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Haldrup, Karin

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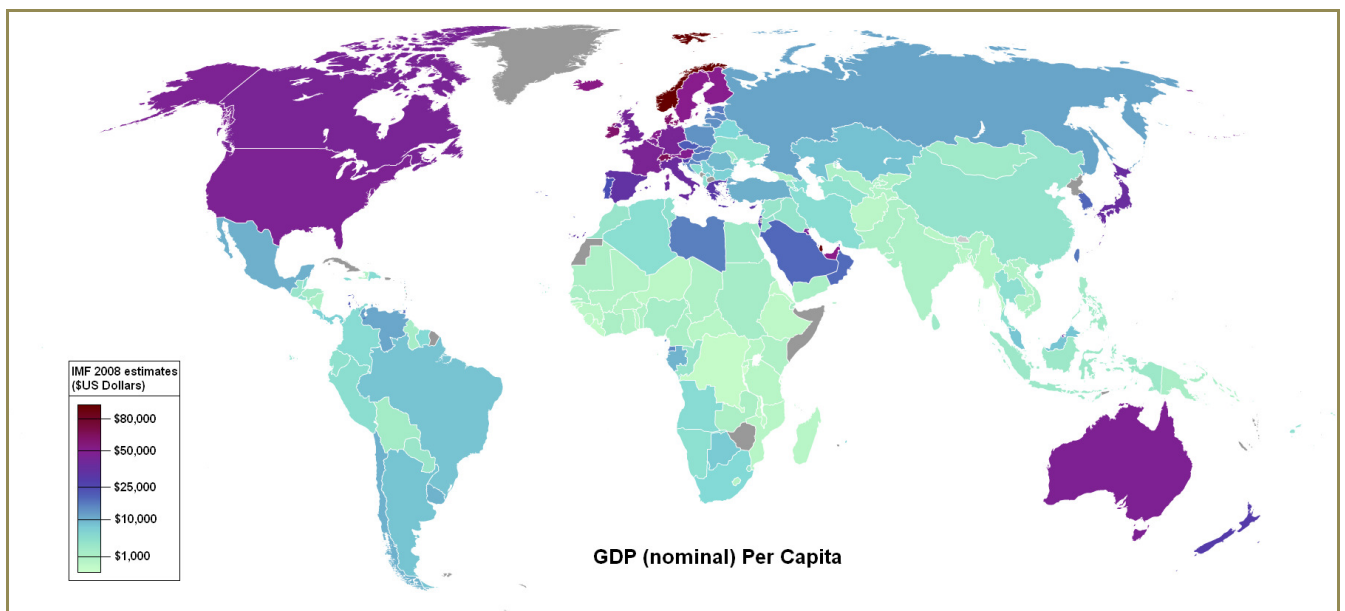
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PART D

Introduction and Summary of Case Studies Nicaragua and Ghana



Submitted as Part D of PhD Dissertation

**‘Danish Mortgage Finance,
Property Rights Protection,
and Economic Development’**

**By Karin Haldrup
November 2010**

**Aalborg University in Cooperation with VP Securities A/S
Supervisor: Dr. Tech. Erik Stubkjær, Aalborg University**

Structure of Thesis

VOLUME I:

(printed version)

Part IO. Introduction and Overview

Summary and brief versions of each Part, including discussion of research methodology

Part A. All Credit to the Balance Principle

On Mortgage Credit and its prerequisites

Part B. Property Rights in an Information Void

Property rights, property registration and security of collateral

Part C. Collateral Security or Collateral Damage

On Economic Development, housing finance and property rights protection.
Presentation and discussion of topical theories

VOLUME II:

(printed version)

Part D. Case studies Introduction and Documents with attachments:

- ◇ Nicaragua Report, PPP Feasibility Study; Danida
- ◇ Ghana Desk Study

Appendices

Documentation, Data, Proposed screening formats, and References

Introduction

The case studies were conducted on request by VP-Securities A/S (VP), who in corporation with its partner(s) notably the Soros foundation, are working for introduction of the Danish mortgage securitization system in other countries through a consortium of joint ventures, named Absalon (I and II). A presentation of the pioneering activities of VP-Securities A/S in Mexico and the current global expansion strategies of the Absalon II joint consortium is available at:

<http://www.uk.vp.dk/C1256CF300390A8E/0/FBD739FB18DF74C9C125773B004C43AB>.

The country cases formed a connection link with the sponsor of the research project, VP Securities A/S, with reference to the agreement forming the basis for the PhD-research project (Appendix IO.XX).

The case work presented in Part D took the form of a contribution to a feasibility study conducted by VP Securities A/S in Nicaragua in September-October 2008 and a desk study in March-May of 2009 on Ghana, where VP conducted a pilot study in 2009-2010 with support of the Business 2 Business programme of the Danish ministry of foreign affairs.

In the case of Nicaragua, Karin Haldrup (KH) was invited to participate in the in-country mission co-financed by Danida, and KH contributions to the VP project took the form of both preparatory desk studies, minutes of meetings, various memos on specific issues, and contributions to the final report. The report attached is the feasibility study prepared by VP Securities A/S with contributions from KH, as presented to the Ministry of Foreign Affairs, Denmark, ref. to Appendix D.XX; other documentation (memos, minutes, comments to legislation, etc.) can be accessed on request.

The Ghana desk study (prepared by KH) is a separate report delivered to VP Securities A/S in March 2009 (but it has been slightly edited later) in support of the VP consortium pilot study in Ghana concluded in July, 2010.

