Land Markets for Housing in Angola
Policy Paper

By
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1 Introduction

Access to land markets for housing and urban development continues to be both a challenge and an opportunity. Since its independence in 1975, and most notably since the end of the war, in 2002, Angola has undertaken to create a suitable legal framework to address the complex issues related to land access in the country. In 2004, the country promulgated a new law on land that has sought to strengthen areas taken as weakness in previous legislation. During the following decade a set of new legislation and regulations was published, covering issues such as concessions, and the functions of the local levels of government in the administration of land. However, ten years later, in December 2014, a national consultation on issues of land, led by private organizations came to the conclusion that the Land Law 9/04, did not deliver the expected results. Two key areas that have not been addressed in the legislation are the administration of land in peri-urban areas where the majority of the urban population live without the formal ownership and the regulation of customary land rights, particularly in rural areas.

Although Angola has not produced a public policy of "Land" are not, however, elements incorporated in the Constitution, various international conventions to which Angola has signed or ratified and some articles in the laws and regulations published, a set of principles that serve in place of a National Land Policy. The two years of debate before the publication of the Land Law in 2004, embracing civil society across the country, it may have been an opportunity to develop such a public policy.

The paper on Access to Land contributes to the discussion on some important issues of land policy and identifies some of the gaps and contradictions that remain in the regulations and current practice. The paper also introduces a discussion about the "capture the value of land". As Angola enters its second year of economic slowdown, it is clear that the State Budget already cannot, by itself, to sustain the public subsidies needed for urban development and housing, at the same level as the last decade. In order to mobilize the private sector, domestic and international banks and individual investments at home-owner to fill the gap, a reform in legislation and administration of land may be needed. The set of recommendations are mapped to allow markets to function more equitable and transparent, so that both improve the security of tenure and also the security for investors through the creation of value of land. Mechanisms are recommended, that Angola can be used to capture a part of this value for the public benefit.

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1 Land Value Capture
2 Access to land markets:

The analysis that follows focuses on different aspects of the problem in the sector of Land for Housing in Angola especially those related to the political, legislative and institutional framework for economic structure and financial sector.

The paper is divided into four parts:

A. Legislation and institutional structure of existing management when it comes to land, taking into account the regional characteristics of the country and the realities of access to land in urban and rural environments;

B. Current issues of access to land;

C. Informal Settlements, with particular attention to the physical conditions of neighborhoods and the occupation of space.

D. Recommendations and definition of strategic axes of intervention.

The annex to the paper presents a proposal for a new regulation to be applied to peri-urban land. The recommendations in this draft regulation will provide tools and mechanisms essential for the implementation of municipal plans metropolitan and urban areas, as the Master Plan recently approved for Luanda.

The Annexs also include a case study of a pilot project for participatory readjustment of land which has been implemented in District. "readjustment of Land" is a tool that has proven to be effective in mobilising public resources and privads, and by the owner of the house and on the improvement of the occupation of the urban land.
3 Legislation and institutional structure for the management of land

Angola’s formal legal system is based on a statutory or code system imposed by the Portuguese during the colonial period. Following independence in 1975, the GoA began the process of creating an independent legal framework to replace the colonial inheritance. The key general legislation that impacts land rights in Angola includes the Constitution of the Republic of Angola, the Civil Code, and the Family Code.

Angola adheres to several international conventions that include articles pertaining to land, namely the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) signed in 1992 and the Istanbul Declaration on Human Settlements and the Habitat Agenda signed in 1996.

3.1 National Land Policy.

Angola does not have a comprehensive, written statement of its national land policy and accordingly has no clear, overarching principles to guide land-related legislation and regulations, or to prioritize plans for economic growth and development with issues relating to land access, tenure security, land use, and land administration. The 2004 Land Law contains some expressions of policy; however, because the principles are housed within the legislation, these principles may be difficult to articulate in relation to other legislation, such as laws designed to promote economic development, social welfare, and environmental sustainability. The policy statements that exist within the laws are not comprehensive. For example, the land laws do not make policy statements regarding the rights of women and other marginalized populations and no statement of non-discrimination in land access and the regularization of informal land occupations and the barriers to land access and tenure security, of large numbers of the country’s population.

Angola’s Land Law published in 2004 includes some statements of policy and addresses the following topics:

a) fundamental principles and objectives;

b) scope of the law and classification of land;

c) GoA land grants;

d) terms of concessions;

e) delineation, demarcation, and registration;

f) rights and duties of concession holders;

g) concessions for urban land ownership;

h) transfers of land rights;

i) GoA land expropriation;

j) loss of land rights/protection of existing land rights;

k) administration; and

l) enforcement.

### 3.2 The Constitution

The Constitution of the Republic of Angola was adopted in 1992. Angola does not have comprehensive, stand-alone written statement of its land policy. The Constitution, therefore, provides one of the only expressions of possible land policy objectives. Some of the key constitutional principles articulated are:

a) Angola is a sovereign and independent nation with the primary objective to build a free and democratic society of peace, justice, and social progress. (Art 1)

b) Angola is a democratic state based on the rule of law, national unity, dignity of the individual, pluralism of expression and political organizations, respecting and guaranteeing rights and freedoms of persons as individuals and members of social groups. (Arts 2-3)

c) All persons are equal under the law and shall not be discriminated against on the basis of race, color, ethnicity, sex, religion, level of education, economic, and social status. (Art 18) Disabled combatants of the national liberation struggle shall have special protection. (Art 48)

d) The GoA has sovereignty over territory, water, air space, soil, and subsoil. All natural resources, including land, are the property of the GoA. (Arts 6 and 10) The GoA shall respect and protect people’s property, including land owned by peasants, although the GoA retains the right to expropriate property in the public interest.35

e) Whether based on marriage or de facto union, men and women have equality within the family. (Art 29)

### 3.3 Civil Code in Angola

The Angolan Civil Code (2001) is based on the Portuguese Civil Code and is the fundamental source of civil law in the country. The Civil Code contains sections on private obligations and contract rights, commercial law, debtor-creditor relations, property rights, and succession.

Despite the passage of the 2004 land law and the proposed regulations, the Civil Code continues to govern many land issues—either because they fall outside the ambit of the Land Law or because the Land Law and Proposed Regulations specifically defer to the Civil Code as the governing law. For example, the Civil Code provides terms relevant to tenancy rights, inheritance of property, and the GoA’s
expropriation of property. The Civil Code also provides procedural remedies, such as the right to seek a declaratory judgment on the legality of a government action or nullify a government action.

However, while the Civil Code used to provide for some protection for those occupying land informally for long periods, the 2004 Land Law removed those provisions, subjecting those with informal rights to eviction if they fail to apply for a concession in a timely fashion.³

3.4 The Family Code

The Family Code (1989) governs issues relating to the composition of the family, marriage and marital rights, and obligations to children. In pertinent part, the Family Code provides for the equality of women and men within marriage, recognition of registered and common law marriage, spousal rights to separate and community property (at their election), and the obligations of spouses in the event of separation and divorce.

3.5 First Land Law in 1992 (Law 21/92)

Angola adopted its first post-Independence Land Law in 1992. The law recognized rights of concession holders in the post-Independence period, however, it did not recognize customary rights to land, a predominant form of land tenure in Angola. This resulted in a period of distribution of land distribution, when the government granted new concessions for the establishment of large farms and plantations (fazendas). In the meantime, the Angolan government sold state-owned plantations to private commercial farmers.⁴

The law recognized the rights of those who received concessions in the post-Independence period. The law did not recognize customary rights of indigenous populations and did not regularize the rights of those who had informally occupied urban areas and abandoned farms.

3.6 Law Concerning the Rebutiation of Administrative Decisions 2/94

The Law dated 14 January 1994 permits challenge of government processes and exercises of authority, such as alleged arbitrary expropriations of land and urban evictions for land development.

3.7 Decrees 17/99 and Decree 27/00

The Decree 17/99 and Decree 27/00 attach to the provincial government control over the development, demarcation and registration through an Office Inspection and Monitoring (Office of inspection and monitoring) and planning for housing through responsibilities the Provincial Directorate of Public Works and Urbanism (Provincial Directorate for Public Works and Urban Development)


The draft Resettlement Law, which addresses resettlement of persons displaced by the conflict, acknowledges a right to housing, and provides for new government allocations of land of one hectare per displaced person (Article 14).

³ Lei 9/04, artigo 84.

⁴ Lei 21-C/92, Regulamentos de Concessões, Decree 32/95 of 8 December and 46/92 of 9 September.
3.9 The Land Law in 2004 (Law 9/04)

From 2004 were published a series of laws and regulations relating to land, urban development and housing. The Land Law (Law 9/04) and the Law of Spatial Planning (Law 3/04) were adopted in 2004. Although this legislation articulates the principle that citizens should exercise their right to information and participation in the access and management of land, this is not regulated, nor is reflected in practice. Not all necessary regulations are designed so as to facilitate the implementation of the new laws. At this time, the local administrations in municipal and provincial elections are yet to create their technical and financial capacity to provide services to the public and to fully comply with the laws and regulations already approved.

