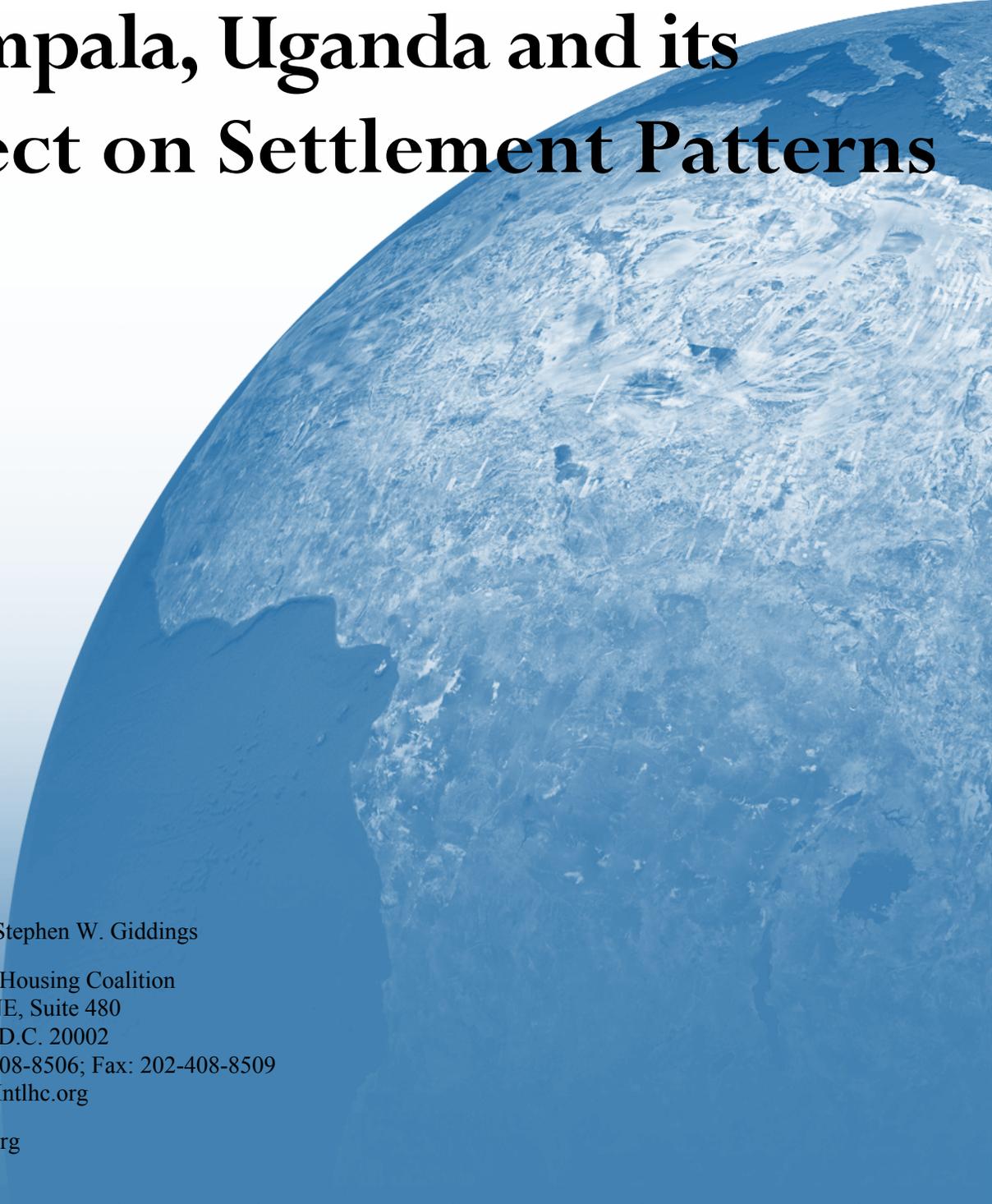


International Housing Coalition

IHC

Housing for All

The Land Market in Kampala, Uganda and its Effect on Settlement Patterns



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PREFACE

This study assesses the land market in Kampala, Uganda in order to better understand the extent to which land is a constraint to development and particularly to the development of housing for the majority of residents of Kampala. The International Housing Coalition (IHC) sponsored the study. Mr. Stephen Giddings, an IHC consultant and a former senior USAID official, prepared this report. The paper was presented at a networking session of the World Urban Forum IV held in Nanjing, China in November 2008. Both the paper and the IHC's participation in the World Urban Forum IV were funded by the Reaume Foundation. The IHC greatly appreciates the support of the Reaume Foundation.

The IHC is a non-profit advocacy organization located in Washington D.C. that supports "Housing for All" and seeks to raise the priority of housing on the international development agenda. The IHC supports the basic principles of property rights, secure tenure, effective title systems and efficient and equitable housing finance systems—all essential elements to economic growth, civic stability and democratic values. To learn more about the IHC visit its web site at www.Intlhc.org

Executive Summary

It is generally acknowledged by government officials, international experts and local practitioners that the difficulty of securing reasonably priced land is the greatest single constraint to the private sector's ability to provide well-located urban housing opportunities for low and moderate income families in developing countries. This has resulted in the private sector's tendency to construct higher income housing in such well-located and well-serviced areas while forcing housing for low and moderate income families to the peripheries of urban areas where they may incur substantial costs, both in time and money, in commuting to employment opportunities in the urban center and where infrastructure and urban services are often lacking or deficient.

Although land values in central cities and well-serviced residential areas for good reason tend to be more expensive than land at the urban periphery, a well-functioning land market can help to keep costs competitive. Conversely, where such land markets do not function freely, or where there are artificial distortions to the market, land values in well-located urban areas may escalate to the point where housing for low and moderate income families simply cannot be built at a profit by the private sector without subsidies. This is the case in the rapidly growing city of Kampala, the capital of Uganda.

In Kampala, there are really two distinct land markets: (1) a formal sector market for land that is duly registered, where purchases and sales are recorded and where formal legal agreements are signed and (2) an informal sector market where property and land use rights may be purchased and sold without being formally recorded. Both land markets are very active, with considerable buying and selling of properties and use rights. However, the two are not completely independent of each other. The extent to which the formal sector land market fails to function reasonably well for all affects the extent to which residents revert to the informal sector to meet their housing needs. The fact that about 85 percent of Kampala's population, of nearly 1.8 million people, lives in slum areas is testament to the reality that the formal sector land market is not functioning as well it could, especially for low and moderate income families.

In Kampala, the functioning of the formal sector land market, which is the focus of this study, is constrained by a number of factors. These include the existing land tenure systems, the absence of a coherent land policy, urban planning standards and regulations and their enforcement, land registration systems, land taxation regimes, land speculation and corruption.

To its credit, the national government has recognized the need for reforms to the land market, and Parliament is in the final stages of debate of a new policy after extensive study and consultations with stakeholders. It is critical that the land policy be finalized quickly and that implementing legislation be adopted. It is also critical that the local authorities, including the Kampala City Council (KCC) and the councils of the neighboring suburbs, strengthen their abilities to plan and manage urban growth. Continued growth of the metropolitan area is inevitable and unless a comprehensive effort is made to correct the imbalances in the formal sector land market and to make decent sites available for new housing for low and moderate income families, the city's slums will continue to expand.

Even with improved housing and land policies, the majority of families in Kampala will still be unable to afford market-based housing solutions under any circumstances. They will therefore continue to provide shelter for themselves through the informal sector unless the government can make subsidies available to them sufficient for them to access formal sector housing.

While there are some features of the land market situation that make Uganda unique, there are enough parallels with other countries in sub-Saharan Africa that Uganda can both learn from and provide examples to other countries in the region.

Summary of Recommendations

The following is a list of recommendations that could be considered by the Government of Uganda in its efforts to improve the functioning of the land market in Kampala. This is, however, by no means an exhaustive list and the recommendations should be thoroughly vetted through a deliberative process that takes into account the Ugandan context before they are considered for formal adoption.

The most important recommendation is that Ugandan governments, at the national, district and municipal levels, muster the political will to tackle the complex and sensitive issues around land ownership and development in urban areas, to identify the financial resources necessary to implement more effective land use policies and programs and to strengthen the capacity of municipal officials to implement policies and programs that will lead to a more equitable and efficient land market system.

More specific recommendations are as follows:

- 1) The Land Policy should be finalized, and new legislation based on it should be passed to implement it.
- 2) Standards for infrastructure should be modified to allow for more intensive occupation of scarce urban land resources. Building standards for housing should also be made more appropriate to allow for multi-family housing development in urban areas. This should be made part of the new Land Policy.
- 3) Land use administration by the Kampala City Council and the District Land Boards in the suburbs should be strengthened.
- 4) The Government should make creative use of the Land Fund which is proposed as part of the new Land Policy
- 5) The Government should consider limited use of its powers of eminent domain to help create sites for the private sector to construct low and moderate income housing.
- 6) Less conventional interventions, such as land readjustment and land swaps, should be explored as a ways of improving the efficiency of land use and stimulating the land market in Kampala.
- 7) Public-private partnerships and cooperatives should be encouraged as much as possible to open up new land for development and to make more efficient use of existing occupied land.
- 8) Tax policies should be amended to encourage the development of land for housing, especially housing for low and moderate income families.
- 9) Consideration should be given to the creation of a specialized expedited judicial process for the resolution of land disputes.

- 10) Priority should be given to completing the computerization of the Land Registry and to the decentralization of information on land ownership to district levels.
- 11) Targeted subsidy programs should be considered to encourage the development of both rental and owner-occupied housing.
- 12) Micro-finance systems should be encouraged to help lower income households improve and develop land and construct housing.