The desk study format is structured in the same manner as the prototype ‘Country Fact Sheet’, so that the two components are to be seen as complementary. Not all relevant topics were covered in the desk study, but a structure was defined with a wide range of relevant issues, although some fields were left open. In this manner the Ghana case study served to illustrate the proposed screening process for feasibility for mortgage finance development, as described in Part B, chapter B.9.

In respect to methodology the role of the cases was not clear from the start, when it was unknown how many feasibility studies would be requested and what countries would be selected.

In order to allow a broader view of the cases and developing a general approach to country screening, indicator data was collated for a larger number of countries, including Denmark, Nicaragua and Ghana.

Country case analysis was conducted at different levels and served different functions in the present study, (Part IO, Chapter IO.3.4):

1. The in-depth study of the case of mortgage finance in Denmark and its (long) historic development path, including an analysis of context, served as the foundation for exploring the conditions for transplanting the system to other countries;
2. Analysis of the case of Nicaragua, including desk-review and an in-country feasibility study, represented the challenge of screening for readiness in an environment with weak and politicized institutions. The study took the form of a rapid assessment with a focus on constraints.
3. In the case of Ghana, a country with positive macro-economic trends, the case work took the form of a desk review (delivered to VP) which served as an example of a more structured and targeted study of the land and real property sector;
4. An analysis of macroeconomic indices was conducted of a long list of countries of the world in order to develop a segmented list for differentiated screening by use of selected, global indicator systems and data;

5. A more detailed analysis of macro-economic indices (ratings) was conducted covering a short list of 20 countries incl. Denmark, Nicaragua and Ghana (each with data from comparative countries) in support of clarification of the potential use of macro-economic indices for screening.

The generous invitation by VP Securities to take part in the fact-finding mission to Nicaragua (2008) provided a unique opportunity to learn about the mortgage industry, and what are the requirements defined for introduction of mortgage systems in the financial sector. Hereby, the feasibility studies have been instructive in better understanding the overall context and the requirements of the mortgage industry.

A long list of basic ratings of the countries of the world (about 200) was prepared so as to place the case countries into a global context and in support of designing a differentiated screening approach, ref. to Part B, Chapter B.9.

More detailed indicator data covering a short list of 20 countries was collated and analyzed, both in support of the analysis of case countries, and as part of developing proposals on methodologies for screening. The 20 countries (roughly a 10% sample) were selected to represent various countries in each region of potential interest for comparisons, or because of their appearance in the analysis in Part B or C. The analysis of collated ratings of the 20 countries provided indications of the potential use of the macro-economic indices in a screening process, as described in Part B, chapter B.8.3.

Key indicator data was compiled for 20 countries including Denmark, Nicaragua and Ghana, but there has been made no quantitative analysis of the housing and real property sector for reasons of lack of current and compatible data sets. Data from the census of population and housing was available from Nicaragua (2005), but similar census data from Ghana stems from the national census of year 2000. A new national census was conducted in Ghana in September, 2010.

BASIC INDICATORS 20 Countries		2005		2008		2005- 2010		2008	
COUNTRY	Area, sqkm	Population 2005	% Urban	Pop. 2008	% Urban	% Pop. Growth. 2005-10	%Urban. growth	GDP/Capita USD	% annual Growth/ GDP/cap.
Brazil	8.514.880	186.830.759	84,2	194.228.000	86	1,3	1,8	8.205	5,1
Chile	756.630	16.295.102	87,7	16.803.000	88	1,0	1,3	10.084	3,2
Costa Rica	51.100	4.327.228	61,7	4.534.300	63	1,5	2,3	6.564	2,6
Denmark	43.090	5.416.945	85,5	5.453.200	87	0,2	0,5	62.118	-1,1
Ecuador	283.560	13.060.993	62,8	13.481.200	66	1,1	2,1	4.056	6,5
El Salvador	21.040	6.668.356	60,1	6.952.800	61	1,4	1,9	3.605	2,5
Ghana	238.540	22.535.010	46,3	23.946.800	50	2,0	3,5	713	7,3
Honduras	112.090	6.834.110	46,4	7.246.000	48	1,9	2,9	1.823	4,0
India	3.287.260	1.134.403.141	28,7	1.186.185.600	29	1,5	2,4	1.017	6,1
Italy	301.340	58.646.360	67,5	58.945.700	68	0,1	0,4	38.492	-1,0
Mexico	1.964.380	104.266.392	76,0	107.801.100	77	1,1	1,5	10.232	1,8
Netherlands	41.530	16.327.690	66,8	1.645.000	82	0,2	0,9	52.963	2,1
Nicaragua	130.000	5.462.539	58,1	5.676.100	57	1,3	1,8	1.163	3,5
Peru	1.285.220	27.274.266	74,6	28.221.500	71	1,3	1,3	4.477	9,8
South Africa	1.219.090	47.938.663	57,9	48.832.100	61	0,6	1,4	5.678	3,1
Spain	505.370	43.397.491	76,7	44.592.800	77	0,8	0,9	35.215	1,2
Sweden	450.290	9.038.049	83,4	9.160.000	85	0,4	0,5	51.950	-0,2
Turkey	783.560	72.969.723	67,3	75.829.900	69	1,3	1,9	9.942	0,9
Uganda	241.038	28.699.255	12,5	31.656.865	13	3,3	4,4	453	9,5
United States	9.629.091	296.410.404	80,8	304.060.000	82	0,96	1,3	46.350	0,4

Total 20 countries	<u>2.106.802.476</u>	<u>2.175.251.965</u>			
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Table B.13 Basic Country Data for 20 Countries, Sources: <http://data.un.org> and <http://data.worldbank.org>

Cases and Methodology

Below are introduced the findings of the case studies of NI and GH with emphasis on screening of readiness in the field of property rights protection, land governance, and the legal framework of relevance to mortgage pledging.

