications are eventually made.

On paper, every government acquisition must be based on a detailed Site Selection Committee's Report as to the suitability of the site based on field inspection and surveys. The general view is that committee members scarcely visit proposed acquisition sites. Decisions are usually based on minutes of office meetings and seldom on any serious or comprehensive feasibility report. The result is that substantial existing settlements including peri-urban villages/towns, as in the case of Ofankor, are declared state lands, without making provision for the resettlement of the victims of expropriation.

Many state organisations currently occupy land to which they have no title. The Omnibus Service Authority site at Adoato (a suburb of Kumasi) is one case in point. The Authority has been on the site since 1965, yet the compulsory acquisition process has yet to be completed and no compensation has been paid to the affected parties. The Ghana Co-operative College has since 1972 acquired a 750-acre land at Atasomanso (a suburb of Kumasi) which, until now, it has failed to develop. Since the area is now ripe for development, the chiefs and people are clamouring for the land to be given back to them. To that extent, the government land machinery could be promoting the 'sterilization' of buildable land in some peri-urban neighbourhoods.

Corruption among public land administrators is real. In a recent case (September 1994), a government lease holder who wanted to assign his unexpired interest was charged ¢20,000 by a messenger based at the Lands Commission (Accra) before his file could be traced. After a hard bargain, the messenger accepted ¢5,000, and a file that had disappeared for about a week suddenly reappeared.

In one extreme case, involving a former Regional Lands Officer (Accra), it is alleged that the officer was able to dispose of about 40 standard building plots for about ¢300,000 each for a total of ¢12,000,000. His punishment? He either resigned or was forced to do so, but is a free man and is

still dabbling in the property market as a private consultant.[20] The Regional Lands Commission Secretariats are starved of valuable support services like basic stationery, furniture, equipment, and vehicles for their administrative and inspection purposes. The complaints of low remuneration and incentives among officers cannot but induce individual officers (except the most principled and incorruptible) to line their pockets against the public interest.

C. Town planning regulations

The Aburi Traditional Area forms part of the Akwapim South District Assembly. It has a Town and Country Planning office established at Nsawam. At the moment, there is a District Town and Country Planning Officer who oversees both the Akwapim North and South District Assemblies. The Akwapim North District has its capital at Akropong. Not all the settlements are covered by survey town sheets, hence have no layouts/planning schemes as is demanded by law. In one instance, there was no layout, yet the chief went ahead and granted the lessee approximately 1.75 acres of agricultural land.[21] Unknown to the illiterate chief, however, the lessee and his lawyers substituted **residential land use** (more valuable) for **agricultural** in the Indenture (lease). An attempt was then made to register the document at the Regional Lands Commission Secretariat (Koforidua). Apart from the deception of the illiterate chief, the regional Lands Secretariat contended that there was no layout covering the area and flatly refused to process the document.

Demand for land for residential development along the corridor of the Aburi-Accra Road has been very high. First-class buildings (defined in box 5.1) have been springing up over the years. Subdivisions for the various uses and any subsequent registration do not follow any predetermined pattern. In effect, there is the long absence of a statutory approved layout or comprehensive physical development plan (details of which are summarised in box 5.2). Even though the Town and Country Planning Department may always produce a draft layout, most of the provisions cannot be implemented. The cadastre of the area, especially Peduase and Ketase, is unique: large and irregular plot sizes, absence of defined proposed access roads, etc. The end result is that public uses, particularly access roads, have not become part of the physical development process. Conflicts arise on possible access and the situation could become precarious in the near future when the tempo of development increases.

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[20] A lecturer at the University of Ghana, Legon, Accra, who happened to be one of the victims, disclosed this fact. The irony is that the lecturer along with most other victims were subsequently made to pay a penalty to the Lands Commission (Accra) for not following the right procedures in the acquisition of government public lands. It was only after the payment of the penalty that title to the said plots was regularized in favor of the victims by the Commission.

[21] Indenture of lease made 1 January 1994 between Nana Asante Akrokoh II, Chief of Atibie, and Gyasehene of Kwahu Traditional Area in the Eastern Region.

Box 5.1: Classification of buildings by the Town and Country Planning Department

(1) First-class (1st class —top most)

Building structure

- Sandcrete blocks with all amenities—water, electricity, phone, sanitary installations, etc.
- Terrazzo floor and wall tiles finishes.
- Roof—aluminium and/or micro tiles.
- Good ventilation and circulation space.
- Professional design and excellent housing standards in conformity with neighbourhoods.
- Very low density—6 persons per house, about 24 persons per acre.
- Current estimated value: ¢80 million, plus.

(2) Second-class (2nd class—middle)

- Sandcrete blockworks with all or some 1st class amenities.
- Some tiles or terrazzo finishes.
- Limited circulation space.
- Medium density—10 persons per house, about 40 persons per acre.
- Designed by less competent and/or incompetent professionals.
- Current estimated value: between ¢30m and ¢80 million.

(3) Third-class (3rd class—low class)

- Landcrete and/or sandcrete blockworks.
- Designed mainly by draughtsmen/women.
- Usually not well ventilated.
- Lacks some basic amenities and circulation space.
- High density—between 15 to 20 persons per house, about 60 to 100 persons per acre.
- Current estimated value: under ¢30 million.

Box 5.2: Provisions of a layout

1. Residential
2. Commercial
3. Civic and cultural
4. Educational
5. Industrial
6. Nature reserves/public open spaces
7. Utilities/services
8. Road and communication network
9. Cemetery

Layouts or schemes however vary in their emphasis; for example:

(a) A residential oriented layout would have houses as the dominant user, along with all other uses as above being complementary uses, except industrial.

(b) An industrial oriented scheme would be dominated by industries along with complementary uses such as roads and communication networks, reasonably sited housing estates, etc.

(c) There are also commercial, civic, and cultural oriented layouts/schemes dominated by shopping centres, offices, ministries, financial intermediaries, etc., together with other supportive complementary uses.

D. Lease processing and surveys

In the case of deeds which require concurrence, 4 copies are submitted to the Lands Commission Secretariat. Deeds requiring no concurrence, attract 3 copies. Attached to the deed must be a certified map showing the size of the plot and location. However, while plans must be certified by licensed surveyors, the survey work in practice is done by draughtsmen attached to Town and Country Planning offices. Licensed surveyors are always ready to append their signatures for a fee. The result is that many if not most maps or plans attached to deeds are inaccurate leading to distortions in the records at the Lands Commission Secretariat. A recent report prepared by the Kumasi Town Planning Committee (see box 5.3) is indicative of the types of inaccuracies in surveying and mapping that prevail, and the nature of land conflicts that can ensue.

Registration processes are invariably done by agents—Land Surveyors, Lands Commission staff, or others in the official land apparatus. Acquirers seldom approach the Secretariat themselves with the deed. Indigenous people who acquire land seldom register it. Even with knowledgeable agents performing the paperwork, the leasehold listings at the Accra Lands Commission confirmed that it took at least one year to open a file on any land transaction. For

someone with money, power, contacts, or influence, at least another year is required to secure consent and concurrence. A file can and does go to the same officer on three to four occasions and the chain of officers in some cases could be up to 10 before a document is finally executed for concurrence. On average, it takes up to 5 years or more to secure concurrence on a privately finished transaction.

The Deeds and Title Registration process could even be longer—with public officers expecting title acquirers to pay (not official fees) at every stage of the process. The public officers behave as if they are doing land acquirers a favour, thereby making Deed and Title registration an onerous task. Unless it is absolutely essential (that is, for security or collateral) what compelling reason is there, then, to induce land acquirers to register their titles to land?

Box 5.3: Inaccuracies in property delineations and surveys

In December, 1988, during some survey and demarcation works carried out by a licensed surveyor under the supervision of the Survey Department, it was detected that there had been a major distortion of the approved Daban layout as the demarcations on the ground did not reflect on the approved scheme due to wrongful demarcations by some unqualified surveyors whose services were sought by the landlords of the area. Using a wrong survey bench point by these quack surveyors, there were shifts in the correct positions of plots to the extent that completed and uncompleted dwelling units were sitting on public use areas like proposed roads, community centres and refuse dumps, and some structures developed on sites belonging to others resulting in plot and boundary disputes in the area.

With this background information the Town and Country Planning Department, Kumasi, in conjunction with the Survey Department and Lands Commission invited the landlords and the Daban Tenants Association and advised them to assist the Authorities in ensuring that there were no new developments and allocation of plots in the area, since the scheme had to be revised to correct the demarcation errors. By this the Lands Commission was to revoke all leases in the area and further developments stopped until the revision was approved.