The fundamental principles and objectives of Lei 9/04 stipulates that the GoA owns and exercises ultimate authority over all land and natural resources, and has an irreversible right to expropriate land. The law expresses the government’s desire to adopt a territory organization policy with objectives of well-being, economic and social development, and preservation of areas in which traditional ways of using the land are adopted. The expressed objectives of the Land Law are:

- organization of territory;
- economically efficient and sustainable utilization of land;
- protection of the environment;
- prioritization of the public interest;
- economic and social development; and
- respect for principles underlying the law. (Art 14)

The Land Law reaches all rural and urban land to which the GoA can confer transferable rights to individuals and collective persons, which is limited to land within the GoA’s private domain. The general terms of the Land Law does not extend to public land that cannot be the subject of private land rights, such as land in public domain (e.g., public roads, ports, national monuments) or reserved land (land reserved for national security, environmental protection). (Art 29) The Land Law also does not extend to privately owned land, such as land owned by the Catholic Church.

The Land Law broadly classifies conferrable land within its private domain as follows:

3.9.1 Urban Land:

Urban land is the area classified as such or an area delimited by urban agglomeration (i.e., infrastructure zones) and destined for urban development. Urban land is comprised of urban lots, which are lots that

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5 Artigo 66, A Lei da Terra permite ao Conselho de Ministros para transferir terra pública em domínio privado do Governo.
are already developed, those that are under construction, and those lots that can be urbanized, *i.e.*, are within an urban plan. (Arts 1, 19, and 21).

### 3.9.2 Agricultural land:

Rural land is outside the delimitation of an area of urban agglomeration and designated for the purposes of agriculture, animal husbandry, forest, and mining activities. Rural lands include land used for rural residences and customary rural activities. (Arts 19, 22)

Rural communities are comprised of neighboring families that have collective rights of possession, administration, use, and fulfillment of the means of community production. Rural communities occupy rural community land, using it in a useful and effective manner for purposes of habitation, activities, and other customary ends, and in accordance with principles of self-governance. Rural community lands are utilized by rural communities according to their customs of land use, and can extend to those land used for itinerant agriculture, cattle passageways, and lands used to access water and travel to urban centers. (Arts 1, 23)

Rural communities are as legal entities and have standing to defend their collective rights under the Land Law. (Art 70)

### 3.9.3 Total Reserves and partial

The Proposed Regulations distinguish between the total reserves in the Land Law (*e.g.*, public land set aside for environmental protection and national monuments are not conferrable) and partial reserves, which the Proposed Regulations carve out for special treatment.

A partial reserve is land set aside for public services, economical housing, water projects, public health facilities, public utilities, conservation zones, ports, airports, railways (with expansion zones), tourism related projects, industrial projects, forest protection, and prospecting for and utilization of mineral resources. (PReg art 27)

### 3.9.4 Expropriation of reserves

Holders of land rights affected by expropriations for reserves may select compensation for rights lost or participation in the reserve as a stockholder in mixed economy associations established for the activities on the reserve land. (PRegs, art 28)

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6 O artigo 19(7) estabelece que "propriedades integrado no domínio da propriedade e da comunidade pública do Estado" não são conferíveis. O termo "propriedade comunitária" é indefinido.
3.9.5 Calculating the value of land

The compensation paid for land expropriation for reserves shall be the fair value of the land as of the date of expropriation and cannot take into account the establishment of the reserve, and projects that were not completed on the land five years prior, and any improvements after notification of its status as a reserve. (PReks, art 30)

3.9.6 The obligation of the government to delimit

The GoA will delimit private land that border public land (PReks,art 20), and reserves (PReks, art 25).

3.9.7 Stabilize land planted informally

The s occupied land informally need to be settled within three years (Article 7 of Law 9/04 ). The t erras may only be expropriated by the state to use specific audience and the purpose of this use must be declared and fair compensation provided (Article 12, Law 9/04 and Article 20 of Law 3/04). The Law of Spatial Planning provides for the restoration or rehabilitation of urban areas degraded or illegally occupied (Article 4 (d), Law 3/04). The process of formulation, implementation and review of the plans urban planning should include mechanisms for citizens to exercise their right to information and participation (Article 21, Law 3/04). The territorial plans municipal and provincial elections are subject to approval by the central government and must, by law, be assisted by an Interministerial Committee on Spatial Planning (Article 45-46, Law 3/04).

3.9.8 Concessions of land

Article 34 of the Land Law stipulates that the State can grant:

(a) private property rights to the urban land,

(b) field useful law to rural communities,

(c) field useful civic,

(d) Right to surface and

(e) the rights of precarious (temporary) of occupation.

The granting of urban land in urban areas up to 1,000 square meters may be authorized by the municipal administration, while land between 1,000 m² and 20,000 m² require the approval of the provincial governor. The urban land in suburban areas up to 1,000 square meters, can also be authorized by the municipal administration, while the approval of provincial governor is required for areas up to 50,000 m². The granting of areas exceeding 50,000 m² can only be authorised by the Minister of Urbanism and Construction.
The National Directorate of housing is preparing a proposal for a legislative review on land regularization urbana. In 2006, the government of Angola has proposed regulations addressing the concessions of land portions of land law, providing some details about the procedures for formalizing land rights, and expand its authority expropriation.

3.10 Law 03/04, 25 June 2004 (Law of Orderamento of territory and Urban Planning) ("LOTU")

The Law 03/04, governs both rural and urban land and requires territorial development plans at central, provincial, and municipal levels. The National Assembly is charged with approving high level strategic plans. The provincial government officials develop their provincial level plans within the national framework. Municipal level plans (or city level management) plans follow from the provincial and are used for implementation. (Art 32)

- Land policy. The law includes objectives such as reclaiming areas of illegal occupation and degraded areas for rehabilitation and development. In addition, the law identifies a goal of creating employment opportunities in rural areas. (Arts 4, 19, and 32)

- Community participation. Like the 2006 Proposed Regulations, the LOTU provides the public with a right to information regarding planning processes. The autarquais locais participates in the planning processes (or in the absence of the autarquais locais, the local government), and the rural communities can participate in planning processes (Arts 5-6, 21, and 53).

Article 21 of Law 3/04, on legislation urbana, articulates the principles that enable citizens to exercise their right to information and participation in the access and management of land. Provides that, in the process of formulation, implementation and review of the plans, planning should be created mechanisms to allow citizens to exercise their right to information and participation in the planning process. However, regulations and statutes that guide the implementation of these have yet to be published and there is an established procedure to facilitate the public consultation.

3.11 Land Reserves for "new towns"

The Angolan government has implemented a policy to create specific areas for the construction of housing. The identification of these "land reserves" transforms these lands in areas of public interest, where it is permitted the expropriation if necessary. In these cases provide for the compensation which should correspond to the real value of land (Article 30 (4) of the General Regulation on the granting of land - Decree 58/07).

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In 2007, the government decreed the creation of State reserves for the construction of "new towns " in the metropolitan area of the capital. In 2008, were identified land reserves in the State in the provinces of Cunene, Uã , Zaire, Namibe, Bié, Angola , Benguela, Cabinda, Kuando Kubango , District, Lunda Norte, Lunda Sul, Kuanza Sul, Kuanza Norte and Huambo ( Decrees 80- 112/08 ). Some of these reserves were allocated to the respective provincial governments, other to the GRN (Office of National Reconstruction). In 2007, the decree that created the State reserves for the construction of "new towns" within the metropolitan area of the capital specified Dande and Cacuaco, both north of the capital Luanda, as well as areas in the city of Luanda and an area for autoconstrução addressed by the State in capari ( Decrees 62-65/07 ). The identification of land reserves transformed these lands in areas of public interest , with the consequent legal effects , not excluding the possibility of compensation or the possibility of being incorporated in the projects to be implemented in these Areas by the government (Article 2 of the regulations before mentioned).

Since 2008, there have been created online Land Tenure with a view to implementing housing programs in progress. The delimitation of not always focused on areas most suited, since most are located in places outside the urban centers. 326 Land Reserves , including 209 published in the Diário da República and 117 yet to legalize. 52% of land reserves have developed projects, 9.8% did not have any type of intervention and the other is unaware of the situation. Occupying a total area of 217,626 ha , concentrating the provinces of Huíla and Luanda 44% of the total area of land reservations. 8

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3.12 Guiché Único: the One-stop-shop for registration of ownership

The government has also announced the opening of an office (one-stop-shop) for registration of property, like the office that already exists for registration of companies. This type of entity should concentrate various services and facilitate the rapid acquisition of property titles, with a view to simplify procedures and reduce transaction costs for users. It was announced that at the beginning of 2011, the National Assembly would vote on the changes needed in the Civil Code Country Code, Register and Code of the Notary Services, in order to allow the creation of the office.

3.13 The National Register of Ownership

The land cadastre register, mapping of the occupation of land and building stock is outdated. The old cadastre was created in the colonial period before independence, having records on behalf of the former owners. By the law of forfeiture (Law 43/76), a large part of this property has reverted to the State. The state has created new legislation in 1991 (Law 19/91) for the sale of dwellings. This time it was created a national commission for the sale of homes of the state allowing the sale of these assets to the public.

The reconstruction process of registration of buildings will begin in 2014, after the completion of the National Census, which will provide some basic information about the population and housing. This is a process that has an initial term of five years, starting with the coastal towns, but may extend to cover the whole country. An updated record of buildings is important not only for the urban planning, but also a reference point for access to financing in the form of loans or mortgages from banks and other investment institutions.

3.14 Decentralisation and strengthening of local administration

The Government of Angola has begun the process of decentralization and deconcentration in 1999 and from that date, all representations of all ministries (except Justice, Finance and Interior) became part of the provincial governments, with subordination to the governors of the province, instead of the respective ministers.

