



A STUDY ON LAND TENURE IN URBAN AREAS REPORT

April 2009

Table of Contents

Executive Summary	1
Table of Contents	1
1 Introduction.....	7
1.1 Introduction and Rationale	7
1.2 Study Objectives	9
1.3 Research Methodology	9
1.4 Limitations of the Study.....	9
1.5 Structure of the Report.....	10
2 Urbanisation and Land Tenure Systems in Ghana.....	12
2.1 Land Tenure System in Ghana	12
2.1.1 Public Lands	12
2.1.2 Customary Lands.....	13
2.2 Legal Framework for Land Management	13
2.2.1 Legal Contradictions	14
2.3 Institutional Framework for Land Administration in Ghana.....	16
2.3.1 Ministry of Lands and Natural Resources	17
2.3.2 Ministry of Environment, Science and Technology	17
2.3.3 Ministry of Local Government and Rural Development.....	17
2.3.4 Lands Commission Secretariat	17
2.3.5 Land Title Registry	18
2.3.6 Survey Department.....	19
2.3.7 Land Valuation Board	19
2.3.8 Office of Administrator of Stool Lands.....	19
2.3.9 Town and Country Planning Department.....	20
2.4 Policy Framework for Land Administration in Ghana	20
2.4.1 National Land Policy	20
2.4.2 National Spatial Development Policy	22
2.4.3 Growth and Poverty Reduction Strategy II.....	22
2.5 On-going Interventions in Land Administration in Ghana	22
2.5.1 Land Administration Project	22
2.5.2 Ascertainment of Customary Law Project	23
2.6 Definition of Urban in the Ghanaian context.....	23
2.7 Urbanisation Trends.....	24
2.8 Conclusions on Urbanisation on Land Management.....	25
3 Profile of Study Areas and Discussion of Findings	27
3.1 Introduction	27
3.2 Brief Profile of Accra and Sabon Zongo	27
3.2.1 Accra.....	27
3.2.2 Sabon Zongo	28
3.3 Brief Profile of Tamale.....	29

3.4	Brief Profile of Cape Coast.....	29
3.5	Comparison of Study Areas	29
3.7	Status of Land Tenure Arrangement in Study Areas.....	30
3.7.1	Role of Traditional Authorities	31
3.7.2	Role of Metropolitan/Municipal/District Assemblies.....	33
3.7.3	Sub District Structures	34
3.7.4	Role of Land Sector Agencies	34
3.7.5	Interplay of Land Tenure on Projects in Urban Areas	34
3.7.6	Example of Best Practice in Acquiring Land for Projects	38
3.7.7	Mechanisms of Abating Land Disputes.....	39
4.1	Conclusions.....	41
4.2	General Recommendations.....	41
4.2.1	Support for Institutionalising Participatory Land Management.....	42
4.2.2	Establishment of Special Land Courts and encouraging the use of alternative dispute resolution mechanisms	43
4.2.3	Public Education on Land Acquisition and Titling Procedures	43
4.2.4	Simplification of Land Titling Process	44
4.2.5	Strengthening sub district structures.....	44
4.2.6	Strengthening Capacity of Land Sector Agencies.....	45
4.3	Level of Preliminary Work Required by WAG for Smooth Implementation of Projects.....	47
	References	49
	APPENDICES	53
	Appendix 1 Research Instruments.....	53
	Appendix 2 Report on Validation Workshop on the Study	57

Executive Summary

WaterAid Ghana in collaboration with United Nations Human Settlements Programme (UN-HABITAT) is implementing selected components of the Water for Africa Cities Programme II (Accra City Project) in Sabon Zongo, a deprived urban community in Accra. This intervention entails the provision of water, sanitation and hygiene (WASH) infrastructure in the community and re-affirms WaterAid Ghana's commitment to allocate 30% of its beneficiary programme budget for projects in urban areas. This project, even though very beneficial to residents of the area, has brought to the fore, serious land tenure issues that could be associated with projects in urban areas. Construction of civil works on the project in some parts of Sabon Zongo had to be put on hold for a while owing to disputes over the ownership of the land earmarked for construction. There was an instance where some individuals demolished certain portions of construction works already carried out under the project. These experiences have raised concerns over the role land tenure systems play in the implementation of projects in urban areas and formed the basis for carrying out this study.

The objective of the study was to understand the dynamics of land tenure arrangements and their interplays in project implementation in urban areas. The study was also intended to unravel the role of Metropolitan Assemblies and Traditional Authorities in the release of land for project work in urban areas. The study was carried out in Accra, Tamale and Cape Coast metropolitan areas. Through a combination of primary and secondary data gathering and analysis, the study arrived at the following key conclusions in terms of the interplay of land tenure issues in urban work:

- Rapid urbanisation in the three (3) study areas had resulted in an increase in demand for land for housing and other purposes. Given the inherent weaknesses in development control in these areas, rapid urbanisation and increasing demand for land had resulted in the creation of an urban sprawl especially in Cape Coast and Accra with rapid physical development occurring at the peripheral areas of these cities.
- Customary land ownership was predominant in the three (3) study areas and constituted about 80% of lands in the study areas. The majority of customary lands especially in Accra and Cape Coast had been leased to private individuals. The implication is that access to customary lands for projects depended on the magnanimity of individual land owners thus limiting the degree of influence of traditional authorities and Metropolitan Assemblies in acquiring land for development projects. The majority of public lands were being encroached upon by private individuals and customary landowners;

- The land tenure system prevailing in all the study areas was characterised by multiple sale of lands to private individuals by families and clans, land litigations, poor documentation of land boundaries and land transactions and encroachment on public lands. The majority of land owners only had registered deeds as evidence of ownership of lands and did not have land title certificates as required by law. This situation can be attributed to poor knowledge of the essence and process of acquiring land title certificates and the bureaucratic nature of the process for acquiring land titles;
- The role of land sector agencies in facilitating access to lands and harmonious physical development in urban areas was derailed by institutional capacity constraints with regards to human resources, equipment, logistics and financing;
- Challenges with land tenure systems in urban areas had resulted in delays in project implementation and confrontation among land owning groups. There were instances where problems with land tenure had resulted in additional costs being incurred in the implementation of projects.

The study recommends that the following proposals should be considered by WaterAid Ghana in planning and implementing subsequent interventions in urban areas in Ghana:

- An elaborate consultation process with all stakeholders (landowners, land sector agencies, District Assemblies, sub district structures, residents and traditional authorities) should be carried out at the design stages of a proposed intervention. This would ensure that the interest of all stakeholders are adequately addressed in the design of the project;
- Adequate investigations on the ownership status of proposed lands for development projects should be conducted at the relevant land sector agencies i.e. Land Title Registry and Lands Commission Secretariat to ascertain the legitimacy of the ownership of land for a particular project prior to the design of the project. Where investigations do not establish clear ownership of a given land, an alternative site should be explored;
- Existing formal decentralised structures i.e. MMDAs and sub district structures and traditional authorities, where available should be used as an entry point in accessing land for projects. The study has established that lands were sometimes acquired by MMDAs or traditional authorities for NGOs and other philanthropic organisations free of charge in anticipation of the expected benefit(s) from the intervention;

- WaterAid Ghana and its implementing partners should get prospective MMDAs under whose jurisdiction a proposed project is to be undertaken, to sign a memorandum of understanding that commits the MMDAs to lead the process in acquiring land for the proposed project. This will facilitate the process in acquiring land for subsequent interventions in urban areas;
- Adequate sensitisation through public fora and dialogue sessions should be carried out in the beneficiary communities during the design and implementation stages of an intervention. The forum should target all interest groups within the community with a view to eliciting broad support for the implementation of the project. Community members could avert confrontations over the ownership of land where they are adequately sensitised about a project and its implementation modalities;
- Adequate modalities for detecting and resolving confrontations over the ownership of land should be identified and built into the design of projects in urban areas. It is important to establish clear “early warning signals” of impending conflict(s) over the ownership of land for a project and how these conflicts can be resolved. Examples of the “early warning signs” include threat by a faction/group/individual claiming ownership of a given land, evidence of the falsification of land documents and evidence of existing or previous conflict/litigation over the ownership of a given land.
- Adequate time should be allocated for the conduct of baseline studies and design of projects prior to implementation of interventions involving the provision of social amenities including water and sanitation facilities in urban areas. The essence is to allow for broad consensus among all stakeholders – traditional authorities, land owners, MMDAs, land sector agencies and community members - on the selection of a suitable location for the intervention. This would also allow issues regarding land tenure to be thoroughly investigated and addressed prior to commencement of the project.

Given the impact of land tenure system in urban areas on project implementation, it is further recommended that WaterAid Ghana should play an advocacy role in getting the Ministry of Lands and Natural Resources and other stakeholders to address the following issues in the long term:

- Strengthening the capacity of land sector agencies to ensure effective land management in urban areas;
- Strengthening the capacity of MMDAs and sub district structures;

- Simplification of land titling process in order to encourage existing and prospective land owners to acquire land title certificates;
- Supporting the institutionalisation of participatory land management through the establishment and resourcing of customary land secretariats;
- Enhancing public awareness on land acquisition and titling process through public education; and
- Facilitating the establishment of special land courts at the regional and district levels and encouraging the use of alternative dispute resolution mechanisms to resolve land disputes.

1 Introduction

1.1 Introduction and Rationale

The world's population is growing mainly in the South with alarming rates in Africa where the number of people will more than double by the year 2025. Population growth is expected to take place more in urban areas of Africa and Asia. Despite the putative benefits of urbanisation notably reduction in poverty by promoting economic growth, the experience of Sub-Saharan African countries has been worrying. While urbanization in Sub-Saharan Africa over the past 45 years has been accompanied by sluggish economic growth, in Asia, where urbanisation has occurred to a nearly identical extent, economic growth has been rapid (Bloom and Khanna, 2007). Besides, the pace of urbanisation in Africa has not been accompanied by adequate provision of social and economic infrastructure.

In developing countries especially those in Sub-Saharan Africa, it has further been established that even though urbanisation may increase incomes, the phenomenon has been linked to increases in urban poverty (ibid). Because quality urban housing is so costly, the urban poor often resort to living in slum conditions that are crowded and unhealthy. These slums are also poorly serviced with basic public utilities including safe water and sanitation facilities on account of the haphazard nature of their physical environment. This situation has necessitated the fashioning of several interventions by governments, bilateral and multi lateral organisations and non-governmental organisations aimed at improving the living conditions of the poor in urban areas.

WaterAid is a British international charitable organisation founded in 1981 that operates in several countries in Africa (including Ghana) and Asia with a vision in which everyone has access to safe water, adequate sanitation and hygiene promotion services. In response to the rather fast pace of urbanisation and its concomitant effect on access to basic water and sanitation services, the current Country Programme of WaterAid Ghana (2006-2011) has as one of its strategic objectives *“to commit 30% of its beneficiary programme budget to urban projects and will implement this with the aid of an urban strategy”*. The strategy targets among others to reach 80,000 poor and deprived population with sustainable adequate access to safe water, appropriate basic sanitation and hygiene promotion annually by 2011 (WaterAid Ghana, 2006).

In line with this objective, WaterAid Ghana, in collaboration with UN-HABITAT, is currently implementing a pilot project in an urban poor area, Sabon Zongo in Accra. WaterAid

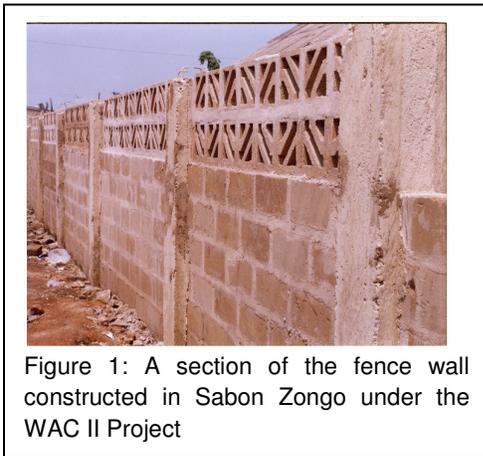


Figure 1: A section of the fence wall constructed in Sabon Zongo under the WAC II Project

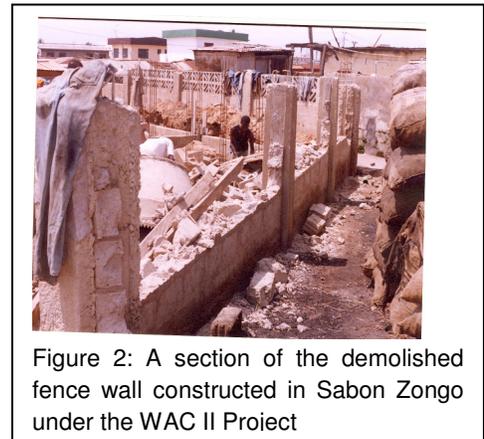


Figure 2: A section of the demolished fence wall constructed in Sabon Zongo under the WAC II Project

intends to use this model project to document and disseminate lessons in order to upscale its urban work in

urban and peri-urban set ups. The project output is made up of construction of:

- a) 2001m length of drains
- b) 2 No. 20-seater Water Closet toilets
- c) 2 No. Toll Booths and
- d) a refuse holding bay.

