

DASJR Vol. 4, Issue 7, Page: 31-57,  
July 2019, ISSN: 2343-674  
Impact Factor (SJIF): 6.316  
Journal DOI: 10.15373/22501991  
International Peer Reviewed & Refereed  
Journal with Indexed Journal Platforms

web: [www.damaacademia.com](http://www.damaacademia.com)  
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## Land Documentation in Ghana: Lessons of Experience and Emerging Issues from Key Workers

**Dr. Stephen Agyeman-Yeboah, PhD.**

### Abstract

*In paper 4, land tenure and administration systems in SSA with an emphasis on Ghana were reviewed. It was seen that a plurality of land tenure and management systems (i.e. both customary practices and via enacted legislation) prevail in the country. Customary authorities are responsible for the allocation, administration, and management of a large percentage of the area of the country. There are also six main land sector agencies that are directly involved in land administration with each having a statutory mandate to handle individual procedures. It was also identified in Paper 8 that key worker's households have regular income and employment, but they lack registered land titles and building permission documents which is part of the documentation requirements of major mortgage financing institutions in Ghana. As indicated in Paper 6, this paper presents the key findings and data from the focus groups' discussions and key informants' interviews. The aim of this paper is to explore the experience of the key worker's households' with land tenure and administration systems, its institutions and processes in the context of land documentation issues. The paper was conducted around key worker's participants' behaviour from formal and informal land documentation such as documentation of land interests, building permits and permissible property rights.*

**Keywords:** Land Documentation, Lessons of Experience, Emerging Issues

### 1.0 INTRODUCTION

Findings are grouped, with results from key informant interviews preceding lessons from the focus groups. Within each section, findings from key informants are presented first, followed by comments and experiences from key worker's participants. Institutional constraints of land documentation that are compelled by key worker's participants to undertake or refrain from undertaking it are considered.

The depicts the procedure for the allocation of stool lands which is in three phases. The first phase involves interactions mainly with the stool; the second phase is the preparation of the lease while the third phase involves seeking title to the land and finally land development.

The paper is structured as follows. While the first section introduces the land ownership and administration in Kumasi, the second recapitulates the source of information for this paper. The third and fourth sections concentrated on land allocation and registration documentation issues respectively. The last section focuses on documentation issues relating to land use and development

### 2.0 LITERATURE REVIEW

Paper presents land tenure and land administration in general for Ghana. In this section, land ownership and administration in Kumasi in particular is presented.

#### 2.1 Land Ownership and Administration in Kumasi

Lands in Kumasi can be grouped into two main parts, namely, the part one and part two land. Part one are vested lands while all other lands ( stools or public lands) constitute the part two lands. Stool lands<sup>1</sup> have the most concentrated pattern of private land ownership in the Kumasi. The degree of concentration is evident from the fact that majority of land users acquired land from the stool. These lands are managed and administered by the Asantehene

<sup>1</sup> In Kumasi like most of southern part of Ghana, customary land is referred to as stool land in reference to the carved wooden stool which is a traditional symbol of chieftanship and is believed to contain the souls of the ancestor.

land Secretariat (ALS). The Asantehene is ultimate custodian of all within the Kumasi traditional area. The Asantehene holds the allodial title to all the lands under his jurisdiction on behalf of all his subjects. The duality in the legal and institutional framework for land administration which exists in Ghana as described in paper 4 also applies to Kumasi. This implies that, both state law and customary laws apply simultaneously even as state institutions and traditional authorities exist together to manage and administer lands under their jurisdiction. There is also dualism in the land allocation and documentation process. That is, the allocation of lands is done principally by the local authorities (Chiefs, queen mothers, clan heads etc) while the legal title to lands is provided by the government through its agents.

## **2.2 Source of Information**

As indicated earlier in Paper, the presentation, analysis and discussion have been in line with adopted triangulation mixed method research design. In this paper, the qualitative methods mainly interview in Focus Group Discussion (FGD) with key worker's households and semi-structured interviews with key informants from both customary and state land institutions are the main methods. In total some 30 key workers were identified and participated in the three FGDs, these being drawn because of their experience with land institutions. Furthermore, a series of 34 semi-structured interviews with state land administrators, consultants and traditional land authorities from the following institutions was completed and breakdown of the sample is shown as below.

- Traditional Authorities in the study area.
- Asantehene Lands Secretariat (ALS)
- Survey Department (SD), Kumasi
- Land Valuation Board (LVB), Kumasi
- Town and Country Planning Department (TCPD) Kumasi
- Lands Commission (LC), Kumasi
- Office of the Administrator of Stool Lands (OASL), Kumasi
- Land Administration Project (LAP), Accra and Kumasi
- Land Title Registry (LTR), Kumasi

## **2.3 Land Acquisition and Allocation: A Initial Stage of Land Documentation**

As indicated in paper, customary land tenure is largely unwritten, is based on local practices and norms, and is context specific. These transactions were made orally and no written documents existed to support claims of ownership. There is considerable informal documentation of ownership and transactions in land taking place. However, such informal documents and processes are not usually legally binding, they are a gateway to formal registration of rights. In this section, experiences of key worker's participants in the acquisition of these land documentations are explored. In this same section, factors that are limiting the informal documentation process into formal land registration are also discussed.

### **2.3.1 Land Price in the city**

Although comprehensive data on the price of residential land and land sales have largely been lacking as well as sparse, there is a common belief that due to the combined effects of population growth and increasing commercialization of land-based activities have increased pressure on land and raised the monetary value of land. The prices of lands are aggravated by the boundary surveying and cadastral mapping cost. The majority of key informants interviewed in customary land sector indicated that, they have to hire the services of surveyors for the preparation of the layouts and subsequent demarcation of plots. The chiefs and traditional land authorities may then seek the services of the state land institutions for the demarcation of the land and preparation of site plans. However, a key informant from the survey department asserted that there are very few qualified surveyors in the city and many rural districts to undertake demarcation and preparation of site plans for land owners.

Coupled to this, it was also revealed that surveyors use very old and slow technology and must visit the site to physically survey the land. With few surveyors in the system, this kind of technology takes a considerable length of time. Furthermore, land survey and demarcation services are charged per acre and visit. A land administrator from SD reported that such costs are expensive and beyond the reach of many chiefs and families owning lands to pay (C6, 2011). As a result, in any case, many surveyors perform services on credit because not many chiefs can provide the cash at that instance. There are instances where the chief spreads the debt over such a long period of time that the paid instalments are small and of little benefit to the surveyor. A chief commented that many surveyors hold onto prepared site plans until the debt is finally settled (T1, 2011). Another chief also indicated that the cost of hiring the services of the surveyors is very high; they sometimes pay the full cost of land demarcation with some lands (T2, 2011).

The cost of surveys and demarcation of land was the most cited reason by most of chiefs for an increase in land prices. As indicated by one chief, the costs of these have to be borne by prospective purchasers. It was revealed

that the portion of the stool lands revenue paid to the stools is not enough to enable the stools to meet the cost of the surveying and demarcation of allodial lands which include activities like pillaring and preparation of cadastral maps.

### **3.2 Recording of Land Transactions**

It was found that some chiefs and traditional land authorities have completely documented transactions, others have only some documents recorded and others have no documents at all. Evidence suggests that the majority of chiefs and traditional land authorities do not record subsequent transactions. Rather, they informally hand over the documentation to the prospective buyer without recording transactions themselves. The low level of literacy among the chiefs and traditional land authorities further aggravate the situation.

Furthermore, it was however confirmed from the interview with the traditional authorities that most informal documents are stored at the local level. They keep files and records of land transactions. Many chiefs prefer to have their own personal documentary evidence of their recorded rights. A representative of traditional land authority expressed that, “documents attesting all transactions are recorded in an exercise book as well as the duplicated card-bound receipt book” (T2, 2011). The interview with the chiefs revealed that many use written contracts agreements. Utilizing these systems, sales of land (usually within the community) are evidenced by informal deeds, signed by witnesses.

However, these are not complete records of transactions and such informal documents and processes are not usually legally binding or have no legal value. These documents will not necessarily provide clarity on the title. An administrator at the LC commented that these documentations are prone to contestation even though they increase land tenure security in the eyes of many land users. Another land administrator asserted that a recording in such informal form like that is evidence that a particular transaction has taken place and it is no proof that chiefs or the sellers in question have the legal right to carry out the transaction, nor does the act of recording validate the claim or transfer of ownership (C21, 2011).

In Ghana, most transactions and documentation by customary owners must be approved or authenticated by formal land authorities. Compounding above problem is the fact that many informal documentations given by some chiefs and traditional land authorities are reported to be fraudulent. However, the difficulty of detecting multiple land sales and fraud constitutes a major obstacle for many land administration operations. A consultant with the LAP suggests that at least more than two members of the community have to be consulted prior to land allocation (L2, 2011). Although this gives prospective sound security of tenure, it is an expensive and time-consuming process, especially in contexts where identification of right-holders is a problem. Many prospective purchasers have to do this either directly or through an intermediary. Where the latter is involved, an entry fee must be paid, or to the person or group who assist them.

### **3.3 Constraints in Land Transactions**

As indicated in paper 3, land is held to belong to the community, the village, the stool, or family but not to the individual and traditional authorities act as trustees of the land. This implies that land remained communal property and could not be perpetually alienated without the consent of the head of family. Until the advent of commercialisation of land and increasing demographic pressures, both indigenous and non-indigenous people could obtain land through outright purchase. The first step in the land acquisition procedure is to identify and contact the chief whose area of jurisdiction includes the identified land.

Evidence from FGD appears to show that ‘most lands are family lands with many beneficiaries. The number of persons entitled to make legal claim is so great that no identifiable group can be deemed to be the owner’ (FGD, 2011). Customary rights in land are so complex that prospective purchaser, sometimes have difficulty in establishing the actual owner of a given parcel of land. The prospective purchaser needs to contact the chief or the family through a "representative" for the chief or the family. However, for uncertainty over legitimate land owner or land owning authorities, many revealed that they purchased their land through intermediaries. It was revealed during the discussions that there are unregistered estate agents who are often found around the premises of land institutions offices who assist in the location of land for prospective purchasers.

