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Comprehensive Land Registration Reform Lessons from Georgia

This Best Practice was adapted from "Doing Business 2007: How to Reform Case Study: Georgia Property Registration," prepared by Booz Allen Hamilton in cooperation with USAID for the World Bank Group's 2007 Doing Business Reformers Club Conference.

Executive Summary:

Following the Rose Revolution, which provided the framework to implement political changes not previously possible, the new Georgian government implemented much-needed reforms to the land registration process through the establishment of a self-financing, streamlined system to provide secured and stable land property rights. These institutional changes, coupled with property-related tax reforms, resulted in the elimination of corruption and, in turn, a reduction in the overall real cost and time required to register real property in Georgia.

Introduction

Secure private property rights are an essential ingredient for sustained economic growth. It is critical, therefore, that the process for securing such land rights be simple, cost-effective, and free from corruption.

In 2004, the new Georgia government, elected following the Rose Revolution, initiated reforms to establish a self-financing, streamlined mechanism to provide secure and stable land rights. The result has been the establishment of a new independent registry, the National Agency of the Public Registry (NAPR), which in 2006 became a fully self-financing entity responsible for land registration through the country. Although property registration fees have risen slightly under the new system, by streamlining the functions of the registry, clarifying legislation, and virtually eliminating corruption, the overall effect has been to reduce the real costs and time required to register property. The time to register property has dropped from an average of 39 days to an average of 10 days.

Context

Like other recent reforms in Georgia, property registration reform cannot be analyzed out-

side the context of sweeping political changes associated with the Rose Revolution, which allowed for wholesale institutional change, new legislation, and new management that would not have been possible under the former administration. The priorities for land registration reform were consistent with the objectives of the new administration's broader reform program, which extended across nearly all sectors of governance, including reducing permit requirements and implementing "one-stop" principles for government services; strengthening property rights; increasing the role of the private sectors in providing public services; and centralizing oversight of government services.

Need for Reform in Land Registration

Even before the change of government in 2004, there was a broad-based consensus among international organizations, NGOs, and the private sector on the need for change in the Georgian land registration system. At that time, much of the responsibility regarding land management and registration was vested in a government agency known as the State Department for Land Management (SDLM). The SDLM, which was responsible directly to the president, had authority over a wide range of functions including privatization of state-



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owned land; leasing of state-owned land; categorization of land for tax purposes; mediation of land disputes; and other land management activities.

Several aspects of the SDLM's operations were identified as areas of concern:

- *Conflicts of interest.* The multiple functions played by the SDLM regarding land privatization and management created conflicts of interest within the department.
- *Political influence.* At the local level, the SDLM's offices were directly accountable to the local government, resulting in political influence on land categorization, dispute mediation, and the registration process.
- *Multiple registrations.* In some cases, the Bureau for Technical Inventory (BTI), the entity responsible for surveying and providing land cadastre sketches, acted as a double registration system, resulting in secondary fees for services and conflicting property registrations.
- *Chamber of Public Notaries.* The role of notaries in issuing certificated declaring parcels free from encumbrances added an extra step to an already confusing procedure.
- *Funding and resources.* Both SDLM and BTI were 100 percent dependent on state funding, but lacked resources to efficiently administer all its responsibilities.

In 2002–2003, realizing that the SDLM was ripe for corruption, in that it was underfunded, understaffed, and subject to the influence of local power fiefdoms, the chairman of SDLM took the initiative to convene a working group to identify strategic priorities for the department. This working group included representatives of the SDLM, numerous international organizations including KfW (a German Banking Group), GTZ, SIDA, USAID, and the World Bank/IFAD, the Association for the Protection of Landowners' Rights (APLR), and local groups. This working group consolidated support for broad structural changes in the operations of the land registry.

In early 2003, a concept paper was submitted to the chairman of the SDLM outlining the following core objectives: simplification and clarification of the registry process; the streamlining of the functions of SDLM; and the establishment of a transparent, self-financing registry through differentiated user fees. At that time, however, the political environment did not encourage risk taking, and SDLM was not ready to take the steps that

these proposals required. Accordingly, reforms in the area of land registration did not commence until 2004, after the election of the new Georgian government, following the Rose Revolution.

