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MSc Programme in Urban Management and Development

Rotterdam, The Netherlands

September 2014

Thesis

Title: Conversion of customary land tenure to statutory land tenure by foreign investors as a land value capture tool to finance infrastructure services: The case of Lusaka

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Specialization: Urban Land Development

UMD 10 Report Number: 738

MASTER'S PROGRAMME IN URBAN MANAGEMENT AND DEVELOPMENT

(October 2013 – September 2014)

Conversion of customary land tenure to statutory land tenure as a land value capture tool to finance infrastructure services: The case of Lusaka

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Zambia

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Summary

Following the Vancouver Declaration in 1976, there has been a lot of discussion on the concept of land value capture (LVC) worldwide. There is overwhelming consensus that governments have right to capture at least a portion of the value increments arising from their actions or the general public. Government actions like changes in planning regulations, investments in infrastructure and the general population increase all result in value increments to private land affected by such changes. There is almost a general acceptance that such value increments are unearned by the private and the public is justified to capture part or whole of the increments and redistribute for the benefit of the general public. Such land based tools have been effectively used to improve the provision of infrastructure by a number of countries.

Conversion of tenure from customary to statutory was identified as one such government action which results in land value increments capable of being captured for purposes of providing infrastructure services. To capture such increments in Zambia, two instruments were identified - property tax and public land leasing. The study looked at property tax as one instrument and considered public land leasing under three sub instruments – ground rent, premium, and gains sharing agreements. The aim of the study was to compare the four instruments and establish which one captured more value increments on land converted from customary to statutory tenure by foreign investors in Lusaka to finance urban infrastructure.

In order to achieve this objective, the study was driven by trying to answer the main question was to establish if conversion of tenure from customary resulted in value increments and if so which of the four instruments was capturing more and establish how w the captured values supporting the provision.

Through the use of literature, ideal practices around the world were identified. The study also brought out the relationship between infrastructure, investments in land and land based value capture instruments. This resulted in the construction of a conceptual framework.

In answering the research question, multiple strategies were adopted. Firstly, to establish if conversion of tenure resulted in value increments, a quasi experiment was used which studied the values of land under customary tenure and land converted to statutory tenure. The research revealed that land under both tenure types was experiencing value increments. However it was also revealed that land under statutory tenure increased at a faster rate and therefore it was concluded that tenure change from customary to statutory resulted in value increment.

To answer the other parts of the research question, a combination of interviews and analysis of secondary data was used. The study finally concluded as follows:

i) that conversion of tenure from customary to statutory resulted in value increments;
ii) that property tax was capturing more values than ground rent and premiums, and that gains sharing agreements have great potential of making conversion tenure an effective land value capture tool; and
iii) That the levels of infrastructure financing from these land based tools were very minimal.

After the above conclusions, the study gives recommendations on how the utilisation of the four instruments can be improved and also the need for future research.

Keywords – tenure conversion, gains sharing agreements, rate levy, Land Value Capture.

Acknowledgements

First and foremost I would like to thank the almighty Jehovah God for the opportunity of life and having guided me throughout my academic career.

I would like to thank my family – wife Mary Chande Ndovie, for supporting me and allowing me to undertake this programme which was to keep us apart for the longest period since the day we met. Thanks to my two lovely daughters Pauline and Tima for being there for me.

My sincere thanks go to my supervisor Carlos Morales - Schechinger for his untiring guidance from the time I joined the Urban Land Development specialisation. I also thank the specialisation coordinators Tikvah and Ore for their dedication and encouragement. The assistance given in searching for and utilising literature can never go unnoticed. Surely the ULD team can never have a better combination.

Many thanks go to Cocky who was always ready to listen and the entire course bureau team who made things easier to cope with. Special thanks to my friend Ruud for always making me believe that it was possible. To him I say “yes we can”. Nigel and Sharon for their assistance in IT and literature search.

I am also indebted to my friends Mr. and Mrs Chanda Mumba for the support rendered in accessing information, Mr. and Mrs Abraham Mwansa for being there for my family during the time of my absence, my brothers Henry and Lewis, for believing me, and my young Man Andy Chintala for standing by me throughout this period.

To my workmates I say thank you to Mr. Brian Chirwa, Mr. Jumba and Mrs. Kalabo for having facilitated my leave from the office at a time when the office was overwhelmed with work and experiencing a critical shortage of manpower. I also thank Mr. Wesley Mutembo, for the job he did on putting the documents for my fellowship and study leave.

My fellow professionals Mr. Anthony Kateule of Hallmark Chartered Valuation Surveyors and Mr. Kapumba Zimba of Liberty Property Consultants for having spared their time and offered consultations on property values for Lusaka. I also thank Mr. Mabuchi Chilembo and Mr. Mutengo Sindano of the Ministry of Lands for the invaluable data given on land administration.

I am also indebted to Mr. Andrew Kalemba, Senior Valuation Officer Lusaka City Council for the support rendered in data collection – I cannot thank him enough.

My fellow UMD10 students who made me feel that there is always a family even when away from home. Special thanks to my specialisation friends Andres and Hugo, our association was great. My training partner Salvador – please keep going. Lastly but not the list my Zambian UMD10 colleagues for being so united under trying circumstances.

Abbreviations

ADMIN.	Administrative
CAPT.	Capitalised
CDIA	Cities Development Initiative for Asia
CMV	Current Market Value
CSO	Central Statistical Office
G.RENT	Ground Rent
GRZ	Government of the Republic of Zambia
GSA	Gains Sharing Agreement
HA	Hectare(s)
IHS	Institute for Housing and Urban Development
IMPS.	Improvements
INWENT	Internationale Weiterbidung und Entiwicklung
LCC	Lusaka City Council
LDF	Land Development Fund
LPT	Land and Property Tax
LTD.	Limited
LVC	Land Value Capture
MOF	Ministry of Finance
NAPSA	National Pension Scheme Authority
PPP	Public Private Partnership
PROX.	Proximity
REGNS.	Regulations
SI	Statutory Instrument
SN.	Serial Number
UK	United Kingdom
UN-HABITAT	United Nations Human Settlements Programme
US$	United States Dollars
USA	United States of America
VALN.	Valuation
ZDA	Zambia Development Agency
ZMW	Zambian Kwacha
ZRA	Zambia Revenue Authority

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Chapter 1 Introduction

1.1 Background

Zambia is a former British colony located in Central Africa. It is completely landlocked and bordered by Zimbabwe, Botswana, Namibia, Angola, Congo DR, Malawi, Tanzania and Mozambique. Like many African and developing countries, the cities of Zambia are currently experiencing a backlog in the provision of infrastructural goods and services due to, mainly, the rapid incidence of urbanization coupled with meagre sources of funding. The Result is that a considerable number of people still lack access to decent housing, clean water and sanitation facilities. A considerable number of women and children still spend hours fetching water. The majority of the roads are in despair due to lack of maintenance and government run schools lack basic facilities.

From the above state of affairs, it can be concluded that the current methods of financing infrastructure in Zambia are not adequate and there is need to devise a variety of other revenue sources at both central and local level. Land value capture is one such revenue source that has been used by both developed and developing countries successfully. This is a method by which land value increments resulting from public investments or actions are captured and used to benefit the public. According to proponents of land value capture, the source is considered equitable because "those who did not contribute to the increased land value do not retain the financial benefits" (Ingram and Hong, 2012).

The theme of this study is conversion of customary land tenure to statutory tenure as a land value capture tool to finance infrastructure services. The study intends to show that when land is converted from customary tenure to statutory tenure, land values are "unlocked" which are capable of being captured, through property taxation and public land leasing, to support expenditure on the provision of urban infrastructure. The study is based on the idea that land on documented tenure is more attractive than land which has no documents. Many reasons are put forward to support this but the core idea is that when customary land's tenure is converted to statutory, it is introduced on the market and therefore the latent value contained is unlocked (Peterson, 2009b).

There are various instruments which have been employed by different countries to capture value increments. Some of the instruments include public land leasing, property taxation, betterment charges, sale of development rights, exactions and other regulatory charges. It is important to state here that this list is not exhaustive and that the instruments have been used in different countries differently and with different outcomes. It is also important to mention that the success of each of the above instruments depends on the context in which they are to be employed.

The study intends to establish how land values are being captured in Zambia through property tax and public land leasing on land converted from customary to statutory tenure. Based on the theme of the study, a brief background to the Zambian land tenure system seems appropriate.

1.1.1 Land Tenure System in Zambia

1.1.1.1 History of Land Tenure System in Zambia

Before written history, land in Zambia was held under customary tenure. Land was generally held by the chiefs on behalf of the people. Individuals belonging to various tribes had the right to use but not to sell. The right to use was however transferable by way of inheritance, for consideration or as gifts. This system changed with the arrival of white settlers who brought in the system of holding land under a certificate of title.

When the settlers arrived, recorded history indicates that they identified and occupied fertile land which was categorised as Crown land. The first land related legislation was introduced in 1944 through the Lands and Registry Act which provided for the registration of documents and land titling. Titled land, as introduced by the settlers, was held under freehold tenure. Crown land accounted to approximately six percent (6%) of the total land area (United Nations Human Settlements Programme (UN-HABITAT), 2005). The remaining ninety four percent (94%), which was considered as less productive, continued to be under customary tenure. This was referred to as Native Reserves.

In 1947, a third category was created out of the Native Reserves and was referred to as Trust Land. This third category was land which though not on title was reserved for Government use. Therefore, by the time Zambia attained its independence in 1964, it had three categories of land.

1.1.1.2 Land Tenure after Independence

After independence, crown land became state land while the other two continued to be referred to as reserves and trust land (United Nations Human Settlements Programme (UN-HABITAT), 2005)This state of affairs continued until 1975 when the country had its first land reforms which culminated into the enactment of the Land (Conversion of Titles) Act(Government of the Republic of Zambia (GRZ), 1975). All previous held freeholds were converted to leaseholds of 100 years. Land was vested in the President in perpetuity for and on behalf of the people of Zambia. Any subsequent offers were to be state leases up to a maximum period of 99 years. The Act introduced the concept that land had no value and all transactions in land were abolished.

In 1995, the Land (Conversion of Titles) Act was repealed and replaced with the Lands Act. This Act provided for the continuation of leasehold tenure and the continued vesting of land in the President. The Act further provided for the “statutory recognition and continuation of customary tenure” (Government of the Republic of Zambia (GRZ), 1995). This piece of legislation is the one which has been in force to date.

The above state of affairs means that Zambia has a dual land tenure system; customary tenure system and statutory tenure system. Land under customary tenure, which currently covers approximately ninety percent (90 %) of the total land area is regulated by the chiefs assisted by their headmen while land under statutory tenure, covering approximately ten percent (10%) is held by the President, for and on behalf of the people of Zambia(Central Statistical Office (CSO), 2011). The Land Act, which came into operation in 1995 provides for both statutory recognition of customary land, under section seven (7), and the conversion of title from customary to statutory, under section eight (8). Customary land is deemed not to have

monetary value. However, in practice it is sold, though presumably at lower prices in comparison to land on statutory tenure.

Since there is no freehold ownership in Zambia, land converted from customary tenure automatically vests into the state. The state then leases this land to whichever developer the conversion was intended for a period not exceeding 99 years.

1.1.1.3 The Process of Tenure Conversion

Section 4(1) of the Lands Act provides that the President can alienate land under customary and grant it under leasehold tenure for a term not exceeding ninety nine years. The Act further provides that the President cannot alienate any such land without the approval of the chief and local authority in which the land is located. In line with the above provisions, the following is the process of conversion of customary tenure to statutory tenure.

i) Identification of Piece of Land;
ii) Recommendation to the chief;
iii) Consent of the Chief;
iv) Local authority recommendation to Commissioner of Lands;
v) Numbering;
vi) Surveying; and
vii) Issuance of title deed.

A brief discussion on the whole process of conversion is given at annex 2.

1.2 Problem Statement

Lusaka is the capital city of Zambia whose population according to the 2010 census was approximately 1.4 million. From the time the country attained its independence, the city has experienced a rapid population increase from 60 thousand inhabitants in 1964 to 1.4 million in 2010(Central Statistical Office (CSO), 2011).

Unfortunately, this increase has not been coupled with a corresponding expansion of infrastructural goods and service provision. Generally, the infrastructure in the city was constructed before independence and has not been upgraded in a long time. The population increase and non-maintenance of the old infrastructure has put a lot of pressure on the existing stock.

The reasons for this state of affairs are many including poor staffing levels in the municipality, lack of management systems, poor land use planning which make it impossible to have economies of scale and lack of adequate funds (Bahl, Linn, et al., 2013). The major reason to explain this state of affairs is however the financial inadequacy. There is a financial gap between the available and required funds both for the provision of new infrastructure and maintenance/rehabilitation of existing infrastructure. In order to redress the situation, identifying sources of financing options is therefore of paramount importance.

Land based financing tools have been used effectively in a lot of countries to finance urban infrastructure. Good examples are India, Egypt and Hong Kong which have used different land based instruments to finance infrastructure services (Peterson, 2009a, (Cities Development Initiative for Asia (CDIA), Internationale Weiterbidung und Entiwicklung (INWENT), et al., 2010)

The provision for converting land from customary to statutory tenure enables government to increase its land stocks from which finances can be raised. Whereas land may be made available through conversion of tenure, the availability of investors is another huddle. The financial markets in Zambia are not well developed and are not in a capacity to handle the complex nature of infrastructure projects. There is therefore need to attract foreign investment so as to open up access to adequate funding.

In order to attract foreign investors, the Zambia Development Agency (ZDA), a Government agency tasked with the responsibility of attracting foreign investors has been active in facilitating the conversion of customary land to leaseholds. The agency has in the recent years managed to facilitate the acquisition of land by foreign investors resulting in the development of high value commercial and industrial undertakings in Lusaka and surrounding areas.

When land is converted from customary tenure to statutory leasehold, it becomes part of the state land stock and enters the land market which results in value increment which the government is able to capture through property tax and leasing. Each of the instruments has got its advantages and disadvantages and therefore with different potentials. It is therefore imperative to assess the instruments and see which one offers better solutions to the current situation. From this assessment, it is hoped that one, or a combination, of instruments will be identified as the ideal instrument which the country may consider concentrating on and establish if it requires improvement or not. It is important to note that while property tax will be studied as one, though with different tax bases, leasing on the other hand will be studied under three separate instruments; these are ground rent, premium and gains sharing agreements.

It is worth mentioning here that while ground rent and premiums are instruments which have been used commonly, gains sharing agreements have not. Gains Sharing Agreements refer to contractual obligations which prospective leaseholders are given in addition to the usual contractual/planning obligations and may be in form of cash or in kind (Peterson, 2009a). They are called gains sharing because prospective developers are willing to pay because of the gains that they expect from the use of the land and government is asking for a share of the anticipated gains.

1.3 Objectives

In view of the above background, the main objective of the study is to compare and determine which instrument captures more land value increments amongst property tax, annual ground rent, premium and gains sharing agreements on land converted from customary to statutory tenure by foreign investors in Lusaka to finance urban infrastructure.