Furthermore, some participants also revealed that a number of workers with these land offices act as middlemen for chiefs and potential purchasers (FGD, 2011). The service rendered by these people normally comes with a fee and sometimes money is paid to the wrong person in the family before the right land owner is identified (FGD, 2011). These transactions are made orally and no written documents existed to support claims of ownership. Unfortunately, the exclusion of oral grants under the prevailing law means that these transactions are not eligible for registration unless they are put into writing.

### **3.4 Impact of High Land Prices on Key Workers Participants**

Land prices were topics of interest to the key worker’s participants. The majority (93%) of FGD participants own land in Kumasi and surrounding areas. The price of lands, as derived from discussions with participants suggests that average land prices in city are relatively high. Within the city, there was considerable variation. The results also revealed that land prices differ according to location. There is a significant diversity in income patterns among participants. The FGD asserted that buying land is expensive. As can be seen their incomes are significantly below land prices. Consequently, the results reflect the reason for which many participants have bought lands in the peri-urban areas, if they wish to become an owner occupier. For example, participants whose lands are located in the peripheral locations and the suburbs are much lower than those in the prime locations. Participants could afford lands in the urban periphery where there was no infrastructure.

Mode of payment was also discussed among the participants. The conditions of sale are determined by the land owners. Land owners are unwilling to accept extended payment schedules but instead, insist on cash payment for plots or a small numbers of instalments. A participant reported that, “the chiefs or care taker chiefs return acquired funds from land transactions to their subjects in the form of cash payments”. Reflecting on this, the discussion however, revealed that, in most cases land owners doubt that they will receive their money once such occupation has taken place. Due to the fact that land is expensively priced by the land owners and cash payments for land is common, the discussion established that few of the participants paid for their land outright (one payment). Instead, these lands were usually purchased through small monthly payments. Furthermore, deposit and balance and multiple payments were the most modes of payments among the participants (Table 9.1).

Land acquisition payments

Mode of payment	Frequency	Valid Percent
Outright(single payment)	1	3.3
Deposit and Balance	12	40.0
Multiple payments	17	56.7
<b>Total</b>	<b>30</b>	<b>100.0</b>

Further examination of the financial sources for these payments reveals that purchasing land rely heavily on borrowing (Table 9.2).

Source of Financing land

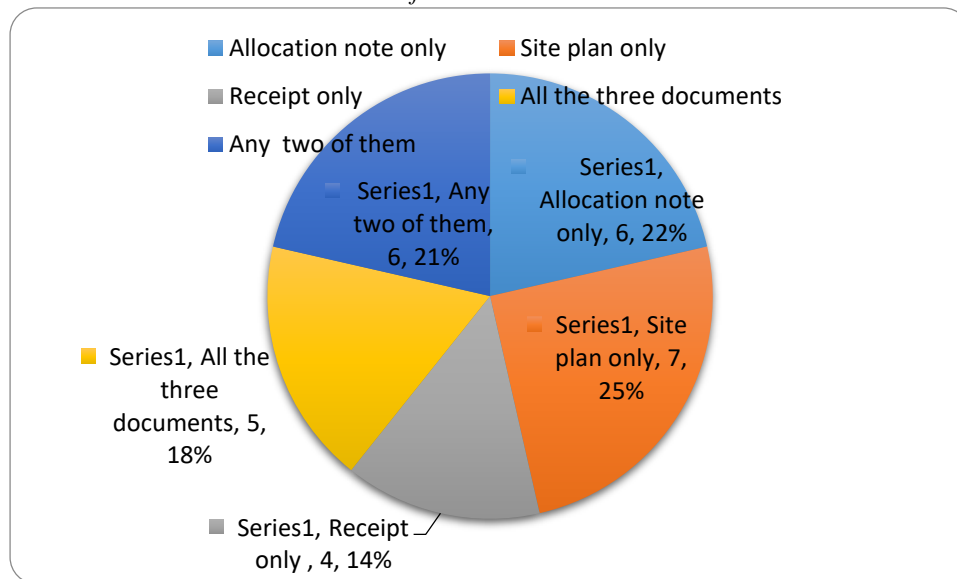
	Frequency	Valid Percent
Savings/Salary	3	10.0
Borrowed	14	46.7
Sales of valuable Goods	2	6.7
Combination of saving and borrowed	11	36.7
<b>Total</b>	<b>30</b>	<b>100.0</b>

### 3.5 Transparency in Land Transactions

As revealed from FGD evidence, a large number of land transactions are still made customary law. All participants perceived that their land transactions are made orally. Land sales are supported by three different documents, depending on circumstances. Receipts, allocation note and site plans are given to the prospective purchasers. All key informants from customary institutions indicated that they issue an allocation note and receipt as the only proof of transaction with confirmation signature or thumb prints/signature of the chief, witnessed by their secretary. The majority of them reported that they give a site plan when requested by the purchasers but it comes with additional fees on top of the main drink money. However, no further documentary evidence of title is given. One chief added “It is not our responsibilities to register the land. It is up to the grantee to prepare an indenture, register his/her title and pay ground rent to OASL” (T3, 2011). Figure 9.1 shows that of all participants who own land an estimated 18% have all the three documents, majority lacks one of these documents.

ALS has standardised land allocation forms and receipt books that are being sold to chiefs but most chiefs are not keen to buy these documents from the ALS. The FGD indicated that most participants retain many of the documents themselves. Consequently, the cost of these documents at the ALS are expensive that frustrates some of them from purchasing these documents.

Evidence of land sale documentation



Source : FGD,2011

### 3.6 Difficulty in Transferring of Land Rights

Securing property rights requires a combination of two forms of validation, at both local and state levels. At the local level, rights are secure if neighbours and others in the vicinity recognize a particular claim as being legitimate, according to their knowledge and set of values. However, unless they also pass a second form of validation, i.e. recognition by the state, these rights have no formal legal validity. In this section, issues associated with informal documentation of ownership and transactions in land are discussed. In this section factors that impede land transfer documentation process are also discussed from both key informants and key workers participants' perceptions and experiences.

#### 3.6.1 Fragmentation of Land Holdings

Secure, reliable and accessible information about who owns land is fundamental to the operation of land market. Several layers of interest in property are recognized to be legitimate, and tenure rules may recognize a bundle of multiple, overlapping rights over the same land. The complex interrelationships among those holding different bundles of rights can be thought of as a "web of interests" (FAO, 2002). In Ghana like many African countries, most land is not titled and that undocumented land rights are not recognized by the state and fail to recognize the existing wide range of property rights. Despite the lack of documentation of land rights, the majority of chiefs and traditional authorities interviewed felt reasonably secure in their land rights.

Similarly, the lack of proper boundary demarcations has resulted in encroachment and other fraudulent land dealings. There are no land registrations done on customary land that can secure tenure rights. The fragmented lands have no accurate demarcation creating conflicts over informal land sales that are not honoured due to the undocumented nature of agreements. As a result, a large number of unapproved layouts and illegal subdivision exists, to some extent in the city. The multiplicity of land ownership and their overlapping jurisdictions in and around the city have created a laissez-faire situation in which it is easy for illegal developers to operate.

As most claims of land ownership are based on informal or customary practices, and few of them are well documented, an informant at ALS reported that the absence of officially recognised rights leave land users and land owners vulnerable to their land being illegally appropriated. LAP consultant highlighted that registration of ownership rights continues sporadically but the process is complicated and expensive, with the result that many chiefs still feeling that they would be deprived of their right to dispose of their lands (L2, 2011). The SD and in collaboration with TCPD have duties to regularising layouts as part of land adjudication process on payment of fees. The main problem facing adjudication process has been the unwilling of plot holders to pay for the charges as well as to follow adjudication operations. A key informant at ALS revealed that currently there is a strict regulation of data collection<sup>2</sup>. As a result chiefs or land owning families have to present five passport pictures, geometric boundary data or cadastral map and

<sup>2</sup> A way to reduce many land disputes in the city by the Asantehene

produce documentary evidence of ownership, among others. Often, ALS requires proper layout of the land which is costly and creates logistical problems. According to one key informant at LC, many chiefs and traditional land authorities still do not possess legal rights and if they have them they do not have formal documents to prove it (C8, 2011). Without these documents, the adjudication process at every step up would be slowed.

The majority of chiefs reported that adjudication of a parcel of land is expensive and most chiefs cannot afford the cost, particularly as it involves a range of costly private sector professional fees. A chief asserted that they cannot easily fulfil the requirements, pay the necessary fees, hire professionals, repeated travel to relevant offices and have no appropriate knowledge and contacts (T3, 2011).

### 3.6.2 Stool boundaries and ownership disputes

There are numerous stool land boundaries and ownership disputes that remain unresolved in the city. Disputes over boundaries and ownership are some of the biggest causes of litigation over land. According to a key informant at the LC, the lack of documentation and proper mapping and demarcation of customary lands mean that these disputes are often very difficult to adjudicate. While most chiefs have a master plan of the land under their jurisdiction but they do not know their full coverage of their land. It was revealed that some cannot define their boundary but they know that there are physical landmarks separating their land and the neighbouring traditional area. A chief added “*We know where our land territorial boundaries ends, there are big trees on each corner*”. This suggests that there is still the use of unapproved old and inaccurate means to determine land boundaries.

