

# **The Real State Liberia's Real Estate**

## **By Lionel Bernard**

### 1. Introduction

In September of 2004, a land dispute between the Liberian Agricultural Company triggered eviction proceedings against over 400,000 Grand Bassa residents from their cultural homeland. A few months later, a similar dispute between two individuals over a parcel of land in Paynesville ignited a full scale riot in Monrovia with Christians burning mosques, Muslims burning churches, and numerous homes vandalized by mobs of angry, destitute Liberians. An eager land buyer, motivated by a quick purchase opportunity, ignores due diligence and pays \$2,000USD for a lot of land in a prime Bushrod Island location. He later discovers that he's become an active participant in a legal quagmire wherein his land ownership is shared with two other individuals. Furthermore, the seller did not have a legitimate title to the property. As history has shown, land disputes in Liberia often ignite violent conflicts between relatives, friends, neighbors, and tribesmen, among others.

These incidents portray the reality of a Liberian society threatened with imminent conflict evolving from deficient legal instruments governing private and public property rights. It is foreseeable that in the future these seemingly random conflicts will increase in occurrence if fundamental property rights, enforcement, and legislative deficiencies in real estate are not addressed.

A variety of social factors are also contributing to the timing of recent land disputes in Liberia. The end of Liberia's civil war, newfound peace, widespread destruction of residential and commercial property, and an influx of refugees into the Monrovia area are all factors leading to a perfect storm of property conflicts and highlighting the deficiencies in Liberia's property oversight institutions.

In new-era Liberia, the problem of property is further emphasized by the disparity of the stakeholders. These stakeholders include ex-combatants, refugees returning home, internally displaced Liberians, squatters, expatriates returning from abroad to reclaim their inherited properties, the presence of over 15,000 United Nations (UN) security and administrative personnel, and foreigners with commercial interests in leased property. Not at anytime in Liberian history has so many different stakeholders had a competing interest in a concentrated area of Liberia. Primarily for safety reasons, over half of Liberia's 3.5 million population is concentrated in Monrovia and its immediate vicinity. A housing crisis has evolved from this scenario and the competing interest of stakeholders is transforming Liberian real estate. Ex-combatant, some resettled in the interior through UN programs, are returning to the capital to self-fulfill their demands for expedited economic relief in lieu of relinquishing their firearms. Internally displaced Liberians, motivated by the relative safety of the area and better subsistence opportunities then is available in rural areas, in selling good stuffs and remittances from overseas, are resettling near the capital as squatters living in deplorable housing conditions.

Expatriates, growing weary of their long absence from home and sensing a definitive end to the civil war crisis, are actively embarking on projects to rebuild inherited property for residency or to lease. This stakeholder group of expatriates returning from abroad faces the greatest challenge of all the others. Besides their relative ignorance of the haphazard Liberian property system, if unlucky, they may also have to confront other stakeholders with competing interest in their property and with an imposing life or death motivation to retain their illicit interest.

As a stakeholder group, the UN personnel working in Liberia are perhaps the most vulnerable group. Their temporary status in Liberia and urgent need for temporary housing are making them prime targets for inflated leases and key contributors to the acute housing shortage in the Monrovia area. Their presence has brought relative peace and security to Monrovia, but the compromise is that the housing sector of the economy is now dependent on these UN personnel as the only reliable source of income producing tenancy. In effect, rent prices have risen sharply over the last 2 years in Monrovia to a point far outpacing the level affordable by the average Liberian surviving on an average income of \$300-400 per year.

The ubiquitous presence of another stakeholder group, Lebanese foreigners, in market-driven Liberian economy is not an accident. Combined with other foreigners, this stakeholder group is by far the largest current benefactors of the opportunities in Liberian real estate and its overall economy. Despite Liberian law restricting land and property ownership to people of non-Negro descent, nearly every other commercial and residential property in the Monrovia area is held in leasehold by a Lebanese businessperson or another foreign (non-UN) national. This stakeholder group, already entrenched in the Liberian retail business sector, was in an ideal position to take advantage of the emerging strong demand for commercial and residential property, particularly in Monrovia, after the war ended. Using financial resources attained in their retail businesses, this stakeholder group engaged in aggressively attaining long term binding leases from Liberian property owners, with many owners entering lease agreement under severe financial duress and agreeing to terms far less than reasonable market lease value. The leased properties were often refurbished and subleased, at a vastly higher value, to UN personnel, or transformed into thriving hotel businesses and other value added establishments. Whether or not this stakeholders group exploited Liberian property owners is an issue open for debate, but the long-term consequence of this group's activities and duration of their commanding financial benefactor status depends on how motivated other competing stakeholders are in pursuing the economic incentives in Liberian real estate.

Which stakeholder's interest supersedes all others? How can the imminent property disputes and conflicts between stakeholders that pose a potential threat to Liberian society's current stability be resolved? Any answer to these questions would be subjective, essentially anybody's guess, without a deeper understanding of the underlying causes that eventually led to this crisis state of Liberian real estate. To develop this deeper understanding, all stakeholders and non-stakeholders alike must pursue an objective insight into Liberia's property system and its evolution. I believe that this

pursuit of understanding will lead to a wider apprehension of the flaws in our property system, help reduce the shadowing threat of physical conflict due to ignorance of property laws, and trigger a national discussion and avocation for change.

## 2. History

In Liberian schools children are indoctrinated with glorious images of settlers arriving on Liberia's shores as chaperons of liberty and civility. These settlers were fleeing slavery and oppression in the Americas and sought hope on Liberia's shore for achieving a level of freedom and pursuit of happiness unachievable in their original lands. But the settler's quest to establish the Liberian nation after they landed in 1822 was anything but civil and, in most cases, undermined the rights of the native tribes who were Liberia's original landowners.