Source: WAC II Progress Report, June 2008
Progress Report, June 2008

Source: WAC II

The project implementation received active participation from the Accra Metropolitan Assembly and Ablekuma Central Sub Metropolitan Council at all stages. To pave way for the project, the Ablekuma Central Sub Metropolitan Council and community leaders, with support from WaterAid Ghana carried out demolition of unauthorized structures that act as hindrance to project implementation. This project, even though very beneficial to residents of the area has brought to the fore serious land tenure issues that could be associated with projects in urban areas. Construction of civil works on the project in some parts of Sabon Zongo had to be put on hold for a while owing to dispute over the ownership of land earmarked for construction. There was an instance where some individuals demolished certain portions of construction works already carried out under the project as presented in Figures 1 and 2. Experience in the implementation of this project has raised concerns over the role land tenure systems play in the implementation of projects in urban areas.

This assignment is thus commissioned to conduct a study on land tenure systems in urban areas to ascertain the role of stakeholders – local governmental authorities, traditional authorities, individual land owners, land sector agencies and communities - play in accessing land for urban work. WaterAid Ghana, through competitive bidding selected MAPLE Consult to carry out the study. This report is therefore the outcome of the review, analysis and consultations carried out under the study.

1.2 Study Objectives

The objective of the assignment as spelt out in the Terms of Reference (ToR) is to understand the dynamics of land tenure arrangements and their interplays in project implementation in urban areas. The study is also intended to unravel the role of Local Government Authorities (LGAs) or Metropolitan, Municipal and District Assemblies (MMDAs) and Traditional Authorities (TAs) in the release of land for project work in urban setups. The specific objectives of the assignment as outlined in the ToR are to:

- establish land tenure arrangement status and authority levels of various landowners regarding availability of land for project work in urban areas;
- ascertain the level of influence MMDAs and TAs can have on individual landowners;
- determine how land tenure has affected development projects in the past;
- determine level of preliminary work (e.g. advocacy, sensitisation, etc.) required by WAG for smooth implementation of projects in urban areas;
- establish mechanisms that limit land disputes in urban work;
- document communities' preparedness or otherwise to abate land disputes that negatively affect development in their respective areas; and
- provide recommendations to WAG for implementation.

1.3 Research Methodology

The research team adopted an appreciative enquiry methodology in conducting the study given the fact that the study revolves around issues – land tenure systems, processes and procedures that regulate the availability of land for urban work - which are sensitive within the social context of most communities in Ghana. Furthermore, the study employed qualitative data gathering techniques and analysis in the conduct of the study. Data from both primary and secondary sources were also utilised for the study.

The conduct of the study entailed the following key activities:

- review of existing literature on the study concepts
- review of data gathering tools mainly semi- structured questionnaires
- questionnaire administration involving conduct of key informant interviews and focused group discussions with selected stakeholders
- collation, review and analysis of data gathered
- drafting of study report
- conduct of validation seminar
- finalisation of study report and submission

1.4 Limitations of the Study

Access to relevant legislations on land administration in Ghana was a daunting task. The majority of legislations although remained in the statute books for land administration were

difficult to come by. The study team had to rely on a review of such legislations in other land related studies and reports in order to draw relevant conclusions for this study. The study team could not interact with traditional rulers in Tamale due to on-going conflict in parts of the Northern Region including Tamale at the time of the study.

Notwithstanding these limitations, data gathered was substantial enough to arrive at the study conclusions.

1.5 Structure of the Report

The study report is divided into four (4) chapters. Chapter One presents the introduction, objectives, limitations and research methodology employed for the study. Chapter Two reviews existing literature on the key concepts being investigated under the study notably urbanisation and land tenure systems. Chapter Three presents the profile of the study areas and discusses the findings from the study. Chapter Four highlights the key conclusions drawn from the study and outlines recommendations for improving the land tenure systems and for enhancing access to land for urban work.

2 Urbanisation and Land Tenure Systems in Ghana

This chapter attempts to define the key concepts used in this study notably: urbanisation, land administration and land tenure- and reviews existing body of knowledge on the concepts. The literature review also describes the current urbanisation and land tenure systems in Ghana and draws conclusions on their implications for accessing land for urban work.

2.1 Land Tenure Systems in Ghana

Land tenure denotes the system of landholding, which has evolved from the peculiar political and economic circumstances, cultural norms and religious practices of a people regarding land as a natural resource, its use and development. Implicit in this definition are the rules, regulations and institutional structures both customary and enacted legislations, which influence the holding and appropriation of land and its resources for socioeconomic development (Ministry of Lands and Forestry, 2003).

Land tenure in Ghana is generally communal in nature and this has determined the nature of land administration over the years. To the Northern tribes, land is generally believed to be owned by the “Tendaneena” who are fetish priests. In the Akan states, land is regarded as a feminine spirit, “Asaase Yaa”, which in the words of Asiamah (1983) is “helpful when appropriated and harmful when neglected”. Again, in the Akan states, land is seen as an ancestral trust which must be passed on to succeeding generations, with the chief, being the link between the living and the departed, is the administrator of this heritage. To the Ga states, land is said to be owned by the lagoon gods and its administration is in the hands of the “Wulomei”, who are the fetish priests of the lagoon gods. These religious notions of land ownership have doubtlessly determined the administration and manner of usage of land. To a large extent, these underpinnings have gradually been marginalized or even ignored in the urban economy owing to the growth of urbanisation and its concomitant effects of industrialization, education and Christianity (Asiamah, 1983). Nevertheless, the tenurial system of land in Ghana is defined by the 1992 Constitution of the Republic of Ghana. The Constitution recognises two (2) tenurial systems namely: public and customary.

2.1.1 Public Lands

Public lands are vested in the President, on behalf of, and in trust for the people of Ghana based on the relevant provisions of the Administration of Lands Act, 1962, (Act 123). Public lands also include any other land acquired through the State Lands Act, 1962, (Act 125) or through any other statutes, in the public interest. Public lands are administered by the

Lands Commission and its secretariats, as provided in the Lands Commission Act, 1994, (Act 483). Public lands can be grouped into two categories –state lands and vested lands.

State Land - refers to land that the Government has compulsorily acquired for a specified public purpose or in the general public interest by the lawful exercise of its constitutional or statutory power of eminent domain. All previous interests are extinguished and persons who previously held recognizable interests in such lands are entitled by law to compensation either monetary or replacement with land of equivalent value. Laws governing the compulsory acquisition of land by the government include Article 20 of the 1992 Constitution, Administration of Lands Act 1962, (Act 123,) the State Lands Act 1962, (Act 125) the Land Statutory Wayleaves Act 1963, (Act 186) and regulations made under these statutes.

Vested Lands - is a unique situation brought about by statutory intervention where the landowner retains the customary land ownership but the management of the land is taken over by the state in trust for the owners. The management responsibilities cover legal (e.g. prosecution), financial (e.g. rent assessment, collection, disbursement) and estate management (e.g. physical planning and its enforcement and administration of the property). Vested lands are administered under the Administration of Stool Lands Act, 1962 (Act 123) and the Lands Commission Act, 2008 (Act 767).

2.1.2 Customary Lands

Customary lands are lands owned by stools, skins, families and clans usually held in trust by the chief, head of family and clan or fetish priests for the benefit of members of that group. Section 36 (8) of the 1992 Republican Constitution of Ghana recognises customary ownership of land. Private ownership of customary land can be acquired by way of a grant, sale, lease, gift or marriage. Ownership is by way of outright purchase from customary land owners or private individuals. Customary lands support the livelihoods of the majority of the population in the country and therefore sustainable management of such lands is critical to the overall socio-economic development of the country.

2.2 Legal Framework for Land Management

The basic land laws in Ghana are deeply embedded in the socio-cultural systems and political institutions of its indigenous societies, even though they have also been fundamentally influenced by administrative and statutory rules. The legal framework for land administration has developed from colonial times over the years in piecemeal and in an ad hoc manner, in response to specific issues or political dictates. Currently there are over 86 legal instruments on the statute books some overlapping and others conflicting (Ministry of Lands and Forestry, 2003). These laws operate along side customary laws in

the country, creating a plural legal environment for land administration. Key among these laws are:

- Local Government Act, 1993 (Act 462)
- Town and Country Planning Ordinance of 1945 (CAP 84)
- Fourth (4th) Republican Constitution of the Republic of Ghana, 1992
- Administration of Stool Lands Act, 1994 (Act 481) which repealed the Administration of Stool Lands Act, 1962 (Act 123)
- State Lands Act, 1962 (Act 125)
- Deeds Registration Ordinance of 1883
- Land Registry Ordinance of 1895
- Land Registry Act, 1962 (Act 122)
- Land Title Registration Law, 1986 (PNDCL 152)
- Land Title Regulation, 1986 Legislative Instrument (L.I.) 1241.
- National Development Planning Commission Act, 1994 (Act 479)
- National Development Planning (Systems) Act, 1994 (Act 480) and the
- Lands Commission Act, 2008 (Act 767) which repealed the Lands Commission Act, 2000 (Act 483)

2.2.1 Legal Contradictions

The key contradiction in the legal framework for land ownership in Ghana centres on customary ownership and public administration of such lands on the other to the practical exclusion of the customary custodians and land holders. Article 267 (1) of the 1992 Republican Constitution of Ghana states that *“all stool lands shall vest in the appropriate stool on behalf of and in trust for the subjects of the stool in accordance with customary law and usage”*. This implies that the indigenous owners take all management decisions and exercise the powers that go with ownership – the right to own, sell, receive payment, manage, decide on who is allocated a plot, terms, conditions and price for a particular grant, etc. However, Article 267 (2) sets up the Office of the Administrator of Stool Lands (OASL) and charges the office with the collection and disbursements of all stool land revenues, defined to include all rents, dues, royalties, revenues or other payments whether in the nature of income or capital from stool lands. This sharing formula ignores customary land owners who have rights and interest in land throughout the country. It rather transfers all land management functions to the Administrator of Stool Lands.

Article 267(6) further prescribes the formula for the disbursement of the moneys so collected as follows:

“10 percent of the revenue accruing from stool lands shall be paid to the OASL to cover administrative expenses and the remaining revenue shall be disbursed

in the following proportions: twenty-five percent to the stool through the traditional authority for the maintenance of the stool in keeping with its status; twenty percent to the traditional authority; and fifty-five percent to the District Assembly, within the area of authority of which stool lands are situated”

Based on the formula, only 25 percent (out of 90 percent of the price money) is to be paid to the customary landowners whilst as much as 55 percent (out of 90 percent of the price money) is retained by the state. The remaining 20 percent (out of 90 percent of the price money) is paid to the traditional council (which is only an association of heads of traditional groups) where the land is situated. It is difficult to reconcile the idea of traditional rulers owning land and managing it from day to day including its defence in court and sometimes in battle and war whilst all management functions are controlled by state institutions (Kasanga, 2002).

Article 267(3) also provides that 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. This implies that where the Lands Commission is unable to give the requisite certification then any disposition by the indigenous owners is invalid, pushing all such grants into illegality with its consequent development.

Furthermore, Article 267(5) prohibits the grant of freeholds in any stool lands however so described. It is not too clear what the full implications of this clause is, especially the extent to which it affects land rights of subjects of the landowning communities and other customary freeholders. But if the meaning of the clause is to be taken at face value, then all customary freeholders of stool lands and ‘strangers’ (absolute purchasers or renters) are being turned into tenants of the chiefs as landlords.

Another area where a legal contradiction exists is with respect to the control of physical development. Even though the Local Government Act, 1993 (Act 462) grants MMDAs the power to demolish unauthorised physical development, Section 9 of the National Building Regulations (LI 1630) gives a developer the power to proceed with development where approval for development is not given within three (3) months of the date of application. This provision creates some practical difficulties with the exercise of development control functions by MMDAs.

Again, while the National Development Planning (Systems) Act, 1994 (Act 479) elaborates the framework for decentralised planning in Ghana including physical/spatial planning, its

provisions and plan preparation processes are at variance with the provisions in the Town and Country Planning Ordinance of 1945 (CAP 84). In addition, while Act 462 recognises MMDAs as planning authorities within their respective areas of jurisdiction, there is no subsidiary legislation spelling out physical planning functions and standards. In the performance of planning functions, MMDAs have had to rely on CAP 84 which is outmoded and at variance with processes under Act 462.