An informant from LC revealed that many ownership disputes stem from the failure to register land and land transactions (C9, 2011). Any land registration requires, beforehand, a detailed land survey, the identification of rights holders and information about the exact nature of their rights. Such information can be collected only with the assistance of the chiefs or the families concerned; a complicated and time-consuming process, which combines land survey with negotiation and conflict resolution. Many of these land conflicts result from the multiple sales and double allocation of land, either due to legal pluralism or undocumented customary tenure. Many plots are sold by different people to different clients. The little available and mostly incomplete or isolated data on land ownership by formal land institutions, make it difficult or even impossible to establish the rightful owner. This has been leading to a situation where one buyer starts constructing, another buyer appears or sends land-guards<sup>3</sup> to destroy the already built-up structures, sometimes even attacking the caretakers who are supposed to protect the property for the other person. In this situation, the land documentation process can be a very slow process if the rightful owner of land is not clearly defined. One informant from LAP added such a process requires time and financial resources to resolve disputes and agree on ownership before land registration process begin (L2, 2011).

Some progress has made by Asantehene with out-of-courts settlements for long-standing boundaries and ownerships disputes. As noted by one informant from ALS, ‘stay order and litigation hold up documentation process, for years, with judgements being challenged and cases moving to higher courts’ (C20, 2011). In such situation, documentation process and development on land that is under litigation remain undisturbed as long as the court case is not settled, sometime for decades.

### 3.6.3 Implications of land disputes on land documentation: Key workers’ experience

Registration and other land documentation confer greater security, reduced land disputes and litigation and make dealings in land easier, cheaper and safe. More than one in ten participants in the FGD confirmed that they have been affected of land disputes or have been a victim of land conflicts. A number of evidence from some of participants suggest that land disputes remain a major hindrance to land use and tenure security. Several instances of multiple sales of land were reported by the participants. Majority of them reported that they were victims of multiple sale of land. This situation arises among the participants because of the absence of proper documentation on land transactions. As a result, it was revealed that because they have not been able to reach an agreement with other parties involved, their full land leasing and documentation have been prevented by the injunction from court.

Some of participants who had been victims of land disputes reported that due to their limited land right, they could not make a full use of the land they purchased. Another also reported that they spent resources to defend their claims which was not only socially wasteful but also disproportionately disadvantages them. Some of them reported that they got discouraged and walked away from unfinished building projects. Their experiences reinforce the general view that where there are disputes, low income households are particularly vulnerable to losing their rights over land.

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<sup>3</sup> Land Guards’ is a Ghanaian expression used loosely to define heavily armed thugs who are usually hired by land owners to protect their landed properties, especially those in dispute.

As a general observation, it should be noted that there are a lot of difficulties in transferring, registering land tainted with boundary or ownership ambiguity or involved in a disputes. Participants commented, lenders will also be unwilling to lend money on security over such land.

#### **3.6.4 Fees and Charges associated with land transfer**

As indicated in paper 4, the transfer of land held by the customary land owner can either be effected by the granting a leasehold interest to prospective purchaser or most commonly transfer of a freehold interest. All key workers participants' lands were acquired through allodial title holder or customary freehold title holder and they have the right to use the land in conformity to the planned layout through the lease period. For security of tenure reasons, proper transfer of land needs to be done at ALS. The charge<sup>4</sup> is increasing in amount as the land transferred increases in value. It was revealed from the FGD that the land transfer charge calculation is based on the fair market value of the land transferred. Participants reported that the fair market value is to be the value of the land at the time the transfer is tendered for transfer and leasing application at ALS and not the value of the land at time the agreement for sale was entered into. Cost of land transfer and leasing was frequently cited by the participants as one of the primary constraints to land transferring and leasing documentation. According to the FGD results, this create an insurmountable barrier for majority of the key workers participants, leading to non-formalised transactions.

#### **3.6.5 Land information management at both local and formal level**

The land record procedures should be based on existing customary land administration process for the collection and maintenance of land record data. The data would be used both by the CLS and formal land institution for ongoing land administration procedures. As indicated in paper 3, land agencies therefore have a responsibility to manage land in a way that facilitates holistic development with the resources they have. Accurate, current and accessible land data are essential if a land agency is to carry out these functions effectively. The importance of this participatory approach is to build a partnership between land departments or offices for the creation and maintenance of a record of land allocation and transfers. In Kumasi, the principal government land agencies in Kumasi whose functions are related to the land allocation, transfer, registration and land use planning and development are the SD, the TCPD, the LC, the ALS, LVB, and the LTR. The functions and duties of these government land agencies have been discussed in paper 4. The land agencies should ensure that information flows efficiently between departments to inform the land administration and services delivery process.

The interview recognises that information flows to and from departments is lacking. There is an institutional friction. Most of the key informants complained that the communication practices and the exchange of information between agencies are also an issue. Land agencies spend time searching for relevant information and analysing that information to aid in making informed decisions. It is noted that the most vital information is shared on request. A key informant from LTR reveals that *'there is no joint database'* (C12, 2011). The absence of cooperation within various departments means that information is not often shared. For example, an informant at LC adds *"we have limited direct contact with each other in their daily work"* (C9, 2011).

Retrieval of information can take a very long time as this is done manually. The amount of time a staff at land institution reported it took for their information request to be answered varied by enquiry type. Furthermore, it is based on a first come, first served basis. In most cases, the wait times can take over four to six weeks sometime even longer before reports are received. Many key informants attributed these issues to a general lack of financial, technical and human capacity. It was revealed that majority of the land offices still use a traditional mode of information exchange<sup>5</sup> or most information requests are made in person.

#### **3.6.6 Accessibility to land information by key worker's participants**

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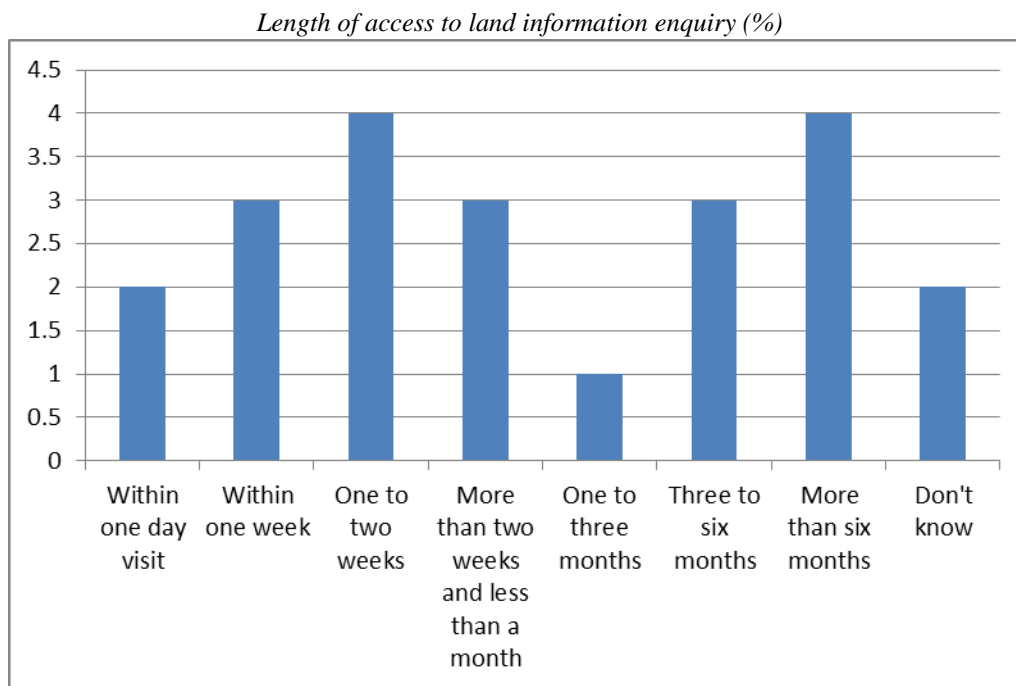
<sup>4</sup> The levies chargeable and disbursement are as follows: Processing fee - GH¢50.00; Administrative fee - 10% of drink money (Interview with the Liaison Officer, and the Estate and Valuation officer, 2011)

<sup>5</sup> Messengers or letters are sent to deliver or request information within department or offices

A local land record office would allow local tenure patterns to evolve while simultaneously providing a more formal level of security of tenure to land users in the community. Participants revealed that it is not easy to determine the boundaries of the land; the ownership of the land; whether there are any securities over the property; and what rights and burdens affect the land at LTR. The current position means that ownership of a property is dependent on what the register provides and on the possession of the property at any given time. Ideally, land holders should be able to access and update records locally, which would also help to ensure transparency.

FGD indicated that currently relevant land institutions in Kumasi, with exception of the TCPD, have their functions highly centralized in Accra. This form of centralised information gathering and dissemination could have a major impact on the way in which land users deal with information request. Participants reported that they are reluctant to use the system if travelling to the recording office to seek information means a long and inconvenient journey. In total 74% of participants attempted to conduct information request. 13% of participants reported that they had experiences difficulties or problems. A range of difficulties was given by participants such as lack of communication or not being kept informed, delays in receiving the information requested, staff were slow in dealing with requests or problems, staff lacked knowledge and the service made too expensive. Of those who had experienced a problem, 40% reported that their requests had since been resolved. Furthermore, participants who reported having a problem were less likely to be satisfied than participants who had not (56%, compared with 94%).

In total, four-fifths (78%) of the participants reported that their requests were answered within one week or less, with one in ten (8%) reporting that that their requests took over two weeks to be answered. Figure 8.2 displays this more detail.



Source: FGD, 2011

### 3.7 Lease Procedures and Documentation

In this section, lease documentation process is discussed according to key informant perceptions. Land allocation papers are considered incomplete unless endorsed by the Asantehene. To receive such endorsement one must start the process to convert the allocation paper into a lease. In this section, experiences of key workers in the context of these land documentations are also discussed.