This office, relying on some survey details done by the Survey Department for the area, has prepared a plan which consists of two components: the first which is the section being revised to correct the shift on the demarcation of the planned area, and the second being an extension of the plan on an unplanned area sharing common boundaries with the planned area. It was necessary to consider the extension of the approved plan to this unplanned area to catch up with the rapid expansion of residential developments in the area.

Source: Kumasi Town Planning Committee: Daban-Sokoban Revised/Extension Planning Scheme, Sector 54, Kumasi - Plan No.KSI/SEC.54/89/1, p. 1.

E. Fiscal revenues and distribution

In law, all ground rent, fees, and royalties are to be paid into Stool land accounts, administered by the Administrator of Stool Lands. The distribution of any monies collected is clearly set out in the Constitution. Land administrators are public servants, employed and paid by the government to manage and administer the lands in accordance with the instruments setting up the various land management agencies. In an efficient, reasonably honest and public spirited land office, lessees could readily register their leases by merely forwarding their leases and applications in accordance with the law. The documentation process would normally attract no extra charge beyond the official registration fees, which must be paid into the government chest (that is, Administrator of Stool Lands Account). Applicants need not even follow up on their applications before their leases are duly processed and forwarded to them.

In Ghana, public officers freely demand extra payment and favours beyond official charges. While official charges might be manageable, the unofficial charges often turn out to be unbearably high. Some public officers are even known to have reduced official charges and fees so that the resulting difference could be split in some agreed proportion between the public officers and lessees. The obvious loser is the national treasury. The treasury looses from the non-registration of documents and the non-payment of fees by a majority of land acquirers. Some lessees benefit from reduced official charges as well as reduced ground rents. But the majority of frustrated lessees who cannot register their documents, in spite of the reduced ground rents, lose as a result of inefficiencies in the land administration system, especially if their unregistered documents prove unacceptable to financial intermediaries for security and collateral purposes. The ultimate winners are the land administrators.

Cost effective lease management is certainly lacking. Nor are the optimum financial benefits being secured for sharing as stipulated in the constitution. Lease renewals and rent reviews are hardly done except during assignments. Evidence from Gbawe, the most progressive stool in peri-urban Accra presented in table 5.2 underscores the point. The negligible revenue from ground rent is self-evident. In 1992 and 1993, an average of 30 percent of the estimated ground rent was paid. Up to July, 1994, only 8 percent of the estimated ground rent was realised.

The current minimum daily wage is ¢1200 (January 1995, from ¢790). The Ghana Trades Union Congress originally demanded a daily wage of ¢3,000 from the government based on the realities of the time (Ghana News Agency 1994). This gives an indication of the negligible nature of ground rents in the study areas. Apart from the meagre nature of the total rent being collected, the abysmal sums of revenue usually returned to or meant for the stool appears to be a disincentive to positive land management by chiefs and their elders. Further, the abysmal revenue from stool lands accounts meant for the stools have, since 1982, been frozen by the government, nation-wide. It is difficult to reconcile the idea of stools owning land and managing it day to day while the government and its officials control all other important decisions affecting land, including the timing of land disposal and the distribution of the income therefrom.

Table 5.2: Administration of Lands Act, 1962: ground rents position for Gbawe - Accra.

Year	Total rent expected	Total rent received		Net rent for sharing	25 percent stool	20 percent traditional authority	55 percent district assembly
	cedis	cedis	%	cedis	cedis	cedis	cedis
1980	93,609.9	88,066.4	94	79,260.0	19,815.0	15,852.0	43,593.0
1981	94,300.0	83,685.9	89	75,317.0	18,829.3	15,063.4	41,424.4
1982	97,437.0	83,157.3	85	74,842.0	18,710.5	14,968.4	41,163.1
1983	104,771.0	89,085.5	85	80,177.0	20,044.3	16,035.4	44,097.4
1984	108,935.7	92,762.5	85	83,486.0	20,871.5	16,697.2	45,917.3
1985	114,953.1	87.079.6	76	78,372.0	19,593.2	15,674.4	43,104.6
1986	161,782.1	120,462.0	74	108,416.0	27,104.0	21,683.2	59,628.8
1987	277,542.9	257,045.4	93	231,341.0	57,835.3	46,268.2	127,237.6
1988	862,129.9	806,804.0	94	726,124.0	181,531.0	145,224.8	399,368.2
1989	1,852.831.8	1,582,949.8	85	1,424,655.0	356,163.8	284,931.0	783,560.3
1990	2,452,602.9	1,695,459.5	69	1,525,914.0	381,478.5	305,182.8	839,252.7
1991	3,125,710.0	1,478,072.1	47	1,330,265.0	332,566.3	266,053.0	731,645.8
1992	3,427,931.2	999,895.7	29	899,906.0	224,976.5	179,981.2	494,948.3
1993	4,341,342.8	1,419.444.4	32	1,277,450.0	319,362.5	255,490.0	702,597.5
1994	5,231,232.1	398,169.4	8	358,352.0	89,588.0	71,670.4	197,093.6

Notes:

1. Most of the payments recorded were single payments.
2. Rents are hardly reviewed.
3. Analysis of rents showed an average ground rent of between ¢4.20 and ¢50 in 1980-83. Ground rent was ¢1,400 - ¢3,000 in 1985-89. Between 1991-94, it was in the range of ¢5,000-¢10,000. Even though there is a general non-payment, the bulk of defaulters are in the ¢4.20 - ¢50 category.
4. A total of 1,138 leases were examined.

Source: Deeds Registry, Accra, July, 1944

Some may argue that the bulk of the land revenue going to the District Assemblies is used for general development for the benefit of the general public, including the chiefs and their elders. While in theory this is true, in practice communities are not seeing the levels of development that they expect. Not even progressive Gbawe has so far received any concrete development

project from its Assembly. Thus, despite firmly set schedules for revenue sharing in the constitution, weak enforcement and evasion has limited revenue collection. The problem is partly attributable to the fact that the stool and local land agents have no hand in ground rent collection and disbursement.

The leaseholder and land acquirer listings confirm that vague addresses appear on land documents. Out of 80 sample leaseholders and land acquirers at Aburi, 50 had vague and/or no addresses, making it difficult (if not impossible) for public officials to trace leaseholders for any purpose, including rent collection. The weak data base of the Lands Commission Secretariat can be inferred. Information and record storage and retrieval are major constraints facing almost all public and customary/private landholders in the country. The over-centralised public land machinery, is weak in most respects: qualified personnel, finance, support services, equipment, vehicles are all in a very short supply. Hence, in spite of their efforts and achievements, the Lands Commission and its Secretariats do not appear equal to the task.

From records of the Internal Revenue Services, only the Gbawe stool is known to have paid Capital Gains Tax on land disposals in accordance with the Capital Gains Tax Decree, 1975 (NRDC 347). In 1989, the Gbawe stool paid ¢3,600,000 as tax, based on the sale of 300 plots at ¢80,000/plot with a tax rate of 15 percent. In 1990, the Gbawe stool again paid ¢125,000 as tax, based on the sale of 50 plots at ¢100,000/plot. The tax rate was 2.5 percent. A memorandum (August 1990) from the Internal Revenue Services, from the head of valuation and dated 8th May, 1990, notes:

> It was enshrined in the 1979 Constitution that no interest in stool, family or communal lands should be alienated by way of freeholds. Subjects could obtain 99-year leases and foreigners a maximum of 50-year leases. The 1969 Constitution had previously debarred aliens from holding landed property in the country. Consequently, the Lands Department (now Lands Commission) began to enforce this provision in 1980. As a result, all custodians (chiefs and family heads) who could no longer grant freeholds resorted to grant leases. These custodians/chiefs were, however, not to loose their daily bread from land disposals. What they resorted to was to obtain from prospective landowners sums of money equivalent to the freehold values of the properties, which they added to the customary drink money. Thus a heavy premium covering the cost of the land was obtained. Documents were thereafter prepared as leases. Ground rents passing were so uneconomic that these custodians/chiefs did not and still do not bother to collect their entitlements from the Administrator of Stool Lands.
>
> The result of this is a loss of stool land revenue whilst the chiefs continue to fatten themselves with illegally obtained premiums. Between 1987 and 1989, I had a similar problem with the Gbawe Kwartei family who also contended that they were granting leases and, as such, I could obtain information on their land disposals from the Lands Department. I am happy to say I eventually made them agree to pay ¢3,600,000 in Capital Gains Tax in 1989.

> I have written similar letters to all the landowners whose records I have here. Since response was not encouraging, on the 26th of June, 1989, these landowners were referred to the Office of the Revenue Commissioners for further action.