The main objective was to transfer to local decision-making from central government to the local levels of governance, thus creating an administration more cohesive and effective. This decision was reinforced in 2001 with the approval of the strategic plan for decentralization and deconcentration Administration, with the aim to deepen the decentralization, and gradually establish the municipalities as stand-alone units of local government. The three pillars of the strategic plan were: a) reorganization (concentration) of the organic structure of provincial governments and municipal administrations; (b) administrative decentralization with elections at local level by local authorities (democratic decentralisation) and c) Strengthening the institutional capacity of local agencies through training. With the conquest of peace in 2002, this decentralization process was accelerated and it was possible to extend the State administration throughout the national territory.

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9 National Director of Housing (2014), interview (23 June 2014).
10 National Director of Housing (2014), interview (23 June 2014).
11 National Director of Training Site of the State (2014), Ministry of Territorial Administration, July 2014.
12 National Director of Training Site of the State (2014), Ministry of Territorial Administration, July 2014.
Through the Ministry of Territorial Administration (MAT), the government implemented the first phase of the project of decentralization and local government. Between 2002 and 2006. The aim of this first phase was: (a) to assist the Government of Angola to establish a legal and institutional framework; b) to clarify the functional relations and tax between the different levels of local government; c) improve the planning and management of resources of local authorities, d) promote participatory democracy and e) test the implementation decentralized tax through a Development Fund pilot. Throughout the year culminated with the formulation of legal instruments on decentralisation and local governance and created the environment for the formulation and adoption by the Angolan Parliament of Law 02/07, known as the "Organizational Structure and functioning of local administration of the state". The granting of land in urban areas up to 1,000 square meters may be authorized by the municipal administration.

3.15 The customary land rights

The Land Law (Law 9/04), recognizes customary land rights in rural areas, however, it places ownership and authority over all land and natural resources to the Government of Angola, including the irreversible right to expropriate land. In Angola, formal legal institutions and customary ones often coexist, creating a situation of legal pluralism. In relation to women’s access to and control of land, formal and customary laws differ significantly. What follows is a discussion on the main issues related to the customary rights over land.

3.15.1 Traditional authorities

Angola’s traditional leaders, known as sobas, are the local governing authority in rural and many periurban areas. Sobas traditionally handled a multitude of local governance matters (including land administration and management) in conjunction with village elders. The distinction between the traditional governance structure and the formal structure was blurred in some areas in the decades of conflict. Since 2002 the sobas have steadily lost power while in others they have become employees of the government. However, particularly in remote areas, sobas often continue to have authority with the population. Particularly in areas where the capacity and resources of local government are limited, the relationship between the formal government officials (comuna and municipal administrators) and the traditional authorities is critical to a population’s relationship to formal government.

Other positions bridging the gaps between traditional and formal governance systems include coordenadores (coordinators) who work in peri-urban areas as social mobilizers. In urban areas where there are no sobas or their power is diluted by the growth of urbanization, there are bairro coordinators and comissoes de moradores (resident committees). Many of the country’s population is unfamiliar with the formal land laws and considers its rights and obligations relating to land governed by evolving principles of customary law and traditional practices.

13 Republic of Angola (2009), the National Strategy for Food Security and Nutrition, p.17.
14 Ibid
15 Development Workshop (2005), pp 107-08
Those customary principles and practices related to land can be highly localized. Most, however, share the following general characteristics:

• Under customary law, land is regarded as owned by a universal deity and ancestors of living occupants; land is held by a community (or individuals within a community) and administered for the benefit of the community by the soba. The belief has persisted among much of the Angolan population through the period of Portuguese control, the nationalization of land at independence, the displacement of approximately four million residents, and the adoption of two formal land laws.

• Traditionally, the soba was responsible for managing the community’s land, making allotments to individuals and households, establishing the areas of land for common use, setting rules regarding communal land and its resources (and in some circumstances, the use of land allotted to individuals), and adjudicating land disputes. The sobas still often oversee land transactions and the inheritance of land.

• Customary law allows landholders to alienate communal land temporarily through a variety of means, including leases, rental agreements, borrowing arrangements, and loans. Historically, customary law prohibited permanent transfers because the land was deemed to be held in trust for ancestors and unborn generations and could not, therefore, be permanently transferred. However, as communal land systems evolved to include individualized tenure, the system recognized permanent transfers. In urban areas and regions with rich agricultural land, the majority of landholders have individualized rights, and such areas support active informal land markets.

The soba are responsible for managing the community land, including setting rules regarding communal land and its resources, adjudicating land disputes, and allocating lands to individuals or households who may not have land access. In rural areas, households and individuals access land via inheritance and allocations by the soba. Within community lands, members of the community may collect certain natural resources such as fuelwood from lands that are held and farmed by individual households.

Women’s traditional land rights are directly related to customary law that dictates distribution of wealth within a family, marriage and divorce, polygamy, and rules of inheritance (Giovarelli 2007, Annex VI). Traditionally, most ethnic groups in Angola have held a matrilineal kinship system where the descent is traced through the maternal line, however, in most parts of Angola, land inheritance in particular is patrilineal, and few women inherit land from the birth family. Women are expected to gain access to land through her husband upon marriage.

In cases of polygyny where the wife and children were residing with the birth family, the women did not expect their children (sons) to inherit property from the husband, but noted that they may inherit land from her elder brother.

3.15.2 Customary institutions and the formal courts
The sobas play an important role in land administration, testifying to transactions, and enabling access to land for those who need it. In that sense, the sobas function as local registrar’s of lands and are custodians of historical knowledge related to land ownership and transactions. A critical function performed by the soba is that of conflict resolution. If the internal attempts of resolving disputes are unsuccessful at the community level, people will bring cases to the soba (land related and otherwise).
When cases are brought to the sobas, they resolve problems directly with the family involved. Often soba are able to resolve the cases, however for the particularly complex problems, some sobas may seek assistance of other sobas in the communa and arrive at a resolution through these joint efforts. If that fails the soba may approach the local administrator. While there is no cost associated with approaching the soba with a case, customarily sobas are offered small gifts (such as traditional beer) for their assistance. There are only weak connections between formal and informal mechanisms and laws, although sobas are often used as witness in formal courts and often called upon to support claims of land ownership by an individual or household where no written land records are available.

3.16 Women’s rights to land

The Land Law (Law 9/04) lacks specific reference to women’s access or rights to land, however, provisions in the Family and Civil Codes have major implications for women’s land rights. The Family Code governs issues relating to the composition of the family, marriage and marital rights, and obligations to children, while the Civil Code contains sections on private obligations and contract rights, commercial law, debtor-creditor relations, property rights, and succession.

The Family Code recognizes both registered and de facto (informal) marriages. In particular, monogamous consensual unions, after three years are recognized as legal marriages. Those spouses who have not reached the three-year requirement for common law marriage can make an application in court for a Declaration of Joint Ownership of Property.

Also, according to the Family Code, married (registered and de facto) may hold separate or community property. The Family Code requires couples to elect whether to hold property individually within the marriage, or recognize community property. If there is no election, the resumption of community property governs. The spouses have equal, undivided shares of community property. A spouse cannot alienate community property without the consent of the other spouse. If alienated without consent, the action may be annulable upon petition of the spouse who did not give consent or his/her heirs.

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16 Family Code, Art. 113

17 Nielson (2007), to be verified.

18 Family Code, Art. 49

19 Family Code, Art. 51
In practice, most marriages (approx. 80%) are informal in Angola. Formal marriages are expensive, and couples/women not typically unaware of the advantages of formal marriages. In the pilot sites, a tradition of bride-price is common, and typically the groom’s family provides gifts to the bride’s family. The gifts consist of cattle, clothing, and/or food. The bride’s family may give small gifts to the groom’s family, such as clothing for the in-laws.

Also, most couples are not aware of these provisions in the Family Code, and rarely choose form of property upon marriage (may be different in urban areas). If a husband decides to alienate property, the women do not expect the husband to ask their consent, nevertheless, many women in rural and peri-urban areas do expect to be informed of the decision.

The Family Code does not permit polygamy.22 In practice, however, polygyny is very common. Since polygyny is not recognized in formal law, men sometime have one legal wife and maintain relationships with several other women.

Divorce, separations and abandonment of the wife are not uncommon in rural and peri-urban areas in Angola, in part due to cases of domestic violence. In case of divorce, the Family Code is unclear regarding division of property. According to the Family Code, the court must take into account the life conditions of the spouses, the children, and the causes of the divorce in attribution of family residence.23 This poses possible challenges to the community property provision in the Family Code, and it is unclear how property purchased jointly by married couples is treated. In addition, the Family Code prescribes that both parents have equal responsibility to support their children, but if children remain with the mother, father should pay for maintenance for the children. Neglect of material support to the family and abandoning the children is punishable by the Family Code.24

3.16.1 Inheritance of property

The Angolan constitution and statutory law establish equal rights to property for men and women. All persons are equal under the law and shall not be discriminated against on the basis of races, color, ethnicity, sex, religion, level of education, economic, and social status.25 Daughters who do not receive land have the right to challenge the decision by bringing in action under the Civil Code.26 The succession provisions of Angola’s Civil Code appear to allow for testamentary disposition of property in

20 Family Code, Art. 56
21 Family Code, Art. 60
22 Family Code, Art. 25
23 Family Code, Art. 110
26 Information provided by a local Angolan lawyer and requires verification (Nielson 2007).
accordance with testator’s wishes. Intestate provisions in the Family Code grant property to surviving spouses and children equally.\(^{27}\) If widowed, the Family Code transmits leasing/renting rights to the surviving spouse.\(^{28}\)

In practice however, daughters do not inherit land, except in isolated cases. It is assumed that daughters will gain access to land upon marriage to her husband’s land or house.