#### 3.7.1 Informal Land Documentation Procedure Issues

As indicated above, no formal recording of the consideration paid is made on the allocation note. The grant is not enforceable, however, unless it is endorsed by the Asantehene. To obtain the endorsement, the prospective purchaser must present the allocation note together with three site plans to the ALS. With stool lands constituting a sizable proportion of lands in Kumasi, the role of the ALS is paramount to the city's land administration process. The



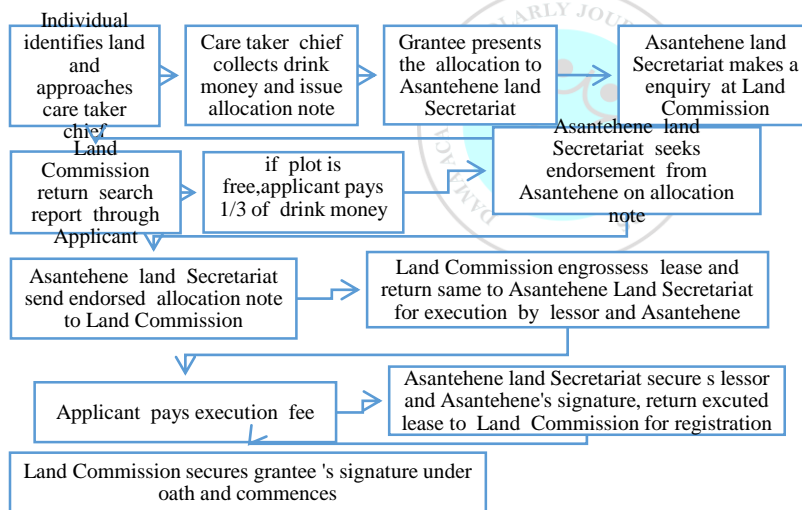
ALS reflects its role as the administrative unit of the customary land administration. The ALS is headed by a Liaison Officer and assisted by secretariat staff.

The land sector agencies most directly involved with the secretariat are the OALS, LC and TCPD. The office's close consultation with the Lands Commission ensures the dispositions are made to avoid conflicting allocations. As a result, all leases and other grants made by the Asantehene are to be registered by the Commissioner of Lands to make it legally effective.

Like any other CLS in the country, the lack the requisite capacity in their legal architecture to deal effectively was a problem. It has significant deficiencies in its legislative framework in the consolidation e and development of landholding rules, allocation and transaction procedures. Furthermore, the ALS lacks administrative and operational capacity to cooperate effectively with other land agencies in processing and issuing documents. Lacks of financial, technical and human capacity were mentioned by the key informants at the ALS as a key problem.

There are plethora of departments that must interact in order to complete land documentation (Figure 9.3 ). Thus, there is a need for coordination in their activities. It was revealed that during the interview that there are also major problems surrounding the flow of information for land administration purposes between relevant land agencies. According to two senior officials in the secretariat, there is lack of accessible, information in relation to land and inconsistencies in the availability and quality of referenced information such as maps, surveys, recordation and registrations. Coordination of exchange and sharing of land information between chiefs and prospective buyers is lacking. Chiefs and prospective buyers hardly coordinate any land transaction with the secretariat. The monetary amount transferred during the transaction is required to be reported. The amount is determined solely by the parties in the transaction, but investigations reveal that in most cases the price of land transferred is grossly under-reported. An informant at the secretariat indicated that this is normally done to avoid the payment of full tax on the transaction. These constraints affect the ability of the secretariat to effectively undertake most of its functions.

*Endorsement and lease documentation process in Kumasi*



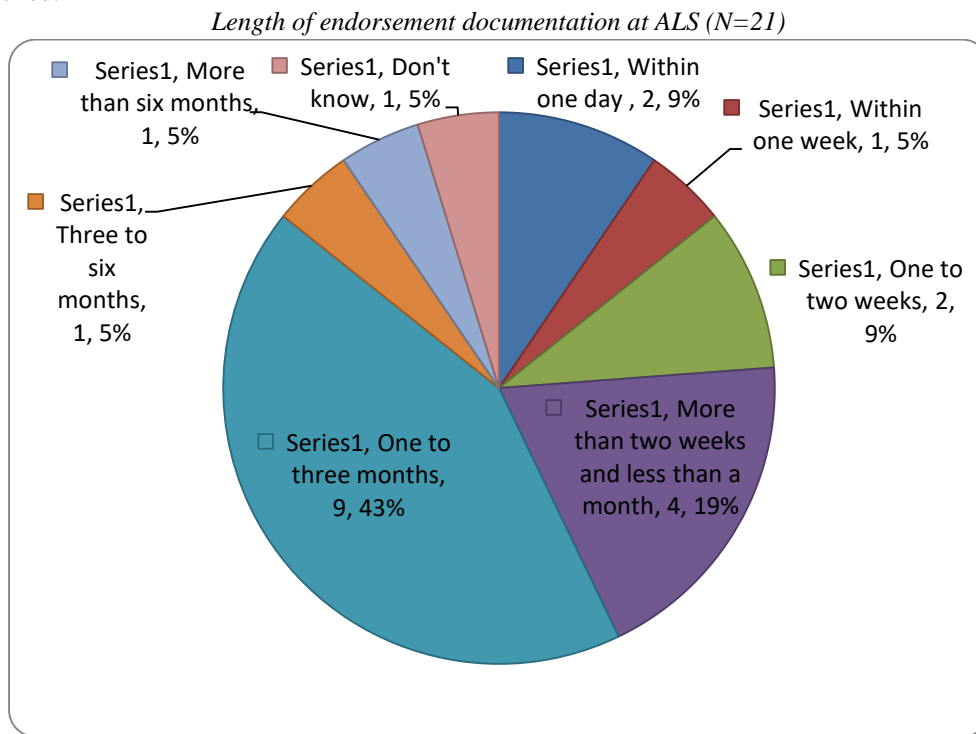
Source: Interview with key informant, 2011

### 3.7.2 Endorsement of allocation note at ALS and LC: Key workers' experience

As indicated above, allocation note is addressed to the regional secretary of the LC. However, unless the allocation note is endorsed by the Asantehene, the transaction is not enforceable. According to the FGD, 21(70%) of the participants reported that they had submitted their allocation notes to the ALS before. About 67% of respondents who had applied for endorsement reported at least one problem with service delivery. The biggest problems reported were delays in formalizing all land grants, lack of communication or not being kept informed up to date with the progress of their request, high cost of endorsement fees. A third of the drink money is paid to the Asantehene. ALS forwards the allocation note to the LC for the concurrence and preparation of a lease. This implies that an authorization may be signed by the Asantehene but the validity of such a release should be confirmed by LC.

The Lands Commission Secretariat brochure 'Concurrence Procedure for stool land s Grants' states that it takes 20-30 working days for documents to be processed and ready for collection'. Participants' experiences show different

things from reality. Participants found the allocation process time consuming and unduly cumbersome. Evidences from the FGD revealed that those who had applied for the endorsement, 29% reported it had been endorsed within two months, and a further 51% within three months. 13% reported that it had taken more than three months. Figure 9.4 displays this in more detail. Endorsement length had an effect on satisfaction. Overall 15% were satisfied and 77% were dissatisfied.



Source : FGD, 2011

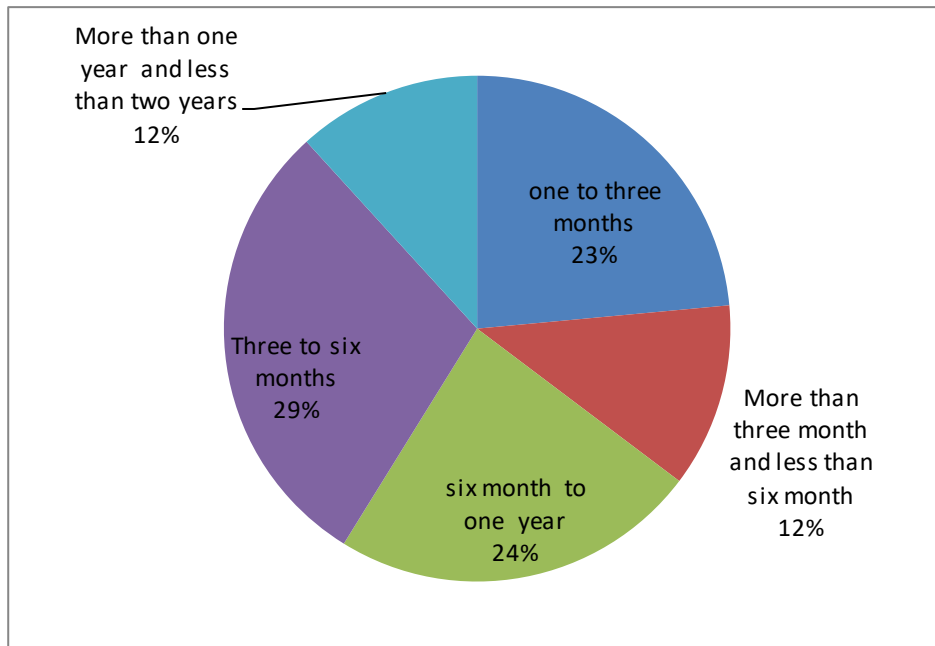
### 3.7.3 Acquisition of leases: Experiences of key worker’s participants

Secure formal leases are involved in an unknown but substantial proportion of cases, offering a strong degree of tenure security. As indicated in paper 4, most land users in Ghana are under the lease ownership and as land cannot be sold to an individual or group but rather leased to such user(s). Lease on land properties in Kumasi is issued by the Asantehene through the ALS. In order for land users like participants who had land to have the degree of confidence that they will not be arbitrarily deprived of the rights they enjoy over land, they have to formalise their contract. Majority of key worker’s participants who reported that they had visited ALS stated their dissatisfaction with leasing process. While the majority of focus group participants argue that affordability of the service at ALS and the LC are the issue. Other participants complain about the longevity of the process.