Of the original three tribe encountered by the agents of the American Colonization Society (ACS) when they scouted for land to resettle the settlers, from their original inhabitable settlement in Sherbo Island in today's Sierra Leone, only the Via tribesmen voluntarily donated their ancestral land, most of what is now Monrovia, to the settlers. The Dey and Bassa tribesmen were not as hospitable. Facing the threat of firearm confrontation with a much more superior foe, the reluctant tribes were eventually persuaded to give up land for the settler's use. This initial land grab by the ACS, using military force, set the precedence for the future expansion of Liberia and created an arbitrary land tenure system that still exists today.

By 1874 Liberia was already an established young nation and had asserted control over much of the interior region making up the country's present day boundaries and beyond. Immigrants from the Caribbean and more settlers had led to a rapid population expansion since independence and increased demand for more land for the purpose of residency, farming, and trade. That same year the Liberian government tasked Benjamin J. Anderson, a prominent Liberian surveyor, with surveying all the area acquired by the settlers and the independent government through treaties, war with indigenous tribes, purchases, and/or annexed through eminent domain powers exercised by the young nation. Mr. Anderson's survey revealed that Liberia territorial land amounted to roughly 89,000 square miles. This initial survey revealed Liberia's land extending far into areas which are now parts of Ivory Coast, Guinea, and Sierra Leone.

The original Liberian national boundary, as surveyed and record by BJ Anderson, began to shrink in size as early as 1868. The Liberian nation, unable to protect its borders from encroachment, was victimized on several occasions by superior colonial powers with interest in neighboring African countries. The British, in 1883, were the first to encroach on Liberian lands by laying claim to a large area named Gallinas, near the Mano river in today's Sierra Leone. Ten years later, the French, used military superiority to forcibly annex Liberian lands situated between the Cavalla and San Pedro rivers in Liberia's southeast region; present day Ivory Coast. Liberian landmarks are still found in that area. Liberia lost more of its territory to neighboring Guinea during that country's

independence from French colonials. When a land dispute emerged during the period of Guinea's independence and territorial demarcation, the Tubman regime, specifically by presidential order, withdrew contention over a portion of land north of Sannequellie in Nimba county. This area is now the source of a large iron ore reserve. It is said that Tubman's reasoning in withdrawing from the land contention was so as not to offend our Guinean brethren during their historic independence. By 1971, Liberia has lost nearly 20,000 square miles of land, nearly 1/3 of its current size, to neighboring countries either through forceful acquisition or lack of political initiative by the presidency to uphold Liberian laws and represent Liberia's land interest. Liberia had become a victim of the same forceful land acquisition methods used by the county's founders to establish Liberian territories.

### 3. Property Laws and the Court System

Presently, three codes of law govern Liberia's 69,000 square miles of land and water. The 1956 code stipulates the conditions and rules for how property is acquired and leased. The decedent estate laws, which are more recent, cover rights of inheritance. And finally, the aborigine grant laws, or hinterland laws, establishes the rights of tribes, or lack thereof, to real property.

These laws governing property are premised on the Liberian constitution, which guarantee the right to ownership of property by only people of Negro (Black) descent. Albeit discriminatory, the Liberian constitution is clear in reserving the right to real property to only Black Liberians, regardless of whether or not the person of non-Negro descent is born in Liberia. However, the law allows foreigners to lease property for a period not to exceed 20 concurrent years. Some non-Negro foreigner stakeholders circumvent this law by deeding purchased property to their Liberian spouses and girlfriends or their children derived from unions with legitimate Liberians.

#### *Probate*

A key element of the 1956 legal code most relevant to Liberian property stakeholders is the probate law and probate system. Probate, through the probate court system, establishes the legal validity of document and encompasses all legal documents including wills, marriage certificates, deeds, and contracts. The process is initiated when the circuit court judge signs and places an official-looking stamp on the document to be probated and the concerned party pays the required fee. Thereafter, the document is taken to the Archives on Ashmun Street where it undergoes further signing, stamping and recording in a large volume of books by the archive's registrar. The law requires probation of deed in transfer of real property.

The law also requires, in real property sale transactions, that adequate notice be given to other interested parties comprising of the general public. The notice requirements are that a notice of the sale, describing the location of the property, owners of surrounding properties, and the names of the parties involved in the transaction, be placed in a local newspaper or broadcast on radio for three (3) days during the probation proceeding.

Publicizing the probated deed is usually the responsibility of the seller and/or owner of the property being transferred. Interested parties have a right to object to the probate by filing a 'Caveat' with the probate court. The Caveat must be filed before the property transfer is complete. In practice, the public notice requirement is largely unfulfilled.

The reality of Liberia's probate system, as I have described above, is in sharp contrast to its theoretical foundations in Liberia probate laws. Property stakeholders encountering the system through the probate courts must understand the system's pitfalls. Firstly, it is essential that stakeholders understand that the probate system does not prevent false deeds from being probated or provide assurances that all property transfer transactions are credible. The probate system, as it exists in Liberia, is simply a mechanism for recording/registering a legal transaction and document. The only assurance the system provides to property stakeholders is that their transaction occurred at the time and date it occurred. This assurance appears mundane, but later on I will explain now immensely significant a role it plays in resolving property disputes.

Liberia probate system, not unlike any bureaucratic system, is subject to the integrity of its purveyors including the judges, clerks, and other court personnel operating the system. The net effect of the civil war, irregular salary payments for civil servants, and lack of professional accountability, has left the probate system somehow functional yet deeply corrupt and inefficient. Stakeholders with the financial means can conveniently expedite a deed or lease probate with a 'handshake' to the judge or resident probate clerk. The handshake amount must be substantially reasonable to merit the risk otherwise your deed or lease probate is 'conveniently' delayed. This reality places the property probate system largely at the advantage of stakeholders with financial resources and at the disadvantage of average Liberians without the means to exploit the system.

