LAND INFORMATION SOURCES
IN LATIN AMERICA:
VOL. 1: INTRODUCTION AND
MEXICO AND CARIBBEAN COUNTRIES

By

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And other contributions as listed

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on Social Structure, Rural Institutions,
Resource Use and Development

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All views, interpretations, recommendations, and conclusions expressed in this paper are those of the authors and not necessarily those of the supporting or cooperating organizations.

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I. National Land Markets and Land Information Institutions

The AID P.L. 480 Program for Guyana notes that:

"Obstacles to access and security of land tenure represent important constraints to food security, environmental management and increased investment in the agricultural sector. Analysis has indicated that improved access and tenure security will likely result in improved availability to credit, greater incentives to invest in land infrastructural improvements and greater willingness to cover costs of drainage and irrigation, which in Guyana is vital to the sustainability of production."

Guyana's unique situation with the preponderance of leasehold land, along the private areas, has made land administration difficult. As the Ministry of Agriculture notes, "there is no up-to-date reliable information on the administration of public land"; figures on the amount of state land actually leased, its use, and value are merely estimates (Hevia, 1994). The Ministry of Agriculture's L&S Dept. has "almost null" levels of work (Hevia, 1994).

Guyana has two basic land markets. One market consists of "freehold" estates, recorded at the Deeds Registry as described above. This system was begun by the Dutch in the 1800s when Dutch settlements along the river banks predominated (USAID, 1963). The other market involves the leasing of state-owned lands, recorded at the Lands and Surveys Department. The Guyanese Government owns about 90% of the national territory. However, with the population concentrated on the coast, this figure is very misleading. In the populated areas, roughly a half of farms are freehold estates. The remaining half is located on government-held property.

The Deeds Registry functions as the country's legal cadastre, and the Lands and Surveys Department carries out the physical cadastre along with management of leasehold property. Land tax is charged by Inland Revenue, and lease payments are paid to the Lands and Surveys Department. Although not part of the property registry in Guyana, the Lands and Surveys Office is in a position to be a potential key player in any long-term efforts to improve titling and access to land.

In the freehold market, a purchaser buys land outright from a seller. The transaction, called a "transport of property," is recorded at the Registry of Deeds. Transactions in the freehold market are very much like real estate transactions in developed countries for fee simple properties. Toppin-Allahar (1994) describes a transport as a "warranty of title". Land transfers are not really judicially sound until the title transfer is recorded by a Court on its own paper--the transport--after opposing parties have been heard. The Deeds Registry Act, Ch.5:01 says that all transfers and mortgages must be executed before the Court's representative, the Registrar.
Prescriptive titles based on adverse possession also are possible (Toppin-Allahar, 1994). The user must have undisturbed possession for thirty years on State lands, or twelve years in other areas. This makes squatters rights into legal possession.

In contrast, the Leasehold system, begun by the British after 1800, does not bestow full ownership of land (USAID, 1963). The Lands and Surveys Office oversees transactions involving public lands. The office is under the direction of the Agriculture Ministry and was created in 1903. The department's two main function are to act as the custodian of all state lands, to keep records of all grants-leases and licenses of the land, and to subdivide and distribute this land on a planned basis (following the required surveying-mapping) (Darnel, 1993). Actually the Lands and Survey Office has undertaken the surveying-mapping work of the Ministry of Works since 1982 (ibid).

Nearly 50% of all farm units operate on state-leased land (Hevia, 1994). Under the State Lands Act, the executive is authorized to make absolute or provisional grants of any state lands. Alternatively, the President may authorize the lease of land. In either case, the executive can establish the terms and conditions of any such authorization, provided only that the terms do not contradict the Forest Act or other legislation. Similarly, the president may grant licenses to use land for agricultural or agro-forestry purposes. Special legislation, the Mining Act, regulates mining.

State land can be given out in three forms: a license, a permit or a lease. The lands can also be sold, at which point they lose their character as state lands. Generally, leased land is found in the "first depth," that is the land closest to the sea defenses. The "second depth" lands, those located further inland, are generally given out as "licenses." The "third depth" land, further inland, is given out using a "permit." Although these three forms of tenure have historic differences, they are today equivalent. All function as leases. There have been negative analyses of the block lease system as being useless in financial markets (since all cooperative members would have to agree on surrendering the collective title in collateral) and inherent parcellization (Hunte, 1993).

Property Taxes

The property tax system is quite unique to Guyana. By virtue of the Municipal and District Councils Act (Chapter 28:01 of the Laws of Guyana), all immovable property (land and buildings) and vacant land in a local government area is subject to a tax known as a general rate. There is also a property tax upon individuals under the Property Tax Act (Chapter 81:21 of the Laws of Guyana), managed by the Inland Revenue Department and paid over to the national treasury. For the purposes of this Act, land (immovable property) becomes taxable in the hands of individuals whose total net assets after certain basic allowances, exceeds G$5 million at the end of every year. Finally, the Acreage Tax Act (Chapter 81:22) charges a unit tax on uncultivated lands (Toppin-Allahar, 1994).