Accordingly, 75% of participants felt that their lease application took long time than expected. However, 18% of them felt that their lease application had taken/ took longer than expected. As most participant recall, they had to spend time and money to get their lease prepared. A participant commented if other persons are not as committed as he was, they would not be able to acquire leases to their lands (FGD, 2011). 45% reported it had concluded within six months, and a further 30% within twelve months but more than six months. Nine per cent reported that it had taken more than twelve months. Furthermore, of 14 whose leases are being processed, 34% reported that they had waited for more than six months and (12%) over a year (see Figure 9.5).

Satisfaction data can be a proxy for measuring actual quality of ALS and CL services, as well as an indicator of the extent to which services are responsive to the needs and preferences of participants. In regards to overall satisfaction, participants whose lease had been prepared reported high levels of dissatisfaction. Participants who were not satisfied with the time taken to process their lease were more likely to be satisfied overall than customers who were satisfied (67 % compared with 45%).

*Time waited for lease to be processed*



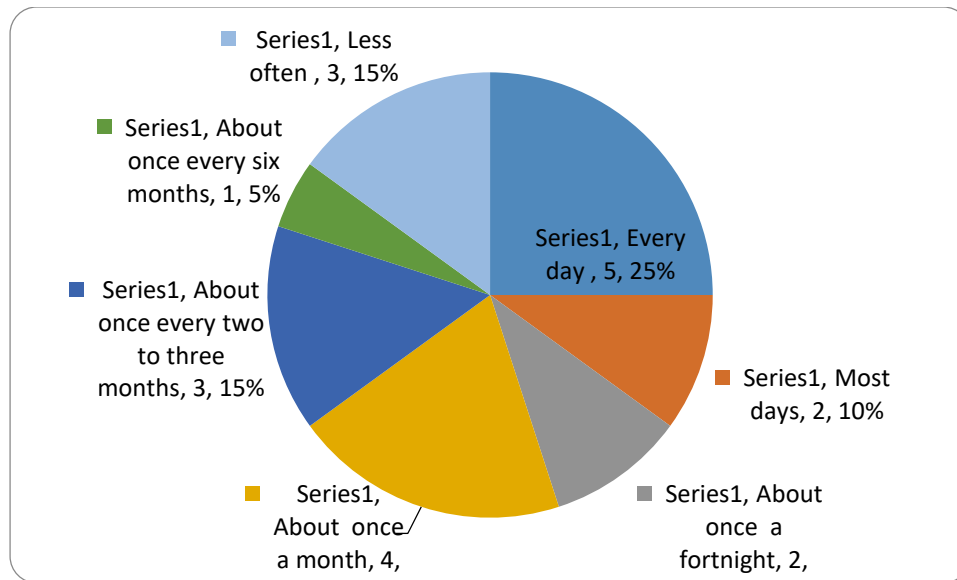
Source : FGD, 2011

### 3.7.4 Cost of processing leases

It was also revealed in the discussion that the documentation process normally attract extra charges the official lease acquisition fees which often turn out to be unbearably high. As of July 2011, the processing and execution fees varied from 100 to 300 Ghana cedis. Participants confirmed that they had paid the same charges and fees. Accordingly, the majority (85%) reported that they it difficult (39% very difficult and 46% fairly difficult). 9% found it easy (5% fairly easy and 4% very easy).

Furthermore, the discussion revealed that there is considerable uncertainty associated with the costs for processing the leases. Participants reported that the magnitude of these cost are dependent on the length of time these process require. While many of the participants reported that the official charges are manageable. It is clear from the number of evidences received from participants that most land users have to make unofficial payments for services that should have been free. 43% participants said they had made additional payments to speed up the process and the unofficial charges often turn out to be unbearable high. Despite these payments made by the participants, participants' experience shows that many had to influence the system somewhat by paying regular visits to the offices to grease the palm of officers or paid a worker at the office to follow the document. Figure 9.6 displays how often participants visited the land offices to get their lease processed.

*Frequency of visits at LC and ALS (N=21)*



Source: FGD, 2011

Given these considerable delays and transaction costs often experienced in the preparing of a lease, it is not a surprise that only a few participants in the FGD were able to confirm that they have full documentation to their land. Furthermore, there are many participants who said they have allocation, but what they have some document such as a receipt and endorsed allocation note showing the beginning of the process without necessarily completing it.

### 3.7.5 Payment of ground rents at OASL

As indicated in paper 3, under office of the Administrator of Stool Lands Act, 1994, the price for the transaction is to be paid, not to the stool (the vendor), but to the administrator of stool lands who subsequently distributes the monies according to a set formula stipulated in the Act. All interests bought from stools are automatically converted to 99-years leases and periodic ground rents<sup>6</sup> imposed by the OASL when they are registered. On a yearly basis, a leaseholder has to pay ground rent to the OASL for a leasehold property. The amount of rent payable as contained in the lease document is dependent on a number of factors some of which are discussed below and as agreed by the parties to the lease (i.e. the Lessee and the Lessor).

The assessment of the amount of ground rent payable takes into consideration the following: The type of use, the location<sup>7</sup> and the size (acreage)<sup>8</sup>. Rents are revised periodically to take care of inflation, the depreciation of the local currency and the price appreciation (in value terms) of the land over time. Evidences from the FGD revealed that almost three-quarters (72%) of participants reported that they had experienced in paying ground rents and all participants would be exposing themselves to paying periodic ground rents if they were to register their interests. Evidence from those participants who reported that they were paying ground rents suggests that the percentage of transactions in which payments are actually made to OASL is not known. Participants however asserted that this constitutes an additional cost to the transaction, which is prevented by not formally registering interests.

### 3.8 Registration of land title

In Kumasi as in the case of most cities in Ghana and as indicated in the stages in land allocation (see Figure 4.6) after the lease has been prepared, the document must be sent to the Lands Title Registry for the title to the land to be registered in the name of the owner or the lessee. The title to the land serves as the highest legal document in terms of the ownership of the allocated land. This is the final stage in the land allocation and ownership process. This

<sup>6</sup>These are specified amounts payable annually by holders of leasehold grants and other terminable interests in land transactions in respect of plots/parcels of land for residential, industrial, commercial, religious and other habitation uses. It is payable whether the land is developed or not.

<sup>7</sup> The closer a plot of land is to the built environment, availability of social amenities and neighbourhood quality, the higher the value and hence the bigger the amount of rent payable. Residential neighbourhoods are classified into 1st Class, 2nd Class, 3rd Class, etc and these classifications influence the amount payable as rent.

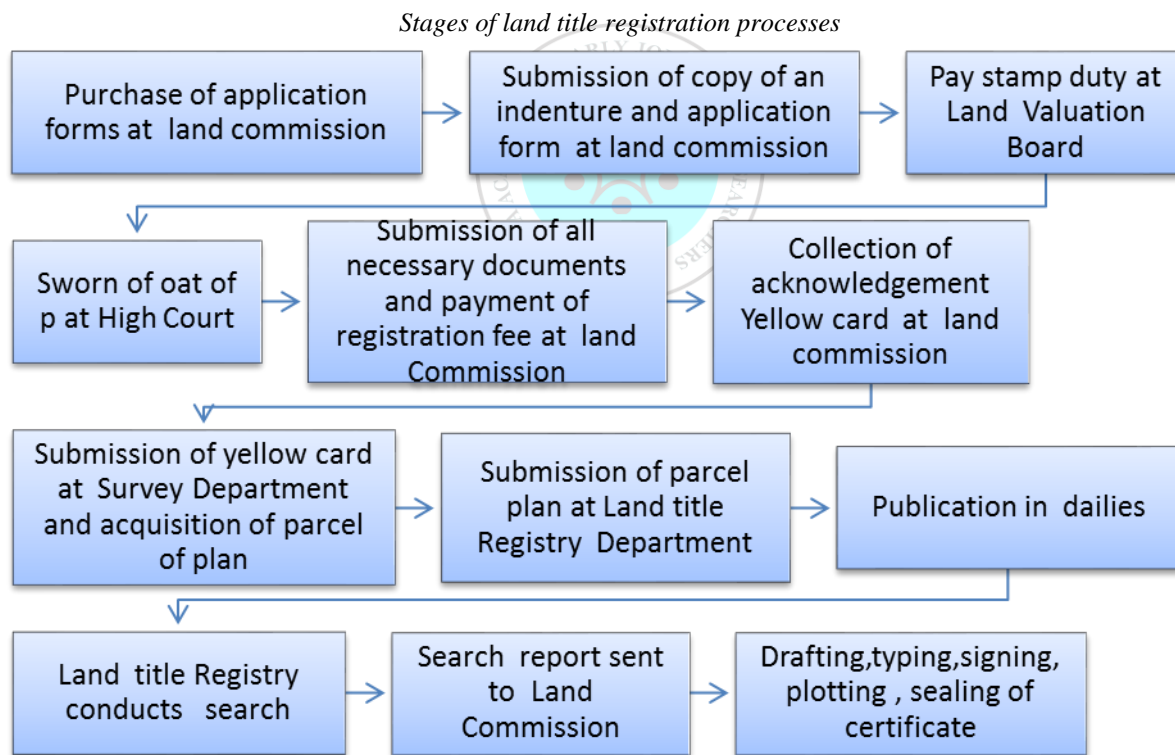
<sup>8</sup> All things being equal, the bigger the size of the land the more the rent payable and vice versa.

section gathers the views and experiences of the land registration process in the name of land documentation from key informants and FGD participants.

### 3.8.1 Registration of land rights: key informants' perception

As indicated in Figure 9.7, and demonstrated by most key informants at LC, LTR and SD, an applicant obtains appropriate registration forms from the Land Title Registry, completes and submits them together with copies of all relevant documents and receipt of acknowledgment (yellow card) and a letter of request addressed to the SD for the preparation of parcel plans. An applicant then pays and collects parcel plans from the Survey Department whenever it's ready and then submits them to the Land Title Registry to assist them in the application processing. An applicant at this point is issued a photocopy of the parcel plan together with a Request Form to be sent to the Lands Commission for a search report, and satisfying itself that there are no objections or adverse findings in it. The Registry then proceeds to publish the application in the media to notify the general public of such application. If no objections are received within 14 days, the registry then continues with the process of registration. The Land Title Registry prints and sign certificates, records a particular on sectional plans and notifies applicants of completion of registration exercise. From these, it can be seen that the land title registration and documentation process is time consuming and cumbersome. This is because the procedures to land registration have been fragmented, with different agencies responsible for each activity.