### *Inherited Property*

Decedent laws, or laws governing the distribution of a deceased person's property, plays an equally significant role as does probate laws in Liberia's real estate system. As a new generation of Liberians emerge to the spotlight of inherited property, understanding the implications of Liberia's decedent laws and its impact on the credibility of their inheritance is vital to these stakeholders. Liberia's 13-year civil war left countless dead from genocide and countless other elders succumbing to cancer, diabetes, or sedentary lifestyles while living as involuntary refugees in the Diaspora. The generation those deceased left behind have inherited an immense amount of valuable real property either by legal will left by their relatives or without the existence of a legal will.

To minimize disputes, the court system, through the decedent law code, provides guidelines to enforce willed or unwilled inheritance. If John Brown dies and leaves an elaborate, and probated, will, outlining his wishes for distributing his property among his children and spouse, the court's role in this situation is simply to act as an executor of Mr. Brown's will. If no will exists, Mr. Brown's estate, including real property (i.e. farmland, home, land, etc), is distributed according to Liberia intestate laws. Intestate laws clearly

describe the manner in which real property should be distributed in the absence of a will. Here is an overview of Liberia's intestate law guideline for inherited property: The deceased's wife has a 1/3 fee simple for life dower right to his personal and real property, in addition to property willed to her if a will exists. She also has the right to exercise her dower right if the will provides her with less than 1/3 of her deceased husband's property. The converse is also true if the deceased is the wife and provided no will. Children enjoy equal rights on remaining property after the wife/husband has exercised their rights to the property. If the deceased has five children, his/her property is equally divided among the children at 1/5 apiece. If one of the five children dies, his/her 1/5 share is subsequently divided equally among the surviving four children. If the deceased has no surviving spouse or children, the burden of ownership falls upon his/her collateral heirs. Collateral heirs include parents, grandparents, siblings, aunts, uncles, and other relatives. The court system will determine the reasonable method of distribution in the case of collateral heirs. Stakeholders inheriting real property in Liberia must be aware that inheritance is considered income and therefore taxable. Decedent law imposes a tax levy on real property according to finance law. Your best bet is to check with the Ministry of Finance for the appropriate tax levy.

### *Tribal Reserve Property*

Another significant body of Liberian law governing real estate property is the aborigine grant law, or hinterland laws. These laws, enacted as the Land Grant Act, provide land to various Liberian tribes as tribal reserves. Most of the tribal reserve lands were given to the tribes by the Liberian government with the consideration that each tribe had a historical connection to the land although the land was purchased by the government and annexed to Liberian republic. The government still maintains ownership of all public land in Liberia. As a tribal reserve, the ownership right is given to the entire tribe and not a single individual. The tribal chief is considered the reserve's trustee, but he has no authority to convey ownership of any portion of the tribal reserve's land to an individual or to convert to tribal land to private property in fee simple title without government authorization.

The aborigine grant law is actually quite vague on the subject of converting tribal reserve land to private property. Arrogantly, the law simply states that the tribe's elders may petition the government for conversion of the reserve land to fee simple title when the tribe has reached a certain level of civility, without clearly defining 'level of civility'. However, the aborigine laws do grant the reserve's trustees and inhabitants the right to farm, reside, and develop the reserve's lands. The tribal chief is usually the person named in the deed for reserve tribal land. To date no tribe has petitioned the government for conveyance of fee simple title of tribal reserve lands to the reserve's tribal heads.

### *Squatters*

No discussion of Liberian property laws is complete without examining the subject of squatters and the limited rights they have in property they take residency on. Squatting refers to the unlawful act of encroaching on private property and establishing a dwelling

on that property without a leasehold or title to the property. Prominent squatting in the Monrovia area and throughout Liberia is the result of the circumstances imposed on individuals by the lengthy civil war. As property owners fled for safer ground overseas, those left behind took up occupancy in their looted homes or built shacks on lands in area deemed relatively safe. Almost all property owners are victims of squatters. Public properties, including the Samuel K. Doe sports complex in Paynesville, Steven Tolbert Estate, and public lands in West Point and Paynesville were of no exception.

Although there is prevailing apathy towards squatters, the impositions they are making on the property they occupy are now less driven by their need for housing than by foreseeable financial benefits in the squatted property. The squatter's rights are limited on the property they occupy, but that is not limiting this stakeholder group from challenging legal or private eviction notices. Many are resorting to claims of adverse possession, a legal claim to property by encroachment if the encroacher occupies the property for a continual period of 20 years without the property's owner giving a notice of eviction to the occupiers or engaging in an informal or formal agreement with the occupiers to reside on the property for a limited timeframe. After the 20 year occupation time period, the encroacher has a legal right to take possession of the property they've occupied in fee simple title. However, the adverse possession claim is by far the most extensive of the very limited rights available to squatters and is rarely exercised.

Removing squatters from property they've illegally occupied can be a daunting task for the Liberian land or homeowner stakeholder, but there are several options available in confronting this sensitive situation. The first approach is to directly contact the squatters to discuss a compromise in lieu of their eviction. You may make an offer, to the squatters, of financial compensation as an act of good faith and to help ease the squatter's transition. Your offer, although congenial, must be on the firm basis that you are the property's legal owner and have that option to exercise your legal right to possession of your property. If this first approach fails your next option is to pursue a legal eviction. With a legitimate deed in hand, you may file a notice for eviction in one of several municipal courts depending in the location of your property.

