State land leases by the President are not affected by the Deeds Registry Act. The legislation authorizes the President to set lease terms and rates according to the executive's discretion. Order No. 60 of 1979 authorized the Minister of Agriculture to approve and fix rent for all state and government land. The term can be one year, or up to twenty or twenty-five years, as the case may be. Since then, rates have remained unchanged. Thus, lease terms depend on the application, what has been requested, what the Commissioner feels is justified, and so on. The present practice is one year, twenty years or twenty-five years. In other words, the lease term is discretionary and elastic, providing for the best term for all parties involved on a case-by-case basis.

Before the 1940's, the government used to issue "provisional grants" to land. When the land had been possessed and cultivated for five years, the government would convert the "provisional" grant to a definitive "absolute" freehold grant. Since the land was freehold, if the land was subsequently abandoned, the government did not have access to it. This was a major social concern. In the 1940's, the Government policy was to give out ninety-nine year leases. This length of time was quite close to being the functional equivalent of a freehold title, but represented a slight withdrawal from "absolute" property rights. However problems with land abandonment continued and the government came under pressure to readdress the problem.

Next, the government began shortening the terms, all the way down to one year leases. Now, most leases are back up to twenty-five years. Anyhow, renewals are nearly automatic if the farmer uses the land productively over time.

More specifically, from a legal perspective, persons with twenty-five year leases (on state lands) have a right to renewal, if the farmer has used the land. Those with twenty year leases (on government lands) do not have an automatic right to renewal because of the Deeds Registry Act. In practice, however, these are automatically renewed as well.

Public Lands: Recorded and Managed by the L&S Department.

<table>
<thead>
<tr>
<th>Type of Land:</th>
<th>State</th>
<th>Government</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lease Period Maximum:</td>
<td>No maximum lease period. Right to lease renewal.</td>
<td>Maximum lease period of 20 years. No automatic right to renewal of lease.</td>
</tr>
<tr>
<td>Alienability:</td>
<td>Can be sold by the government</td>
<td>Cannot be sold by the government.</td>
</tr>
</tbody>
</table>

An index is used to record applications received by the office. In this "application registry," the following information is noted: the applicant's name, location of the plot solicited, the date, a receipt number and the signature of the registry supervisor receiving the application file. A second index is used at the time a lease is issued. Information in this index includes eleven columns of data: file application number; lease number; date of issue; holder's name; number of acres involved; locality of the lease; county; terms of the lease in number of years; expiry date of the lease; annual rental payable; and a listing of actual rental payments.
To locate a property within the system, users of the system must know the lot number, the lease number or must find the property on a map. There is no index by owner, land use, or any other variable. As one consultant observes, "there is no systematic method for filing and retrieving documents...documents are maintained by various classifications and stored in a vault...but all registry staff has access to the vault, and the missing-damaged documents are a serious problem due to document handling" (CCS, 1992).

Legal notices concerning land registration and transfer technically should be advertised in the Official Gazette. But this procedure is "poorly organized" with little clarification of responsibilities or clear chain of command (OP/PSM, 1993).

Any modernization of the Deeds Registry should probably be coordinated with a similar effort to computerize the lease ownership documentation of the Lands and Surveys Department. The IDB appears to be taking important leadership in that direction.

The registers at the Deeds Registry are hand-written and go back to the late 19th century although some records relating mainly to land ownership are of the late 18th century. Where land titles are concerned, there are two concurrent systems, namely the 'Transports' system arising from a Roman-Dutch jurisprudence and the thirty-four years old Torrens Land Registration system operated by the Registrar of Deeds in the capacity of Registrar of Lands.

Transports

The originals of transports recording transactions in land are preserved in bound volumes of about 50 transactions each and are typewritten so far by manual non-electric typewriter. So also are the original deeds of mortgages, and leases prepared and submitted by the parties or their Attorneys-at-Law.

The land registers are of a loose leaf detachable type, manually entered up and are the only means by which a direct answer may be obtained as to the ownership of a plot of land. From much handling and non-repair these important registers are in a continuing state of deterioration. The registers that should give corresponding information regarding mortgages, leases and other encumbrances have been discontinued for the past 12 years and are almost physically inaccessible.

The survey maps supporting transport titles are very poorly stored and many are in serious state of disrepair. The maps generated for these purposes must since 1917 have been recorded in the Lands and Surveys Department. Thus back-up copies or original are likely to be available.

Land Registry Titles

The Register, completely handwritten and loose-leaf is the owner's title and apart from ownership, records on the same leaf all mortgages, leases and any other interests or transactions affecting the parcel of land. Documents of completed transactions are normally
stored in large envelopes. The registers most of which are less than thirty years in use are in good condition.