Establishing accurate, up-to-date, ownership information is crucial when registering title land however, an informant at LC revealed that lack of logistics, poor land information and poorly maintained land records at customary land secretariat and other relevant departments is making it difficult to visit the lands within the city for ascertaining boundaries and identifying of parcels, or undertaking sufficient and effective investigation of titles before registration (C9, 2011). A key informant from the LTR indicated that these also contribute to delays.



Source: Interview with the key informants, 2011

### 3.8.2 Procedural delays

It should be noted, however, that many of the financing mechanisms available for land administration functions are government responsibilities and all land agencies in the country are heavily dependent on the central government for administrative and financial resources. Most land agencies lack qualified administrative staff and resources, as most land administrators of various professions are central government staff posted to regional and cities. It becomes apparent that even though the LAP has promoted the concepts of devolution and decentralisation, a

key informant with LAP indicated that much administrative and fiscal capacity remains at the national level (L1, 2011).

Formal registration is centralised in Kumasi at the Lands Commission regional offices. The land certificate issued in respect of land is to be signed and sealed by the Land Registrar and marked with the serial number of the folio of the register. However, since the creation of the Kumasi Land Title Registry by the Land Title Registration Law, 1986, now a division of the Lands Commission established by the Lands Commission Act, 2008, all land title certificates in Kumasi had to be signed and sealed in Accra, the national capital. An informant from the LC revealed that there are over-centralised land administration and registration procedures because there are no logistics, financial and expertise to reach the regional level. Another key informant at LC also revealed that, the Ashanti Regional Lands Commission has started issuing land title certificates for areas declared as land title registration zones in Kumasi (C7, 2011). Such areas include all Bantama, Dichemso, New Tafo, Buokrom, Asafo, Ridge Residential Area, Danyame, Amakom and several other areas. However, the capacity of the LC is still hindered by a lack of resources, both human and financial (key informant interview, 2011).

### **3.8.3 Effectiveness and efficiency of Land institution in the context of land title registration**

Land institutions are key variables in the success of registration procedures. As indicated in above, the number of institutions and the interaction between them are crucial determinants of land title registration approval. It was revealed that these land agencies are either directly involved in the registration processes or impact upon these. Though each of which has its own level of administration and competencies, these land agencies are supposed to coordinate their activities to avoid duplication of efforts and share its core competence with other relevant institutions. As a result, inter-department relationship is very important. Evidence from the key informants however, reveals that land agencies tend to work insolation and to deliver fragmented services. Due to the fragmentation of agencies and unclear mandates, there is an overlapping of functions and duplication of duties with the Lands Commission, Office of the Administrator of Stool Lands, the Deeds Registry and the Land Title Registry as well as a lack of coordination of their roles.

Each agency tends to work within its own introverted institutional framework, often directed and driven by a political agenda set by those in charge. There is a fragmentation of expertise, with the result that the experience and knowledge of one department are not necessarily shared with others, even though integration and sharing would be beneficial.

### **3.8.4 Experience of key worker's participants in land title registration**

Experiences from the FGD revealed that after the documentation is completed at the regional office of the Lands Commission, it is then up to the applicant or the land owner to send his/her document to Accra for the issuance of the certificate. This arrangement often caused unnecessary delays in the processing and issuance of title land certificates in Kumasi. Consequently, these are inconvenience and frustrations to many land owners. Discussion with key workers participants indicated that 9 out of the 10 participants in each the three FGD perceived that these have become a disincentive to them. A further investigation suggests that due to these constraints, majority of the participants who owned land a few participants reported that they had a full land title certificate. The majority, however, reported they become stacked along the way but what they have some document such as a receipt showing the beginning of the process without necessarily completing it. Most of them indicated that they already have tight schedules, and cannot spend days and weeks chasing after documents to get them processed.

### **3.8.5 Processing times and complexity**

Under the Land Title Registration Law 1986, registration of title in the declared districts within regional capital is compulsory. As indicated above many participants stated they lack full title certificate to their land. In addition to high cost of land registration, the FGD revealed that the reluctance to register land was due to complexity as the processes involves numerous organisation, legal provisions and technical activities which influence each other. As a result, in total, almost three quarters (72%) participants found that the land registration process is complicated (8%) very complicated and 17% fairly complicated, while one quarter (25%) of participants did not find it complicated 25% reported that it was very complicated and 44% reported it was not at all complicated.

Evidence from participants who had a full title certificate, revealed that turnaround times are cumbersome. Out of these, 40% reported it took within 12 months to have their land registered and further 40% within 24 months. Nine per cent reported that it took more than six months to make a decision. As a result, majority participants felt that their land registration took longer than expected. Other participants in FGD indicated that they would have liked to register but they are discouraged from doing so because of the long procedures and bureaucracy. A participant commented *"I submitted my application five years today, I checked twice within the first six months of submission to*

*ascertain the progress made on the application. The last I checked I was informed that my application was still in the process because my site plan did not conform to the master plan at the TCPD. As a result new cadastral plans need to be prepared for title registration, which are different from the plan used for the original transaction”*

### **3.8.6 Clarity of roles and responsibilities**

The identification of stakeholders in land departments, and clarity about their contribution and interest emerges as an important procedural consideration. As indicated above various land departments have a stake in the registration of land procedures. Equally their activities affect the outcome of the registration procedures. Characteristics of key workers participants suggest that they are intelligent and are familiar with the land institutions. There is significant evidence that participants have little knowledge of formal registration and the departments that involved in the procedures. Participants find land institutional structures very ambiguous, confusing and inefficient. Evidence indicates that a major driver of low motivation for registering of land title among key workers participants' outturn costs is a lack of clarity in the mandate of the administrative department with responsibility for registration in the land institutions. The FGD revealed that information on services of the land institutions are not publically available, which will be necessary to encourage use of those services and formalization of rights.

Pursuant to this issue, participants commented that complex, costly and inadequate land administration structures can marginalize the poor or vulnerable by discouraging them from formalizing their rights. Lack of clarity about who is responsible for specific stages of the processes was mentioned by the most of the participants as a concern. A mmajority of the participants reported that even though they are literate but they struggled with ambiguous responsibilities of the land institutions. There was very little variation in how easy it was to get in contact regarding their land registration processes. This was because there are intermediate who specialise in dealing with the entire process of registration at a cost. 88% of participants reported that they found it not easy to get in contact with land institutions during the course of their registration processes, with 49% reporting it was very easy and 38% fairly easy. 6% of participants stated they had found it difficult to get in contact, 4% reporting it was fairly ease and 2% very difficult. As a result, majority reported they were not kept up date with progress.

### **3.8.7 Land search at the land title registry**

To prevent delay and expense for prospective buyers, it is essential that all purchasers explore the issue of ownership fully and where possible check the ownership position by obtaining land registry records. The LTR maintains a large amount of data relating to land in their area and searches of these records provide fundamental information, useful to the prospective buyers. A search at the LTR is conducted to confirm rightful ownership of land. In order to requisition the replies, a form must be submitted to the LTR along with the required fee. These fees are set by the LTR, which will then contact all relevant internal departments to obtain an up-to date responses. An interview revealed that a few records are digitized and stored electronically all the remaining records are paper records. An informant at LTR revealed that existing records are poorly archived and in some cases are deteriorating through mismanagement (C12, 2011).

A key informant from LTR commented this is inefficient , time consuming and cannot support timely decision making (C11, 2011). Records and information on lands are kept by different land agencies, all of which have their own information system making it difficult and cumbersome to look for information. Duplicate copies of records stored at multiple locations can also reduce the risk of tampering, fraud and loss. A key informant at the LTR revealed that due to lack of cooperation, the search is associated with long delays and frustrating process and procedures leading to loss of public confidence in the search (C10, 2011).

Another key informant at the LTR also indicated that there are inaccurate plans or maps, and there is no system to defect multiple ownership of the same piece of land (C11, 2011). It was revealed by an informant at LTR that most chiefs have site plans that cannot be checked to determine their accuracy because these plans are not done by licensed surveyors. It is important to note that the Survey Department currently has no mechanism for effectively checking the authenticity of the qualification of surveyors and the accuracy of site plans prepared by self-licensed surveyors. This also applies to most prospective purchasers with site plans that are not done to specified standards, because of the level of qualification of surveyors who demarcate and draw these plans. Interviews with most chiefs and traditional lands authorities also revealed most stools in the city have not been surveyed and demarcated, or registered their lands.

Most informal documents are stored at the local level. The stool keeps files and records of land transactions. These are not complete records of transactions, however, because families or caretaker chiefs retain many of the records themselves. Furthermore, there is a general lack of knowledge and practice of formal land registration of landholdings among the majority of chiefs and families. According to one key informant at LC, chiefs and traditional

land authorities do not usually register their landholdings as they believe they have a natural right to the land (C8, 2011).

### 3.8.8 Key worker's participants' experiences in land search

While key informant evidence shows the routine involved in the verification of land ownership is complex and discouraging. In FGD, it was found that those participants who owned land, only four out of ten participants had their land transaction checked before making the actual purchases. Out of these, 72% reported that their request was answered in one or less month, with 15% reporting that their request took over five months to be answered. As might be expected, the greater the amount of time participants wait for their requests to be answered the less likely they are to be satisfied overall.

According to those participants who refused to conduct land search at LTR, concerns expressed by them were centred around levels of fees and lengthen time for searching land records to ensure there are no conflicting claims. According to FGD results, there are many participants who say they have a certificate of registration, but what they have is some document such as a receipt showing the beginning of the process without necessarily completing it.