2.3 Institutional Framework for Land Administration in Ghana

The institutional framework for land administration in Ghana depicts varied levels and functions. There are currently three (3) ministries¹ and six (6) independent agencies playing various roles in the land sector in Ghana. The three ministries are

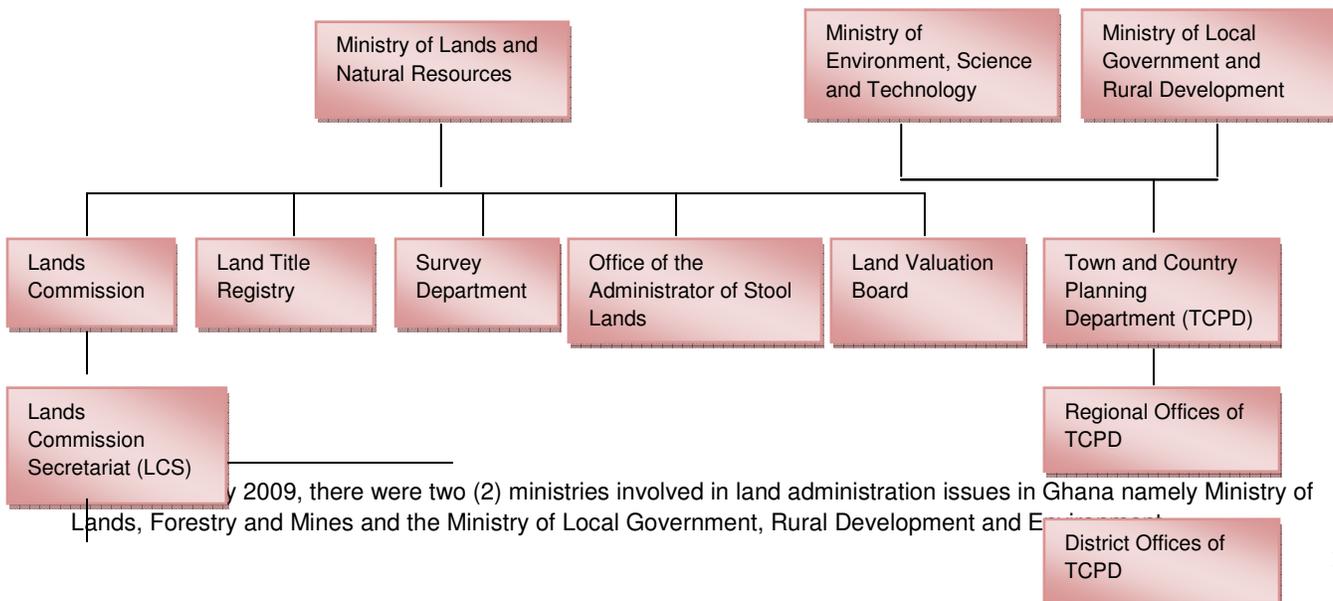
- a) Lands and Natural Resources
- b) Local Government and Rural Development
- c) Environment, Science and Technology.

The six (6) land sector agencies currently operating in Ghana are:

- a) Lands Commission Secretariat
- b) Land Title Registry
- c) Survey Department
- d) Office of the Administrator of Stool Lands
- e) Land Valuation Board
- f) Town and Country Planning Department.

The institutional framework within the land sector Ghana is captured graphically in Figure 3.

Figure 3 Overview of Institutional Framework for Land Administration in Ghana



By 2009, there were two (2) ministries involved in land administration issues in Ghana namely Ministry of Lands, Forestry and Mines and the Ministry of Local Government, Rural Development and E

Source: Adapted from Karikari, 2006:19

2.3.1 Ministry of Lands and Natural Resources

The Ministry of Lands and Natural Resources is the sector ministry responsible for broad policy formulation, planning and implementation of interventions in the land sector in Ghana. Apart from the Town and Country Planning Department, all the five (5) other land sector agencies report to the ministry in their activities.

2.3.2 Ministry of Environment, Science and Technology

The Ministry of Environment, Science and Technology is responsible for designing and implementing policies and programmes that would improve and maintain congenial environmental conditions in the country. Accordingly, the ministry is also responsible for ensuring orderly physical development in view of their implications on the environment. The ministry provides oversight responsibility for the operations of the Town and Country Planning Department at the national or policy level.

2.3.3 Ministry of Local Government and Rural Development

The Ministry of Local Government and Rural Development is the sector ministry responsible for implementing policies, plans, programmes and project under Ghana's decentralisation programme. The Local Government Act, 1993 (Act 462) mandates Metropolitan, Municipal and District Assemblies as planning authorities responsible for planning the physical development including land use in their respective areas of jurisdiction. The ministry supervises the activities of the Town and Country Planning Department at the implementation level i.e. the regional and district level.

2.3.4 Lands Commission Secretariat

The Lands Department, which was later transformed into the Lands Commission, was first created out of the Lands Section of the Survey Department in 1928. The Lands Department metamorphosed through many stages to become the present Lands Commission. The commission operated under the Lands Commission Act, 1994 (Act 483) with the advent of the 1992 Republican Constitution. Article 258 (1) of the 1992 Constitution spells out the functions of the Lands Commission to include keeping records of all land transactions. The

Lands Commission Secretariat furnishes the Land Title Registry with records of all transactions on a given land before a land title registration certificate can be granted. Some constraints the Lands Commission Secretariat has to contend with include: inadequate skilled personnel, frequent political interference in its activities, inadequate logistics and support services, poor remuneration and low morale among staff of the commission.

In December 2008 a new Lands Commission Act, 2008 (Act 767) was enacted. The Lands Commission Act, 2008 (Act 767) formalises the merger of some major land sector agencies namely Survey Department, Land Title Registry, Land Valuation Board and Lands Commission Secretariat into one umbrella body known as the Lands Commission. This “new” Lands Commission, which functions with four divisions under it, is a departure from the previously known Lands Commission. The four divisions of the new Lands Commission are:

- Public and Vested Lands Management Division;
- Survey and Mapping Division;
- Land Valuation Division; and
- Title Registration Division

As at the time of conducting this study, none of the provisions in Act 767 including the re-alignment of the land sector agencies had been implemented.

2.3.5 Land Title Registry

The Land Title Registry is the outfit established by the Land Title Registration Law, 1986 (PNDC² Law 152) to provide a machinery for the registration of title to land and interest in land. The Land Title Registry is legally mandated to compile and maintain a register of title to land. Land Title Registration was introduced to address the weaknesses under deed registration and to put in place a systematic and compulsory registration of all interests in land throughout Ghana. The purpose of title registration is to give certainty to ownership and to facilitate proof of title to make dealings in land safe, simple, cheap and to prevent fraud.

There are presently twenty-two (22) declared land title registration districts³ in Ghana. To date, the whole of the Greater Accra Region (with the exception of parts of Ada) and parts of Kumasi in the Ashanti Region have been declared registration districts.

² PNDC is the acronym for the Provisional National Defence Council, the military government that ruled Ghana from 31st December 1981 to 6th January 1992.

³ Under the land title registration system, an area is first declared a title registration district by the Ministry of Lands and Natural Resources. The Registrar of Lands then proceeds to compile a list of land owners with registered deeds within the

The operations of the Land Title Registry are also fraught with several challenges. Notable are: poor collaboration from other land sector agencies who perceive the Land Title Registry as usurping some of their traditional roles; general non-compliance with Section 13 of PNDC Law 152 on conversion of registered deeds to title certificates; inadequate public education on land title registration procedures; inadequate resources for land title registration; and inadequate qualified staff.

2.3.6 Survey Department

The Survey Department was established in 1901 as part of the Mines Department within the framework of the Colonial Civil Service. It became a fully fledged department in 1907. The Survey Department is the sole agency responsible for the preparation of parcels of land and boundary demarcations for land title registration.

The department also faces challenges in its operations. These include inadequate funding, inadequate modern equipment and logistics and inadequate trained staff. The effect is the fact that in several instances, land transactions and development have occurred in areas where base maps have not yet been prepared by the Survey Department. These result in multiple sale of land, haphazard physical development and land disputes.

2.3.7 Land Valuation Board

The Land Valuation Board has no legal instrument that formally establishes it. It operates under Section 43 of PNDC Law 42 (1986). The board is the government's Valuer. The functions of the Board include assessment of land values for stamp duty as a requirement for issuance of land title registration certificates.

The operations of the Land Valuation Board is also fraught with several challenges notably: lack of an enabling legal instrument that mandates the Board to perform its functions; inadequate human resources and logistics to support its operations; and low staff morale.

2.3.8 Office of Administrator of Stool Lands

Article 267 (2) of the Fourth (4th) Republican Constitution of Ghana established the Office of the Administrator of Stool Lands. The office is mandated to establish a stool land account for each stool; collect stool land revenue and account for same to the beneficiaries; disburse stool land revenue in accordance with a formula prescribed by the Constitution and to consult with the Lands Commission, stools and other traditional authorities in all

declared district and invites all owners to submit their deeds for registration to enable the Registrar of Lands to convert the deeds into titles within 80 days.

matters relating to the administration of stool land and make available to them all relevant information and data.

The Office of the Administrator of Stool Lands does not have adequate skilled manpower to carry out its mandate. The existence of several protracted land disputes and indeterminate boundaries among stools is a major challenge to the operations of the Office of the Administrator of Stool Lands.

2.3.9 Town and Country Planning Department

The mandate of the department is derived from five (5) legal instruments namely: Local Government Act, 1993 (Act 462), National Development Planning Commission Act, 1994 (Act 479), National Development Planning (Systems) Act, 1994 (Act 480), National Building Regulation, 1996 (LI 1630) and Town and Country Planning Ordinance, 1945 (Cap 84).

The Town and Country Planning Department, which is currently one of the decentralized departments under the Metropolitan, Municipal and District Assemblies, is charged with the preparation of planning schemes and setting of planning standards and regulations in Ghana.

The challenges of the department include incoherence of various planning laws and regulation for physical planning in Ghana, inadequate skilled manpower, inadequate office equipment and logistics. Although the department is supposed to have offices in all the 170 Metropolitan, Municipal and District Assemblies (MMDAs), only 80 of them have offices. In the remaining MMDAs without offices, the planning functions are performed by the Regional Town Planning Officers with assistance from Technical Officers who have little or no training and experience in planning (Ministry of Lands, Forestry and Mines, 2007).

2.4 Policy Framework for Land Administration in Ghana

2.4.1 National Land Policy

It was not until 1999 that the Government of Ghana developed for the first time a National Land Policy. The long term goal of the government's land policy is to stimulate economic development, reduce poverty, promote social stability by improving security of tenure, and simplifying the process of accessing land which would make it fair, transparent and efficient and to develop an efficient land market. The objectives of the National Land Policy are:

- ensuring that Ghana's international boundaries are maintained at all times and cross border activities are managed jointly;
- ensuring that shared water bodies are utilised to the mutual benefit of all stakeholder countries;

- ensuring that every socio-economic activity is consistent with sound land use through sustainable land use planning in the long-term national interest;
- facilitating equitable access to and security of tenure of land based on registered titles;
- protecting the rights of landowners and their descendants from becoming landless or tenants on their own lands;
- ensuring the payment, within reasonable time, of fair and adequate compensation for land acquired by government from stool, skin or traditional council, clan, family and individuals;
- instilling order and discipline into the land market to curb the incidence of land encroachment, unapproved development schemes, multiple or illegal land sales, land speculation and other forms of land racketeering;
- minimising and eliminating where possible, the sources of protracted land boundary disputes, conflicts and litigations in order to bring their associated economic costs and socio-political upheavals under control;
- creating and maintaining effective institutional capacity and capability at the national, regional district and where appropriate, community levels for land service delivery;
- promoting community participation and public awareness at all levels in sustainable land management and development practices to ensure the highest and best use of land, and thereby guaranteeing optimum returns to land;
- promoting research into all aspects of land ownership, tenure and the operations of the land market and the land development process; and
- ensuring continuous education of the general public on land matters.

Ultimately, the policy aimed at improving access to reliable and quality database to ensure harmony in the administration of lands in the country.

Commenting on the National Land Policy, this is what Kasanga (1999) had to say:

“The New National Land Policy is an important and timely Government intervention. The Policy document duly appreciates the onerous problems and constraints of the land sector. What is not apparent is the economics of the new Land Policy including its: costs and/or opportunity costs, benefits and target beneficiaries; implementation programme, machinery and time scale; sources of funding and effects on the national budget; Policy instruments towards amicable resolution of accumulated and outstanding land disputes, court cases, compensation claims, e.t.c.; monitoring indicators for success or failure; socio-cultural underpinnings”.

The National Land Policy also recognises the need for a decentralised and participatory land use planning and management system. This rider is however yet to be actualised.

2.4.2 National Spatial Development Policy

The National Development Planning Commission is currently coordinating research and policy work on human settlements as an input to the development of the National Development Plan (2006-2015) and thus preparing a National Spatial Development Policy as part of this plan. The National Spatial Development Policy would among others, seek to rationalise land tenure systems and land use planning in Ghana and also address challenges with urbanisation. The policy would also address challenges with urbanisation in Ghana.