In January, 1994, a prominent landholding family in Accra was provisionally assessed a Capital Gains Tax in the sum of seventy-five million cedis (¢75,000,000) based on the sale of 1,000 plots at ¢1,500,000 using a flat tax rate of 5 percent. The tax has yet to be paid. For equity reasons, the Internal Revenue Services decided not to send any further Capital Gains Tax notices to the Gbawe stool after the first two payments, since no other stool or family landowning groups have ever honoured this obligation in the country as a whole.

V. Conclusions

The attempt by the government of Ghana to embody customary tenure into statutory law is commendable. Many of the legal problems cited earlier—for example, contradictions in treatment of family land, restrictions on land transfers, and onerous registration procedures—are easily dealt with by legal and regulatory reforms. A far more intractable problem is ineffective or callous implementation of law implied by the present land administration. Such problems as failure to pay compensation for compulsory land acquisitions, non-return of the designated share of ground rents back to stools and local authorities, and high transactions costs (including bribes) to convey or register property, reflect inefficiencies in the land administration system and a lack of faith by the land clientele to pay fees and ground rents. A legal solution per se will not resolve the pressing land problems in the peri-urban land market. The state already has much of the legal apparatus needed to satisfactorily carry out its duties. That legal apparatus, rather than serving the land clientele, has instead become overly bureaucratic, unresponsive, and inequitable. Solutions lie in expanding the capacity of the Lands Commission to provide services in a cost effective manner and in restoring the confidence of the land clientele in public land administration. Improving the fiscal management of the stool land accounts with the aim of returning money to stools and traditional authorities, however meagre initially, would be an important first step. A second important step would involve whole or partial payments of the compensation debt owed. But, the state bureaucracy itself poses the greatest challenge to the liberalisation and development of land markets generally. Until the civil service itself embraces a "clientele-first" focus, it is difficult to see how land problems in the peri-urban area will be rectified.

CHAPTER 6: DEFINING "GOODS": RIGHTS BUNDLING IN THE PERI-URBAN ACCRA LAND MARKET

I. Introduction

When told that researchers had arrived to conduct an investigation into the land market around Accra in Ghana, a prominent land buyer was heard to scoff, "There is no land market. It's all politics and whom you know." There is an element of truth to that characterization, for certainly the peri-urban land market is quite different in appearance from land markets in more established areas. In established land markets in agricultural areas, for example, parcels change hands but tend to remain in agriculture. In residential areas, parcels with dwellings change hands only so that the new owner can occupy the dwelling. The peri-urban land market is unusual for abrupt changes not only in the uses of land, but also in the way in which land is held—in land tenure.

Land tenure is critical in defining the economic value of land. Changes in the system by which communities govern the use of land change the value of land to the user. If land as an economic good is defined by tenure, then land under two different tenures is really two different "goods." The focus of the present investigation is the adaptation of economic theory and its application in settings where a physical object like land can be two different goods at the same time.

To set the stage, it is helpful to define the analytical domain of interest. The peri-urban land market can be distinguished from the urban and rural land markets at one level by reference to geographic places around the city where land is undergoing a rapid and probably permanent transformation from traditional agriculture to intensive commercial and residential use. It is conceptually clearer, however, to define this market as a locus of abrupt tenurial transformation.

It is roughly correct to say that land once held "in common" is transformed via the peri-urban market into land held largely without reference to the old community's political institutions. Elders acting more or less on behalf of their community are exchanging community land for cash and other goods, and are relinquishing community control of that land to outsiders. Future transactions in the land will likely not make reference to the prior community, but will instead be governed by an institutional framework centered in the urban polity. The land will, by virtue of the peri-urban transaction, be transformed institutionally from rural to urban.

II. Unit of analysis

The obvious focus in land market transactions is land, but it is not always the proper focus. Consider that a given parcel of land may be offered by the same seller to two different buyers at remarkably different prices. One buyer might be an indigenous resident of the community and is thus said to be "entitled" to a parcel somewhere in the community on concessionary terms. A particular parcel may then be offered to that indigenous resident for a nominal payment, or it may be sold to an outsider for a considerable sum.

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How does the present holder of the land—typically a chief and elders acting as a committee—decide what to do with a particular parcel? If in answering this question the analyst focuses attention solely upon the "price" of the physical unit of land, confusion is the result. It is more useful in this context to take the unit of analysis to be not the physical land itself but rather the rights to that land. Associated with each physical unit of land is a set of rights that permits the holder of the land to enjoy the benefits that come from its use. A land right is a generally recognized and community sanctioned entitlement to undertake specific actions to enjoy the benefits that flow from the use of land. It obliges members of the community to refrain from interfering in those actions. In a land transaction, it is the set of rights to land that is exchanged for rights associated with other goods.

In practice, confusion arises because there is rarely a one-to-one correspondence between land and the set of rights associated with land. Rather, there is a one-to-many correspondence. For a given physical unit of land there may be a large number of rights, and these rights may be grouped in various bundles in transactions. One economic agent may hold the right to farm, while another holds the right to occupy a portion of the land in order to extract oil from beneath its surface. One agent may hold the right to build a house, but another holds the right to forbid construction of any other type of building.

In a typical land market, rights to land are bundled according to fixed patterns. For example, the right to farm may also include the right to build a barn to house farm equipment, but perhaps does not include the right to build a structure for retail sales of farm produce or manufactured goods. Or the right to build a house may include the right to transfer the use of the house to one's children or other relatives but perhaps does not include the right to exchange the house for money paid by an outsider. The specific pattern by which rights to a physical object are bundled together in ordinary transactions defines the system of tenure for that market, which in turn shapes what we understand to be the economic good associated with that object.

When a physical unit of land undergoes an abrupt tenurial transformation, this means that the ordinary bundle of rights associated with that physical unit of land has been unbundled and reformulated into a new and different set of rights. It may have been customary in the past to bundle together the rights to farm, quarry, and build a residence. Subsequent to a peri-urban transaction, the bundle of rights associated with a particular physical unit of land is transformed. In future transactions, the rights to farm, quarry, and build a residence, may then be joined with the right to build any kind of commercial business, as well as the right to transfer use of the land and buildings to others.

In economic analysis, prices are associated with goods. A good, however, is a cohesive bundle of rights associated with a physical object, the use of which results in a flow of benefits to the rights holder. It may be appropriate in the context of stable tenurial institutions to speak of land as a good, and hence to use the physical unit of land as a unit of analysis. That is, when there is stability in the institutional structure of the economy—of which land tenure is an important element—it is appropriate to speak of goods in this ordinary sense of physical objects like land.

In the peri-urban context, however, where tenure is transformed, the bundle of rights associated with land is not cohesive and may vary from one transaction to the next. The analytical unit of analysis therefore must be the land right or, if patterns can be identified, specific bundles of land rights. Each identifiable bundle of rights associated with a specific physical unit of land constitutes a different good for the purposes of economic analysis.

III. Rights bundling patterns

A. Gbawe

The community of Gbawe is located northwest of urban Accra. Between Accra and Gbawe is the principal motorway ringing the city. Just beyond Gbawe is farm land largely left idle because former farmers are now engaged in more lucrative ventures. Within the indigenous community of Gbawe, life has changed greatly in the past several generations as the urban center has expanded inexorably in their direction. Once a community of farmers and traders, the people of Gbawe now cite work in stone quarries and construction as the principal money earners.

Each weekend, the unpaved plaza before the Paramount Chief's meeting hall is strewn with Mercedes Benz and Range Rovers, the vehicles of those wealthy individuals and their agents who have come from the city to petition for land. Their goal is typically to obtain a parcel on which to build a retirement home as a repository for the capital acquired in commercial enterprises, employment abroad, or government service. More secure than banks in the ever tumultuous political economies of West Africa, construction is typically the investment of choice for wealthier Ghanaians.

These investors may wait for hours and may return several times before securing a parcel, but they will persist in Gbawe, even when land might be obtained more simply in other peri-urban communities, because land administration there is widely known to be well organized and secure. Documents from the Gbawe stool, coupled with a registration certificate from the Lands Commission in Accra, assures that the rights one obtains in a land transaction are virtually certain. This is not necessarily the case elsewhere, particularly in areas where two or more stools, or a stool and the central government, hold disputing claims to the same land. More will be said about this shortly.

An indigenous resident of Gbawe does not wait in the same plaza as outsiders to petition for land and indeed does not even follow the same procedure to acquire land. An indigenous resident may wish to build a modern residential or commercial structure for much the same reason as an outsider, but Gbawe residents base their petition on the premise that they are already entitled to land. On the basis of their petition they are often granted several parcels, and they then sell all but one of the parcels, using the proceeds to pay for building materials. For lack of a better terminology, call land that is obtained by indigenous residents of the community "insider land."

