

Presented at the FIG Working Week 2016,
May 2-6, 2016 in Christchurch, New Zealand



FIG Working Week 2016

CHRISTCHURCH, NEW ZEALAND 2-6 MAY 2016

Recovery

from disaster

Organised by



Platinum Partners



Diamond Partner





TS03H_ REAL ESTATE ECONOMICS & EXPROPRIATION SOLUTIONS TO LAND POLICY PROBLEMS- Paper 8312

Compensation Assessment for Land Acquisition

the Dichotomy of National Laws and Development Partners Resettlement Requirements

Felician Komu, email: fkomu@yahoo.com

Ardhi University, Tanzania



Presentation Outline

- Background to the Case
- Study Objectives
- Methodology
- Land Acquisition and its Woes in Tanzania
- Magnitude of Land Acquisition and Involuntary Resettlement
- Compensation Assessment and Objections
- Suggestions
- Conclusions



General Land Compensation Situation in Tanzania

- Compensation disputes account for 19% of land-related disputes
- Growth of compensation cases from 11,000 per annum in 2011 to 43,000 in 2015
- For many years, an urban-sector problem
- Prerogative of the Ministry responsible for lands
- No comprehensive policy on implementation of land acquisition and resulting relocation



General Compensation Situation in Tanzania

- Non- Recognition of Dominance of Funding Organisations Guidelines over national laws on land acquisition and handling of involuntary Resettlement



Study Objectives And Methodology

- **To establish disparity if any between compensation assessment criteria** under national laws and those set by global financing organizations such as World Bank OP 04.12
- Reflections on Consultancy experiences in land compensation and resettlement planning in Tanzania over 30 years
- Interview with 45 individuals affected by land acquisition procedures in the city of Dar es Salaam and 23 in the northern regions of Tanzania (Arusha and Rombo)
- review of 5 Major Compensation Projects as well media reports and workshop presentations



Land Acquisition in Tanzania Woes

What it has to do

- Expropriating land from an individual by Government for an approved project ('public interest')

What it ought not to do

- Denying current owners 'realization of hope values'
- Taking land without prior consultation with the PAPs:
 - Identification of the PAPs
 - Explaining the reasons for acquisition
 - Adjudication and Valuation Surveys



Why Land Acquisition

Mostly an urban area problem for many years

- infrastructure provision,
- orderly planning of existing settlements,

Fast growing rural land problem

- 'Land Investment/Grabbing Problem'
- Agro-business projects mostly by FDIs
 - Food security strategies- e.g the Southern Agricultural Corridor of Tanzania (SAGCOT) over 300,000km²
 - Alternative source of energy (biofuel - 388,421,734 ha required in 2012 in Tanzania alone!)



Magnitude of the LARs

- A steady increase in number of compensation cases from around 11,256 in 2011 to over 43,000 cases by December 2015.
 - Dar es Salaam (19%), Mwanza (20.7%) and Morogoro (10.5%).
- Estimated at least 50,000 households would be displaced annually in the next 5 years in Tanzania



Compensation assessment laws

Five major instances in the laws of Tanzania attempting to qualify compensation

1. Act No. 47 of 1967 S. 12 “ **adequate compensation..**’ based on market rates
2. Land Act No. 4 and Village Land Act No. 5 of 1999 ‘...**full, fair and prompt compensation...**’ **‘to be assessed by a qualified valuer’**
3. The Investment Act No. 26 of 1997 ‘...**fair, adequate and prompt compensation...**’



Compensation assessment laws

4. The Road Act No. 13 of 2007

*‘... **for purpose of determining the amount of compensation payable, be calculated in accordance with the provision of the Land Act of 1999....**’*