The two case countries are both low income countries with high incidents of poverty, but they differ greatly in geography, in historic background and by cultural profile. The housing deficits in both countries are huge, but the two cases represent distinctly different challenges in the land sector, which is not evident from basic indicator data. The case countries happen to represent challenging cases of property rights and property institutions:

Nicaragua is one of the poorest countries in Central America, and rated in the weakest quartile of countries in respect to protection of property rights and level of corruption (World Economic Forum), with a rank that has dropped from 108 (out of 131) in 2007 to a 122 position (out of 133) close to the bottom. Property reform issues remain incomplete or unresolved, the cadastre and property registration systems are defunct. The judiciary system and other public institutions are politicized, and democracy is under pressure.

Ghana is regarded as one of the best performing countries in South Saharan Africa, and is endowed with a recent discovery of oil fields. The governance system is characterized by having a plural legal system, statutory and customary. The stately property institutions are undergoing reform, but are not yet well functioning. A parallel and dominant chiefly system of ‘customary tenure’ is controlling estimated 80% of the land area with heavy problems of cloudy and intransparent land rights, and with high levels of conflict. A distorted property market has resulted in extensive slum areas, low housing standards and a huge backlog of housing demand.

The economic environment in Ghana shows positive tendencies, while the development trend is negative in Nicaragua. Other developments in the land sector also place Ghana in a stronger position than Nicaragua. However, the complexity of plural legal systems in Ghana makes mortgage pledging more challenging, not to mention its negative effect on land supply for urbanization.

World Economic Forum; Global Competitive Index, Sub-index 1.01 Property rights

UN-code	COUNTRY	Rank 07-08	%rank	Score	Rank 08-09*	%rank	Score	Rank 09-10	%rank	Score
76	Brazil	104	22,4	3,32	70	47,8	4,6	70	47,8	4,4
152	Chile	29	77,9	4,83	40	70,1	5,4	31	76,7	5,5
188	Costa Rica	52	60,3	4,17	71	47,0	4,6	63	52,6	4,5
208	Denmark	2	98,5	6,14	2	98,5	6,6	2	98,5	6,5
218	Ecuador	125	4,6	2,93	125	6,7	3,2	116	12,8	3,3
222	El Salvador	84	35,9	3,63	82	38,8	4,2	78	41,4	4,2
288	Ghana	nil			74	44,8	4,4	72	45,9	4,3
340	Honduras	89	32,1	3,58	77	42,5	4,3	84	36,8	4,0
356	India	48	63,4	4,32	52	61,2	5,0	54	59,4	4,8
380	Italy	71	45,8	3,77	59	56,0	4,8	69	48,1	4,4
484	Mexico	85	35,1	3,62	89	33,6	4,1	86	35,3	4,0
528	Netherlands	10	92,4	5,73	14	89,6	6,3	14	89,5	6,1
558	Nicaragua	108	17,6	3,22	119	11,2	3,5	122	8,3	3,0
604	Peru	106	19,1	3,28	102	23,9	3,8	87	34,6	4,0

710	South Africa	39	70,2	4,55	20	85,1	6,0	20	85,0	5,9
724	Spain	43	67,2	4,46	42	68,7	5,4	43	67,7	5,1
752	Sweden	6	95,4	5,86	7	94,8	6,5	5	96,2	6,4
792	Turkey	55	58,0	4,13	83	38,1	4,2	89	33,1	3,9
800	Uganda	111	15,3	3,21	112	16,4	3,6	105	21,1	3,5
840	United States	33	74,8	4,76	26	80,6	5,8	30	77,4	5,5

Total no. of countries

ranked: 131 134 133

Fig. B.18. World Economic Forum ratings (scale 1-7, 7 best), ranks and percentile ranks, 2007-9

Note: **Ghana rankings from 2008-9 due to lack of data from 2006-7

As concerns the case of *Nicaragua*, the inquiry was shaped by the special situation of the country at a fragile cross-road between political reform and deterioration of basic institutions, including the rule of law. In this way the focus of the Nicaraguan case study was on critical issues of political stability, macro-economics and the basics of rule of law and property rights protection.

Ghana, on the other hand, represents a case of sustained reform in many areas, so that the case study could be dedicated to the specifics of the property market, land rights, land registration and associated institutions.

The two countries cannot be said to be representative, but they encompass a variety of cultural-historical differences articulated in the present status of their property rights institutions, housing conditions and their property markets. Perhaps, the two cases can be regarded as extreme in some respects (e.g., unsettled post-conflict status (NI) and a complex customary system under transformation (GH)). For sure, the evolution of tenure systems and property rights has taken significantly different development paths in the two countries. It can be added that the case of mortgage finance in Denmark serves as the point of departure in the study, thus also forming a ‘case’.

The cases served as illustrations of the limits of quantitative research methods in comparative studies under severe constraints of information. Key data on the status of property rights protection and land registration was simply not available in any form, neither in Nicaragua or Ghana.

If expanding the search for indicators beyond the topic area of land, property and housing to general statistics, there were found other shortcomings. In Ghana the latest census was conducted in year 2000 (a new national census took place in September 2010) and data is not available on-line, while census data was available from Nicaragua from the national census conducted in 2005.