I. INTRODUCTION

The shortage of decent housing in sub-Saharan Africa's burgeoning cities and towns, particularly for low and moderate income families, is already acute and growing worse day by day. With urban growth rates of five percent per annum, it is estimated that by 2030, just over 20 years from now, Africa's cities and towns will have to accommodate more than 300 million new residents. A reasonable estimate is that at least 7,000 units per day or 290 units per hour will be required throughout the region to eliminate the current housing deficits and provide for new urban dwellers. However, only a small fraction of this amount is actually being produced. Unless a quantum increase in the production of housing is achieved, cities already unable to cope with the dramatic levels of urbanization will be completely overrun with informal settlements and slums. As it is, currently 74 percent of Zambia's urban population lives in slums; in Nigeria, 80 percent; in Sudan, 85.7 percent; in Tanzania 92.1 percent; in Uganda, 93 percent; and in Ethiopia a staggering 99.4 percent!

Most African governments have now realized that only through tapping the initiative and resources of the private sector can they make significant inroads into meeting the housing needs of their citizens. They have come to understand that the principal role of the public sector is one of providing a favorable enabling environment for the private sector in which it can operate and produce housing.

Even if through new public and private sector initiatives African countries can significantly "ramp up" their efforts to produce decent housing, many families will still be unable to afford market-based housing solutions under any circumstances. They will therefore continue to provide shelter for themselves through the informal sector unless the government can make subsidies available to them sufficient for them to access formal sector housing.

Private sector developers, government officials and international experts from organizations such as the World Bank and UN Habitat all agree that the unavailability of reasonably priced and well-located serviced land is the single greatest constraint to the rapid expansion of housing opportunities for low and moderate income families. For a variety of reasons, including large holdings of land by government, control of large tracts by special private interests, poor environmental conditions and a woeful lack of infrastructure, such as water and sewer lines, private developers are often forced to look at unserviced land on the outskirts of most urban areas for housing sites affordable to the majority of the population. Yet these sites are often far from centers of employment, creating significant transportation costs for workers and require expensive infrastructure costs to develop properly. Providing necessary infrastructure can add at least 30-40 percent to the sales cost of a unit, in effect pricing it well beyond the affordability capacity of most of the originally targeted population. Added transportation costs from remote new housing developments to other parts of the urban area where most jobs are located also strain affordability and add commuting time. On the other hand, serviced land in closer-in areas is often so expensive as to preclude its use for low and moderate income housing without subsidies. The conundrum can only be addressed through a forward-looking housing policy and subsequent implementing laws and regulations that favor the structuring of creative public-private partnerships and enlisting the support of non-governmental actors where appropriate.

The land and housing situation in Uganda bears many similarities with those of other sub-Saharan African countries but there are also some significant differences, stemming largely from systems introduced by the British at the beginning of the 20th century, that make it unique. This is particularly true in the central region where the capital city of Kampala is located.

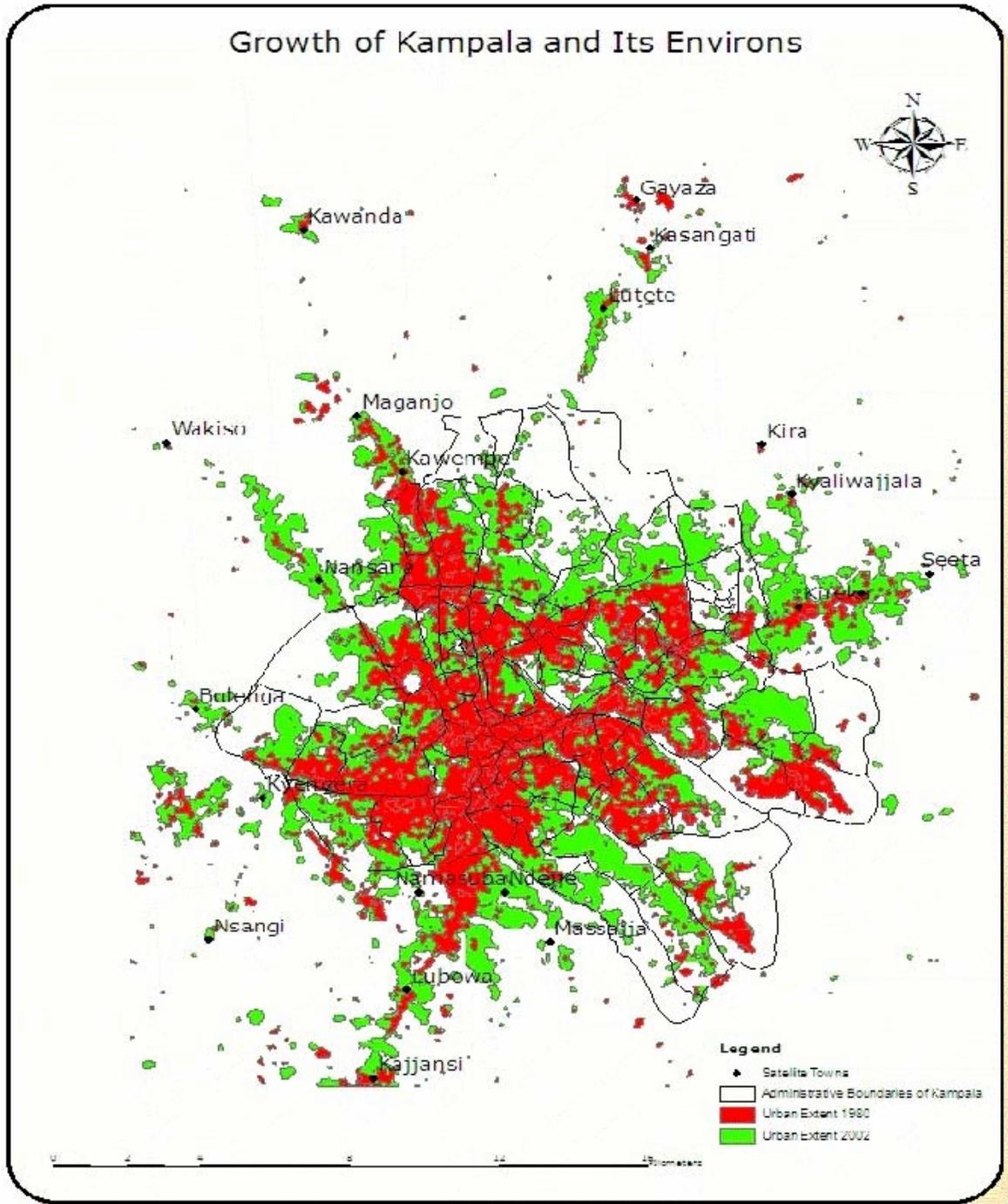
This is a study of the formal land market in greater Kampala and its impact on settlement patterns. It must be acknowledged that the majority of Kampala's residents are too poor to participate in the formal land market and must resort to renting or squatting illegally on private or government land. This study does not purport to examine the large and active informal land market in Kampala in which most families operate. However, the functioning of the formal land market has serious implications for the informal market. Were the formal land market working to the benefit of the majority of the population, there would be no need for the informal market to exist. Hence, a study of the formal market is very relevant to addressing the ways in which the city can begin to meet the tremendous challenges it faces due to rapid urbanization. Prior to a more detailed analysis of the land market in Kampala, it is appropriate to provide some background on the growth of the city which is by far the largest in the country.

II. GREATER KAMPALA — GROWTH OF THE CAPITAL CITY AND THE METROPOLITAN AREA

Kampala, which means “place of impala” in the Luganda language, had its beginnings as the headquarters of the pre-colonial Buganda Kingdom. With the advent of the British protectorate in 1896, the colonial government established a small township for administrative purposes. Just 170 acres in 1902, the town expanded to 3,200 acres by 1929 and 195 km² by 1968, six years after Uganda's independence. The metropolitan area has continued expand, mainly through annexation of adjacent townships and rural areas and currently spreads over 839 km². As the city boundaries were extended, the population increased from 2,850 in 1912 to 24,000 in 1948 to 458,000 by 1980 and to 1,208,000 in 2002, at average annual growth rates ranging between 3.14 percent and 5.61 percent. The estimated 2008 population is 1,770,000, about 7 percent of the country as a whole, and the growth rate remains somewhat greater than 4 percent per year. By 2017, the population is estimated to grow to over 2.1 million.

The continued growth of greater Kampala is due to natural increase as well as rural to urban migration. The government's economic development policies have also tended to concentrate commercial and industrial investment in the Kampala region which has created new job opportunities and attracted even more people from the rural areas.

As the city itself has expanded, former agricultural and vacant lands within 15-20 km radius of the city, primarily to the north, east and south, have become increasingly residential, mostly with unplanned, inadequately serviced, low-density and poor quality housing. Urban growth has also begun to spill into the city's former wetlands which are prone to flooding and to diseases such as malaria, cholera and diarrhea. Children especially are becoming increasingly vulnerable to these preventable diseases.



Source: Population, Urban Development and the Environment in Uganda: The Case of Kampala City and its Environs.

