

A PROPOSED ACTION PLAN

This Proposed Action Plan addresses the need to define a long-term vision for the Deeds Registry and Land Registry related governmental institutions and the need to establish a reliable, independent and sustainable funding source for the Registry. Implementation of a long-term vision and financing strategy is the focus of this Action Plan.

Although the Registrar of Deeds is responsible for such other spheres as, Deeds registration, Companies, Business Names, Trade Marks, etc., emphasis in this Plan is placed on those measures that would impact mainly upon the land matters. Integrity of the land titles systems and procedures is the aspect in most serious jeopardy under both the Transports and Land Registration processes. Accordingly, although the transports system is the more precarious, any proposals regarding the Registry may be taken as referring both to the Deeds and Land Registries and where applicable, the initial process of land registration as worked out in the Land Court under the Commissioner(s) of Title. The Deeds Registry and the Land Registry in both Georgetown and New Amsterdam are neighbours under the same small roof.

In the drafting of this Plan, it was considered necessary to develop at least some interventions or changes that could take place immediately. This is needed to (1) demonstrate the commitment of the Government to the process; (2) create enthusiasm and support for the initiative among the various Governmental entities involved (eg. Legal Affairs, Valuations Office, Inland Revenue, Housing, Lands and Surveys, Agriculture, etc.) and the private sector (commercial banks, attorneys, construction industry, etc.) that will directly benefit from the changes; (3) generate interest among the foreign donors (ODA, IDB, AID/PL480, etc.) and academic communities (University of Guyana, Land Tenure Center/University of Wisconsin, etc.); (4) provide registry management and employees with hopeful short-term relief and medium and long-term incentives for commitment and quality of work.

Consequently, this sample Plan calls for immediate (within 90 days), short term (within 12 months), medium term (within 4 years) and long term (over the next 15 years) actions by the Government.

I. Immediate Term Actions (within 90 days)

- a. Devising of an instantly applicable mechanism for redressing the actual and prospective attrition in human resources. The current low salaries are

untenable and urgent remedial action must be adopted if the Registry is to survive as an operating institution. This is crucial; the better-trained clerks are already leaving.

- b. Provide basic operating facilities, office equipment e.g. word-processor, typewriters (electric), photocopiers, stationery, cardboard and cord for preservation of bundles of matters in process before binding, files and registers of durable paper.
- c. Provide survey-plans storage cabinets.
- d. Requests for foreign technical assistance from AID (via PL480 and/or the Caribbean Justice Improvement Program, as appropriate), ODA, IDB, GTZ, FAO, UNDP or other agencies to develop medium and long term actions.
- e. A Registry Working Group/Coordinating Committee of inter-Ministerial GOG officials may be established with members from the Ministry of Legal Affairs, Deeds Registry, Land Court, Supreme Court, Department of Lands and Surveys, Housing, Inland Revenue, Agriculture, Census, National Data Management Center, and, other appropriate entities. Commercial Banks and Bar Association should be invited to participate with the working group.
- d. Registry Planning Retreat: a full day retreat (with a meeting facilitator) may be planned for all registry staff to discuss the vision and mission of the registry, articulate problems and concerns, and propose procedures and solutions. The Attorney General, the Commissioner of Title, the Permanent Secretary of Legal Affairs, the Commissioner of Lands and Surveys, and representatives of the Supreme Court Registry, Ministries of Agriculture, Housing, Finance, the National Data Management Center, Census and Inland Revenue should also participate. If thought appropriate, observers from the Inter-American Development Bank, the British High Commission (ODA), the Agency for International Development (P.L. 480 Program, and Caribbean Justice Improvement Program), the German Embassy (GTZ), UNDP, FAO and other donors should also be encouraged to participate and witness the processes being undertaken at the Registry. The most important asset of the Registry is its personnel. The purpose of the retreat is to tap this important resource for creative input, to establish and communicate priorities, and to give employees a long-term stake in the success of the Registry.

II. Short Term Actions (within 12 months).

- a. Changes in budgetary authority for the Registry and the Commissioner of Title: The Registry should be allowed to retain at least a portion of the income generated to meet all necessary operational costs. All income to the Registry would be accounted for, managed and controlled by an accountant under the Ministry of Legal Affairs.