Experiments were made with analyzing available (disaggregated) statistics from the latest census of population and housing in Nicaragua (available on-line). The census data is useful for estimating housing demand. However, the complete lack of key data from the real sector showed the limitations of a quantitative approach to screening of the protection of property rights and the conditions in the immovable property market. Furthermore, lack of access to spatial administrative boundary data hampered a more refined spatial analysis.

Among the positive findings on comparative data was the informative value of the selected macro-economic indices (WGI, GCI, CPI, see part B). These ratings were found to be largely consistent with general qualitative analysis of the framework conditions in the two case countries, as illustrated with the development of the “rule of law” sub-index of the WGI index for Nicaragua and Ghana.

Comparisons at macro-level can be used in an analysis of whether (or in what way) the case countries are representative, or as a basis for discussing a possible generalization of findings.

Work on the detailed cases (NI, GH) helped developing the proposed assessment framework in an operational context. In neither case are the standard conditions fulfilled in terms of a functioning property

registration system (with protection of collateral), sound institutions and a regulated formal property market - even from a superficial view.

The big question was, if it is feasible to introduce a mortgage finance system similar to the Danish model under so different circumstances, compared to what was the case when the system was introduced in Denmark or is currently the case? Or what would be the required improvements to constitute the minimum requirements for introduction of the system? While conditions in the land sector can be described and analyzed, it will be for investors to judge, what risks they are willing to take on, and what conditions they consider too hostile for mortgage finance development.

Overview of Nicaragua Case Study

Current Situation in Nicaragua

The feasibility report has been prepared by the partners of the Private Public Partnership agreement, INVUR (Instituto de la Vivienda Urbana y Rural, Nicaragua, www.invur.gob.ni), INVERNIC and VP Securities Services (VP), as an outcome of a DANIDA financed project “SECURITIZACIÓN OF MORTGAGE ASSETS” in Nicaragua, with the objective of exploring the potential of introducing the Danish Model of Mortgage financing through securitization to Nicaragua.

A mission was conducted to Nicaragua by VP during September 21 to October 3, 2008, headed by Wagn Erik Nørgaard, Vice President, VP Securities Services. Karin Haldrup participated as a research assistant. The mission programme (Annex 1 of the feasibility study) was aimed at meeting the most important stakeholders, obtaining an impression of the housing requirements and financial markets, and allowing for development of the proposed models as presented in this report (Annex 2, 3 and 4). After the meetings in Nicaragua, additional work, including processing of findings and analysis took place electronically.

Housing issues were on top of the political agenda to the extent that the daily newspapers were bringing stories of relevance for the mission nearly every day. This was enhanced by the local election campaign taking place at the time. Irregularities with the election and other reasons have caused governments and NGO's to withdraw their development assistance under the given circumstances.

During the mission meetings were held with a number of stakeholders in the public and private sectors, as documented in the mission report.

The Project's main objective was to determine the feasibility of establishing and operating a securities fund management society that will structure and manage funds dedicated to mortgage loan securitization, with a special emphasis on social interest housing loans. To determine the feasibility of the Project's main objective, certain key aspects had to be analyzed, including the legal structure and the market conditions, both on the demand and supply side.

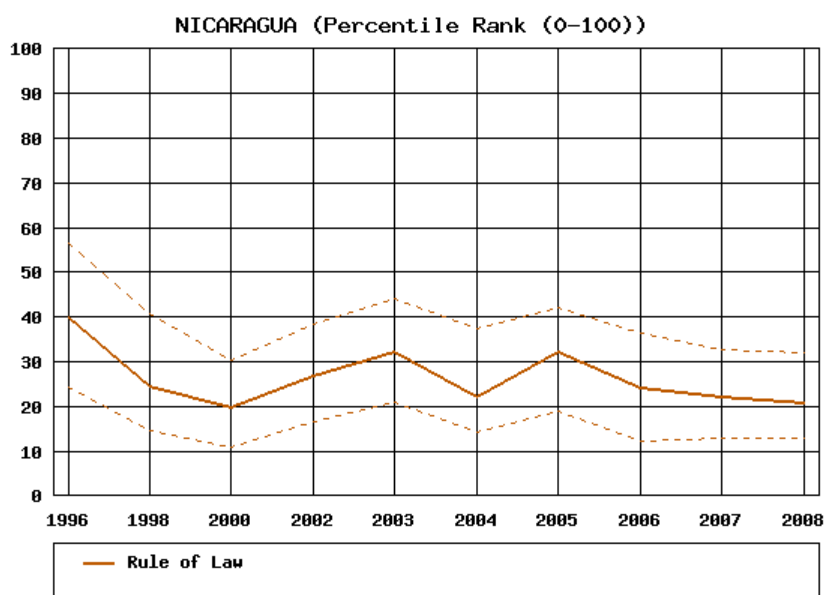
It was found that the instability at macroeconomic level as well as serious short comings in the land sector were rendering market based mortgage finance development pre-mature. Some comments are attached to the two issues below.

