

LAND REGISTRATION FOR THE
URBAN POOR IN NICARAGUA: A
STATUS REPORT WITH RECOMMENDATIONS

by

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and
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TENURE
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EXECUTIVE SUMMARY

The United Nations Development Program (UNDP) is assisting the Government of Nicaragua (GON) to resolve its property crisis. As part of a broader strategy, the UNDP would like to assist the GON to title urban properties in marginal neighborhoods. To this end, the Inter-American Development Bank is willing to contribute about US\$500,000 to the UNDP effort.

An urban titling initiative is imperative. Poverty conditions in Nicaragua are surpassed only by Haiti in the western hemisphere. There is growing land tenure uncertainty as the country moves toward the next elections. With 100,000 urban titles outstanding, at least 75,000 of which are in the capital, a potentially politically explosive situation is developing.

Vice Minister for Property Leopoldo López has made clear that he would like to see 100,000 titles given out in the next 18 months. Of these 100,000 lots, 75 percent are located in Managua. The other 25 percent are all over the country. The Vice Minister stresses that the titling effort should be done in a serious, technically-sound fashion, so that there is no dispute as to the validity of the documentation.

Unfortunately, three institutions, each with its own limitations, constrain the issuing of titles. The property registry is organized under the Supreme Court and currently has entirely manual procedures. Many of its procedures are inefficient and duplicative of efforts by other institutions. All transactions must be noted in a reception book, called a *diario*. Persons using this book are physically capable of copying in perhaps only 50 to 70 transactions per day. This alone limits productivity. This constraint should be immediately addressed in a coordinated fashion with the World Bank, which is engaged in a longer-term effort at registry and cadastral modernization. More radical steps, such as restructuring the institution, automation, and use of declared registration zones should also be explored.

The physical cadastre is maintained by INETER, the Nicaraguan Institute for Territorial Studies, under the control of the Construction and Transport Ministry. Its staff is well trained and organized, but the institution lacks the financial resources to purchase modern equipment that would allow for more rapid production of cadastral maps. These maps are needed to inscribe titles at the registry and are very helpful in compensation of former owners and in planning. INETER has suggested using aerial photography together with GPS to attack the problem. We believe, however, that the competitive bidding for the photography and other related deliverables will be too slow for the Finance Ministry's timeframe. Thus, it is recommended that INETER proceed with a combination of GPS surveys and traditional surveying techniques, and later add in aerial photography.

The Urban Titling Office (OTU) is perhaps the most optimistic institution. Organized under the Finance Ministry, it processes claims relatively quickly when it has appropriate cartographic information and where prior owners have been compensated. This underscores

the need for some resolution of claims with *confiscados*. Such a settlement is being explored by the Carter Center with support from the Land Tenure Center.

Beyond dispute resolution, what is now needed is a broad, land access strategy in favor of the poor via market mechanisms, possibly to include land regularization and normalization, land banks, mortgage banks, integration of the various cadastral and titling initiatives, land for infrastructure exchanges and so on. A coordinated, market-friendly strategy is needed to ensure broad economic participation. Lack of such a strategy for the poor would be market naive.

TABLE OF ACRONYMS

CADD	Computer assisted drafting and design
CNRC	Consejo Nacional de Revision de Confiscaciones (National Council for the Review of Confiscations)
DMA	United States Defense Mapping Agency
GIS	Geographic Information System
GON	Government of Nicaragua
GPS	Global Positioning System
HABITAT	Centro de Naciones Unidas para Asentamientos Humanos (U.N. Center for Human Settlements)
IDB	Inter-American Development Bank
IMF	International Monetary Fund
INETER	Instituto Nicaragüense de Estudios Territoriales (Nicaraguan Institute for Territorial Studies)
INIFOM	Instituto Nicaragüense de Fomento Municipal (Nicaraguan Institute for Municipal Development)
INRA	Instituto Nicaragüense de Reforma Agraria (Nicaraguan Institute for Agrarian Reform)
LAN	Local area network
LIS	Land Information System
LTC	University of Wisconsin Land Tenure Center
MPLIS	Multi-Purpose Land Information System
OCI	Oficina de Cuantificación de Indemnizaciones (Indemnization Calculation Office)
OOT	Oficina de Ordenamiento Territorial (Office of Territorial Ordering)
OTU	Oficina de Titulación Urbana (Office for Urban Titling)
PNCTR	Programa Nacional de Catastro, Titulación y Registro (National Cadastre, Titling and Registry Program)
UNDP	United Nations Development Program
UNO	Unión Nacional Opositiva (National Opposition Union)
USAID	U.S. Agency for International Development

