

THE CRITICAL ROLE OF LAND SECTOR PROFESSIONALS IN DELIVERY COST EFFECTIVE SOLUTIONS FOR THE MANAGEMENT OF CUSTOMARY LANDS.

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ABSTRACT

It is a known fact that 80% percent of all lands in Ghana fall within the jurisdiction of customary ownership. Though the government holds portions of lands, lands in Ghana are largely owned by families, stools, skins, communities, individuals etc. Land affects all economic transactions from trade to industry to manufacturing to health and is a necessary requirement for the overall development of any country especially countries in sub-Saharan Africa. In Ghana, specifically in Kumasi, traditional leadership is passed on through bloodlines and family relations. Though other criteria are critically considered for the enstoolment of a traditional leader, the basic requirements are solely based on one's qualification through bloodline. These royal bloodlines had long been established through conquest and war.

Though the Kumasi Traditional Authority (KTA) can boast of a very strong traditional institution, there is the need to improve on the level of land management skills most traditional authorities possess, critical for the effective and sustainable management of the land resources at their disposal. During enstoolment traditions, would-be leaders are taken through customs and rites to ensure they are well abreast with the ways and manners required of a true traditional leader. There is a critical factor or set of skills that is given less attention albeit not consciously on the part of the kingmakers. Would-be leaders are taken through land management practices which at best could be described as insufficient and outdated considering the multiple dimensions of land resource management. Effective land administration requires skills which are critical to development in general as well. Traditional leaders require such effective skills in their quest to manage their land resources and spearhead development. One cannot talk about traditional leadership without mentioning land. Traditional authority is intrinsically woven together with land issues. Land issues affect traditional authority in much the same way as traditional authority affects land issues.

Further down the line one would notice the absence of best land management methods. The use of maps, layout schemes, data management, to ensure the effective and sustainable use of land resources is virtually non-existent. With the increase in urban population and its attendant problems, Kumasi as a sprawling urban centre would need state-of-the-art solutions from land sector professionals that are very much cost effective and very much address the need to put our traditional authorities in the driving seat to propel massive unprecedented development.

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All land sector professionals i.e. Land surveyors, Estate surveyors, Planners, Architects, Engineers etc. have a crucial role to play in bringing this developmental agenda to fruition. It would be virtually impossible to rely on the government of the day and its development partners alone to propose policies and fund activities to propel massive development in all aspects of the local economy. It is simply a daunting task .the total development of Ghana hangs on its ability to deploy an effective land administration system with traditional authorities playing a lead role. As traditional leaders are empowered, they further empower their subjects to accelerate the sustainable development agenda. As land sector professionals we play a leading role in partnering with traditional leaders and networking amongst ourselves to ensure our traditional authorities receive the right guidance and adopt best practices in the management of the lands.

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1. INTRODUCTION

The term "land" as understood in customary law has a wide application. It includes the land itself, i.e., the surface soil; it includes things on the soil which are enjoyed with it as being part of the land by nature, e.g., rivers, streams, lakes, lagoons, creeks, growing trees like palm trees and dawadawa trees, or as being artificially fixed to it like houses, buildings and any structures whatsoever; it also includes any estate, interest or right in, to, or over the land or over any of the other things which land denotes, e.g., the right to collect snails or herbs, or to hunt on land Ollennu (1962)

A famous local Ghanaian proverb embodied in the 'Sankofa' symbol literally says that it is not a taboo to go back and pick a useful thing one has left behind. We contend that it is time we went back to our customary law and tenure roots to pick the good things in our communal vestiges where land access, management, control, disposition, dispute resolution and sustainability are vested in the community and its institutions and same are integrated into the land tenure system and land administration of this country.

In Akan customary law, (particularly among the Ashanti and Akyem) the paramount or allodial title is vested in the head stool (Golden stool). Ollennu (1962) explains that as the stool is the embodiment of the collective authority of all the members of the community, the stool holds the allodial title to all the lands of the village, town or tribe.