A few comments on source material:

Most land tenure studies consulted on land tenure in Nicaragua were found to have a rural focus (Broegaard, 2005; Laiglesia, 2004), and the largest reform programme on land administration (PRODEP, see below) financed by the World Bank included systematic titling predominantly in rural areas. Analysis of land tenure issues in urban and peri-urban areas could be found in some studies on housing. Although the questions of land tenure security in Nicaragua are covered in some academic papers (e.g., Laiglesia, 2004), most contributions on the topic were found to be in the form of either project documents (e.g., World Bank, 2008), consultancy reports (Proenza, 2006), or monitoring reports prepared by NGO's (e.g., COHRE, 2004). Adding to the picture are news items in the press (e.g., www.elnuevodiario.com.ni) with salient feature stories or unraveling of various scandals in the property market.

Macro-economic environment

The legal environment is among the weakest in Latin America, as evidenced by its low scores on the ratings of Governance and transparency ratings. Transparency Internationals' Corruption Perception Index places Nicaragua at rank 130 out of 180 countries rated in 2009, and describes the *legal environment as among the weakest in Latin America*. The rule of law index of the Worldwide Governance Indicators produced by the World Bank shows a negative tendency at a low level in the bottom quartile, as do other performance indices.



Source: Kaufmann D., A. Kraay, and M. Mastruzzi 2009: Governance Matters VIII: Governance Indicators for 1996–2008

http://info.worldbank.org/governance/wgi/sc_chart.asp

The tendency is confirmed by other macro-economic indices. As for example the Ease of Doing Business rating (2009) on ‘Registering property’ places NI at rank 143 (of 183 economies) and rank 138 in ‘Dealing with Construction Permits’. <http://doingbusiness.org/Documents/CountryProfiles/NIC.pdf>

On Protection of Property Rights and Land registration in Nicaragua

The status of property law and protection of property rights were found to be in a limbo due to uncertainties surrounding competing legislation and the political influence of the judicial system. Property registration systems were stalled due to political and administrative barriers.

Nicaragua has a tormented history of the land. Land has been highly unevenly distributed, and land was a key area of the Sandinist revolution. Not only are many land rights per se disputed, but the public land administration and registration system is weak and the quality of records is questionable.

The World Bank Appraisal Document (2002, p. 7) describes that, “land tenure is a major unresolved issue, which has been intensely tackled by past governments. Years of erratic legal and administrative decisions affecting land have contributed to aggravating tenure insecurity. In this context, the uncertainty on property rights prevalent in the countryside and the lack of confidence in the abilities of state institutions to resolve this issue, appear as an additional challenge to be addressed.”

In an interview (October 2, 2008) during the fact finding mission the division manager and legal advisor of the Cadastral department of INETER, it was explained that the physical cadastre established in 1969–1971 covers estimated 22.000 sqkm, but is not updated, and they estimated that it was about 45–50% outdated in those areas, where it existed. No details were made available on on-going reform programmes in the area, although it is known that there have been conducted mapping projects financed by international donors.

The general uncertainty of land tenure in is reported and analyzed in a number of studies (Deininger, Broegaard, Laiglesia, Proenza,) in project reports (World Bank, 2002, 2008) and reported by NGO’s (COHRE, et. al,). The main focus of land tenure studies in Nicaragua has been rural, because about 30% of rural land was redistributed during the Sandinist, but uncertainty also permeates the urban sector, as reflected in reports on housing development.

These reports are in accordance with the low score of Nicaragua in the World Economic Forum rankings of the protection of property rights, where Nicaragua ranks as no. 122 of 130 countries ranked (2009–10), which is very close to the bottom on a global scale.

Stakeholders in Nicaragua in the mortgage industry were mentioning the nearby example of best practices in Central America recognized to be the National Registry Centre system in El Salvador, where systematic titling has been taken place over the latest decade, and where an integrated information system has been established which serves the land market, see www.cnr.gob.sv. After implementation of the system in El Salvador the portfolio of mortgage securities has soared.

It was suggested in the feasibility report that the urgency of getting access to housing finance could be an incentive for accelerating the legal reform (Registry law), and implementation of a modernized land registration system according to best international practices. It was also suggested that a systematic titling process with a modernized registry system could contribute significantly to lowering costs of housing units, while also servicing the future housing market. A simple example mentioned by a representative of the construction industry illustrates, that the uncertainty of titles to land, force extra costs on constructors: It was casually mentioned that the major construction firm in Nicaragua (Pella Group) was often paying both the former and the present holder of land the full land price, so as to avoid litigation on land in construction projects, even in cases where there had been paid compensation.

In respect to land and property rights the following risks were identified as potentially affecting the project:

1. Delays or inaccessibility to the mortgage market due to land conflicts

Areas in Nicaragua having dormant or actual disputes would in practice be outside the market of mortgage lending, until the area concerned has gone through either an individual legal procedure or a systematic legal titling process (Saneamiento de tierras). In both cases could a time delay occur. Unfortunately, areas which are suited for urban development are often those areas with the highest level of conflicts, since so many different interests focus on potential development, both in terms of profit and its suitability for different projects. It is unknown to the project team what is the extent and contribution of land conflicts in Nicaragua, since there is no general statistics on land and properties, nor on actual conflicts. However, the rather high risk level appears to be reflected in macroeconomic indices and interest rates.

2. Shortcomings in the Cadastre and Land registration systems

The land registration system is deficient both from a legal and an operational perspective. The legal basis of registration of rights is still the Civil code of 1904 and associated regulations (Medina, 2006, <http://www.cadri.org/?p=584>), and inscription is under the responsibility of the court system with a registration office in each department. A new registration law was still under discussion in 2008, but a law on modernization of the cadastre had been passed in 2004 (Proenza, 2006).

The confidence to the legal system in general and the land registration system in particular has been low as described by (Broegaard, 2005) in the case of rural areas.