SECTION I
TERMS OF REFERENCE

The United Nations Development Program (UNDP) is assisting the Government of Nicaragua (GON) to resolve its property crisis. As part of a broader strategy, the UNDP would like to assist the GON to title urban properties in marginal neighborhoods. To this end, the Inter-American Development Bank is willing to contribute about US\$500,000 to the UNDP effort.

In coordination with the Nicaraguan Finance Ministry and the Vice Minister for Property, UNDP invited a Land Tenure Center team to Nicaragua to define the urban titling program. More specifically, the purpose of the visit was:

- (1) discuss with GON officials the scope of the GON initiative to title 100,000 urban lots in the next 18 months, and summarize that initiative for the UNDP;
- (2) provide recommendations to the GON of any alternative approaches, organizational structures or technologies which could advance the GON proposal, based on comparative cadastral modernization experiences;
- (3) help develop terms of reference for the contracting out of the titling effort; and
- (4) collaborate with the GON in the selection of firms for the carrying out of the effort.

The Land Tenure Center team comprised of Steven E. Hendrix and Stephen J. Leisz arrived on the afternoon of Tuesday June 27, 1995. Stephen Leisz departed on Saturday July 1, 1995. UNDP invited Steven Hendrix to remain in country until Thursday, July 6, 1995 to participate in political meetings in Montelimar concerning broader issues of land tenure and dispute resolution.

This report is being prepared under an extreme time constraint due to the urgency of the request from the Finance Ministry. Consequently, while the authors have made every attempt to be as accurate as possible, the length of visit did constrain analysis, and thus the appropriate institutions should be consulted for definitive answers regarding current status and policy. The opinions expressed in this report are those of the authors and do not necessarily reflect the position of any other institution. The authors wish to thank the Government of Nicaragua, the United Nations Development Program and the U.S. Agency for International Development for their strong cooperation and support.

SECTION II BROAD PROBLEM STATEMENT

A. BACKGROUND

Mark Schneider, U.S. Agency for International Development (USAID) Assistant Administrator for Latin America, has argued unequivocally:

One only has to look at the tragedy of events in Chiapas to illustrate the gravity of failing to address land security for the poor. There are also few issues as potentially destructive to our hopes for consolidating democracy and achieving sustainable development than the denial of access to land and property rights for the poor... Formalizing land ownership gives a sense of purpose, a stake in society and a seat in the community council. It also is the key to unlocking the door to rural credit, to new technology and to the infrastructure for rural development... (AID) is pledged... to promote land security for the poor...¹

Nicaragua is a low-income country with substantial poverty, especially in rural areas. After an extended period of decapitalization of production in nearly all sectors, the country now needs to reverse this trend. Resolution of property ownership disputes can help on both fronts: poverty and investment.

Nicaragua has widespread property ownership disputes, many of which have their origin in conflicts over the Sandinista agrarian and urban reform programs designed to redistribute farms, factories and houses. The roots of the crisis have been examined elsewhere, and do

¹ Mark Schneider, AID Assistant Administrator for Latin America, Address at "Property for the Poor: The Path to Development" Conference, Washington, DC (April 12, 1994). The reference to Chiapas refers to a peasant uprising in southern Mexico which began on January 1, 1994. One of the main issues in that uprising was land rights and inequitable land distribution in the State of Chiapas.

not need to be repeated here.² It is sufficient to note that a large proportion of Nicaragua's population feels either dispossessed or insecure.