Cases of *widowhood* are common in rural and peri-urban/urban areas. If widowed, the fate of the woman depends upon the family. Women often lose access to land and are in risk of eviction by the in-laws, particularly in rural areas.\(^{29}\) In many other cases widows are *allowed* to stay on husband’s land but as holders in trust for the children; she does not have the right to lease or sell the land. If the widow leaves to return to the birth family, but has grown up sons, they would inherit land of her husband’s. However, if the widow returns to the birth family and the children are young they will likely not receive land from her in-laws family.

Rural women receive little information regarding land and natural resource rights. Whatever information they do receive is via the soba. It is important to note that given the high levels of illiteracy particularly among rural women, dissemination of any written materials is not likely to be very effective means of reaching women.

3.16.2 Children of widows, divorcees and those resulting from relations of polygamy.

Given the precarious land and property rights of women in general, widows/divorcees, and those in polygynous relationships in particular, land rights of children of the latter groups of women remain very precarious as well, and depend upon the husband’s acceptance of the children.

3.16.3 Women and Land Disputes

Where formal laws may protect women, women do not take advantage of them, as women (and men) lack knowledge of their rights to land and property. Thus women often do not pursue a case to gain/retain land access. When women do pursue a case (such as land access for widows), the women take the case to the soba. In some instances, the soba may attempt to pursue the case with the in-laws. In other cases, sobas may provide a plot of community land (in rural areas) to the widow. However, whether or not the soba will assist the widow depends upon his willingness to assist, and the final outcome may vary from soba to soba. Lands acquired via the soba frequently appear to be of poor quality and possibly insufficient for her and her children’s livelihood needs.

3.16.4 Women in Decision-making Positions

Women hold few decision-making positions in the informal and formal decision-making bodies. This trend is changing, however, low literacy rates of women particularly in rural areas may pose a significant

\(^{27}\) Family Code, Art. 75

\(^{28}\) Family Code, Art. 75

\(^{29}\) The practice of levite (marrying brother of the deceased husband), according to the OMA representatives, is a practice common in the Huila region among the Mumuila tribe. This practice is not observed among the Ovimbundu.
barrier to increasing women’s role in these positions. Presence of women in positions of decision-making in local administrations may have a positive influence on enforcement of laws that protect women’s rights to land.

Women’s land rights are directly related to weight of customary law in the area in question. It dictates distribution of wealth within a family, marriage and divorce, polygamy, and rules of inheritance. Angola has at least nine major ethno linguistic groups, most of which are matrilineal (Greenberg, 1997). Traditionally, descent groups in Angola are matrilineal; that is, they include all persons descended from a common female ancestor through females, although the individuals holding authority are, with rare exceptions, males. In some cases, junior males inherit from (or succeed to a position held by) older brothers; in others, males inherit from their mother’s brother. Patrilineal descent groups, whose members are descended from a male ancestor through males, apparently have occurred in only a few groups in Angola and have been reported only in conjunction with matrilineal groups, a comparatively rare phenomenon referred to as a double descent system (Library of Congress).

Matrilineal societies tend to be more open to women having rights to land because there is some customary precedent for this even when men have ultimate control. Inheritance however is governed by traditional practice, which provides almost exclusive inheritance rights to men. There are no clear customary norms that protect women’s land rights. When a man dies, his relatives have rights to land. In the past there used to be a “family safety norm” in which a widow could either marry a brother of the deceased husband or go home to her village of origin30.

The Sobas are said to help widows with land. However, the power granted to the Soba may sometimes undermine the rights of women. While the law grants equal hereditary rights to men and women, local customs vary. In many communities, a deceased husband’s property is seen as belonging to his brothers and nephews. Second, the juridical personality of the communal land is not clear. If it is assigned as individual property to the soba, some fear he may be subject to manipulation, or he himself being tempted to manipulate these powers. Third, there are risks of marginalization of other social groups. At the end of the conflict, with the return of refugees, IDPs, ex-combatants and other members of the rebel forces, community compositions changed. For those returning to their community of origin, disputes over land were normally resolved by the soba, who represented the community memory. In other cases, often ex-combatants and abductees did not return to their community of origin but to other communities. Some were too far away, others were inhibited by the stigma or trauma the war has inflicted upon them. Community structures are based on a composition of families. Unless they had family members in their new community, they tended to have difficulties being integrated. Fourth, the institutional setup for the formalization of customary land rights remained unregulated. Fifth, community ownership is not a concept shared by all provinces and even all communities within provinces31.


4 Current issues of access to land;

Despite the legislative reforms, fundamental gaps in the legal framework governing land persist, diluting the country's ability to use its resources to support economic growth, reduce poverty and improve the living conditions of the population of the country, including the marginalized. The following aspects are the key problems:

a) Angola needs a written statement of its policy of land. As such, the country has no clear basis of principles to consult on drafting new legislation, the coordination of legislation in force, and prioritizing actions at national, provincial and local level.
b) Home land legislation of the country expressed goals of social and economic development, environmental protection and sustainable use of land, but the content of the law does not support these objectives as far as possible, and in some cases itself creates barriers to achieving these objectives - including the economic development;
c) Implementation of the legal framework depends to a large extent, institutions which have not been developed or the lack of capacity; and
d) The framework is not able to identify and address the circumstances and the needs of the population economically and socially marginalized, creating or promoting an environment that can continue to create a disadvantage to excluded groups.

4.1 Public consultation on the effectiveness of legislation on land after ten years

The Civil House of the President of the Republic and the Ministry of Territorial Administration, Planning and Housing and of Justice and Human Rights, was held on 01 and 02 December 2014, the National Seminar with the aim of diagnosing the current situation of occupation of land in Angola, take stock of ten years duration of the Land Law and Land Use Town and Country Planning and ensure broad participation by all interested in discussing the issues, with a view to taking a decision.

Some of the main findings of the consultation were the following:

a) From an economic point of view, there is a loss of revenue for the State, from the granting of land and property taxes and of sisa, besides causing disruption to the normal functioning of the municipal and village administrations, which have to channel efforts and resources in order to avoid the aggravation of conflicts unpredictable of various kinds.
b) We are all aware of the inadequacy of institutions of local administration of the state to provide ground urbanized, in time, to respond to requests for the granting of land by the people for the most varied purposes, provided for under the law.
c) Urgent need to classify and describe the different spaces, through territorial plans and urban planning, which allow the prior identification, of the real potential, ability and suitability of different terrains, for houses correctly the various activities whose rights will be granted in the implementation of the Land Law.

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32 National Seminar on the problematic of ocupacap of Clifden on days 01 and 02 December 2014, the Justice Palace, Luanda province.
d) Need to register the licenses of blending certificated by decree (amendment of the Code of land register).

e) Promote the harmonisation of the Land Law and the Planning and Urbanism, with current costumes either under the Constitution, as well as to meet the emerging situations not provided for.

f) Resume the process of dissemination of the Land Law and the Law of Spatial Planning and Urban Planning to support the management of land rights with the use of primers.

\[ \text{(The rest of the text is not relevant to the context and is not included.)} \]

h) Empower technically employees of the local administration of the state in the management area of town and country planning.

i) Improve the Geographic Information System (GIS) Data Center and data base information.

\[ \text{(The rest of the text is not relevant to the context and is not included.)} \]

j) Leverage the skills, financial and human resources of the Institute and geodetic Cadastre of Angola (IGCA), in the process of inventory of lands that are in an illegal situation and implementation of the National Registry of Land. Strengthen the institutional capacity of the National Institute The Town and Country Planning (INOTU), to better monitor the processes of urban interventions.

4.2 Markets for land

The market for land in Luanda has a direct influence on the urban environment and quality of life of the city. Efficient markets and equitable land are a pre-requisite for the proper functioning of the cities. Luanda suffer distortions in the market of land caused by poor development of land itself and its policies of management, including the poor provision of infrastructure, services, weak information systems on land as heavy and slow procedures for transaction of land. All urban residents need to have secure access to land for which their lives can continue and be productive. However, how this access is done is never simple and is dependent on the complexity of social relations that are clearly visible in the current land market. There is a significant number of people that their survival depends on their access to land. For families more carenciadas, their housing, and lands that they occupy, often represent their savings and assets acquired throughout life, or many times over several generations. There is a complex interrelationship between poverty and access to land. Urban poverty is directly linked to the access people have to land and basic services. The land is a "factor active in economic strategies of the poorest populations.

The INFORMALITY will continue for some time to be a predominant feature of markets in Luanda where the "border" between formality and informality needs to be better understood. In Luanda, most of the land is maintained, and the transactions are made, the margins of the formal system which is the officially recognized by law.

However, little is known about how these alternative mechanisms, and if they work directed to the most needy.
5 Informal Settlements, with particular attention to the physical conditions of neighborhoods and the occupation of space.