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3 Art 3, State Lands Act, Ch. 62:01.
Before the passing of a transport, lease or transfer of a lease at the Deeds Registry or a land registry transfer, the seller must present certificates from the Inland Revenue Department and the municipality respectively, that all annual income tax and municipal rates have been paid up to date. On every transport, lease or transfer of lease under the Deeds Registry Act, and every transfer, lease and transfer of lease under the Land Registration Act, a duty of 2% is payable to the Inland Revenue Department, based on the sale price, or in the case of a gift, on the certified value of the land. This leasing system is probably an inadequate substitute for a property tax. Given the lack of current cadastral information, the government has recovered only about US $0.05 per acre in rent on state properties.

**Land Information Institutions**

The Land Court is presided over by a Commissioner of Title who has the power to determine all matters regarding title to land in a declared registration area. The Commissioner, upon such declaration, invites all persons having claims on whatever basis, whether by prescription, testate or intestate succession, purchase or actual ownership by a document of title to such land. A land surveyor provided by the Commissioner of Lands and Surveys prepares a preliminary or sketch plan identifying the portions claimed and illustrating disputed boundaries.

Following due publication in the Official Gazette and newspaper, the Commissioner of Title adjudicates upon the applications and makes declarations of title whereupon the surveyor prepares the final plan showing every piece of land as a parcel. After due publication of these declarations the Commissioner of Title transmits to the Registrar of Lands orders under the seal of the Land Court upon the basis of which the Registrar opens a land Register for the particular area. The land is now "registered land" for all purposes and all time and may in future be dealt with only under the provisions of the Land Registry Act.

**II. Details of the National Cadastre System:**

**A. Origin and Purpose**

The Mapping Office of the Commission of Lands and Surveys (under the Ministry of Agriculture) is the mapping agency for the country. Its responsibilities include mapping, geodetic surveying, aerial photography, and cadastral (parcel) mapping.

**B. Methods and Products**

Among the map products offered are 1:50,000 scale orthophotos of coastal areas. The country has twenty-one horizontal control stations. Inter-American Geodetic Survey specifications are followed. Maps are tied into the South American grid. GIS and aerial data has been incorporated into sea coast mapping, to an accuracy of three meters. Maps are not digitized.

The Laws of Guyana Land Surveyors Act (Chp. 97:01) outlines the acceptable
methods and duplicate requirements for parcel surveys. State Lands also fall under the regulations of Ch. 62:01. Surveys are considered a prerequisite for a lease approval. Forms of electronic data or land information also are acceptable, although it appears that authenticated hardcopies also are necessary (Topper-Allahar, 1994).

C. Costs and Maintenance

In 1992 and 1993, no surveys were conducted in the country by the Department, due primarily to extreme budgetary problems. The annual budget barely covers dismally low salaries, with little or nothing left over for supplies, travel, equipment, or other expenses. The Ministry of Agriculture's Land and Surveys Department has traditionally sold planimetric, topographic, and tourist maps as a source of revenue. With limited resources from the U.S. PL480 Program (USAID), the Department once again resumed survey activities in 1994. The IDB is now considering a massive financing effort to promote survey activities in Guyana.

D. Staff, Technical Capacity and Accessibility

The office suffers from a profound lack of qualified personnel. Pay scales are grossly inadequate. Employees gain experience in the office, and then leave to double their salaries with the Mines Commission or the Forestry Commission. From there, they move into private practice, again doubling or tripling their salaries. The Commission of Lands and Surveys is simply not competitive enough to keep its best employees. The Mapping Office has no procedural manual for employees. A limited on site training course was implemented this past year for a few select students wishing to learn more about the Department. However, land surveyors are certified under the Land Surveyors Act (Chp. 97:01 of the Laws of Guyana) (Toppin-Allahar, 1994). The law outlines the acceptable forms of surveys and demarcation.

III. Details of the National Property Registries

A. Origin and Purpose of the Deeds Registry

Currently four different legal registers title property in Guyana in two different buildings (the Ministry of the Attorney General and the Ministry of Agriculture); the system is not yet centralized (Toppin-Allahar, 1993).

The Deeds Registry falls administratively under the Attorney General and Minister of Legal Affairs. It is established under the Deeds Registry Act (Chapter 5:01 of the Laws of Guyana) and is staffed by a Registrar of Deeds, a Deputy Registrar and Registry officers who man the several departments that comprise it (Conveyance, Notarial, and Land Registration). The Conveyance Section works to transfer property, register and cancel mortgages, and register and transfer leases; the Land Registration section registers and transfers land titles; and the Notarial Section oversees most business documentation (OP/PSM, 1993).
The main functions of the Deeds Registry are:

1. The operation of the Roman-Dutch system of land titles, familiarly known as the "transports" system including the processing, advertisement and recording of transports, mortgages, leases, encumbrances and all matters affecting title to land.