The specific objectives are:

i) To establish if land values increase when land is converted from customary to statutory tenure by foreign investors;
ii) To establish if the resultant land value increments are captured through property tax, annual ground rent, premium and gain sharing agreements; and
iii) To establish if the land value increments are benefiting the general public through the provision of infrastructure services.

1.4 Research Question

Which instrument captures more land value increments amongst property tax, ground rent, premium and gains sharing agreements on land converted from customary to statutory tenure by foreign investors in Lusaka to finance urban infrastructure? The sub questions are:-

i) Does conversion of tenure from customary to statutory tenure by foreign investors result in land value increment?

ii) To what extent is the resultant increment in land value captured through property tax, ground rent, premium and gain sharing agreements; and

iii) How is the captured land value supporting public expenditure on provision of urban infrastructure?

1.5 Scope

The research will generally focus on increments on land values as a result of conversion from customary land tenure to statutory land tenure. In particular, land value increments on high profile properties that have been converted by foreign investors in Lusaka and surrounding areas will be considered. The study will then try to show how property tax and public leasing are used to capture the values and how much is captured. The study finally hopes to establish how the benefits from the captured value increments are being channelled to the provision of infrastructure services.

1.5.1 Study Area

Selected locations of Lusaka and surrounding areas with high value properties developed by foreign investors on land converted from customary to statutory leasehold constituted the study area. These are concentrated on the peripheries of the greater city of Lusaka. Figure 1 an oil processing plant which is newly constructed in the periphery of Lusaka on land previously under customary tenure.

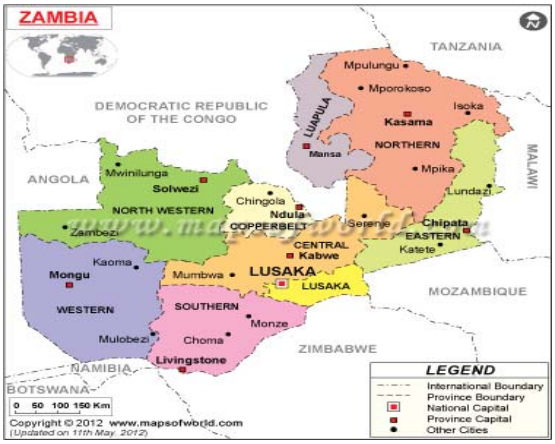
Figures 2A is a map of Africa showing the location of Zambia while figure 2B is a map of Zambia indicating the location of Lusaka. Figure 2C is a map of Lusaka indicating the periphery areas where a lot of high value properties have been developed through the conversion of customary tenure to statutory tenure. A detailed map for this area was at the time of the research not available. The red point indicates the independence stadium which is a good benchmark to establish the general location of the most of the properties.

Figure 1A newly constructed oil processing plant in the periphery of Lusaka. SN 12

Source: *Photographs taken by the author during fieldwork 201*

Figure 2: Maps of (a) Africa showing location of Zambia (b) Zambia showing location of Lusaka

A



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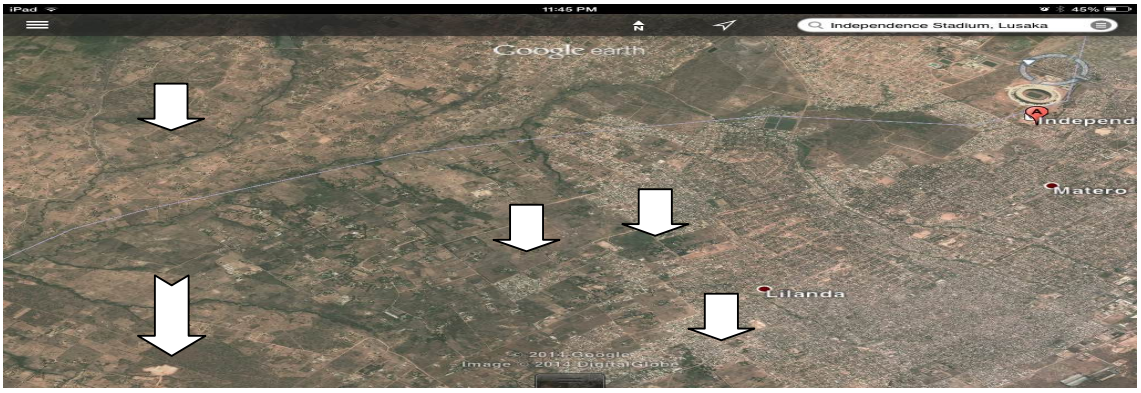


C

Source: *Adopted from Google maps* ***2014***

Chapter 2: Literature review

2.0 Principles of Land Value Capture, Property tax, Ground Rent, Public Land Leasing/Lease Conditions and Urban Infrastructure Provision

2.1 Introduction

This chapter reviews the general principles and concepts behind urban infrastructure provision, land value capture, property tax and public land leasing. Using existing literature, the study examines the unique nature of infrastructure provision services and in the process brings out the need to find sources of finance. The chapter then demonstrates the relationship existing between infrastructure provision and the land value capture instruments. Using the reviewed literature, the chapter concludes by demonstrating through a conceptual framework that there is a symbiotic relationship between infrastructure and the land value capture instruments.

2.2 Urban Infrastructure

Many low income countries have experienced rapid urbanisation. The increase in population on its own is not a problem because contrary to the previous views about urbanisation, there is now a growing consensus that cities are the "engines" for economic development. For instance, the Cities Development Initiative for Asia (CDIA) reported in 2010 that 40% of the urban population was responsible for approximately 80% of Asian GDP (Cities Development Initiative for Asia (CDIA), Internationale Weiterbidung und Entiwicklung (INWENT), et al., , 2010). The same report indicated that it was projected that by 2025, 75% of China's GDP will be accounted for by its cities.

If cities are considered "engines" for economic development, it is befitting for infrastructural services to be considered as the "wheels" to keep the 'engines' running (Ingram and Brandt, 2013). This is because all facets of city life, that is economic, social, physical and environment, hinge on the availability and quality of infrastructure. Availability of adequate infrastructure encourages investments which lead to economic growth. More investments in land mean more people, increased demand and ultimately increase in land values capable of being captured for further investments in infrastructure. There is therefore a symbiotic relationship between infrastructure and land use. When there is economic growth, citizens standard of life improve leading to stability and generally good quality of life.

Leasing the land which is converted from customary to statutory makes it possible for foreign investors to make long term investments in land from a legal perspective. However to achieve adequate investments depends on the country offering location advantage so that foreign investors are pulled to establish their plant or factory in that country rather than in their own or a different location (Wall, 2011). One of the attractions is availability of infrastructure services. Transport infrastructure will widen the location of manufacturing plants for instance while the availability of electricity is also a requirement for most industries (Bahl, Linn, et al., 2013). This means that provision of infrastructure is vital for attracting foreign investors in addition to making the land available.

Improvements on infrastructure services impact positively in that more foreign investors will be attracted to invest because there will be adequate infrastructure to support their investment (Smolka, M. and Amborski, D., 2000). This will demand more land to be converted resulting

in more value increments which when captured goes back to improve infrastructure thereby resulting in a symbiotic relationship.

Unfortunately, the unprecedented urban population growth in the low income countries is not coupled with a corresponding expansion of infrastructural goods and service provision by local authorities. The reasons for this state of affairs are many including poor staffing levels, lack of management systems, poor land use planning which make it impossible to have economies of scale and lack of adequate funds (Bahl, Linn, et al., 2013).

Whilst all the factors highlighted above contribute to the poor provision of infrastructural services, financial inadequacy is the major problem. As stated in the previous chapter, there is usually a financial gap between the funds which are available and the required funds to support expenditures on maintenance/rehabilitation of existing infrastructure and provision of new infrastructure (Cities Development Initiative for Asia (CDIA), Internationale Weiterbidung und Entiwicklung (INWENT), et al., , 2010). In order to redress the situation, identifying sources of financing options is therefore of paramount importance. Pressure on the existing infrastructure is being exerted from two fronts; the age of the infrastructure and the increase in demand due to population increase.

2.2.1 Sources of Financing Infrastructure

2.2.1.1 Traditional Sources of Finance

Traditionally, the public sector, that is central/local government and government agencies, used to design, build, own, maintain and operate virtually all urban and rural infrastructures. In the same vein, funding for infrastructural goods and services has been a sole responsibility of the respective government institution generally through the following sources:-

- Taxes;
- Grants;
- User charges; and
- Lease incomes.

2.2.1.2 Alternative Sources of Finance

Most economies, especially the low income and transition countries, are finding it difficult to provide adequate infrastructure using the traditional sources of finance. This is because the projects usually are complex and require huge sums of financial resources. The majority of governments in low income countries are facing financial difficulties which have resulted in huge fiscal deficits. In some cases, such deficits go up to 9% of GDP (Cities Development Initiative for Asia (CDIA), Internationale Weiterbidung und Entiwicklung (INWENT), et al., , 2010) The financial crisis which affected most economies worldwide between 2008 and 2010 also added pressure on most governments resulting in tightening of budgets.

Other challenges faced include underdeveloped financial markets, suboptimal risk allocation and the cost and availability of financing (Cities Development Initiative for Asia (CDIA), Internationale Weiterbidung und Entiwicklung (INWENT), et al., , 2010). These are discussed briefly below:-

i) **Underdeveloped Financial Markets** – In most of the low income and transition countries, it is usually difficult to get huge sum loan facilities especially on long term. This is a big problem because most of the

infrastructure projects involve huge sums which normally require long term loan facilities.

ii) **Suboptimal risk allocation** – This is closely related to (i) above. Because of the unavailability of long term finance, investors are not willing to invest in such long term projects using short term loan facilities. Risks become more because in order to cover the long term project, an investor would be forced to borrow periodically implying renegotiations making it difficult to guarantee returns.

iii) **Cost and availability of finance** – This is related to how developed the financial markets are. In less developed financial markets, the availability of finance is low. This coupled with the absence of competition makes the cost of finance very high.

All the above constraints add to the need for finding alternative sources of financing infrastructure. Alternative sources include public private partnerships (PPPs), multilateral and bilateral agencies, domestic financial institutions, capital markets, and asset leverage. Land financing techniques bring in the advantage due to their capacity to raise upfront revenues which are more attractive than borrowing (Peterson, 2009b).

2.2.2 Need for Alternative Sources to Finance Urban Infrastructure

One of the characteristics which make the provision of infrastructure services unique is that they are usually complex in nature and require huge sums of investments. Most developing countries, as stated earlier, have huge deficits and the local financiers usually do not have the capacity (Ingram and Brandt, 2013). It is therefore imperative that foreign investors are attracted to inject the much needed resources. Titled land is more attractive than untitled land and therefore more valuable (Ingram and Hong, 2009, Payne,2001). However, local investors especially in the low income countries have no capacity to make realistic investments (Cities Development Initiative for Asia (CDIA), Internationale Weiterbidung und Entiwicklung (INWENT), et al., , 2010).

All the above constraints add to the need for finding alternative sources of financing infrastructure. Land instruments have been used effectively by some countries to raise funds for the provision of infrastructure. For instance, public land leasing in countries where land is owned by government has been used to capture values for financing infrastructure services. A good example is Hong Kong. Data indicate that between 1996 and 2009 revenues collected through land leasing as a percentage of total revenues and public works expenditure was approximately 16% and more than 100% respectively (Hong Kong, 2011).

Peterson (2009) also indicates cases where land financing instruments have been used to adequately finance infrastructure services. For instance, the city of Mumbai in India through an auction of two parcels of land, which were less than thirteen hectares in total extent, raised an amount equivalent to US$1.2 billion between 2006 and 2007 which was used to finance transport infrastructure (Peterson, 2009a). An analysis of the said amount indicated that it was more than 3.5 times the value of municipal bonds which had been issued in the entire India over a period exceeding twelve years. This was a milestone in that international organisations had been emphasising the issuance of municipal bonds as a source of financing urban infrastructure (Peterson, 2009a). Peterson (2009) further gives Egypt and China as

two other examples where land based instruments have been effectively used to finance infrastructure.

2.3 Land Value Capture (LVC)

The concept of land value capture illustrates the process by which the public recovers land value increments resulting from public/community's actions through taxes or charges for the benefit of the community. Land value increments results from both private and public actions (Ingram and Hong, 2012, Smolka, 2013). Private investments in land result in value increments and owners are justified to retain most, still not all[1], of such increments. The public is still entitled to tax part of such increments (Walters, 2011).

The concept of LVC is based on the argument that when land values increase at a faster rate than inflation without the owners doing anything, it is because of public investment in infrastructure, changes in regulations related to the use of land or due to population growth (De Cesare Claudia M., da Silva Filho Luiz Carlos P., et al., 2003) It is argued that Private owners are not entitled to retain increments resulting from such public initiative because they are "unearned"(Ingram and Hong, 2012, Kitchen, 2013, Mathur and Smith, 2013, Walters, 2012).

Studies have shown how Government's intentions to invest in infrastructure have impacted on land values even before the realisation of such investments. Vetter, Massena, and Rodrigues (1979 as cited in Smolka, 2013) gives a situation in Brazil where Government announced infrastructure developments in one neighbourhood of Rio de Jenairo in 1967. Following the announcement of the intentions to develop the area by introducing expensive transit lines and opening access to the area, land values within and surrounding areas escalated in excess of 1900% and 430% respectively between 1972 and 1975 (Vetter, Massena, et al., 1979)[2]. The above study also indicated that by the time the plan's land uses and building standards were being implemented in 1976, approximately 30% of the total area had been acquired by three "speculative" land owners. According to Smolka (2013), by the year 1980 one individual acquired approximately 6km^2 of the 160km^2 total area of the site.

Because of the above trends of social injustice, there is a growing consensus that Governments have justifications to capture part or all value increments resulting from their actions for the benefit of the general public (Ingram and Hong, 2012). In addition to redistributing benefits through reinvesting the captured values, Governments are at least justified to recover the costs of their investments in infrastructure. To do this, there are various instruments which are available and include land and property tax (LPT), public land leasing which comprises ground rent, premium and gains sharing agreements (in cash or in kind), betterment charges, and sale of development rights. This list is not exhaustive and for the purposes of this research, the discussion will mainly focus on the first two instruments – property tax and public land leasing.

The theme of the study is about capturing unlocked values on land converted from customary tenure to statutory tenure by the above instruments. However, before considering the

[1] The reasoning is that even in such instances, the land value increments will still depend on the community. Values depend on the combination of demand and supply.

[2] This article cited by Smolka(2013) appeared in a Brazilian Journal. It is written in Portuguese whose title is translated as 'Space, value of land and equity of investments in infrastructure of the municipality of Rio de Janeiro".

instruments and assessing the capacity of each, a brief discussion of land tenure conversion is appropriate at this point.

2.4 Conversion from Customary to Statutory Tenure

Land tenure is the term used to describe the manner or mode by which land rights are possessed or owned (Dale and McLauglin, 1999, Payne, 2001). There is a wider range of forms and designs of ownership and include customary – which is a system where land is held by a community (normally a tribe under a chief), public, private, or religious (Payne, 2001).

