

***THE DEEDS REGISTRY IN GUYANA AND  
ITS LEGAL AND INSTITUTIONAL FRAMEWORK:  
VIEWS TOWARD PROMOTING TRANSACTION EFFICIENCY***

by

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Leon O. Rockcliffe



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**LAND  
TENURE  
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Report Prepared for and Submitted to:  
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Agriculture Sector Loan (GY-0016)

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This report is based entirely on non-confidential sources. The contents of the report have been shared with the Leon Stewart (Registrar) and Carolyn Ramroop (Deputy Registrar), Deeds Registry, and Kumar Datadin (Commissioner), Lands and Surveys Department, with whom we have worked. The authors wish to thank these entities for their collaboration with and contribution to this report. The report represents the personal opinion of the authors, and does not necessarily reflect the opinion of the Inter-American Development Bank, the Government of Guyana, or the University of Wisconsin.







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## EXECUTIVE SUMMARY

This report was prepared as part of an orientation mission of the Inter-American Development Bank (IDB). It addresses the need to reduce transactions time and costs in the Deeds Registry which inhibit the proper functioning of a land market and prejudice the attainment of title to land by the rural poor.

1. It focuses also upon the inefficiencies in the processing of land transactions and in the system of record-keeping and availability of relevant land information attributable largely to lack of human and material resources.
2. Constraints leading to excessive processing time and related costs are identified. Proposals are made to remove these constraints, simplification of procedures and the strengthening of the institutional capacity of the Deeds Registry. In consultation with the Registrar and Deputy Registrar of Deeds, the Commissioner of Lands and Surveys, and other appropriate Government officials, this report outlines a proposal for an action plan to address the concerns raised. This proposed action plan includes technical and financial support for the strengthening of the Registry of Deeds, and streamlining the current system of adjudication in the Land Courts under the Land Registration system.
3. The Report also takes into account the other activities at present assigned to the Registrar of Deeds e.g. Companies, Trade Marks, Patents and Notarial/deeds registrations, but emphasis is placed upon the provision of personnel and physical facilities relating to the efficiency of the Registry insofar as land matters are concerned.



## TERMS OF REFERENCE FOR THE STUDY

This report was prepared as part of an Inter-American Development Bank (IDB) orientation mission, preparing with the Government of Guyana, an Agricultural Sector Loan, aimed to support improvements in the agricultural policy framework. Among the objectives of the operation is that of increasing the liquidity of land assets by reducing related transaction, time and costs. Within the context of the operation, this report analyses the legal and institutional framework for land transports, including a review of statutes and procedures used by the Deeds Registry. It also addresses the processing capabilities of the Deeds Registry in general, with special emphasis on real estate-related transactions.

It can be noted that, while the present study is prepared under an Agricultural Policy initiative, subsequent IDB activities will be made under an implementation loan in the agricultural sector and a securitization loan, focusing on the issue of credit. Given these Bank activities, this report was drafted to answer at least some of the questions that might arise in those areas.

This study does not address the matters of mining, leases and permissions issued under the Mining Act nor leases under the Forests Act as these titles are not recorded at the Deeds Registry. Their only relevance is when they are mortgaged under the transports system, in which case the Registrar is not required to make any annotation on the originals since they lie elsewhere.



## AGRICULTURAL POLICY RELEVANCE OF THE DEEDS REGISTRY

Registry-related barriers of access to the land market for the rural poor include:

high transaction costs and delays in the sale, purchase or mortgaging of agricultural land;

disincentives to breaking up larger estates due to land surveying and registry transaction costs, with the result that preferable land may remain inefficiently utilized; and

inability of the small holder to access credit once on the land, due to difficulty in obtaining title.

Given these difficulties, costs and delays, creditors will only extend loans to their most favored, larger clients.

An inefficient, dysfunctional property, transaction and registry system tends to be a restraint toward long-term investment in the agricultural sector in Guyana. The Enterprise for the America Initiative, the General Agreements on Tariffs and Trade (GATT), and the North America Free Trade Agreement (NAFTA) all point toward the freeing of markets. Despite these policies, markets in land are constrained by institutional barriers (including the lack of efficient registries and lack of a "cadastre" or property maps) and market barriers (such as lack of access to credit).

Democratization and administration of justice concerning land issues are problematic in Guyana having regard to the time involved.

The AID P.L. 480 Program notes that:

"Obstacles to access and security of land tenure represent important constraints to food security, environmental management and increased investment in the agricultural sector. Analysis has indicated that improved access and tenure security will likely result in improved availability to credit, greater incentives to invest in land infrastructural improvements and greater willingness to cover costs of drainage and irrigation, which in Guyana is vital to the sustainability of production."

