

year entered into effect, without any preparation by the Deeds Registry! There have been no visits to other registries to see how to implement the new act. The Registrar and deputy have not been exposed to any model for implementation of the Companies Act. Moveable Property Legislation means we now need for a commercial registry as well.

Summary of Comments by Dr. Tom Johnson, Moveable Property Rights Specialist and Attorney, Member of the Faculty of Osgood Hall Law School, York University in Toronto, Canada, and an Advisor to the Land Tenure Center of the University of Wisconsin:

The individuals represented here at the Retreat are the brain trust of the people of Guyana, with respect to this topic. You are the parties with intellectual and practical experience sufficient to allow you to identify and solve the problems of the Deeds Registry Office. It is indisputable that property relations form the basis of socio-economic relations in western society. Jeremy Bentham, the famous nineteenth century legal philosopher, stated:

Property is nothing but a basis of expectation; the expectation of deriving certain advantages from a thing which we are said to possess, in consequence of the relation in which we stand towards it... Property and laws are born together, and die together. Before laws were made there was no property; take away laws, and property ceases.

In order to secure the expectations created by the laws of property, Guyana needs to have an accurate and effective means of recording property rights. Without that, property rights become meaningless, expectations of members of the society are not met, and socio-economic relations in this society will quickly deteriorate.

At a more concrete level, there is a need to act quickly. New draft legislation dealing with bankable property rights in movable property (the Movable Property Security Act) has been approved by the Attorney General, and will be presented to Cabinet and the National Assembly soon. This legislation creates a new system for secured transactions in movable property, under an umbrella Act. This Act covers each of the existing transactions in movable property, and achieves the following goals:

- A) it simplifies and increases the efficiency of the recording of encumbrances on movable property;
- B) it allows interested parties to easily ascertain the priorities of any given claim over movable property; and

C) it simplifies and improves the operation of remedies upon default.

The draft Act was completed in January of 1995. The new system it introduces should be up and running within the next twelve months, if everything remains on schedule. However, before this legislation can be implemented, it requires a functioning registration system. If we are to have an effective bankable property rights regime in Guyana, we need to coordinate the planned rehabilitation of the Deeds Registry Office with the implementation of the Movable Property Security Act. Accordingly, you need to ensure that sufficient rehabilitation of the Deeds Registry Office occurs in the next twelve months, so as to ensure that the Movable Property Security Act can be properly implemented.

Mission Statement Development Activity: Helen Schutten, former Deeds Registrar of Racine County, Wisconsin, now a consultant on Registry Modernization through the Land Tenure Center, facilitated the discussion, together with Steven Smith and Steven Hendrix.

The Retreat participants met in plenary to discuss and name the problems facing the registry today, problems that prevent the Deeds Registry from performing its mission. The problems identified by each group are listed below, and seemed to fall into three main categories, as categorized and grouped:

Planning/Management: Training; attraction and retention of employees; theft; access; red tape; Procedures; budget; governmental sensitivities; closed system; internal retreats or workshops; legislation.

Infrastructure: initial qualifications; supplies; security; space; physical conditions; access; staff safety; expansion; attraction/retention of employees; position descriptions.

Finance: Salaries; turnover; supplies; access; fee schedule; income retention; budget.

Based on the dynamic group discussions, the following "Mission Statement" was developed by the local participants:

The Deeds Registry shall serve the public in an economical and affordable manner through accurate recording, easy access and efficient processing of all property records and deeds according to law under favorable employment conditions.

Video demonstration: land records modernization in Dane County, Wisconsin, with Question and Answer period with Helen Schutten.

The video showed how Wisconsin began with an entirely manual system, and worked toward a computerized, efficient system, allowing for a multi-purpose cadastre. Retreat participants noted parallels between the Wisconsin experience and the problems currently facing Guyana. However, Mr. Rockcliffe cautioned that Guyana needs to crawl first, then walk later, perhaps one day flying. Dennis Patterson, Chief Valuations officer at the Ministry of Agriculture noted that Guyana had something in place which needs to be put back in place. We can draw on past experience to restore the Registry the way it was, and move forward to make it better than before.

Small Groups Discussions:

Small groups were led by management personnel from the Deeds Registry:

Carolyn Paul, Deputy Registrar, led the "Planning and Management" small group, which noted:

- a) The scope of the initiative should be the entire registry.
- b) Administrative approval is needed as a first step to increase budgetary resources to get human resources.

Suggested salaries: Walter Mohabir, a former Registrar, suggested: a starting salary of G\$20,000. Registry officer \$35,000. Senior Registry officer of \$45,000. Assistant registrar \$65,000, Deputy registrar \$85,000 plus allowances, and Registrar \$100,000 plus allowances. Former Registrar John Ramao suggested a slightly higher scale, beginning at \$25,000 up to \$120,000.