Approach

Legislation

The first phase of the reform process focused on the drafting of new legislation. It was completed in stages and took approximately 10 months to complete. The signing of the Law on State Registry in June 2004 served to dissolve the old SDLM and establish the new National Agency of Public Registry (NAPR). The NAPR, organized as a legal entity under public law, operated under the guidance of the Ministry of Justice. This structure allowed the NAPR to be self-managed and independent from political influence. A second piece of legislation, the Law on Registration Fee for Services of National Agency of Public Registry was signed on December 2004. This law defined the fees chargeable by NAPR for its services and established specific time frames for the provision of services.

Institutional Change

Institutional change began in parallel with the legislative efforts, with the installation of new management. In February 2004, David Egiashvili, previously head of the Office of International Relations of the SDLM and active in the working group that identified possible reforms before the revolution, was tapped to be the new chairman of the NAPR. Many of the new managers brought on board to manage change, including First Deputy Chairman Tea Dabrundashvili and Tbilisi Registry Office head Nino Bakhtadze were also involved in the early reform efforts and had experience within both SDLM and international donor-funded projects.

In addition to the dissolution of the SDLM, limited aspects of the functions of the BTI were absorbed into the NAPR, specifically the maintenance and issuance of land sketches. As a result, the role of the BTI is now limited to serving as the repository of the registry archives in Tbilisi. Other land management functions were shifted to the Ministry of Environment and Ministry of Agriculture, and surveying services were envisioned as a role for the private sector.

In addition, the NAPR maintains land encumbrance information and issues lien certificates, replacing the Chamber of Notaries in this function and reducing the office visits for custom-

ers. While this function does not generate sizeable revenues, individual notary offices continue to play a central role in preparing and notarizing real estate transaction, where fees are a percentage of the transaction value.

Centralization of Information

NAPR began the process of centralizing information and structuring the registry. Centralization included the shifting of accountability of local offices from the local government to the NAPR central office, the maintenance of a central information management center, and the streamlining of accounting and procurement through the NAPR. The 68 local offices were retained to provide service at the local level.

Staffing

As required by the new law, human resource planning commenced in 2004, and the new agency was staffed through a transparent recruitment process. NAPR conducted over 3,000 examinations, ultimately trimming a combined 2,100 personnel employed at the SDLM and the BTI to approximately 600 staffers. Increased salaries of the NAPR staff created keen competition for positions with the agency. The average salary of the SDLM staff in 2003 and 2004 of 41 GEL/month (US \$23) rose to 740 GEL/month (US \$411) in 2005. The Tbilisi Registry Office has also established an incentive system with performance-based bonuses.

Fee System

The new salary system would not have been possible without the design of a fee system, which was implemented in 2005. With the exception of the initial agricultural registration, the fees under the new law are slightly higher than the official fees charged by the SDLM. There are also specific time frames for service. And while there are no specific guarantees of service timelines, the effect of the law has been to reduce corruption, as the customer has the ability to refer to the schedule and payment terms in the law.

Information Technology

The development and improvement of information management technologies continue to be a high priority for the NAPR leadership. An initial working group at NAPR, established in early 2004, identified the following needs: continued development of NAPR registration software; development and maintenance of a centralized database; integration of all registration offices into a digital information network; and the provision of on-line operations.

Registration software called NAPReg has been developed employing an Oracle database interface with mapping information produced through an ESRI (GIS software provider) based format. Installation began in Tbilisi in 2005 with the technical support of GTZ and is expected to be fully operational in 2006. An online searchable database to determine existence of liens on properties will also be available in the near term in Tbilisi. Extension of digital services is limited to a few district offices that received specific support from international donors, such as Gardabani and Mkskheta through the World Bank/IFAD project. National installation of the NAPReg is optimistically targeted for 2008.

Tax Reform

With the objectives of simplifying procedures and increasing efficiency of tax collection, the new Tax Code of Georgia, signed December 2004, established a new tax structure by replacing the previous 13 national and local taxes under the old code with 6 national and 2 local taxes.

The most significant and direct impact on land ownership derives from the abolition of the 2 percent property transfer tax. As this transaction tax was enforced in practice at the land registration stage, this reform has the effect of reducing the costs of the transaction and the registration of property. Real estate brokers also report cases where clients had avoided registering property in order to avoid this tax.