2.4.3 Growth and Poverty Reduction Strategy II

Ghana's development blueprint over the period 2006-2009 is captured in the Growth and Poverty Reduction Strategy (GPRS) II. A review of the development plan reveals no clear cut policy or programme for land management/land tenure especially within the urban context in Ghana. Rather, issues on land management in the GPRS II relate to reforming the land tenure system with a view to improving access to land for modernising agriculture.

2.5 On-going Interventions in Land Administration in Ghana

2.5.1 Land Administration Project

In October 2003, the Government of Ghana launched the Land Administration Project to translate the National Land Policy into concrete action. The overall development objective for LAP is to reduce poverty and enhance economic and social growth by improving security of tenure, accelerating access by the populace to land and fostering efficient land management by the development of efficient system of land titling, registration and administration, based on clear, coherent and consistent policies and laws supported by appropriate institutional structures. The five primary objectives of LAP are to:-

- develop a clear, coherent and consistent set of land administration policies and laws.
- ensure formal recognition of the right of all categories of land holders and facilitation of recording of these rights in an enhanced and decentralized land administration system.
- establish an efficient decentralized land administration system operating throughout Ghana in accordance with Government policy and compatible with cultural usage and responsive to the needs of the people, within a self sustaining financing mechanism;
- establish an up to date efficient land information system that supports good land records management and transparent transactions in land; and

- develop a well functioning land market operating in both urban and rural areas.

The Land Administration Project is of a 15 to 20 year duration to be implemented in five (5) year phases. Recognising that Ghana has moved towards increasing use of digital technology and Geographical Information Systems, one of the components of the project entails the design of a structured computer-based Land Information System that would improve land administration, valuation and management. The project also has a Land Use Planning and Management component which seeks to improve physical development and settlement planning in Ghana. The project is funded by the Government of Ghana, Nordic Development Fund, World Bank, Canadian International Development Agency (CIDA) and Department for International Development (DFID) of the United Kingdom.

2.5.2 Ascertainment of Customary Law Project

The Ascertainment of Customary Law Project, a joint research project established by the National House of Chiefs and the Law Reform Commission with support from the Good Governance Programme of the German Development Cooperation (GTZ), has as its purpose, the ascertainment and codification of customary law on land and family law in Ghana. The project appreciates challenges with tenure on customary lands and its concomitant effects. Considering the wide range of variants of local land tenure practices applicable in the various geographical and ethnic communities in Ghana, there is the need to agree on a uniform terminology with regard to land administration. The meanings of key concepts such as “allodial title”, “usufructuary interest”, “freehold”, among others are to be ascertained and documented as part of the basic terminology applicable in land tenure administration in Ghana. The outcome of the study will be fed into the establishment of Customary Land Secretariats under the Land Administration Project. The project is being piloted in twenty-two (22) traditional areas-two from each of the ten (10) administrative regions of Ghana.

2.6 Definition of Urban in the Ghanaian context

The definition of an urban area varies from one country to the other. The parameters for defining urban areas have included among others, the population of the area, availability of social and economic infrastructure and functionality of the settlement. Within the Ghanaian context, the Local Government Act, 1993 (Act 462) stipulates the establishment of urban, town and area councils within the institutional framework for local governance in Ghana. The law further stipulates that a settlement shall be classified as urban when it has a population of over 15,000. Besides this definition, district capitals are also perceived as urban centres by virtue of the functions they perform (Republic of Ghana, no date). These two positions offer legal and functional definitions of urban areas in Ghana.

2.7 Urbanisation Trends

In 2008, for the first time in history, more than 50% of the world's population were living in urban rather than rural areas, according to a projection by the UN (Bloom and Khana, 2007). The urban share of the global population is estimated to reach 60% by 2030. Most of the growth in the urban population is estimated to be occurring in developing countries. Some 75% of city dwellers are expected to live in developing countries (especially those in Africa and Asia) - a figure that is expected to rise to 80% by 2030. The most urbanised region in the developing world is Latin America and the Caribbean, with 77% of the population or 432 million people living in cities. Asia has the largest urban population of about 1.6 billion people although only 40% of its population is urbanised (ibid).

Although Africa remains the world's least urbanised region with only about 30% of its population living in urban centres, it is currently experiencing the world's highest urbanisation rates averaging around 5% (Obudho and Juma, 2002). Urban growth in most countries in Africa is occurring in their largest cities. The underlying factor for the rapid urbanisation in Africa is rural-urban migration. Generally, the increasing rate of urbanisation has resulted in increase in demand for land in urban areas. The increase in population has also not been met with commensurate improvement in public services including water and sanitation delivery and appropriate urban planning and management. The resultant effect is manifested in the creation of slums. UN-HABITAT reports that 72% of urban dwellers in Sub-Saharan Africa live in slums, which gives it the second largest slum population in the world after south central Asia. UN-HABITAT statistics are illustrative and shocking: in Zambia 74% of urban dwellers live in slums; in Nigeria, 80 percent; in Sudan, 85.7 percent; in Tanzania, 92.1 percent; in Madagascar, 92.9 percent; and in Ethiopia, an amazing 99.4 percent (Maury, 2007). The largest and most overwhelming slum in Africa is Kibera where between half a million and a million people reside (ibid).

The pace of urbanisation in Ghana has been quite rapid. In 1948, the ratio of the urban population to the total population was 13%. This increased to 31% in 1984 and 44% in 2000. In 1960, about 40% of Ghana's population lived in the three largest cities - Accra, Kumasi and Sekondi-Takoradi) and a further 9% lived in the next four (4) agglomerations – Cape Coast, Tamale, Koforidua and Winneba. Indeed, Accra alone accounts for over 40% of the total urban population (Tackie, 2008). Thus, despite the large increase in the number of urban localities from 39 in 1948 to 364 in 2000, approximately half of the country's population lived in the seven (7) largest urban areas as shown in Table 1 hereunder.

Table 1 Urbanisation Trends in Ghana

Cities	1948	1960	1970	1984	2000
Accra	134,919	347,815	564,194	954,000	1,658,937

Cities	1948	1960	1970	1984	2000
Kumasi	71,436	191,551	293,947	489,586	1,170,270
Sekondi-Takoradi	43,899	85,617	112,056	178,257	289,593
Tamale	-	-	83,617	135,952	202,317
Tema	-	-	60,767	100,052	350,577
Urban Localities	39	98	135	188	364
% Urbanisation	13	23	29	31	44

Source: Republic of Ghana (no date) National Urban Development and Growth Policy-Ghana. Prepared by Urban Development Policy Unit of the Ministry of Local Government, Rural Development and Environment.

The Ministry of Local Government, Rural Development and Environment (as it then was) is currently developing a research programme on urban development and economic growth with financial assistance from the World Bank, DFID and GTZ. The studies would lead to the preparation of a National Urban Development and Growth Policy.

2.8 Conclusions on Urbanisation on Land Management

The implication of rapid urbanisation on land management in Ghana is similar to those of many countries in Sub-Saharan Africa. Given the generally informal land allocation and unplanned physical development, the prevailing mode of settling on virgin land in the urban periphery and of re-densification in the already built up cities is a common feature of most major cities in Sub-Saharan Africa including Ghana. This has culminated in the development of slums and a rather fast pace of physical development on the periphery with generally poor delivery of social infrastructure. This situation affects access to land in urban areas for urban work.

The policy, legal, regulatory and institutional framework regulating land tenure, land use and management in Ghana is confusing and contradictory due to duplication and overlapping of roles and mandates of the institutions charged with the responsibility for planning, use and management of land. A number of legislations on land administration and management in Ghana are outmoded, conflicting and overlapping. For instance, the concurrent operation of Cap 84, Act 462, Act 479 and Act 480 have made the entire process of physical planning cumbersome and confusing. All the laws have different procedures and mechanisms for plan preparation, approval and appeal. While the planning standards and regulations accompanying Cap 84 are old and out of tune with present realities, there is no subsidiary legislation under Act 462 that defines planning standards

and regulations for enforcing the provisions under the law. This renders Act 462 ineffective in managing settlement planning. The implication of this situation is the unplanned nature of physical development in urban areas resulting in inappropriate use and scarcity of land.

The agencies involved in land administration in Ghana have technically been operating manually in an environment beset with conflicting and unreliable data, dubious manipulations of existing data by some recalcitrant staff and tedious retrieval of available information (Karikari, 2 006). Currently, there is virtually no land information system in the country. Apart from the Survey Department and the Lands Commission which have just some digital data, none of the other land sector agencies have the capacity and capability to produce digital data. Impliedly, there is the need to establish or develop computer based land information systems network through re-engineering processes and improving morale of staff.

The outlook for the land sector especially in urban areas in Ghana is bleak. Although the implementation of the Land Administration Project is expected to improve access to reliable and accurate data on land tenure, these interventions have to be complemented with improvement in the quality and adequacy of human resources, equipment and logistics available in the land sector agencies.

3 Profile of Study Areas and Discussion of Findings

3.1 Introduction

This chapter presents the profile of the study areas notably Cape Coast, Tamale and Accra and discusses the findings from consultations with stakeholders.

3.2 Brief Profile of Accra and Sabon Zongo

3.2.1 Accra

Accra is Ghana's political and administrative capital and the largest city in the country. The Accra metropolis has a total land size of 200 square kilometres. Although the 2000 Population and Housing Census puts the population of the Accra metropolis at 1,658,937 with a growth rate of 4%, the working population in the city was estimated at nearly four (4) million in 2008 (Tackie, 2008). The city of Accra has sprawled to an extent that it overlaps into both the Central (Kasoa) and Eastern Regions (Nsawam, Berekuso and Aburi). The increase in population is attributed to rural-urban migration. The geographical coverage of the city has tripled between 1990 and 2007, while population density is on a steady decline – currently about 30% of the figure in 1990, an evidence of the sprawling nature of the city (ibid). There are however significant variations in population density in Accra. Densities exceeding 250 persons/ha were recorded mostly in the dominant immigrant and deprived areas and the oldest parts of Accra such as Accra New Town, Nima, James Town and Ussher Town while densities ranged between 17.5 - 40 persons/hectare in the high-income areas such as Airport Residential Area, North Ridge and East Legon.

The sprawling nature of the growth of the city coupled with the rapid rate of urbanisation has put incessant pressure on access to land for housing and other purposes culminating in the creation of slums and rapid expansion in physical development along the periphery of the city. Describing the current state of the city of Accra, Bentil (2008) concluded that *“the city of Accra is today congested and sanitation conditions prevailing in most parts of the city is poor and slums such as Sodom and Gomorrah, Abuja at the Ghana Cocoa Board (COCOBOD), formerly Cocoa Marketing Board (CMB), and even areas which were planned, including Adabraka, Mamprobi and Chorkor, are a common sight”* (Bentil, 2008).

Given the challenges with the management of Accra, the geographical size of the city has been reduced with the creation of new municipal areas and districts which hitherto used to be part of Accra. These areas include Weija Municipal area, Tema Metropolis, Ledzokuku Krowor Municipal area, Ashiaman Municipal area and Adenta Municipal area.

3.2.2 Sabon Zongo

Sabon Zongo⁴ was founded in the first decade of the 20th century as a refuge for Hausas wanting to get away from religious squabbling of Accra's downtown Muslim community. It is a relatively small low-income community which is bordered in the North by Ogbologo road, to the South by Market Lane, to the East by Ring Road and to the West by the Link Road. The area slopes from Link Road towards the Ring Road West. Sabon Zongo covers an area of approximately 0.426 square kilometres. Sabon Zongo recognises and functions under two (2) traditional chiefs. While the community is represented by these two (2) chiefs with stool names, it is under the overall traditional jurisdiction of the Ga Traditional Council.

The population of Sabon Zongo in 1970 was 24,000. According to the 2000 Ghana Population and Housing Census, the population reduced to 18,616 and is estimated at 10,481 as at 2007 (WaterAid Ghana and UN-HABITAT, 2007). The reduction in the population of the area can be attributed to the following factors:

- re-demarcation of the community's geographical boundaries which resulted in a reduction in geographical size of the area;
- migration of people from Sabon Zongo to other communities including Kasoa, Sukura and Madina due to the high crime rate and poor infrastructure coupled with the deprived nature of the community;
- inadequate and poor housing for residents, especially the active labour force;
- improvement in social and economic status of people who did not find it desirable to live in a slum;
- limited land space for incremental housing development; and
- people's desire to own a house/landed property.



Figure 4: A section of the drainage system at Sabon Zongo

The community is densely populated and characterised by poor social infrastructure - poor housing, inadequate potable water and sanitation facilities and unplanned physical development. The concomitant effect is competition for limited land for housing and the provision of social amenities. The drainage system in the area as at the time of the study had received a major facelift⁴ under the intervention by WaterAid Ghana and UN-HABITAT under the Water for Africa Cities Programme Phase II as depicted in Figure 4.