Alternatively, there may be guaranteed provision under the National Budget for allocation to the Ministry of and express amount of funds based upon the previous year's collections of revenue by the Registrar of Deeds/Lands.

- b. Contract Support:

(1) Land Surveyors: With funds provided through donor/lending agencies, the Commissioner of Lands and Surveys (as the case may be) will be enabled to assign surveyors of his own staff or employ or contract local, licensed, private-sector surveyors to carry out any survey work, in accordance with the requirements of the Commissioner of Title. Initial surveys would be carried out at government expense, while subsequent surveys (for example, for a partition of property--referred to as a "mutation" of property in Guyana) would be for the expense of the individual;

(2) microfilm: contract the microfilming of all historic records of the Deeds Registry (and purchase of equipment for users to consult the microfilm) in accordance with the instructions of the Registrar;

(3) digitization: convert maps from graphic to digitized formats (and purchase of equipment to carry out this process), under the supervision of the Commissioner of Lands and Surveys; and

(4) support: contract or employ on a temporary basis, any other legal or technical support service necessary for the operation and administration of the Deeds Registry or the Land Registry.

The Ministry of Legal Affairs may coordinate with the Finance Ministry and the Agriculture Ministry to request financing of these services under the IDB policy loan.

- c. Support Staff: With the increased financial resources available through the new budgeting arrangement, the Ministry of Legal Affairs will be able to hire sufficient support staff for the Registry of Deeds/Land Registry.

- d. Registry Modernization Design: The Registry Working Group/Coordinating Committee of inter-Ministerial GOG officials will coordinate foreign donor assistance, in conjunction with the Ministry of Finance. The Registry Working Group will then set up a counterpart team to work with a group of foreign consultants. Foreign technical assistance, working with the counterpart local team, will be used to evaluate alternative strategies for registry modernization, and their related costs and benefits. This effort will be coordinated with all other relevant public and private sector entities. This will enable the GOG to plan for actions in the medium and long term, leading to the eventual multi-purpose land information system (to include the Registry of Deeds, Inland Revenue, Lands and Surveys, Mines, etc.), and an automation of other office activities (Notarial Section) such as the company registry, patents, trademarks, business names, deeds poll, etc.

It is recognized that registry modernization will introduce new technologies and procedures. Any long term strategy must address the need to update present registry staff in the new technologies and to attract and retain new employees with adequate remuneration and training. It may also need to contemplate training programs for private sector surveyors in new survey methods.

The plan should include computerization of the index card files at the Lands and Surveys Department which note leasehold interests.

- e. Scholarship Programme: Deeds Registry and Lands and Surveys employees with 1 or more years of experience in the Registry or the Lands and Surveys Department, who are capable of gaining admittance to the University of Guyana or the Institute of Adult and Continuing Education will be encouraged to take classes in the areas of geography, maths, finance, accounting, computer science, business, land survey, or law. Upon successful completion of each course, the employee/student should be reimbursed the tuition fee plus an allowance for books and materials.

The Ministry of Legal Affairs and Ministry of Agriculture could together administer this scholarship and make the required selections. They may explore funding alternatives with the other donors, and with the University of Guyana.

f. Registry Fees (Improvement Fund) Schedule Review:

The fees charged for services in the Deeds Registry need urgently to be revised to match the current value of these services. Those relating to Companies and Business Names registration have not been reviewed for over 30 years. Fees for Trade Marks, Patent Designs, although revised in 1992, are unrealistically low in relation to the commercial value of intellectual property and the professional fees charged for registration. The fees and duties for land transactions are in no present need of upgrading, but in keeping with the increases recommended for Companies, Business Names, Trade Marks, the fees for searches and inspections of Title records ought to be moved upward. The recommended increases would provide a better fund for sustaining and improving the related services.

g. Registry Workshops: Once every quarter, the Registrar could organize an internal registry workshop for registry employees and appropriate persons from the public and private sectors with interest in the workings of the registry. These workshops may last about one hour (40 minutes presentation, with 20 minutes for questions and answer), and will feature various activities of the registry. Presentors may include judges, attorneys, former registrars, commercial lenders, Government land officers and land surveyors. The purpose of the workshops is to acquaint the employees and users with the importance and impact of various operations and improvements within the registry.

h. Changes in Legislation for the Transport System: The Ministry of Legal Affairs may see fit to promote legislation to allow announcements of transport transactions, including mortgages, to be published in one of the newspapers of popular circulation as an alternative to the official Gazette to eliminate the present publication delays. In addition, the draft legislation may allow for abbreviated forms of advertisements of transports, mortgages and property-related transactions to save publication space and time.

