

Ground Lease Renewals in Ghana - a Need for Policy Direction?

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SUMMARY

Leasehold estates are wasting assets, which are bound to expire at a specific time. Upon expiration, a lessee must hand over the property to the lessor or take steps to negotiate for an extension of the lease. For the lessee to exercise the latter option, an agreement must be reached with the lessor on the terms of the new lease, including the amount to be paid as consideration and the duration of the new lease. In addition to the payment of ground rent, lessors also often require the payment of premiums, which are upfront lumpsum payments. It must be noted that premiums offer lessors opportunities to get part of the ground rent upfront. As a result, the payment of higher premiums typically must result in lower ground rents.

Ghana's Constitution and the recently passed Land Act 2020 (Act 1036) prohibit the creation of freehold estates in communal lands, making leasehold interest the predominant estate in the country. Consequently, most owners of the various categories of property would need to renegotiate the terms for renewing their leases when they expire. While Section 50 (11 & 12) of the Land Act, 2020 grants automatic right of renewal for citizens, the Act does not contain specific provisions pertaining to the terms and conditions for renewing leases, including the determination of premiums and ground rents. This apparent gap in the existing legal framework has allowed lessors to adopt unique approaches to determining the terms for renewing ground leases. Lessees, therefore, face uncertainties on what terms to expect when their leases expire. Such uncertainties are further exacerbated by the fragmentation of land ownership among numerous groups including stools/skins, families, and the State.

In this study, we examine the various approaches to ground lease renewals in Ghana and the views of valuation and estate surveying professionals relating to the determination of premiums and ground rents. The study also assesses the potential of creating a standardised framework for

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regulating ground lease renewals nationwide.

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