For downtown Monrovia and Sinkor property disputes, the City court is the court of jurisdiction. This court is located at the temple of justice and has jurisdiction over all other magisterial courts in Monrovia. The Tamba magisterial court maintains authority over land disputes in Old Road and Congo Town. For Paynesville and ELWA the Paynesville court has authority. Gardnersville magisterial court has jurisdiction over that area's cases. Property disputes involving Across the Bridge areas, which include Via town, West Point, Duala, Freeport, and New Cru Town, are handled by the New Cru Town magisterial court. Care must be taken to file disputes in the appropriate court system, as involving the wrong court can lead to plaintiffs experiencing significant delays in eviction, lease disputes, and land restitution.

Enforcing the eviction can pose another challenge. If the property owner is diligent enough to attain a writ of eviction, the next hurdle is getting the policing authorities to actually remove the squatters from the premises. Appeal delays, negligent lawyers

betraying clients by accepting bribes from both defendants and accusers, unethical judges, reluctant police authorities, is, sadly, the norm in the high stakes game of Liberian real estate. The stakeholder property owner in this situation can only minimize their risk by attaining a somewhat credible attorney, further educating themselves about the legal deviances in the system, and prepare to withstand the financial burden that has become a natural part of the process.

#### 4. Buying and Selling Real Property in Liberia

Buying and selling property in Liberia is a tedious exercise requiring diligence, the right resources and people connection, and a preliminary understanding of Liberian's unconventional property exchange practices. Unlike the property system in western countries with which many Liberian in the Diaspora have gained familiarity, Liberia's property exchange system provides no agency of professionals to chaperon buyers and sellers, no formal public or private medium where sellers can advertise their property, no professional oversight agency providing standards for fee pricing, guidelines for ethical conduct, and a forum for arbitrating property disputes. Essentially, as a buyer or seller of property in Liberia, you are on your own.

For the property buyer seeking a few lots of private land in Liberia to build a home, the best recourse is to rely on the age-one method for finding information: asking. Asking neighbors in a surrounding area of an identified property for information about the property owner is the conventional starting point. Information about the property's surveyor should also be obtained from neighbors if possible. An alternative to finding the property's owner is visiting the Ministry of Land & Mines on Capital Hill and reviewing adjudication records. Visiting the Ministry, however, is a last resort if the area's surveyor is unknown. This is because the Ministry's adjudication records are limited to ownership information for properties in central Monrovia and parts of Sinkor.

##### *Land Adjudication*

As mentioned earlier, the record or adjudicated areas in Monrovia is available as a resource for ownership and location searches by prospective buyers and property inheritors. The existing adjudication records for central Monrovia were compiled by a team of United Nations (UN) experts in the early 1970s as an initiative to teach the adjudication system to surveyors and other Liberian property professionals. The process involved examining deeds to determine the ownership and meets and bounds for each lot area (about 11,000 square feet) located in Central Monrovia (Mamba Point, Downtown streets, and Sinkor). The objective in this effort was to create a comprehensive record of property ownership that could potentially eradicate property disputes and give oversight agencies a basis for tax levy. But the adjudication records, available for public view at the Ministry of Lands and Mines, is incomplete and comprises of only a fraction of Liberian's land area, and is useful only if the property of interest lies in confined areas of central Monrovia and Sinkor.

Beyond asking neighbor, surveyors, and searching adjudication records, the owner, buyer, or person with inherited property may use the National archive as another tool in their search for a credible record of a property's ownership or location. Archive searches are typically more beneficial to property owners or inheritors armed with a valid deed and a clueless disposition of the property's location, or without possession of a deed and some limited information of the property's original owner's name, deed volume number, and year of purchase.

### *Archive Records*

The National Archive building, inconspicuously sandwiched between a carpenter's shop and severely damaged high-rise building on Ashmun street, is the official repository of all legal documents derived by the Liberian government. Actual legal document are not stored at the archive, but rather, a record, or meta information, of legal documents is cataloged in large paper book volumes labeled by year and volume and dating back to Liberia's independence in 1847. Each catalog records the document number, type, year and date of archive, and a brief description of the document denoting the parties involved in the transaction, the location of a property in the case of land purchase, or the terms of the contract, in the case of a lease agreement. The original document is recorded and returned to the source agency or to the document's owner. Among the documents recorded at archive, one will find a wide variety of document records including warranty deeds, contracts, power of attorney, court decrees, marriage certificates, decrees of legitimization (paternity disputes), letters of attorney, and a few historically significant photographs. The recorded documents usually originate from the court system or other government agencies.

Despite recent rumors that paper records stored in the archive were vandalized during the civil war, officials at the archive vehemently affirm that the archive remains a credible resource for the Liberian public. For property stakeholder searching for information on property left by a relative, the nominal \$100 fee charged by the archive personnel initiates their search. However, in lieu of no valid deed, the stakeholder must provide at least the year of the property purchase, the volume number, the purchaser's name, and a general indication of the property's location. Because archive searches are largely a manual process, the amount of time required to find a record of a probated property transaction depends on the amount of information provided to the archive operators. Some searches may take several years because the search requires thumbing through volumes of books to find a specific record based on minimal information. There are efforts underway to computerize the archive records repository and eventually integrate archived property records into a digital title search process, but this initiative is currently stalled by lack of funding. Archive records remain susceptible to damage from fire, vandalism, and the physical degradation of the hand-written paper records.