- i. Purchase of equipment: 6 photocopying machines, 2 for the Berbice Deeds Registry, 2 for the Georgetown Deeds Registry and a total of 2 for the Lands and Surveys Department (if not provided for in the AID funding). The purchase agreements should include a service contract. The Legal Affairs Ministry should coordinate with the Ministries of Agriculture and Finance to request this equipment under the IDB policy loan.
- j. Testing of Survey Methodologies: The Commissioner of Lands and Surveys will conduct a field experiment to determine the cost effectiveness of implementing Global Positioning System (GPS) technologies. The study will explore the costs and benefits of GPS as opposed to traditional survey techniques. The test will be used to recommend cost savings measures in carrying out land surveys in urban, rural and agricultural conditions.
- k. Honorary Advisory Group: The Permanent Secretary Legal Affairs Ministry will organize an Honorary Advisory Group for the Deeds Registry. Voluntary membership will be offered to all past and present Registrars and Deputy Registrars, Commissioners and Deputy Commissioners of the Lands and Surveys Department, and the Permanent Secretary, Legal Affairs. The Group will elect its own chair, establish its own internal rules for meeting, schedule and agenda. Its function will be to advise the Registrar on technical operations, management and modernization strategies. Special meetings of the Group may also be convened upon the request of the Registrar of Deeds or the Permanent Secretary, Legal Affairs.
1. In relation to the hearing by the Land Court of applications for declarations of title to land in any registration area, it is recommended that where a great majority of awards are without dispute, the publication of these should not await the resolution of a few disputed ones. The final plan to be prepared by the Commissioner of Lands and Surveys may later be supplemented by a plan reflecting the eventual awards of those parcels in dispute. This would avoid undue delay in the issue of title to those persons with uncomplicated applications.

III. Medium Term Actions (within 4 years).

- a. Unification of fiscal (Inland Revenue), legal (Registry), and physical (Urban, Environment, Mines, and Lands and Surveys) cadastres, based on the strategy suggested by the local and foreign technical assistance

group. This will probably be in the form of a computerized system with digitized maps. This would be done on a network basis. It is an important aspect of the Multi Purpose Land Information System serving all relevant agencies.

- b. New or revamped facilities in Georgetown and New Amsterdam, with air conditioning, adequate storage space, security, adequate space for users, sufficient phone lines and electrical capacity, and plant electricity generator. A similar facility giving access to the registry information may during this period be thought appropriate for Anna Regina, Essequibo and Corriverton, Corentyne, Berbice.
- c. Processing time will be reduced: All land registry and deeds registration transactions will be recorded and copies issued within one business day. Excluding statutory required delays, the registry/administrative processes of unopposed Transport transactions, including mortgages, will be completed within one business day.

IV. Long Term Actions (over the next 15 years).

- a. Multi-Purpose Land Information System (MPLIS), based on a network system using compatible/exchangeable information formats.
- b. Registry Modernization: The Deeds Registry will incorporate computerized technologies, to the extent practical, to provide enhanced customer service. The property-related transactions will be linked to the MPLIS network. This will include mortgage transactions. Other registry activities will also be computerized, to the extent practicable.
- c. Policy: The registry database will be available for long-range planning of economic and environmental policy. This will promote informed decision-making.
- d. Efficiency: Elimination of redundancies of data collection within the GOG. Improved reliability/accuracy of data. Information will be considered like any other asset--one that has an economic value, involves maintenance costs, and can be marketed to system users, municipalities, Internal Revenue, Drainage and Irrigation Department, Roads Division of Ministry of Works and to utilities institutions. Information will be democratized, so that all members of society will have equal access.