III. OVERVIEW OF ECONOMIC ACTIVITY IN KAMPALA

Kampala is not only the capital and largest city in the country, but it is the center of Uganda's industrial and commercial development. Overall, approximately 80 percent of the country's industrial and services sectors is located in Kampala and the city now generates more than 50 percent of the country's GDP. The past seven years have witnessed economic growth (growth of GDP) of almost 7.8 percent per year in Uganda and Kampala has benefited more than any of the other regions of the country. Industry is estimated to have grown by more than 10 percent per year for the past five years. Major industries are related primarily to agricultural production. There has also been steady growth of about 13 percent per year in the construction industry, including the production of cement, reinforcing rods, corrugated roofing sheets and paint. Domestically produced consumer goods include plastics, soap, cork, beer and soft drinks. Kampala is also the commercial center of the country, the headquarters of banks, insurance companies, and communications and tourism companies as well as the location of the country's major hospitals and educational institutions.

However, the competitiveness, attractiveness and productivity of the city are being severely impacted by its poor infrastructure, particularly its road network, its water and sewer systems, poor rail access and unreliable supply of energy. Virtually no major road improvements have been made in years and with the unstoppable growth in the number of vehicles, traffic jams have become a way of life. Traffic bound for Kenya along the main road between Kampala and Jinja, 70 km to the east can average less than 30 km per hour during much of the day. Commuters from suburbs less than 20 km from the center of town can take well over an hour to get to and from work and incur high transportation costs. A ring road around the northern part of the city, which will enable through traffic from Kenya to Rwanda, Burundi and the Eastern Congo to by-pass the central city, is finally scheduled to open within the next six months after many years of construction. This will ease congestion somewhat, but transportation to the major centers of employment will remain time-consuming and costly, especially for the poor. The rail line to the east is not functioning and is not currently an alternative for commuters.

Infrastructure in the high income districts of the city is decidedly better than in the poorer neighborhoods, but these areas still suffer from power shortages, lack of adequate water and sewer systems and poor road upkeep. Not only has the poor state of Kampala's infrastructure created inefficiencies that have negatively affected opportunities for economic growth, it has had a definite impact on land values in and around the city and its suburbs.

The provision of basic residential infrastructure in Kampala has been shaped greatly by the patterns of land tenure in the city. Large areas of the city, mostly those under the *mailo* form of ownership (to be explained below) are very poorly serviced by paved roads, water and sanitation systems and electricity. Areas of the central part of the city and the higher-end residential neighborhoods, which have traditionally been leased to private interests by the Kampala City Council (KCC), are much better serviced by basic infrastructure. The commercial and industrial patterns of the city have also been greatly affected by the systems of land tenure in the Kampala region.

IV. THE HOUSING SITUATION AND AFFORDABILITY IN KAMPALA

The continued growth of Kampala's population has resulted in a large expansion of the housing sector over the past 20 years. Currently, the city has about 274,000 housing units. Average occupancy is about six persons per unit city-wide. Most of the housing in Kampala is obtained in the informal sector. However, the construction of new housing has lagged significantly behind population growth and it is estimated that there is currently a housing deficit of 100,000 units. With the current pace of new housing construction, both formal and informal, estimates of the growing housing deficit range as high as one million units by 2025. More than 65 percent of the population rents housing and over 53 percent of the population lives in "tenements" of less than two rooms. In 2,000, approximately 36 percent of the houses were built of mud and wattle. Crowding is significant — densities average more than 14,000 per km² in many of the poorer slum neighborhoods. A recent study by Action Aid International estimated that about 1.5 million people (85 percent of the total city population) currently live in Kampala's slums. On the other hand, the cost of well serviced formal sector housing has skyrocketed in recent years. Homes in the upscale Kololo neighborhood can sell for well over \$1 million, while on average, a serviced housing unit in other neighborhoods costs over \$60,000. Rents for a standard house in a serviced neighborhood are typically in the \$185 - \$250 per month range, well beyond the means of the poor. Even though most people are either renters or squatters, land remains a huge problem because the vast majority does not have the means to purchase a plot.

V. THE LAND TENURE SYSTEMS IN KAMPALA AND THEIR EFFECTS ON DEVELOPMENT OF THE LAND MARKET¹

Any discussion of the land market in the Kampala region must start with a description of the current land tenure systems.

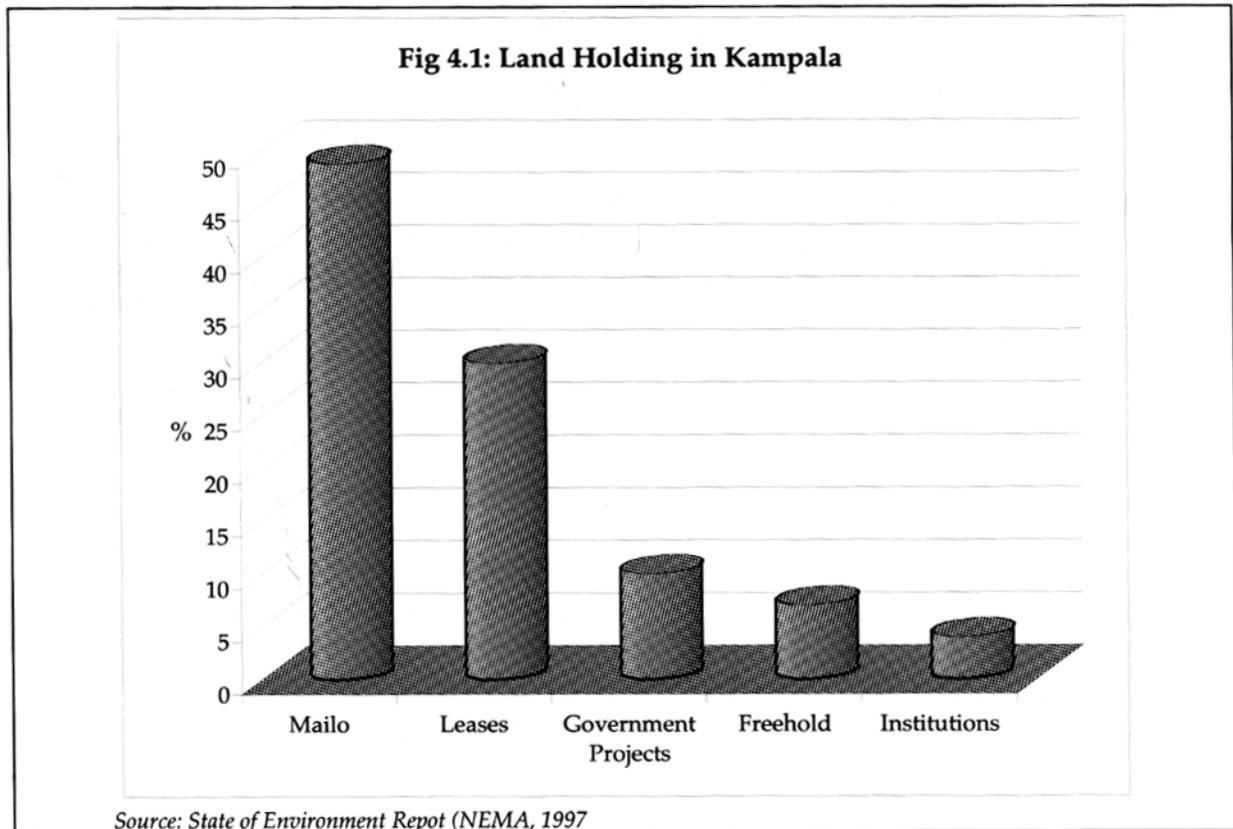
In 1900, the colonial administration signed an agreement with the King of Buganda (*Kabaka*) whereby the entire land of Buganda (about 19,700 square miles), in what is now the central part of Uganda, was divided into different categories. About half of the land was demarcated, divided into square miles and appropriated to the king, his notables, and local chiefs. This was appropriately called "*mailo*" land (from the word mile). Small areas were given to the church as freehold and academic institutions and the rest (about half) became Crown (public) land. *Mailo* owners received a certificate of title from the colonial administration. Local peasants who had previously occupied *mailo* land were not recognized and became tenants who had to pay rent to the landlord. However, over time, through sale, donation and inheritance, *mailo* land became further subdivided and by the time of independence in 1962, there were several thousand *mailo* owners primarily owning small parcels. These smaller *mailo* parcels were registered and certificates of title issued to the owners. At the same time, *mailo* land was made subject to the traditional and customary rights of plot holders (called *kibanja*) who had settled on the land with the consent of the *mailo* owner. Under a 1928 law, if a *mailo* owner allowed a person to settle on his land, he was deemed to enjoy an inheritable permanent right of occupancy subject to payment of a fixed annual rent, typically less than \$1 per year. This has still not been offi-

¹ This section on land tenure is largely based on a Research Report of Makerere University, *Land Tenure and Administrative Issues in Kampala City and their Effects on Urban Development*, 2002

cially raised! For all intents and purposes a *kibanja*'s title was as good as that of an owner under customary (tribal or clan) tenure and he could sell, pledge, lease or even mortgage it upon introducing any new tenant to the *mailo* owner to whom nominal rent had to be paid. A substantial amount of *mailo* land (about 900 km²) is still owned by the King and Chiefs (*kabaka* land) and this land can be either leased or sold outright by the Buganda Land Board that administers it on behalf of the King.

Crown, or public land, was owned and administered by the British protectorate administration, which could sell or lease it and people who had occupied it under customary tenure had no permanent rights of occupancy. Much of this land, where the British administrators and other Europeans and Asians lived, is where modern day central Kampala is located and is relatively well-planned and serviced. Shortly after independence, ownership and management of public land fell under the jurisdiction of the Uganda Land Commission. The Uganda Land Commission could then vest land in urban areas to local land boards. The land boards administer the land and can maintain, sell or lease it. In 1969 the ownership and administration of most former crown land in Kampala was ceded by the Uganda Land Commission to the Land Board of the Kampala City Council (KCC). Under a 1969 law, however, land occupied by customary tenants could no longer be sold or leased without the consent of the occupants and the occupants enjoyed right of first refusal to lease. While public land continued to be developed in a fairly orderly and planned manner, *mailo* land, on the other hand, remained largely unregulated, occupied haphazardly by migrants to the area and poorly serviced, even as it became increasingly urbanized.