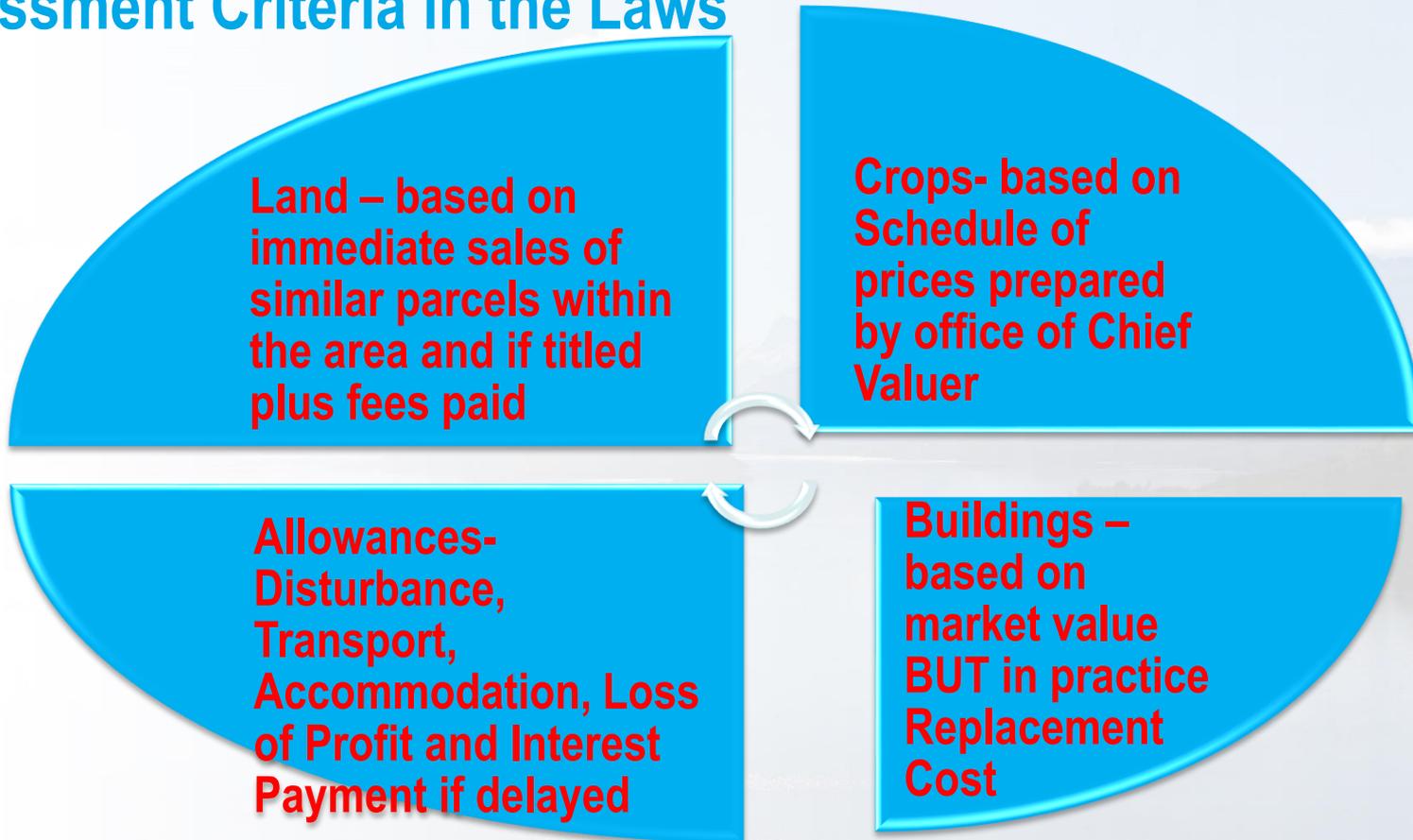
5. The Export Processing Zones Act No. 11 of 2009

“... pay the owner of such property just and prompt compensation in a freely convertible currency...”

NOTE: None of the laws nor regulations made under such laws make reference to any of the provisions of the World Bank Safeguard Requirements AND YET MOST MINISTERIAL PROJECTS HAVE THEIR OWN SECTORAL RPF!



Assessment Criteria in the Laws





Donor Funded Projects- Acquisition Elaborative





Why Ex-PAPs Objections?

- Not because they were ignorant of what was happening!
 - Most confirmed they were involved in all the stages
 - But, also, they did not know the final assessment
- During the first 6 months of receiving compensation
 - Ownership Details e.g misspelt names,
 - Ownership claims often actual owners missed out or misidentified (surnames!)
 - On compensation amounts received, strangely VERY Low Incidences (only 3 in the five Projects studied)
 - Wrong Count of Crops, Missed Graves
- Between 6 months and 5 years
 - An increase Number of Dissatisfied with Amounts Paid (some by legal counsels)
 - Follow up Committees and some with support of NGOs
 - Some compensation disputes go back to projects executed in early 2000!
 - No complaints on delayed compensation despite the obvious!