### *Survey and Surveyors*

Like the probation process described earlier, every land exchange transaction in Liberia must also involve a surveyor. Land surveyors are increasingly playing a pivotal and

expanding role in land transactions in Liberia. Besides conducting actual property survey for buyers and property owners, surveyors services now extends to preparing transfer deeds, hiring workers to clear brush and trees from property, investigating legitimacy of seller's title, attaining survey permits and signatures, providing advice on land pricing, preparing survey maps, assisting the buyer in probating the final transfer deed, and registering the deed in the National Archive records. Although some property buyers resort to unlicensed surveyors in land purchases to cut costs, there is a pool of roughly 25 certified and licensed surveyors in Liberia providing a more reliable service. These certified surveyors, work, as salaried employees, directly for the Ministry of Lands and Mines, which also acts as the certifying agency. The surveyor certification process, overseen by the Ministry's Survey Licensing and Certification Board, requires that surveyors attain at least a high school education, provide evidence of schooling at a local or international survey school, and complete a comprehensive theoretical and practical examination administered by the board. An annual re-licensing is also required of the certified surveyors.

Although, a buyer typically hires a surveyor to represent their interest in a land purchase, property owners also use surveyor services to validate the boundaries of their property. In a land purchase scenario, the survey fee in the Monrovia area is customarily 25% of the purchase price, but may be as high as 50% depending on the collateral services the surveyor provides, such a investigating the property's title. The fee is paid directly to the surveyor. Once the survey is complete, the surveyor will provide a transfer deed to the buyer-client to present to the seller for signing. In a resurvey scenario, which is less costly then the full survey, the surveyor's role is limited to determining the property's boundaries and providing a survey map to the owner client. The surveyor is not required to prepare a transfer deed in a resurvey. In either scenario, the surveyor will initiate the survey process by applying for a private land survey permit from the Ministry of Lands and Mines. Approving the survey permit requires a plethora of official signatures including that of a director, an assistant minister, a deputy minister, and a committee representative. The surveyor is also required to place a survey notice in a local newspaper describing the purpose of the survey.

A cadastral survey is the typical survey method used in Liberia to determine and record the exact position of an estate of land. The resulting cadastral map, or survey map, prepared by surveyor, provides the surveyor's client with a 1-to-10 inch-to-a-mile scaled map of the property with indications of the owners of surrounding properties. This map may exist either as a separate document or be included within the final transfer deed. The final transfer deed is subsequently submitted for probation in the circuit court, or given to the client owner as reproduced deed.

In the physical survey process in Liberia, several conventional methods for establishing physical property boundaries exist. Placing cornerstones are by far the most widely used legal method for demarking property boundaries. The surveyor will usually recommend that the buyer or owner place cornerstones in the corner areas marking the property's boundaries. Cornerstones are required to indicate the property owner's initials near the surface tip of each side, are typically made of cement, and retain a stick-like shape

measuring 3 to 4 feet in length and about 8 to 10 inches in width. Other demarcation devices used throughout Liberia include soap tree, a palm-like plant that persistently re-grows when cut down and is used to wash clothing, plum trees, and coconut trees.

### *Land Pricing*

As of the date of this article, the price of land in Liberia is at a sharp upturn and varies widely depending on proximity to central Monrovia. Mamba point remains the priciest location in Liberia with vacant a lot (approximately 11,000 square feet) selling for \$20,000 to \$30,000; lots with building are substantially higher. Lots in central Monrovia (Broad, Randall, etc) are selling at prices in excess of \$15,000. Sinkor, a desirable residential area, has lots priced over \$10,000. Airfield, Old Road, Congo Town, and Paynesville lots are priced at between \$2,000 and \$10,000. Brewerville, ELWA Road, and Gardnersville remain the most affordable area near Monrovia with lot prices costing only a few hundred dollars. Property values are projected to increase substantially if the political climate improves and Liberian stabilizes after the October 2005 elections.

### *Land Sale Schemes*

Surveyors have faced scrutiny recently with the mounting practice of property owners fraudulently selling a single piece of property to multiple buyers and perpetrators using illegitimate deeds to assume ownership of private property. Given the financial hardship in Liberia, it may be true that some surveyors are engaging in fraudulent practices, but the bulk of the blame is attributed to eager buyers unmotivated to exercise due diligence. The simple reason a buyer is unknowingly victimized in multiple-sale schemes is that the buyer fails to hire an accredited surveyor to oversee the exchange and investigate the owner's title for a prior sale. The culprit in this scheme is well aware that avoiding a surveyor's participation and their substantial fee is a strong motivating factors for the buyer to reduce their costs in the property exchange transaction. Without a property survey, the sale moves quickly from a prepared transfer deed, usually by a freelance unaccredited surveyor, to probate, all unscrutinized. The only recourse for any unlucky buyer participant in a multiple-sale scheme is that the first buyers, confirmed by the deed's probate date, possesses the only legitimate claim to the property, all other transfer deeds in a duplicate land sale transaction are considers invalid by law. To curb the torrent of illegal property sales, the Liberian probate system recently instituted a practice of validating transfer deeds with Lands and Mines while the deed is undergoing probate.

Nevertheless, this is a band-aid solution and should not be interpreted by property buyers as a safety net to avoiding survey fees. On the subject of false deeds used to assume property, the fault lies squarely in the laps of corrupt government officials who exerted illegal control over numerous parcels of property with impunity during the civil war and the Taylor regime, and in unethical individuals operating within Liberia's judicial system; a system where any document can be made legitimate for the right price. What recourse does a legitimate owner have against illegal possession of their property by another party? The owner's rights, in this scenario, is the same property-rights that legitimate property owners have against squatters. Armed with a valid deed, or mother deed, the legitimate property owner is not required to even negotiate development compensation

with the encroacher if the property was developed as a residence or commercial property by the encroacher during the owner's absence. The legitimate owner may hire a lawyer, pursue a suit against the encroacher, and eventually attain an eviction. In some cases the perpetrator may actually be the rightful property owner or assigned administrator of a family estate who uses his 'know book' status to deceive relatives and co-owners.