⁴Zongo is the Hausa word for "stranger squatter", found throughout West Africa and typically an agglomeration of Muslim migrants. Sabon Zongo means "new zongo".

3.3 Brief Profile of Tamale

Tamale is the regional capital of Northern Region. The metropolitan area is centrally located in the region and hence serves as a hub for all administrative and commercial activities in the region. The area shares boundaries with Savelugu-Nanton to the West, Yendi to the East and Gonja to the South. According to the 2000 Ghana Population and Housing Census, the population of Tamale was 293,881 indicating an inter-censal growth rate of 3.5%. This is far higher than the national and regional population growth rates of 2.7% and 2.8% respectively. One possible factor for this big difference could be the boundary change of the metropolis since 1984.

With an urban population of 67.1%, the metropolis is the only district in the region which is predominantly urban. The area has a population density of 318.6 persons per square kilometres for the Metropolis is about 12 times higher than the regional average density of 25.9 persons per square kilometres. The metropolis attracts people mainly from the three regions in Northern Ghana in search of higher order infrastructure facilities and opportunities for employment. It equally serves as a transit point for people migrating from the three (3) regions in Northern Ghana to Southern Ghana especially Accra and Kumasi. Unlike Accra and Cape Coast which are undergoing rapid expansion especially at the periphery, the settlement pattern of Tamale is dispersed. The expansion of the city is clustered at selected suburbs in the city.

3.4 Brief Profile of Cape Coast

The Cape Coast Metropolitan area is bounded on the South by the Gulf of Guinea, to the West by the Komenda Edina Eguafo Abrem Municipal area, to the East by the Abura Asebu Kwamankese district and to the North by the Twifo Hemang Lower Denkyira district. The municipal area covers an area of 122 square kilometres and is also the regional capital of the Central Region. The population of Cape Coast, according to the 2000 Population and Housing Census was 118,108 with a population growth rate of about 3%. The expansion of the town has virtually engulfed Pedu and Abura - previously satellite villages to the urban area. The rapid expansion in the physical development of the town is constrained by limited access to land for livelihood activities. This situation is further compounded by the hilly and undulating topography of Cape Coast.

3.5 Comparison of Study Areas

The profile of the three study areas reveals significant similarities and differences with regards to the nature of population growth and physical development in relation to access to land as indicated in Table 2 overleaf.

Table 2 Comparison of Study Areas

Study Area	% Population Growth Rate (p.a)	Causes of Population Growth	Nature of physical development	Implications on access to land
Accra	4%	Rural urban migration	High population density in deprived communities and high pace of physical development on the periphery	Relatively difficult to access land
Tamale	3.5%	Rural urban migration, mainly a transit point for movement towards the south	Clustered at selected suburbs of the city	Relatively easier access to land
Cape Coast	3%	Rural urban migration	Rapid expansion towards peripheral areas of the city	Relatively easier access to land

Source: Author's Construct

3.7 Status of Land Tenure Arrangement in Study Areas

The status of land ownership in the study areas especially Accra/Sabon Zongo is puzzling and is characterised by improper documentation of land transactions and boundaries, encroachment on public lands, multiple sale of lands and intractable land disputes. The ownership of land was predominantly customary in all the study areas. These lands were exclusively vested in the stool with the subjects enjoying rights to beneficial users or usufruct, to right to occupy, fill or otherwise enjoy any un-appropriated parties of the stool land. However, rapid urbanisation occurring in almost all the study areas and its accompanying increase in demand for land had resulted in the sale of lands to private individuals. Comparatively, ownership of lands by private individuals was most predominant in Accra as compared to Tamale and Cape Coast.

Customary ownership of land was predominant in all the study areas. In Cape Coast and Tamale, traditional authorities still owned a substantial proportion of lands while in Accra (including Sabon Zongo), the majority of customary lands had been leased to private individuals. The land tenure system in the three study areas especially in Accra was characterised by improper documentation of land transactions and boundaries, encroachment on public lands, multiple sale of lands and intractable land disputes.

Although there were reported cases on improper documentation, encroachment of lands and land litigations in Tamale, these were on a marginal scale. This situation makes access to land for urban work comparatively difficult in Accra as compared to Cape Coast and Tamale.

3.7.1 Role of Traditional Authorities

By virtue of the customary ownership of the majority of lands in urban areas, especially in Tamale and Cape Coast, the traditional authorities played a key role in facilitating access to land for urban work. In Cape Coast, it was revealed that by virtue of the fact that the majority of lands are under the customary land tenure system, about 50% of the lands in the area currently belong to the traditional authorities. Ownership of these lands is vested in the stools with the subjects enjoying usufructuary interests.

In Tamale, the study revealed that ownership of lands is vested in the Tendaneena. It came to light that Tamale lands were vested in the late Ya-Na Yakubu Andani. Upon his demise, no one had been granted the mandate to release land for any development project or for private use. Hitherto, lands had been released by the traditional authority for development projects. Lands had been acquired by private treaty for the construction of schools and hospitals. Although the majority of lands in Accra were also under customary tenureship, the majority of these lands had been leased to individuals.

The degree of influence of traditional authorities over individual land owners is marginal when such lands are sold to private individuals. It was reported that in such instances, the traditional authorities resorted to dialogue with individual land owners to secure such lands for development work. However, adequate compensation mostly in the form of cash payment or an alternative suitable land is given to the affected individuals.

Compensation is normally paid for acquisition of land especially by the central government and District Assemblies when customary lands were acquired for development projects. There were however delays in the payment of compensation which in several instances resulted in confrontation between traditional authorities and government. It was reported that in the case of interventions by NGOs and other philanthropic organisations, lands were released by the traditional authorities free of charge in anticipation of the expected benefit from the intervention.

Poor documentation of land boundaries and land transactions had been the source of several land litigations and disputes among traditional authorities and individual land owners in all the study areas. In a discussion with selected land owners in Accra, Tamale and Cape Coast, the study team observed that the majority of the respondents only had

registered deeds. They did not have land title certificates. They attributed their inability to acquire land title certificates to the long and tortuous bureaucratic nature of the procedure for acquiring land title certificates. Most of the land owners interviewed did not appreciate the need to acquire land title certificates. The procedure for acquiring land title certificates is enumerated hereunder:

- *Applicant obtains appropriate registration forms from the Land Title Registry, completes and submits them to the Registry together with copies of all relevant documents and the required registration fees;*
- *Upon submission of application, an applicant is issued with:*
 - (i) a receipt of acknowledgment (“yellow card”) and*
 - (ii) a letter of request addressed to the Survey Department for the preparation of parcel plans;*
- *Applicant pays for and collects parcel plans from the Survey Department whenever they are ready and submits them to the Land Title Registry to assist in the processing of the application;*
- *From the Land Title Registry, the applicant is issued a photocopy of the parcel plan together with a Request Form to be sent to the Lands Commission for a search report;*
- *Upon receipt of the search report by the Land Title Registry, and satisfying itself that there are no objections or adverse findings in the report, the Registry then proceeds to publish the application in the dailies to notify the general public of such application.*
- *After publication, a period of fourteen days is allowed to receive objections from interested parties who may wish to challenge the application. If no objections are received within the fourteen-day period, the Land Title Registry then continues with the process of registration;*
- *The Land Title Registry prints and signs certificates, records particulars on sectional plans and notifies the applicant of the completion of registration exercise. The Land Title Certificate is finally issued to the applicant upon submission of his/her “yellow card”.*

According to the Survey Department, the preparation of parcel plans and cadastral plans takes about 3 to 12 months to complete resulting in undue delay in the land title registration process. The Land Title Registry has no control over this vital input as the Survey Department is the only legally mandated institution to undertake this activity. Similarly,

request for search reports from the Lands Commission by the Land Title Registry often delays thus making the entire registration process cumbersome.

3.7.2 Role of Metropolitan/Municipal/District Assemblies

The Local Government Act, 1993 (Act 462) provides the institutional and legal framework for Metropolitan Assemblies (MAs) giving them executive and deliberative powers to plan for the overall development of their MAs. The law recognises MAs as the planning authority at their respective areas of jurisdiction and grants powers relating to granting of development permits; and enforcement of development control measures and strategies including the power to alter, remove, prohibit or demolish any development undertaken without a permit. Act 462 also recognises that the ownership of land does not vest in the owner the right to use it for any purpose since land use must be subject to public interest. The law, in recognition of this policy provides avenues through which compensation is made to persons affected by the MAs authority to decide on land use.

The power of MAs to abate unauthorised development is to some extent in conflict with Section 9 of the National Building Regulations (LI 1630). The law gives a developer the power to proceed with development where approval for development is not given within three (3) months of the date of application. This provision creates some practical difficulties with the exercise of development control functions of MAs and partially accounts for encroachment on public lands and inappropriate land use in most urban areas. Interaction with officials of MAs in Accra, Tamale and Cape Coast revealed considerable gaps in their capacity to perform their role as a planning authority. The MAs did not have adequate skilled manpower, equipment and logistics at their respective Town and Country Planning Departments to ensure effective development control.

The MAs acquired lands for development projects mainly through their traditional authorities. Compensation was paid to traditional authorities for these lands. However, where the projects were deemed to be of socio-economic importance to the beneficiary communities, lands were made available to the MA by the traditional authorities gratis. With regards to projects being implemented by non-governmental organisations (NGOs), it was reported that the MAs sometimes acquired lands and paid compensation on behalf of the NGOs as the former's contribution to the project.

The level of influence of MAs over individual land owners was mixed. Although none of the individual land owners interviewed in Accra, Tamale and Cape Coast had any of their lands acquired for development projects, they indicated their preparedness to give away their lands for development projects upon the payment of adequate compensation. Impliedly,

MAAs could not compel individual landowners to release lands for projects unless adequate compensation was paid.

3.7.3 Sub District Structures

The majority of sub district structures were weak and virtually non-existent and therefore could not play meaningful roles in acquiring land for development work in urban areas. Notwithstanding this situation, the role of the Ablekuma Central Sub-metropolitan Council in the acquisition of land for the provision of water and sanitation facilities under the pro-poor water and sanitation governance component of the UN-HABITAT funded Water for African Cities Project Phase II being implemented in Sabon Zongo deserves commendation. This is an indication of the fact that where sub district structures are available and adequately resourced, these institutions have played a key role in acquiring land for development work in urban areas. Although the Tamale and Cape Coast MAAs had town councils, they lacked the logistics and human resources to plan and initiate development activities including facilitating access to land for development work in their areas of jurisdiction. There were no town councils in the Accra metropolitan area.

3.7.4 Role of Land Sector Agencies

Land sector agencies play a subsidiary role in the acquisition of land for urban work. They provide prospective developers with information of transactions, ownership and use of a given piece of land. In the process of acquiring land for development work, the land sector agencies provide information on ownership and the planned land use of a given piece of land. The essence is to avoid conflicts and ensure that the land is put to its appropriate use. The land sector agencies also assist in the selection of a suitable location for development projects. Where necessary, they facilitate the processing of compulsory acquisition⁵ for development projects such as roads and schools for which compensation valuations are carried out and paid. Delays in payment of compensation often thwart the implementation of projects since the affected land owners take over the ownership of their lands. Inadequate skilled manpower, equipment and logistics have impeded the capacity of the land sector agencies to perform their expected roles in land administration.

3.7.5 Interplay of Land Tenure on Projects in Urban Areas

Evidence from the field work and literature review reveal the impact land tenure systems have on projects in urban areas. Selected examples are documented hereunder:

⁵ The President of Ghana is legally mandated to compulsorily acquire lands for development projects deemed to be in the public interest. The provisions relating to the compulsory acquisition of land and other property are contained in Part 1 of the State Property and Contracts Act, 1960 (CA6), the Land (Statutory Wayleaves) Act, 1963 (Act 186) and the State Lands Act, 1962, (Act 125).

In July 2008, it was reported that construction works on a sanitation projects under WAC II had been delayed:

WaterAid Ghana in collaboration with UN-HABITAT is currently implementing the Water for Africa Cities Project Phase II. One of the components of the programme is pro-poor water and sanitation governance. This component entails the construction of the following water and sanitation facilities clustered in lots hereunder:

- *Lot 1: construction of 20-seater water closet toilet, toll booth, refuse holding bay and fencing for St. Thomas Sanitary Site at Sabon Zongo;*
- *Lot 2: construction of 20-seater water closet toilet, toll booth and refuse holding bay for Laterbiokoshie 2 & 3 and Da-Awatul Primary School; and*
- *Lot 3: construction of 2001m length of selected drains along Hide Lane, Alhaji Avenue and Volta Street.*

In the course of implementing the project, it was reported that under Lot 1, sections of the newly constructed fence wall had been demolished by some community members claiming ownership of the portion of the land. The extent of damage was estimated at GHC 604.80. Research at the Lands Commission and Town and Country Planning revealed that the portion of land did not belong to any of the parties (neither government nor family claiming ownership). It was further reported that the contract for Lot 2 had not been awarded on account of existing land litigation” (UN-HABITAT and Gov’t of Ghana, 2007).