2. The registration and recording of notarial and miscellaneous deeds, e.g. Power of Attorney, Indentures, Deeds Poll, Bills of Sale and charges.

The transport department is styled the Conveyancing Department and the other the Notarial. The Registrar of Deeds also performs the offices of Registrar of Companies, Registrar of Patents, Trade Marks and Designs, Registrar of business names and Registrar of Trade Unions.

There is for the county of Berbice at New Amsterdam a sub-registry headed by a Chief Registry Officer, which performs all the functions of the Registrar except those relating to Companies, Business Names, Trade Marks, etc. and Trade Unions.

With the introduction of the Torrens system of land registration in Guyana in 1960 by the Land Registry Act. Chap. 5.02 of the Laws of Guyana, the Registrar is also Registrar of Lands and maintains a Land Registry at his Georgetown Office for the counties of Demerara and Essequibo as well as one at New Amsterdam for the county of Berbice.

There is no office of the Deeds Registry in the county of Essequibo, the least populated of the three counties. The Deeds Registry at Georgetown is the office of record for transactions for the county of Essequibo.

B. Methods and Products Achieved

To obtain land, every applicant must complete an application. This application includes name, address, acreage, a complete physical description of the land (survey) and the intended purpose of the land, plus a $10 filing fee. The basic application includes personal data: salary history, work history, experience, and so on. Applications can be filed in Georgetown or in field offices. Field offices exist in Anna Regina (Region 2), Region 3, District of Mabaruma (along the border with Venezuela, along the coast), within Region 4 (Georgetown and other offices), Region 6, Region 7, Region 9 and Region 11.

Records are arranged chronologically and by counties; storage is under mixed systems of vaults and open shelves (OP/PSM, 1993). The expansion of vault space is considered an urgent need. Yet even computer modernization will not solve this problem as originals must also be kept for legal norms (ibid). Once the application is presented, the office creates a file on the request. A plan is attached to the file, and the file is assigned a unique, file application number. The office then studies the file to figure out if land is available. If land is available, there is a follow up inspection to insure no squatters are illegally occupying the land.

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Every region has a "Land Selection Committee" which reviews applicants to insure that
the applicant qualifies for land. The Committee will review the file and interview the candidate. Its judgment will be based in part on the applicant's ability to work the land, the needs of the individual and his family, and so on. From these facts, the Committee makes a recommendation to the Commissioner of Lands to grant or not grant a lease. This is a decentralized decision-making process.

Next, the main office in Georgetown reviews the application to insure the land has no other encumbrances upon it and is otherwise available to be distributed. This review is carried out by a member of the staff of the Commissioner of Lands. If all is in order, the Commission of Lands recommends to the Ministry of Agriculture to grant the lease. Assuming the Ministry of Agriculture approves the lease, the file returns to the Commissioner of Lands.

At this point, if there is no survey of the land, the Commissioner of Lands will issue a "temporary" lease. This will, in theory, allow the applicant additional time to have the survey work done. It is expected that once the survey is complete, the lease will become a final determination. During the "temporary" lease period, the applicant can pay the survey costs to the government, or the government can pay for the work immediately. In this case the applicant must repay the government.

In practice, however, many leases have remained "temporary." The applicants themselves do not have funds to pay for surveys. Until the new 1994 funding from the PL 480 Program, the government had no funds either. This caused indefinite delays in the system and meant that applicants received property without a physical description of the land. Consequently, the land is non-transferable, non-mortgageable and unable to be subleased. The use and terms of leasehold lands has been difficult to enforce. Yet the leaseholds offer one of the best opportunity for land use policy as few property taxes are in place (Toppin-Allahar, 1994).

Perhaps even more grave is the problem of uncertain boundaries. Many disputes arise over time in the settlement of disputes because formal boundaries were never originally established. Conflict resolution consumes a great deal of staff time at the Lands and Surveys Office. Within "land development schemes," land is surveyed before issuing leases. Areas of settlement not previously surveyed are those that present problems of boundaries and surveys. These are mainly in river areas. These river areas are very expensive to survey, as they entail expenses for boats, gasoline, engines, etc. And the heavy forest complicates the survey.

The "land development schemes" are found where the government owns the land by way of a grant or by a "transport" (purchase). Since the government owns the land, the Commissioner of Lands and Surveys holds the land on behalf of the government. And these lands are called "Government Lands." All other lands that were formerly called "Crown Lands" are now called "State Lands." This distinguishes "Government Land" from "State Land" legally. Lease terms are slightly different for "Government Lands" versus "State Lands." Government lands for whatever purposes are governed by the Deeds Registry Act and must accordingly be sold or leased under the transports system. The current practice is to lease state lands for twenty-five years.