It is somewhat reasonable to speak of the "price" of outsider land, and it may be reasonable even to speak of the "price" of insider land, but the important point to recognize is that the two

prices are not the same. Each price is defined with respect to a separate good, each good being defined in turn according to land tenure. There may even be two prices associated with a single physical parcel of land, since one set of rights to that land may be offered to one potential acquirer while another set may be offered to a second acquirer. By administrative action, the elders of the community can create two economic goods out of one physical parcel of land.

Prior to the peri-urban period, indigenous Gbawe residents lived in traditional dwellings clustered in a village and farmed subsistence and other crops on the surrounding land. There was a generally recognized administrative structure based on family ties, gender, and age that governed the affairs of the community with respect to land and other matters. By inheritance, indigenous residents acquired the rights to specific dwellings as well as the right to be assigned usufruct of a specific parcel for farming.

Upon entering the peri-urban period, the elders gradually reassigned uncultivated land according to a master plan that envisioned two new communities on separate sites within Gbawe lands. In one community, the indigenous residents would build modern dwellings of cement and landcrete to replace their existing houses constructed primarily of mud and mud blocks. In the other, parcels would be offered for expensive home construction for sale to outsiders. Prior to this zoning exercise, there was no physical difference between land at the two sites, and presumably land at either site could be rezoned if conditions warranted. As the process of converting land from agriculture to residential use is gradually completed, probably over the next decade or two, the transition from peri-urban to urban will also be completed.

It should be made clear that the indigenous residents of Gbawe lose their right to farm as part of peri-urbanization. In return for this loss, they acquire rights to specific residential land in the new indigenous community. Some are also given grants of land in the new outsider community that they can then sell to outsiders, the proceeds of the sale then becoming available to finance the construction of their own new modern dwellings. The elders also sell land to outsiders in behalf of the community, with proceeds then being allocated to support infrastructural projects and administrative activities.

The two land goods available in Gbawe are presented schematically in figure 6.1. Six indicative rights are listed in column A. Bundled together, these rights constitute the rights bundle that is the good called "insider land." Note that the first listed right in the bundle is italicized, indicating that this right is a prerequisite to the ones below it. This first right, which is a general right to live somewhere in Gbawe, has not been offered by the Gbawe community for purchase but must instead be inherited. It is the set of five remaining rights in column A that constitute the actual good purchased by indigenous residents of Gbawe when they are ready to construct a modern cement or landcrete dwelling.

There are also six rights listed in column B, although the set is slightly different from that in column A. Note that the first right in column A, the general right to habitation, is missing from column B, since it is not a prerequisite for the acquisition of land by outsiders. Note as well that one new right has been added in column B that does not appear in column A. This new right, available only with respect to outsider land, permits the landholder to sell residential

construction on the land to anyone. Holders of insider land are not permitted to sell their residences freely to outsiders, but must instead acquire that right separately in a petition to the elders.

Figure 6.1: Rights bundles in Gbawe

Right	A Insider land	B Outsider land
1	*General right to inhabit an unspecified parcel in Gbawe* [a]	—
2	Right to inhabit a specific parcel	Right to inhabit a specific parcel
3	Right to build a residence	Right to build a residence
4	Right to build a small retail sales kiosk	Right to build a small retail sales kiosk
5	Right to transfer (rent, sell) residence to indigenous residents of Gbawe	Right to transfer (rent, sell) residence to indigenous residents of Gbawe
6	Right to rent residence to outsiders	Right to rent residence to outsiders
7	—	Right to sell residence to anyone

[a] Rights printed in italics are prerequisite rights and must be held before other rights in the same column can be acquired.

The two land goods in Figure 6.1 do not constitute an exhaustive list. The elders of Gbawe can generally create other goods with their land as conditions warrant. Each additional land good, with a different bundle of land rights, can be allocated an additional column in the figure. For example, a special bundle of land rights might be constructed for a particular land acquirer, as when a bank wishes to acquire land for a new branch. The bank receives a specified area of land on which to construct its branch. In return, the bank pays perhaps a nominal sum but agrees as well to use its influence to convince Accra authorities to lay new roads and water mains.

B. Ashongmang

The conditions faced by the land allocating leadership of communities like Ashongmang and Ofankor are quite different from those facing the elders of Gbawe. There are also differences in the political economy. Figure 6.2 portrays two land goods available in Ashongmang. Column A contains the rights in the good that is of general interest to the indigenous inhabitants. Column B contains the set of rights typically purchased by outsiders.

Notice that both the general right to habitation and the right to quarry listed in column A of figure 6.2 are printed in italics, indicating as in figure 6.1 that these rights are already held by

indigenous inhabitants by virtue of inheritance. Note as well that there are no other rights listed in column A. In Ashongmang, the indigenous residents are not acquiring land in the manner seen in Gbawe. Instead, there is a gradual out-migration of Ashongmang residents to Accra as part of the process of peri-urbanization.

Figure 6.2: Rights bundles in Ashongmang

Right	A Insider land	B Outsider land
1	*General right to inhabit an unspecified parcel in Ashongmang*	—
2	—	Right to inhabit a specific parcel
3	—	Right to build a residence
4	—	Right to build a small retail sales kiosk
5	—	Right to transfer (rent, sell) residence to indigenous residents of Gbawe
6	—	Right to rent residence to outsiders
7	—	Right to sell residence to anyone
8	*Right to quarry*	—

Consider that even the right to inhabit a specific parcel of land in Ashongmang is not listed in column A, suggesting that indigenous residents there are gradually being forced off the land. When Ashongmang lands are fully converted to urban residential use, observers in the area speculate that there will no longer be an identifiable indigenous community. Indigenous residents are presumably compensated for their loss through their association with the land allocating leadership of the community, though some observers fear that many Ashongmang residents will soon find themselves landless with little or no compensation at all.

C. Ofankor

Figure 6.3 presents the comparable land goods available in the Ofankor community. Here the story is somewhat more complex. Column A in figure 6.3 for Ofankor is similar to column A in figure 6.1 for Gbawe. Indigenous residents have a prior general habitation rights claim and can acquire rights to build a residence on a specific parcel. Notice that column B in figure 6.3 has been divided into two sub-columns. Sub-column B1 contains rights that outsiders must obtain from the elders of Ofankor. Sub-column B2 contains rights that outsiders must obtain from the central government in Accra.

Figure 6.3: Rights bundles in Ofankor

Right	A Insider land	B Outsider land	
		B1 Ofankor elders	B2 Central government
1	*General right to inhabit an unspecified parcel in Ofankor*	—	—
2	Right to inhabit a specific parcel	—	Right to inhabit a specific parcel
3	Right to build a residence	Right to build a residence	Right to build a residence
4	Right to build a small retail sales kiosk	—	Right to build a small retail sales kiosk
5	Right to transfer (rent, sell) residence to indigenous residents of Gbawe	—	Right to transfer (rent, sell) residence to indigenous residents of Gbawe
6	Right to rent residence to outsiders	—	Right to rent residence to outsiders
7	—	—	Right to sell residence to anyone

The central government in power in Accra in the late 1970s expropriated the majority of Ofankor lands as a government reserve, promising but never paying compensation to the people of Ofankor. This was in essence a radical shift in the institutional structure of land administration. The elders of Ofankor lost most, but not all, of their control of the land. In a recent court decision in Accra, it was ruled that substantial compensation should be paid by the central government to the Ofankor community, but observers suggest that funds are simply not available from to make the payment.

The single right to land still under the control of the Ofankor elders, namely the right to build a residence, is listed in sub-column B1. Notice that the identical right appears in sub-column B2, indicating that home builders must obtain this right from both administrative authorities. From the central government, builders receive a construction permit. From the elders of Ofankor, builders receive assurance that their construction site will not be vandalized by youth gangs. Presumably, until the government compensation payment awarded by the courts to Ofankor is paid, the elders of Ofankor will continue to control at least partially the right of residential construction on their land.

IV. Implications for applied economic analysis

Defining goods in terms of the bundles of rights associated with physical objects fits well with standard theories in economics. Stigler and Becker (1977) observe that commodities comprise numerous basic attributes and that economic theory is generally valid only with respect to the

attributes. They cite the example of fruit berries comprising the attributes of "health through scurvy prevention" and "good taste."