The task Nicaragua faces is to deal with thousands of overlapping claims to property in such a way as to redeem past promises where that would reduce poverty, and to re-establish the security of all those who either receive or retain property, so that re-investment can move ahead. Part of this task, and the subject of this report, is the application of newly available technologies and techniques which may accelerate surveying of small urban lots that are ready for titling to new recipients.

For rural areas, A World Bank rural titling project is underway, coordinated by INRA.³ The other institutions involved are the Supreme Court (property registry) and INETER. As part of the World Bank initiative, INETER will be taking aerial photographs next year in the Central and Western parts of the country at a scale of 1:50,000.⁴ In the eastern part of the country, INETER will rely on Landsat or Spot satellite imagery, to be taken at a later date. INETER will also be purchasing orthophoto equipment with the goal of creating a base of orthophotos for the western and central parts of the country.

This report concentrates on the technical aspects in an urban setting of the first issue regarding property: getting titles into the hands of the urban poor. At present, to obtain a title on state land, there are three major bottlenecks. First is the process at the *Oficina de Ordenamiento Territorial* (OOT). The OOT has been providing qualified beneficiaries of land with *solvencias*. A *solvenca* is simply an administrative document, demonstrating that the

² See, for example, Stanfield and Hendrix, Ownership Insecurity in Nicaragua, 22 Cap. U.L. Rev. 939 (1993); Hendrix, Innovaciones a la legislación agraria en América Latina: Los casos de Perú, Honduras, México y Nicaragua (1994); Hendrix, Property Law Innovation in Latin America with Recommendations, 28 Boston College Int'l & Comp. L. Rev. 1 (1995); Hendrix, The Crisis of Land Law and Policy in Nicaragua, 29 Comp. Jur. Rev. 3 (1992) (Spanish version La Crisis Política y Derecho Inmobiliario en Nicaragua, 29 Comp. Jur. Rev. 25 (1992)); McCoy, Carroll, Elliott, Hendrix and Yarn, Nicaraguan Property Disputes, Working Paper, The Carter Center of Emory University, April 1995; Stanfield, "Insecurity of Tenure in Nicaragua" (Land Tenure Center Research Paper 120, 1995); Strasma and Molina, "Accelerating the Resolution of Property Cases in Nicaragua, 1994" (Land Tenure Center, 1994); World Bank, "Staff Appraisal Report: Nicaragua: Agricultural Technology and Land Management Project" (1993).

³ Programa Nacional de Catastro, Registro y Titulación (PNCRT).

⁴ Bidding is open starting on July 16, 1995.

Administration has determined that the occupant is a qualified beneficiary under rules for housing or urban land access. It is not a title and does not include geodetic information.⁵ This means, in formal legal terms, that the beneficiary will be unable to mortgage, buy, sell, rent or give away the land. It should be recognized that OOT/OTU/OCI is the least problematic of the three constraints, and that the situation in INETER and the property registry presents a much more difficult challenge for the moment. Unfortunately, government efforts have not focused to the degree necessary on the two later components.

The second bottleneck occurs when, the OOT *solvensias* are passed to INETER for a physical description of the land, defining property boundaries through surveys. To be titled, the lot must have an accurate geographic description and a deed from the owner (presumably the State) to the new occupant. This information must then be inscribed at the property registry, at which point a title is issued.

The final bottleneck is found with inscribing the documents at the property registry, and delivery of title to the new owner.

The Government has made clear that he would like to see 100,000 titles given out in the next 18 months. Of these 100,000 lots, 75 percent are located in Managua. The other 25 percent are all over the country. The Finance Ministry stresses that the titling effort should be done in a serious, technically-sound fashion, so that there is no dispute as to the validity of the documentation. The rural land administration effort with the World Bank, unfortunately, will not help much in this urban goal: maps to be produced are not at an appropriate scale for urban property (1:5000 or 1:1000) nor is it the correct timeframe for getting the urban titles through the system within 18 months. Consequently, this report seeks to give the Government additional alternatives for action.

⁵ Geodetic information is information related to or determined by geodesy. Geodesy is a branch of applied mathematics that determines the exact positions of points and the figures and areas of large portions of the earth's surface, the shape and size of the earth, and the variations of terrestrial gravity and magnetism.