Qualifications for a starting clerk should require five Ordinary ("O") levels. Training on the job would be available for employees to become notary public.

Minimum staff and job descriptions requirements must be determined: The DR needs to define on an on-going basis its needs, possibly with input from the former Registrars.

- c) Proper supplies are required, including office materials, paper, equipment, proper physical resources and cabinets.

d) Training needs to be reactivated. One way to accomplish this is via hiring former registrars as consultants.

e) A second stage would allow for microfilm/fiche, cleaning up of the backlog, up-dating registries, etc. Lump sums payments could be available for scribes, to do the back years registration in a computerized format.

Sharon Haynes, Deeds Registry Supervisor, led the discussion of the Finance Group, which found the following:

If the Deeds Registry becomes a self-funding entity, it could:

a) pay own staff.

b) employ quality, trainable staff, who could produce more work.

c) revise the fee schedule for the non-ad-valorem fees (search fees, etc.).

d) establish an income retention fund to assist with direct purchase of stationary, etc., without having to contend with external bureaucracy.

Leon Stewart, the Deeds Registrar, led discussion of the Infrastructure group, which reported:

The funding question is the primary constraint on sustainability for the registry. The Registry must have:

a) income retention

b) a higher salary structure.

c) better remuneration to attract quality employees.

d) training and seminars by former registrars.

e) job descriptions and clear responsibilities. Each new employee should be made aware and trained in functions, job description, organization of deeds registry and these should be clearly posted. Some today are not aware what all their responsibilities are.

f) adequate physical resources. New equipment, books, stationary are needed now. Computers are needed.

g) its termite problem resolved.

h) adequate staff safety.

Plenary Discussion/Comments:

Need to focus on the political side for absolute necessity for something to happen immediately.

We keep coming back to implementing legislation or rules. But there is some difference of opinion on this. We need to clarify this point. Then we need to implement, as a prerequisite to all other things. Is the Deeds Registry already a semi-autonomous institution, which could permit income retention and better salaries? If so, how will this effect pension systems? Can employees transfer out? If not, what needs to be done? These issues should not be taken lightly by Deeds Registry management or the Attorney General, or Cabinet.

What can start immediately is training. But will this be in vain? We want to train trainable people. Without proper salaries, we won't have these. Most of the current staff are not trainable.

Former registrars might be willing to help with job descriptions.

Second Day of the Retreat: Wednesday: Sept. 6, 1995

A discussion of the first day's activities raised the issue of pensions. This could be a controversial aspect of creating a semi-autonomous body.

Plenary discussion of particular elements of an Action Plan to further clarify implementation:

(1) Entire personnel structure at the Deeds Registry must be separated from civil service: The Public Service Commission (PSC) can decide on a separate salary structure for the Deeds Registry without disturbing the law. The Public Service Minister can make this decision, with guidance by the Attorney General (like Customs Department, and Inland Revenue), in consideration with the decision of Cabinet. This should be done immediately, and will require collaboration of the Attorney General and the Cabinet.

(2) Income retention can also be done without changing the law. Cabinet should also agree on the financial arrangement, to direct the Ministry of Finance (Accountant General) to set up the new financial arrangement. This would be analogous to the income retention scheme for gold mining operations to purchase equipment overseas with foreign exchange earnings. Parallel could also be drawn to the university, for industrial testing, funds go to the Department, not central government.

There is probably a need for a legal opinion to resolve ambiguity of what Cabinet has already done. We don't know what the registry is now. Is it semi-autonomous or not?

Historically, fees on transport/mortgage were considered "fees of court." There could be an argument that these should be paid to registry to run the show. The other revenue, which are duties, should go to the central government fund. Hard to distinguish today what is the ratio. In really rough terms, perhaps 20% corresponds to fees. The Peat Marwick report underscores this approach, with this recommendation being presented to the Public Service Ministry.

One long term goal is to ensure that administrative fees, as distinct from ad valorem fees, cover service. This will not occur in the first two years. But we can work toward that goal. However, fees cannot be too high because fees should be fair.

Fees should cover operational expenses and improvements. But salaries should come out of general treasury money from

Finance Ministry, since government is levying a duty on transactions.

(3) Staff: Many current staff have qualifications, but others do not. Are we going to pay the present people the new scale? Consensus No. What do we do with the current people? The Personnel Section of the AG's office is still thinking about this. This group recommends that staff be given two years to make the new grade or leave.

(4) Training: The registry needs a coherent training plan.

New recruits will be at higher level, but we must get the old staff up to minimum standards. This must be done academically through the ordinary education system, allowing current employees 2 years, a reasonable amount of time.