Looking at the market for fruit berries over time, Stigler and Becker (1977) observe that early consumers were familiar only with the "good taste" attribute. Their derived demand for fruit berries was therefore based only on this one attribute. In later years, consumers came to learn that berries also prevent scurvy. This altered their derived demand for berries. Changing consumer preferences for berries does not constitute a violation of the neoclassical economic assertion of fixed preferences, since consumers really demand the constituent attributes of "good taste" and "scurvy prevention" for which their preferences are, according to Stigler and Becker, immutable.

The essential argument of Stigler and Becker is adapted here. Unlike their example, which has to do with changing perceptions of the same physical object over time, in the present analysis land is perceived by consumers to be two distinct goods simultaneously. While Stigler and Becker's berries are demanded by consumers according to fundamental attributes, the land good in peri-urban Accra is demanded by different consumers according to the associated set of rights being offered. Fundamentally with respect to economic theory, however, there is little difference between the arguments of Stigler and Becker and the arguments employed here.

A strength of standard propositions in economics is the ability to test derived hypotheses using readily identifiable data, especially prices. Prices are commonly associated with physical objects. The investigator identifies the object and then queries agents in the market as to the prices paid when the object is traded.

In the case of land, the physical object can be misleading with respect to economic theory. The theory is consistent and valid with respect to goods, but there may not be a one-to-one correspondence between the goods exchanged in the land market and the physical unit of land itself. The investigator must then take care to assure that collected data on prices are associated with goods having a consistent definition in terms of rights bundles. In the peri-urban land market of Accra, two goods associated with one physical unit of land have been identified at each of three representative sites. Data on prices must be associated closely and distinctly with each of these goods if standard economic theories are to remain valid for analysis.

One procedure would be to develop a model that accounts for one good only. The analyst might focus exclusively upon outsider land. Physical units of land traded to outsiders are reasonably consistent with respect to their associated bundle of land rights. It is thus a reasonable approximation to assert the physical unit of outsider land as the good. The price of the land-good is the money and other goods offered in exchange for it. However, to the extent that physical units of land are not firmly associated with a single specific bundle of rights, any model with a land variable constrained to only one rights bundle will approximate reality poorly. For example, if the elders in Gbawe reconsider the definition of a particular parcel of land as one good or another endogenously as a function of current economic conditions, then results arising out of models that consider one good to the exclusion of the other will generally only be valid in the short term at the margin and may not provide a useful guide for policy.

A further empirical difficulty is likely to arise in determining the total price paid for land, especially in cases where there is a significant barter aspect to the transaction. It was noted above in the case of Gbawe that a bank might acquire land at concessionary "prices," since in addition to any cash amount paid, the bank might also use its political influence to convince the central government to extend roads and water mains to an area. The determination of a cash equivalent value for such political services can be quite difficult. The problem of barter in the context of the peri-urban land market is important but beyond the scope of the present discussion.

CHAPTER 7: CONCLUSIONS, POLICY IMPLICATIONS, RECOMMENDATIONS, AND FURTHER QUESTIONS

I. Customary tenure

Dynamic land markets exist in all the study areas with all their imperfections. Stools, represented by chiefs, family heads, and some individuals, are the 'allodial' title holders. These groups, together with their elders and youth and women groups, manage communal and family lands on a day-to-day basis. An inherent contradiction of the state land machinery is that it attempts to monopolise the most important land functions that must of necessity go along with ownership and day-to-day management, including the:

- timing of land disposal;
- collection and distribution of revenue, income, and other benefits;
- formulation of planning schemes and layouts;
- granting of planning permission, development permits, consents, and concurrence; and
- registration of deeds and titles.

In spite of clear demands of the law, land rights and land use planning in practice tend to be governed by the decisions of stools, family heads, and individual landowners. In Gbawe, the stool 'chief' collaborates with all the public land agencies to draw up planning scheme layouts prior to land disposal. At Aburi and Kasua, comprehensive layouts approved by government are non-existent, yet land disposals and development continue unabated. The customary land market, however, is generally plagued by a dearth of property records on land transactions, assignments of the same lot to two or more individuals, tenure insecurity, and protracted litigation.

While much of the land conflict witnessed in the study stems directly or indirectly from government interventions, major encroachments by neighbouring stools and families were reported to have taken place in all villages,[22] and such disputes still bear heavily on the minds of traditional authorities in Gbawe. Although indigenous land rights conferred by the chief would appear to be secure, chiefs in both Ashongmang and Gbawe were encouraging land acquirers to register their lots because of the seriousness of such outside encroachments. Some outsiders acquiring property also feel compelled to register their land if they are able; while this study does not adequately assess their motives, the risk of losing sums upward of ¢3.0 to ¢5.0 million paid in "drink money" is no doubt an important driving factor.

Variation was also observed in land revenue sharing across the three communities. When the chief in Gbawe sells community land, community residents share widely in the benefits; the stool pays for most infrastructure development, including electricity, KVIPs, piped water, schools, clinics, public bathrooms, showers, a football park, a petrol station, and so forth. Such

[22] Such encroachment can be the indirect result of government land acquisitions; for example, one stool whose land is compulsorily acquired by government turns to encroachment on the land of neighboring stools. Unfortunately, this research was not able to adequately clarify the causal relations underlying stool conflicts, some of which go back many years.

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revenues are not shared as equally in Ofankor,[23] where individual respondents reported that some of the money is directed into the bank accounts of the principal landowning families.

II. Statutory tenure and land administration

In situations where traditional property institutions no longer provide adequate or secure rights, the presence of a strong central authority (the state) to define rules and ensure their enforcement is justified. While a case can be made for strong and effective government in Accra's peri-urban area, assessments of government's performance are mixed. Court systems seemed to have served the public interest well, sometimes despite serious limitations in the law. In Gbawe, where land rights are now assured through land registration, the relationship between local authorities and government is good, and government has intervened on a number of occasions to protect the land rights of Gbawe's citizenry. However, strong complaints against government actions were voiced in all three communities: government expropriation of land, lack of compensation, failure to return the designated share of ground rents back to the stools and community, subsidized sales of land to outsiders, high transaction costs to convey or register property, and failure to adequately resolve land conflicts between stools.

One might expect that government's compulsory acquisition and reallocation of community lands might create animosity towards outsiders moving into the community. Surprisingly, there appears to be relatively little resentment harbored. All three communities view the land market as an important mechanism to acquire income to help fund community improvements (less so in Ofankor), and to cover litigation costs against claims from rival stools or families (particularly in Gbawe). Relations between government and the Ashongmang and Ofankor communities today might have been substantially better had government acquired land with adequate compensation. The presence of serious problems in land administration nonetheless raises the larger question of whether government is acting in its own self-interest, or whether there are more fundamental constraints at play that curtail government's ability to properly administer land policy?

Many of the legal problems cited in earlier chapters—contradictions in treatment of family land, restrictions on land transfers, and onerous registration procedures—can be dealt with by legal and regulatory reforms. A far more intractable problem is the ineffective or callous implementation of law implied by the present land administration. Such problems as failure to pay compensation for compulsory land acquisitions or impoverished stool land accounts, reflect inefficiencies in the land administration system and a lack of faith by the land clientele to pay fees and ground rents as a result. The beneficiaries of state land allocation programs appear to be the prominent and most powerful constituents: government officials, top civil servants, the army and police, business executives, contractors, firms, companies, corporations, and the land administrators. These services have so far eluded the most vulnerable groups—the aged, the

[23] It proved impossible to assess whether this difference in Ofankor was due to historical or ethnic factors, or to the massive government expropriation of land in the community which substantially reduced the supply of community land available for sale by customary authorities. The latter cause would not necessarily decrease the use of land sales to replenish private accounts, but it could decrease the ability of traditional authorities to pay for community improvements at the margin.

disabled, the unemployed, and the rural and urban poor. The system is highly paternalistic and bankrupt in many respects: financial resources, qualified personnel, support services, office furniture, equipment and fittings, vehicles, reasonable remuneration, incentive packages, motivation, and standard professionalism. Until resource constraints are relaxed, it is difficult to see how government will be able to adequately respond to the many land matters it is attempting to manage. Yet, the sad irony is that until the system has demonstrated an interest to serve the larger public, then further investments in the land administration system risk further equity losses. For the moment, the capacity of public land administrators to adequately police the vast state lands is doubtful, and in many cases has left land in a state of limbo where neither customary authorities nor government have both the means and incentives to efficiently develop the land.