It is generally accepted view among the Akans, notably the Ashanti and Akyem, that the allodial title to all lands is vested in the head chief, of whom the lesser chiefs in turn hold lesser titles in a manner corresponding to their positions in the hierarchy of the political order. In other words, land holding is the product of political allegiance to a higher authority in the hierarchy in the Akan state.

Two broad tenure arrangements exist: customary tenure and public land tenure. It is estimated that 80 percent of Ghana's lands is held under customary land tenure systems (Sarpong, 2006). The Ghanaian Government guarantees customary tenure arrangements. Customary land secretariats have been established to administer land rights but only a few are operational.

2. THE KUMASI TRADITIONAL COUNCIL

The Kumasi Traditional Council (KTC) was established under section 12 of the Chieftaincy Act, 1971 (Act 370). Under the Chieftaincy Act, 1961 (Act 81) which was replaced by a Chieftaincy Act, 1971 (Act 370), the Kumasi Traditional Council was known as Kumasi State Council, which was established under the State Councils (Ashanti) ordinance of 1952 (No. 4). It was earlier known and called the Kumasi Divisional Council.

The traditional jurisdiction of KTC covers the whole of Kumasi Metropolitan Assembly area and some areas in the Ashanti and Brong Ahafo Regions of Ghana. It comprises of Krontire, Akwamu, Adonten, Benkum, Gyaase, Ankobia, Kyidom, Oyoko, Mawere and Nkosuo divisions. Each of these divisions has its own Divisional Council. The Asantehene is the President of the Kumasi Traditional Council. The Krontihene of Kumasi who is also the Bantamahene is the Vice-President of the Council. The KTC is responsible for the registration of new chiefs and the removal of chief's name from the Chiefs Register when the chief ceases to perform his function as a chief through death, abdication or destoolment. It is the duty of the Council to notify the public in the gazette about installation of a chief. The council's Research Unit is responsible for review and compilation of customary laws and lines of succession to each stool within the Kumasi Traditional area. The KTC is also responsible for the administration of Kumasi stool lands.

The Kumasi Traditional Council is the largest traditional council in the country. It has complex administrative structure which is different from the other Traditional Councils. In addition to the Kumasi Traditional Council which is a statutory institution, there are other offices within the Kumasi Traditional Council which are non-statutory. The non-statutory offices are the Asantehene's Secretariat, Asantehene's Lands secretariat and the Kumasi Traditional Council Arbitration Court. The Asantehene's Secretariat is headed by a Chief of Staff who co-ordinates all the activities of the non-statutory offices of the Asantehene.

There are two main categories of land within the Kumasi traditional area. These are Part One lands and Part Two lands. Part I lands are vested lands; all other lands (public or stool lands) constitute the Part II lands. Stool lands form the greater portion of all lands within the Kumasi Traditional Area (KTA) These are managed and administered by the Asantehene's Lands Secretariat alongside the various traditional authorities. The Asantehene is the overlord of all stool lands within the KTA whilst land management follows to a large extent the pattern of the hierarchy of traditional governance. In the KTA, customary land administration maintains a unique characteristic in that it is almost inextricably linked with the fabric of the traditional government. There is duality in the legal & institutional framework for land administration in KTA as both state laws and customary laws apply concurrently. State Institutions and traditional authorities exist together to manage and administer lands under their jurisdictions.

The main interests identifiable in the Kumasi Traditional Area are: Allodial (*Trama/Akondwa Asaase*), Sub-Allodial, sub/Sub-Allodial, Usufruct /Customary freehold (*Abusua asaase*), Leasehold and Tenancy (*Abunu/Abusa*). Rights under the allodial interest are held perpetually

by the Asantehene in trust for subjects of the Golden Stool. The right to the sub-allodial interest is held by the paramount chief of the traditional area and he derives that authority from the Asantehene. The paramount chief has some level of autonomy in the management and administration of lands within his traditional area. Divisional chiefs (Caretaker Chiefs) of traditional areas hold the rights of sub/sub-allodial interests in the Ashanti Region and such authority is derived from the Asantehene in trust for the people. They however manage the lands under their jurisdiction in consultation with the paramount chiefs. Rights to the customary freehold interest are held by the head of family perpetually in trust for a family/lineage. He cannot however allocate lands under his authority to another family. Also Rights held under the leasehold interest is open to all who are interested, with the terms and conditions under which such interests are operated defined in tenancy agreements often subject to renewal after expiration of the term. The land in question has to be used for the purpose for which it was given. Usufructuary interest is open to all individuals interested in farming and depending on the type of crops under cultivation, the tenancy agreement is enforced.