A large land administration reform project supported by the World Bank, ‘Programa de Ordenamiento de la Propiedad’ (PRODEP), was initiated in 2003, and other donor assisted projects have been ongoing in support of cadastre and land registration (USAID, NDF, etc.). The PRODEP project’s objectives were defined in the medium term as to developing “the legal, institutional, and technical framework for the administration of property rights, and to demonstrate the feasibility of a systematic land rights regularization program, initially in rural areas.” Project activities covered a wide range of reform topics from systematic titling in the field to development of an integrated Registry-Cadastre Information System, SIICAR (Proenza (2006).

However, implementation has encountered blockages in the organizational structure, so that progress has been limited in cleaning up land records, and the goals have not been achieved as planned. The Institutional and Governance Review conducted by the World Bank in 2008 reported that ‘profound institutional and governance reforms have been scarce and several have not been sustained. Hence, expectations for rapid and deep change from donors and civil society need to be modest.’ Given the rural focus and its long time horizon, the conditions of land registration sector do not render hopes for achievements of reducing uncertainty of property rights in the immediate future.

Therefore, the property market is held back by ongoing land conflicts, and high costs for searching root of title, since uncertainties and conflicts abound, and the registry may include double or multiple titling.

3. Development permits for housing depend on territorial planning, construction regulations and environmental controls

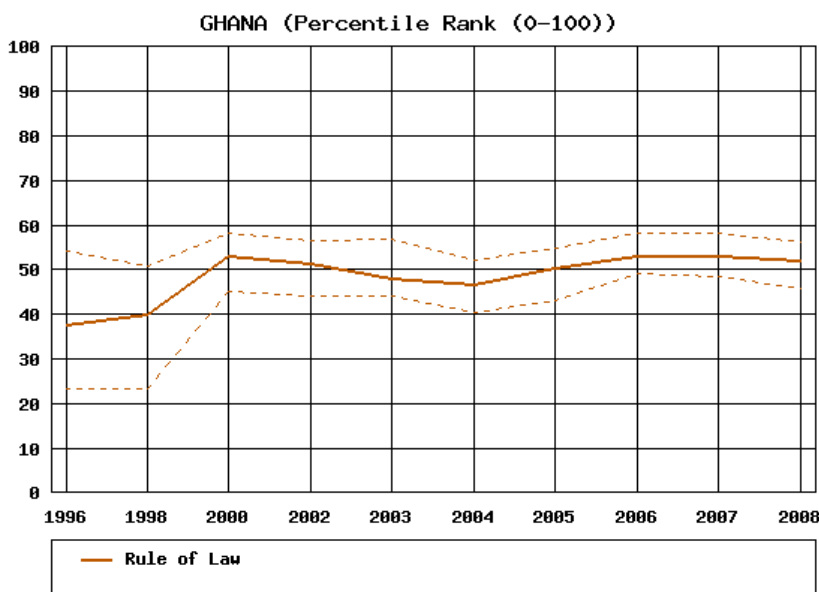
If the property rights are secured, the next potential barrier is the question of what restrictions are defined by current planning and protection laws. Not only is this a legal matter, but a matter of local municipalities having prepared territorial plans. It is understood, that the questions related to various protection laws, e.g., the law on protection of the coastal zone may not be fully clarified. Even if procedures of permits are speeded up as envisioned in the draft housing law (reviewed during the mission), the basic institutions responsible still need to be observing compliance with sector legislation and sector plans, which is a matter of capacity and resources for processing of applications, and it is questionable if such resources are available.

In conclusion of the feasibility study, VP Securities A/S and its global partners found the framework conditions in Nicaragua to be premature for further initiatives for mortgage market development both due to macro-economic instability and to the conditions in the real sector.

Overview of the Ghana Feasibility Study

The Ghana pilot study conducted by VP and its partners represents screening of readiness for mortgage credit at a more advanced stage, and took place over a longer time period. The desk study on land and property in Ghana was provided as background information for the VP team, see Project Report, VP Securities attached.

The macro-economic trend is rather positive, as shown by the performance of Ghana as measured by World Bank Global Governance Indicators, Rule of Law index, 1996-2008.



Source: Kaufmann D., A. Kraay, and M. Mastruzzi 2009: Governance Matters VIII: Governance Indicators for 1996-2008

<http://info.worldbank.org/governance/wgi/>

Performing a desk study on land tenure in Ghana can benefit from a wealth of academic sources, project documents, etc., since Ghana is one of the most studied countries in Africa as concerns its complicated land tenure system. Many of the informative land tenure papers available are produced by Ghanaian experts on land residing abroad, apparently constituting a large group of the diaspora. Fewer contributions on the issue were found to be written by Ghanaian experts within Ghana, presumably due to the contentious nature of the questions within the 'customary' land tenure sector in Ghana constituting about 75-80% of all land. The chiefly system is powerful in local as well as in national politics, and the chiefs at different levels in the hierarchy do not necessarily have an interest in transparency and well-ordered land governance (Onoma 2010).

On Property Rights and Land registration in Ghana

The desk study includes an introduction to the land tenure system and to the organization of the land administration system currently undergoing reform. The formal sector with clean land titles registered in the Title Registry was found to still be minute, but improvements in the registration process have been introduced in 2008, supported by a major reform project, the Ghana Land Administration Project, funded by a number of donors.