5.1 Access to land in urban areas and urban perimeter.
In most urban and peri-urban areas, land access in informal settlements is less dependent on inheritance and allocations of land by traditional authorities and more dependent on the land market. Individuals and households desiring plots often begin by staying with relatives, then renting a plot, and ultimately buying a plot. In urban and peri-urban areas, if sobas are present, they are often without any authority over land allocation. For land matters, bairro commissioners and residential committees often serve as the source of land and tenure security. These institutions are informal, arising in the years following independence, but they may also have qualities of traditional authorities. In practice municipal authorities have sometimes set up a coordinating commission to handle land requests with participation of the provincial level department of the Ministry of Urbanism & Housing and National Institute for Spatial Planning (INOTU).

5.2 Growth of informal settlements
In the post-independence of Angola, there is no mechanism for formal distribution of land in peri-urban areas. In general, the residents peri-urban Angola acceded to land through informal mechanisms. The areas occupied at the beginning of the 1980s were simply bought the former occupants, as is the case, for example, of small farmers in the green belt around the city. In the 1990s, land was bought to the inhabitants.

Thereafter there has been a greater involvement of local government in land distribution in areas recently occupied, although this has not been "formal," in the sense that it is not based on legal norms and administrative matters.

The majority of residents peri-urban has some type of document that confirms the purchase of land. The document is used if there is a conflict with some other resident regarding access to land, but is of little use if the conflict is with the condition, or with a private company, because it is formally recognized by the provincial government. Is there a process for registration of land which implies that the local government to pass documents to the provincial government, but few residents of peri-urban managed to complete, in part due to its complexity and cost.

5.3 The process of gentrification
The "Gentrification" of neighborhoods of Luanda, has been evident in the interior of town since the end of the war in 2002. At that time, there was a significant movement of population (37%) of the musseque
to peripheral areas of the city. A study of 2011 demonstrates that the pattern of migration from the center of the city, continues to grow (42%) 34.

The concept of gentrification, or the improvement of socioeconomic characteristics and physical properties of a neighborhood can be measured using various indicators, such as:

a) Demography and Population Density
b) Values of Land and real estate
c) Quality of housing and access to services

There is clear evidence that certain districts of the city are the decrease of population density, since they are several families carência who sell their real estate assets and migrate to the periphery, where land is cheaper. The following table represents the trend in relation to population growth in the last ten years.

5.4 Management capacity of Information Systems Experiences

The effective functioning of the management of land requires the registration of land efficiently and c and information systems that are clearly the legal ownership and occupation of land. The market attaches great importance to the legal title to land. This is evident from the fact that land without legal title, or with qualifications in conflict, or land in informal settlements have prices much lower than land titrated. The registration of land will be increasingly important to the Angolan government, with the purpose of raising property taxes. Without knowing who owns land and how this land is used, governments may not levy property taxes 35.

A system of land registration (register of legal) effectively consists of two parts: the first is a written record, or registration with information on each parcel of land, such as the name of the owner and land rights, while the second part includes a detailed description of the plot of land in the form of a map or measurements. The second part is usually crossed with the first. When the records and descriptions are combined, then the system of land registration provides considerable benefits. Some of the key benefits are:

(a) Security of the rights of ownership and possession: this is the most important impact. It reduces the amount of conflicts over land that currently constitutes a major problem in developing countries. The safety of property also stimulates the development of land.

33 Development Workshop (2003) study of performed by Ministrio of urbanizacao and Environment

34 Development Workshop (2011) Summary report The market of urban land in Luanda, for the Ministry of Urbanism and Habitatcao and World Bank.

(b) transfers of land more efficient: the costs of delays in obtaining licenses is a serious obstacle in most developing countries; a registration system efficiently makes transfers easier, cheaper and more secure.

(c) Security of loans: the title of land can be used as collateral for loans. This security has a positive impact on the productivity of land, since it allows the release of large financial resources for investment in land.

(d) Support for the system of taxation of land: The expenditure with the improvement of the cadastral system can, in fact, be rapidly covered by the increase in tax revenues on the property. The question of mobilizing local resources through the application of taxes and fees for registration allows a more detailed research. Although the reforms of decentralisation36 allow municipal authorities manage local funding through these mechanisms and by the application of rates of public services, a modification of the legislation37, announced in January 2011, REVERSES some fundamental aspects of the Law of 2006 and obliges all financial resources generated locally to be deposited in the Treasury of the State. The new regulation removes any incentive for municipalities to introduce these local measures of income generation, because they are not authorized to retain the values collected. It is recommended that a reversal of this policy of centralization of taxation.

(e) improved management and use of land: it can provide directly better information about the rights of ownership and planning of land, as well as facilitate the development of other tools for planning, such as databases of information covering the use of land, the value of land, population, etc. It can also be an instrument to restrict certain land uses with negative environmental impact.

The registry systems are developed in a gradual manner, in order to train employees on its use to its maximum capacity. The municipal administrations must create information systems of land of progressive mode. This means that when a new system of land registration/registration is introduced, or an old improved, its design must be such that, although technically simple, can easily updated and adaptable. Need to be collected data from different sources to build a register where each parcel of land has a unique identifier. With the advances in information technology is increasingly expensive to develop and maintain information systems of land.

5.5 The Information System National Territorial (SNIT)

The Ministry of Urbanism and the INOTU are creating a National System of Land Information (SNIT), which has already been experienced in Luanda and Huambo. The SNIT uses methodologies prescribed by the program Urban Observatory of the UN Habitat to monitor indicators of access to water, sanitation, land tenure, housing quality and overcrowding. The program SNIT has built an urban system of geographic information systems (GIS) to Luanda, which involved the scanning of the entire infrastructure built and homes of these two cities. The SNIT allows precise styling of the population and of the settlements in these cities. The SNIT can be a useful basis to create registries municipal.

36 Law 06/2
37 Presidential Decree 307/10, on the receipt of the rates of community service.
5.6 Rehabilitation and prevention of slums (musseques)

The National Plan of Urbanism and Housing (PNUH) 2009 includes a clause of urban renewal intended for renovation or remodeling of the old musseques, the promotion of legal ownership of land and the improvement of living conditions. The procedure involves the "upgrading" or adjustment of the status of the land of "informal or illegal" on land urbanized, with the possession order and with basic services. In the process of upgrading, the musseques must be consolidated and developed. In the future it is anticipated that the areas periurban areas are incorporated into the process with:

- Legalization of land already occupied,
- Economic Assessment of the houses of the residents of the musseques.
- Installation of public infrastructure and social services which currently do not exist.

It is expected that the government's responsibility will be to provide the infrastructure and basic public services for all inhabitants and that these public investments will improve the quality of life of the communities.

It was created in Luanda a Special Office of urban redevelopment of the municipalities of Cazenga and Sambizanga, both in the district of Rangel to monitor the methodology of reclassification. The architect, who was appointed to lead the effort to reclassify, said that the process of redevelopment and urban renewal began with a speech on major roads to improve the mobility and the installation of energy, water, public lighting. The municipality of Cazenga began with a speech by recovery of neighborhoods that border on the Rangel, with the improvement of the drainage system and sewage.

The Director of the Office of urban restructuring of municipalities of Cazenga, Sambizanga and Rangel (GTRUCS) indicated that the municipalities in Luanda, where the program was being implemented has not had assumed the management of land. The acquisition of land, the compensation to families who are displaced and the commercialisation of land allocated for urbanization were still to be managed at central level, under the auspices of the Office of the Presidency. The staff of GTRUCS was still in the process of learning and gaining experience and would be the responsibility of local administrations.

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38 Ministry of Urban Affairs and Housing (2009), the National Program for Urban Planning and Housing - PNUH.

39 Technical Director GTRUCS (2014), interview with the Technical Director of the Office of urban redevelopment of the Municipality of Cazenga and the districts of Sambizanga and Rangel GTRUCS (8 July 2014).

40 Ibid
6 Recommendations and definition of strategic actions

6.1 The commitments of the Habitat Agenda

Istanbul Declaration on Human Settlements and the Habitat Agenda where endorsed by the Angolan Government in 1996. These conventions provide the international policy and legal context under which Angola agreed to begin the process of reviewing its policies, laws and practices to bring them into line with the principles enshrined in the Declaration and the Agenda.

Two principles of the Istanbul Declaration relating to land are set out:

8. We reaffirm our commitment to the full and progressive realisation of the right to adequate housing as provided for in international instruments. To that end, we shall seek the active participation of our public, private and non-governmental partners at all levels to ensure legal security of tenure, protection from discrimination and equal access to affordable adequate housing for all persons and their families.

9. We shall work to expand the supply of affordable housing by enabling markets to perform efficiently and in a socially and environmentally responsible manner, enhancing access to land and credit and assisting those who are unable to participate in housing markets. (italics added)

The Habitat Agenda is in three parts; Goals and Principles, Commitments, and the Global Plan of Action (GPA). Under Commitments, Governments commit themselves to:

- Providing legal security of tenure and equal access to land to all people, including women and those living in poverty…
- Ensuring transparent, comprehensive and accessible systems in transferring land rights and legal security of tenure.
- Protecting all people from and providing legal protection and redress for forced evictions that are contrary to law, taking human rights into consideration and when evictions are unavoidable, ensuring, as appropriate, that alternative suitable solutions are provided.