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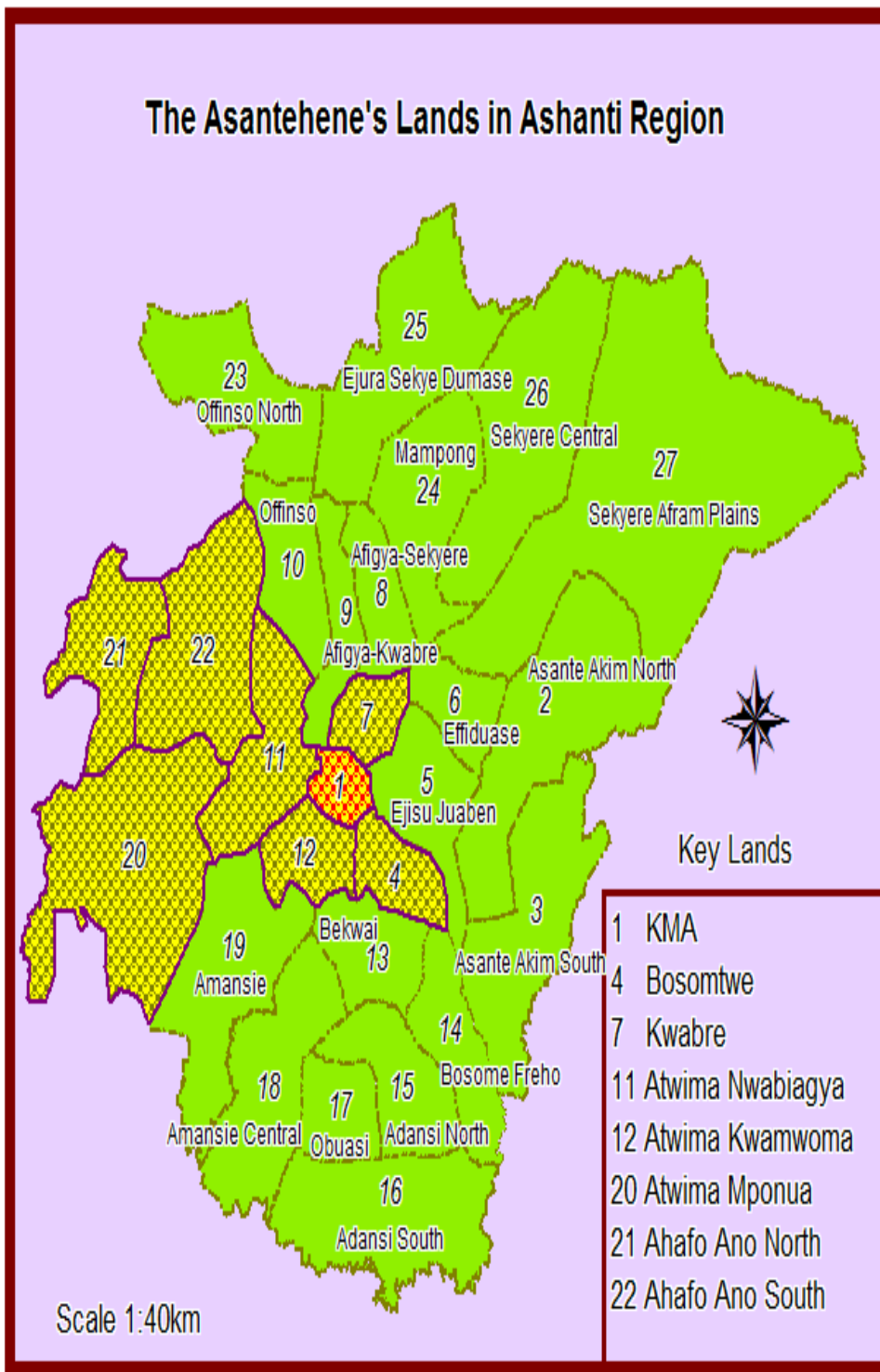