### *Tribal and Public Land Purchase*

For the stakeholder interested in purchasing tribal or public land in Liberia for private use, the land exchange process is a lot more complex and undergoes much more legal scrutiny compared to private land purchases. A buyer considering purchasing land reserved for tribal use to develop as farmland, housing, or industry must first directly petition the town, clan, and paramount chiefs for the land. The chiefs will then present the petition to the tribe's elders for discussion and approval. Following approval by the chiefs and clan elders, the petition is subsequently referred to the presiding land commissioners for the area. The land commissioner will provide the buyer with a land certificate authorizing the purchase and signed by the commissioner, the chiefs, and the district commissioner. The certificate is further escalated to the Liberian president for final approval and signature. The final presidential authorization for tribal land purchase initiates an executive order for the presiding district commissioner to task a surveyor to conduct a survey of the tribal land area that the buyer is interested in purchasing. From then on, the survey procedure remains the same as described earlier, involving a survey application, multiple signatures, public disclosure, and under the jurisdiction of several government ministries. By statute, the Liberian government is allowed to exercise eminent domain in the event a purchase agreement or approval cannot be attained by the buyer from the tribal chiefs. The ultimate right to tribal and public property, in Liberia, is still reserved to the government.

Attaining public land by concession is similar to the process involving acquiring tribal land for private use. The exception in public land concession is that the authority to issue concessionary land is solely, as is all public lands, reserved to the government. The government determines the duration of the concession and can make an exemption to the concessionaire's lease, extending the lease beyond the 20 years allowed for foreign entities such as embassies, foreign philanthropic organizations, or other foreign entities. Firestone, the large US tire manufacturing company operating in Liberia, is an ideal example of a beneficiary of government concession and also an example of conversion of tribal reserve land to private use. Although Firestone was required to negotiate land deals with individual tribal authorities, most of the land currently used by this entity was granted as concession by the Liberian government with a lease exemption extending to 99 years.

The price of public lands in both urban and rural areas is set by statute in Liberian law. The land statute indicates a price of 60 cents per acre (4 lots) for land in Liberia's bucolic areas. The price for public lands in urban areas such as Monrovia and Buchanan are set by law at \$30 Liberian dollars. Nevertheless, these statutory pricing do not reveal the reality of numerous hidden costs in time and money in petitioning, attaining government

authorization, and surveying the public land; nor further legal costs required to remove squatters inhabiting the land.

The land concession granted to the American Cooperative School (ACS) is another example of abuse of government land concession and the subsequent repercussions. In the early 1960s, during the height of the cold war, the Liberian government exercised eminent domain authority over land owned by the Haywood Mission School located in Old Road. The land was conveyed by lease to American authorities, in exchange for about \$1,000USD paid to the government and not to Haywood, to build a school for children of diplomats and other Americans working at various facilities in Liberia. Old Road was an ideal location at the time, considering that the Tubman Boulevard highway was not built by then and the main highway to central Monrovia ran through Old Road and the areas known today as Airfield. Fast forward to 2005, the American authorities have relinquished their interest in the ACS land concession and shut down the school effectively sometime during the civil war. Naturally, the land ownership reverted to the original owners, who still process a deed on the property. Unscrupulous persons, masquerading as ACS alumni intending to rebuild the school under the moniker of an 'elite institution', have initiated a lawsuit against Haywood in the Liberian courts for procession of the former ACS land for development. Equipped with the financial wherewithal, yet processing no valid deed or legal instrument to validate their claims, these plaintiffs have resorted to bribery of court officials and illegal use of official powers to further their land claim against Haywood. The outcome of the ACS land case will significantly highlight the pitfalls in Liberian's land concession system and property laws and have a chilling reverberation among Liberian land stakeholders.

## 5. Property Tax

Liberia's property tax system is an integral component among the torrent of challenges facing property stakeholders. Over the next few years, driven largely by GEMAP initiatives, property tax payments are likely to face scrutiny when the new administration starts implementing financial propriety programs and advocating good governance and transparency in federal revenue collections. These new initiatives to scrutinize tax collections at all levels will be driven largely by the need to find funding for new economic and social developmental programs.

Liberian property owners largely ignore tax payments for a variety of reasons including the advent of the civil war, but mainly because enforcement and collections methods are ineffective. Some estimates place the property-tax paying pool of Liberian property owners at roughly 25-35% of all legitimate land owners in urban areas of Liberia. Extrapolate to include rural land owners and the percentage of tax paying land owners drops sharply to about 10-20%, implying that 65-80% of Liberian land owners simply disregard paying or inconsistently pay property related taxes. Considering that property tax revenue is typically a significant federal revenue source in most developed and emerging nations, one has to ponder the causes and impact of Liberia's lackluster property tax system on a nation already straining for funds to revitalize its economy and society. Is the system to blame? Did the civil war magnify the flaws in the system? Are

land stakeholders being unpatriotic or is there a social logic to their reluctance to meet property tax obligations? Are property stakeholders simply unaware of the how, when, and where regarding the property tax system? Is government's failure to provide and maintain infrastructure in Liberia an incentive to refrain from paying taxes since no benefit is derived to the taxpayer? Let's start by examining how the system works.

### *Property Tax and Assessment*

By law, only the Ministry of Finance retains authority to collect property taxes and administer the property tax system. The amount of property tax attributed to each property is determined largely by a standardized method of assessment and valuation. Every five (5) years, and primarily in the Monrovia area, a team of real estate assessors from the Ministry scurry about in urban and semi-rural areas to determine the value of commercial and private lands and buildings. The assessor's valuation of buildings is based on the pricing of construction materials used, for buildings, and the location, for vacant lands. A visual account is taken of the amount of concrete, windows, tiling, plywood, steel-rods, and other materials used in a building's constructions. This inventory exercise serves as the basis for determining a value for each built-on property, in today's prices, for tax purposes. Herein, renovation to a property obviously increases its assessed value. To determine the value of vacant lands, Assessor use deeds, purchase records, and the value of neighboring vacant property. Depreciation, due to war or natural forces, is also accounted for in the assessor's valuation and usually reduces the assessed value of a property.