### 3.8.9 Cost of land registration and documentation

Services delivery charges are important as they represent a key source of revenue for creating sustainable land administration systems. Like most of land administration activities, the cost of registering land rights is born by the applicants. Cost is frequently cited by the FGD participants as one of the primary constraints to land registration. The FGD results indicated that charges and fees on land documentation are of great concern. Accessibility to registration was understood by participants to include affordability. The high transaction costs provide disincentives for them to register land transaction. A further investigation from the FGD indicated that registration charges and fees per se do not completely discourage formal registration of transactions. Informal payments that have to be made in addition to the existing charges and fees for registering land transactions increase transactions costs.

Participants were reluctant to disclose the true number of informal payments they had made; perhaps they also do not keep record. However, most of the participants admitted to making illegal payment or unofficial gifts within the land offices. The majority of these payments were made to get an official to obtain or speed up service, or to get service that has already been paid for and to defend their rights to land. Discussion showed considerable level of uncertainty about the need to pay these unofficial payments. A few participants were in support of these unofficial payments. For instance, some of them were in agreement of these unofficial payments as they refer it as speed money<sup>9</sup>. A participant opined that, *'in order to get work done, there is always a need to give some incentives'*. In support of this, a participant commented that *"I had to pay unofficial money to collect my land related documents"*. Another participant concluded by saying, *"Bribery or greasing of palm is part of the system, we cannot do away with it in this atmosphere of low salaries and high cost of living"*

A series of illustrative quotations provide valuable insights in the nature of informal payments surrounding land agencies. *"Many bureaucrats exercise their power by delaying the process to make it very expensive. In my case I paid uncounted money to speed up my documentation."* *"We paid unofficial money at each department in order to check the progress of land title application"* The implication of this is that the informal payments have to be made in addition to existing fees increases transaction costs and those without the means to make these payments are left out inevitably the poor. According to the results from FGD, these charges and fees create an insurmountable barrier for many participants, leading to unregistered transactions which can eventually compromise the integrity and effectiveness of land administration systems.

## 3.9 Land use Rights Documentation

The process of formalising interests in customary land transactions is inextricably linked to the planning and building control processes. A land owner therefore cannot obtain formal documents on land transactions until planning and building has been approved for the intended development. As indicated in paper 3, the issuing of building permits is one of the ways by which the Metropolitan, Municipal and District Assemblies (MMDAs) control physical developments in their respective jurisdiction. It is a legal document to land users to permit them to put up buildings in accordance to specifications in their drawings and in line with the development code and guidelines set by the assembly. Granting of building permits is an administrative procedure adopted to ensure this regulation is enforced. In this section, land documentation issues relating to building permission are discussed from both key informants and key workers perceptions and experiences. In particular, this section sought to gain insights into why key workers

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<sup>9</sup>Speed money refers money given or paid in order to ensure that services are provided satisfactorily



participants choose to ignore these prescriptions and the prohibitions of the law of many aspects of customary land transaction.

### 3.9.1 Procedural issues of securing building permission documents

The control over development operations is regulated by the building permits procedure as indicated in paper 3 and is stipulated in the building code. Building permissions consists of two stages involving first a preliminary application which establishes in principle whether it is possible to build, and second an official building application. This makes permissions more complex and far from being a standard procedure. District assemblies generally receive process and grant such permits in the country. Figure 3.8 describes the consultation procedures that are followed at different stages. During these stages, the district assembly is the coordinating authority, as explained above, and its consultation with other agencies is crucial. It is very important that all agencies should respond within agreed timescales. Key informants at TCPD revealed that the overall duration of the permission procedures is not fixed. It is strongly dependent on for example, the quality of the application materials, and the nature of the cooperation between the assembly and other agencies or the presence of objectives /appeals against a decision.

The interview results from the TCPD key informants provide opinions on the effectiveness of, and perceived problems with permit procedure. The distribution of administrative responsibilities and competences amongst the different agencies; and the level of coordination and interaction between local agencies responsible for the procedures vary greatly from one agency to another were mentioned by the key informants. The TCPD has been decentralized and at the local level, it is part of a metropolitan assembly. As demonstrated in Figure 3.8 to start the approval process for the building permit, a technical committee is set up by the TCPD, including other officials within the assembly. After the technical examination, a recommendation is made to the statutory planning committee (SPC). The SPC is an intergovernmental committee made up of officials from the TCPD, Works Department, Land Commission, Survey Department, the Environment Protection Agency, the Fire Service and the utility companies who meet periodically to approve building permits.

The interview revealed that this creates differing administrative setups for handling procedures causing substantial delays to permission procedures and generating a high administrative workload for an Assembly. They are required by law to have reviewed the application within 3 months after it is submitted and to inform the applicant of their decision. Poor communication and coordination between departments causes significant delay in the approval process. A key informant at TCPD reported that there is joint cooperation and inspection by many departments and each department issues their own recommendations. This is because all departments tend to operate in their own silos, and the lack of communication between departments causes confusion and often generates conflicting comments. The resulting delays in the approval process represent the bulk of the permission costs.

### 3.9.2 Acquisition of building permission: Key workers' experience

Participants complain of the requirements<sup>10</sup> and the increased volume of paperwork associated in building permission that need to be met to achieve successful applications. Evidence shows that participants are less familiar with the technical requirements of obtaining building permits. These requirements related to permission procedures mostly are preconditions in order to obtain a permit. For instance, land title certificate or a deed certificate or a clearance form must be duly signed by an appropriate authority, i.e. the Lands Commission of Land Title Registry. These documents need to be approved or provided before the actual permission can start. Personal experience of specific problems in land administration provision also has a negative impact on satisfaction with land administration services. 20% of participants reported that they had experienced difficulties or problems prior to their permission application in the verification of their document at the LC. A range of difficulties or problems was given by participants. The issue associated with the largest reduction in satisfaction levels is payments required for services that should be free, followed by being treated poorly by staff, long waiting times and having no records available. The

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<sup>10</sup>Every applicant / developer is required to have the following: Town & Country Planning Development Application Form, Two (2) sets of site plans (one on transparency); Four (4) sets of building fence and block plans (scale not less than 1: 20 or 1:40 or metric equivalent 1:100 and 1:2000); 4 set of working drawings; Certificate / official letter or search on status of land (Lands Commission or Land Title Registration)

participants, who reported having a difficulty or problem, reveal that that the time taken to certify these documents is extremely variable, and often lengthy. Due to the absence of coordinated permit processes, over three-quarters of participants reported they physically took their application, step-by-step to these approval authorities each with its own sets of procedures and requirements.

### 3.9.3 Length of time in approving the building permission

As indicated above, district assemblies are required by law to have reviewed the application within 3 months after it is submitted and to inform the applicant of their decision. However, one of the most common areas of complaint received by participants from FGD about the planning system relates to the length of time it takes for building permits to be granted by district assemblies. Most participants indicated that building permission delays were their greatest concern. According to participants who had building permission to their property and those whose applications were still under consideration, 29% reported permission had been approved within one month and a further 51% within three months. 13% reported that it had taken more than three months. As a result, around four in ten (37%) participants reported that the process is complicated. Participants argued that the permitting procedures are difficult to navigate and to interpret. Also, most of them suggested that they need assistance understanding basic principles, proper application procedures, and interpreting the technical regulations. Without proper guidance, they can easily misinterpret the rules and procedures, causing them to stumble through the permitting process.

To add to the confusion, participants asserted that the time and expense to understand the requirements and compile the necessary documentation is a disincentive. Participants reported that this becomes a potential source of contention and additional delays.

### 3.9.4 Cost of applying for building permission

At the time of interview, a fee of 250 Ghana cedis is payable with application for building permission. The fee is payable at the time the application is made and no action can be taken on the application until the correct fee has been received. A key finding from the interview with key informants at TCPD is that it is difficult to generalise about the cost of submitting an application. There is identifiable geographical difference in the variation of application costs across the 170 Metropolitan, Municipal and District Assemblies (MMDAs) in Ghana. Those interviewed at TCPD confirmed that in addition to costs of submitting an application, applicants pay estimated processing fees. The cost of the building permission procedures vary considerably in each case. In general, the overall cost of submitting an application is directly proportional to the complexity and/or size of the development (see Table 9.3). The fees are based on the fee fixing resolution of the MMDAs.

*Schedule of fees for building permission applications*

Type of residential development	Processing fees
Single Storey	50.00
Two Storey	66.00
Three Storey below a gross floor area of 5,000 sq. ft	88.00
Three Storey above a gross floor area of 5,000 sq. ft)	84.00 + 30% of 66 per gross floor area of 5,000 sq. ft.
Extension Time	56.00

Source : Key informant at TCPD and Local Government Bulletin 20th February 2009

### 3.9.5 Difficulties in submission of building permission application

In the majority of instances, the applicant is likely to employ a registered architect to prepare the planning application, with corresponding impacts on fees and the cost of preparing an application. As might be expected, participants who were wanting to apply for building permission have to complete a form as part of their application process (see Appendix J). Of the participants who had applied for building permission before, almost nine in ten found the forms they completed were difficult to complete.

Despite of the intelligence of the key workers participants, one in eight (13%) reported that the forms had been difficult to complete. Further discussion revealed that majority of the participants reported receiving help from a registered architect when completing a form and this comes with a fees and charges. The use of a registered architect and the administrative costs increase significantly the costs of submitting a planning application. Furthermore, results from the FGD indicates that there are many instances when unexpected costs are added to the permission fees. Participants reported these unexpected costs include inspection fees and building permit jackets.

Participants from the FGD stressed that all these initial costs associated with the planning application costs and fees not only deter development but also lead development to take place without the requirement for local authority planning permission. Evidence from the FGD suggests that due to these initial costs, most participants' reported that their lands were developed after obtaining permission through a full planning application. Allowing for the likelihood that majority will remain outside of the scope of permitted development and without proper planning documentation.