In 1975, under the Idi Amin presidency, the government attempted to abolish *mailo*, freehold and any other absolute ownership rights and make all land public under the jurisdiction of the Uganda



Extracted from *Land Tenure and Administrative Issues in Kampala City and their Effects on Urban Development*, 2002.

Land Commission, which could lease it for 99 years. However, in practice, the former systems of land tenure continued to exist and by 1995 when the new constitution came into effect, there were four categories of land tenure in Kampala, public land (administered by the KCC which could grant leasehold tenure), freehold land (mostly religious and educational institutions), *mailo* land, and *Kabakaship* (owned by the King or chiefs of Buganda). These tenure systems are overlaid by a variety of formal occupancy categories and informal access mechanisms that include land borrowing, squatting, illegal subdivisions and purchase and sale of informal use rights. Over time, an active market in use rights has emerged between users, and not between owners and users.

Today, more than 52 percent of the land in Kampala is held under *mailo* tenure, about 30 percent is public land administered by the KCC and leased to private interests, about eight percent is owned by the government for its use, and about seven percent is freehold and owned by institutions. In the Kampala suburbs, even higher percentages are held under *mailo* tenure.

Under the new Constitution of 1995 and the implementing Land Act of 1998, most land in Uganda is privately owned under *mailo*, freehold or customary tenure. The District Land Boards, including the Land Board of the KCC, still administer “public” land on behalf of the Uganda Land Commission. The Land Boards must approve every land transaction. The Land Act also stipulates that land owned under any of these systems, as well as public land owned by the Uganda Land Commission and administered by local land boards, may be leased to another party for up to 99 years. Most leasing arrangements stipulate certain conditions related to the development of the land. A further provision of the Land Act stipulates that public land leased by the Uganda Land Commission and the district land boards may be converted to freehold subject to their being no customary tenants on the land at the time of the original lease or, if there are, that they be duly compensated.

At the time of the new Land Law in 1998, about 30 percent of the land in Kampala was under the control of the KCC, but there continue to be conversions of land leased to individuals by the KCC to freehold title. A further Amendment to the Land Act in 2004 gave increased protection to bonafide tenants of *mailo* land, bonafide tenants being defined as tenants who had occupied the piece of land unchallenged for more than 12 years. Under the current law, before a *mailo* landowner can sell and/or develop land he owns, bonafide tenants who have settled on the land have to be properly compensated and resettled. Bonafide tenants on *mailo* land are also recognized as legal owners with rights to sell and develop land but in consultation with the *mailo* landowner. These bonafide tenants consider themselves the real owners of *mailo* land.

Thus, there is in effect a dual system of land ownership on the majority of the land in the Kampala region, the *mailo* land, where both tenants and *mailo* owners both consider themselves to be the real and rightful owners.

The *mailo* owners from the very beginning of the system created by the colonial protectorate did not insist on any sort of rational settlement pattern, did not make any efforts to regulate the quality of construction and did not provide any basic infrastructure to the tenants they allowed to settle on their land. Their only interest was in the rent payments they received from the occupants. The result over time is that these areas have developed very haphazardly, some have been very densely settled as rural to urban migration has accelerated, and other have become true slums. Nonetheless, there are still some parts of *mailo* land in the Kampala region that continue to be used by small-scale agriculturalists and herders.

The dual system of ownership and the unplanned, disorganized settlement patterns on the *mailo* lands have had a significant effect on the development of an efficient land market in the Kampala region. One land expert has described the situation thus: “This has resulted in a situation where the *mailo* land holder cannot sell his land or utilize it because he has to adequately compensate the tenants while the tenants are not comfortable enough to develop (i.e. build permanent structures) or sell land for which they do not have clear title, even if they own it under customary law. This has greatly constrained the land market...it creates legal ownership of land which the owner does not occupy and the occupation of land which the occupant does not own.”² It has also opened the system up to “corruption from municipal authorities such as the KCC as legal land buying or allocation and approval is more complicated because of the current land laws.”³

Given (1) that most public land in Kampala has now been leased to private parties by the KCC and some converted to freehold; (2) that formerly public land has been almost fully developed; (3) that much of the *mailo* land is occupied by tenants, either bonafide or illegal, whose occupancy is protected by law and must be compensated upon sale by the *mailo* owner; (4) that the *mailo* owners have little incentive and few resources to develop their land themselves; and (5) that other freehold owners such as religious and educational institutions are reluctant to part with their land, there is in effect very little land in Kampala of any substantial size that is really available for further residential development, especially serviced land. This overall situation is a major determinant of how the land market functions in the metropolitan area. However, as will be elaborated below, the existence of these sometimes conflicting tenure systems may have altered the way the land market has developed and affected the cost of land to would-be purchasers and the use which can be made of the land, but it has not stopped the buying and selling of land by any matter of means.

VI. INSTITUTIONAL FRAMEWORK FOR LAND USE PLANNING AND MANAGEMENT

Urban Planning

A Town and Country Planning Board was created in 1951 by the colonial administration to provide for the orderly and progressive development of land throughout the entire country and had the power to designate any area as a “planning area.” The Board can delegate authority to local authorities such as town councils. Under these provisions, the Kampala municipality was declared a planning area along with several smaller areas in the suburbs. Under the British protectorate, the Kampala municipality was able to plan rationally, to provide basic infrastructure and to enforce construction standards in the central and European areas of the city on Crown (now public) land, which is now almost entirely leased out or converted to freehold. Under a revised Town and Country Planning Act enacted in 1964 shortly after independence, the Kampala municipality was able to continue to regulate new development and enforce building and infrastructure standards to a relative degree on the public land entrusted to it by the Uganda Land Commission as it created leasehold tenure. However, although the Town and Country Planning Act gave the KCC jurisdiction to enforce planning and building standards “within two miles of the boundaries of the municipality,” in practice, it has not make use of its enforcement powers on most *mailo* land.

² Nuwagaba, Augustus, as quoted in article by Gerald Businge, “Uganda’s Difficult Path Towards and Agreeable Land Policy,” Ultimate Media Consult (U) Ltd, 2007.

³ Ibid.

Although the urbanization and densification of Kampala have continued unabated since independence, overall planning to guide the growth of the city has been weak. The last Master Plan was completed in 1980 and though there have been efforts to update it, nothing formal has yet replaced the original plan. There is also no overall zoning plan, which has resulted in multiple mixed uses. The city has, however, recently declared the central Nakasero district as commercial for future development. Nonetheless, the capacity of the KCC to enforce building and residential infrastructure quality standards requires significant strengthening.

Land Registration

The Ministry of Lands, Housing and Urban Development maintains the official Land Registry for the entire country. In certain districts, registration of customary land can be done at local offices of the registry but for most of the land in Kampala, registration must take place at the central Ministry office. The Land Registration system is in extremely poor condition due to years of neglect and the failure of the government to hire sufficient registrars. The system, still entirely paper-based, is susceptible to corruption and fraud. The World Bank/IFC is supporting an effort, just underway, to computerize the Land Registry. The time it takes to register land transactions at the Registry depends upon whether or not the land in question is already registered. Transfer of a registered property from one owner to another can be done relatively expeditiously, in a month or two, upon presentation of a valid purchase and sale agreement and the payment of a stamp (transfer) tax of one percent of the value the property. The values stated on purchase and sales agreements may, however, not be the real price paid for property as documents can be doctored to decrease the amount of the stamp tax. Registration of a property not previously registered can take considerably longer, given the need for a survey and the need to have negotiated with the occupants of the land.

Given the current state of the Land Registration, the validity of a title may have been compromised or cloudy and it is advisable that a prospective owner double check title issues with local authorities and sales agents (neighborhood brokers) to protect himself against potential disputes.

Dispute Resolution

In the event that an impasse is reached over title issues, including compensation issues for *mailo* owners with certificates of occupancy, recourse can be made to the judicial system. Uganda has established a system of land tribunals where cases can be adjudicated fairly quickly, i.e. within a matter of months. However, cases decided by the land tribunals can be appealed to the regular Court of Appeals system and beyond to the High Court and this process, given the backlog in the court system, can take considerably longer.

Taxation of Property

Uganda never has had a system of property taxation, or rates, for land in private hands. District governments can collect “ground rents” for property they have leased to private interests but evasion is commonplace as lessees argue that they are getting very little in terms of benefits from the municipal authorities. However, just last year, in 2007, the KCC Land Board began to mobilize to implement a property tax system in parts of the city. Properties leased or sold private to private owners (on the former public land) are in the process of being valued. The property tax will be based on a percentage of the value of the property. However, there is likely to be resistance to implementing the property tax because the level of service provision and the quality of the infrastructure is so low. A sort of “Catch 22” may result where owners resist paying the property tax because they do not perceive the benefits and the city cannot improve the level of service provision because it does not have sufficient revenues.

VII. THE LAND MARKET IN KAMPALA

In spite of the difficulties in buying and selling land, the land and property market in Kampala remains very active. There is a considerable amount of buying and selling going on, both formal transactions of titles that involve contracts and registration, as well as many more informal transactions involving use rights and sub-leasing, most of which are not recorded and formalized in terms of a contract. This study focuses primarily on formal sector land issues. Further analysis is required on the number and type of informal sector land transactions.