The survey maps, copies of the originals on record in the Department of Lands and Surveys are in reasonably good condition. According to the chief volume-binder for the Deeds Registry, there has been no leather or board for proper binding of document volumes since 1971 through shortage of funds. The binding of one volume takes about 8 hours. Both the Georgetown registry and the sub-registry in New Amsterdam have vaults that in theory safeguard documents. In Georgetown, however, documents in the vault are sometimes crumbling due to humidity and improper maintenance. In New Amsterdam similar conditions exist. Until 1993 the New Amsterdam vault was subject to flooding. With support from the AID Caribbean Justice Improvement program, this problem, at least, appears to have been corrected. Still, neither New Amsterdam nor Georgetown offices have any measure of climate control.

The registry system is entirely manual, using no automation, photocopy or microphotography technology although non-electric typewriters are used. Thus, no backup copies of records exist in the event they are lost, damaged or stolen, or in the event of a fire.

I) THE "TRANSPORT" SYSTEM (DEEDS REGISTRY ACT (1919) AS AMENDED, CHAPTER 5:01 OF THE LAWS OF GUYANA)

It should be noted that the land governed by the transport system is mainly a narrow strip of about 2 miles in depth running along the 270 mile Atlantic coastal fringe of Guyana and land of similar depth along the banks of some of the main rivers. Riverain lands granted by virtue of the (Crown) State Lands Act and which grants have been since made absolute may be transported as freehold land.

An owner of transported property owns the land from the centre of the earth to the sky above, subject to such rights as overflight or such mineral rights as may have been specifically reserved to the State. The form of transport essentially reflects the fees and duty paid, the name of the proponent i.e. the vendor or person passing title, the name(s) of the persons to whom title is passed, a description of the property conveyed and the value or purchase price.

The conveying or transport of property involves publication of the transaction in the Official Gazette on one Saturday with an allowance of two weeks for the filing of an opposition by a creditor of the vendor or by someone claiming an interest in the property. The validity of such opposition is settled by an action in the High Court which must be instituted by the opposer.

The transport process should ordinarily be completed in about six weeks at most, a period needed mainly on account of the publishing requirement - a characteristic of the applicable

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4 Like the other records of the Registries, there is no back-up microphotographic or other process as a duplicate of the titles or records of the two land registries.
Roman-Dutch system - and the necessary file review. However, institutional inefficiencies tend often to double the time.

In the normal course, the initial documentation for a transport, mortgage or lease is prepared and filed by an Attorney-at-Law. This is not a legal requirement as either party may do so saving some legal fees. The sale process for a transport of land from "A" to "B" normally takes some nineteen steps delivering the documents, examination by the Conveyancing officer, publication in the Official Gazette, examination by the Registrar, and final recording and transfer by the Annotations Clerk. Mortgages of Transported Property involve many of the same initial steps, but the documents are entered not in the land register, but in a register of encumbrances or Mortgage Register. (However, this last step, while legally required, has not been observed for about ten years). Cancellations of mortgages are not advertised.

In summary, the property registration process under the transports system is excessively bureaucratic, costly and time consuming. It tends to deter large holders from selling their land in smaller plots, more affordable to small holders. Legal infrastructure cannot efficiently accommodate sale, mortgage or lease of private freehold properties with a timeliness appropriate to modern commercial requirements.

2) THE "LAND REGISTRY" TORRENS SYSTEM (LAND REGISTRY ACT (1959) AS AMENDED, CHAPTER 5:02):

This system, introduced in 1960 into Guyana is essentially registration of the land which is its main focus. In comparison with the transports system with which it is concurrent, land registry transactions are much simpler. There is no requirement of advertisement in the Official Gazette and a transaction of any nature may be completed, with or without the parties being in attendance at the registry, within one day.

The land is identified and described as a parcel located in a block situate in a geographical zone with no need for lengthy description or reference to a land surveyor's plan. Ordinarily land is brought under this system when it falls within a registration area so designated by ministerial Order. Awards are made by a Commissioner of Title - judge of the Land Court - to successful applicants for title to land within such an area based on an accurate survey done by a land surveyor statutorily provided by the Commissioner of Lands and Surveys for that purpose. On the basis of the Orders made by the Land Court and transmitted to the Registrar, the first entries of land are made in the register. In respect of each parcel of land, the register provides information on ownership, area, encumbrances, judgements or caveats.