Figure 1 map of KTA

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3. LAMAS: AN EXAMPLE OF A FANTASTIC TOOL IN CUSTOMARY LAND MANAGEMENT

3.1 Introduction

The phenomenon of urbanization and rapid population growth around the world have brought about in its wake several challenges to urban managers, most especially, in third world countries like Ghana. It is estimated that by the year 2050, close to 70% of the world population will be living in urban areas (Montgomery, 2008). The census report of the Ghana Statistical Service in 2010 stated that currently, Ghana has a more urban than rural population. As the population continues to increase, the land needed to accommodate for the increasing population however is fixed and static due to the fixity element attributed to land. This contrasting fact thereby leads to increasing competition for space on land. It is this reason that we are faced with challenges such as poor environmental conditions, uncontrolled growth, poor infrastructure and service delivery, land boundary and allocation disputes among others as a country.

Within the Kumasi Traditional Council, the Asantehene holds the allodial title to all the lands within his jurisdiction with the exception of public lands in trust for his subjects. As a result of this, the chieftaincy institutions in Kumasi hold a bigger influence with respect to acquisition of land for development. The Kumasi traditional area is large and covers the Kumasi metropolitan area as well as seven other adjoining districts. Lands within this enclave are managed and administered by divisional (caretaker) chiefs. They are usually the first point of call for prospective developers and as such have very access to very important basic information with regards to land transactions.

The benefit of using an efficient land management system to protect and maximize the use of land is enormous and self-rewarding. Among these benefits include putting the land resources to an efficient and best use by ensuring that land uses are arranged in an orderly manner so as to minimize the risk of having incompatible land uses in the environment. Also, an efficient land management system can help us in ensuring that we achieve sustainable development which is consistent in protecting the environment for the current and future generations. The concept of promoting sustainable development have been enshrined in the Millennium Development Goal compact and subsequently the sustainable development goals as espoused by the United Nations' development agenda: which is aimed at alleviating poverty and protecting the natural environment. By putting the land to its appropriate and best use, development is accelerated as a result and this inures to the larger good of the populace.

The objectives of the Land Management System software includes among other things to:

- -Provide ease and efficiency in land database management
- -Provide Ease of land data management
- -Security of data to ensure guarantee of tenure of the land
- -Provide prudent data tracking systems
- -Efficient management and planning of the area
- -Prudent monitoring and evaluation systems
- -Rapid and secured land allocation system

Within the regional context of Kumasi and its environs, challenges such as multiple sale of land, land boundary dispute, protracted land litigation among several other challenges confronting the land sector which have several negative implications towards the development and growth of the region. These challenges have been occasioned as a result of the enormous powers which have been given to the Traditional Authorities as the custodians of the lands on behalf of their loyal subjects. The need to shape this influence into something positive for all Ghanaians is ever needful. The power bestowed on the chiefs as the custodians of the lands, should be shaped into a powerful weapon for development. Land sector professionals are better positioned to serve as ambassadors to propel this required developmental agenda.

our refusal to champion this agenda would create challenges does not only affect the development focus of the region as a result of the increased cost of doing business in a protracted land conflict in the area but potential investors would be unwilling to invest their resources in the region due to the risk of loss of their investments into the region. peace and stability in the area would also be threatened due to the many challenges the land sector faces. As city authorities attempt ways at finding innovative and practical solutions at addressing the challenges confronting them, it is useful that traditional authorities pursue efficient land management as a path to creating congenial living environment and minimizing the challenges confronting the land sector. It is in this light land sector professionals as required and encouraged to play a leading role in spreading useful technology such the land management system (LAMAS) and others sustainable land management modules created by GLTN, FAO, UN HABITAT and other international institutions all with the singular aim of improving land administration in sub Saharan Africa.