Forms of land tenure systems differ from country to country. However, the two main categories of tenure systems are informal and formal tenures. Formal tenure systems are those 'whose interests are explicitly acknowledged and protected by the law' (Dale and McLauglin, 1999). Informal tenures systems on the other hand take a variety of forms including those that are recognised by the local community but are informal. These systems include squatters and other many forms under which people own or occupy land whether acknowledged by society or not (Payne, 2001).

Land under customary land usually has no written record. Nevertheless, ownership by the community concerned is usually well known and acknowledged. The community has rights to exclude or permit individuals to use or develop the land. In most countries, ownership of the land under this category is also acknowledged by the law. For this reason, even if land under customary tenure has no written record, it still cannot be classified as informal. But because ownership is by the community, private investments tend to be limited and normally temporal in nature (Ingram and Hong, 2009).

Transforming Land from customary tenure to statutory tenure results in value increments because it is introduced on the market and there is more demand for land on formal title (Dale and McLauglin, 1999, Ingram and Hong, 2009, Payne, 2001). In addition, foreign investors are only willing to invest when there is enhanced security of tenure to secure their investment.

When land is converted from customary tenure to titled tenure, there are usually two options available. Either to issue title on freehold or leasehold. One way of ensuring that land value increments resulting from such conversions are captured is through leasing. By leasing the land as opposed to selling, Government is able to retain ownership of the land and is also able to control the use while at the same time capturing value increments through collection of premiums and ground rent (Bourassa and Hong, 2004).

The use of land is controlled through planning instruments like planning permits, building and density permits. Whenever a developer intends to build or develop the land, such developments have to conform to standards/requirements of Government. Most of the planning requirements are standard and may appear in the general master plan. Depending on the proposed use, other special requirements may be imposed which the developer is expected to comply with. The above notwithstanding, it is also possible to negotiate the conditions especially if the proposed development is expected to bring in extra benefits like creation of employment for example. This is very ideal when dealing with foreign investors intending to put up large scale developments which may even include construction of infrastructure (Smolka, M. and Amborski, D., 2000).

Having highlighted the general concepts surrounding conversion of title, the discussion will consider the four land value instruments which are the focus of the study. These are property tax and the three sub instruments of public land leasing – ground rent, premium and gains sharing agreements.

2.5 Property Tax

Land and Property tax (LPT) is one form of tax that is called differently from country to country. In some countries, especially former British colonies, it is referred to as property rates while in others it is called land value tax, annual land and property tax, municipal tax, or real estate tax. However varied the name may be, this is a tax which has been in existence for a long time and is generally levied annually by local Governments on owners of real property (landed property)(Walters, 2011, McCluskey and Franzsen, 2013). Even though other bases like banding, cadastral value approaches or physical attributes are used in different settings, property tax is usually based on the value of real property(De Cesare Claudia M., da Silva Filho Luiz Carlos P., et al., 2003, Kitchen, 2013, Walters, 2012).

2.5.1 Characteristics of Land and Property Tax (LPT)

LPT exhibits a number of advantages when compared to other sources of local revenue for financing urban infrastructure. These are:-

a) It is a viable source of revenue

- It is based on immovable property and therefore difficult to evade. It is for this reason that it is usually the major source of locally generated revenue in most cities. Even though the level of importance of property tax varies a lot, data indicates that in most cities, it accounted for more than twenty percent (20%) of total revenue i.e. inclusive of central government transfers (McCluskey and Franzsen, 2013);

- When compared to other taxes, property tax is cheaper to administer. Studies indicate that it is possible to achieve a cost yield ratio of two percent (2%) or even less (Bujang, Hakim, et al., 2013). Studies have also shown that the property tax is unique in that it is capable of being introduced in any given context; and

- It has been in existence for a long time[3] and therefore people are aware and understand it.

b) It induces behaviour

- It discourages speculations and encourages development of the land in that it becomes expensive to hold on to vacant land while paying taxes for it (Walters, 2012). This definitely contributes positively to economic development and at the same time reduces urban sprawl; and

[3] Studies of property tax indicate that it is one of the oldest taxes which has existed for centuries in a lot of countries(Walters, 2011, De Cesare Claudia M., da Silva Filho Luiz Carlos P., et al., 2003, Kitchen, 2013, Portnov, McCluskey, et al., 2001).

- Being a local tax, it promotes accountability. When citizens make payments to the local authority, they in return expect to see services being provided. Usually, these services are in the form of infrastructure provision.

c) It has redistributive capacity

- It promotes social justice by cushioning the inequality associated with land value increment benefits in the "broader economy" (Walters, 2011) by getting more from the rich; and
- By using the tax collected to provide infrastructure, citizens benefit equally irrespective of the amounts each contributed.

For purposes of the study, property tax is important because of attributes (a) and (c) because these are the attributes which make LPT a land value capture instrument.

The above characteristics make property tax an important local source of revenue for provision of infrastructure. As will be seen later in the discussion, infrastructure provision tends to increase land values which is the basis of property tax and also attracts further developments which in turn widen the tax base. More revenue makes it possible to provide adequate infrastructure. This connection between property tax and infrastructure provision/availability inevitably leads to development and will come out clearly in the conceptual framework later in the discussion.

2.5.2 Legal Framework for an Effective Property Tax System

For any tax to be effective, experts argue that it is supposed to have a strong legal backing. Levels of Government around the world have different structures and as such there is no universal law which "fits all". The law relating to LPT therefore has to be contextualized in order to be enabling. But whatever form it takes, it is important that the legal framework is authorised by the same instruments which govern other taxes (Walters, 2011).

The above notwithstanding, there are some important aspects of any given property tax system which need to be clearly defined by the law. The law must first define which organ of government is responsible for the administration of the tax. What should be taxed (tax base), how the tax is assessed, the rate (tax as a percentage of value), who should be responsible (between owner and occupier), frequency of the tax and the valuation cycle are all important attributes of the property tax system which the law should clearly define. For purposes of this research, a brief discussion of the tax base, valuation cycle (revaluation), basis of assessment and determination of the rate levy seems appropriate because these are the ones which determines the level of revenues generated and therefore in the end determines if land value capture occurs or not(Walters, 2011).

2.5.2.1 Tax Base

Landed property includes land and fixed improvements[4]. Generally three options are available for a property tax system; to tax land only, improvements only or land and

[4] Improvements also need to be clearly defined. In some countries improvements mean buildings only while in other countries it may also include some fixed plant and machinery like in United Kingdom and Zambia(Kitchen, 2013, Government of the Republic of Zambia (GRZ), 1997)

improvements[5]. Different countries adopt different options depending on what is perceived ideal. For instance while in the United Kingdom, Germany, Argentina, Colombia, Japan and Zambia, both land and improvements are taxed, only land is taxed in Ukraine, Australia, and some parts of the United States (Kitchen, 2013). In some countries, the tax has wider definitions of the base whereby some municipalities may tax land only or a mixture of land and buildings/improvements. A good example is Kenya where the base is usually land only but at times improvements are also included. Table 1, adopted from Kitchen (2013) shows a variety of bases used by different countries.

Table 1:Tax assessment bases

Country	Tax Base	Basis of Assessment
United Kindom	Land and improvements; some plant and machinery	Market value for residential; rental value for non-residential
Canada	Land and improvements (sometimes machinery included)	Market value
Poland	Land, buildings and structures	Area
Germany	Land and improvements; farm properties also include machinery and livestock	Market value (rental income/construction costs); area in former GDR
Argentina	Land and buildings	Market value
Colombia	Land and buildings	Market value
Australia	Land or land and improvements	Market value or rental value or combination
Japan	Land, houses, buildings, and tangible business assets	Market value
Kenya	Land (but can use land and improvements)	Area; market value; or a Combination
South Africa	Land (but can use land and improvements)	Area; market value; or a Combination
Tanzania	Buildings, structures or limited development	Market value (or replacement cost, if market value not available)

Source: *Adopted from Bird and Slack (2004) as cited by Kitchen (2013)*[6]

The tax base is very crucial as it determines whether the tax is an LVC tool or not. It also determines whether the tax will be equitable or not. Vickrey (1999 as cited in Smolka, 2013)[7] argues that the property tax is a combination of one of the worst taxes and one of the best taxes. When the tax is based on land, it is a very good LVC instrument because the bulk of the value in land is as a result of public/community initiatives as opposed to value of improvements which may be constituted largely by private investments. This is the more

[5] Even in situations where land and improvements are taxed, the law need to be very clear whether the two are taxed together or separately.

[6] (Bird and Slack , 2004)

[7] (Vickrey, 1999)

reason why property tax is a good land value capture instrument because it targets to recoup part of the increments resulting from public actions.

It is however important to note that while taxing land has been identified as one of the most effective way of capturing value increments, there is a danger of the tax becoming regressive especially among poor land owners where the proportion of the land values are generally higher in comparison to their improvements (De Cesare Claudia M., da Silva Filho Luiz Carlos P., et al., 2003). In such cases, taxes on improvements become more ideal in taking care of equity concerns and social justice. In situations where there is strict land use planning, it is possible to achieve a relatively progressive land tax by giving different tax rates to different zones. It is however difficult to completely overcome this danger because there may still be overlaps within zones.

In addition to defining what should be taxed, the law is supposed to clearly define the basis of assessment. Depending on the level of land/property market, different countries adopt different bases of assessment. In developed markets, it is usually ideal to adopt market value approaches. Even in these cases, there are also differences. Some countries adopt rental values while others adopt capital values. In less developed property markets, other approaches like the site value or building area may be adopted. However, as property markets develop, it is ideal to move towards market based approaches (Kitchen, 2013).

Market based approaches are usually preferred because they tend to bring in equity in the taxation system (Walters, 2012). This is because the value of property to a large extent is a good measure of people's ability to pay. Further, people generally understand the concept of market value and therefore tend to appreciate such approaches (Portnov, McCluskey, et al., 2001).

2.5.2.2 Valuation Cycle and Market Value

The rapid incidences of population growth especially in cities normally result in land use pattern changes which also imply changes in the demand patterns for land (Walters, 2012). As highlighted above, the value of land is directly affected by demand. This means that with changing demand patterns, land value patterns change which need to be reflected in the valuation list (roll). In order for the tax to capture value increments, it is therefore imperative that it moves at the same pace with the changing values.

One way of keeping the values on the roll in line with what is obtaining on the market is adjusting the values by an appropriate index. This has been done for example in Mexico (Walters,2011). In some countries, for example Zambia, there is a provision to adjust the rate levy from time to time (Government of the Republic of Zambia (GRZ), 1997). This still does not replace the need for regular valuation updates because eventually it may result in distorting the true relative values of properties whose values change differently over time.

As stated earlier, taxing land is perceived to be a deterrent for land speculation (Walters, 2012). Fainstein (2012) however observes that when values are rising very fast, it becomes difficult to achieve this and argues that unless the tax is capturing almost 100 percent of value increments, it may be difficult to achieve this objective. This can also only be achieved through regular update of values. In trying to explain why revenues from property tax were declining in many cities, experts have identified the failure to have property values for tax purposes in line with the rising market values (McCluskey and Franzsen, 2013).

The valuation cycle has political implications as well. Usually when it takes too long in updating a valuation roll, tax payers tend to protest during implementation of a new roll because the increase in terms of tax levies become sudden. It is imperative therefore that the law prescribes a reasonable period in which to undertake revaluations. In some developed countries, especially those with advanced computer aided valuation techniques, revaluations are undertaken every year (Walters, 2011). Such are ideal practices but usually the costs are very high in developing countries with inferior technologies. Nevertheless, the prescribed period should not be too long otherwise the whole process becomes "impaired" and lose their LVC ability (Walters, 2012). Whatever the case, updating values at least every five (5) years is normally considered reasonable.

2.5.2.3 Proximity to Market Values

This is another important attribute which is closely related to the issue of updating values discussed above. In order to capture true values, increments which are resulting from public initiatives, as opposed to private investments, are supposed to be adequately identified and assessed correctly(Ingram and Hong, 2012, Walters, 2012). These value estimates are supposed to be as close to the market as possible. This notwithstanding, valuation is a difficult process and requires qualified professionals.

The process becomes even more difficulty when the land markets are under-developed because there is lack of market evidence to support the assessments. Ethiopia is a good example of a country lacking both the land market and valuation profession (Ambaye, 2009). In such situations, it becomes very difficult to capture true values and also ensure fairness/equity.

Sometimes, valuation assessors tend to deliberately underestimate values for taxing purposes. This can also have a negative impact on the values captured. To complicate matters further, land valuations are usually based on transactions involving developed properties especially in cities where transactions involving vacant pieces of land are very rare (Fainstein, 2012). The assessment of land value therefore involves a number of assumptions and as such the question of qualified manpower can never be overemphasised. In most countries, the profession of valuation is regulated and the property tax law prescribes the level of professional expertise required to undertake such tasks. It is unfortunate that usually it is the same countries with undeveloped land markets (and as such requiring greater expertise in assessing optimum values) where there is a shortage of such expertise.

In order to go around the problem of local capacity, in many countries the preparation of the valuation roll is done by the central government or outsourced (Walters, 2011). This arrangement, in addition to making expertise available, also solves the issue of impartiality which increases the acceptance of the resultant valuation roll.

2.5.2.4 Rate Levy

The total property tax is determined by the relationship between the taxable value and the rate used. The rate, sometimes referred to as poundage (in the UK and most commonwealth countries), is the percentage of the value that will be charged. This is always a contentious matter in the administration of the tax. The law prescribes who decides and in most democratic states there are valuation courts or tribunals which approve the rate in addition to hearing appeals on the value (Walters, 2011).

Walters (2012) argues that the rate should be high enough to capture value increments but not too high so as to encourage rent seeking behaviour on the part of city managers. Different tax bases will yield differently at the same rate. However, a base which includes both land and buildings is expected to have a slightly lower rate than ones based on only land or improvements only. Table 2 below gives an example of how different bases taxed at the same rate yields differently. A good measure of the rate is the prevailing discount rates.

Table 2: Stylised example of different tax bases at the same rate with different outcomes

Tax Base	Value of Land	Val. of Imps.	Taxable Amount	Rate	Tax Due
Land and Imps.[8]	100	150	250	4%	10
Land Only	100	-	100	4%	4
Imps. Only	-	150	150	4%	6

Source: *Author's construct 2014*

2.5.3 Property Tax as a Land Value Capture Tool

Property tax is normally collected annually whether the local authority provided services or not in that particular year. For this reason, property tax is sometimes questioned whether it is a value capture instrument or not. Smolka (2013) however makes it clear by bringing out the fact that individuals have a right to choose where to live. And in making such decisions, they consider what each jurisdiction has in terms of "bundle of services" in exchange for payment of property tax. Smolka(2013) adds that individuals will only choose that jurisdiction which is offering "the highest level of benefits". Bird and Slack (2004) reinforces this idea and argue that even though property tax may not be taken to be a direct payment for provision of specific goods and services, there is always an implication that rate payers pay the tax because the taxing authority provides a service which benefits their property.