A legal solution per se will not resolve the pressing land problems in the peri-urban land market. The state already has much of the legal apparatus needed to satisfactorily carry out its duties in a responsible manner. However, that legal apparatus, rather than serving the land clientele, has instead become overly bureaucratic, unresponsive, and inequitable. The solutions lie in expanding the capacity of the Lands Commission to provide services in a cost effective manner and in restoring the confidence of the land clientele in public land administration. Improving the fiscal management of the stool land accounts with the aim of returning money to stools and traditional authorities, however meagre initially, would be an important first step. A second big step would involve whole or partial payments of the compensation debt owed. But, the state bureaucracy itself poses the greatest challenge to the liberalisation and development of land markets generally. Until the civil service itself embraces a "clientele-first" focus, it is difficult to see how land problems in the peri-urban area will be easily rectified.

III. Tentative recommendations

Facilitating the development of a progressive customary land tenure system appears to hold the key and the best opportunities for efficient land use and transfers in the peri-urban area. The state's role is best served as a facilitator of customary tenure systems. The following are tentative recommendations toward achieving this end:

1. Review existing state enactments, particularly the State Lands Act, 1962 (Act 125), the Administration of Lands Act, 1962 (act 123) and the 1992 Constitution, with the aim of balancing the felt needs of government with those of local communities.

2. Liberalise the land market. Land transfers should require few or no official approvals. Land prices should be openly and freely set by the market place. Government land administration should be decentralised to the regions and districts, but with the objective of serving as a development facilitator rather than an active supplier of land.

3. Thoroughly review all government regulations, in particular the Compulsory Acquisition (Act 125) of Customary and Private lands. A reformed compulsory acquisition legislation ought to embody mandatory prior local consultation and participation in the state land acquisition processes. In case of differences between local communities and government

officials, an Independent Lands Tribunal ought to hear the case and not government ministers or the non-existent Appeals Tribunal as is currently the case.

4. Resolve the case of land expropriation at Ofankor and other like communities. It is difficult to see how government can regain the confidence of the public when such major disagreements about fairness of compensation are festering. If government does not intend to put in infrastructure or fund investments (or employment) that would widely benefit the residents of communities from which land is acquired, then any undeveloped and unallocated lands ought to be given back to their rightful owners as provided in the Constitution. Compensation claims on already allocated land ought to reflect current and comparable open-market transactions. Any historic valuations with or without interest payments would be unlikely to provide adequate compensation.

5. Encourage and positively support land management departments similar to the Asantehene's Land Secretariat at Kumasi. Such secretariats should be professionally supported either with in-house professionals and/or hired consultants. The Constitution ought to be amended to appreciate their management and planning functions including land disposal, rent and income collection, enforcement of convenants against leaseholders, encroachers, and trespassers. Current incomes from land, that have been clearly established as open-market premiums rather than drink money, should be taxable by government. The collection of ground rent ought to be left to local land secretariats who know best the whereabouts and work and residential addresses of land acquirers. Rents collected can be shared with the government, assemblies, and stools, among others, through a mutually advantageous sharing formula, rather than what is currently enshrined in the Constitution. The state sector could then monitor and enforce legislation, development layouts, and titles and deeds in the public interest.

IV. Further questions

The statistical surveys of indigenous residents, registered leaseholders, and unregistered land acquirers (component (C) of the research project design, chapter 1) will provide additional perspectives on the peri-urban land market generally, and provide a more objective platform for concrete policy evaluation and recommendations. Yet, a number of issues have been raised by this report that required further investigation beyond the current research program. First, to what extent are the major findings of the study applicable to other peri-urban land markets? In particular: the progressive customary land management practices of Gbawe; the fair and sometimes unfair distribution of proceeds from land disposals among natives and the communities; local enforcement procedures against trespassers and encroachers; and the active participation of women in the land administration process. Second, are the current land conflicts and disputes in peri-urban Accra, both between stools and between government and one or more stools, similar to cases in other parts of the country? Third, what is the extent of state/public landholdings, and how best can public land be brought on to the open market as a negotiable asset? These questions can only be investigated through extending in-depth research to other parts of the country.

ANNEX A: STRUCTURED QUESTIONS: CASE STUDY INTERVIEWS

1. Settlement history. When and how was the village established? Are there principal landholding groups in the village and how did they acquire this position? How have rates of settlement and the characteristics of settlers changed over time? Has migration from rural areas been an important factor in settlement? How important has been the settlement by people from Accra or abroad? To what extent does the rate of settlement in the past 10 years differ from previous times? What is the present total area of the village—developed and undeveloped? What boundary indicators are used? Is there presently a land shortage? Has there ever been a court ruling demarcating land within the village?

2. Land use. Historically (within the past 100 years), how was land used in this community? What crops were cultivated? Was there cattle grazing? Describe the uses of land with respect to various groups in the community (young men, women, strangers). If crops were cultivated, who participated in the various steps in cultivation (land clearing, plowing, planting, weeding, fencing, bird scaring, harvesting)? Are land uses today greatly different from a decade or so past? If so, how and when did these changes occur and what events precipitated them?

3. Land markets. Historically (within the past 100 years), how did people come to acquire land to build a house? How did people come to acquire land for farming? How did strangers come to acquire land? Historically, if a woman wanted to acquire land for some purpose, how would she do it? If a person wishes to acquire land for a residence today, are the procedures different from historical times? If a person wishes to acquire land for a farm today, are procedures different from historical times? Are the procedures for women to acquire land different than in historical times? Are the procedures for strangers to acquire land now different? How has the tradition of "earnest money" or "drink money" changed over time in both scope and amounts? Is farm land now scarce, and how are people coping with that scarcity?

4. Land conflicts. Are there conflicts over land today among the indigenous families of the community? If so, are these conflicts different than in historical times? Are there conflicts over land today between indigenous families and the government? Are there conflicts over land today with other stools? Are there conflicts over land today with strangers? How are these local conflicts (if any) resolved?

5. Economic livelihood. What is the main source of income and economic livelihood for people in this community today? How have these economic activities changed in the last decade with growing population pressure? Is agricultural land still available? Are sons and daughters going to the city for work? Are people turning away from farming for work in the commercial and services sector and why? Who migrate more: men, women, or young men?

6. Trends. What do you expect to be the status of the community's lands 10 years from now? 50 years from now? What will be the relationship between the land and indigenous members of the community in the future? What will be your relationship with strangers in the community in the future? Are you happy with changes in land use and the allocation of land in the community? What problems if any do you see?

7. Land administration. What are the main principles underlying traditional land management and administration. Are there traditional land covenants or conditions governing land allocations to users? If so, what covenants or conditions are normally applied? Or, if not, why not? What checks do you have against encroachments, trespassers, or anti-social behavior? Do you help in any way to initiate planning layouts prior to land allocation and development? If yes, what are your contributions? If no, why not? Do you help in anyway to enforce layouts? If no, why not? Do you help in anyway to enforce building regulations? If yes, specify role? If no, why not? Do you in anyway help to check abuse by contractors (illegal sand winning) and builders?

8. Local finance. What motives induce you to supply land to the land market (for example: people need land; finance for development; deliver service benefits to village members; government pressure)? How are benefits/revenue from the land spent—retained by chief, invested in the community, distributed to community members?

9. Attitudes toward public policy. What relations do you have with the Lands Commission Secretariat, Town and Country Planning Department, District Assembly, Survey Department, Land Title Registry, and City Engineers Department? What benefits has the community derived from the public sector land offices? What problems have been experienced? How can the public sector be made more responsive to the needs of your community?

ANNEX B: RULES FOR RESIDENTS IN RESIDENTIAL AREAS OF THE REPUBLIC OF GHANA

1. Occupiers are responsible for maintaining their houses and compounds in a sanitary condition and for seeing that their servants and their servants' families living in the compound conduct themselves and maintain their quarters in a hygienic manner.

2. Only the servants of the occupiers and their wives and children below the age of ten years, and only in such numbers as will not cause overcrowding, may live in the servant's quarters. They must sleep under mosquito nets where mosquito-proofed quarters are not provided.

3a. Not more than three persons may sleep in each room in the servant's quarters.

3b. The maximum number of persons irrespective of sex who may be permitted to sleep in one house in a residential area at one time is as follows:

Where a house consists of:

One room	=	2
Two rooms	=	3
Three rooms	=	5
Four rooms	=	7½
Five rooms	=	10

With an additional 2 in respect of each room in excess of five. In calculating the number of rooms in a house, no account shall be taken of store rooms, pantries, verandas (whether enclosed or not), dressing rooms, garages, bathrooms, lavatories, etc. Only living rooms and bedrooms properly so called may be considered. It should be understood that the use of verandas and/or dressing rooms as sleeping rooms is not precluded.

3.c. In no residential area may the total number of persons sleeping therein at one time (including the occupants of the servant's quarters) exceed a density of 15 persons per acre.