Recently progress is seen in developing the land administration system in Ghana in a profound manner, as documented in the passing of a new Land Commission Act (2008), drafting a new Lands Bill (ongoing 2010), and initiating systematic reforms through piloting and upgrading of capacity around the country, see <http://www.ghanalap.gov.gh/>.

The Honourable Minister of Lands and Natural Resources, A. C. Dauda, described the actual conditions in the land sector as plagued by poor work ethics and general indiscipline (LAP Newsletter, May 2010). The acting director of the Land Registration Division of the Lands Commission, Ms. R. Sittie, pointed out the issue of fraud as a big problem, she has to battle with in the old Land Commissions (LAP Newsletter, May 2010). <http://www.ghanalap.gov.gh/privatecontent/File/lapNEWS%202010.pdf>

The status in 2009-10 is not promising for mortgage finance in the shorter term, because of serious constraints in the land sector with deficient land rights, lack of land delivery for urbanization and without effective urban planning, all in all resulting in a dysfunctional property market. There is virtually no primary property market, and provision of urban infrastructure is not functioning. As described by the Hon. Minister of Lands, A. C. Dauda (2009):

“The net effect of these constraints is a distorted and dysfunctional land market that is not investor and development oriented and which cannot guarantee security of tenure, resulting in high transaction costs and high incidence of poverty.” (Dauda, 2009, p. 2)

The desk study pointed to the following constraints in developing mortgage finance in Ghana:

a. The Legal basis for title registration is in place, but implementation is limited

- Land legislation is in place for Land Title Registration (1986), but implementation is limited;
- Few properties have been registered in the title registry (by 2001: 11.382 properties, no current figures are available, but no significant progress has been reported);

b. The land tenure system is highly complex due to a plural legal system of statutory law and traditional land tenure

- About 75% of the total territory is under customary land tenure administered by the chiefly system, in principle held in trust for members of the community
- There are numerous reported incidents of powerful chiefs ignoring both traditional principles and statutory law such as planning provisions. As a consequence communities are exposed to tenure insecurity especially in peri-urban areas, and urban systems are dysfunctional;
- Resolution of land conflicts in the traditional sector is complicated and slow, and the backlog of land conflicts is long.

c. Land delivery for urbanization is dependent on the traditional sector

- The government is not active in provision of land for urbanization from its pool of state lands.
- All land for urbanization comes from this traditional sector, but the market is surrounded by secrecy, informality and often illegality;
- Many chiefs alienate land on prime market basis and pocket the proceeds, while ignoring as well their customary responsibility, as their obligations of allocation of revenues for the district assemblies for establishment of infrastructure
- The government response to irregularities in the land market has been weak. Current land administration projects support establishment of land secretariats under the chiefly system
- While there are issues of equity and irregularity at stake, there is no doubt that market prices are set by the market driven up by supply constraints and high remittances, etc.
- The land market is described as inelastic.

d. State land agencies and land administration have been plagued with inefficiencies, lack of coordination and in-transparency, but are currently being reformed

- Land agencies have suffered from lack of capacity, inefficiencies, overlap of functions, intransparency, and other weaknesses vis á vis the powerful interests in land and land speculation in particular in urban-peri-urban areas;
- The National Land Policy of 1999 identified the core problems in the land sector, set up land policy principles and a general strategy for improving the land administration system;

- In 2003 a comprehensive (5 year) Land Administration Project was defined with support from a group of foreign donors,
- The project start was delayed, objectives have been downscaled and the project extended to end of 2010;
- However, a new Lands Commission Act has been put before Parliament in 2008, which stipulates a complete modernization of the land agencies, including a merger of four agencies.
- Implementation of new technology may help improve access to land information, as well as general transparency
- Still the government capacity to control irregularities in the land market appears to be weak.

e. Urban Planning and Provision of infrastructure for urbanization

- Urban planning is weak and delivery of construction permits is cumbersome
- Provision of urban infrastructure is the responsibility of local governments, which are under-resourced, mainly due to the informal economy, specifically the informal transactions of property
- Lack of urban infrastructure creates poor quality and high levels of uncertainty in housing development.

f. The shortage of housing in Ghana is monumental

- Housing backlog exceeds 500.000 units and grows with at least 30.000 per year
- Current housing quality is poor, so that housing upgrading or replacement is generally needed

g. Current prices on the housing market are driven up by e.g., shortage, and the external market

- Remittances are high in Ghana, about 12% of GDP
- Demand is also affected by the presence of a large international community

h. Currently housing affordability is limited to a few percent

More details are available in Desk study attached.

Conclusion of Desk Study (March, 2009)

The conclusions of the desk study on the prerequisites for mortgage finance development (March, 2009) were therefore negative.

The formal property market is still a minor part of the overall urban properties, the amount of registered properties in the title registry is limited, but the title registry allows for registration of mortgage pledges on properties, which have undergone the process of titling. The major part of the property market remains informal, in-transparent and plagued by high levels of conflict and illegality. The planning system is not functioning or effective.

Most critical of all these factors were the lack of land supply for urbanization, and the low affordability of housing caused primarily by supply constraints driving up the market prices.

The State land agencies have so far been incapable of regulating land tenure in Ghana, but reforms are underway. The formal section of the property market could possibly be expanded within a few years, if the ongoing modernization efforts of the land administration institutions gain momentum at both the national and local levels. Conditions for implementation of mortgage finance in respect to protection of rights to land are currently being improved, but the time perspective seems to be long before there will be a functioning land market given the slow current progress.

Although there are positive macro-economic indicators, it was suggested that the key challenges of mortgage finance development were shortcomings in the land sector.