FIG Working Week 2016

CHRISTCHURCH, NEW ZEALAND 2-6 MAY 2016

Recovery

from disaster

Reasons	New Urban Use(2002)	Road (2007)	Resettlement Hosts (2010)	Rail Yard (2011)	Way-leave(Gas) 2013
Inadequate	3	53	7	156	75
Misidentification	54	121	2	33	345
Missed Out	21	5	4	78	125
Others/graves	24	23	0	21	67
Total	102	278	13	288	612
Total PAPs	1,090	1,898	105	2,889	3,178
% Complaints	9.36	14.6	12.4	9.97	19.3



Observations

- The reasons for compensation disputes can be explained about the changes through the acquired areas have undergone
- Complaints are more likely to reoccur due if the
 - Amount of compensation made is materially at variance with the realisable latent/hope value of the lands acquired.
 - Ex-PAPs take long to adjust in the new resettlement areas i.e levels of technologies required, distraction on their spending behavior
 - Ex-PAPs who stay back perceive the fast appreciation of their former areas as loss and would take advantage of loopholes in the laws to appeal
- Governments do not produce the required data to enable assessment (even when OP 4.12 applies) but also they are jury in deciding compensation claims brought against them.



Observations

- Main issues in LAR is Not the valuation
- Delayed Compensation has tended to encourage illegal transactions of the land already surveyed and valued for compensation purposes
- Enhanced land market activities within the land acquisition affected areas. An increasing number of land seekers flock into areas, hiking land prices
- Ex-landowners who are allocated land for resettling dispose those lands to an emerging market usually at a price much lower than what was paid for by the compensating authority.
- Rushed developments within the resettlement areas oblivious of the need for building permit from local authorities as a means of asserting ownership
- Extensive consultation with the affected population does not guarantee success of land acquisition programme



Observations

- **Oversight of Donor funded Projects on the role of the existing Institutional Framework –The Ministry of Lands**
 - Ministerial sectors have established their own Resettlement Policy Framework with little or no consultation at all with Ministry of Lands. Is this wrong?
 - Non-involvement of experienced and skilled persons in drawing up the RFP
 - Confused use of value concepts has bred confusion and unnecessary criticisms to the local valuation practitioners.
 - Sectoral Vs Comprehensive Policy Intervention



Suggestions

- Land Reforms in Tanzania must take cognizance of the fact land acquisition and resettlement is a fact to stay
- Need to formulate national and even regional standards on compensation matters which has not happened.
- High time we considered other strategies towards land acquisition
 - Assisting Displaced population to resettle through a mortgage financing, education on how to exercise frugality in money paid as compensation, and be wary of selling off their land to speculators
 - Enlisting current land occupiers in the case of projects whose primary focus is on food security (land for equity)
 - Promotion of Socially Responsible Investment in land and property
- Land Reforms in Tanzania should unequivocally address Resettlement Issues as these are crucial through the Ministry of Lands
- There is a strong need for new law on Land Acquisition Act to accommodate changes and procedures for involuntary resettlement



Conclusion

- This was an attempt to review the current compensation assessment practice in Tanzania reflecting on the several interventions by government and donors such as the World Bank with a view of establishing best course of action to take when compelled to acquire land from land occupiers.
- It was an intrigue on the rhetoric market value and its surrogate 'replacement value' in the World Bank nomenclature that is perceived as the panacea for the compensation problem in Tanzania.
- Compensation assessment is not the big issue as most donor-funded projects have tended to argue
 - Least of all it is not the so-called depreciation of Replacement Value when assessing house



Conclusion

- It is about late awareness by the affected people of the benefits that they no longer can access
- There is therefore a need for a holistic approach first to ensure the key components of land acquisition i.e the acquisition itself, relocation and monitoring of the process are properly handled
- Without a proper and clearly defined guidelines that are locally founded and which aim at maintaining consistencies and high level of ethical conducts by the professionals involved, compensation related disputes can only be hoped to grow

END- ASANTENI- THANK YOU- MERCI

Ka kite anō!.