3.d. For all the purposes of this clause, calculating the number of persons, children between the ages of one and ten years count as half a person and a child under one year of age does not count at all.

4. All cases of sickness of a servant or member of a servant's family must be provided with medical attention without delay.

5. No petty trading is permitted in the area.

6. Occupiers will ensure that their compounds are kept free from undue growth of grass and weeds. No trees in the area or hedges surrounding compounds may be removed, cut down, or

otherwise interfered with except with the sanction of the Local Agricultural Committee or an equivalent authority.

7. The cultivation of tall crops such as corn and cassava is prohibited.

8. Occupiers will ensure that their compounds are kept free from empty bottles, tins, or other rubbish likely to provide breeding facilities for mosquitoes, flies or other insects, or vermin.

9. Dustbins are to be used as receptacles for rubbish of a solid nature only and will be kept well covered at all times. Any neglect on the part of the sanitary labourer to remove an empty dustbin daily should be reported at once to the appropriate authority.

10. The presence of mosquitoes, biting flies, fleas, ticks or houseflies must be reported to the Medical Officer of Health. The occupier of a bungalow is responsible that no mosquito breeding takes place anywhere in the house or compound.

11. Occupiers will ensure that all waste water receptacles are emptied and cleansed daily. Waste water should be distributed broadly on the ground in such manner as not to create a nuisance.

12. Occupiers will ensure that no waste of water takes place. The washing of pots and pans under a running tap is strictly prohibited.

13. The contents of the latrine drum should be well covered with dry sawdust or earth and should be kept as dry as possible. No slop water is to be thrown into the latrine drum.

14. Any neglect on the part of the sanitary labourer to empty latrine pans daily or to maintain the supply of covering material should be reported to the appropriate authority.

15. Fowls (other than guinea fowl, the keeping of which is strictly prohibited) may be kept in a residential area if confined in a properly constructed run, and so long only as they do not constitute a nuisance to other residents in the area.

16. The keeping of all animals, other than dogs and cats, without the written permission of and subject to the conditions imposed by the Medical Officer of Health, is prohibited.

17. Occupiers vacating quarters temporarily or permanently will take care that all articles capable of holding water are emptied and inverted, and that the plugs in the bath and lavatory basins are provided with traps and placed in position so as to avoid any risk of mosquito-breeding. Alternatively, a little disinfectant may be poured into the water of the trap. Particular attention is to be paid to any accumulation of water in or under the icebox, if in use.

18. Occupiers will ensure that neither they nor their servants create a nuisance in the area by reason of undue noise however caused. Particular care should be taken to avoid excessive noise caused vocally or by any wireless, gramophone, or other instrument.

19. The Medical Officer of Health, Sanitary Superintendent, and Sanitary Inspector have power of entry to inspect any house or compound from 6 a.m. to 6 p.m.

Source: Lands Commission, Accra, July, 1994.

ANNEX C: SCHEDULE OF LAND AREAS UNDER DISPUTE IN GREATER ACCRA

Stools and families currently engaged in land disputes in the courts or otherwise are listed:

1. All lands covered by the Tema Harbour and Port acquisition up to Sakumono Lagoon are government lands. However, recently the Nungua Youth have forcefully seized lands around Lashibi on grounds that the land was acquired from them, and Tema Development Corporation (TDC) could not allocate land to third parties for development without their consent.

2. Ashaiman falls within the TDC acquisition but the area has been developed and continues to be developed by the chief, elders, and developers, without seeking any authority from TDC.

3. Nungua lands stretch from the coast northwards to Katamanso. However, conflicts with Teshie are prevalent around the Motorway East Industrial Area, Motorway North Estate, Okpoi, Gonno, and Hedzoleman.

4. The Nungua Stool conveyed (leased) almost all lands at the East Legon Ambassadorial Area outside the government acquisition. Currently, a circuit court judgement dated 31/1/89 (Suit No. cc 67/89) has adjudged that the land belongs to the Klanaa Quarter of La. Meanwhile, the Land Title Registry has registered and issued a title certificate to the Numo Kofi Anum Family Tesa, a branch of the Klemusum Quarter of Teshie. The area is substantially developed with many conflicts among rival landowners.

5. Teshie is divided into five Quarters namely, Krobo, Agbawe, Kle Musum, Gbugbla, and Lenshie. Authorities governing these quarters within Teshie South know the respective boundaries of their territories. However, to the north—North Teshie, Nedzoleman, Agblesa Okpoi Gonno, East Legon Ambassadorial enclave, among others—many conflicts are occurring due to undefined boundaries. The conflicts are worsened by the fact that individual families living in the Quarters are claiming the allodial title in their own right. Thus conflicts exist in Ashale Botwe, Otinshie, Berdzin, Otaanor, Agllesa, Okpoi Gonno, parts of Ajiringano, East Legon Extension (parts), and North Teshie. Even some Teshie families located at Pantang, Boi, and Berekuso, are finding the above conflicts spreading into their areas.

6. La lands stretch from the coast northwards to Oyarifa and Ashiyie. While the La Mantse's authority (as the allodial title holder) over the different quarters and family lands was initially upheld by an Appeal Court, the Supreme Court Judgement in Civil Appeal No. 4/87 involving Philip Tetteh Nartey and Mechanical Lloyd Assembly Plant has vested the allodial title to land in the individual quarters. Thus in Adenta, Nkwantanang, West Adenta, Ogbodzo, parts of Ashale Botwe, Abladzei, and Agbogba, disputes have arisen over the right to grant land. The boundaries of individual quarters, families, and clans are generally not well defined or delineated.

7. Between La and Sempe (Gbegbeyise) along the coast northwards towards the Accra Motorway Extension, the area is fully developed and therefore not subject to disputes over large land areas. North of the motorway extension, however, are numerous disputes.

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- Hacho—this area was subjected to a lengthy dispute between the Ashong Sogbla Family of Osu and the Odai Ntow Family of Teshie. The Supreme Court has recently adjudged the area to belong to the Ashong Sogbla Family. However, many people have developed the area who purchased the land during the dispute from the Odai Ntow Family.

- Agbogba and parts of Ashongmang are being disputed between Odai Ntow Family of Teshie and factions from La.

- Rights to land in different parts of Kwabenya and North Dome/Taifa are being disputed by the Onamorkor Adain Family, Owoo Family of Osu, and Neefu Family. These lands are being heavily encroached upon by grantees of the different claimants.

- The area of the National Sports Complex government acquisition is being contested by as many as 375 different claimants, including Osu Stool, Gbese Stool, Ga Mantse, Asere Stool, Otublohum Stool, Sempe Stool, Onamorkor Adain Family, Niloi Olai Stool Family of Asere, and Nii Lartey Ahiaku Family, among others. The land is now totally occupied, thereby defeating the original purpose of the acquisition.

- Kwashieman lands are being disputed by the Nii Lartey Ahiaku Family, Sempe Stool, Asere Stool, and Marmon Halm Family of Asere.

- North Odokor is being disputed by both the Sempe and Asere Stools.

- Sowutuom was declared to be the property of the Abola Piam Family of Tunna We, Otublohum who prepared the layout, and is in the process of pillaring and selling individual properties. Since 1986, Sempe Stool and Asere Stool have made counter claims and are actively selling and developing lands in the area.

- South Ofankor is being disputed by the Awulemona Family of Ofankor, and the Asere and the Nii Ankrah Family of Otublohum.

- Abbeyman/Oshiuman, and Ablekuma are being disputed by families from Sempe and Asere Stools.

- In Amasaman, a portion of land known as Fise is being disputed by the Bruce-Konuah Family, Amasaman Mantse, and Amanfro.

- Around Weija, a James Town Village, disputes have arisen of late between Sempe Stool and Weija sub-stool over lands at New Weija. These lands were alienated in the 1970s and 1980s by Weija Mantse but currently Sempe Stool is claiming ownership and has been disposing of these lands. There are frequent physical confrontations in the area.

- Opposite the New Weija area is Mandela which is James Town land but is currently being disputed by the Aplaku sub-stool of James Town and Vanderpuije Orgle Estates who have a High Court Judgement vesting title in the company. Despite the court judgement, the area is substantially developed by the grantees from Aplaku and James Town. Meanwhile, James Town had earlier leased the land to Vanderpuije Orgle Estates and had not taken the appropriate re-entry measures before reselling to other parties.