Moreover, the observations on serious constraints of land supply and affordability in Ghana were supportive of the analysis of Part C, as was the observation on the absence of a secondary housing market, which

housing economists consider a precondition for development of a mortgage market as discussed in Part C. Accordingly, serious constraints for development of mortgage finance in Ghana were found in the real sector, which are critical for mortgage market development.

Conclusions of the VP Pilot study (July, 2010)

The Pilot study conducted by VP and its partners within the B-2-B programme of the Danish Foreign Ministry of Affairs explored the proposition of establishing a company in Ghana to act as a Mortgage Service Provider (MSP) based on the principles of the Danish Mortgage Model, initially through establishing a company in Ghana with shared ownership, and to build its capacity to become operational and doing business over a three year period. A costed plan was developed as part of the pilot phase.

The Pilot Study found that the current mortgage market in Ghana is quite small for several reasons. The biggest problem was found to be high inflation and high interest rates, so that mortgages are very expensive due to high inflation and lack of funding and competition. It is difficult for potential borrowers to save money for the down payment due to generally low salaries.

It was also found that even if financing of acquiring a home is possible, it is not possible to buy a house, because there are virtually no sales of “used” houses combined with a shortage of new ones. There is no tradition of selling existing property, so besides inheritance, acquisition of a new construction is the only option on the market, but acquisition of land plots is very difficult and the supply of new houses is limited. It was underlined in the pilot study, that a sufficient supply of houses for sale is fundamental and critical for the financing model. Some positive trends were seen in the Ghana government housing policy, and on investors’ trends of building groups of houses rather than individual units.

No commitment or timetables were given by the government on making land available for such housing expansion or on planning and infrastructure development of new residential areas.

In the bond market was also seen constraints, since there is no liquid bond market in Ghana. Although there are bonds listed at Ghana Stock Exchange, they are not traded. If the finance model is to work, there is needed a change of investors’ behavior in this regard.

The VP pilot study included an estimate of the GoG on housing requirements over the next decade of one million homes, specified by region with a need of 400.000 homes in Greater Accra alone, followed by Ashanti of 250.000. But the pilot study considered these figures conservative, especially as concerns the region (Western), where oil fields have lately been found. On that background a business model of developing housing finance according to the Danish model was set up, because the total mortgage market is huge and seems to be reaching only a small top segment of the market. However, VP underlines that the critical condition is the provision of homes, and these homes should be designed for another segment of the market than the top market previously served.

Benefits of introducing a new mortgage finance system to Ghana would make the mortgage market more competitive and broaden the access to finance and house ownership. The potential role for economic development is described by VP underlining the importance of the construction industry for employment, etc. (VP, 2010, p. 44).

What is of relevance is also to note the areas identified in the SWOT analysis as potential threats to mortgage finance development:

1. High inflation and interest rates (15%/30%) makes it very difficult for people to afford taking out a mortgage;
2. Poor land administration that makes it cumbersome to get land for construction;
3. Poor infrastructure development support from government;
4. Shortage of development capacity at constructors;
5. The secondary mortgage market does not exist today, but needs to be developed;
6. The demand for housing should be checked for realism compared to geography, age and income.

As concerns 3 and 4 it was noted that

Re. 3: Lack of clear property rights can cause delays for a smooth process or constitute barriers for mortgage pledging

“The lack of certainty of who owns which land and what kind of restrictions or claims are “registered” on that land is a problem for a smooth process of registration of the land/house as collateral against payments of the mortgage. We have been told that the process works in certain regions in Ghana, but that the process is very slow and cumbersome.

There can only be issued mortgages against houses that can be built on land that is free of all restrictions and claims (or at least all restrictions and claims are known). This certainly reduces the speed and thereby also amount of houses that can be built.”

Re. 4: The lack of planning can negatively impact the quality and value of the constructions, or cause uncertainty of collateral value after pledging.

“There seems not to exist a proper planning of infrastructure so that roads, sewage systems, water supply and electricity is planned ahead of building new areas in/to a city. Neither it seems that processes are in place for planning of the development of the infrastructure like industry vs. residential living and thereby also lack of planning of schools, shopping etc.

The lack of proper planning can influence the value of the house as infrastructure is developed “along the road”. If the house loses value the “loan to value” (LTV) will be too high and the collateral loses its value accordingly.”

“The evaluation process of the value of the house should be developed very precise and should be inspected regularly by the authorities to keep the reliability of the LTV, and thereby the trust of the investors to the value of their investment.”

However, the VP Pilot study concludes that the business proposition of setting up a new mortgage finance facility in Ghana seems viable, but also refers to the critical risk factors identified. What is positive is that the mortgage industry seems willing to stretch itself even if growth opportunities are expected on a longer term.

Concluding Comments

Apart from the direct role of case countries in feasibility studies, it was found that examples of events and problems in the status of property rights protection and land institutions were underpinning the theoretical discussion in other parts of the study. For example, it was underlined what makes the indicators on affordability so central to housing finance development, and the centrality of well-functioning land institutions in the economy was illustrated by the negative effects of disorder and in-transparency found in the land sector in Ghana and Nicaragua. In both countries affordability is limited to a minor top section of the population, due to shortcomings in the land sector, although for different reasons.

In Ghana the high interest rate might also be seen through the interpretation of North (1990,) as an indicator of institutional quality. In any case, the role of moderate interest rate and inflation as a primary prerequisite for development of mortgage credit is confirmed by the pilot study in Ghana.