Property taxation is a land value capture instrument because much of the land value of property is as a result of public actions (Smolka, 2013). When the public sector makes investments in infrastructure like roads, water, energy, transport and other services in an area, such an area becomes attractive and people pay more to live in such an area resulting in value increases. Government decisions like the granting of permission for land use changes and development rights also usually result in land value increments (Walters, 2011). Since land values depend on supply and demand, population growth also results in correspondingly increases in value.

As stated earlier, taxing land is perceived to be a deterrent against land speculation (Walters, 2012). Fainstain (2012) however observes that when values are rising very fast, it becomes difficult to achieve this and argues that unless the tax is capturing almost 100 percent of value increments, it may be difficult to achieve this objective.

[8] The example assumes a base where land and improvements are taxed using the same rate. As stated earlier, some countries land and improvement are taxed at different rates.

Property tax has a wealth redistributive effect because most of the revenues collected are used to finance public goods and service. Public goods and services normally are made up of goods with “private good” characteristics like water and electricity and goods with “public good” characteristics like fire services, police and the army. The first category can easily be financed through charges. However, this is not possible with regard to the second category. These are essential and yet no one can be charged directly for their use. In this regard, property tax comes in to redistribute the value that is collected especially from the rich to supply the services to everyone whether rich or poor.

Property tax is usually an annual periodic payment and it captures value increments slowly. This means that revenues from property tax may not be adequate to finance infrastructure projects at once which are normally complex in nature and requiring huge upfront payments.

However, in some countries, local authorities are allowed to borrow or issue bonds using ground rent or property tax cash flows as income sources for repayment(Cities Development Initiative for Asia (CDIA), Internationale Weiterbidung und Entiwicklung (INWENT), et al., , 2010, Ming, 2011). China is an example where lease revenues have been used as source of income for repayment in debt financing infrastructural services. For instance, half of the total cost of a ring road project costing approximately US$730Million was financed through the sale of lease revenues to a public-private agency (Peterson, 2009a). In addition to this, revenue from property tax have been used by many municipalities as source of income either for borrowing directly from financial institutions or in issuing municipal bonds which can be used to finance infrastructure(Ingram and Brandt, 2013).

In some countries, there are also provisions to levy special property tax to finance specific projects. Betterment charges in Brazil and Colombia are all forms of special charges that have been used to recoup costs of infrastructure services (Smolka, 2013). These may be made in advance or after the construction of infrastructure.

Even though sometimes old residents may not necessarily be willing to see part of their taxes being channelled to support new infrastructure(Smolka, M. and Amborski, D., 2000), the fact that the funds are being captured and adding to the revenue of the municipality, the capacity of such municipalities to provide infrastructure services are improved.

2.6 Public Land leasing and Lease Conditions

This section discusses issues surrounding the subject of public land leasing and leasing conditions. For purposes of the research, the discussion looks at leasing conditions separately so as to stress the importance of leasing conditions when governments intend to achieve different objectives through public leasing. These are referred to as gain sharing agreements in order to distinguish them from the standard conditions which are contained in ordinary leasehold contracts.

2.6.1 Public Land Leasing

The concept of public land leasing can only be appreciated when property rights are looked at as a bundle of rights (Needham, 2004). This bundle of rights may consist of rights to use, exclude, develop, mortgage, transfer, inherit or donate and many more. Looking at property from this perspective, it is possible to separate these rights and assign them to different parties. Within these arrangements, there are two extreme scenarios. On one extreme, the

private owners have almost absolute rights resembling fee simple while on the other there is almost absolute government control.

Bourassa and Hong (2004) highlight a wide range of objectives for leasing public land. These are, though not limited to:

i) enabling government to recoup value increments through rentals and other lease payments;
ii) stabilising land prices;
iii) controlling land uses;
iv) promote economic development
v) reserving land for infrastructure and public use ; and
vi) Facilitating land redevelopment.

It is important to note that studies have shown that there is no type of public leasehold which can be singled out as model for all countries (Needham, 2004). Depending on the objectives of government and aspirations of its citizens, different countries adopt different combinations of the rights to retain or assign. For instance, if the objective is to achieve industrial growth, the government may consider granting development rights to foreign investors while the same government may have to forego raising revenue if the objective was to reserve land for provision of infrastructure and public use (Needham, 2004). If government's intention is to attract foreign investment through provision of land which has adequate infrastructure, a number of tradeoffs will be involved.

With the above in mind, public land leasing can be described as a mechanism by which government and private individuals/institutions negotiate ownership of the various rights "through contractual obligations" (Needham, 2004). Based on the contractual stipulations, the government, which is the owner of the land, can retain the ownership whilst leasing other rights to the private individuals/institutions for specific periods. In addition, changing situations will more often than not also demand changing the conditions.

Even though the discussion will from time to time talk about how public land leasing achieves the various objectives highlighted above, for purposes of this research, the main focus will be on the first objective - enabling government to recoup value increments through rentals and other lease payments. Further, some of the objectives are interlinked. For instance, through the control of land uses, the objective of recouping value increments is enhanced.

2.6.2 Allocation

Land that is converted from customary tenure to statutory tenure may be allocated either through auction or negotiation. The ideal scenario is dependent on the context and objectives of the country. As stated above, there is a wide range of objectives government may intend to achieve. Bourassa and Hong (2004) emphasise the point that usually it is not possible to achieve certain objectives simultaneously. In order to achieve one objective, government may have to forego another. In a situation where the objective is to encourage investments, negotiation is better because then the conditions may be flexible. Hong (2004) gives an example about the dilemma which the government of Hong Kong faced in the late 1990s. The Government of Hong Kong intended to get maximum premiums at the beginning of the leases. This however conflicted with the objective of providing affordable housing. Due to pressure, the government was forced to abandon that objective.

In cases where government's objective is to maximise revenue, auction has proven to capture more (Hong, 2004). The cases of Mumbai and Hong Kong discussed under 2.2.1 above are good examples of how revenue can be maximised through land auctioning.

2.6.3 Value of the Leasehold

Three options are normally available for determining the price of the leasehold; administrative, negotiation or auction. The value can be determined administratively by discounting expected cash flows (Needham, 2004). As in the case of allocation, the final offer price may be determined through auction or negotiation.

2.6.4 Mode of payment

As stated under the general conditions for public leasing, the preferred mode of payment depends on the objective for leasing. For purposes of maximising revenue for financing infrastructure investments, experts argue that a combination of annual ground rent with premium paid at the beginning of the term is preferred. According to the experts, this will enable government to raise larger sums at the beginning of the term whilst still being entitled to future value increments. A clause for periodic rent reviews ensures this (Hong, 2004, Needham, 2004)

2.6.5 Lease Conditions

As stated above, there is no model type of public leasehold. Nevertheless, the contractual conditions which are adopted will determine which objectives may be achieved and which ones not under given circumstances. Bourassa and Hong (2004) give a suggested list of general conditions but for purposes of this discussion four general conditions are discussed. These are lease term, right of renewal, ownership of improvements, and lease payments.

2.6.6 General Conditions

Generally, the following conditions should be made clear in the contracts and will impact differently:

Lease Term: The period of the lease has implications on the decision of lessees with regard to levels of investments. Different countries adopt different lease terms and may range from as short as five (5) years to as long as 99 years. If the period is too short, most investors will not be willing to invest in permanent structures for instance (Bourassa and Hong, 2004). Normally in addition to stating the term, the lease will also expressly state what happens to improvements at the expiry of the lease. Under the lease term, it is usually standard to also state whether there are options to renew and conditions attached (Bourassa and Hong, 2004).

The theme of this study is about land value capture and it is worth mentioning the type of lease terms which contribute to making leasing an effective land value capture instrument. Hong (2004 as cited in Anderson, 2011) gives four lease terms which are necessary preconditions- auction or tender on allocation, provision for an annual ground rent, provision for changing the terms of the lease at modification time and also provision for new terms at renewal.

The annual ground rent allows government to capture value increments especially where there are regular reviews. Provisions for modifications afford developers to apply for improved building permits (in cases where there are restrictions) and government to collect

additional premiums where new permits are given[9]. Provision for new terms at renewal is necessary due to changing circumstances and objectives of the government (Hong, 2004)

Ownership of Improvements: This condition is somehow linked to lease term above. Even in countries where private land ownership does not exist, it is normally acknowledged that improvements belong to the lessee. With this in mind, it is important to state what happens to improvements upon expiry of the term. This will also have an effect on the level of investments in permanent improvements (Bourassa and Hong, 2004).

Lease Payment: Lease payments are two kinds. These are premiums and ground rent (Bourassa and Hong, 2004). A premium is a lump sum paid at the beginning of the lease term while ground rent is normally an annual payment. Generally, there are three options available; ground rent, premium or both. While premiums enable Governments to raise substantial amounts of revenue at one time, ground rent is one of the most effective ways of capturing land value increments especially in situations where rent reviews are provided (Ingram and Hong, 2012). While periodic rent reviews may be viewed as a way of ensuring the capture of future increments, some countries have been able to raise substantial revenues for infrastructure investments through premiums. Other countries may still adopt ground rent but with a lump sum payment at the beginning of the term and at renewal. The preferred option will therefore also depend on the overall objectives of the country (Bourassa and Hong, 2004).

2.6.7 Gain Sharing Agreements (Special Conditions)

As stated above, lease conditions are the ultimate determinants of the relationship between the lessor and lessee. In order to be an LVC, leasing of land is usually designed with special conditions to ensure that value increments are captured. Such conditions can also be used to finance infrastructure through "*gain sharing agreements*". These are contractual obligations which prospective leaseholders are given in addition to the usual contractual/planning obligations and may be in form of cash or in kind (Peterson, 2009a). Such agreements are made in advance and oblige developers to invest in infrastructure and recover their costs from future land value increments (Peterson, 2009). Through negotiations, agreements can be entered into where Special conditions are agreed upon. These conditions can be cash or in kind and may include, though not limited to construction of houses, schools, employment and other payments.

As stated earlier, these conditions may be in addition to the standard conditions contained in the lease contract. It is usually possible to use planning regulations to achieve this. A developer may be granted extra rights if for instance the development will include social housing (Mallach, 2010). Hong (2004) presents how the city of Hong Kong has included special conditions in the lease terms requiring developers to provide specific infrastructure before auctioning the land.

This technique has been used in different designs to finance infrastructure. Peterson (2009) gives accounts of obligations given to subdivision developers to provide their own infrastructure and recover the costs from land sales. These obligations are done in advance to share future value gains. These requirements may be cash or in kind payments and in addition to building infrastructure may also include providing employment to the locals.

[9] Hong (2004) equates the lessening of restrictions to granting of extra development rights by government.

Where such payments are not enshrined in a law, agreements are usually negotiated and the success of such depends on the negotiating skills of the lessor. Where the obligations are in kind, for instance to provide employment or build infrastructure, the success also depends on the ability to monitor such agreements and ensure that the obligations are fulfilled.

Land under customary tenure is mostly under the chiefs. The absence of such conditions may enable the respective chiefs to be engaging in negotiations with foreign investors. Such a situation may not be preferred if the objective is to capture value increments for many reasons. Firstly, the chiefs may not be in positions to know the correct values. Secondly, normally the chiefs transactions are informal and such negotiations may not benefit the public but the individual chiefs (Von Braun and Meinzen-Dick, 2009). In addition, studies have shown that some foreign investors take advantage of customary land occupants in developing countries (Cotula, Vermeulen, et al., 2009). It is therefore imperative that negotiations are done at the government level.

As mentioned under 2.1 above, the use of PPPs is also an alternative in financing infrastructure. PPPs aim to merge public and private funding. In addition to accessing private sector resources, this approach brings in efficiency because the private investors are interested in making profits which can only be maximised through efficiency. PPPs have been used successfully in some countries whereby government contributes land and the private finances. Government can also sell part of its land stock and the proceeds used to finance infrastructure investment (Peterson, 2009). Such partnerships have financed wide range of infrastructural projects like construction and operation of airports and seaports (Anderson, 2011)

Whereas there has been a steady application of PPPs in higher and middle income countries, this has not been the case with low income countries (Cities Development Initiative for Asia (CDIA), Internationale Weiterbidung und Entiwicklung (INWENT), et al., 2010). As stated above, the highest need of infrastructural investment is in low income countries. In these countries, the use of PPPs has been low because of higher risks. While PPPs may offer a solution to the luck of finances there are other conditions which need to be in place in order for them to work. Political stability, stable and efficient financial markets are some of the most important preconditions for PPPs to operate. Unfortunately, it is within the same countries in need of investment where these preconditions are missing.

The above challenges emphasises the need for foreign investment. Foreign investors have access to foreign financial markets with capacity to lend huge amounts of funds. The cost of finance in foreign markets is usually reasonable and stable.

In addition to the above situation, local authorities are increasingly under pressure due to rapid urbanisation and added responsibilities (Bahl, Linn, et al., 2013). Added responsibilities arise from issues of decentralisation whereby local authorities are given more functions but unfortunately without corresponding fiscal authority. The situation in most developing countries is therefore becoming critical and the need to attract foreign investment has never been more urgent.

2.7 Conceptual Framework

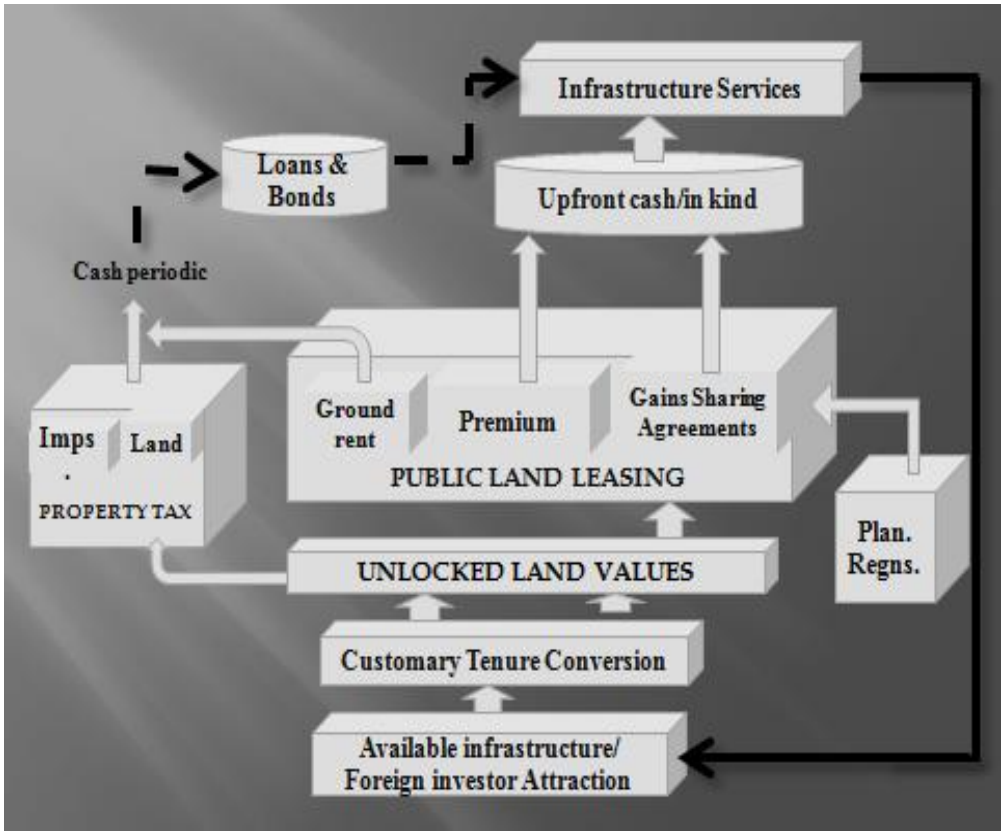
Figure 4 below summarises the concepts discussed in the Chapter and shows the relationship existing between them. It shows the interdependency between Land Value capture instruments and urban infrastructure. With the availability of infrastructure, foreign investors

are attracted and require land. The only available land is customary land. Before they inject meaningful investments, foreign investors require titled land thus necessitating conversion of customary land tenure to statutory tenure. Conversion of title from customary to statutory unlocks values.