Possibility of allowing up to 4 hours a week, as part of favorable working conditions, for class study or attendance. This implies employer recognition of academic improvement as a contribution to the registry.

Continuing Adult Education might be a requirement for a couple of times a year for staff members. Training is needed in intellectual property rights, new technologies, procedures, and more. This could start immediately, but would continue over long term.

A retreat for all staff members is needed. Last year, this was done as a Saturday retreat, discussing problems within the registry (last one in Sept 94). This would start immediately, but would continue into the long term.

An improved, sustainable budget will have provision for participation in conferences. Historically, these have been regarded as a perk, rather than a learning experience. To change this attitude, we must have accountability for the learning process. There is also a strong need to join the regional registrars association.

(5) Revisit the Issue of the Advertising Requirement: Walter Mohabir: The bulk of work in the Registry is transports under Roman Dutch, with great advertising requirements. We should consider amending the law, so where plans exist, the law will allow for title where there is no contention. If a property is under the land registration system, change in the requirements would cut the strain of the registry. Land registry can be easily put in computerization. Instead of a mortgage, a new system could advance charges with same right of foreclosure as a mortgage. If advertised in a normal local newspaper instead of the Gazette, and there is no opposition, then the charge automatically vests. This cuts the work of the registry in more than half. With regard

to intellectual property. England already has a computerized intellectual property system. Guyana should get this same software and hardware, and move forward, with less than half of the amount of persons in the registry, rather than the anachronistic process today of transports etc.

(6) Modernization and the Advertising Requirement: includes both computerization and legislative modernization. Rockcliffe says we need to be realistic in trying to amend local legal culture.

Tom Johnson: We now have the technology to move the process faster, but I suggest that all this can be done while maintaining the essential integrity of the transport system. There is nothing wrong with the transport system conceptually - the problems are procedural, and legislative amendments are necessary to resolve these procedural issues. The transport system does not guarantee state certified borders, and I suggest that such guarantee is not a necessary process of any modernization plan. However, we do need to modify the notice requirements, and computerization can simplify this considerably. Imaging can provide us with the tools to drastically improve the existing system. The policy behind advertising is to provide notice to all creditors or interested parties. If this policy objective can be met in some other manner, then the bottleneck could be removed.

Rockcliffe: recommends truncation of advertisements, rather than the whole announcement which today can go on for pages for a single transaction. The Gazette is the official notice, the official government paper. The Government should publish this on time and should not change the system just because of a problem with the individuals working in the Gazette office.

(7) Need to normalize situation:

Purchase new drawers for plans.
Repairs to building's shelves and other physical repairs
air conditioning and generator
termite/pest control (might be under Justice Improvement
Prog.)
desks and chairs
credible water system
bathrooms
supplies: typewriter, staples, proper paper, etc.

(8) Unique parcel identifier numbers or parcel identification numbers (PIN). Use of PIN codes allows for computerization. Under a land registry system, we already have this. However, under the transport system, we could consider use of the electoral system

which is accurate now to the neighborhood block. Inside each neighborhood block, the new system could use additional numbers. The PCU (People's Cooperative Unit) is the basis for the electoral system and is based on a six digit number. Conceivably, we could add a dash, and another number, to take this one level further for parcel identification.

(9) Imaging system. Conversion, with pilot projects. Imaging systems are about as cheap as fiche, but allow for annotations on the screen. This will work well for the transports.

"Day forward" process for other documents would mean that the system would allow for entry of data from today onward. If old data is to be entered, this would have to be done in addition to the current system.

Imaging will decrease space demands for the system.

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CONSENSUS ACTION PLAN: DEEDS REGISTRY AND LAND COURT

This Action Plan will provide the Deeds Registry with a sustainable financial source, an enhanced salary structure, and improvements in management and infrastructure to carry out the new Mission Statement.

Timeframes:

Note: initiation dates are included rather than conclusion dates. However, many activities begun in one period (ex. training) will continue from then onward.

Immediate Term: today until MIF funding available. However, actions suggested for the Immediate Term should be take whether or not any funding is every available from the MIF, as this is not a guaranteed funding source and these items are not external funding dependent.

Short Term: first 6 months of MIF funding availability

Medium Term: Months 6-24.

Long Term: After 24 months (assumed to be post-MIF).

Term	Activity	Who will Initiate	Main Party Responsible	Output
Immediate (prior to any potential donor funding)	Retreat Summary	S.E. Hendrix of the LTC	Deeds Registry (DR)	Summary sent to Participants, AG and IDB.
	Draft request to MIF	Hendrix with Leon Stewart of the DR	A.G.	Request to MIF