



POLICY BRIEF ON ESTABLISHING CLEAR GUIDELINES FOR PUBLIC LAND ALLOCATION IN GHANA

1.0 Introduction/Background

Public land in Ghana is made up of state land and vested land. State lands are lands compulsorily acquired and owned by the State for public purpose. Vested lands are lands held in dual ownership with the legal interest held by the State represented by the Lands Commission to manage the lands for the landowners/communities who hold the beneficial/equitable interest in the land. Public land constitutes 20 per cent of land ownership in the country with a breakdown of state land and vested land forming 18 per cent and 2 per cent respectively¹.

The management of the public lands in Ghana include the acquisition and allocation² to state agencies, citizens, investors, organizations and businesses for uses such as civic, public infrastructure development, residential, commercial, agricultural, and

industrial activities and preservation of green areas and buffer zones. Public land is a public good and its effective management and ensuring transparency in the allocation process can significantly impact social development, poverty reduction, environmental sustainability, economic opportunities for women and youth, conflict resolution, effective governance and agricultural modernization.

In Ghana, the management of public land has been identified as inequitable, unjust, inefficient and unsustainable and generally benefiting the government bureaucracy and those able to wield the levers of power in the modern state³. Also, public land allocation decisions are ridden with conflicting interests and abuse of power by policy makers, managers of the land, their cronies and clients⁴. The Presidency has bemoaned

¹ Bugri, J. T., and Yeboah, E. (2017). Understanding changing land access and use by the rural poor in Ghana. International Institute for Environment and Development.

<https://www.jstor.org/stable/pdf/resrep02694.9.pdf>

² *Ibid*

³ Kasanga, K. and Kotey, N. A. (2001). Land Management in Ghana: Building on Traditional and Modernity. Land Tenure and Resource Access in West Africa, IIED.

<https://www.iied.org/9002iied>

⁴ *Ibid*

corruption at the Lands Commission⁵, shady allocation of the Kotoka International Airport lands⁶, and the Vice President vowing to root out the demons at the Lands Commission⁷. Public perception about the Commission ranks it as the number one bribe taking public institution in Ghana⁸.

The Land and Corruption in Africa Phase II (2021-2025) project building on the solid foundation of outcomes from the implementation of the previous Land and Corruption in Africa project (2015-2019), commissioned a detailed review of relevant background materials and reports on public land allocation in Ghana. The findings were subjected to a Ghana Integrity Initiative-facilitated policy dialogue forum. Based on the outcome of the forum, GII has developed the Policy Brief to engage with policy makers and relevant stakeholders to advocate for a more transparent and accountable, efficient public lands allocation and sustainable use of public lands, and address land corruption concerns in Ghana. The policy brief contains recommendations for development of standard practice guidelines for the allocation and management of public land.

2.0 Current legal framework for public land ownership and allocation

The 1992 Constitution provides the overall legal framework for public land ownership and allocation. The Constitution recognises and emphasizes trusteeship in landholding and requires managers of land to act in the

wider interests of their communities. Article 36(8) of the 1992 Constitution espouses on the fiduciary role by providing that managers of public lands among others are fiduciaries charged with the obligation to discharge their functions for the benefit of the people of Ghana and are accountable as fiduciaries. In this regard, article 257(1) of the 1992 Constitution vests all public lands in the President on behalf and in trust for the people of Ghana with the Lands Commission having the mandate of administering and managing public lands on behalf of the President.

The Land Act, 2020 (Act 1036) in section 235(1) provides that where land is acquired by the State, the allocation of the land shall be for the purpose for which the land was acquired or in the public interest and in accordance with Regulations made under the Act. The drafting of Regulations to administer State land and its allocation is work in progress with stakeholder engagement finalized and about to be submitted to the Attorney General's Department for drafting. Another work in progress is a Public Land Policy for public land allocation that is yet to be given Ministerial approval thereafter to Cabinet.

The Lands Commission Act, 2008 (Act 767) establishes the Lands Commission in accordance with article 258 of the 1992 Constitution as a body corporate. The Act spells out the objectives⁹ and functions and assigns powers of the Commission. One of

⁵ End corruption at Lands Commission – Nana Addo to Board. August 27, 2017. Citi 97.3 fm online news

⁶ "Protect airport lands. President charges authorities". Daily Graphic, Friday August 16, 2019 edition. No. 21064

⁷ Bawumia chases Land Barons. Daily Guide Network. June 24, 2021

⁸ United Nations Office on Drugs and Crime, Corruption in Ghana – People's Experiences and Views. Vienna (2022).

⁹ To (a) promote the judicious use of land by the society and ensure that land use is in accordance with sustainable management principles and the maintenance of a sound eco-system; and (b) ensure that land development is effected in conformity with the nation's development goals'

the functions is to on behalf of the Government, manage public lands and any other lands vested in the President by the Constitution or by any other law. The corruption tag in the discharge of the Commission's mandate has been a major concern of the Presidency^{10,11} and the general public. The policy brief, therefore, is intended to help contribute to addressing the corruption tag over the Commission's mandate as managers of public land.

3.0 Purpose and intended audience of the policy brief

The key objectives of the Policy Brief are to facilitate policy dialogue on guidelines for public land allocation and make recommendations to promote effective utilization of public land to support sustainable development. It is intended to be disseminated to various national and regional actors and published on the TI website and other platforms for the consumption of stakeholders and other interest alike. The intended audience of the policy brief includes the Ministry of Lands and Natural Resources, Members of Parliament, Land Sector Agencies (LSAs) namely the Lands Commission, Land Use and Spatial Planning Authority (LUSPA), land-related Civil Society Organizations (CSOs), land related Professional Bodies such as the Ghana Institution of Surveyors (GhIS) and Ghana Institute of Planners (GIP), the Media, Security Agencies, Ghana Real Estate Developers Association, Regional Coordinating Councils, and Metropolitan,

Municipal and District Assemblies (MMDAs).

4.0 Findings

Five key challenges and areas of public land corruption have been identified in the desk review and the stakeholders' dialogue engagement. The findings have policy implications.

4.1 Opacity in public land allocation

Opacity in public land allocation and difficulty in investigating and understanding the drivers behind public land corruption deals¹². For example, a Citi Newsroom¹³ news item of March 2, 2023 disclosed that the Right to Information Commission (RIC) slapped an "administrative fine" of GHS100,000.00 on the Lands Commission for denying OccupyGhana, a pressure group, information on "returned" state lands to alleged original owners. The returned lands was shrouded in secrecy hence making it vulnerable to corruption. The group, therefore, questioned the legality and constitutionality of the Lands Commission to return Achimota Forest¹⁴ lands, the only remaining forest in Accra to the alleged original owners and made an application under the Right to Information Act, 2019 (Act 989)¹⁵.

¹⁰ End corruption at Lands Commission – Nana Addo to Board. August 27, 2017. Citi 97.3 FM online news

¹¹ Bawumia chases Land Barons. Daily Guide Network. June 24, 2021

¹² Jainter et al (2017)

¹³ Citi Newsroom is the online division of the Citi FM and Citi News which is a private based media in Ghana

¹⁴ The forest was gazetted in 1930 with a total land area of 494.95 hectare (1,223 acres) but the current size is 360 hectares (890 acres)

¹⁵ The Act provides for the implementation of the constitutional right of persons to access official information held by public institutions and relevant private institutions that receive public resources to perform their functions

4.2 Pawning and speculation of public land

The policy and practice of allocating public land at below the market values¹⁶ in the hope of encouraging all categories of income level earners to participate in the land market has lend itself to corruption in land allocation. The policy has failed largely due in part to what appears to be the speculative attitude of some applicants who profit from the discrepancy between the market value and the low cost/premium at which the land is offered.

4.3 Abuse of public land redevelopment schemes

Government policy of redevelopment schemes, which is a scheme under which available spaces within government residential areas are rezoned and offered to individuals and seldom to state agencies for redevelopment has been a practice fueling land corruption. The policy involves allocation of state properties to private entities for purposes of redevelopment into highest and best use of land. However, the land often ends up in the market for sale in dollar denominated prices. An example involved an intended lease of one and a half acre land in the Bono Region with several government buildings occupied by government workers, to a private developer that generated media banter between then Regional Minister and the Member of Parliament for the Sunyani East Constituency¹⁷.

4.4 Delays in implementing of land swap agreements

The policy of land swap, which involves an entity developing an alternate land for state use in exchange of an existing public land/property at assessed market value. Often, this

is characterized with long delays. A case in point is the new Head Office building for the Lands Commission located at the South Airport Residential Area which has taken over a decade from conceptualization to construction.

Limited access to statistical information

There is a lack of readily available information on public lands available for allocation, hindering the public's ability to easily apply for such lands. There is weak data and insufficient collection and statistical information on allocated public lands and the corresponding revenue generated for the state. Also is inadequate monitoring and evaluation and enforcement of terms and conditions in lease application forms, offer letters, and lease agreements for land allocation, redevelopment, and land swap schemes.

5.0 Conclusions and recommendations

Based on the findings of desk research and the engagement of multi-stakeholders at a policy dialogue forum facilitated by GII, this report presents key recommendations endorsed at the forum to improve transparency and accountability in public land allocation practices in Ghana.

1. The Office of the President should commission a nationwide inventory of public land to ascertain the location, size, use and values to inform policy direction on the transparent and sustainable management of available public lands.

¹⁶ Prices less than the market prices that provides opportunities for nepotism, investive and collusive corruption.

¹⁷ MP fights Minister over Govt land lease. October 2, 2020. Daily Guide, Online

2. The Ministry of Lands and Natural Resources should ensure that Policy Guidelines developed by the Lands Commission have provisions related to national goals, sustainable development goals, best practices in good land governance and protection of whistle blowers.
3. The Ministry of Lands and Natural Resources should ensure provisions in the Policy Guidelines that require advertisement of location, categories of land available, user type, current market values and criteria for application and allocation on the website of the Lands Commission.
4. The Ministry of Lands and Natural Resources should ensure that Policy Guidelines developed by the Lands Commission on public land allocation has provisions for value capture from public land allocation and used for the development of deprived areas.
5. The Lands Commission should re-engage a diverse range of stakeholder that involves CSOs, state and private anti-corruption agencies to develop the public land policy guidelines.
6. The Lands Commission should adopt the practice of advertising public land earmarked for redevelopment and land swap schemes on its website, social media platforms and in print media of wide national circulation for a transparent and competitive bidding.
7. The Lands Commission should develop public land guidelines that provides a comprehensive requirement for transparent and accountable system of allocation and

monitoring and have provisions for periodic fiscal management and performance reporting and audit of allocations.

6.0 Bibliography

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