The value increments are capable of being captured through either property tax on one side and/or public land leasing on the other side. The tax base for property tax is land, improvements or both.

Leasing captures value through an annual ground rent or through a premium which is normally an upfront payment to finance infrastructure. Property tax and ground rent are normally cash payments made periodically (usually annually). In order to finance infrastructure, expected revenue from these instruments may be used as sources of payments to obtain loans or issue bonds. In addition to the premium or ground rent, which ever may be applicable to a given country, there may be other additional requirements – gains sharing agreements, through which government may compel prospective leaseholders to build infrastructure before signing the lease contract. The general increase and widening and availability of infrastructure will in turn attract and support further foreign investments and therefore completes the cycle of interdependence.

Figure 3: Conceptual Framework



Source: Author's construct 2014

Chapter 3: Research Design and Methods

3.1 Research Strategy

The research question had three sub questions. These were answered through a quasi-experiment coupled with interviews and analysis of secondary data.

3.1.1 Reasons for Preferring this Strategy

Three considerations guided the choice of the above strategy for the study. These are; the type of research question, desired level of controlling the behaviour of events and focus on the current events (Yin, 2003). These are discussed below.

The study was centred on the concept of land value capture which is about capturing land value increments, resulting from public investments or actions, from the private landowners "who did not contribute to the increased land values" and redistribute the benefits to the community (Ingram and Hong, 2012). With this background, the research question had three dimensions of the concept. Namely; economic, financial and social dimensions of land value capture.

According to Yin (2003), research questions which try to answer "how" and Why" questions are explanatory and can be answered through an experiment. The sub-question on economic dimension was seeking to demonstrate that tenure conversion was responsible for unlocking land values. The quasi-experiment was a preferred strategy to answer this question. Literature has revealed that land on documented title has more demand and therefore conversion from customary to statutory is expected to result in value (Dale and McLauglin, 1999, Ingram and Hong, 2009, Payne, 2001). The quasi-experiment's aim was to demonstrate that land value increments are as a result of conversion by comparing land converted with land still under customary before and after conversion.

Due to time and resource limitations, it was not possible to consider all the properties which had been converted to statutory tenure. A sample of the total number of properties was therefore selected for the study. Details on how the sample was selected are given later in the discussion.

The desired level of control was another reason for the choice of the strategy. In explaining land value increments, values on properties that were previously customary but have been converted (treatment group) were compared with land values on properties which were still on customary tenure (control group).

In addition to the above and through consultations with practising valuation surveyors, data was collected on properties which were bought under customary and later sold under statutory tenure. This helped in establishing the trends in value changes in both categories of land.

The sub-question on financial dimension was seeking to establish to what extent the resultant increment in land values were captured through property tax, ground rent, premium and gain sharing agreements. This was answered through interviews with government officers, selected developers and headmen. In addition to the interviews, the research also included the analysis of secondary data which was triangulated/verified through interviews.
The third question was seeking to establish how the captured values were being used to support public expenditure on provision of infrastructure. This was also answered through interviews and analysis of secondary data.

3.1.2 Notes on foreign exchange rates

It is important to mention that payments in all payments in Zambia are quoted in the local Zambian kwacha currency (ZMW). For purposes of the study, these have been converted to United States Dollars (US$) equivalent. From January 2014 to June 2014 the exchange rate for US$1 has been fluctuating between ZMW5.5 and ZMW6.5 as published by the Bank of Zambia and Ministry of Finance. A mid rate of ZMW6 to US$1 has been adopted in the study.

3.2 Operationalization: Variables, Indicators

Based on the literature review covered in Chapter two which resulted in the conceptual framework, the tables 3 through 5 below is the operationalization of the key concepts and variables of the study; namely tenure conversion, property tax and public land leasing. Their respective indicators by which each will be measured are also given.

It is also important to mention that in order to make the study and presentation systematic, the various concepts and variables are considered under three dimensions; these are, economic, financial and social dimensions.

3.2.1 Operationalization

Table 3: Economic Dimension

Sub Question: Does conversion of land tenure from customary to statutory by foreign investors in Lusaka result in land value increment

Key Variables	-Value of land under customary tenure - Value of land under statutory tenure -Value increment
Indicators	-Increment of land value in US$ per hectare -Increment of land value per hectare as a percentage
Type	Quantitative
Research Methods	**Data analysis, semi-structured interviews** The task was to establish value increment on properties under customary and properties converted to statutory tenure. The process involved establishing land value changes over time on land under customary tenure and land which was previously under customary but later converted to statutory tenure. The comparison was done at two levels: i) The difference between the values of the same category accounted for value increment generally. ii) The difference in value increments between the two categories helped to establish value increments as a result of conversion. In order to compare values in real terms, all values were adjusted to the current date. This involved updating historical figures by the rate of inflation. The task also involved analysis of:- -Market Comparables -valuation rolls -valuation reports This was coupled with -Interviews with developers and landowners -Interviews with selected customary land owners purposively selected based on those that have changed hands within customary settings (Snowball selection). -Interviewing Estate agents on the values of newly converted properties which are not yet on valuation roll. - A survey of converted properties was undertaken. The sample was selected from the total number based on stratified sampling (use type) so as to have a balanced representation.
Data Source	Govt. valuation Dept, Estate Agents, Financial Institutions, developers, landowners/occupants of customary land, headmen. Chiefs targeted also but none was willing to provide information.

Source: *Author's construct 2014*

Table 4: Financial dimension - property tax

Sub Question: To what extent is the resultant increment in land values captured through property tax, ground rent, premium and gain sharing agreements

i) Property Tax	**Key Variables**	-Tax Base -Rate Levy -Capitalisation Rate -Capitalised Tax
	Indicators	- Value of land/m^2 -% of value captured / year - Amount paid/m^2/year -Capitalised tax in US$/$m^2$/year
	Type	Quantitative
	Research Methods	**Data analysis and semi-structured interviews.** -Analysis of valuation rolls -Analysis of secondary laws and regulations -Income and expenditure documents from the municipality - The taxable amounts were calculated by multiplying the rate levy by the value for property tax. The actual amounts paid on the selected properties were obtained from computer printouts confirmed through perusals of land parcel files and interviews with some property owners. -This is an annual payment. In order to compare with other instrument the amounts were capitalised at a discount rate of 10%[10].
	Data Source	-Municipality, Govt. Valuation Dept., Valuation Surveyors, Estate Agents, Financial Institutions

Source: *Author's construct 2014*

[10] Details of the real interest are given under data analysis methods.

Table 5: (ii) Financial dimension - a) premium b) ground rent

a) Premium – Cash upfront payment	**Key Variables**	-Premium
	Indicators	-Amount paid/m^2 - Review period
	Type	Quantitative
	Research Methods	**Data analysis and expert interviews** - Amounts paid for premium were obtained from the commissioner of lands through analysis of documents, mostly files, and interviews. These were checked through calculations using the Statutory Instrument No. 44 of 2006 and through receipts during interviews with some selected developers. -Issues to be established involved the basis and calculation of premium. - Review period rationale were established through interviews with officers at the Ministry of Lands.
	Data Source	- Searches at the lands and deeds registry - Ministry of Lands officers, and selected developers
b) Ground rent – Cash periodic payment	**Key Variables**	Ground Rent
	Indicators	-Amount paid/m^2 - Review periods -Capitalisation Rate -Capitalised ground rent in US$/$m^2$
	Type	Quantitative
	Research Methods	**Data analysis and expert interviews** - Amounts paid for ground rent were obtained from the Ministry of lands through analysis of documents, SI 44 of 2006 in particular, and interviews with officers. This is an annual payment which was then capitalised at an appropriate rate in order to be comparable to other instruments. -Rent review rationale was also established. This important because reviews to a greater extent determine how robust an instrument is.
	Data Source	- Searches at the lands and deeds registry - Ministry of Lands officers, and selected developers

Source: *Author's construct 2014*

Table 6: Financial dimension: gains sharing agreements

c) Gains Sharing Agreements	**Key Variables**	-Construction costs of schools. -Construction costs of roads -Cash payments
	Indicators	-Construction of schools in US$/$m^2$ of land -Construction of roads in US$/$m^2$ of land -Cash payments in US$/ m^2 of land
	Type	Quantitative
	Research Methods	**Data analysis and expert interviews** - Analysis of documents/interviews at Zambia Developmental Agency (ZDA) including expert interviews to establish what additional obligations are recommended to foreign investors. The same was undertaken at Commissioner of lands to establish actual cash payments or in kind obligations which may be building schools, roads or providing employment to the locals. In the case of in kind payments, the objective was to establish the total costs of providing such and compared to the land value increments of the specific properties. - Interviews with the ZDA and Ministry of Lands officials revealed that previously, developers were just being asked to institute corporate social responsibility by employing the locals and building schools and health centres. It was discovered that these were discretionary on the part of the developers and could not be enforced. Interviews further revealed that the approach changing through SI ..of 2011 which is compelling developers to pay market value for the land.
	Data Source	- Ministry of Lands - ZDA - Developers - Headmen

Source: *Author's construct 2014*

Table 7: (iii) Social Dimension

Sub Question: How is the captured land value supporting public expenditure on provision of urban infrastructure?

Key Variables	General Infrastructure services provision
Indicators	-Amounts spent on infrastructure services from each instrument in US$ as percentage of captured amount
Type	Quantitative
Research Methods	-Revenue and expenditure data analysis -Semi-structured interviews with ZDA officials, LCC, Commissioner of lands and developers
Data Source	LCC, Ministry of Lands, ZDA and Developers

Source: *Authors construct 2014*

3.2.2 Data Collection Methods

The study involved mainly analysis of documents and semi-structured interviews to collect both quantitative and qualitative data. This choice was preferred because knowledge had been

acquired through literature review but there was still need for more knowledge to establish what was obtaining in Lusaka. Data from documents was analysed and semi-structured interviews conducted with various experts and stakeholders to verify and validate some of the findings.

3.2.3 Sources of Information

Information was collected from practicing valuation surveyors, government valuation department, Zambia Revenue Authority, other government officials, developers, customary land owners and headmen. The method used was as follows:

3.2.3.1 Valuation Surveyors

Interviews were held with practicing Valuation Surveyors on land value trends in Lusaka and surrounding areas. Old valuation reports were analyzed to come up with average land values of the various categories. In each case, the minimum and maximum average land values were established for specific periods. Two valuation surveyors were interviewed/ consulted. Details are given in table 8 below.

3.2.3.2 Government Valuation Department and Zambia Revenue Authority

Interviews were held with Government Valuation Surveyors. Documents analyzed included valuation rolls and the Quarterly bulletin, a publication which is done every three months on values within the country. In addition to the above, the Government Valuation Department receives property transfer tax declarations every three months from the Zambia Revenue Authority for scrutiny. This information was however used with caution in that there have been incidences of gross under declarations for tax purposes in the past. Two officers were interviewed as indicated in table 8 below.

3.2.3.3 Other Government Officials

Interviews were conducted with three officials at the Ministry of Lands and two officers at the Zambia Development Agency (ZDA). The names of the officers and data collected are indicated in table 8 below.

3.2.3.4 Developers

Interviews were held with developers with regard to purchase prices of former customary land and valuations of the same properties, where available. Even though information was collected from some of the developers, it is worth mentioning that most of them were not willing to give out information. Issues relating to additional obligations were also discussed.

3.2.2.5 Customary Land Occupants

Interviews were held with customary land owners to establish the sale prices of customary land. This proved to be a rich source of information with regard to transactions on customary land as this group was found to be more receptive and generally willing to give out information. Details of some of the customary land occupants are also given in table 9.The names of respondents who did not want to be identified have been withheld.

3.2.3.6 Chiefs and Headmen

Efforts were made to contact headmen and chiefs with regard to land transactions. A few headmen responded positively and provided information on the prices of land. The majority of the headmen were not willing to provide information and none of the chiefs in the study area was willing to have a discussion on the subject. Customary land occupants were however helpful and provided information on some of the land transactions involving the chiefs and headmen.

The table below shows the names of the people who were interviewed/ consulted during fieldwork.

