

6. How can local authorities promote urban development in municipal areas and in trading centres?

Uganda is one of the least urbanised countries in Africa, but this situation is changing fast. Some trading centres are developing rapidly, and some are becoming classed as 'urban' land, with different procedures for planning and development. This is likely to be particularly noticeable in Northern Uganda in areas where normal development has been prevented for so many years by conflict.

Urban areas need to be planned: it is impossible to allow people to build whatever they want where they want, without making proper provision for infrastructure and for proper development of the area. They also need to be controlled to prevent public health risks such as cholera. Where many people live in a small area, there is a greater need for land for public purposes – for roads, and for schools and health facilities, and perhaps for water infrastructure. The Districts will need to obtain land in order to create and manage these facilities.

This land must be obtained legally, and the correct procedures need to be followed. Although many people believe that "municipal land is owned by Districts", this is simply not true. **The Government or Districts do not have any automatic rights over urban land (as shown in the case study below)**, unless the District or the State already has a legal claim to the land. The District should first verify with the Lands Registry in Kampala before assuming that it is the legal owner of any land in its area. Otherwise, land needs to be acquired lawfully using the correct procedures in exactly the same way that rural land is obtained. The choices for the District are as follows:

- they can come to an agreement with a landowner to buy land;
- they can come to an agreement with a landowner to lease land;
- they can force the owner to sell through compulsory purchase;
- they can offer the landowner some other District land.

These choices are discussed in this information pack on compulsory acquisition in Pack no. 5..

In many cases, local authorities can support and control development without actually owning land. This is how development has taken place in most industrialised countries. They can do this through their right to control how the owners use their land.

They can give or withhold planning permission for any particular development – so, they can say how land can be used, even though they cannot decide who uses the land. If a town council zones an area for commercial activity only, then it can simply refuse planning permission for anyone to construct a building which is not for commercial purposes, or which is not a storeyed building, and they can refuse to allow people to use the land for any other purposes. However, if someone had already built a house before the area had planning regulations, the Town Council cannot force the owner to knock it down and replace it with a larger commercial building. If the owner cannot afford to develop their land, the local authority cannot force the owner to sell the land to someone else who can afford to do this. The local authority can give people an incentive to develop their land, through the use of planning permission regulations and other taxes.

People who are unable to develop their land in the ways which the local authority have chosen will not be able to use the land in any other ways. They will have an incentive to sell the land, or perhaps some portions of the land (e.g. along the roads) to people who can develop the land. The incentive will be higher, because the value of the land for commercial property will be higher.

However, some people may be unwilling to sell land which they have inherited because they feel that it should rest in their family for future generations. Many families are reluctant to see others in their family sell land, and customary law often gives them the right to veto such sales. In Northern Uganda in particular there are many political sensitivities around selling land to 'investors': people want to see investment and development, but they also value the inheritance of their land for future generations.

By facilitating private lease arrangements, Districts and other local authorities can have a role in helping both people who want land to develop and those who own the land – and they can also achieve their own objectives of seeing development in the way they have planned. A private lease means that the lease is between private individuals. The District is not a party to the lease – it's role would only be in helping the two parties to come to an agreement.

A lease is a long term rental agreement. People who want to develop land commercially do not usually need to own the land they build on – they need to know that they can use the land for many years in security. When they know how long they can have the land, they then calculate their business to see which investments make sense. In most cases, a period of 49 years is enough to justify an investment in a factory or a large building. (Many smaller commercial properties will need even less time to justify an investment.) Many landowners will be happy to sell a lease on part of their land for around 50 years, knowing that their families remain the landowners and that their descendants will one day inherit the land. In exchange for the right to use the land for a certain period (a lease can be for any period that the two people agree) they will receive a sum of money, and probably also an annual 'ground rent' paid for the land. The two sides will have to agree what will happen to any buildings once the lease is over.

- These kind of arrangements can take place between two private citizens without any involvement of the District - but they don't because people don't know what

kind of arrangements are possible or how to go about them.

- Land owners fear that once they let someone build on their land they will lose it.
- Developers fear that the landowner can turn round and take away the land on which they have invested a lot of money.

District Government can help bring people together and help them set up legal agreements. It could also help the landowners get titles to their land so that the investors from outside the communities would feel more secure to lease the land. Alternatively, the District can lease the land from the landowner and can then sub-let it out to individual developers.

Measures like these can help promote development in trading centres. Sometimes the local authority is also interested in the revenue it can collect from leases on the land. It is less easy for a District to find another source for this revenue. However, as development takes place, it will earn revenue from planning fees and from increased taxes from traders – and this will be legal.

Case Study : Buying a plot in a trading centre

Mr Okello bought a plot of land with a leasehold title from the District in Namapalonga trading centre. He invested his life savings to build a small shop. One day Mr Achan arrived in his shop and claimed that the shop was on his land. Mr Okello approached a legal aid provider for support, and showed them his receipt from the District when he bought the lease to the land. The legal aid provider investigated his claim, and discovered that the land did not belong to the District, and so they had no right to sell a lease on it. The local authority had assumed that it was theirs, because it was in an 'urban centre'. They wanted to raise revenue and to promote development by selling plots to people who would invest in commercial activities.

The Legal Position

The district failed to show evidence that it ever owned the land, and so the lease ("sale") is void. Mr Achan is the legal owner of the land. Mr Okello has no rights to the land. Mr Okello is entitled to his money back from the District.

However, though Mr Okello doesn't own the land, he does own the shop that is on the land. This problem is hard to resolve, unless Mr Okello and Mr Achan can come to an agreement. For example, Mr Okello could lease the land, and so continue to run his shop, or Mr Achan could agree to buy the shop. In this case, a fair price would reflect the cost of the building only and not the value of the land.

How could things have been done differently?

Mr Okello should have asked to see a title to the land in the name of the District or the Government before buying the land – or the law under which the land was acquired for the district – just as if he had been buying the land from a private individual.

The District should have verified its legal claim to the land before allowing the sub-county to sell the plots. It would then have realised that it did not own the land it wanted to sell or allocate. The District then needed to look again at its goals to see how else it could achieve them. The District wanted to support the urbanisation and development of Namapalonga into a larger commercial centre. It thought that it needed to sell plots itself in order to achieve this. However, it could achieve the same end by the use of planning regulations and through facilitating private leases, as already discussed in this leaflet.