In January 2007, Residents of Lasivenu in the North Tongu district of the Volta Region held up construction works on a water project:

“The Government of Ghana, DANIDA and DFID jointly financed the Three Districts Water Supply Project in the Dangme East and Dangme West districts of the Greater Accra Region and North Tongu district of the Volta Region. The project entailed the construction of a water intake channel and treatment plant at Aveyime to supply potable water to over 120 communities in the three (3) districts. At Lasivenu in the North Tongu district, where a site has been earmarked for construction of one of the storage tanks under the project, the community leadership objected to the carrying out of construction works owing to non-payment of compensation for the land. They indicated that before they signed the indenture on the release of the land, it was agreed that they would be paid an amount of five hundred thousand cedis (¢500,000). Although they signed the document, the money was never paid. The community held up construction works for a while until compensation was paid” (CWSA, 2007).

In January 2008, the “Public Agenda”, a Ghanaian newspaper reported that land disputes were hampering development in Ga East district of the Greater Accra Region:

Disagreements over land ownership have hampered some development initiatives in the Ga East District of the Greater Accra Region, including the construction of a Community Information Centre, Post Office and Hospital. Authorities have claimed that they have encountered difficulties in securing land to site projects which are critical to the development of the area due to ownership struggles. That notwithstanding, a piece of land has been secured with less difficulty at Taifa Burkina, a fast developing community in the district for the construction of the information centre and post office under the auspices of the Ministry of Communication.

On 12th January 2009, Dr. Benjamin Aggrey Ntim, the sector minister, cut the sod for the construction of the project. He was supported by Prof. Mike Oquaye, Member of Parliament for Dome-Kwabanya; Mr. Kofi Allotey, Municipal Chief Executive for Ga East Municipal Area; Mr. Kofi Dua-Adonten, Managing Director of Ghana Post; and other dignitaries. The project is scheduled to be completed within six months at a cost of GHC⁶ 158,976.

Prof. Oquaye, also a Former Minister of Communication is said to have masterminded the project. According to him, securing the land for the project did not come easy at all as land owners elsewhere within the area could not resolve their disagreements over ownership. However, he paid tribute to the chief and elders of Taifa Burkina for making the land acquisition less burdensome. (Asiamah, 2008).

In April 2008, the “Ghanaian Times”, a Ghanaian daily newspaper reported several incidents of fraud in land acquisition in Accra

A total of 188 land cases were filed at the Property Fraud Unit of the Police Criminal Investigation Department in Accra between January and March this year (2008). They are mostly cases concerning fraud and multiple sales of land. Assistant Commissioner of Police (ACP) Alex Amponsah-Asiamah in charge of the unit disclosed this to the Times yesterday (23rd April 2008). He said “every day, the unit

⁶ GHC is an acronym for Ghana’s currency called “Ghana Cedi”.

receives complaints from either individuals, organisations or institutions in relation with land, adding that "such practices deter investors from doing business here."

When contacted, the Regional Lands Officer of the Lands Commission, James Ebenezer Kobina Dadson, said similar complaints have been brought before the Commission and advised potential developers to ensure that they buy land from the appropriate persons and agencies. The Chief Registrar of the Land Title Registry, Mrs Rebecca Sittie, blamed multiple sales of land on some chiefs and family heads, saying that there had been instances when her outfit had to invite two or three parties in order to determine who the rightful owner of a parcel of land is. The Director of Human Resource and Administration of the Land Valuation Board, Mr Mark A.M. Bayor, said that even though the Board's mandate is not related to land sales and registration, management had received reports that some of its staff were involved in such practices, and warned that those caught would be severely punished. He said "In one instance, we had a complaint that one staff member had collected money and documents from somebody with the assurance that she could help him register his titles, although such functions are not within our jurisdiction," she said, adding that "As I speak to you now, the documents of the land cannot be traced and she has not been able to pay back the money she collected from the person." Some aggrieved land owners told the Times at the CID Headquarters that even though they had acquired the land genuinely, they realised later that the land was registered in the name of different person" (Tuffuor, 2008).

In May 2007, the "Ghanaian Times" reported attempts by the Central Regional Minister to address land litigations in the region:

A seven-member committee of eminent citizens on resolution of chieftaincy and land issues in the Central Region was inaugurated here (in Cape Coast) on Tuesday (15h May 2007). The committee, under the chairmanship of His Eminence Peter Cardinal Appiah Turkson, Catholic Archbishop of Cape Coast, is charged with the responsibility of helping to resolve or minimise the level of chieftaincy and land disputes in the region.

The committee, which is the brain-child of the Regional Coordinating Council (RCC), was constituted as a result of the numerous chieftaincy and land disputes which are affecting the region's development. Inaugurating the committee, the Regional Minister, Nana Ato Arthur, expressed concern about the high number of disputes in the region and blamed the region's under development on them. "Our inability to

resolve these disputes does not only deny us effective use of man-hours which are mostly spent in the law courts but also constitute a drain on the scarce financial resources of our people". "Monies meant for development projects were rather used in defraying court expenses, and noted that the absence of peace as a result of the disputes also scared away potential local and foreign investors. The Regional Minister, Nana Ato Arthur said the region's inability to occupy its rightful position in the scheme of national affairs was due to its never-ending chieftaincy and land disputes" (Yarboi-Tetteh, 2007).

Also, on Tuesday 10th March 2009, the "Ghanaian Times" reported that the new Central Regional Minister, Mrs. Ama Benyiwa-Doe, in an address to the Central Regional House of Chiefs in Cape Coast, had proposed the setting up of a committee to address the numerous chieftaincy and land disputes in the region.

3.7.6 Example of Best Practice in Acquiring Land for Projects

There are some notable best practices in the acquisition of land for development projects in urban areas. An example of such best practices is documented hereunder:

PRONET Accra in partnership with WaterAid Ghana has been implementing an integrated water, sanitation and hygiene (WASH) project in Old Ningo in the Dangme West district of the Greater Accra Region:

Old Ningo is a peri-urban community in the Dangme West district of the Greater Accra Region. The project entailed the installation of communal water points connected to Ghana Water Company Limited (GWCL) lines. These facilities were to be managed by local water and sanitation management teams. Acquiring land for the project was challenging. At the start of the project, the facilitators (PRONET Accra) established a good rapport with all relevant stakeholders i.e. traditional authority, District Assembly, Area Council, opinion leaders and the Ghana Water Company Ltd. the facilitators held a series of stakeholder meetings to discuss the project and the roles and responsibilities of all stakeholders. The local water and sanitation management teams (WATSAN committees) played the lead role in identifying a suitable location for the project and negotiating for a release of the land from the customary land owners. The land acquisition process took a fairly long time. The Chief and members of the Area Council at Old Ningo also played active roles in negotiating for the release of the land for the project. Construction works on the project was interrupted at certain stages due to confrontation by aggrieved members of the family that owned the land. Through dialogue sessions involving the chief,

members of the Area Council and WATSAN committee, such disagreements were resolved amicably (Interview with Oduro Donkor of ProNet⁷-Accra).

3.7.7 Mechanisms of Abating Land Disputes

The majority of land disputes in the three study areas were reported at the law courts for settlement. It is thought that land cases account for around 50 per cent of the total cases filed nationally (no recent accurate figures are available) (Wood, 2002). Statistics at the High Court Registry in Accra shows that land litigation ranks first in the number of cases pending at the courts. It is estimated that about 60% of cases filed at the High Courts in Accra were land cases (Interview with Mrs. Mary Amoah of the Judicial Service of Ghana). About 60,000 land cases had been registered in the superior courts in Ghana in 2002 (Ghana News Agency, 2002). The enormity of the situation at the lower courts is captured in the words of Amegatcher (2002): *“as for the lower courts, they are so overwhelmed that they are unable to give the statistical data pertaining to land matters filed and pending before them”*.

The high number of land cases filed and pending at the law courts accounted for the establishment of special land courts at the Accra High Court. Although no current data on cases filed and settled at the law courts in Accra, Tamale and Cape Coast were available as at the time of the study, data from the High Courts in Kumasi, the second largest city in Ghana reflects the situation in urban areas in the country.

In the High Courts in Kumasi, land cases accounted for about 45 per cent of all cases filed over the period 1997 to 2002. More telling, the absolute number of cases filed (and hence pending) increased by 15.7 per cent – and the total number of land cases pending increased by 18.8 per cent over the same period as depicted in Table 3.

⁷ ProNet is an acronym for Professional Network Association. It is an implementing partner of WaterAid Ghana with offices in Accra in the Greater Accra Region and Wa in the Upper West Region of Ghana.

Table 3 Statistics of Cases at the High Courts in Kumasi

Year	1997	1999	2000	2001	2002	Total % increase
Total cases	17,178	17,708	18,413	19,526	19,876	15.7%
New cases	1,948	1,564	1,864	1,725	1,222	
Cases settled	1,157	1,069	1,637	772	582	
Total land cases	7,759	7,739	8,011	9,044	9,214	18.8%
New land cases	445	218	315	389	252	
Land cases settled	117	48	359	65	58	
Land cases as % of total	45%	44%	44%	46%	46%	
% cases settled (total)	6.7	6.0	8.9	4.0	2.9	
% cases settled (land)	1.5	0.6	4.5	0.7	0.6	
% new cases (land)	5.7	2.8	3.9	4.3	2.7	

Source: Crook (2005:5)

The majority of the cases reported at the law courts were unduly delayed. Through discussions with traditional authorities and individual land owners, they expressed their dissatisfaction with settlement of land disputes at the law courts. They cited several instances of land disputes which had been pending in the law courts for several years. According to Wood (2002), the rate of settlement for land cases over the 1998–2001 period fell from 4.2 per cent to 2.6 per cent, and the average minimum time for a litigant who goes through all the levels of the appellate system is between three and five years – but could easily take 15 years. A check at the Accra High Court Registry would reveal that there are land cases filed in the 1960's which are still pending (Amegatcher, 2002). The problem is a combination of large numbers of suits being filed and incapacity to handle the case load expeditiously, causing a huge backlog of unheard cases.

There were instances where land litigants had opted for “out of court settlement” of land disputes. In Accra for instance, the Ga Traditional Council plays a mediator role in the resolution of several land disputes within Accra and in the Greater Accra Region. Conflicts among individual land owners were sometimes resolved by traditional authorities especially where the said land is within their customary boundaries. The rate of “out of court settlement” or the use of Alternative Dispute Resolution (ADR) of land disputes was fairly low and is estimated at about 5% (Wood, 2002).

4 Conclusions and Recommendations

4.1 Conclusions

The above analyses point to a number of conclusions in terms of the interplay of land tenure issues in urban work:

- rapid urbanisation in the three (3) study areas had resulted in an increase in demand for land for housing and other purposes. This had resulted in the creation of an urban sprawl especially in Cape Coast and Accra with rapid physical development occurring at the peripheral areas of these cities.
- customary land ownership is predominant in the three (3) study areas and constitutes about 80% of lands in urban areas. The majority of customary lands especially in Accra and Cape Coast had been leased to private individuals. The implication is that access to customary lands for projects depended on the magnanimity of individual land owners. The majority of public lands were being encroached upon by private individuals and customary landowners;
- the land tenure systems prevailing in all the urban areas under the study are characterised by multiple sale of lands to private individuals by families and clans, land litigations, poor documentation of land boundaries and land transactions, encroachment on public lands. The majority of land owners only had registered deeds as evidence of ownership of lands and did not have land title certificates as required by law. This situation is attributed to poor knowledge of the essence and process of acquiring land title certificates and bureaucratic nature of the process;
- the role of land sector agencies in facilitating access to lands and harmonious physical development in urban areas is derailed by challenges relating to inadequate skilled manpower, equipment, logistics and funding; and
- challenges with land tenure systems in urban areas have resulted in delays in project implementation. There are instances where problems with land tenure had resulted in additional costs being incurred in the implementation of projects.

4.2 General Recommendations

The study reveals several areas of collaboration and capacity building among WaterAid Ghana and its implementing partners, other Development Partners, Ministry of Lands and Natural Resources, MMDAs, land sector agencies and Traditional Authorities in their quest

to enhance access to land for urban work. This section suggests a number of recommendations to this effect.