Despite the robust activity in the formal sector land market, most purchases, sales and leases are taking place on relatively small parcels of land, usually less than an acre, since there is relatively little serviced land available in larger acreage that is suitable for residential development. Because of this situation, assembling parcels large enough to develop into residential housing is time consuming and complicated. Where such larger parcels do exist, they are often poorly serviced, if at all, with infrastructure and are located on land that is more difficult to access on the existing road network.

Further complicating the purchase and sale of land is the aforementioned issue of compensation of bonafide occupants of land. Because of these issues, a prospective purchaser, after identifying a potential parcel suitable for development, would typically approach the existing occupants of the land as a first step to determine what difficulties he might encounter in acquiring their ownership rights and compensating them to extinguish their rights. Compensation can be a costly expense, depending on where the land is located and what the occupant has built on the land. Estimates can range from \$3,000 to more than \$6,000 for a small property with a house built of non-permanent materials. Since most properties, especially those on *mailo* land, may have a number of families occupying the site, compensation to occupants can add significantly to the overall cost of purchasing a property.

Because of these complexities, prospective purchasers of land traditionally hire a land broker with an intimate knowledge of the district and the neighborhood being considered for development. There is currently no readily accessible land and property information system in Uganda, outside of the Land Registry, maintained by the national government. Individual land and real estate firms keep their own databases, but do not readily share information with each other. A World Bank/IFC program is supporting the creation of a more readily available property information system that would be accessible by the general public, but it is in the early formative stages of development. Because of the lack of public information on land, most developers or would-be purchasers of a parcel go through a land broker. These may be the established formal sector real estate firms in the case of larger parcels, but may also be “storefront” local entrepreneurs who specialize in properties in their immediate area and may have a better knowledge of the potential complications that await a developer. In negotiating a price with either the existing registered owner or with a bonafide tenant for compensation, developers typically would engage the services of a land appraiser to establish value.

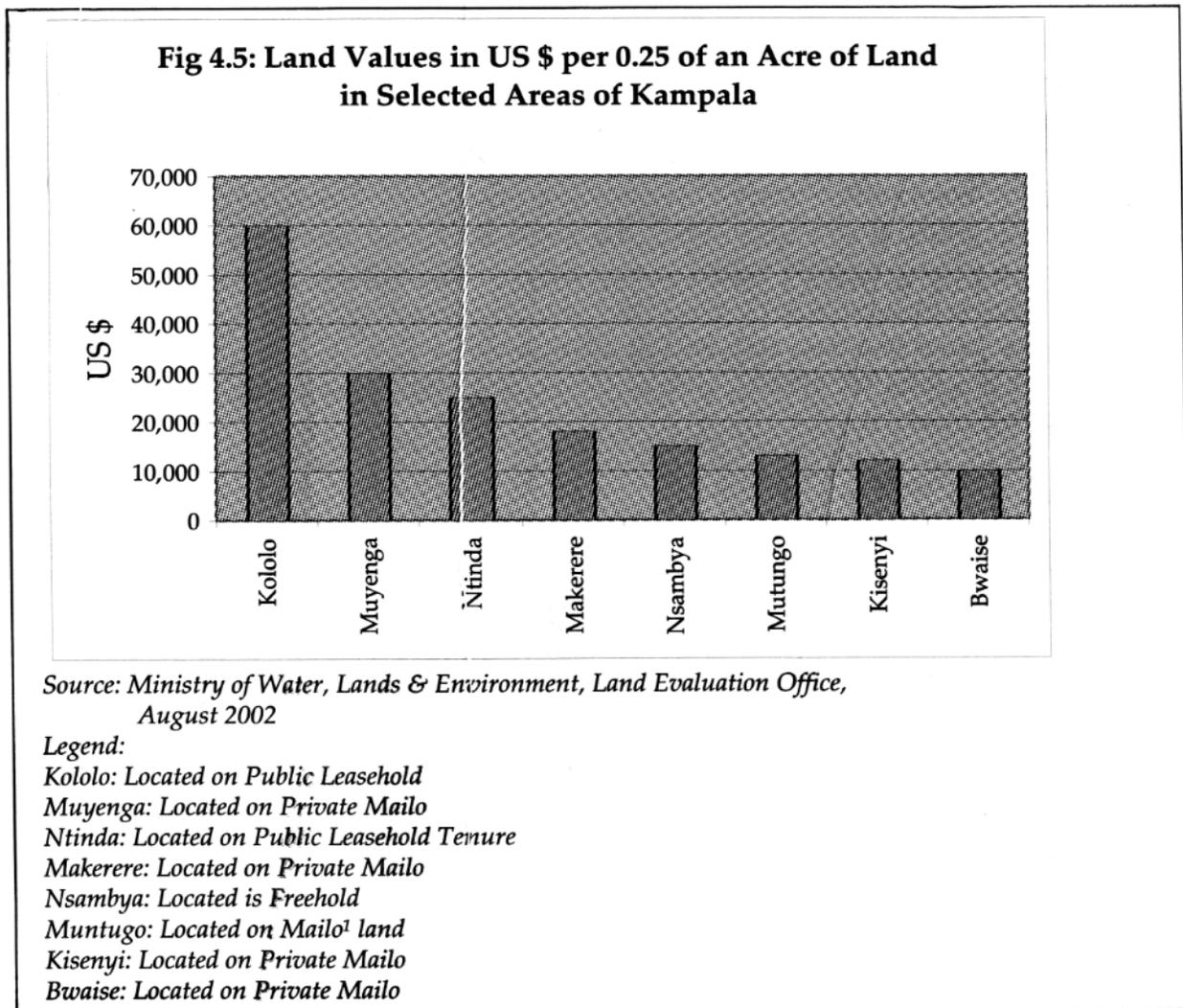
Once the prospective purchaser has reached agreement with each of the existing occupants on the level of compensation, he would then typically approach the registered owner of the *mailo* land, be it the King, Chief, or other owner, to negotiate a price for the entire parcel in question. Here again, the services of a land broker and appraiser are usually used. If there is a question concerning the boundaries, the services of a surveyor may also be required. After completing the negotiations and signing appropriate contracts, and upon compensating the existing bonafide occupants, the new owner can

then register the sale with the Land Registry. In effect, a purchaser of *mailo* land has to pay twice, once to each of the bonafide occupants of the subdivided plots and for the value of the land and structure on the plot, and once to the registered owner of the larger parcel.

Before he can develop the land, however, the new owner is required to submit complete plans, including plans for the provision of infrastructure, to the KCC or other district government (in the suburbs) for approval.

The purchase, through a leasehold arrangement, of the 30 percent of Kampala’s land under the control of the KCC is also extremely cumbersome. Acquiring a public plot through a leasehold arrangement can take as long as five years due to the slowness and complexity of the bureaucratic procedures required by the KCC. There is also often political interference in the granting of leaseholds. The inefficiencies and inequities have opened the door to corruption and the need to provide bribes to “grease the skids” in order to keep an application moving through the system.

Obviously, with such a complex and time consuming process for the purchase of either public or *mailo* land, a prospective developer has to anticipate a reasonable return if he is to undertake the



Extracted from *Land Tenure and Administrative Issues in Kampala City and their Effects on Urban Development*, 2002.

development of a housing project – and the costs associated with acquiring the land, to say nothing of the costs of providing adequate infrastructure, make it extremely difficult to construct new housing at a price affordable to low and moderate income families. This is the reason why much of the purchase and sale of land is for smaller parcels, too small for most housing except for an apartment building, which have fewer complications, especially related to the compensation of occupying tenants. Nonetheless, there are a few private developers, including the National Housing Construction Company (NHCC), that are building new fairly large “housing estates” for middle and upper income families in Kampala and the suburbs.

The cost of land itself in Kampala has also been escalating rapidly over the past five years, significantly affecting its affordability by the majority of the population. In 2002, land in the desirable Ntinda area, most of which is fairly well-serviced and leased by the KCC or the Uganda Land Commission, sold on average for \$30,000 per ¼ acre. By 2008, the average price had risen about four fold, to \$120,000 per ¼ acre. In the Nsambya area, land selling for about \$15,000 per ¼ acre in 2002 is now selling for about \$60,000. In the less well-serviced Kisenyi and Bwaise areas, ¼ acre parcels selling for about \$10,000 in 2002 are now fetching about \$20,000. In the Muyega area, commonly called the “rich man’s slum” because its land use is extremely un-organized and not well serviced but upon which some substantial houses have been built, a ¼ acre plot sold for about \$30,000 in 2002, but now sells for double that amount. These areas are all parts of Kampala that are reasonably close in to the central city.

A bit further out in the suburbs, land prices decrease somewhat but are still fairly high depending on how close to a major road the parcels are located. On the main Jinja road east, outside of the Kampala city limits, ¼ acre plots sell from between \$10,000 and \$15,000 while similar plots are somewhat less expensive on the main road to the northwest. A large developer, Jomayi Properties, is offering 300 serviced plots in a new development called the Mukono Estates near the Jinja Road to the east of the city for \$2,500 for ⅛ of an acre and \$5,000 for ¼ acre plots and another 300 plot estate about eight km south of the center of Kampala for \$6,250 - \$7,500 for plots of a little more than ⅛ of an acre. The National Social Security Fund (NSSF) recently purchased a large parcel of more than 400 unserviced acres in Wakiso District about 13 km from Kampala for \$15,000 per acre while a savings cooperative of a publishing company purchased 30 acres of land off the airport road to Entebbe about 20 km from Kampala for \$25,000 per acre.