- e. Self-financing of the Deeds Registry: Based on collected revenue, the Deeds Registry may be envisaged as functioning without need for budgetary allocations from general funds, nor will it require foreign donor assistance.

RECOMMENDED AMENDMENTS TO THE DEEDS REGISTRY ACT AND RULES

1. Restore the position of Sworn Clerk as an officer proficient in all aspects of the work of the Registry. Preserve the distinction of the Sworn Clerk from that of the Notary Public.
2. Rule 5: the description of women's marital and property status should be abolished.
3. Publication in the Official Gazette:
 - a. The Registrar may be given authority to publish advertisements of conveyances in a designated newspaper as an alternative to the Official Gazette. This would combat the apparently inherent delay in the printing process of the Official Gazette. If notification to the public at large is as important as notice to creditors, then a newspaper publication would be a more logical medium, given its wider circulation.
 - b. The Registrar may be given the power to truncate descriptions of transports, mortgages and other transactions advertised. This would reduce publication space and ensure speedy advertisement of all material submitted. A minimum of information would be required, such as the names of the parties, sufficient geographical descriptions of land for its easy identification, and the number and date of the proponent's title. N.B. Any easements, obligations, etc., running with the land may be ascertained in the relatively few appropriate cases by reference to the Registry where the full description would be available.
4. Rule 26 for lost mortgage bonds: The onerous and expensive provisions of this rule involving publication in the Official Gazette and newspapers, and a period of 9 weeks, should be removed. The process should be simplified to correspond with that for lost transports, found in Rule 25.
5. Rule 24 for Special Power of Attorney to pass Transports and other documents. The requirement for a full description of the property should be removed. In its place should be a sufficient description to identify the property and the transaction.
6. The provision for automatic lapsing of transactions three months after the Registrar's Certificate and their necessary re-advertisement in the Official Gazette ought to be

removed. It is illogical, since a transaction advertised but remaining uncertified for several years may be rectified and completed without further advertisement.

OTHER ACTIVITIES CARRIED OUT BY THE REGISTRY OF DEEDS:

TRADEMARKS (CHAPTER 90:01 LAWS OF GUYANA):

(1) The registration process for trademarks begins with verification of the form. The clerk checks to make sure the document being presented is in order.

(2) The clerk then insures that the proper fees are paid, in accordance with the fee schedule. A receipt is issued.

(3) The clerk assigns the application a number which is permanent for that application. The application is then recorded in a "Trade marks Register" (a notebook that records the receipt of the application).

(i) If it is an application for a trademark not previously registered in the United Kingdom, it is classified as a Part "A" or "B" trademark, and goes on for further processing, according to the law.

(ii) If it is a previously registered trademark from the United Kingdom, then the mark is classified as "C". It is then simply recorded and the process is finished.

(4) "A" and "B" trademarks are then inscribed in the register. This inscription includes the assigned number, the lawyer's name and address, a description of the owner, any agents, a description of the goods, and any later steps or transactions affecting the trademark application (ex. acceptance, sale, transfer, etc.).

(5) For acceptance of the application by the Registrar, the process shifts from the clerk to a Registry Supervisor or Registrar, who will retrieve the "Search Register" and look for similar trademarks. This is a manual, labor intensive search. The Supervisor or Registrar will conduct the search, which the Registrar will then "accept."

(i) "Acceptance" may be subject to a condition. For example, place names cannot be protected. Thus, if someone uses the word "Guyana" in a trademark, this does not preclude others from using that same word in their trademarks, subject of course to that same condition.

(6) The application is then advertised in the official Gazette, with an opportunity for third parties to object.

(7) Once the period for objection is closed, the Registrar will issue a certificate.

(i) If there is an objection during the appropriate period, the Registrar may try to informally mediate between the parties to resolve the controversy. If the dispute cannot be resolved, the matter must be settled in court.

To be a Trademark Agent, one must be a lawyer, present an application, and pay a fee of G\$500. The layman non-lawyer can always represent himself in the process. All procedures are performed at the Registry.

PATENTS (CHAPTER 90:03 LAWS OF GUYANA):

Most patent applications received at the Deeds Registry are for patents already granted in the United Kingdom. In these cases, there is no need for any examination of the patent itself. Non-United Kingdom applications must be sent to an examiner, who will prepare a report advising the Registrar on the scientific validity of the patent application. If a favorable report is drafted, then the application is published in the official Gazette. If the application is unopposed, the applicant will request that the Registrar "seal" the patent (issue a certificate).