4.2.1 Support for Institutionalising Participatory Land Management

WaterAid Ghana should work with other Development Partners and the Ministry of Lands and Natural Resources towards facilitating the institutionalisation of participatory land management in all traditional areas with a view to enhancing active grass root participation in land administration and to lessen the burden of land administration on the land sector agencies. This would enhance access to land for urban work. In this regard, the Land Administration Project should expedite work on the establishment of Customary Land Secretariats in all traditional areas throughout the country

Given the inherent capacity weaknesses of the Metropolitan/Municipal/District Assemblies together with the land sector agencies in the area of funding, personnel, equipment and logistics, it would be inappropriate to leave all land management functions to them. The active involvement of local communities in land management would go a long way to relieve the land sector agencies and MMDAs of most of the burden in land administration. Stocking (1996:24-25) and Aidoo (1994:4) in Kasanga (2002) have outlined several principles of participatory land management. These include:

- local communities are fully and actively involved in the analysis of their land management problems.
- an external support organisation is a facilitator of analysis and a catalyst for action. For sustainability, it may assist with creation of local institutions and user groups to manage aspects of the land (natural resource); and encourage such institutions to develop their own procedures, rules, capital and operating criteria in order to ensure continuity after external support withdraws.
- encourage a greater understanding of land transactions
- carry out participatory town/district mapping and land use planning in collaboration with local groups; and
- institute a participatory monitoring approach to guide the implementation of the plan

In this regard, we propose that the Land Administration Project should expedite action on the establishment of Customary Lands Secretariats in all traditional areas across the country. To date, only ten (10) Customary Land Secretariats have been established throughout the country (Nyanney, 2007). The establishment of Customary Land Secretariats would promote community participation in land management. Since the constitution rightly acknowledges customary land ownership (lands owned by chiefs, queen

mothers, families e.t.c.), it is only fair and logical that customary land owners are legally allowed to play their legitimate land management functions.

Community Land Secretariats backed by their own hired professionals should be given the mandate to lease lands (within the broad framework of existing legislation, statutory planning e.t.c.) for housing and development work and to exercise development control.

4.2.2 Establishment of Special Land Courts and encouraging the use of alternative dispute resolution mechanisms

The Ministry of Lands and Natural Resources and the Ministry of Justice and Attorney General's Department should expedite action on the establishment of special land courts at the national, regional and district levels to ensure the speedy settlement of land disputes at the law courts. WaterAid Ghana together with other Development Partners should play an advocacy role in getting the ministries to establish these special courts to ensure speedy resolution of land cases. In addition, alternative dispute resolution mechanisms should be encouraged by establishing Customary Land Secretariats in all traditional councils.

Although the need to establish special courts to deal with land issues at all district, regional and national levels has been recognised, it has not received the necessary impetus. The Chief Justice, Mrs. Georgina Wood in 2009 inaugurated a Court of Appeal in Kumasi with a special court for land issues. These special courts could ensure speedy resolution of land litigations at the law courts. Out of court conflict resolution mechanisms” especially the use of the various traditional councils, chieftaincy secretariats and other local arbitration institutions should be promoted and strengthened. The Asantehene, Otumfuo Osei Tutu II's example of authorising all land disputes in the Kumasi Traditional Council area to be withdrawn from the regular courts for traditional court settlement is worth emulating nationwide. The Ministry of Lands and Natural Resources should expedite action on the establishment of Customary Land Secretariats in all the traditional councils throughout the country. These secretariats should be adequately resourced to resolve land disputes in their respective areas of jurisdiction.

4.2.3 Public Education on Land Acquisition and Titling Procedures

The Ministry of Lands and Natural Resources in conjunction with all the land sector agencies should design and implement appropriate public awareness creation programmes to educate existing and prospective land owners on the procedures for acquiring and duly registering lands in the country. WaterAid Ghana together with other Development Partners

should play an advocacy role in getting the ministry and land sector agencies to carry out this intervention.

There is the need to design a well targeted public awareness creation programme to educate existing and prospective land owners on the appropriate procedures for acquiring and registering their lands. The procedures for acquiring land should be simplified and translated into local languages. This would contribute to bridging the wide communication gap between the land sector agencies, traditional authorities, communities and the general public. Public awareness of the laws and the due procedures for acquiring and using land could reduce land litigation and enhance access to land for urban work.

4.2.4 Simplification of Land Titling Process

WaterAid Ghana and its Partners should play an advocacy role in getting the Ministry of Lands and Natural Resources to simplify the procedures for transferring registered deeds into land title certificates in view of the implications this situation has on land tenure.

The current procedure for acquiring land title certificates is cumbersome and tortuous. Accordingly, we propose that the Ministry of Lands and Natural Resources, through collaboration with the various land sector agencies should expedite action towards simplifying the land title registration process. This would encourage existing and prospective land owners to regularise their title certificates and contribute to reducing land disputes and improve access to land for urban work. The Ministry should explore the possibility of organising public fora across the country where existing and prospective land owners could be provided services by the various land sector agencies at a “one-stop shop” in the processing of their title certificates.

4.2.5 Strengthening sub district structures

The Ministry of Local Government and Rural Development should design and implement initiatives aimed at strengthening the capacity of MMDAs and sub district structures to ensure effective development control and facilitate access to land for urban work.

WaterAid Ghana and its Partners should support capacity building efforts of MMDAs and sub district structures through training programmes as part of their planned interventions in urban areas.

The study has underscored the important role MMDAs and sub district structures could play in facilitating access to land for urban work. Regrettably, the majority of the MMDAs and sub district structures do not have the requisite capacity. All the MMDAs under this study

did not have the full complement of sub district structures in operation. The Accra Metropolitan Assembly for instance does not have Town Councils contrary to the provisions of the Legislative Instrument 1615 that established the Assembly. It is therefore imperative that the Ministry of Local Government and Rural Development develops and intensifies capacity building initiatives aimed at strengthening the capacity of the district and sub district structures. WaterAid Ghana and its Partners could equally be initiators and implementers of such capacity building initiatives especially at the sub district level.

4.2.6 Strengthening Capacity of Land Sector Agencies

The Ministry of Lands and Natural Resources should facilitate the institutional re-engineering of the land sector agencies with a view to strengthening their capacity to perform their functions and ensuring effective collaboration among them.

Inherent capacity constraints are a major barrier towards effective performance of the functions of the land sector agencies. Under the Land Administration Project, plans are afoot to restructure and re-align all the land sector agencies. The project also entails capacity building support to the land sector agencies. We recommend that the ministry should expedite action on this project to address the capacity challenges of the land sector agencies. Adequate resources should be channelled towards improving the quality of the human resources and logistics in the land sector agencies.

The recommendations are summarised in Table 4.

Table 4 Table of Recommendations

Issue	Recommendation	Stakeholders	Role of WaterAid Ghana
Strengthening capacity of land sector agencies	The Ministry of Lands and Natural Resources should facilitate the institutional re-engineering of the land sector agencies with a view to strengthening their capacity to perform their functions and ensuring effective collaboration among them.	Ministry of Lands and Natural Resources, Land Sector Agencies, Land Administration Project	Advocacy
Strengthening the capacity of MMDAs and sub	The Ministry of Local Government and Rural Development should design and implement initiatives	Ministries of Local Government and Rural	Advocacy & providing training for

Issue	Recommendation	Stakeholders	Role of WaterAid Ghana
district structures	aimed at strengthening the capacity of MMDAs and sub district structures to ensure effective development control and facilitate access to land for urban work.	Development & Lands and Natural Resources	MMDAs and sub district structures as part of planned interventions
Simplification of land titling process	WaterAid Ghana and its Partners should play an advocacy role in getting the Ministry of Lands and Natural Resources to simplify the procedures for transferring registered deeds into land title certificates in view of the implications this situation has on land tenure.	Ministry of Lands and Natural Resources, Land Sector Agencies, the “new” Lands Commission, Land Administration Project	Advocacy
Public education on land acquisition process	The Ministry of Lands and Natural Resources in conjunction with all the land sector agencies should design and implement appropriate public awareness creation programmes to educate existing and prospective land owners on the procedures for acquiring and duly registering lands in the country. WaterAid Ghana together with other Development Partners should play an advocacy role in getting the ministry and land sector agencies to carry out this intervention.	Ministry of Lands and Natural Resources, Land Sector Agencies, the “new” Lands Commission, Land Administration Project	Advocacy
Establishment of Special Land Courts and Encouraging the use of alternative dispute	The Ministry of Lands and Natural Resources in partnership with the Ministry of Justice and Attorney General’s Department should expedite action on the establishment of special land	The Ministries of Lands and Natural Resources, Ministry of Justice and Attorney General’s	Advocacy

Issue	Recommendation	Stakeholders	Role of WaterAid Ghana
resolution mechanisms	courts at the regional and district levels to ensure the speedy settlement of land disputes at the law courts. WaterAid Ghana and its implementing partners should play an advocacy role in getting the ministries to establish these special courts to ensure speedy resolution of land cases. In addition, alternative dispute resolution mechanisms should be encouraged by establishing Customary Land Secretariats in all the traditional councils throughout the country.	Department, Land Administration Project	

4.3 Level of Preliminary Work Required by WAG for Smooth Implementation of Projects

The study has unveiled the complex nature of land tenure issues in urban areas. It has been established that land tenure issues can affect the implementation of physical projects in urban areas. Difficulties with land tenure issues have resulted in demolition of project structures, delay in project implementation and additional cost to project implementation. As part of the strategy for facilitating development interventions in urban areas, we propose that the following preliminary work should be considered:

- an elaborate consultation process with all stakeholders (landowners, land sector agencies, MMDAs, sub district structure, community members and traditional authority) should be carried out at the design stages of a proposed intervention. This would ensure that the interest of all stakeholders are adequately addressed in the project design;
- as much as possible, adequate investigations on the ownership status of proposed lands for development projects should be conducted at the relevant land sector agencies i.e. Land Title Registry and Lands Commission Secretariat to ascertain the legitimacy of the ownership of land earmarked for a particular project prior to the design of the project. Where investigations do not establish clear ownership of a given land, an alternative site should be explored;

- existing formal decentralised structures i.e. MMDAs and sub district structures and traditional authorities, where available should be used as an entry point in accessing land for projects. The study has established that lands were sometimes acquired by MMDAs or traditional authorities for NGOs and other philanthropic organisations free of charge in anticipation of the expected benefit(s) from the intervention;
- WaterAid Ghana and its implementing partners should get prospective MMDAs under whose jurisdiction a proposed project is to be undertaken, to sign a memorandum of understanding that commits the MMDAs to lead the process in acquiring land for the proposed project. This will facilitate the process in acquiring land for subsequent interventions in urban areas;
- Adequate sensitisation through public fora and dialogue sessions should be carried out in the beneficiary communities during the design and implementation stages of an intervention. The forum should target all interest groups within the community with a view to eliciting broad support for the implementation of the project. Community members could avert confrontations over the ownership of land where they are adequately sensitised about a project and its implementation modalities;
- Adequate modalities for detecting and resolving confrontations over the ownership of land should be identified and built into the design of projects in urban areas. It is important to establish clear “early warning signals” of impending conflict(s) over the ownership of land for a project and how these conflict(s) can be resolved. Examples of the “early warning signs” include threat by a faction/group/individual claiming ownership of a given land, evidence of the falsification of land documents and evidence of existing or previous conflict/litigation over the ownership of a given land;
- Adequate time should be allocated for the conduct of baseline studies and design of projects prior to implementation of interventions involving the provision of social amenities including water and sanitation facilities in urban areas. The essence is to allow for broad consensus among all stakeholders – traditional authorities, land owners, MMDAs, land sector agencies and community members - on the selection of a suitable location for the intervention. This would also allow issues regarding land tenure to be thoroughly investigated and addressed prior to commencement of the project.

References

- Amegatcher, N. (2002) Land dispute settlement: The role of Alternative Dispute Resolution (ADR). Paper presented at a two-day workshop organised for members of the National House of Chiefs in Kumasi by the GTZ-Legal Pluralism and Gender Project.
- Agyeman, A. K. (2009) *World Bank Approves Two Year Extension for LAP*. In: Ghanaian Times. Monday 16th March, 2009. Page 14 - 15. New Times Corporation, Accra.
- Aidoo, J. B. (1996) *Tenancy and Land Reform Debate in Ghana*. In: Our Common Estate Series. The RICS, UK.
- Asiamah, J. (1983) Rural Land Economy in Ghana – The Issues and the Opportunities. Publisher Unknown.
- Bentil, N. L. (2008) *Accra, nation's heartbeat*. In: Daily Graphic. No. 17858. Thursday, March 5, 2009. Page 49. The Graphic Communications Group. Accra.
- Bloom D. E. and Khanna T. (2007) *The Urban Revolution*. In: March of the Cities. Finance and Development Journal. Volume 44 Number 3. International Monetary Fund September 2007. www.imf.org/fandd
- Community Water and Sanitation Agency (2007) Provision of Extension Services under the Three Districts Water Supply Project. Inception Report. Prepared by MAPLE Consult. January 2007.
- Crook, R. (2005) State courts and the regulation of land disputes in Ghana: The litigants' perspective. IDS Working Paper 241. Institute of Development Studies, Brighton, UK.
- Ghana News Agency (2002) *Land Litigation Tops Court Cases*. In: General News. Friday 29th November, 2002. Accra.
- Karikari, I. (2006) Ghana's Land Administration Project (LAP) and Land Information System (LIS) Implementation: The Issues. International Federation of Surveyors. February 2006

Kasanga, K. (1999) The Existing Law. The New National Land Policy and National Development in the 21st Century. Paper Presented at the 1998/1999 Annual General Meeting of the Ghana Bar Association. City Hotel. Kumasi. Ghana.