3.2 How the software works

The LAMAS software is a geo-info based system that was programmed using C sharp language programming code. The software is programmed to be able to rely on shapefiles created from already existing maps and land use plans that have been fed into the system for further manipulations and analysis to be done to achieve the desired result. The software is used to allocate land; keep track of its records, among others. The software is able to decode the information which have been embedded within the shapefiles of the area and extract the information for further manipulations whilst queries on the data may be done.

Once the software is launched, the user would be required to import the shapefile of the area which contains the various attribute data to be able to process and manipulate the data for further analysis. The importation of the shape file will pave the way for the layout of the area to be displayed on the main screen panel. After importing the shape file, the “*label feature tool*” is used to clearly label the area so as to view the various street names and the plot numbers for each parcel of land. This is done so as to make it easy to identify the various plots of lands and the sections of the area.

With the “*allocate land button*” in the software, the stool would be able to allocate parcels of land to clients who seek to acquire lands in the area. Once the approval have been made to allocate the land, a pre-generated owner information log would be displayed for keeping track of the information on the individual wishing to acquire the land and such generated information is generated into a predetermined format and stored for easy and convenient data management and record keeping of the area. Once the parcel of land has been allocated to an individual, the software guarantees security of tenure on the land by ensuring that double allocation on the said land is avoided. This is done by denying access to re-allocation of the land to anyone else after the initial allocation is finalised.

3.3 Challenges faced

The challenges faced in coming out with the software included time factor and technical know-how. Coming out with the software has not been an easy task, considering the fact that I collaborated with some students of the Geomatic Engineering department of the Kwame Nkrumah University of Science and Technology. A lot of time went into research, data gathering, programming and getting the attribute fields needed for running the software in place. The other foreseeable challenge is that of implementation of the software and the creation of small offices for traditional rulers.

3.4 Advantages of using the software

To begin with, the Land Management System software is able to provide ease in data management on land transactions. Keeping track of land documentation and processing have become a problem due to poor data management in our part of the world coupled with the roles of the chiefs as the custodians of the lands on behalf of the people have made it difficult for the our traditional rulers to properly track and manage lands efficiently and productively. With the use of the LAMAS software, the problem of allocating the same parcel of land to two different people has been addressed and solved by ensuring that the software approves the allocation of a parcel of land to only one individual. Also, once the allocation is made to the individual, all the relevant information regarding the land and the individual are picked up and stored in the custom generated file system installed in the software. The software is also able to tell the number of allocations that have been made in the area, with a prudent backup system in place; a proper record of all land transaction is generated and stored for the benefit of the society.

Also, the software is able to guarantee security of tenure for the land acquired by individuals due to the proper record keeping systems which is inbuilt in the software. It ensures that parcels

of land are allocated to only one individual thus avoiding the menace of double allocation taking place.

3.5 Prospects of the software

The software in the long run is aimed at bringing land management information to the doorstep of individuals. This would be achieved by developing the software into an application to be easily assessed on a smart phone. This will go a long way to bridge the information gap currently existing in the land sector. Individuals would be allowed to assess the software from their smart phones wherever they may be so as to provide convenience to the consumer as well as the traditional authorities, who are custodians of the land.

We are seeking to make the use of the software as comprehensive, easy and reliable as possible by adding Google earth feature to it so as to ensure that, from the quick click of a button of the individual consumer, he can assess information on the area, surrounding estates, etc. This feature will make the use of the software as practicable as possible. The software would also be used to help in revenue mobilization drive in communities to undertake common developmental goals such as public toilet facilities, schools, markets etc. With the database systems in the software, it would be easy to keep track of number of people who fall in the taxable pool. This would go a long way to ensure that there are proper monitoring systems in place to keep track of the revenue mobilization drive.