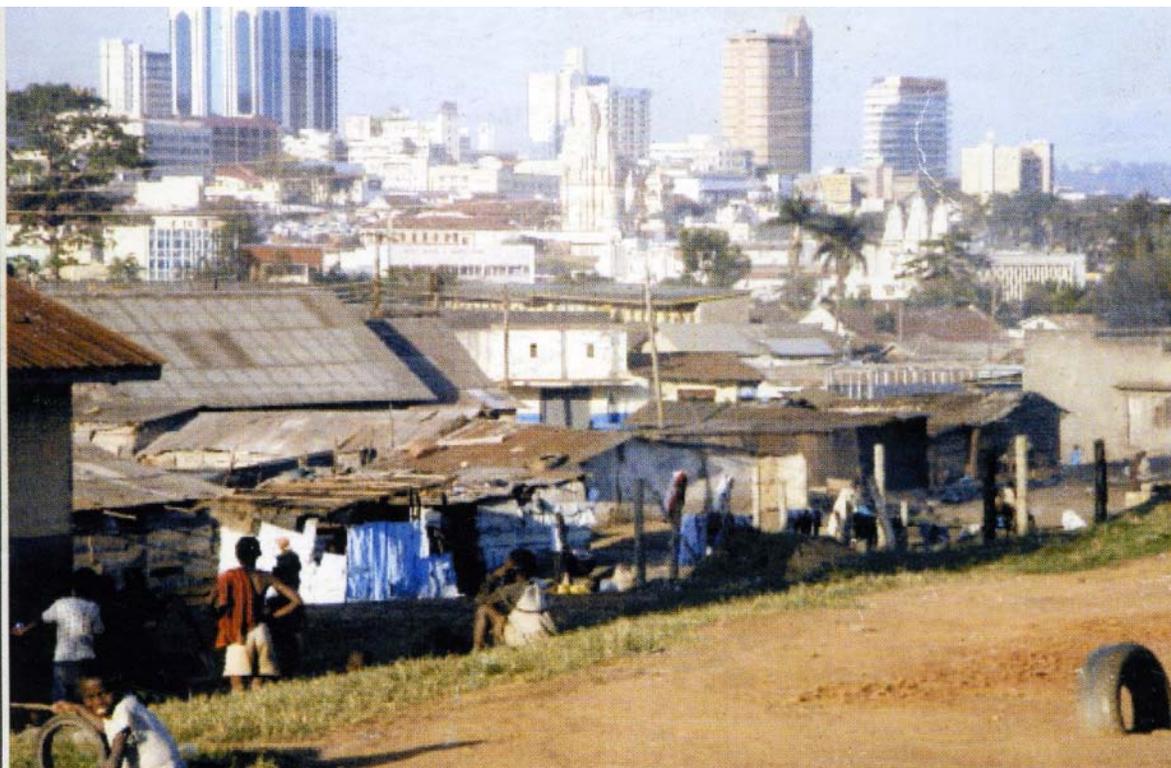
While this is far from an exhaustive analysis, it can be reasonably concluded that there is a very limited amount of vacant land of a size sufficient for multi-family residential development within the city limits of Kampala and most of the land activity is in the purchase and sale of relatively small plots of less than an acre. Prices have escalated so much during the past six years that the “standard” plot has shrunk from ¼ to ⅛ an acre. Further out, some 15-20 km from the city center, there are still some larger tracts available, usually unserviced *mailo* land, selling for \$15,000-\$25,000 per acre.

Most formal sector housing developers are building an average of about 3-4 single family houses per acre, resulting in a land cost of about \$5,000 per house. Providing adequate infrastructure to land adds approximately 35-40 percent to the cost of a house, making a serviced plot worth a minimum of \$11,000. This would also not typically include the cost of compensating existing owners of certificates of occupancy, which as noted above can add significantly to the cost of acquisition. With the average mid-level civil servant earning about \$120 per month, it effectively means that one has to work and save the entirety of one’s salary for a minimum of four to five years in order to acquire a plot in even

one of the poorer neighborhoods of the city. What is clearly needed is more intensive use of the land in order to bring down per unit costs to a level affordable by a greater number of Ugandans.

Because of the rapidly escalating price of land and the high costs associated with providing adequate infrastructure, most new housing being built by developers in “housing estates” is well beyond the reach of low and moderate income families. One of the larger developers in the country, Akright Properties is selling houses in a 3,000 unit planned community 18 km from the city for between \$44,000 for a shell ‘starter’ house and \$110,000 for a 260m² five bedroom house on a ¼ acre plot and is marketing them to “moderate income” families. Another large developer, PAN Africa Housing, is constructing a 2,000 unit development in the Kirinya suburb of Kampala of housing costing between \$31,250 and \$46,900 — again targeting so-called “low income” earners. While these may be more affordable to steady wage earners who can qualify for a mortgage, housing built at these densities and these remain unaffordable to the vast majority of Kampala’s population. Nonetheless, most of the housing in these new “estates” sells quickly — this is not surprising given the shortage of middle income housing.

A condominium law passed in 2001 has opened up the possibility of developing apartment type buildings on smaller parcels but so far few developers have taken advantage of it to build flats that would be more affordable to more moderate income families. One developer, Tirupati Developments, recently completed a 16 unit “moderate” income condominium project where two and three bedroom flats were selling for between \$84,000 and \$93,000. The NHCC is selling two bedroom, 80.5m² flats in its new Namangoona Apartments in the Kasubi section of the city for \$51,000. Neither of these comes close to serving lower income families.



View of central Kampala with slum in foreground. Source: *Land Tenure and Administrative Issues in Kampala City and their Effects on Urban Development*.

Overall, less than 5,000 units per year are being produced by formal sector developers in the Kampala area — far short of the effective demand and what is being produced through the formal sector is still too expensive for a “moderate” income family, even if it is able to secure a mortgage. To afford a \$35,000 apartment, with an 80 percent, 20 year mortgage at current interest rates of 16-18 percent, a family would have to earn over \$1,300 per month. This type of housing is beyond the reach of the great majority of families living in the city.

The purchase of larger parcels of land suitable for new housing development is compounded by the general unavailability of financing. Mortgage financing for completed homes is beginning to develop in Kampala, but because of the encumbrances on land, primarily the rights of the existing occupants and the uncertainties in titling, financial institutions are reluctant to provide land financing. Developers of larger parcels will typically seek to stage payments to the owners so that as they build and sell completed houses, they can use the proceeds to purchase more of the land.

As noted above, land prices in Kampala have been escalating steadily over the past six years and are anywhere from two to four times what they were in 2002 in most areas of the city and the surrounding suburbs. Besides the growing shortage of buildable land, one of the major reasons cited by most experts for the price escalation is that there is a great deal of land speculation in the marketplace. Investment opportunities for Ugandans who have benefited from the steady economic growth of the past decade are limited. The stock market is tiny, products offered by insurance companies are limited and bank deposits do not provide high yields. Therefore, land has become one of the primary targets for investors. Investors have realized that they can reap a tidy profit simply by buying land, holding it for a few years and selling it again. They do not have to develop it at all to earn a very high return. As this phenomenon has accelerated in many parts of the city, it puts increasing pressure on land that is available, further increasing its cost while not adding appreciably to the housing stock of the city. Currently, there are no tax policies that penalize owners who do not develop land but prefer to hold it until the price has risen sufficiently for them to sell profitably. However, a section of the new draft legislation being debated in Parliament which includes a proposal to tax “idle” and “unproductive” land in urban and rural areas appears to have some support.

VIII. LAND PLANNING ISSUES AND THEIR EFFECT ON THE SUPPLY OF LAND

Although land tenure issues have been identified as a major impediment to the functioning of the land markets in Kampala, particularly as they relate to the tremendous need for additional affordable housing, some practitioners cite the absence of good planning as an even greater constraint to reducing the housing deficit. They argue that the focus of the Land Policy and the associated land legislation currently being debated in Parliament should focus as much on land planning as it does on land tenure and that the over-emphasis on tenure issues will not substantially increase the supply of land suitable for development. As noted above, the Town and County Planning Act of 1951, last revised in 1964, provides for municipal planning authorities to plan for urban growth in a rational manner and to create reasonable standards for new development. However, Kampala is still using a Master Plan that dates from the 1980s, which has little relevance to the city as it has expanded over the past 25 years.

Although the KCC has been able to enforce minimal planning standards on the formerly public land that it now leases out or has converted to freehold status, and although it does have a planning mandate for the entire city, in practice it has not exerted its authority over the large areas of *mailo* and freehold land owned by institutions such as the churches. This has led to chaotic, unplanned land development, the inefficient use of ever-scarcer land, the occupation of environmentally fragile areas and the formation of large, poorly-serviced slum areas. Many practitioners feel that much better use could be made of Kampala's land and that more housing could be provided with better planning and the enforcement of reasonable standards by the KCC and the district authorities in the surrounding suburbs.

The Ministry of Lands, Housing and Urban Development is in the process of developing a new Physical Planning Law that will replace the old Town and Country Planning Act. The new law will declare the entire country a "planning area" to discourage unplanned developments from forming. The Government is also supporting the planning of some 73 major urban centers in Uganda. However, it is the local authorities that are charged with enforcing the law and unfortunately many of these remain weak. The KCC has a very small planning staff and, as noted above, is subject to political suasion and corruption. Thus, the mere passage of a law will not solve the problems and until the city musters the political will to tackle urban planning seriously, its ability to guide the rational development of the city and to provide housing opportunities for the majority of its population for will remain hampered.