Kasanga, K. (2002) *Land Policy and Marginality: the Need for Participatory Land Management in Ghana*. In: Urban Land Management in Africa. Kreibich, V. and Olima, W.H.A. (eds.). SPRING Research Series No. 40. Dortmund.

Ministry of Lands, Forestry and Mines (2007) Land Use Planning and Management Project under the Land Administration Project. Inception Report. Prepared and submitted by COWI, MAPLE Consult and CERSGIS. September 2007.

Ministry of Lands and Forestry (2003) Emerging Land Tenure Issues. 23rd August 2003. Accra. Unknown Publisher.

Muany, M. (2007) *What is the Biggest Challenge in Managing Large Cities*. In: March of the Cities. Finance and Development Journal. Volume 44 Number 3. International Monetary Fund September 2007. www.imf.org/fandd

Nyanney, G. (2007) *Gov't Takes Steps to Curb Land Disputes*. In: Ghanaian Times. 21st May, 2008. New Times Corporation, Accra.

Obudho, R. A. and Juma, P. (2002) *The Role of Urbanisation and Sub-urbanisation Processes in Urban Land Management Practice in East Africa*. In: Urban Land Management in Africa. Kreibich, V. and Olima, W.H.A. (eds.). SPRING Research Series No. 40. Dortmund.

Republic of Ghana (1999) National Land Policy. Ministry of Lands, Forestry and Mines, Accra.

Republic of Ghana (1993) Local Government Act, 1993 (Act 462). Ghana Publishing Corporation. Accra.

Republic of Ghana (1995) Area/Town/Urban/Zonal Councils and Unit Committees Legislative Instrument 1589. Ghana Publishing Corporation. Accra.

Republic of Ghana (1995) Local Government (Accra Metropolitan Assembly) Establishment Instrument, 1995. Legislative Instrument 1615. Ghana Publishing Corporation, Accra.

Republic of Ghana (2000) Lands Commission Act, 2000 (Act 483). Ghana Publishing Corporation. Accra

Republic of Ghana (1992) Fourth (4th) Republican Constitution of the Republic of Ghana. Ghana Publishing Corporation. Accra

Republic of Ghana (1962) Administration of Stool Lands Act, 1962 (Act 123) Ghana Publishing Corporation. Accra

Republic of Ghana (1962) State Lands Act, 1962 (Act 125) Ghana Publishing Corporation. Accra

Republic of Ghana (1962) Land Registry Act 1962 (Act 122). Ghana Publishing Corporation. Accra.

Republic of Ghana (1986) Land Title Registration Law 1986 (PNDCL. 152). Ghana Publishing Corporation. Accra

Republic of Ghana (1986) Land Title Regulation, 1986 Legislative Instrument (L.I.) 1241. Ghana Publishing Corporation. Accra

Republic of Ghana (no date) National Urban Development and Growth Policy-Ghana. Prepared by the Urban Development Policy Unit of the Ministry of Local Government, Rural Development and Environment with support from GTZ.

Tackie, F. (2008) *Accra – The Threat from Urbanisation and Some Economic Dimensions*. In: The New Legon Observer. Volume 2 No. 9. Ghana Society for Development Dialogue Publication. Legon -Accra.

Stocking, M. (1996) *Land Management for Sustainable Development: Farmers' Participation*. In: Population, Land Management and Environmental Change. UNU Global Environmental Forum IV. The United Nations University, Tokyo, Japan.

Tuffuor, F. A. (2008) *Police Record 188 Land Cases*. Ghanaian Times. Thursday 24th April, 2008. New Times Corporation, Accra.

UN-HABITAT and Government of Ghana (2008) Water for African Cities – Phase II. Accra City Water Project. Progress Report No. 24. Page10. Prepared by Nii Consult. July 2008.

WaterAid Ghana and UN-HABITAT (2007) Social Infrastructure Audit in Sabon-Zongo Community, Accra-Ghana. Draft Report Prepared by Peoples Dialogue on Human Settlements, Ghana. November 2007.

WaterAid Ghana (2006) WaterAid Ghana Country Strategy 2006-2011. WaterAid Ghana, Accra.

Wood, G. (2002) The Courts and Land Dispute Resolution in Ghana. Paper delivered to the Land Disputes Settlement in Ghana Seminar, Labadi Beach Hotel, Accra, 10–11 July 2002. *GTZ Ghana, Legal Pluralism and Gender Project*.

Yarboi-Tetteh (2007) *Central Region Inaugurates Disputes Committee*. Ghanaian Times. Thursday 17th May, 2007. New Times Corporation. Accra.

APPENDICES

Appendix 1 Research Instruments

Focused Group Discussions with Metropolitan/Municipal/District Chief Executives, Coordinating Directors, Planning Officers and District Water and Sanitation Team (DWST) Desk Officers

Interview Guide

1. What major forms of land tenure systems do you have in your district - state, customary, individuals?
2. What are the strengths and weakness of the various land tenure systems?
3. What has been your experience of the MMDA in acquiring land for development projects – describe mode of acquisition, payment of compensation, payment of rent, registration of title of land, ?
4. What has been your experience with the acquisition of lands for development projects by non-state actors notably NGOs, CBOs and the private sector?
5. Has the MMDA got a database on ownership of land in their area of jurisdiction?
6. If yes, how often is the database updated?
7. What are the main problems with land acquisition for development projects (if any)?
8. What recommendations will you propose to address to address the problems with land acquisition for development projects?

Key Informant Interviews with Traditional Authorities

Interview Guide

1. What major forms of land tenure systems do you have in your area - state, customary, individuals?
2. What proportion of land in your area is owned by your traditional authority?
3. What has been your experience with the acquisition/allocation of land for development projects – describe mode of acquisition, payment of compensation, payment of rent, registration of title of land?
4. What has been your experience with the acquisition/allocation of land for development projects by non-state actors notably NGOs, CBOs and the private sector?

5. Has the MMDA got a database on ownership of land in their area of jurisdiction?
6. If yes, how often is the database updated?
7. What are the main problems with land acquisition for development projects (if any)?
8. What recommendations will you propose to address problems with land tenure?

Key Informant Interviews with Individual Land Owners

Interview Guide

1. Has any portion of your land been allocated / acquired for a development project before? Yes/no
2. If yes, how many plots/acres were acquired / allocated?
3. How would you describe the mode of allocation/acquisition process- satisfactory or unsatisfactory?
4. Were you appropriately compensated?
5. If yes, how much or by what means?
6. What is your interest in the land? Freehold/leasehold.
7. Do you have land title document over your land?
8. How would you assess the procedure in acquiring the land title certificate (if any)?
9. How did you acquire the land?
10. Have there ever been any adverse claims to your land?
11. Have these adverse claims been resolved? If yes, how were they resolved?
12. In your opinion, what are the main problems with land tenure in your area?
13. In your opinion, how can these problems with land tenure be resolved?

Key Informant Interviews/Focused Group Discussions with Area/Town/Urban/Zonal Council /Unit Committee/WATSAN Committees/Assembly members and Opinion Leaders

Interview Guide

1. What is the role of your organisation in the acquisition of land for development projects?
2. What are the major land tenure systems you have in your area?
3. Have there ever been any land disputes in your area?
4. Have these land disputes been resolved? If yes, how?
5. Has your organisation been involved in the allocation/acquisition of land for a development project in your area?

6. What has been your experience in acquiring land for development projects – describe mode of acquisition, payment of compensation, payment of rent, registration of title of land, ?
7. What has been your experience with the acquisition of lands for development projects by non-state actors notably NGOs, CBOs and the private sector?

Key Informant Interviews with WaterAid Ghana Implementing Partners (NGOs)

Interview Guide

1. What major forms of land tenure systems exist in your operational area? - state, customary, individuals?
2. What are the strengths and weakness of the various land tenure systems?
3. What has been your experience in acquiring land for development projects – describe mode of acquisition, payment of compensation, payment of rent, registration of title of land?
4. How would assess access to land for development projects in your area of operation?
5. Have you carried out any physical development project in an urban area?
6. Did you encounter any difficulties with obtaining land for the project (s) in the urban area? If yes, what are they?
7. What impact did these difficulties have on the project?
8. How were these difficulties addressed?
9. What role did the following persons/groups play in accessing land for the development project? –individual land owners, traditional authority, MMDA, opinion leaders, land sector agencies.
10. What are the main problems with land tenure systems and their interplay with development projects (if any)?
11. What recommendations will you propose to address problems with land tenure and their interplay with urban development projects?

Key Informant Interviews with officials of Land Sector Agencies

- Town and Country Planning Department
- Lands Commission Secretariat
- Land Valuation Board
- Survey Department
- Land Title Registry
- Office of the Administrator of Stool Lands.

Interview Guide

1. What major forms of land tenure systems exist in the study areas? - state, customary, individuals?
2. What are the strengths and weakness of the various land tenure systems?
3. What has been your experience in allocating land for development projects – describe mode of acquisition, payment of compensation, payment of rent, registration of title of land?
4. How would assess access to land for development projects in the study areas?
5. Are there any difficulties with obtaining land for development project (s) in the urban area? If yes, what are they?
6. What impact do these difficulties have on projects?
7. What role do the following persons/groups play in accessing land for development projects in urban areas? –individual land owners, traditional authority, MMDA, opinion leaders, land sector agencies.
8. What are the main problems with land tenure systems and their interplay with development projects (if any)?
9. What recommendations will you propose to address problems with land tenure and their interplay with urban development projects?

Appendix 3 Report on Validation Workshop on the Study

REPORT ON VALIDATION WORKSHOP TO DISCUSS DRAFT REPORT ON THE STUDY ON LAND TENURE IN URBAN AREAS

VENUE: WATERAID GHANA, ACCRA.

DATE: FRIDAY 3RD APRIL, 2009.

The workshop started at about 10.45am. Messrs Joseph Ampadu-Boakye and Emmanuel Lawer of MAPLE Consult made the presentation on the study outcomes. The presentation highlighted the background, objectives, methodology, key findings, conclusions and recommendations of the study. A copy of the Power Point slides used in the presentation is attached to this report as Annex 1. Afterwards, participants took turns to comment and make suggestions on the draft report. The key comments are listed hereunder:

- The study report should identify some of the “early warning signals” of impending dispute over ownership of land and measures which could be taken to address those challenges.
- It was proposed that WaterAid Ghana (WAG) should get prospective MMDAs within whose jurisdiction a proposed project is to be undertaken, to sign a memorandum of understanding with WAG to provide land for the proposed project;
- It was further proposed that in subsequent interventions in urban areas, WAG should explore the possibility of acquiring public land before resorting to obtaining customary land. The essence is to avoid disputes over ownership of the land;
- The consultant was asked to collect data on land cases at the law courts in Accra , Tamale and Cape Coast in order to enrich the study report;
- The consultant should present the study recommendations in a tabular form highlighting the stakeholders involved in the implementation process and the role of WAG and its implementing partners. It was further proposed that the consultant prepares a stakeholder map to link identified stakeholders with legal instruments with a view to determining who has the most power under which law;
- The consultant should document the key limitations of the study in the final report;
- The consultant should highlight instances of conflicting legislations and the limited availability of certain legislations and their implications on land tenure arrangements in the final report;

- The consultant should establish the relationship between land use management and water and sanitation delivery. It was explained that land use for water and sanitation delivery in urban areas was being addressed within the framework of the overall land use planning in urban areas. In other words, adequate provision has been made in the planned layout of most communities to enhance access to water and sanitation delivery. The challenge however lies with implementation of the land use plans given the difficulties with development control in urban areas in Ghana;
- The consultant was asked to prepare an executive summary for the report;
- It was further recommended that the consultant establishes the trends in the transition of people from the rural and urban areas.

The Country Representative of WaterAid Ghana, Stephen Ntow gave the closing remarks and requested the consultant addresses the concerns raised at the workshop in the final report. He further requested participants at the forum to forward additional comments and suggestion on the draft report to the consultant for them to be inculcated into the final report. The workshop ended at about 12.30pm.



WaterAid transforms lives by improving access to safe water hygiene and sanitation in the world's poorest communities. We work with partners and decision makers to maximise our impact.

For more information please contact:

Water Aid in Ghana

Box 16185, KIA, Accra

Tel: 233-21 760440/780581

Fax: 233-21 783947

E-mail: info@wateraidghana.org

Website: www.wateraidghana.org

WaterAid International Website: www.wateraid.org

This document has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of WaterAid and can under no circumstances be regarded as reflecting the position of the European Union