### 3.9.6 Inefficiency in building permission procedures

As indicated above, concern was voiced by participants and others about the time required for applications for building permissions to be approved. These issues are explored further using the information gathered from the key informants' interviews in which the main reasons for delays during the procedure were explored. A number of key informants pointed out that there had indeed been serious increasing problems at the department. Lack of adequate skilled manpower, inadequate funding; inadequate logistics; severe shortage of vehicles for field work, shortage of qualified middle level technical staff, lack of adequate base maps for planning, poor remuneration packages and low moral are real constraints to are a telling effect on the effectiveness of district and metropolitan assemblies and the Town and Country Planning Department. With the introduction of the LAP, most of these problems have been largely overcome in many of the district and metropolitan assemblies<sup>11</sup>.

This is not to say that there are not still occasions where problems and delays occur from time to time, but these tend to be linked to individual cases rather than being a problem across the board. A key informant at TCPD indicated that the department is still plagued with lack of expertise and capacity at the level of the competent authority; the lack of sufficient master maps as well as the poor quality of application (C13, 2011). The receipt of incomplete plans and applications is a frequent and recurring problem shared by approval departments. A key informant at TCPD revealed that the majority of applications are incomplete. Incomplete plans tie up limited resources and personnel. The delays stack on top of each other and create bottlenecks that slow down the entire system and raise costs.

### 3.9.7 Legal certainty and transparency in the building permission regulations

The FGD revealed that the awareness level of participants on the existence of a development scheme and development control laws is very high. Participants reported that many laws are confusing and incomprehensive. Accordingly, the law governing physical development states that no physical development shall be carried out in a district without prior approval in the form of written permit granted. But, section 8(2) of LI 1630 states that "an applicant not informed of the grant or refusal of the application may after the expiry of 3 months commence development on the basis that the application is acceptable to the District Planning Authority". Heavy criticism was expressed by participants regarding the increased legal uncertainty and lack of harmonisation of these rules.

Participants asserted that the overlapping nature and confusion of these rules were considered as constituting a substantial impediment to their building operations as they regularly need to seek for the legal validity. Participants reported that this is cumbersome, confusing, and lacking in transparency. As a result of controversial, two fifths (40%)<sup>12</sup> of participants reported that they had finished and occupied the property but had not even bothered to submit papers on them to the appropriate institution for development.

The district assemblies faced with developments which are believed to be unauthorized have several possible courses of action such as do nothing, issue a listed building enforcement notice or seek an injunction to stop on-going work. One in ten participants reported that they had experienced these actions because they do not have any permits to develop the property, which they occupy as their homes but had reported that their applications are in process. Participants asserted that these are confusing and complex. The implication of this complexity and legal uncertainty is many developers are served with the notices of "*STOP WORK OR PRODUCE PERMIT*" on structures being constructed (See Appendix H for a sample). On this evidence, around a third (32%) of participants were requested by the authority at some stage of constructing their building, to stop work, but as much as two thirds (67%) of them reported they either ignored it or tipped the inspector and continued development.

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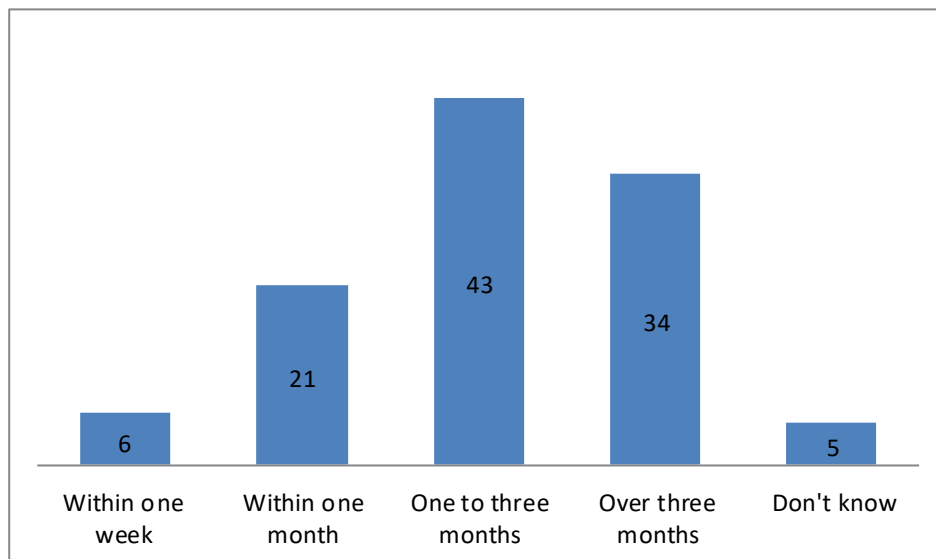
<sup>11</sup> Under sub-component 3.5 of the project, the Town and Country Planning Department is being supported to prepare: A National Spatial Development Framework, Four (4) Regional Spatial Development Frameworks, Twenty (20) District Spatial Development Frameworks as well as Twenty (20) Structure Plans and Twenty (20) Local Plans for selected cities and towns within the 20 selected districts.

<sup>12</sup> This include participants those who did not have building permits , those still waiting for the outcome of their application and those who had not applied for permit at the time of FGD.

### 3.9.8 Documentation and submission requirements of building permission

The process of formalizing interests in customary land transactions is inextricably linking to the planning and building control process. An owner therefore cannot obtain formal documents on land transactions until building and planning permits have been approved for the intended development. Furthermore, the national building regulation in Ghana states that to apply for a building permit, an applicant must prove ownership of the land by authenticating the original copies of the titles through LC in accordance of clause of the National Building Code. This states that an applicant shall satisfy the district planning authority that he has good title to the land relevant to the plans. Participants demonstrated that the administrative procedures in the verification of the documents are a constraint and they do everything to avoid them. For participants who had sent their documents to LC for verification in the building permit, the amount of time the verification took affects their overall levels of satisfaction with the service. Participants found that the verification process is unnecessarily lengthy and bureaucratic but also corruption is endemic. Their experiences are displayed in Figure 9.8 according to the time this took.

*Length of verification of documents for building permission (%)*



## 4.0 CONCLUSION

This paper details the key worker's participants' various experiences undertaking land documentation activities as well as the main obstacles to the successful land documentation faced by them. It focuses on the institutional context of securing land documentary evidence to lands. It discusses the particular challenges that key workers face.

Land prices, which are high and escalating, the argument goes are not the result of demand and supply conditions of the commodity but arbitrarily determined by traditional customary authorities. With high and rising costs of land, some key workers (whose pay is generally determined nationally) find it difficult to gain access to the local land market. The difficulties in accessibility of land which are caused by high local land prices eroded and hindered many key workers' abilities to get land and subsequent land documents for themselves.

Land ownerships in Kumasi operate under customary law. Chiefs held responsibility for most lands in the Kumasi traditional areas. The recognition of customary documentation is vague when it comes to land allocation authorities for traditionally held customary land. All that is evident as certain landholders are experiencing tenure insecurity under customary tenure arrangements. Many chiefs and traditional land authorities do not have legal rights and if they have legal rights, they do not have formal documents to prove it.

As a result, it is very difficult for the chiefs and traditional land authorities to prove customary title to their lands. As all transactions are unwritten, they informally hand over the documentation to the buyer. Evidence from the FGD revealed that most prospective buyers are given only allocation notes, receipts and site plans but these documents are not recognized by formal institutions. Any document not registered in the designated time period is null and void. The study found a wide range of obstacles over the course of land leasing procedures. Challenges include inadequate institutionalisation of the process, conflicts over land boundaries, and administrative or bureaucratic inefficiencies

linked to severely limited staff, poor skills levels and budget constraints. However, the greatest institutional obstacle is informal land documentation.

Conflicts over boundaries are common. The process of certification can spark conflict, increasing costs or even causing the process to be abandoned. If agreements over land boundaries can be reached, the process of formalising land will be cheaper and more efficient. Evidence exists to support the view that key worker's participants who lands are in dispute are unable to formalise their land.

Experience from key workers suggests that lease documentation process itself is over-complicated, burdensome, and inaccessible. Many key worker's participants have noted the difficulties involved in following the procedural steps of such documentation. This complexity, coupled with severe understaffing, results in extended delays in leasehold transactions. According to the FGD, the bottlenecks in issuance and transfer of land title stemmed from three sources: (1) delays in application from the ALS to the LC; (2) delays and costs associated with channeling leases through one land department and (3) onerous leasehold procedures. One of the more significant findings to emerge from this study is that the delays and costs in processing leasehold issuances and land transfers constrain land documents and inhibit land documentation needed at the early stage of land registration. These have generated follow-up fatigue to the extent that a fall back to traditional mechanisms increasingly appears to be a welcome alternative.

Ghana operates with highly centralized procedures for land registration and this problem is reflected in the bottlenecks associated with land titling and registration. The regional offices of the land commission only facilitate documentation and registration, because the issuance of title itself is done in Accra. Lack of decentralization creates a number of problems such as lack of access to the relevant land information by users, lengthy travel time and far location of the offices to submit documents. It was revealed that the location of land offices restricts local people from using the land institutions. Furthermore, the cost of registration and related procedures and in some cases unofficial payment has led to a cynical attitude in the key worker's participants about the supposed importance of using formal process.

Evidence from the FGD reveals that many key worker's participants do not register subsequent transactions due to reasons such as cost, the number of steps involved and long delays. This means that, in using formal land registration and administration systems, the supply of formal land documents is very limited which leads to a supply gap relative to the demand. Other requirements of formal institutions that constitute constraints to key workers participants in their land documentation dealings were to do with permits relating to the development of land, in terms of the cost involved and delays. The results indicate that the building permission procedures are time consuming and costly. As a result, many participants do not have any permits to develop their property.

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