Commitments under the Global Plan of Action are proposed for ensuring access to land and security of tenure which are stated to be “strategic prerequisites for the provision of adequate shelter for all and for the development of sustainable human settlements…” While recognising the existence of different systems of land tenure and national laws, Governments are enjoined to:

strive to remove all possible obstacles that may hamper equitable access to land and ensure that equal rights of women and men related to land and property are protected under the law. The failure to adopt, at all levels, appropriate rural and urban land policies and land management practices remains a primary cause of inequity and poverty. (para. 75)

Amongst the most pertinent specific actions to the subject-matter of this report, the following may be highlighted:

- recognise and legitimise the diversity of land delivery mechanisms;
- consider the adoption of innovative instruments for the efficient and sustainable assembly and delivery of land, including, where appropriate, land readjustment and consolidation;
• develop appropriate cadastral systems and streamline land registration procedures in order to facilitate the regularisation of informal settlements, where appropriate, and simplify land transactions;
• develop land codes and legal frameworks that define the nature of land and real property and the rights that are formally recognised;
• support the development of land markets by means of effective legal frameworks, and develop flexible and varied mechanisms aimed at mobilising lands with diverse juridical status;
• review restrictive, exclusionary and costly legal and regulatory processes, planning systems, standards and development regulations;
• adopt an enabling legal and regulatory framework based on an enhanced knowledge, understanding and acceptance of existing practices and land delivery mechanisms so as to stimulate partnerships with the private business and community sectors, specifying recognised types of land tenure and prescribing procedures for the regularisation of tenure, where needed;
• provide institutional support, accountability and transparency of land management, and accurate information on land ownership, land transactions and current and planned land use;
• explore innovative arrangements to enhance security of tenure, other than full legalisation which may be too costly and time-consuming in certain situations, including access to credit, as appropriate, in the absence of a conventional title to land.

Four other actions from the heading “Popular participation and civic engagement” may be noted as these have a very direct bearing on the development and implementation of land management in accordance with the principles and actions set out above:

• facilitate the legal recognition of organised communities and their consolidation;
• provide access to effective judicial and administrative channels for affected individuals and groups so that they can challenge or seek redress from decisions and actions that are socially and environmentally harmful or violate human rights…;
• broaden the procedural right of individuals and civil society organisations to take legal action on behalf of affected communities or groups that do not have the resources or skills to take action themselves;
• facilitate access to decision-making and planning structures and legal services by people living in poverty and other low-income groups through the provision of such facilities as legal aid and free legal advice centres.

6.2 Recommendation 1: To Promote a market for land more functional and comprehensive
Efficient markets and equitable land are a pre-requisite for the proper functioning of the cities. On the other hand, markets of land dysfunctional caused by poor development of land and poor resource management policies (including a bad planning, a slow provisioning of infrastructure and services, weak information systems on land, cumbersome procedures and complex in transactions of land, as well as the sub-market regulation of private land) leads to a development that is not planned to land on the urban periphery.

The banks and entrepreneurs from the private sector should be encouraged to invest in social housing, as well as in the market for more. When the current boom in construction slow down and check out the saturation inevitable of the enterprises of luxury, probably some investors will look for opportunities to low-income market. But banks still consider mortgage loans a high risk due to the uncertainty regarding
the rights and guarantees. However, if the markets pretend to work in favor of the poorest citizens and middle class, the transactions of property are to be safeguarded.

To work well, the markets of land require a broader definition of property rights as well as greater regulation of operations (for example, through public notaries and local administrations).

Governments should also direct its attention to considerations of equity in the operation of markets of land - the markets of land must be able to work for the benefit of everyone and everyone should have the opportunity to participate on an equal footing and rightful place in the land market - and, for that purpose, the government at all levels and civil society must be involved in working with the poor and the poor, removing the obstacles to obtaining land, developing innovative mechanisms, instruments and institutions to help these people to gain access to land and security of tenure through the market, and governments must refrain from actions that penalize these People and reduce their opportunities to obtain and maintain land safely.

This presupposes three strands of intervention: training for the market; training policy and community empowerment. Training for the market involves the withdrawal of the State from the provision of many goods and services; i.e., in the sector, housing and public services urban services, whose provision should be privatised. It is deregulation, particularly of the land market and land use since attempts to regulate and control the supply and use of land through government bureaucracies stifle initiatives, it restricts competition, increases costs and contributes to corruption. Governments should confine itself to facilitate and promote the formal sector and informal businesses and markets, and monitor their performance; legal arrangements, institutional and financial must be put into practice in order to achieve this objective. The governments should engage the private sector through public tender for the supply of goods and services, rather than provide them themselves.

6.3 **Recommendation 2: Integrate the existing practice a policy of land inclusive**

The current informal mechanisms of access to land are well established and have a strong legitimacy among the population peri-urban areas. Transactions in land are usually closed through statements and sales contracts, which do not have the force of the 'Title'. It is recommended that the existing practice should be recognized and framed in legal practice. The fundamental issue here is there an approach that can strengthen the security of tenure. We recommend that an intermediate solution should be found to ensure the security of tenure for those who are likely to wait for a considerable period of time until they receive a title in duty.

The current situation requires a gradual approach to urban development policy and its implementation - through "learning by doing". The process of development of urban policy should be seen as interactive - based on reality, as much as possible and leave open the opportunity for review based on the feedback received. Similar to legislation (which should lead the process), the policy is only ficaz when its feasibility is reviewed in the light of the practice.

6.4 **Recommendation 3: Recognize the right of occupation based on the principle of good faith**

You must be a *de facto recognition* of the rights of occupation of the urban soil, as well as their simple procedures. Otherwise, the majority of urban dwellers who, in good faith, bought or acquired their land through some other mechanism, not seeing their procedures are excluded of the parameters.
Both the legal basis, the regulations and the administrative application, need to serve as a basis, in order to avoid speculation in continuous occupation of territory (whether by means of “formal” or "informal").

The Land Law specifically prohibits the acquisition of land by adverse possession or acquisition of a right to occupy land under the occupation of the facts of land for a specific period of time.

It is recommended that the legal frameworks are developed to provide the residents with rights to be where they are; create mechanisms for urban planning within participatory and for such payments, for example, readjustment of land and land pooling; and integrating the settlements on the legal framework of the city.

6.5 Recommendation 4: incorporate the right to information as actual practice

The best access to information will make the markets of land more functional - possession and records of ownership, greater awareness of the opportunities of purchase and public access to information about the development projects, are some of the benefits. Under the current legislation there is an obligation on the part of the government and its institutions to publicly disclose their plans, interventions, grants and programs of urbanization.

However, these policies are not regulated by law and therefore, are not widely practiced. We recommend that they be published the statutes with clear procedures on the right to information and public consultation and that is put into actual practice.

The following principles should be incorporated:

6.5.1 The responsibility for the dissemination of information

The local government and local authorities should publish the models and specifications in writing of their plans, legibly, through one or more of the newspapers more readable, as the Jornal de Angola, with an advance of 45 days before their plans are adopted, so as to allow the lifting of questions in sufficient time to modify or adapt any aspect of these plans.

6.5.2 The sharing of information and public forums

Local authorities should be obliged to convene public meetings, open to all citizens, without restrictions and made public the plans for the occupation of land or changes in land use.

6.5.3 Submission of plans to the Municipal Council

The Municipality of listening and Consultation Social, established in Law 17/10 (or future municipal councils that can replace them after the municipal elections) should be the forum appointed by which the projects relating to urban renewal must be approved.

6.6 Recommendation 5: adopt the principle of rights and of evolution of land tenure

It is recommended the introduction of the principle of rights intermediates and evolution of land tenure rules in force and which becomes actual practice. The weak institutional capacity of the Angolan State will require an intermediate approach and improved the management of spatial planning.
The essential aspects of a regulation on the rights to land are gradually:

a) Intermediate between land rights as a whole, as the rights of ownership or rights to the establishment on the one hand, and on the other hand, rights of precarious or the basic rights enshrined in the Civil Code.

b) Evolving to the extent that permits - given the certain circumstances - the development… through manifestations of these rights granted to all citizens.

c) Set in order to allow for the clarification of what these rights mean, contrary to what happens in general - Taking into account issues such as transactions of property, compensation and limitations.

It is recommended that the list of options available relating to the possession of land can be expanded to include the principle of an average level of occupation, possibly, one entitled "Provisional Certificate of Land", which can be considered as the basis for the resident permit in evolutionary land, by Example:

A. Temporary residence permit which would be invoked in peri-urban areas, where the regulation is not possible.

B. authorization of temporary occupation where:

a) It would be invoked in peri-urban areas, where the regulations will be possible in future, but where the state’s resources are still not available for update

b) It would be possible to transfer real estate within the same family

c) It would have a set time of validity (15 years) with the statutes sources if does not undertake to update imminent

d) It would be assigned by local administrations based on evidence of right of residence

C. provisional license of right of the surface where:

a) It would be invoked in peri-urban areas, where the regulation action is planned / in progress can be transferred through a process of transferring recorded (for example, the sale in public notary)

41 (a) precarious rights (temporary) of occupation
     (b) the rights of surface
     (c) of field useful law to rural communities
     (d) field civic useful
     (and) the private property rights of the urban soil
b) Be allocated by local administrations on the basis of a regulatory process or a process of demarcation of new plots

c) Allow the individual to make an application for a total surface area and individual through demarcation topography.

6.7 Recommendation 6: Strengthen Fortalecimento of municipal institutions in the management of land

It is recommended that the administration of land is driven by demand, allowing greater maximization of resources available by beneficiários - whether they are in the private sector or the population in general. Currently, the government has an institutional capacity limited to implement the urban development and management of the soil, and there is a huge need that this happens. The state involvement in the management of urban land should be the more decentralized as possible for the municipal level, where the effective demand can be better evaluated and resolved, albeit within a general policy and legal and administrative framework that must be established at central level by the government in order to ensure consistency and fairness.