Registered land is protected by an Assurance Fund to which contribution is made by the parties to each transaction and from which compensation may be paid to someone mistakenly dispossessed of land. Once on the register, land may not be withdrawn from it. The Act provides simple statutory forms for most of the ordinary processes like transfer on sale, mortgage, lease or caveat. There forms duly completed by the parties, are presented at the
Land Registry after being signed by the parties before a Notary Public, Justice of the Peace or Commissioner of Oaths in Guyana or overseas before a Notary Public or other designated Official. They may also be signed before the Registrar or Assistant Registrar.

Upon payment of the requisite fee, the advalorem duty and contribution to the Assurance Fund, the transaction of sale and transfer or mortgage of land may be entered into the register in one or two days and a new Certificate of Title issued within one week to a new owner. There is no requirement of advertisement and no provision for opposition as under the transports system. Accordingly, not only is the sale and transfer of property capable of being completed in one or two days, but the raising of loans by way of mortgage may be effected in a similar period.

Again, unlike the transport system the Act makes provision for registration of:

a. A lien obtained by lodgement of the Owner’s Certificate of Title in the hands of the person holding the lien;

b. A judgement of the Court or a writ of execution against the owner’s property;

c. A caveat by some person claiming an interest in the land.

C. Costs and Maintenance

The total governmental expenditure upon the Deeds Registry, including staff salaries, for the years 1992 and 1993 did not for either year exceed G$3.5 million. The allocation for the year 1994 is just in excess of G$6 million.

The fees and Revenues, however, collected by the Registry were:

<table>
<thead>
<tr>
<th>Year</th>
<th>Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>$107,495,255</td>
</tr>
<tr>
<td>1993</td>
<td>$144,428,729</td>
</tr>
</tbody>
</table>

From these figures, the argument for expenditure of a significant proportion of the revenues on staff remuneration is self-evident.

Secure maintenance of registry documents also is an outstanding issue; guard services and huts have been recommended in several documents (OP/PSM, 1993). The physical storage of the records is considered inadequate considering that the system operates manually (Topper-Allahar, 1994).

D. Deeds Registry Staffing and Public Access

Some sources have argued that the Registry is inadequately staffed, with few and low-qualified personnel (Topper-Allahar, 1994). The public sector wage rates are considered a big disincentive. From the Annual Report on the Deeds Registry for the year 1992 as compiled by the Ministry of Legal Affairs, the staff structure in Georgetown is constructed with a
management staff, five staff in the notarial section, two accounts clerks, 14 officers in the conveyancing section, and ten other clerks-attendant, and ten more staff at the New Amsterdam sub-registry. Staff cuts in 1994 have reduced these levels by over half in the conveyance section. In 1993 the diminished staff processed about 2,500 more transactions over the previous year's with an increase in revenue of G$37 million.

Proper remuneration, staffing and training are accordingly crucial and having regard to the legal and commercial value of the services rendered and the substantial revenue collected, these elements call for immediate redress. Training and qualifications have high standards. Under the provisions of the Deeds Registry Act a clerk who would fill substantively the post of Senior Registry Officer or Registry Officer must have successfully written an internal examination leading to a Certificate of Competency to be appointed a sworn clerk and a notary public. The syllabus comprises the laws and practice relating to the business of the Deeds Registry and the functions of a notary public. The examination was last held some 10 years ago. The designation "Acting" or (ag.) against so many of the positions on the establishment reflects the absence of formal training for the examination over the period, lack of any officers with that qualification and the low academic quality of junior staff manning the office.

The Registrar and the Deputy Registrar in Georgetown are the only staff members duly qualified for senior posts. Deeds Registry employees are drawn from the general public service where the low quality of employee is a direct reflection of the ridiculously low level of remuneration. The staff are predominantly female both in Georgetown and New Amsterdam, clearly attributable to an inability to attract and hold male workers at low levels of pay.

Other sources state that exams are not required for hiring; performance appraisal procedures are inadequate; the majority of the staff are temporary; and inadequate training programs exist for important duties such as certification (OP/PSM, 1993).

All deeds records are available to the public, upon paying a processing fee.

IV. The Coordination of the Cadastre and the Registries into a Folio Real

Guyana has the goal of moving from the transport system to a parcel-based (Torrens) system. It may be noted that the Land Registry Act provides for the continued existence of a transport for land situate within a registration area and for the Commissioner of Title merely to record such a title if the holder does not wish to surrender it in favour of a new declaration of title. However, provision is made for such a transport holder to transport the land to himself "as registered proprietor" and so become subject to the system and its procedures.

Although it was hoped that the land registration system might eventually overtake and replace the transports system, such a process is not likely to take place for many decades. The paucity of Land Courts, essential land surveying staff and Registry officials as well as the vast area to be addressed, dictate that the two systems will run together for many years to come.