IX. SUMMARY OF THE LAND MARKET DISCUSSION

Recapitulating the preceding discussion, it is fair to say that there is a fairly robust land market in Kampala, despite the complexities of the land tenure system, the issues of compensation to bonafide tenants, the procedures required to purchase land and the continuously increasing cost of land, but the majority of the activity is in small parcels of less than an acre. There is a great deal of informal purchasing and selling of land and land rights, especially in the *mailo* areas where land use patterns are irregular, housing is of poor quality, services are minimal and ownership rights can at times be murky.

Land speculation is being driven by the lack of alternative investment opportunities. Serviced parcels in desirable residential areas may sell for significantly more than the appraised value. There is some concern that there is a "bubble" in land values being created by the current situation and that there could be a "correction" at some point. Parcels suitable for larger residential development are becoming increasingly harder to find and are often located in suburban areas off the existing road and utility network, requiring the provision of costly infrastructure improvements. Since developers cannot rely on the local governments to provide services (roads, water, sanitation and electricity) to these areas, the only way they can recoup their costs is to increase the selling price of the house. Unfortunately this makes it difficult to build housing that is within reach of the vast majority of Uganda's urban population. One possible way to reduce per unit costs of housing would be to make more intensive use of the available land — i.e. encourage townhouse, duplex or multi story development. Many of the housing developers today are marketing single family houses on $\frac{1}{8}$ or $\frac{1}{4}$ acre lots and it is virtually impossible for a low to moderate income family to afford these without large subsidies.

X. THE PROPOSED NEW LAND POLICY

In 2001, the government realized that it needed to develop a more comprehensive land policy and subsequent laws and regulations that would help to stimulate more effective development of the country's land resources. The policy would address issues of ownership, distribution, utilization, alienation, management and control of land resources. The government has engaged a consultative group of advisors and experts to assist in the drafting of the policy and has recently completed a fourth draft. During the past several months it has held a series of consultations around the country on the draft policy. The fundamental thrust of the latest draft of the policy is to “refocus the discourse on land from an over-emphasis on property rights to its essential resource value in development.”⁴ According to some of the experts who have participated in the drafting of the new land policy: “That paradigm shift requires that the land sector should be fully integrated into the country's overall development planning through the identification of effective linkages with other productive sectors.”⁵

The draft policy also seeks to clarify both the Constitution and the 1998 Land Act as amended on what the role of the state in land sector development and management should be. The major specific objectives of the draft policy are to:

- “Stimulate the contribution of the land sector to overall economic development and poverty eradication;
- Rationalize and simplify the complex tenure regimes in the country so as to maximize their contribution to the development of the land sector;
- Create an enabling environment for equitable access to land and security of tenure;
- Ensure planned, environmentally-friendly, affordable and well distributed human settlements for both rural and urban areas; and
- Upgrade and harmonize all land use related policies and laws and strengthen institutional capacity at all levels of government.”⁶

Three of the primary recommendations of the draft policy are that (1) the *mailo* system of ownership be eliminated and converted into freehold land, (2) that freehold land, especially in urban areas, be converted into leasehold land to promote access to its usage for development as well as to enhance its marketability and (3) that customary tenure, under which 80 percent of the land in the country is held, be formalized without turning it into freehold or *mailo* land as provided for in the 1998 Land Act – under which owners are required to get land ownership certificates.

However, the current draft has generated mixed reactions, particularly from landlords and the Buganda Kingdom, the largest *mailo* landlord, who view it as an attempt by the government to take away their land. The government staunchly denies that this is its intent. How fast the policy will move towards adoption, or how much compromise will be necessary given the resistance of the *mailo* owners, is therefore uncertain.

⁴ Republic of Uganda, Ministry of Lands, Housing and Urban Development, Drafting the National Land Policy, Emerging Issues for Discussion, May 2007

⁵ Businge, Gerald, “Uganda's Difficult Path towards an Agreeable Land Policy,” Ultimate Media Consult, March, 2007

⁶ Republic of Uganda, [op.cit](#)

XI. RECOMMENDATIONS TO EXPAND THE AVAILABILITY OF LAND, ESPECIALLY FOR THE POOR MAJORITY OF THE POPULATION

1) The Land Policy should be finalized and new legislation based on it should be passed to implement it.

As noted above, the government has been developing a new Land Policy for almost seven years. The consultation process with stakeholders is almost complete. The policy should start from the fundamental principle that land should be put to its most productive use and that property rights should be redefined so as to help accomplish this. The suggestion that all four tenure systems in Uganda, customary, freehold, *mailo*, and leasehold be maintained but that in urban areas, certain development conditions be applied to ownership would seem to be a reasonable compromise that could be politically acceptable. In addition, a number of experts agree with the government that the leasehold form of tenure be expanded as it is the most adaptable to more highly congested urban sites. The national government has advocated the encouragement of the leasehold form of tenure land and the voluntary conversion of urban freehold land and *mailo* land into long term leases because it “opens up land to a much larger range of users and use functions (e.g. condominium) than either the freehold or the *mailo*.”⁷ The longer the Land Policy remains in limbo, the worse the situation will become and the harder it will become to accommodate the continued growth of the urban area. This will eventually lead to a slowing of economic growth in the capital region. The government must muster the political will to see the Land Policy through, recognizing that not everyone may be fully satisfied. Once the policy is adopted, the government must then move quickly to pass the legislation necessary to implement it.

2) Standards for infrastructure should be modified to allow for more intensive occupation of scarce urban land resources. Building standards for housing should also be made more appropriate to allow for multi-family housing development in urban areas. This should be made part of the new Land Policy.

Only through more intense yet soundly planned and engineered development can costs be brought down to levels that make housing affordable to the great majority of Kampala’s urban population. Robert Buckley and Jerry Kalarickal, in their study *Thirty Years of World Bank Shelter Lending: What Have We Learned?*, concluded: “There is ample evidence that when formal land development parameters (such as minimum plot sizes, setbacks and infrastructure servicing standards) are not benchmarked against what the local population can afford to pay, most households (not just poor households) are excluded from access to formal land ownership.... Thus inappropriate regulation often renders dwelling construction and improvements illegal, regardless of whether the underlying plot is titled. The result is that even titled owners have reduced incentives to rehabilitate their ultimately illegal units.”⁸ In the new Land Policy, incentives should be considered to encourage greater use of row house development, duplex construction and apartment buildings (flats). Since the majority of Kampala’s residents already rent, provision should also be made for significant increases in well serviced rental housing for those whose means do not permit them to reach ownership in the near term.

⁷ Ibid.

⁸ Buckley, Robert M and Kalarickal, Jerry, editors, *Thirty Years of World Bank Shelter Lending: What Have We Learned?*, The World Bank, 2006

3) Land use administration by the Kampala City Council and the District Land Boards in the city suburbs should be strengthened.

As noted above, the Kampala City Council's ability to control and guide land development is weak. The same is true for the District Land Boards in most of Kampala's suburban areas. The city currently has no cohesive land management system that is applicable to all of the various types of tenure. Enforcement of planning standards, especially in *mailo* areas and in formerly public land that is environmentally sensitive (wetlands, etc), is lacking. The capacity of the KCC city planning and land management divisions should be strengthened. Perhaps most importantly, the city must muster the political will to put in place systems to insulate city professionals from political pressures and to discourage fraud and corruption in land development.

4) The Government should make creative use of the Land Fund which is proposed as part of the new Land Policy

The Government has proposed the idea of a revolving fund that could be used to acquire land for the purpose of subdividing it into plots for sale to low and moderate income families. Land banking schemes are being tried in other developing countries, most recently in South Africa. Kirsten Harrison notes: "Land banking implies that government acquires land in advance of needs. The main advantages are that it allows the purchase of land, relatively cheaply, for public purposes and provides a tool to influence the pattern of development in accordance to overall planning objectives." (UNESCAP, 1993).

The guiding principles of land banking in developing countries are as follows:

- To improve access of the poor and other specific target groups to land
- To support the implementation of urban development projects
- To reduce inflation in land prices and reduce land speculation
- To promote public/private partnerships
- To improve the land tenure structure (GTZ, 1998: 1)⁹

The land could be resold to individuals or leased to a developer with the stipulation that he develop the land into modest serviced parcels. Land banking is not a panacea, and its implementation must be limited and carefully controlled to avoid it becoming politicized, but it nevertheless should be considered as one of the tools available to municipal authorities in Uganda to increase the supply of land available for housing. The Land Fund could also be used to address the issue of compensation to existing occupants of properties who have rights of occupancy, which is hampering the efforts of developers to construct more housing.

5) The Government should consider limited use of its powers of eminent domain to help create sites for the private sector to construct low and moderate income housing.

As noted above, much of the available *mailo* land in Kampala is occupied in a poorly planned, under-utilized, very disorganized, almost chaotic manner by occupants on small parcels who hold

⁹ Harrison, Dr. Kirsten, "International Land Banking Practices: Considerations for Gauteng," Paper Presented to Gauteng (South Africa) Department of Housing and Urban Landmark Trust, 2007.

certificates of occupancy or other customary ownership titles. Basic infrastructure, including roads, water and sanitation, electricity and community facilities are sorely deficient, if they exist at all. Much more efficient, and environmentally-sound, use could be made of this land to house more lower income families in higher densities in much improved living conditions were the land re-organized into a more well-planned development with decent infrastructure. However, it is difficult and costly for private developers to assemble some of these odd bits of land that could make rational planning more feasible.