Ability to build is a pre-requisite for the previous recommendations are applied as well as for the implementation of laws of land and housing. In the particular case of Luanda, there is evidence of problems relating to land that are specifically determined for certain type of settlement. This suggests that there is a need to create an urban policy and a management system that enables a differentiated approach for each type of settlement. This requires a better knowledge of these specific issues, as well as greater institutional capacity adequate to respond to these issues at local level. A fundamental step to make this knowledge and available capacity would give the local administrations (the legal, institutional and resource) with a framework of mandate, and the ability to implement initiatives aimed to improve conditions in the peri-urban areas through the means that are locally considered the most appropriate.

6.8 Recommendation 7: Improve the essential infrastructure

The lengthy provisioning of infrastructure and services such as roads, water and electricity will block the urbanization and are the main cause of the existence of markets of land dysfunctional. The high prices and speculation result when the demand for land with services is greater than the given basic infrastructure.

The development of infrastructure may occur without the movement of lots. However, an operation planned for infrastructure could cause speculation and the undesirable increase in land values. The governmental program as the "Water for All" undertakes to provide access to water at 80% for the districts peri-urban areas throughout the country including peri-urban and rural areas. This program involves the implementation of integrated plans for infrastructure and the construction of water supply networks in Luanda and other cities. In addition to giving an imperative to accelerate the physical implementation of infrastructure networks and the establishment of these measures will give a sense of permanence and improves the security of tenure to the owners adjacent to the network and to the communities that will be answered. Access to water (even in a folder) and the improvement of security of tenure will have a direct impact on the markets of land in the neighborhoods affected.
The preparation of the plans of infrastructure offers the opportunity for local administrations to initiate the process of managing land mapping its occupation and begin the process of creating a database.

6.9 Recommendation 8: Creation of municipal information (registration)

The municipal authorities has been assigned the responsibility of managing the household allocations and commercial scale up to 1,000 m². ⁴²

The efficient operation of land management requires registration of land efficient and updated as well as an information system, which clearly register the property and legal occupation of the soil. The market attaches great importance to the legal title to land. This is evident by the fact that land without legal benefits, keep your titles challenged, or land in informal settlements that have prices much lower than land with legal title.

The registration of land is also important so that the government can collect revenue from property taxes. Without knowing who owns the land and that the land is being used, governments may not levy property taxes. ⁴³

A system for registration of land efficiently (legal) is composed of two parts: the first is a record in writing of information about each plot of land, such as the name of the owner and the rights of the land highlighted, while the second part includes a detailed description of the plot of land in the form of a map with the respective measures. The second pair is usually a cross reference to the first. When the records and descriptions are combined, then the system of property registration provides considerable benefits. Some of the key benefits are:

a) Security of rights of property and possession: This is the most important impact. It reduces the amount of land disputes, which is currently a major problem in developing countries. The safety of property also stimulates the development of land.

b) Make transfers of land more efficient: The costs of delays in obtaining licenses is a serious obstacle in most developing countries, a system of registration efficient makes transfers easier, less costly and safer.

c) Warranty for loans: the title of the land can be used as collateral for loans. This warranty has a positive impact on the productivity of land, since it allows the release of significant financial resources for investment in land.

d) Support for the system of taxation of land: Expenses for the improvement of the cadastral system, would soon be covered by tax revenues.

e) Better use of the land and its management: Directly may provide better information about the property and the rights to the physical planning, as well as facilitate the development of other

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⁴² Law No. 06/2

planning tools, such as databases of information relating to land use, the values of land, population, etc can also be a tool to restrict certain land uses that pose an environmental impact negativo.Com advances in technology of geographic information, it is becoming increasingly expensive to develop and maintain information systems of land.

The Global Network of tools of Land (Global Land Tools Network) 44 has developed the model social Tenure. The focus of this model is the construction of a management information system of land in favor of the poor that shapes the relations between people and land, regardless of the level of formalization or legality of such relations. The aim is to develop a system of administration of land that can support all forms of land rights, relations of ownership and social demands overlaying land as we find in Angola (for example, in conflict areas of the country and in peri-urban areas surrounding the cities). Such information management systems of land can also support revenue systems that will be analyzed later.

6.10 Recommendation 9: Protecting the land rights of women

The proportion of households headed by women and more than 46% in neighborhoods peri-urban areas of Luanda. With this in mind, it is recommended that women's rights to land are reinforced and that the legislation is compatible with the Family Code (1989).

There is a need to eliminate the sources of discrimination against women, ethnic and religious minorities and other disadvantaged groups in economic matters. This includes efforts to ensure equal rights for women in key economic areas, such as the ownership of the land and inheritance.

It should be borne in mind that equality of rights between men and women the assets and resources, as advocated by the Constitution of the Republic of Angola and the Family Code of Angola, covers the rights of access to land and security of tenure (the part of the family, 1989).

Marriage is defined in the Family Code and includes trade unions registered and de facto unions, as established under Titles III and IV of the Family Code. In accordance with the principles contained in the constitution and the code of family, the spouses through marriage, it is assumed that there is equality of rights in relation to land and all the buildings that they occupy have.

Whenever the rights of ownership are compromentidos a couple, whether in a trademark or de facto, the payment of compensation in cash will be done in conjunction between the wife and the husband. If the couple chooses to compensation, the title of the property is transferred on behalf of both spouses.

Recommendations to improve women's rights to land in Angola include: implementation of legislative reform and policy for removing legal restrictions on women's rights to land, promote information and public awareness about the restrictions of women and the opportunities of access to land, ensure the participation of women in the formalisation of their rights to land and the procurement processes, and implement systems for monitoring to ensure that the efforts and that land rights formalized recognize women's rights to land.

44 GLTN a project of UNHabitat
(i) Legislative Reform and policy. Review and modify laws that limit women's access to and control over land. Ensure that the laws, regulations and policies they consider both domestic standards both formal and customary rights and land rights. Specific provisions in the legal framework may include, for example, a requirement for registration of land rights of families and to legally married couples.

(ii) Information and public awareness. It is important that the principles governing the rights of women to land being integrated into general training and awareness-raising activities to the beneficiaries (men and women). The traditional leaders are an important window of opportunity for the recognition (particularly of the widow) of their rights. Literacy programs specific legal may be needed to promote knowledge and understanding of land rights and obligations of women between the various decision-making bodies.

(iii) Formalisation and allocation of land rights. Ensure the effective participation of women in all decision-making processes at local, national and through the establishment of procedures for registration simple and functional. Recognize that many women are illiterate, they do not have identification and have limited financial resources. The process of land rights the effort of formalization will need to ensure that the rights of all spouses (formal and de facto) are included in the documentation for all land and properties that are not specifically performed by isolated individuals.

(iv) Monitoring and enforcement of rights. In the final analysis, if the efforts of formalisation of land rights recognize the concerns of women with success will depend on monitoring, and the ability to enforce these rights. Where the formal laws should provide protection to these groups, enforcement mechanisms must be strengthened to ensure compliance with legal provisions.

6.11 Recommendation 10: create greater public awareness of the rights to urban land and their responsibilities

Given the widespread feeling of security that is at odds with the legal framework, is an urgent need to create an awareness among the inhabitants of the musseques, and sellers / buyers of real estate, on the situation in law in relation to land and their rights and civic duties. Such efforts to raise awareness, can also meet the legal requirements of positivos regarding public consultation and access to information.

To build a broad legitimacy around new approaches and activities, there is a need to carry out comprehensive campaigns of education on the rights to land and the new responsibilities of urban residents. These campaigns should take advantage of the resources of communities and civil society organizations, as well as the local authorities and provincial and central government. Will also count on the support of leaders and activists in order to gain greater public recognition.

A high level of awareness needs to be created between the different groups of beneficiaries (men and women), community leaders, organizations for formal resolution of disputes, and officials of the government (local, municipal, provincial and national levels) about the restrictions of access to land through training, public awareness campaigns and/or literacy programs.
6.12 **Recommendation 11: implement pilot projects on readjustment of land**

An important aspect is to learn from the experience. Angola will draw on the experience of other countries - especially African countries with similar contexts to your and adapt this knowledge to the contextual reality of the country and its specific characteristics. In this sense, it is important the assimilation of new practices, and redefiniçãode new approaches and actions. This process of "learning by doing" is recommended when it comes to mechanisms that assign rights to urban land and the allocation of titles of ownership.

The pilot projects which focused on the establishment of rights over the urban land should focus on the restructuring of the nature of the rights of occupation and their respective limits, this will necesária a broad mobilization against the continued occupation of informal land, which do not make use of appropriate mechanisms. The pilot projects on land tenure in urban should test the mechanisms, institutional capacity, and the costs necessary for the formal identification and titration of the urban land for both sub-divisions of land and the areas occupied informalmete which have the potential to be developed. The costs of these should be incorporated to the improvements of the services at various levels in order to include different phases of development, starting from the basic provisioning until they achieve a complete provisioning.

Ideally, such pilot projects should be implemented through partnerships between the provincial government and local authorities, with an active participation of civil society as well as of non-governmental organizations and other private character, since they have the technical skills appropriate for relaizar this work.

It will also need a strict control of costs to assess the feasibility of applying these pilot projects in programs that are more extensive, as well as providing opportunities for learning even more.