With a valuation complete, each property is then taxed at an established property tax rate contingent on the value and usage category of the property. The tax rate on residential dwelling is 0.25% (1/4%) of each property's assessed value. The tax rate for commercial property is 0.5% of each property's assessed value; farm land is taxed at the same rate as commercial property. Vacant land has a sharply higher tax levy at 5% of the land's value. The historical 'Head Tax' of \$10USD imposed on each individual living in a village or township was repealed on hardship and, instead, replaced with the more practical annual 'Hut Tax' of \$200LD (about \$4USD) on each rural dwelling instead. An annual tax levy of 10%, aptly called 'Coast Guard Tax', is also imposed on rental income from leaseholds on commercial and residential property.

All Property tax levies are due on June 31 of each year, coincidentally at the height of the rain season. Property tax levies are considered delinquent after July 31<sup>st</sup>. Property owners are allowed the period beginning January 1 to June 31 to clear property tax obligations with the Ministry of Finance without incurring penalties. After this period, the property owner is subject to a variety of penalties including an extra 10% delinquent tax rate on the property's value, and extending to a tax court order to place a lock to prevent access to the property for tax delinquency.

### *Property Tax Collection and Payment*

Property tax billing and collection in Liberia is carried out in a near military-like manner. During the official tax collection season, which runs from mid June through late July, squads of young men in pickup trucks descend on residences and commercial dwellings in the Monrovia areas with written tax bill notices or warrants to lockup properties of delinquent taxpayers. Property tax collectors ostensibly target properties based on outwardly visible traits of prosperity, but the real motive is incentives given by these elite owners to the collectors to overlook the tax payment. The remaining taxpayers, not blessed with a visit from the tax squad, are entrusted to make the annual trek to the finance ministry on Broad Street to clear property tax obligations and pay related fees. Fortunately, there are no provisions in Liberian law requiring the public sale, via auction, of property with delinquent taxes. Property stakeholders living overseas, through trusted relatives or friends in Liberia, or owners living locally can usually negotiate tax payment with tax officials to avoid simple harassment or a lockout of the property. Some absentee stakeholder have resorted to entrusting their estates in Liberia to legal administrator who are responsible for handling all tax, maintenance, and leasing matters for the represented owner.

Property tax collection remains inconsistent and limited to urban areas. There are signs of an imminent overhaul of the property tax system. Given the housing shortage and financial crunch the newly elected government will encounter, property stakeholder should begin preparing themselves to atone for tax arrears as their estates will likely become targets of the government's initiatives to generate revenue.

A few property tax exemptions exist to ease the burden imposed on the Liberian property stakeholder. Stakeholders rebuilding or renovating damaged property, sustained from the civil war or neglect, are eligible for a 5-year property tax exemption. The exemption begins after the renovation is complete and requires that the total renovation cost exceed at least 50% of the value of the property. Stakeholders developing farmland to produce crop are also eligible for a 5-year property tax exemption. Both exemptions require that the property's owner apply for the exemption status at the finance ministry. The final legal property tax break for property stakeholders exists in the form of a property tax holiday. By statute, all property taxes are waived for the year 1998; however, owners are required to pay all tax levy arrears for years prior to 1997 and after 1998, including most of the civil war period.

## 6. Solutions through Legal Reform

No discourse on Liberian real estate system is complete without imparting suggestions for improving this grossly ineffective and inefficient system. Laws governing property rights are the prime targets for reforms that will eventually reduce conflicts or the potential for disputes involving property. Liberia's land laws are outdated and spasmodically enforced. How can this crippled nation emerge from destitute and achieve economic and social growth without adequate property inventory and taxation methods? How can Liberia's new trustees implement new programs against poverty, disease, and illiteracy with adequate tax revenue collection? Will growth continue to rely on foreign aid? Can Liberia continue to support discriminatory laws governing tribal property and leave this segment of its citizenry economically disadvantaged?

Firstly, a systematic overhaul of property rights laws are required to begin necessary land reform in Liberia. The probate system should require title certification to prevent duplicate and triplicate probate scams. In effect, the probate system should engender the role of a watchdog to protect land buyers, sellers, and legitimate property owners. To minimize fraud, each land probate transaction should require passing a validation checklist encompassing evidence of title/deed, survey, ownership, zoning, notification, and tax clearance before completing the probate procedure.

Furthermore, an independent agency should be established to enforce Liberia's public and private property laws. This new real estate regulatory agency would have a legal mandate to set standards for certification of surveyors and other real estate professionals and enforce penalties for malpractice, to set standards for legitimizing all real estate transactions involving residential, commercial or public property, to establish and enforce guidelines for conversion of public property to private ownership, to handle arbitration of property disputes, to advocate for an open market private property exchange system, and to oversee a revival of Liberia's land adjudication process. The new agency would also have a mandate to develop strategies for land use and strategies for using public lands and tax incentives to attract local and foreign commercial investment in Liberia. The new agency would derive its funding from professional fees, property transaction fees, and government subsidy.