Table 8: List of professionals and government officials interviewed/consulted

Name/ Position/Institution	Type of Data
Mr. Anthony Kateule, Chartered Valuation Surveyor,Hallmark Chartered Valuation Surveyors	**Quantitative/Qualitative** -Property Sales data, valuation reports, valuation Analysis, land price trends
Mr. Kapumba Zimba, Registered Valuation Surveyor**,** Liberty Property Services.	**Quantitative/Qualitative** - Property Sales data, valuation reports, valuation Analysis, land price trends
Mr. Paul Moyo, Registered Valuation Surveyor, Government Valuation Department	**Quantitative/Qualitative** - ZRA tax declaration forms, valuation reports, quarterly bulletin
Mr. Moses Mwanakatwe, Manager – Business Development, Zambia Development Agency.	**Quantitative/Qualitative** - Identification of customary land for investors, payments, gains sharing agreements, monitoring, Office of Vice President and Ministry of Finance statutory instruments
Mrs. Sara Mulwanda Chanda, Principal Legal Officer, Ministry of Lands.	**Quantitative/Qualitative** - Conversion of tenure procedure -Lands Act provisions, Ministry of Lands statutory instruments
Mr. Mabuchi Chilembo, Head Estates, Ministry of Lands	**Quantitative/Qualitative** - Conversion of tenure procedure, Lands Act provisions, ground rent and premium calculation -Ground rent and premium calculation and collections
Mr. Mutengo Sindano, Chief Planner, Ministry of Lands.	**Quantitative/Qualitative** - Conversion of tenure procedure, Lands Act provisions, ground rent and premium calculation, ground rent and premium collections and disbursement, Ministry of Lands Statutory Instruments

Continued

Table 8 (continued)

Name/ Position/Institution	Type of Data
Mr. James Chuulu, Director Local Government Administration, Ministry of Local Government	**Qualitative** - Local Government Finance regulations
Mr. Andrew Kalemba, Senior Valuation Officer, Lusaka City Council.	**Quantitative/Qualitative** - Valuation Roll, valuation circle, rate levy analysis, proximity of values to CMV
Mr. Wenga Banda, Chief Accountant – Technical, Lusaka City Council	**Quantitative** - Budgets, Income and expenditure analysis
Mr. Collins Hamukombo, Assistant Director – Revenue, Lusaka City Council	**Quantitative/Qualitative** - Budgets, Income and expenditure analysis, access to the land development fund.
Mr. Jimmy Katebe, District Treasurer, Chisamba District Council	**Quantitative/Qualitative** - Budgets, Income and expenditure analysis, access to the land development fund.
Mr. Phanuel Chibuye, Director Banking, Zambia National Building Society	**Quantitative –** Banking Interest Rates
Ms. Cecilia Chanda, Customer Relations, Zambia National Commercial Bank	**Quantitative –** Banking Interest Rates
Mr. Mumba Chanda, Director Public Expenditure and Finance Management, Ministry of Finance	**Quantitative** – Inflation Rates

***Source**: Author's construct based on respondents 2014*

Table 9: List of customary land occupants and selected developers interviewed

Name	Position	Institution	Type of Data
Mr. George Mulla	Proprietor	Link Pharmacy and Courtyard Hotels	**Quantitative/Qualitative** -Land acquisition data -Additional obligations
Mr. Nitin Cherlapally	Director	Navajo Agro Mineral Ltd.	**Quantitative/Qualitative** -Land acquisition data -Additional obligations
Mr. Kunal Ghandi	Production Manager	Mount Meru Millers (Z) Ltd.	**Quantitative/Qualitative** -Land purchase data -Additional obligations
Mr. George Mulenga	Manager	Hotel	**Quantitative** -Land purchase
Mr. Larry Perkins	Manager	The Well Pleasure Resort	**Quantitative/Qualitative** -Land acquisition data -Additional obligations
Anonymous	Headman	Great North Road	**Quantitative/Qualitative** -Customary land acquisition/sales data

Continued

Table 9 (Continued)

Name	Position	Institution	Type of Data
Mrs. Kate Mutesa	Customary land purchaser	Land occupant	**Quantitative/Qualitative** -Customary land acquisition/sales data
Mr. Elijah Witola	Customary land purchaser	Customary land purchaser	**Quantitative/Qualitative** -Customary land acquisition/sales data
Mr. Joe Courtney	Customary land purchaser	Land occupant	**Quantitative/Qualitative** - Land purchase data

***Source**: Author's construct based on respondents 2014*

In order to answer the research question systematically, the study was divided into dimensions for presentation purposes; economic, financial and social dimension. Data to answer the questions on the respective dimensions was collected as follows:-

3.3 Economic Dimensions

The required information was quantitative in nature and was obtained from a mixture of primary and secondary sources. As outlined above, a quasi-experiment within a survey was adopted to establish land value increments by finding the difference between values of properties converted and values of properties still under customary tenure, before and after conversion. Assessment of Land values on the sample properties was done through consultations with two practicing valuation firms; Namely Hallmark Chartered Valuation Surveyors and Liberty Property Services. The task involved the analysis of transactions on comparable properties and valuation rolls obtained from the municipality, copies of valuation reports from government valuation department and private surveyors, and sales information from estate agents. Values of the control group on the other hand were established through interviews with customary land owners, the two valuation surveyors mentioned above and estate agents. The target were properties which had been sold but still on customary tenure.

3.4 Financial Dimension

The financial dimension had two major instruments. These were property tax and public land leasing. Property tax had two key variables namely the tax base and rate levy, while public land leasing had premium, ground rent and gain sharing agreements as key variables. For purposes of presentation, the method of data collection is given separately as below:

Property Tax –The indicator for the tax base was the value of converted land per square meter which was established by the analysis of valuation rolls obtained from the municipality and/or government valuation department. For properties which were not yet on the valuation roll, enquiries were made with the Valuation Section of the Municipality and Government Valuation Department officials to establish the values for tax purposes. In addition to this, semi-structured interviews were held with developers to confirm how much they were paying as property tax. The indicator for the rate levy was the percentage of the value. Information was obtained through semi-structured interviews with council officers and analysis of income and expenditure documents.

Public Land Leasing – to measure premiums and ground rent, the indicators were amount paid per square meter of land and review periods. **Ground rents** and **premiums** are paid to

the lessee, in this case, the Ministry of lands. Information regarding these variables was obtained through analysis of documents and files.

Searches at the lands and deeds registry were conducted and semi-structured interviews held with selected officials. Another variable under public land leasing was gain sharing agreements. These are special conditions given to developers through negotiations which may be in form of cash or in kind payment such as construction of schools, roads or provision of employment. Through interviews with the Zambia Development Agency (ZDA) and the Ministry of Lands, it was established that there have literally been no tangible agreements in the past. As mentioned earlier, the only agreements which the country entered into were casual agreements and government relied on the moral character of the concerned developer. The agreements were not enforceable. However enquiries further revealed that the country is now putting in measures to streamline the practice of conversion of tenure for foreign investors purpose.

Accessing Data

As shown above, secondary data was obtained mostly from the government, municipality and the ZDA. These are public offices with procedures on how to release documents and information. In government ministries and agencies, certain information is considered confidential and requires authorization and censoring sometimes. As such, written requests were sent in advance to allow them prepare the necessary files and documents. The author is a civil servant and accessing certain information from government institutions was not difficult.

Most of the developers were not willing to provide information regarding the acquisition or valuation of their properties. Very few headmen were willing to give information while none of the chiefs agreed for an interview. Customary land occupants and purchasers on the other hand were very much willing and they readily gave out information. This group was also helpful in identifying other occupants who had previous acquired or bought land.

Financial institutions were generally not willing to give information on their clients. Information regarding interest rates was however released by most of the banks. These were the Zambia National Building Society, Invest Trust Bank, United Bank of Africa, First National Bank, Stanbic Bank and Pan African Building Society. A list of interest rates given by the various banks is attached as annex 3. An interview was also conducted with the Director of Banking at the Zambia National Building Society during which all the interest rates collected from the various banks were compared and verified with the Bank of Zambia quarterly publication.

The prevailing interest rates were vital in arriving at a real discount rate necessary for the capitalisation of periodic payments – ground rent and property tax, so as to standardise comparison. After analysing the information collected from the various banks, one interest rate was adopted which was then adjusted for inflation to arrive at a real interest rate 9.4%. This was what was used to capitalise the periodic payments. A detailed calculation on how the real interest rate was derived is given under data analysis methods.

3.5 Social Dimension

The required information was quantitative. The task was to establish how the income captured through the four instruments was supporting the provision of infrastructure. Information was collected through interviews and analysis of revenue and expenditure

documents from Lusaka City Council and the Ministry of Lands. In order to establish whether there could be other negotiated social obligations or in kind payments, interviews were conducted with ZDA officials and selected developers. Initially, it was hoped that interviews would be held with some chiefs to establish if there were any negotiated payments but all efforts failed as no chief was willing to give an interview.

3.6 Sample Size and Selection

With an exception of the properties which have been converted from customary to statutory tenure, sample properties were purposely selected. Purposive *sampling* is ideal when selection of the sample is based on certain characteristics of the respondents (Black, 1993). The required information was expected to be obtained through analysis of documents. These documents were obtained from various government offices and professional institutions dealing with land leasing, valuation, and selling of landed property. In addition to this, selected financial institutions were also purposively visited to establish values of recently converted properties which may not as yet been on the valuation roll.

With regard to establishing the land value increments resulting from tenure conversion, the universe (total population) of the study, that is high value properties converted from customary to statutory tenure, was forty three (43). These were the "treatment" group in the quasi-experiment. To ensure that the properties considered were represented in the same proportion as the entire population, *stratified sampling* was adopted(Bailey, 2007). Of the forty three (43) properties, the target was to take fourteen (14) properties as a sample. A ratio of 1:3 on a population of forty three (43) was considered appropriate (Blaikie, 2006). The selection is shown in the 10 and was based on the selection was done according to land use. These were residential, commercial, industrial and institutional.

Properties were selected according to the ratio of the particular use in the entire population. For instance, there was only three residential properties in the entire population. To find the target number of residential units, three was multiplied by 1/3 which resulted in one property targeted for the sample. Similarly, there were twenty one (21) commercial properties which when multiplied by 1/3 gave seven as the targeted number for commercial properties. Table 11 is the list of properties forming the sample.

Table 10: Sampling of properties converted to statutory tenure by foreign investors

Type	**Total Number**	**1:3 RATIO**	**TARGET**	**ACTUAL**
Residential Properties	3	1	1	1
Commercial Properties	21	7	7	8
Industrial Properties	11	3.67	4	4
Institutional Properties	6	2	2	2
Totals	**43**	**13.67**	**14**	**15**

Source: *Author's construct 2014*

Table 11:Sample properties

SN.	LAND EXTENT (HECTARES)	BRIEF DESCRIPTION
1	0.11	Dwelling House, Servants Quarter and Premises
2	0.5	2 Storey Office Block and Premises
3	1.51	Offices, Warehouses, Shop, Storeroom and Premises
4	2.43	Pleasure resort and Lodge. Construction works on going.
5	5.60	Paper Plant
6	6.52	Safari Lodge
7	8.10	University
8	8.14	Shopping Complex and Premises
9	11.30	Workshop and Offices
10	28.65	Agro Industrial – Hatchery
11	51.00	Lodge, Events Venue and Pleasure Resort
12	54.40	Oil Processing factory
13	150.90	International School
14	189.52	Land for a multi facility complex
15	200.00	Hotel and Ranching

Source: *Author's construct 2014*

The control group on the other hand was made of properties which were still under customary but had changed hands. There was no register for this group and they were identified through the help of customary land occupants and local developers. In this category, *snowball sampling* was adopted.

3.7 Validity and Reliability

Limitations/Challenges

Expected limitations and challenges in the study were to do with issues of validity and reliability. **Validity** of the study deals with the question of "how true and certain" the findings of the study are and the degree of accuracy to which the instrument measures the concept intended to be measured (Guion, 2002). For instance, the economic dimension of the research question was seeking to infer a causal relationship between conversion of title and value increments(Clark and Middleton, 2010). To do this a comparison was made between land that had been converted and land which was still under customary tenure. There was a challenge to ensure that the explanation for the difference in values was as a result of conversion and not any other factor which can also affect values. In order to improve the validity in this case, it was important to ensure that properties in the control group and the subject properties had similar characteristics at the beginning and the only difference was that the other group had been converted to statutory tenure whilst the other one remained under customary tenure.

In order to improve the validity of the findings on the other dimensions, triangulation of data sources was used. This involved analysing the variables using a variety of sources. For instance, in order to establish additional obligations on selected properties, interviews were held with ZDA officials to find out how much they recommended. The information was then collaborated with interviews with the office of commissioner of lands. In addition to this, interviews were held with headmen and some developers to establish if there were any other payments

negotiated which may not be reflected in the contracts. Efforts were also made to interview chief Mungule but failed.

In addition to the above, some of the documents to be analyzed contained technical information and there was a danger of misinterpreting meanings. To avoid this danger, such technical information was subjected to scrutiny by relevant professionals to validate the interpretations of the author. For instance during the examination of the Lands Act, Section 4(1) in part read as follows:

"..that where a person has the right of use and occupation of land under customary law and wishes to convert such right into leasehold tenure, no consideration shall be paid for such conversion."

At first the author misinterpreted the above provision to imply that a person who is occupant may convert without payment of consideration. However, upon consultations with officers from the Ministry of Lands, the interpretation of the provision was explained to mean that the section prohibits payment of consideration to the chief and not the state.

Reliability relates to the "ability to obtain consistent results (Bailey, 2007). This implies that for a research to be reliable, similar results should be obtained if another researcher applied the same method at a different time. This was going to be difficult bearing in mind that data was being collected through a variety of methods. In order to achieve high reliability, a detailed plan of the research was put in place. The plan detailed all the steps to be followed in the implementation of the research study. During field work, a logbook was maintained which diarized every step of the research. Even though different methods were involved, there was some degree of uniformity in the manner in which questions were being asked. Some questions were being repeated to different respondents. In addition to the above, raw data has been secured and will be available to be referred to at any future date.

Another challenge somehow related to both validity and reliability is **trustworthiness**. This implies that a reader should be able to see and follow how the researcher arrived at the conclusions (Bailey, 2007). In order to achieve this, detailed information been given in the matrix on specific procedures which were followed in addition to the diary.

3.8 Data Analysis Methods

Two sets of data were collected during fieldwork. This was qualitative data, which was mainly collected through interviews and quantitative data which was mainly collected from analysis of documents. Analysis of qualitative data was done using Atlas-Ti computer software. This involved coding of all interviews so that similar questions and responses could be grouped together. made triangulation easier and also and counter checking of certain responses easier. This saved a lot of time and made analysis of wider range of response done in a short time. An extract of coded interviews is given at annex 1.2. Quantitative data was analysed using Microsoft Excel which also assisted in presenting some of the data in graphs, pie charts and compilation of various tables.

Data collected on ground rent and property taxes were periodic annual amounts. In order to standardise comparisons with other capital amounts - premiums and gains sharing agreements, these periodic amounts were capitalised using a discount rate of 9.4%. Using information obtained from financial institutions, an interest rate of 16.5% was adopted as the market interest rate. This rate was then adjusted for inflation (6.5%) using the following formula:

Real interest rate = 1+nominal interest rate/1+inflation rate) -1
= 1.165/1.065)-1 = 0.93897
= 9.4% (Kandel, Offer, et al., 1996).

The task involved calculating the present values of the future expected payments in both cases. The lease term for statutory leases in Zambia is ninety nine (99) years. The present value of each instrument was the sum of discounted values of each periodic payment for 99 years. This period is long enough to be treated as a perpetuity when the time value of money is taken into account (Brealey and Myers, 2002). The formula for calculating perpetuity was therefore used which is as follows:

$$\text{Present value of a perpetuity} = \frac{C}{r}$$

Where C is the cash floor (periodic payment) and r is the discount rate.

In order to standardise comparison of land values, all recorded values and transactions were adjusted to current figures using inflation rates for the specific periods. The Inflation rates for the years under consideration were as shown in table 12 below.

Table 12: Annual inflation rates for Zambia

Year	2009	2010	2011	2012	2013
Inflation Rate (%)	6.4	7.6	6.8	7.3	6.5

Source: *Ministry of Finance publication June 2014*

The formula for calculating the amount of US$1 after 1 year is as follows:

S= C X (1+r) where S is the amount after 1 year, C is the initial amount and r is the interest rate. Amount of US$1 for several periods at different interest rate was therefore:

S = C(1+r1)(1+r2)(1+r3)..(1+rn)

Where C is the initial value and r1, r2, r3..rn denotes the inflation rates for years 1, 2, 3 up to the n^{th} year. (Brealey and Myers, 2002). Beginning from 2013, values were adjusted for inflation as follows:

2013 figures were adjusted as = C X (1.065)

2012 figures were adjusted as = C X (1.073)(1.065)

2011 figures were adjusted as = C X (1.068)(1.073)(1.065

2010 figures were adjusted as = C X (1.076)(1.068)(1.073)(1.065)

2009 figures were adjusted as = C X (1.064)(1.076)(1.068)(1.073)(1.065)

The above gave the following factors for updating the figures for the various years:

Table 13: Capitalising factors for historical figures

Year	2009	2010	2011	2012	2013
Factor	1.397251	1.313206	1.220452	1.142745	1.065

Source: *Author's calculations based on official inflation rates2014*

After adjusting the values, the resultant figures were then converted to United States Dollars using an exchange rate of US$1 to ZMW6.