An innovative approach, which addresses issues of rights attributed and that also involves the communities and local authorities through participatory methods that give the guarantee of land tenure, it has been demonstrated in Huambo province, where through a local approach of "Land Pooling" . It is recommended that the strategy of readjustment of land (land pooling ) is tested on a larger scale.

6.13 **Recommendation 12: Implement the principle of fair indemenização**

Compensation, in accordance with the law, shall be subject to assessments of the market. This should work to protect the assets of the poor, that in financial terms, often are represented by a restricted family savings . Currently, the demolitions and relocations of areas around constituem a huge loss in assets for this segment more vulnerable population.

Fair compensation is the amount of financial compensation needed to place the holder of property in a position equivalent to what was before the expropriation of land.

Just a compensation may include but may not be necessarily limited to the market value of the land and costs incurred by the owner of land as a result of expropriation.

It is recommended that the principles, should be recognized and adopted by the government:
a) The people whose rights of ownership are not disadvantaged by the implementation of the Settlement Plan should have the right to a fair indemnização, pursuant to article 12 of the Law 04/09.

b) People will be regarded as being adversely affected by the Settlement Plan of land if: (a) are forced to move from their current location of residence or place of work, to another area of settlement, (b) as a result of the Settlement Plan, the limits of their lands are adjusted to reduce the size of its share, or who lose any propriedad under the Settlement Plan and (c) the dimensions of his plot of land is reduced to a size exceeding 15% or if more than 15% of its assets of land being lost.

c) In cases where the adoption of a settlement plan involves or implies the likelihood of involvement, the movement or relocation of people from their homes or lots, the acquisition or redistribution of new terrain in the proposed area, the adjustment of the boundaries of parcels, or any other action potentially affecting adversely the rights holders of land, the municipal administrations shall notify all holders of the rights or of other persons potentially affected the possible impact of the implementation of the Settlement Plan. The notification must be made in writing or by any other effective means at least 14 days before the public meetings on the approval of the Plan, in order to ensure that affected individuals have an opportunity to review the Settlement Plan, participate in public meeting, or have the opportunity to submit comments, complaints, comments and suggestions.

d) For the purposes of this regulation for peri-urban areas, the fair market value is: (a) the value that the copyright holder can obtain by land or property [open market after the completion of the upgrades or developments covered by the Settlement Plan], assuming that a seller interested and willing buyer, or (b) the amount by which the copyright owner will have to spend to replace the right of lost property, whichever is greater.

e) The analysis of the value of land recorded should be performed by a qualified inspector and on behalf of City Council to determine the market value of the land and the fair indemnização.

f) Just indemnização must be paid in cash or the equivalent in kind, at the option of the person whose ownership rights are not disadvantaged. The compensation shall be paid in cash or in kind within a certain number of days before the land be taken or inappropriate.

6.14 **Recommendation 13: Funding based on Land**

The urban development in Angola should be funded at least in part, by capturing the gains resulting from public investment or large urban trends. Financing based on Land and an opportunity to increase the revenue needed to provide essential public services and improvements in infrastructure and urban services.

The "funding based on land" is a tool that provides great opportunities for public funding in post-socialist countries like Angola, where land is owned by the State. The idea behind the collection of value of land is that public investments may result from gains from the smoking. For example, a new line of road or

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45 Land-Based Financing
sewer systems increases the value of land nearby, enjoying the holder of that land. The State should through its government should reasonably be able to share these gains so it can finance more public investment. Taxes and fees are sometimes called "tax benefits". Land and property of holders may obtain benefits, such as roads, police and fire protection of local governments, but they generally do not pay direct charges for such services. Instead, the local government charges them a quantity more or less proportional to the value of the benefits they receive.

The "value of capture of land" is defined as a method of public financing by which governments:

a) Would result in an increase in the value of land through regulatory decisions (for example, change in land use) and/or investments in infrastructure (for example, transit);

b) Establish a process to share this increase in the value of land by capturing all or part of amendment; and

c) Use resources from capture to finance infrastructure investments (e.g.

Investments in transit), any other improvements needed to compensate for impacts related to changes (for example, hot), and/or implementation of public policies to promote equity (for example, the supply of affordable housing to alleviate the shortage and compensate for potential gentrification).

The principle of "financing based on land" (FBT) is more comprehensive than the capture of the value of land in four ways:

a) FBT includes agreements that result in infrastructure offered or funded by a developer;

b) FBT includes special assessments that reflect the cost of improvements to serve a property, or not these translate into real increases in the value of the property;

c) FBT usually includes property taxes, which are the basis of the instruments to capture value of land as the financing, tax increment; and

d) FBT would include tax for transfer imposed when land is bought and sold.

In Angola revenue systems are largely centered, with the majority of revenue that flows to the national government. The local authorities do not control the sources of sufficient revenues, therefore, may not respond to local needs in an efficient way. The local authorities do not respond nor are accountable to local residents. If Angola increase funding for urban development of citizens, then the potential contributors should see the taxes or other fees as fair. In this sense, means that the holders of land in similar circumstances are treated in the same way. Transparency contributes greatly to the fairness of the process. Potential contributors should also see the connection between the money they pay and the services they receive. If the owners of land have clearly improved the quality of services and infrastructure in their communities, they are much more likely to pay their obligations of goodwill.

Revenue from land may take many forms. They are often called tax (we use this term throughout this paper to represent the whole set of options). But, the series includes transaction fees of yore and charges, such as taxes, the transfer rates of improvement, rates of development, as well as the recurrent
costs relating to the cost of supply of services. Some transaction fees are designed to recover the administrative costs, but some, such as rates of improvement and capital gains taxes, have the intention to capture a part of the creation of wealth for the State.

The best practices suggest the assignment of tasks to the lowest level of administration with the ability to efficiently and effectively to accomplish the task. Efficient administration of land reduces the cost of acquisition, possession or transfer of land in an environment of the market.

The information systems of soils need to be strengthened. The taxation of assets is based on information about the buildings in the form of tax records or rolls of evaluation. These rolls include information about land and property, the owner (or beneficiary) of the property, and a value in that the tax is based. The information systems of land need to provide updated data about the values of land. The central role of the evaluation system is to evaluate the values of land and property fairly and accurately. These values are then used to allocate the tax revenues total that is desired to land owners or occupants. "Fair", in this case, can be related either to benefits received, the ability to pay, or a combination of both. The public is more prone to accept a tax if they see that the charges depend on the cost of the services they receive, as well as the benefits they receive for improvements to their land. People are able and willing to pay taxes as this helps to establish your claim to land or housing they occupy informally or illegally.

**The allocation of revenue related to land.**

The taxes are often used to redistribute resources from one group to another. In the poor neighborhoods, the level of taxes possible ownership is likely to be insufficient to finance the service levels, in many environments, the residents are both willing and able to pay a small fee if this also establishes an interest recognized on land. Many families in such circumstances can pay part of the costs of upgrading, and many see the payment of taxes as a way to document your claim to the land. But his contributions may fall far short of the cost of complete urbanization in the short term.

Angola should improve its data collection, analysis and documentation on land and property taxation. The decision makers need information to make good decisions. The public managers should make the transition over time from a system funded primarily through government subsidies for financing more directly through fees paid by the users of the service. There are several reasons for this: those who actually provide the services if they adopt this system three consequences can be observed; the institution becomes less dependent on political decisions; and staff are more willing to accept change and offer more efficient services if they perceive that their income and employment depend on the quality of services that we offer to our customers.

**Instruments of financing of land**

**(a) Contributions in kind:**

An investor builds outdoor infrastructure for the development of ownership, as the city is unable or chooses not to provide this infrastructure. This maybe done under instruction of the city or as a voluntary contribution by the developer who should be in accordance with the plans of infrastructure of the city.
(b) The negotiations and voluntary contributions

Before you make the investment, a bilateral negotiation is used to determine the rate that owners in the area of influence should pay for the improvement (Peterson, 2009).

(c) Sale of rights to development

The sale of rights to convert rural land (agricultural) for urban use and to build greater density than would normally be permitted by the rules of zoning or height restrictions (Peterson, 2009).

(d) Leasing of public lands

If the competent local authority owns the land, who leases the land out for a period of time, generating revenue that should, ideally, finance urban infrastructure (Peterson, 2009).

(e) The acquisition of land and resale

The public sector or relevant authority buys and then resells land around a development, capturing, as well, some of the gains that an investment infrastructure can create (Peterson, 2009).

(f) The sale of land

The sale of public domain, preferably, the property of the city, with the money used to finance urban infrastructure (Peterson, 2009).

(g) The impact of fees and charges for development

The contribution of capital increase to cover the cost of the infrastructure bulk and connector required for a new property development or improvements for the development of the property. These charges could also possibly be financed other infrastructures that are not directly related to the development of the property. The rates are based on a formula, so that they can be consistently applied for the development of properties.

H) Property taxes, surcharges, property taxes and an increase in funding from taxes

A tax levied on the value of the property (sometimes including the terrain) by the local government. A surcharge may be applied in some situations, such as if the property is in a state of improvement of business. Increase of financing of taxes (TIF) allows municipalities to fund infrastructure development through the granting of property, tax revenue from increases in assessed values within a district designated TIF (Dye and Merriman, 2006).

(i) Improvement of fees/Taxes

Any tax or fee for a specific group of properties based on some characteristic measurable property, such as facade, area or value. Is based on the expected increase in the value of the property as a result of some investment in infrastructure by public or change of ownership rights who are deemed to be an overall benefit to the property values in this area.