Patents are valid for four (4) years, with possibilities for renewal every year thereafter for one year periods.

DESIGNS:

This process is very similar to that of patents.

POWERS OF ATTORNEY AND DEEDS POLL:

The name "Deed Poll" though of wider application under English law, is in local parlance under the Guyanese legal system or a document for the changing or rectification in the use of a name or surname. Name changes most often occur due to illegitimacy, where surnames are concerned, or formal adoption of a name not appearing on the birth certificate of the maker of the deed. Both powers of attorney and deeds poll are processed in a near identical fashion as follows:

1. The process starts with the payment of the appropriate tax, according to the fee schedule.

2. The applicant must present two or more copies of the document to be inscribed. It is signed before a Notary Public.

The clerk assigns the document a chronological control number, and notes the number, date and time in a reception book. Also recorded are the names of the parties involved and the tax receipt number.

3. The clerk then stamps the copies to certify their inscription, and returns any copies to the customer, keeping the original for the Deeds Registry. The clerk will refuse to stamp the document if the clerk notes any formal defects in its composition.

4. The clerk will then file the original in accordance with the number assigned.

Powers of attorney are indexed by the surname of the person granting the power. Thus documents can only be retrieved if one knows the date of registration, the registration number or the grantor's surname. Documents cannot be retrieved by reference to the name of the person to whom the power of attorney was granted.

Deeds poll are arranged according to the new surname of the individual. Thus, like powers of attorney, deed poll documents can only be retrieved if one knows the date of registration, the registration number or the new surname. A check under the old surname is impossible.

The same procedure described above is employed for revocations or cancellations of powers of attorney.

BILLS OF SALE (CHAPTER 90:12 OF THE LAWS OF GUYANA):

Under the Guyanese legal system, a "bill of sale" is roughly the equivalent of a chattel mortgage. Interestingly, however, chattel here can include not only tractors, cars, and other "movables," but extends also to houses, which in Guyana can often be moved. The process provides efficient securitization for lenders and is used quite often in Guyana. Any creditor can receive a bill of sale, though in practice it is most often used by banks. The registration process is as follows:

1. The process initiates with the payment of tax. There is a registration fee of G\$3.50 (about US\$0.02). A duty is also levied of \$G1.20 per \$1,000 of the value of the bill of sale.

2. The clerk then records the bill of sale in the "Bill of Sale Register".

(i) The clerk may not accept a bill of sale unless it is filed within seven (7) calendar days of the date of execution of the bill of sale.

3. The clerk assigns a chronological control number, records the date, name of the debtor, residence and occupation, to whom the bill of sale is given, the date and time of the supporting affidavit, and other information.

4. The process then passes from the receptionist/clerk to a typist. The typist will then write out the control number, date of the filing, person making the sale to the Bank, the person to whom the bill of sale is given, and the date of the bill of sale.

5. The typist will then return this document to the clerk, who verifies the information. Once verified, the document is then sent on for advertisement in the official Gazette.

(i) The advertisement must come out within 21 days of the execution of the Bill.

6. Once the advertisement is published in the Gazette, the clerk must verify the accuracy of the published form, comparing it with the original.

7. If the document is correctly published, the clerk will then stamp the original bill of sale to certify its correctness.

8. The customer will receive the original copy, and the duplicate will be filed at the Registry.

9. The duplicate copy is filed in numerical order and bound.

There is no index to bills of sale. The only way to retrieve bills of sale is by reference to the control number or the date (which is an approximation for the control number).

The remedy for default on a loan issued under a bill of sale is seizure of the asset, five (5) days notice to make payment and subsequent sale if payment is not made.

One observation about a bill of sale is that it must be renewed annually. Further, any formal defect in the document may void its legal validity during their term of effectiveness. The foreclosure procedure allows for seizure without any legal proceeding at all, but does not allow for removal of the object until after five days. Unless the creditor is able to guard the object for five days, seizure is often impractical. Consequently, security sometimes "disappears."