Chapter 4: Research Findings

This chapter presents the analysis of data which was collected during fieldwork in order to answer the research questions. As outlined in chapters one and three, the research question had three sub questions. In order to make the study systematic, the findings of fieldwork are presented in the order of the research sub questions.

During data collection from valuation surveyors, land value information on commercial, industrial and institutional properties was grouped together. This was the same with the local authority for property tax purposes. The author adopted the same grouping and therefore data will be presented under two groups; namely residential and other uses. Other uses include commercial properties, industrial properties, and institutional properties.

For purposes of confidentiality the property numbers and some of the names of certain properties have been excluded from the report. Instead serial numbers have been used in identifying the properties. However, pictures of selected properties have been included within the report and in the photo gallery attached at the end of the chapter. In addition to this all the interviews with government officers were officially sanctioned and basically cantered on public documents. The concerned officers were informed about the possibility of publishing their names and had no objection. Some respondents especially developers and headmen were not comfortable with the idea of publishing their names and such have been withheld.

Figure 4: : Pleasure resort under construction. SN 4

Source: *photographs taken by the author during field work 2014*

4.1 Sub Question 1. Conversion of Tenure and Land Values

For purposes of the research, information collected on land values was grouped into two main groups namely land under customary and land under statutory tenure. Values were collected on land under customary tenure, for the period covering 2009 to 2014. For properties which were previously under customary tenure and then converted to statutory, purchase prices where available were also collected.

In some instances however, the parties involved were not willing to give out information on purchase prices and dates of the transactions. In order to standardize the criteria of comparison, prevailing average prices of the land at different periods were adopted and updated to current figures.

4.1.1 Prevailing Land Values

Land values for the various years were obtained from the practising valuation surveyors mentioned above. It is however important to mention that during interviews with the

valuation surveyors, the author was informed that while it was easy to establish a pattern and adopt prevailing values on land under statutory tenure, the case was totally different when it came to transactions on customary land. Transactions under customary land had a lot of extreme cases especially those involving the chiefs. Amounts paid by different developers to the chiefs extremely varied and did not make sense in most cases. Two developers paid ZMW1,000 (approximately US$170) and ZMW3,000 (approximately US$600) for residential plots measuring 1.0117 and 1.000 hectare respectively in 2006 while a third developer was asked to pay ZMW3,000 (approximately US$600) for a commercial plot measuring approximately 6.5209 hectares the following year.

Transactions involving headmen also gave inconsistent figures. Smaller plots in some cases were being sold at higher capital values than larger parcels for similar land uses. Faced with this situation, transactions involving chiefs and headmen were handled carefully when adopting prevailing values for land under customary tenure. Extreme cases were excluded.

Transactions where occupants sold to developers produced consistent figures. Bigger plots were generally being sold at higher prices than smaller ones. Commercial plots especially those located along the main roads were sold at higher prices than those off the road and residential plots.

With the assistance of Practicing Valuation Surveyors, seven different land categories were established based on use and land extent. From the analysis of land transactions over the period 2009 to 2014, average prevailing values per hectare of land were adopted for the various categories of land. These were used to assess value increments on land under customary tenure and those converted to statutory tenure during the period under review. The average was then adjusted at appropriate inflation rates to arrive at current figures[11].

The table below indicates the resultant land values per hectare. It is however necessary to mention the classification of the land parcel values. Land was grouped into seven categories based on size, then divided into two based on use - residential and non residential, and then tenure – customary and statutory. The categories were as shown in the tables 14 and 15 below.

[11] Inflation rates for the different years are as indicated in table 7.

Table 14: Land values on different categories - customary

Category	Land Size	Use	Value per hectare[12] US$
Category 1 Customary	Up to 1 Ha	Residential	20,000
Category 2 Customary	1 Ha up to 5 Ha	Residential	6,000
Category 3 Customary	More than 5 Ha	Residential	3,000
Category 4 Customary	Up to 1 Ha	Non. Rsidential	30,000
Category 5 Customary	1 Ha up to 10 Ha	Non. Rsidential	18,500
Category 6 Customary	10 Ha to 20 Ha	Non. Rsidential	15,500
Category 7 Customary	More than 20 Ha	Non. Rsidential	7,500

Source: *Values obtained through consultation with Hallmark and Liberty Valuation Surveyors 2014*

Table 15: Land values on different categories- statutory

Category	Land Size	Use	Value per hectare US$
Category 1 Statutory	Up to 1 Ha	Residential	150,000
Category 2 Statutory	1 Ha up to 5 Ha	Residential	65,000
Category 3 Statutory	More than 5 Ha	Residential	40,000
Category 4 Statutory	Up to 1 Ha	Non. Rsidential	185,000
Category 5 Statutory	1 Ha up to 10 Ha	Non. Rsidential	75,000
Category 6 Statutory	10 Ha to 20 Ha	Non. Rsidential	15,000
Category 7 Statutory	More than 20 Ha	Non. Rsidential	7500

Source: *Values obtained through consultation with Hallmark and Liberty Valuation Surveyors 2014*

4.1.2 Observed Trends

4.1.2.1 General

During the period under review, parcels of land under group B were generally commanding higher values when compared to group A of similar land extents. For instance, the average sale price on residential units below 1 hectare in extent in 2009 and 2014 was US$9,000 and US$20,000 respectively while the average for commercial plots during the same years with similar extents were US$20,000 and US$60,000 for groups A and B per hectare respectively. The valuation surveyors summarised the analysis as below.

Amongst the two groups, capital values on larger parcels were higher. The analyzed progressive value per unit of measurement was reducing. For instance, plots in category 1 were being sold at higher prices per unit of measurement than the progressive value per unit of measurement on plots under category 2 in group A. A similar analysis extended to plots under group B. Plots in category 4 were analyzed in terms of per unit of measurement with category 5. The following was the summary of the rationale used in the valuation and analysis of values.

[12] The rationale behind the reduction of the valuation rate per hectare as land size was increasing is explained under valuation trends.

Table 16: Valuation rationale on residential categories

Category 1: Land measuring up to 1 Ha	-	1st Hectare Flat Rate
Category 2: Land measuring between 1 Ha up to 5 Ha	-	Same as category 1
	-	Remainder at a reduced Rate
Category 3: Land in excess of 5 Ha.	-	Same as category 1
	-	Next 5 Hectares Reduced as Category 2
	-	Remainder further reduced Rate

Source: *Author's construct based on valuations conducted by Hallmark Chartered Surveyors and Liberty Property Services*

The same logic was used in the analysis of land in the remaining categories. While the base land extent was one and then the rate adjusted in 5 hectare intervals for residential parcels, for non residential plots the base was also 1 hectare and then the rate adjusted in 10 hectare intervals.

Another aspect worth mentioning has to do with the source of the land. It was observed that land obtained from the chiefs and headmen was the cheapest. Transactions involving occupants and developers were generally at higher capital values.

Land Value Increments

In order to establish land value increments as a result of conversion of tenure the following was carried out.

i) Updating Values of Properties Converted to Statutory before Conversion

Transactions involving properties which have been converted to statutory tenure, before conversion, were collected. Values for different periods were then adjusted for inflation in order to update them to current figures. Land value trends, before conversion, for properties earmarked for conversion were thus established.

ii) Updating Purchase/Sale of Land Under Customary

Transactions on land under customary tenure which happened between 2009 and 2014 and are still under customary tenure were also compiled and updated to current figures.

iii) Current Market Value of Land Under Statutory Tenure

Information was also collected on current transactions on land under customary tenure.

iv) Current Market Value of Land Under Customary Tenure

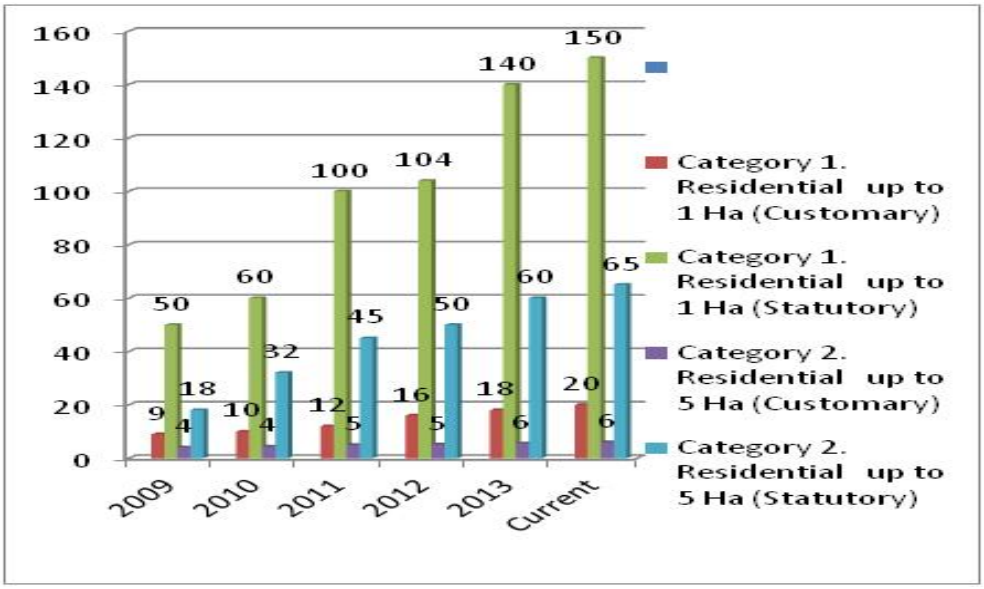
Information was collected on current transactions on land under customary tenure

After the above, Comparisons were then made:

i) Land values of land converted to statutory before and after conversion;
ii) Land values of land under customary tenure for similar periods as in (i) above.

It was observed that land values on both categories of land were increasing. Chart 1shows land value trends on categories 1 and 2 between land under customary and land under statutory tenure. Secondly, it was observed that value increments on property converted to statutory tenure was more than those still under customary. For instance under category 1, which comprised

Chart 1: Land value trends on different categories between 2009 and 2014



Source: *Author's analysis 2014*

residential parcels up to 1 Ha, values of land converted to statutory tenure increased on average by 26.5% per annum during the period 2009 to 2014 while land under customary tenure increased by 17.6% per annum during the same period. During the stated period, values in total increased by 106% and 313% for land under customary and statutory tenure respectively. Table 17 below shows the differences in terms of percentage increments between the two groups. The table is based on data after adjusting for inflation as outlined in chart 1above.

Table 17: Average land value increment and total increment between 2009 and 2014

Category	Ave. Incr. Pa 2009 - 2014	Total Incr. 2009-2014
Category 1. (Customary)	14.91%	100%

Category 1. (Statutory)	25.67%	200%
Category 2. (Customary)	8.45%	50%
Category 2. (Statutory)	21.80%	160%
Category 3 (Customary)	24.87%	200%
Category 3 (Statutory)	53.67%	700%
Category 4. (Customary)	13.51%	87%
Category 4. (Statutory)	30.33%	270%
Category 5. (Customary)	12.60%	80%
Category 5. (Statutory)	45.67%	500%
Category 6. (Customary))	14.91%	100%
Category 6. (Statutory)	45.67%	500%
Category 7. (Customary)	29.00%	250%
Category 7. (Statutory)	45.67%	500%
Over all Ave. Increment pa. on Customary Land	**16.90%**	**123.85%**
Over all Ave. Increment pa. on Statutory Land	**38.35%**	**404.26%**

Source: *Information based on compilations by Hallmark Chartered Valuation Surveyors and Liberty Property Services 2014*

4.1.2.2 Exceptional Cases

As outlined above, the aim was to compare transactions before conversion of tenure and after on properties which are now under statutory tenure and value trends on customary land. Land values of plots under statutory tenure were generally estimated using transactions on comparable properties. However, there were two transactions recorded on which transactions were both before and after conversion. These are presented separately as follows:-

i) Smallholding Plot Behind St. Eugine University measuring 5 hectares.

This plot was obtained from the chief in the year 2010 at an equivalent amount of US$20,000. The purchaser subdivided the plot into five plots each measuring 0.3 hectares, two plots measuring 1 hectare and one plot measuring 1.5 hectares. In 2012, two of the 0.3 hectare plots were sold at US$20,000 each, the other three were sold at US$18,000, US$24,000 and US$25,000.

The 1 hectare plot was sold for US$50,000[13]. At the time of collecting this information, the remaining 1 hectare and 1.5 hectares were being offered for sale at US$70,000 and U$100,000 dollars respectively.

ii) Agriculture Plot Measuring 47 hectares Along the Great North Road

This plot was purchased between 2008 and 2009 at US$6,000. The sale was facilitated by a headman. From the entire plot, a portion of 20 hectares was subdivided in 2013 into four portions of 5 hectare plots and offered for sale. Two of the four plots were sold for US$

[13] This information was collected from Liberty Property Consultants who brokered the sale which was also confirmed through registration documents at Ministry of Lands and property transfer tax declarations forms at the Zambia Revenue Authority.

US$60,000 and UU$50,000 in December 2013 and April 2014 respectively. At the time of collecting this data, the remaining plots were being offered for US$70,000 each[14].

4.1.2.3 Conclusions from the above Observations

Since land still on customary tenure was also experiencing land value increments in real terms, more than the inflation rate, the author formed an opinion that in addition to conversion of tenure, there were other factors contributing to value increments. Interviews with real estate practitioners, valuation surveyors and financial institutions revealed that in the last ten years there has been rapid population growth in Lusaka and also an influx of investors which has resulted in increased demand for land. With a shortage of land within the city of Lusaka, the alternative has been land on the periphery and hence land value increments.

According to the central statistical office (CSO), the population of Lusaka has been increasing at a faster rate than other towns in the country for the past ten years. The average annual population growth for the country in the last ten years has been approximately 3% while that of Lusaka alone has been 5% (Central Statistical Office (CSO), 2011). An on the spot check showed that there were a lot of businesses being promoted by foreign investors, especially Chinese nationals, in the periphery of Lusaka which supported the opinions of most real estate practitioners.

