

**COMPULSORY LAND ACQUISITION AND  
COMPENSATION IN GHANA: SEARCHING  
FOR ALTERNATIVE POLICIES AND  
STRATEGIES**

**WORDSWORTH ODAME LARBI  
GHANA**

# OUTLINE

- Country location and basic information
- Land tenure in Ghana
- Compulsory acquisition procedures
- Effects of compulsory acquisition
- Compensation
- Policy Options
- Conclusion

# COUNTRY LOCATION & INFORMATION



## Ghana

- ❖ Land Area: 239,460 km<sup>2</sup>
- ❖ Population: 21.7 million (2007 estimate)
- ❖ Growth rate: 2.7% p.a.
- ❖ Agriculture accounts for 37.3% of GDP and employs 60% of workforce
- ❖ Agriculture accounts for 75% of export earnings and contributes 90% of food needs
- ❖ 63 % of total land area is agriculture
- ❖ GDP growth rate was 6% in 2006: service sector is the highest contributor (37.5%)

# LAND TENURE IN GHANA

- All lands are owned by customary institutions (stools/ skins, clans, families, etc)
- State must acquire land for its development programmes
- 78% owned by traditional authorities
- 20% by state
- 2% split ownership
- Both customary and common law rights exist in land, sometimes on the same piece
- The State exerts a lot of control over administration of customary lands



# COMPULSORY ACQUISITION AND COMPENSATION – POST 1992 CONSTITUTION

- The Constitution guarantees private ownership of land.
- The State can acquire land in the public interest or for a public purpose subject to the prompt payment of fair and adequate compensation
- Compulsory acquisition can be done only under a law that makes provision for prompt payment of compensation
- In case of un-use, owners shall be given first option for re-acquiring property and return compensation paid

# COMPULSORY ACQUISITION – PRE 1992 SITUATION

- Compulsory acquisition was guided principally by the State Lands Act, 1962
- Lands were also vested in the state in trust for customary owners
- Land could be ordered for occupation and use by the President under the Administration of Lands Act, 1962
- Several acquisitions were done during military regimes without due regard to the requirements of the law
  - Incomplete acquisitions
  - Non-payment of compensation

# COMPULSORY ACQUISITION PROCEDURE IN GHANA (PRE 1992)

Processes up to site selection  
Committee's recommendation

Processes up to the signing and publication of  
Executive Instrument by the Minister

Processes for submitting claims  
and payment of compensation

Appeal procedures



# COMPULSORY ACQUISITION PROCEDURE

- Preliminary consideration and recommendations are done by a site advisory committee whose membership excludes land owners
- Up to the point where an Executive Instrument is published, entire process lies with political Authority
- Post-instrument processes are managed by statutory agencies – the Lands Commission and the Land Valuation Board
- It is only after publication of the instrument that affected owners can submit claims for compensation
- Entire process is long and can take up to two years to complete



# EFFECTS OF COMPULSORY ACQUISITION

- Uncompleted acquisitions making it impossible for expropriated owners to claim compensation (occupation without acquisition)
- Post acquisition management practices causing some legal experts to question whether the acquisitions were in the public interest
- Outstanding compensation

# OCCUPATION WITHOUT ACQUISITION

- Large tracts of land occupied by the State without acquisition
- [Table 1- occupation without acquisition.doc](#)
  - out of 692 sites, only 20.4% have been properly acquired
  - 79.6% are occupied by the state without any legal acquisition (43,369.91 ha)
- The result is agitation from communities against the use of the land and a lot of encroachments

# POST ACQUISITION MANAGEMENT

- Transfer of acquired land to private entities to undertake stated public purpose eg. Divestiture of SOEs
- Use of the acquired land by the State for a different public purpose eg. AU Village
- Use of acquired land by private entities for uses different from the purpose of the acquisition eg. Accra Mall
- Auctioning of government bungalows to the highest bidder for redevelopment
- Use of land for ancillary or reasonably incidental purposes to be provided by private entities eg. Use of public universities' lands for filling stations



# Post acquisition management

- Land acquired in excess of real need and the use of excess sites for other uses eg housing, other state institutions [Table 2 - Extent of use of acquired lands.doc](#)
- Use of land by statutory corporations which are now private entities eg utility companies
- Massive encroachments by expropriated owners, thwarting the efforts of the state to develop the acquired land
- Lack of clear directions by the Courts (Nii Tetteh Opremreh II v Attorney General & Anor; Amontia v. MD Ghana Telecom)



# COMPENSATION

- Expropriated owners can claim compensation only after the Executive Instrument has been published
- Legal rights and interest only are eligible for compensation
- Long procedure for claiming compensation
- Huge outstanding compensation in respect of acquisitions done before 1992
- [Table 3 - outstanding compensation.doc](#)
- Lack of inter-generational equity in the use of compensation funds

# SEARCHING FOR ALTERNATIVE POLICY OPTIONS

- Policy options should address
  - Public interest/public purpose
  - Acquisition processes and procedure
  - Size of lands acquired
  - Inter-generational equity
  - Participation of the public in compulsory acquisition
  - Must be acceptable to the public

# POLICY OPTIONS FOR DEALING WITH OUTSTANDING ISSUES

Policy options being considered under the LAP

- Development of guidelines and standards for lands to be acquired by the state eg. for education, health, agriculture
- Complete all outstanding acquisition based on actual needs
- Return lands in excess of actual need to pre-acquisition owners vis-à-vis creation of land banks
- Develop alternatives to monetary compensation including provision of infrastructure, shareholding in viable public institutions, ex-gratia payments, etc.
- Compensation should be changed from lump sum to annual payments to address inter-generational equity issues



# SEARCHING FOR ALTERNATIVE POLICY OPTIONS

- Auction undeveloped lands or sell state owned enterprises on acquired lands to pay compensation
- A programmed debt payment schedule out of national budget over a period of time
- Token of appreciation to be paid by the State in respect of acquisitions prior to 1992
- Communities set up trusts into which compensation is paid and managed by trustees
- Return unutilized lands to pre-acquisition owners in lieu of compensation
- Regularize encroachment at penalty and use proceeds to pay compensation

No one approach can solve problem but perhaps a combination of them



# CONCLUSION

- 1992 constitution opens a new vista for compulsory acquisition
- National land policy of 1999 provides for acquisition with circumspection
- New laws are needed to deal with compulsory acquisition and compensation
- Policy option requires serious dialogue with key stakeholders
- Governance structures for acquisition must also be improved
- Practical solutions must be found

**THANK YOU**

The background features several overlapping, semi-transparent shapes in various shades of green and yellow. A large, dark green shape is on the left, partially overlapping a lighter green shape. A yellowish-green shape is on the right, overlapping the lighter green one. The overall effect is a layered, abstract composition.