4. THE ROLE OF LAND SECTOR PROFESSIONALS

Land sectors professionals such as land surveyors, estate and valuation officers, land use planners, architects, and quantity surveyors are very critical to the development and management of customary lands. Usually most traditional leaders tend to trust the word of these afore- mentioned land sector professionals. Once a traditional leader makes contact with one of the aforementioned professionals, he invariably has access to all the other professionals in the network of the contacted professional. If a traditional leader contacts an estate and valuation officer, the estate and valuation officer may recommend other professionals say the land surveyor to undertake some important task that maybe beyond the expertise of the former. If land sector professionals are going to be true to their role, several land related problems may be put to bed.

The need for an efficient and prudent land management system within Kumasi and the nation as a whole have been clearly stated in an unequivocal manner in the write-up to emphasize the need for it in the land administration system in Ghana especially with respects to customary lands. From the chronology of problems facing the land administration in Kumasi, it is imperative on the need for an efficient and dynamic land administration system that would be used to curb the many difficulties confronting the customary land sector, with respect to land dispute, poor record keeping, and the complex land tenure system among others.

It is in this light that the Land Management System software (LAMAS) has been designed having the land sector professionals as the focal point of access. With a fair understanding of the challenges confronting the land sector and with the willingness to address same, the

LAMAS have been programmed to remedy several critical challenges as identified in the management of customary lands. Notable among these is the ability of the software to prevent the phenomenon of multiple allocation of land to individuals by the various stools, proper record keeping systems in-built in the software to be able to keep track of every transaction that take place with respect to allocation of the land.

It is hoped that with such innovative and dynamic efforts at revamping the land sector in Kumasi as the development of the LAMAS software, the myriad of challenges confronting the land sector especially in Kumasi would be a thing of the past. The design and implementation of the LAMAS is an initiative of some land sector professionals who came together after identifying a critical gap and created a solution that would solve several problems as identified earlier within the customary land administration system in Kumasi and its environs.

5. SETTING UP SMALL OFFICES FOR TRADITIONAL LEADERS

As a land sector professional, I have identified a huge gap that needs the support of all land sector professionals to resolve. This is the issue of land transaction management amongst the traditional leaders at the very basic level. Prospective clients and developers or even the government usually contact the caretaker chief or a traditional leader of a particular area for possible allocation of land for development. As is the case, several traditional leaders lack the requisite technology and knowhow in keeping good records and tracking subsequent transactions on their lands. Using the LAMAS software as the backbone, each traditional leader or caretaker stool would have an office setup to keep both paper records and paperless records of all transactions of their lands. This office could be a small room consisting of an office desk and chair, a computer, printer and internet connection. Once this is done at the very basic level information gathering for national development becomes easier. Though a few traditional leaders have set the pace in having up to date information on all land transactions within their jurisdiction, imagine if every traditional leader had proper records of their land transactions, a myriad of problems would be easily avoided to the benefit of all.

6. CONCLUSION

The role of land sector professionals cannot be over emphasized here. They are agents in propelling the developmental drive. A sound economy relies on a good and strong land management system as foundation. Land sector professionals would usher in the new age of managing lands in Kumasi, serving as a model for the rest of Ghana, West Africa and ultimately Africa. The success stories of several startups can be seen all over Africa; particularly in fintech, online retail, amongst many others. The land administration sector is usually seen as a grey area considering the bureaucracy and mystery surrounding land transactions. With the dawn of a new age, several land sector professionals would seize the opportunity to create cutting edge solutions for the management of lands especially customary lands. Land sector problems such as insecurity of title, multiple sale of land, land boundary dispute would be a thing of the past.

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ABBREVIATIONS

GLTN – Global Land Tool Network

FAO – Food and Agriculture Organization

LAMAS – Land Management System

FINTECH – Financial Technology

KTA – Kumasi Traditional Authority

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BIOGRAPHY

SAM is a young surveyor with the Ghana Institute of Surveyors and works with the Asantehene's Lands Secretariat at the Manhyia Palace in Kumasi, Ghana. His passion is using proven modern spatial technologies such as GIS in solving the numerous challenges with land administration and land management amongst Traditional Authorities. In 2016, he founded Total Land Services, a start up that seeks to produce cutting edge solutions to the numerous land management problems plaguing Ghana.

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