To be effective in its mandate to oversee public lands, specifically tribal reserve lands, the real estate regulatory agency described earlier, or something similar, must preclude an initiative abolishing the current discriminatory tribal reserve laws. Liberia's tribal reserve system represent a time and age when an Americo-Liberian populace ostensibly regulated a much larger indigenous populace to a lower socio economic status with uneven land ownership policies. Tribal residents living on reserves have no individual rights to lands occupied and harvested by them for generations. The land trusteeship structure allows clan chiefs, paramount chief, and government officials the discretion to sell off the tribe's homestead without individual consent from any tribesperson. Because of this fact, hundreds of thousands of Liberian are suspended in poverty since they cannot leverage the equitable benefits in private land ownership. They cannot mortgage their private interest in current tribal reserve lands to attain small loans for investment in farming cash crops on arable farmlands or for business development; a path to indemnification from poverty.

Liberia's tribal reserve system must be replaced with a more effective land tenure system. Converting to the new tenure system would require redistributing, once reserved tribal land under central control by tribal chiefs and government ultimatum, to individual or groups of owners based mainly on a criteria of length of homestead and/or heirship. Under the new land tenure system, private land ownership rights for allotted reserve land would include right to occupy, make permanent improvement, bury dead relatives, access wood and other fuels for cooking, lease or mortgage land, exclude others from access, and the right to protect personal property--the same rights available to private landowners in the Monrovia area.

The tenure system is by no means a perfect solution to a discriminatory tribal reserve system practices in Liberia. Factionalization is a key disadvantage in the tenure system. It is a consequence of multiple ownership on private property which creates a difficulty in contacting all owners to execute real estate transactions and in reaching a consensus on managing and using the land. Also, the tenured property may be diminished as an asset if the estate is not properly managed by its' new private owners who may not be educated in estate management nor understand the tax ramifications of private land ownership. By developing programs to inform indigenous landowners about appropriate property management, development options, and ownership rights, the government can significantly reduce factionalization in Liberia's land tenure allotment system. The main incentive for government in implementing a tenure system to replace tribal reserves is that the new system will create a larger property tax base and reduce some of the socio-economic burdens facing hinterland residents.

The adjudication of land throughout Liberia must be revived. Adjudication, which started in 1970s as a UN program to settle land disputes by creating an inventory record of land ownership in Liberia, should be an essential ingredient in Liberia property system reform. The process halted early on due to poor funding, but managed to create a reliable inventory of property only in central Monrovia up to Sinkor. Extending adjudication to each of Liberia's 13 counties will likely require a substantial commitment of financial and labor resources. But the long-term payoffs, including establishing an alternative legal record of ownership independent of a paper deed provided by an owner stakeholder, far outweigh the costs. Adjudication has the potential to reduce land conflicts especially in Liberia's bucolic area wherein conflicts arising from land disputes are more prominent than in urban, adjudicated Monrovia.

Collectively, these new reform measures in land laws and land policy will effectively create a more dynamic real estate environment wherein local and foreign land stakeholders will invest increasingly in Liberia, with confidence in the country's legal protections provision pertaining to property rights.

## 7. Solutions through Technology

The other side of a coinage representing changes in Liberia's property system depicts adapting technology in the reform strategy. Liberia's national archive would incur immense benefit from an initiative to digitize all archive records into an efficient format less susceptible to damage and more quickly accessible. Converting our national archive documents to computerized databases in an initial phase will reduce the average deed search timeframe from months or years to mere seconds. Subsequent improvements to the national archive repository could place the entire repository in an online medium with enriched multimedia content and in the hand of stakeholder with a web browser and an inquiry for an inherited parcel of land. The resources required to implement a modern archive system are available and fairly inexpensive. The practical benefits of an electronic archive system in Liberia cannot be overstated, but fulfilling this vision of a

modern archive system will entail advocacy, training, funding, and common sense from Liberia's administration.

A comprehensive public record system of land ownership in Liberia will entail further integration of technology to create an electronic record of land adjudication, probate, archive, property tax obligation, land tenure, zoning, and category. Creating such a system will require multilateral cooperation from various government agencies that oversee the procedures that eventually generate the records. If it is possible to galvanize mutual support from these agencies for a consolidated and interactive set of computer systems to substitute all of Liberia's current land related administrative procedures and record, than the goal of establishing a property system unimpaired by corruption and incompetence will be realized.

As a national resource, the value of a national electronic land record system would be evident in its ability to immediately transform previous archaic and stressful procedures into simple tasks. A property buyer would be empowered to conduct his/her own research of electronic land records to validate the ownership of a prospective lot of land, thus reducing his/her surveyance costs. An owner could easily determine his/her property tax obligations by pulling up a web browser instead of enduring repeated visits to the Ministry of Finance for that information. A probate court clerk could quickly determine if the current owner already sold a property or if the seller is a valid owner; thus preventing a duplicate sales scam; all at the click of a mouse. Using electronic land records, Liberia's administrators would have a better resource for making tax revenue projections, for spotting land use trends, and for developing new strategies to maximize the potential of each parcel of idle public land.

A new system to replace existing paper-based procedures and records in Liberia's property system will be even more effective as an element of a government wide strategy to integrate technology to improve transparency in all financial, administrative, and planning functions of the government. Liberia has the potential, as it has done with cellular technology, to fully leverage the promise of the information age and its tendency to greatly reduce information asymmetry, wherein information is owned and exploited by a few. Through land reforms and technology, Liberia can achieve a balanced and open society, free of unnecessary bias, and wherein all land stakeholders can pursue life, liberty and a decent place to call home.

## 8. Epilogue

I must thank all those who provided, via personal and phone interviews, the information for this article. They know who they are. Their invaluable insight and knowledge of Liberia's extemporaneous property system and its potential pitfalls inspired this article. They see the light at the end of Liberia's unfortunate journey through despair and indifference.

My last article entitled 'A Case for Privatization of Liberia's Telecommunication System' sparked numerous discussions, a bid sale of LTC's assets in a tender process,

and the orchestration of an elaborate scheme to exploit Liberia of its national telecom assets. Despite the obstacles, it seems, progress has and always prevails.

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