8. More disputes are likely to arise between James Town, Sempe, and Akumajan Stools as a result of the judgement in Civil Appeal No. 110/89 at the Supreme Court. Here the Apaloo Judgement from the Civil Appeal was set aside after it had operated for more than 20 years and had been used for most land grants made by the Sempe Stool in Odorkor, Dansoman, Mpoase, and Gbegbeyise. The recent judgement upheld the Acolatse Judgement which had earlier indicated that James Town, Sempe and Akumajan should exercise authority over lands which were in the exclusive possession of their respective citizens. These lands are intermingled and their boundaries cannot easily be discerned.

ANNEX D: FREEHOLD CONVEYANCE, NSAWAM, 1978

The following document is retyped verbatim from the original, the weak print of which precluded direct photocopying. Some commas have been added to improve readability, but the indenture is not altered in any substantive way.

This Indenture made the 2nd day of January 1978 between ABUSUAPANEN NANA FIAMKO ABABIO Head and Lawful Representative of Bretuo Branch Family of Chinto near Nsawam in the Eastern Region of the Republic of Ghana with the knowledge, consent, and concurrence of the Principal Members of the said Family whose consent and concurrence are necessary or requisite by Customary Law for the valid grant, alienation, disposition of any land or other property of the said Family and which consent and concurrence are hereby testified by some of the Principal Members aforesaid witnessing the execution of these present (hereinafter called the "VENDOR," which expression shall where the context so admits or requires include his successors in office and assigns) of the one part and Mr. Adu Kofi Djin of Aburi-Akuapim (hereinafter called the "PURCHASER," which expression shall where the context so admits or requires include his heirs, successors, personal representatives and assigns) of the other part.

WHEREAS the Vendor at the date hereof and immediately prior to the execution of these presents is seized of an Estate absolutely in possession free from all encumbrances of the said piece or parcel of land described in the Schedule herein and intended to be hereby conveyed AND WHEREAS the Vendor being so seized as aforesaid under Customary Deed Of Gift from his Late Uncle Abusuapanin Ankobeahene Nana Yaw Botwe of Bretuo Branch Family of Chinto near Nsawam over (40) FORTY YEARS ago although this was not evidenced in writing, but the customary slaughtering of sheep and presentation of 1 bottle of Schnapps plus cash the sum of 4 pounds: 4/ were performed being the customary Thanking fee of the said Land of which the Donor hereby acknowledges the receipt from the Donee.

NOW THIS INDENTURE WITNESSETH AS FOLLOWS:

1. In consideration of the price hereinafter reserved and of the convenants, conditions, and stipulations on the part of the Purchaser to be paid, performed, and observed, the Vendor hereby DEMISES unto the Purchaser for the absolute sale unto him of the said piece or parcel of land situate, lying, and being at Chinto near Nsawam in the Eastern Region of the Republic of Ghana and bounded on the North-East by the property of Nana Fianko Ababio and Family land and Densu River measuring on that side a distance of 1452.00 Feet more or less, on the South-West by the property of Nana Fianko Ababio and Family Land measuring on that side a distance of 1217.00 Feet more or less, on the South-East by the property of Nana Fianko Ababio and Family Land measuring on that side a distance of 545.00 Feet more or less, and on the North-West by the property of Nana Fianko Ababio and Family Land measuring on that side a distance of 638.00 Feet more or less, and containing an approximate Area of 15.08 Acres more or less which said piece or parcel of land is more particularly delineated on the Plan attached hereto and thereon shown edged PINK together with all rights, privileges, easements, liberties, rights of ways, advantages and appurtenances either whatsoever to the said hereditaments or any part thereof belonging or appertaining either actually or by reputation AND ALL THE ESTATE right, title, interest, claim, and demand whatsoever for the VENDOR into and upon the same TO HAVE and TO HOLD the same unto the PURCHASER for ever for the consideration sum of (¢500,000.00) FIVE HUNDRED THOUSAND CEDIS plus (1) One Live Sheep and (1) Bottle of Schnapps.

IN PURSUANCE of the said Agreement and in consideration of the said sum of (¢500,000.00) FIVE HUNDRED THOUSAND CEDIS plus (1) One Live Sheep and (1) One Bottle of Schnapps paid to the Vendor on or before the execution of these presents (the receipt whereof the Vendor doth hereby acknowledges and from the same hereby release the Purchaser) the Vendor hereby covenants with Purchaser in the following manner that:—NOTWITHSTANDING any act, deed, or thing by him the Vendor or by his predecessors title, done, executed, or suffered to be done, to the contrary, he the Vendor now hath good right title and interest to grant the land and hereditaments hereby granted or expressed so to be unto and to the use of the Purchaser in manner aforesaid and that the Purchaser shall and may at all time hereafter peaceably and quietly hold, possess, occupy, and enjoy, the said piece or parcel of land and receive the Rents and Profits thereof without any lawful eviction, interruption, claim, and demand whatsoever from the Vendor or any person or persons lawfully or equitably

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claiming any Estate from under or in trust for him the Vendor, or from under his predecessors in title, or any person or persons lawfully or equitably claiming any Estate title or interest in the said piece or parcel of land or any part thereof from under or in trust for him the Vendor prior to these presents and that the Vendor shall and will from time to time and at all times hereafter at the request and cost of the Purchaser do execute or cause to be done and executed all such acts, deeds, and things whatsoever for further and more perfectly assuring the said piece or parcel of land unto and to the use of the Purchaser in manner aforesaid as shall or may be reasonably required.

IN WITNESS WHEREAS the parties hereto have hereunto set their respective hands and seals the day and year first above written.

MARKED/SIGNED by the said ABUSUAPANIN NANA FIANKO ABABIO

and the Principal Members of the Bretuo Branch Family of Chinto near Nsawam after the

foregoing had been read over and interpreted to them in Twi Language by _____

when they seemed perfectly to understand same before making their marks hereto in the

presence of:

1. Adu Kwasi
2. Emmanuel Addo
3. Adomako Robert Appong

SIGNED, SEALED, AND DELIVERED by the said Mr. Adu

Kofi Djin of Aburi-Akuapim in the presence of:) _____

PURCHASER

Also attached, but excluded here, was a map showing the physical location of the parcel and its measurements and distances for the purposes of calculating the parcel area. Also attached to the original indenture was the OATH OF PROOF and CERTIFICATE OF PROOF, signed before the REGISTRAR OF LANDS.

REFERENCES

Adjetey, S. 1993. 'Sale of Government Acquired Lands.' In *Ghanaian Times*, No.11196, 18th May, New Times Corporation, Accra.

Asiama, S.O. 1991. *Women in Urban Land Development in Ashanti, Ghana*. Research report prepared for the Centre for African Settlement Studies and Development, Ibadan, Nigeria. Kumasi: Department of Land Economy and Estate Management, U.S.T., Ghana, June.

Asibey, O. 1977. 'Minutes of Meeting of Site Advisory Committee, held on Friday, 17th June, 1977, in connection with acquisition of a piece of land for Residential Area at Ofankor.' Lands Commission, Accra.

Auguste, E.L. 1990. 'MEMORANDUM: Capital Gains Tax Decree, 1975, NRCD 347,' May, 8th, IRS, Accra.

Ghana News Agency (GNA). 1994. 'TUC Proposes ¢3,000 Minimum Wage.' In *Daily Graphic*, No.13605, August 27, The Graphic Corp., Accra.

Kasanga, R.K. 1992. *Agricultural Land Administration and Social Differentiation: A Case Study of the Tono, Vea, and Fumbisi Belts of North-Eastern Ghana*, Working Paper No.10, Social Science Research Council, New York.

Kasanga, R.K. 1991. Institutional/Legal Regimes and Urban Land Management: A Case Study of Three Secondary Cities in Ghana. *Urban Management Programme*, HABITAT, Nairobi.

Kasanga, R.K. 1988. *Land Tenure and the Development Dialogue: The Myth Concerning Communal Landholding in Ghana*. Occasional Paper No.19, Dept. of Land Economy, Cambridge.

Suit No.L.107/1961. Kwatei Asuansah Owoo-Papafio (Acting Kwashong Mantse and Head of Akwashong Kpakpatsewe Family of Accra, c/o Asere Chambers, Accra.), Plaintiffs, versus Amadu Wangara (Mile 6, Malam Quarry, Winneba Road, Accra.), Defendant, and Nii Kpakpa Badoo Quartey (Head of Gbawe Kwatei Family, Accra and Gbawe), Co-Defendant.

Suit No.561/1981. Augustus Kpakpo Brown, Plaintiff, versus S. Bosomtsu & Company Limited, Defendant, and Adam Kwatei Quartey, Co-Defendant.

Stigler, George J. and Gary S. Becker. 1977. "De gustibus non est disputandum." *American Economic Review* 67(2): 76-90.