Judicious use could be made of the government's powers of eminent domain to help assemble parcels that could then be turned over to the private sector for development with the stipulation that the housing to be developed be affordable to lower income families. For the poorest families, the solution may lie in simply providing serviced sites combined with a micro-credit program to allow families to construct a structure as their resources permit. Recourse to eminent domain powers could also be made to simply upgrade the slum neighborhoods by regularizing the land use so that decent infrastructure can be provided, with space created for essential community and commercial facilities, such as schools and small shops. Whatever the case, be it new housing, serviced sites or simply re-structured properties, once the neighborhoods are improved, secure and clear ownership rights should be guaranteed to the occupants.

6) Less conventional interventions, such as land readjustment and land swaps should be explored as a ways of improving the efficiency of land use and stimulating the land market in Kampala.

Buckley and Kalarickal note that in land readjustment schemes, “multiple owners of land pool their plots to facilitate the development or rationalization of infrastructure and public spaces. Readjustment schemes have been widely practiced in Germany, Japan, Korea, Nepal, Singapore and elsewhere and offer considerable potential for pursuing the dual objectives of enhancing tenure security and land use efficiency.”¹⁰ Given the disorganized, unplanned occupancy patterns on much of the *mailo* land, such creative ideas could be one way of improving the levels of infrastructure while allowing the poorer occupants to remain in the same neighborhood. Given the scale of the housing deficit in Uganda, new housing in planned developments will never be able to catch up in the foreseeable future and upgrading schemes for the existing slum communities must remain one of the preferred options for the city. To do so, however, the city must take a more aggressive attitude with respect to development or improvement of the large areas of *mailo* land where the majority of the slum dwellers reside.

7) Public-private partnerships and cooperatives should be encouraged as much as possible to open up new land for development and to make more efficient use of existing occupied land.

Given the many constraints to the development of land for new housing, and the inability of the public sector to redress the housing deficit itself, the government and the private sector must work together continuously to seek solutions that will maximize opportunities for investment. The creation of a permanent public-private advisory board to implement new land policies should be encouraged. In addition, much greater use could be made in Uganda of the cooperative form of ownership of land

¹⁰ Buckley and Kalarickal, *op.cit.*

and housing, especially for the poor. Lessons can be learned from Kenya, where organizations like the National Cooperative Housing Union (NACHU) have successfully created new housing options for the poor.

8) Tax policies should be amended to encourage the development of land for housing, especially housing for low and moderate income families.

As noted above, current tax regulations create no incentive for a landowner to develop vacant land held idle with the intent of selling it later for a handsome profit. Legislation should be passed which would create an incentive for a landowner to develop it. Owners of *mailo* land should not be exempted from these regulations. Once the land registry is computerized (see recommendation below), a property tax (rates) system should be developed for all of the property in the city. The KCC has already started to value some of leasehold land in the city. Property taxation should be introduced gradually, first in the areas that are the best serviced. Hopefully the increased revenues could be used to upgrade city services and repair infrastructure. Over time, sufficient revenues might be generated to enable the city to raise additional funds through borrowing or municipal bonds that would enable it to provide trunk infrastructure to service newly areas and to upgrade the services in existing slum areas. A property tax system can also be used as a means to slow land speculation. As noted above, land prices in Kampala have been escalating very rapidly over the past six years, partly because of lack of alternative investment opportunities for those with means and partly because of pure speculation. A property tax system, properly administered, could help to keep land speculation under better control. A property tax system does not have to be implemented only after the completion of a costly and complex cadastral survey. The past few years have seen the development of a number of models of simplified cadastral systems that Uganda could draw upon.

9) Consideration should be given to the creation of a specialized expedited judicial process for the resolution of land disputes.

As noted above, there is in place a system of land tribunals to adjudicate land disputes. However, at the appeals level, land cases must go through the regular judicial process which can be costly and lengthy, given the backlogs throughout the Ugandan judicial system. Consideration should be given to the creation of an expedited process for the resolution of land cases at the appeals level.

10) Priority should be given to completing the computerization of the Land Registry and to the decentralization of information on land ownership to district levels.

As noted above, the Uganda Land Registry is still paper-based which leaves it susceptible to errors, misplaced information, and even fraud. UN Habitat has concluded: “Having a well-functioning land information system is one of the most important preconditions to providing land for housing for the poor [majority]. If land records in a city are unclear it leaves room for land use to be manipulated by powerful interests and in these manipulations, the poor are almost the losers.”¹¹ The World Bank and the IFC are currently supporting efforts to computerize the Uganda Land Registry. A computerized system can still be tampered with, mistakes can be made and the accuracy of transposing the paper records can be compromised. There are issues of conflicting ownership rights to land parcels that must

¹¹ UN Habitat and the UN Economic and Social Commission for Asia and the Pacific, Quick Reference Guide, “Housing the Poor in Asian Cities, Vol. 3: Land,” 2008

also be rectified. However, all possible safeguards should be implemented to assure that the new computerized registry is as accurate as possible and that it is “firewalled” from outside influence. Once the central registry is computerized, consideration should be given to decentralizing this function to the District Land Boards, but only after they have the capacity to take this function on responsibly.

11) Targeted subsidy programs for both housing and land development should be considered to encourage affordable housing.

Given the high cost of land and construction and the low incomes of the majority of Ugandans, there is realistically little hope of providing decent housing for the poorest without some sort of subsidy system. Other countries in Africa have instituted housing subsidy programs to provide increased housing opportunities for the poor with some success. South Africa has had considerable experience in this area. Housing subsidies are most effective when they are given directly “up front” to eligible families and not through schemes such as interest rate reductions. Many housing subsidy schemes in developing countries have been difficult to control. Nonetheless, there are a number of models of successful schemes for subsidizing housing for the poor, for both rental and for ownership, that Uganda could draw upon as examples. Consideration should also be given to providing incentives, including a possible land acquisition or infrastructure development subsidy, for entrepreneurs willing to purchase and develop land for low income families.

12) Micro-finance systems should be encouraged to help the poor develop land and construct housing.

There are a number of non-governmental organizations in Uganda providing micro-financing. Most of these loans are small business loans. However, micro-finance institutions in other African countries, most notably Ghana, have begun to make loans for housing improvements. It would probably be premature to encourage such institutions to lend for the purchase of land — but once land is owned, micro-credit could be made available for the development of a plot, both the installation of on-site infrastructure and for the construction of a house over time. This would encourage more efficient use of the limited supply of land in Kampala.

This is by no means an exhaustive list of recommendations — and many should be thoroughly thought through in the Ugandan context before they are given serious consideration. However, ***the most important recommendation is that Ugandan governments, at the national, district and municipal levels, muster the political will to tackle the complex and sensitive issues around land ownership and development in urban areas, to identify the financial resources necessary to implement more effective land use policies and to strengthen the capacity of municipal officials to implement policies and programs that will lead to more equitable and efficient land market system.***

Urbanization of the Kampala region will continue unabated no matter whether the Land Policy is finalized or not, but unless steps are taken to regularize the land market so that it can provide for new families, the city and its suburbs risk becoming entirely engulfed by unplanned and poorly-serviced slum communities.

XII. LESSONS FOR OTHER COUNTRIES IN SUB-SAHARAN AFRICA

Although the land tenure system in Uganda and the effects of this system on the land market are somewhat unique because of the legacy of the British protectorate, there are some parallels with other countries in sub-Saharan Africa from which Uganda can both learn as well as become an example.

Uganda is being impacted by the inexorable growth of its urban areas just as are many other African cities and towns. The growth rates may be somewhat higher in Kampala and its suburbs than in other capital cities, but not by much. Other cities in Africa are experiencing the rapid growth of slums due to their inability to set aside sufficient land to accommodate the influx of new families. Other cities in Africa suffer from a shortage of public resources to provide decent infrastructure and in the absence of an adequate revenue stream from sources like a property tax are dependent on the national governments for the financing of essential infrastructure. Other cities in Africa are seeing a rapid increase in the price of land which makes it ever harder for lower income families to find decent housing. Other cities in Africa lack the capacity to plan adequately for new growth and to manage effectively the land resources they are responsible for overseeing. Finally, other cities in Africa are seeing their competitiveness eroded by poor infrastructure, poor transport systems, corruption and the productivity of labor.

What is somewhat unusual in Uganda is the complexity of the land tenure systems which are a legacy of the colonial protectorate. However, even this is not unique. Most African countries used customary forms of tenure prior to their independence in the 1960s and 1970s. These customary forms of tenure continue in effect even today, complicating would-be developers who may want to purchase enough land to recoup their costs of providing infrastructure. This does not mean that land cannot be purchased and sold, but it does mean that tribal or family interests, and the interests of people who have been occupying the land for many years, must be taken into account.

Thus, Uganda's efforts to develop a National Land Policy can provide some valuable lessons for other countries in the region that are also undergoing rapid urbanization. Many are facing problems similar to those of Uganda and are not adequately coping with them. They cannot ignore the rapid growth of slums and the housing needs of low and moderate income families. They must develop strategies and practical approaches to improving the living conditions of the majority. Land constitutes a critical, but only one of the problems, cities and governments must address to improve living conditions for the majority of their citizens.

ANNEX 1

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ANNEX 2

PERSONS INTERVIEWED

Vincent Agaba, President, Association of Real Estate Agents, Uganda

Sabiti Bageine, Director, Property Marketing, Bageine and Co., Ltd.

Gerald Businge, Ultimate Media Consult

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