One stipulation in the tax code, however, creates a similar effect to the one solved by the abolition of the transfer tax. According to the law, the sale within two years of acquisition obligates the seller to pay income tax (20 percent in the case of business) on the difference between the purchase and sales price. The payment of all land taxes continues to be enforced at the registration stage. While this has not been reported to be a structural obstacle to closing real estate deals, it continues to place the NAPR in the position of enforcing tax payments and seems to depress the officially reported property values.

Costs

Although it is difficult to capture all the costs of reform with certainty, the costs can be categorized as capital costs, training costs, new personnel costs, and time lost to prepare for and implement the transition. As a reference point, the official state budget contribution to the SDLM was US \$670,000 in 2003.

About BizCLIR:

BizCLIR, or the Business Climate Legal & Institutional Reform Project, is a multi-year initiative of the United States Agency for International Development with the goal of improving the efficiency and impact of assistance programs intended to help developing countries improve their business enabling environments. This series, Best Practices for the Business Environment, represents one of many knowledge management components of the BizCLIR project. The goal of the series is to highlight the known best practices, case studies, lessons learned, and in some cases worst practices, so that the lessons can benefit other practitioners in the field. All issues are available at www.bizclir.com.

Table 1 provides a breakdown of capital costs:
Table 1: Capital Expenditures (Sept 2004-2005)

	NAPR	Donors	Total
Renovations	\$301,603	\$534,433	\$836,036
Software	\$212	\$3,461	\$3,673
Computers	\$85,974	\$159,252	\$254,226
Furniture	\$154,708		\$154,708
Total	\$542,497	\$697,145	\$1,239,643

The differential personnel cost between the SDLM and the NAPR are also substantial. In 2003, the budget for personnel salaries for the 1,100 staff at SDLM (not including BTI) totaled US \$468,000. In 2005, NAPR expended over US \$2.4 million for the staff of over 600 consultants.

Over the long term, however, these costs, while substantial, need to be placed within the context of NAPR's current and potential revenue stream. In 2005, NAPR received a state budget contribution of US \$325,000. At the same time, however, NAPR collected registration fees totaling over US \$4.5 million, of which NAPR—an independent entity—contributed approximately US \$1.5 million to the state in value-added tax (VAT) and employee tax contributions. In 2006, NAPR, which does not receive revenue from local property taxes, is expected to be operationally self-sustaining based on fees charged for services.

Results

The most widely agreed-upon reform success is the reduction in the culture of corruption. One commenter from the private sector stated, "Today, there are no bribes." Additionally, as noted previously, the NAPR was scheduled to achieve the objective of self-financing by 2006. Increased speed of the registration process and clarity regarding the institutions involved are also highlighted as a positive result. Previous estimate of time required for the process averaged 39 days. In practice, however, there were no specific time requirements for services, which had opened the door to "additional" payments to secure timely services. NAPR is now recognized by the public as the responsible entity for land registration, and standard registration procedures take 10 days.

Broadly speaking the specific objectives identified by international and Georgian specialists in land registration were consistent with the

larger market reform initiative of the new government. Notable aspects of the reform include:

- The Rose Revolution provided the framework to implement political changes not otherwise possible.
- International funding and technical support played an important role in the reforms.
- Georgian leadership generally took the lead in debating the strategies and designing responses.
- A Georgian model taking into account various aspects of Georgian reality was developed.
- Sustained leadership at the responsible organizations has provided a consistent, stable framework for policy.

Conclusions

The approach followed by the new Georgian government has created momentum for further reform. "The situation is better, but it is not enough," reflected David Egiashvili, chairman of the NAPR. Egiashvili recognized that infrastructure conditions and service at local offices are not consistent, and he is planning necessary investment for equipment and training. Further, in anticipation of the stress that will be placed on the existing system by the increased volume of registration, the Tbilisi office is revamping its computer program to improve searchability of its database and restructuring its staff to separate front-office client interface from the back-office information management.

The Law on Registration of Rights over Real Property, approved in March 2006, also attempts to clarify aspects of the registration procedure. Specifically, it allows for the registration of "virtual properties" such as apartments in buildings under construction. Additional regulations are expected to be issued by the Ministry of Justice in order to implement these changes. Zara Bibliashvili of BGI Law believes that the system is moving in the right direction. "The laws are manageable," Bibliashvili confirmed. "Now is the time also for society and members of the business community in particular to demand improved services in these and others areas of the government."