The property registration process under the transports system is excessively bureaucratic, costly and time consuming. It tends to deter large holders from selling their land in smaller plots, more affordable to small holders. Legal infrastructure cannot efficiently accommodate sale, mortgage or



lease of private freehold properties with a timeliness appropriate to modern commercial requirements.

Based on the above considerations, land access and rural credit will be constrained unless corrective action is taken.



## REVIEW OF THE DEEDS REGISTRY

The Deeds Registry falls administratively under the Attorney General and Minister of Legal Affairs. It is established under the Deeds Registry Act (Chapter 5:01 of the Laws of Guyana) and is staffed by a Registrar of Deeds, a Deputy Registrar and Registry officers who man the several departments that comprise it.

The main functions of the Deeds Registry are:

1. The operation of the Roman-Dutch system of land titles, familiarly known as the "transports" system including the processing, advertisement and recording of transports, mortgages, leases, encumbrances and all matters affecting title to land.
2. The registration and recording of notarial and miscellaneous deeds, e.g. Power of Attorney, Indentures, Deeds Poll, Bills of-Sale and charges.

The transport department is styled the Conveyancing Department and the other the Notarial.

The Registrar of Deeds also performs the offices of Registrar of Companies, Registrar of Patents, Trade Marks and Designs, Registrar of business names and Registrar of Trade Unions.

There is for the county of Berbice at New Amsterdam a sub-registry headed by a Chief Registry Officer, which performs all the functions of the Registrar except those relating to Companies, Business Names, Trade Marks, etc. and Trade Unions.

With the introduction of the Torrens system of land registration in Guyana in 1960 by the Land Registry Act. Chap. 5.02 of the Laws of Guyana, the Registrar is also Registrar of Lands and maintains a Land Registry at his Georgetown Office for the counties of Demerara and Essequibo as well as one at New Amsterdam for the county of Berbice.

There is no office of the Deeds Registry in the country of Essequibo, the least populated of the three counties. The Deeds Registry at Georgetown is the office of record for transactions for the county of Essequibo.



## DEEDS REGISTRY STAFFING

From the Annual Report on the Deeds Registry for the year 1992 as compiled by the Ministry of Legal Affairs, the staff structure appeared as follows:

### Management:

- 1 Registrar
- 1 Deputy Registrar

### In Georgetown:

#### Notarial Section

- 1 Senior Registry Officer (ag.)
- 4 Legal Clerks II

#### Accounts

- 1 Accounts Clerk III (ag.)
- 1 Legal Clerk II

#### Conveyancing Section

- 2 Senior Registry Officers (ag.)
- 3 Registry Officers (ag.)
- 9 Legal Clerks II

#### Personnel and Typist Pool

- 1 Confidential Secretary
- 4 Typist Clerks I
- 2 Cleaners
- 2 Office Assistants
- 1 Vault Attendant

### In the New Amsterdam Sub-Registry

- 1 Assistant Registrar of Lands
- 1 Senior Registry Officer (ag.)
- 2 Legal Clerks III (ag.)
- 2 Legal Clerks II
- 2 Typist Clerks I
- 1 Office Assistant
- 1 Cleaner

By the process of natural attrition, this establishment has decreased by June 30, 1994 particularly in the Conveyancing Section by about 5 clerks and the Land Registry is being manned by 1 (one) clerk only.



Under the provisions of the Deeds Registry Act a clerk who would fill substantively the post of Senior Registry Officer or Registry Officer must have successfully written an internal examination leading to a Certificate of Competency to be appointed a sworn clerk and a notary public. The syllabus comprises the laws and practice relating to the business of the Deeds Registry and the functions of a notary public. The examination was last held some 10 years ago. the designation "Acting" or (ag.) against so many of the positions on the establishment reflects the absence of formal training for the examination over the period, lack of any officers with that qualification and the low academic quality of junior staff manning the office.

The Registrar and the Deputy Registrar in Georgetown are the only staff members duly qualified for senior posts.

Deeds Registry employees are drawn from the general public service where the low quality of employee is a direct reflection of the ridiculously low level of remuneration. The staff are predominantly female both in Georgetown and New Amsterdam, clearly attributable to an inability to attract and hold male workers at such low levels of pay.

A notable current situation at the Registry in Georgetown is that one of the most diligent clerks is a mere Office Assistant ("messenger" under the old classification) and the clerical services of the cleaner are much appreciated.