There are no operational problems arising from the co-existence of the two systems,
although some inconvenience may be caused by the necessary suspension of transport transactions in a newly created registration area while a Commissioner of Title adjudicates and makes his awards which may affect land held by transport.

**Comparison of Transactions at Registries in Private Lands: recorded at the Deeds Registry**

<table>
<thead>
<tr>
<th>Office Section:</th>
<th>Conveyance</th>
<th>Land Registry</th>
</tr>
</thead>
<tbody>
<tr>
<td>Document Name:</td>
<td>&quot;Transport&quot; or &quot;Deed&quot;</td>
<td>&quot;Registered Title&quot;</td>
</tr>
<tr>
<td>Historic Origin:</td>
<td>The original Roman/Dutch System operative in Guyana. Based primarily on names of the parties involved in the transaction.</td>
<td>Australian, imported by the British to improve on the Roman/Dutch system. Based on the parcel, rather than buyer or seller.</td>
</tr>
<tr>
<td>Property Description requirements:</td>
<td>Sometimes Long, verbal descriptions of land; survey plans often feature</td>
<td>Reference only to Block, zone and parcel number on a survey.</td>
</tr>
<tr>
<td>Time requirements for transfer or mortgage</td>
<td>6 to 8 weeks in theory. 3-6 months in practice.</td>
<td>In theory, 1 day. In practice, 2 days to 1 week</td>
</tr>
<tr>
<td>Geographical application to date:</td>
<td>Entire Coast and banks of larger rivers.</td>
<td>Mainly coastal with some riverain areas.</td>
</tr>
<tr>
<td>Procedure:</td>
<td>long documentation, publication in the Gazette, period for opposition, execution before the Court.</td>
<td>Presentation at registry. Almost instant registration.</td>
</tr>
<tr>
<td>Cost/benefits:</td>
<td>Does not often require elaborate survey, but process is time consuming.</td>
<td>Process is cheap and fast, but requires up front investment in surveys by Government.</td>
</tr>
<tr>
<td>Amount of documentation:</td>
<td>extensive</td>
<td>minimal.</td>
</tr>
</tbody>
</table>

There are no operational problems arising from the co-existence of the two systems, although some inconvenience may be caused by the necessary suspension of transport transactions in a newly created registration area while a Commissioner of Title adjudicates and makes his awards which may affect land held by transport.

The specific problems of the Conveyance System were recognized even back in the 1950s. To attack this problem, in the early 1960s, the British introduced "Land Registration" to Guyana, a Torrens-like (title) system based on parcel identification. This conversion
occurred not only in Guyana, but in other Caribbean countries (this is part of a wider, global trend in this direction). In essence, it is a registry of the land itself. Transactions are much easier. The buyer and seller simply appear at the registry and the transaction takes place. There is no publication requirement. All that is really needed in terms of legal documentation is the block number, the zone and the parcel number. Consequently, document drafting is less complicated and transactions may be completed all in one day often at less cost than under the transport system.

To convert from the Deeds Registry (Conveyance/Transport) System to the Land (title) Registry System requires up front investments in survey. Due to the high cost of survey, a phased approach was implemented in which the Attorney General would declare a series of "Land Registration Areas" for conversion. Gradually, over time, the entire country would be converted. Unfortunately, the surveying has become very problematic, due mainly to budgetary constraints at the Lands and Surveys Department. Consequently, the survey process slowed greatly to the point that no survey work was undertaken in 1993. There has been little money in the system to pay surveyors and few are willing to work at the rates the government wishes to pay. Neither has the Land Court had in recent years been given a chance to work. It had no surveyors last year to carry out its work. It does not have adequate staff. In short, conversion from the old Conveyance System to the Land Registry System stalled.

A possible additional constraint on conversion to the new Land Registry System, beyond the severe budgetary crisis, is the required adjudication procedure. Applications to the Land Court are processed individually, rather than collectively, resulting in duplication of effort. For example, if a Land Registration Area has 100 parcels, and 99 have no disputes, the entire package is held up until all disputes are resolved. Still, each of the 100 parcels would have to have a separate file and a separate application, with accompanying fees, in order to be processed. This creates potential bottlenecks in the processing of Land Registration applications and unnecessarily duplicates paperwork.

VI. Other MPLIS Land Information Sources (i.e. utility or soil maps which may be integrated into a computerized data base)

Management of cadastral projects to date has been disappointing. The cadastral maps produced by the Commission of Lands and Survey are not linked with very similar maps being produced by Mines or Forestry Commissions, nor is the cadastral map linked with the Deeds Registry. The Ministry of Agriculture also had land use surveys done, but these are likewise a stand alone project and not compatible with maps in the Commission of Lands needed for parcels.
References

This report is a synthesis of two documents and additional sources:


