



FIG Working Week 2024

19-24 May

Accra, Ghana

Your World, Our World:
Resilient Environment
and Sustainable
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for All

Presented at the FIG Working Week 2024,
19-24 May 2024 in Accra, Ghana

Ground Lease Renewals in Ghana - a Need for Policy Direction?

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Presentation Outline

- Historical and Legal Context for Ground leases in Ghana
- Ground Lease Renewal – Right or Privilege?
- Ground Lease Renewal Practices in Ghana and other Countries
- Levelling the Playing Field
- The Key Issues for Policy
- Concluding Remarks

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Historical and Legal Context for Ground leases in Ghana

- Prior to coming into effect of the 1969 Constitution
 - All persons, regardless of nationality, could own freehold estates in land
- The 1969 Constitution
 - Prohibited foreigners from owning freehold estates and converted all such estates into leases.
- The 1992 Constitution extended this provision by:
 - Prohibiting freehold estates in stool lands by citizens

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Historical and Legal Context for Ground leases in Ghana

- The Land Act (2020) has further expanded the prohibition of freehold estates to citizens by including family lands.

Section 9(2) provides that “A person shall not create an interest in, or right over any stool, skin, clan or family land which vests in that person, another person or a body of persons a freehold interest in that land, howsoever, described.

- The cumulative effect of the provisions in the Constitution and the Land Act is that:
 - freehold estates have become “endangered species” in Ghana

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Ground Lease Renewal – A Right or Privilege?

- Prior to the passage of the Land Act (2020)
 - A lessee was not entitled to renewal of her lease unless such a right was provided for in the lease.
- Section 50 (11 & 12) of the Lands Act, 2020
 - citizens of Ghana are entitled to automatic renewal of ground leases regardless of whether the land is granted by the State or stools/families.
- Section 50 (17) of Act 1036
 - denies non-Ghanaians the right to automatic renewal unless this is expressly provided for in the lease.



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Key Ground Lease Renewal Terms

- To renew ground leases, the parties need to agree on two critical terms:
 - The duration of the new lease.
 - The monetary consideration for the renewal
- Section 50(14) of Act 1036
 - Provides that the renewal should be subject to the original terms and take into consideration any improvement of the land by the lessee
 - but provides no specific guidance on the duration, the form or basis for determining the consideration.



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Ground Lease Renewal Practices in Ghana

Institution	Terms for Renewal		
	Premium Payment	Ground Rent	Duration of New Lease
Lands Commission	3% to 25% of Capital Value depending on user and applicant	5% to 15% of Full Rental Value or 0.5% to 1.2% of Annual Equivalent depending on the user and applicant	50 years or lower depending on user
TDC Company Ltd	30-40% of the Market Value of the land only.	15% of the Annual Equivalent of the market value of the land	Maximum of 50 years
State Housing Company Ltd	100% of internally assessed value of property (tends to be substantially below market value)	Approved ground rents by the Board of Directors from time to time.	50 years maximum or Residue of unexpired term of head lease
Asantehene's Part 1 Lands Secretariat	1/3 of Market Value of property-Residential 100% of Market Value-Commercial	5% to 15% of Full Rental Value or 0.5% to 1.2% of Annual Equivalent depending on the user and applicant	50 years



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Ground Lease Renewal Practices in Other Countries

Country	Terms for Renewal		
	Premium Payment	Ground Rent	Duration of New Lease
Hong Kong	No payment of premium	3% of annual rateable value of property	50 years with some exceptions
United Kingdom	No payment of premium regulated leases	Modern ground rent for houses and peppercorn rent for flats	At least 50 years
Kenya	Payment of premium is not required	Ground rent is based on revaluation of land	No restriction on number of years for citizens except where a non-citizen request for extension

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Levelling the Playing Field

- The diversity in terms of renewal in Ghana is inimical to
 - equity and the orderly operation of Ghana's land market.
- There is a need to standardize lease renewal practices by developing guidelines to regulate:
 - the consideration charged for renewal of ground leases.
 - the duration for different use classifications
- The Legislative Instrument (LI) being developed for the Land Act
 - provides a window of opportunity for such guidelines

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The Key Issues for Policy

- Payment of premium
 - Should this practice continue?
 - If it should, what should be the basis for determining the premium?
 - Should it be the Market Value of the property (i.e. land plus improvements) or on land only?
- Payment of Ground Rent
 - What should be the basis of determining the ground rent?
 - Should it be the Market Rent of the property (i.e. land plus improvement) or land only

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The Key Issues for Policy

- Duration of New Leases
 - Should the new lease have the same duration as the existing lease?
 - Should public policy promote shorter or longer leases?
 - What are the possible implications for investments and urban development?
- Incentives and Penalties
 - Should there be incentives and penalties to encourage and discourage certain behaviours and actions of lessees?

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Concluding Remarks

- Ghana's real estate market will experience mass expiration of leases in the coming decades.
- The terms for renewing such leases will be of immense public interest
- It is essential that policymakers act proactively to develop guidelines for renewing such leases in a manner that
 - protects the public interest
 - ensures fairness to all parties.
 - provides certainty to lessees
 - promotes transparency in the land market



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SUSTAINABLE DEVELOPMENT GOALS

International Federation of Surveyors supports the Sustainable Development Goals

Commission 7

Commission's name

Serving Society for the Benefit of People and Planet



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