Figure 5: Lodge and events venue on the periphery of Lusaka - SN. 11

Source: *Photographs taken by the author during fieldwork 2014*

From the information collected on sales, it was observed that apart from transactions involving occupants and re-sales, values on customary land in this area has continued to be lower when compared to values on statutory land. Interviews with the local occupants and developers revealed that land on statutory tenure has continued to be more attractive because of the perceived security. It was discovered that under customary land, there have been cases where more than one person has been sold the same plot. For instance during the interview

[14] This information was collected from Hallmark Chartered Valuation Surveyors who brokered the sales and were marketing the remaining plots.

with Mr. Mulla, one of the developers interviewed and proprietor of a commercial property under construction, it was mentioned that before he bought and obtained title for his property, he had been offered a different piece of land by the headman which he later discovered was also given to another developer. According to Mr. Mulla, three years has elapsed when the matter was referred to the chief and yet it had not been resolved.

During an interview with the chartered valuation surveyor on land sales, he submitted that most of his clients preferred land on statutory tenure for outright purchase even though land under customary was cheaper. Asked why the situation was like that, the chartered surveyor responded that land under customary tenure could not be easily identified. He further said that one could also not ascertain the size accurately. According to him, the register of customary, that is if they existed anywhere, was not available to the public. He further indicated that with land on statutory tenure, one had access to judicial process meaning that any disputes could easily be determined by courts of law. Occupying land under customary tenure on the other hand, according to the chartered valuation surveyor was at the mercy of the chief. One could easily be removed from land at any time and as such there was no security of tenure. Mr. Kapumba Zimba, another practicing valuation surveyor and real estate consultant also echoed similar sentiments about the security of land under customary tenure. Extracts of the interviews with the two surveyors are attached in the annex 5.

During interviews with some local occupant, one thing which came out clearly was that people in the area would like to obtain title because of the advantages of which came with title. Most of the local occupants spoken to believed that with title, they could access loans from financial institutions. Others also believed that with title they would be sure that no one would ever come to evict them.

Enquiries with the headmen indicated that there have never been cases of local occupants being evicted from the land they occupied. However, there was this general attitude by most of the people interviewed that they were always living with fear of being evicted. During an interview with some of the local occupants, it was further revealed that most of them would prefer converting tenure to statutory but the process was too complicated and there was a perception that the cost of converting tenure was high. Land under statutory tenure has therefore continued to be more attractive and commanded higher prices for outright purchases than land under customary tenure.

The factors of population growth and influx of foreign investors have been impacting on both land under customary tenure and land under statutory tenure. It is however difficult to establish to what extent each factor has been contributing to value changes. The two categories of land are similar in all respects apart from that one is documented while the other is not. But since values on land under statutory tenure have been increasing at a faster rate, it is safe to conclude that it is the presence of documents which has made land under statutory tenure more attractive. Therefore conversion of tenure from customary to statutory results in land value increment.

4.2 Sub Question 2: Land Value Increment Capture

Having established that conversion of tenure from customary to statutory result in value increment, the next stage of the study was to establish how much of the land value increment was being captured through property tax, ground rent, premium and gains sharing agreements. As stated earlier, the difference between the land value of land under customary tenure and the land under statutory tenure accounts, at least partially, for value increment due

to conversion. Amounts payable in terms of each of the instruments was then established and compared to the land value increment.

Before establishing how much each instrument captures, it is appropriate to briefly discuss the administration of the subject instruments in Zambia.

4.2.1 Ground Rent and Consideration

All Land in Zambia vests absolutely in the President who holds it in perpetuity for and on behalf of the people of Zambia (Government of the Republic of Zambia (GRZ), 1995). Section 4(1) of the Lands Act provides that alienation of land to anyone can only be done under conditions that the President receives".. consideration, in money for such alienation and ground rent.." unless where such alienation is for public use. Under this same section, the law specifically prohibits the payment of any consideration to the chiefs (the custodians of the land) when converting tenure.

However, what was found in practice was that land under customary tenure was being sold. Discussions with various developers and local occupants indicated that there were no cases where land was converted without paying anything to the chief. When enquiring why the case was like that when the law was very clear, one developer responded to the author as follows:

> "Yes I know that customary land cannot be legally sold. But if you go with that attitude no one will give it to you for free. I needed land so I had to part away with money irrespective of what the law provides."

The day to day administration of land in Zambia is done by the Ministry of Lands which among other functions collects a premium named consideration[15] and ground rent on behalf of the President as provided for by the Lands Act. The Act is silent on the calculation of both consideration and ground rent but instead provides that the prescription of the amounts shall be by statutory instrument. Under section thirty one, the Minister is empowered to make regulations for the better carrying out of the provisions of the Act. Using this provision, the Minister from time to time issues statutory instruments which govern payments of ground rent, consideration and other charges deemed necessary for the administration of land.

Currently, both ground rent and consideration are subject to the provisions of Statutory Instrument No. 44 of 2006(Government of the Republic of Zambia (GRZ), 2006). The brief provisions of the Statutory Instrument are as follows:

4.2.1.1 Ground Rent

As stated above, ground rent is collected on behalf of the President by the Central Government (Ministry of Lands). It is payable annually on all land held under public leasehold. According to the Statutory Instrument, the amount of ground rent is determined by town status, zoning, and size of the land.

In Zambia there are four grades of towns. The first comprises the four cities of the country. The second comprises municipal councils. The third and fourth comprises district councils and small district councils respectively. The following attributes determine the status of a town.

[15] The only premium paid at the commencement of a public lease is referred to as Consideration in Zambia

i) Population;
ii) Built up area; and
iii) Economy of the town.

Even though the Statutory Instrument (SI) does not state that value is one of the determinants of ground rent and premium, the fact that town status is determined by the above attributes is a determinant by implication. Under the first schedule (Regulation 2) the SI gives the following categories for purposes of ground rent determination:

A. City Areas – this group include the four cities of the country that is, Lusaka, Kitwe, Ndola and Livingstone
B. Municipal Council Areas – This includes all towns graded municipal councils;
C. District Councils - This includes all towns graded as District councils; and
D. Small District Council – This group include newly created councils and district councils in rural areas.

Properties located within such groups attract similar ground rent charges. The second determinant of ground rent is zoning. Every group is divided into five zones namely residential, industrial, commercial, religious, and recreational. Different zones attract different charges. Within the residential zone there are three categories namely high cost, medium cost and low cost. The industrial zone has two categories namely heavy industrial and light industrial. The commercial zone has three categories namely very high cost, high cost, medium cost and low cost.

The third determinant is the size of the land. For each category, there are two charges namely fixed and cumulative charges. In each zone the first one hectare of land attracts a fixed charge and the remainder is subjected to a cumulative charge per hectare. There is no provision for rent review. Enquiries however revealed that rent reviews depend on the need by government to raise more revenue or when government felt that the prevailing ground rent has been stagnant for a long time. During interviews with the Ministry of Lands officials, it was indicated that the current ground rent charges were effected in the year 2006 and they have never been reviewed since.

The statutory instrument further outlines ground rent charges for farms and small holdings within the different town categories but for purpose of the current study the above details will suffice.

Ground rent on the selected properties was obtained from the Ministry of Lands land parcel files which were confirmed by some of the developers and calculations using the said SI. For those parcels not yet on the register, the above statutory instrument was used to establish the amounts payable. Currently, the fixed (up to 1 hectare) and cumulative amounts for residential high cost are US$33.33 and U$8.33 per hectare respectively. The fixed (up to 1 hectare) and cumulative amounts for heavy industrial parcels are US$33.33 and US$25 per hectare respectively. Table 13 is a stylized example of how ground rent is calculated on different plot sizes in Lusaka A copy of the statutory instrument is attached at annex 6.

Table 18: Stylised calculation of ground rent

Zoning	Parcel Size (Hectare)	Fixed charge up to 1 ha US$	Cumulative charge per additional US$	Annual Ground Rent US$
Res. High Cost	0.1300	33.33	Nil	33.33

Res. High Cost	0.3400	33.33	Nil	33.33
Res. High Cost	1.0000	33.33	Nil	33.33
Res. High Cost	1.6000	33.33	10.00	41.66
Res. High Cost	2.0000	33.33	10.00	41.66
Heavy Industrial	0.1300	33.33	Nil	33.33
Heavy Industrial	0.3400	33.33	Nil	33.33
Heavy Industrial	1.0000	33.33	Nil	33.33
Heavy Industrial	1.6000	33.33	30.00	58.33
Heavy Industrial	2.0000	33.33	30.00	58.33

Source: *Calculations based on provisions of Statutory Instrument No. 44 of 2006 of the Republic of Zambia 2014*

4.2.1.2 Premium

A premium is an initial lump sum of money which a tenant pays at the beginning of a lease(Hong, 1999). Literature has shown that provisions are usually made for additional lump sums either at the time of renewal or modification (Hong, 2004). In Zambia, the lump sum paid at the beginning of a statutory lease is referred to as **consideration.** For all intents and purposes, this may be referred to as only premium.

This lump sum is also administered in accordance with Statutory Instrument (SI) No. 44 of 2006. Under the Second Schedule (Regulation 3) of the SI, as in the case of ground rent, towns are grouped according to status for purposes of determining the amount paid as **consideration**. That is city, municipal, district and small districts. Within these groups, land is categorized according to zoning. The same five zoning categories highlighted during the discussion of ground rent above apply when determining **consideration**. These are residential, commercial, industrial, recreational and religious.

Unlike ground rent where the residential, commercial and industrial zones are classified, for purposes of consideration only the residential zones are classified into very high cost, high cost, medium and low cost. The other zones are not classified and attract flat rates. Another difference is that whereas the amount of ground rent to some extent depends on land size, consideration in Zambia is charged per parcel of land for different zones irrespective of land parcel size. For instance, all commercial parcels in Lusaka attract a consideration amount of ZMW3000 (equivalent to US$500) irrespective of land size. The same amounts are applicable to industrial and recreational parcels of land.

Details of determination of consideration fees are as indicated in the second schedule of the statutory instrument attached at annex 6. The amounts payable on the selected properties were calculated using the provisions and confirmed through receipts and documents on individual land parcel files. These are shown in the analysis in table 20.

From the review of literature, it has been established that the value of land is directly related to the size. This means that land of similar attributes in the same locality but with different sizes is expected to have different values. The current provisions of the SI disregard the size of the land and by implication means that the instrument is not capturing values equitably. Land with different values is being charged the same premium. The SI does not provide for additional lump sum payment.

4.2.1.3 Gains Sharing Agreements and Planning Regulations

As mentioned in chapter two, a good number of countries have used gain sharing agreements to finance infrastructure provision. As stated in chapter two, these are special conditions which are added to the lease agreements in addition to the ordinary conditions.

Using the concept of property as a bundle of rights the right of development is separated from the right of ownership[16]. Using planning regulations, governments are able to grant extra development rights in exchange for additional payment. Developers are willing to pay because they know that the gains resulting from such transactions far surpass the extra payments.

During field research, it was discovered that this is one instrument which has not been utilised adequately. Most of the agreements which are existing have to do with provision of employment. According to information collected from the Zambia Development Agency (ZDA), which was collaborated through interviews with Ministry of Lands officials and selected developers, the prevailing situation was that prospective investors are at some point asked to institute an element of corporate social responsibility by building schools, health centers and clinics in an effort to help the people around the area. Investors are also asked to create employment opportunities for the locals. Enquiries with stakeholders revealed that such obligations are based on mutual trust and cannot be enforced.

In order to encourage investors to own up to such obligations, the government has instituted a new system through which it gives incentives for those who venture into value addition in priority sectors. For instance, investors who venture into agro processing which has been designated as a priority sector are given tax incentives. Government has attached such tax incentives to the creation of jobs. The process is that ZDA assesses proposals of a prospective investor and if satisfied makes recommendations to the Ministry of Finance for an investor to receive rebates on customs duty and income tax. One of the requirements by Ministry of Finance (MOF) is that an employment schedule is submitted indicating the number of jobs which an investor is likely to create in the next five years (initially). The Ministry of Finance then issues instructions to the Zambia Revenue Authority (ZRA) to waive the respective taxes.

For monitoring purposes copies of employment schedules are kept by the ZDA, MOF and ZRA. Leases for such companies are reviewed every five years and one of the parameters considered is the said employment schedules. The three institutions carry out inspections to ensure that the said jobs had been created as stated in the schedule using physical headcounts which are then reconciled with contribution retains with the National Pension Scheme Authority (NAPSA) so that government is not deceived.

Enquiries with the ZDA and the Ministry of Lands revealed that for an investment to qualify for such incentives, it has to be within the priority sector. Currently, the priority sectors are companies that are located in rural areas and those in places designated as multi facility economic zones or industrial park. All the properties within the study sample do not fall within any of the above and as such no agreement was available on any of the properties.

The above notwithstanding, it was discovered during interviews with the Ministry of Lands and ZDA officials that government has realized that the country is not getting fair deals in such transactions. As a result, there have been efforts to streamline the conversion of land from customary tenure to statutory by foreign investors. In the year 2011, government passed

[16] This concept was discussed in chapter two, under 2.4.1 Public Land Leasing.

Statutory Instrument (SI) No. 41 of 2011 which requires foreign investors to pay commercial values for land (Government of the Republic of Zambia (GRZ), 2011). A copy of the SI is attached at annex 7.

The above SI has, however, only been used once and involved a portion of Farm 4300/C covering 189.516 hectares. This was a special case and the investors paid a consideration of ZMW14Million Kwacha (approximately US$2,3Million). This figure is approximately 22% of its market value and approximately 5% and 221% of the total revenue and amounts spent on infrastructure respectively for Lusaka City Council during the year 2013[17]. According to the provisions of the Lands Act, up to the maximum of 75% of premiums may be channelled to the provision of infrastructure. The above implies that approximately 165% of the total spent on infrastructure in Lusaka in 2013 could be covered by a premium collected just on one parcel of land.

Even though the amount collected was called consideration (meaning premium), this was a special case in that conditions were different from the usual conditions. Because of the value of the transaction, the case was purposely included on the list of selected properties even though the target sample size had already been achieved and is marked as serial no 14.

As stated above, the above is a milestone in as far as land administration is concerned and aroused thinking amongst land administrators. Enquiries revealed that the ZDA and the Ministry of Lands have been tasked to identify strategic located land where government can collect market values when converting tenure by foreign investors. To this end, the Minister of Lands issued a Ministerial statement to Parliament on 12th December 2013 banning the sale of customary land to foreigners. In addition to this the Vice President of the Republic of Zambia generated a Statutory Instrument to operationalise the Ministerial statement (Government of the Republic of Zambia (GRZ), 2014). A copy of the SI is attached at annex 6.

4.2.1.4 Property Tax

In chapter two, general principles and concepts about Property tax were discussed and general characteristics brought out. In order to answer research sub question 2 properly, it seems ideal to briefly outline how property tax is administered in Zambia.

Rating taxation, as property tax is referred to in Zambia, is subject to the provisions of the Rating Act No. 12 of 1997 as amended in 1999(Government of the Republic of Zambia (GRZ), 1997). The Act provides for

> *" ..the declaration of ratable areas; provisions for the assessment of rateable property; provide for levying of rates; and to provide for matters connected with or incidental to the foregoing."*

The Act empowers local authorities, when declared by the Minister as rating authority, to levy property tax. Generally the following are the provisions which need to be considered for purposes of this study.

[17] Detailed budget figures are indicated in the budget and infrastructure expenditure for LCC in table 15 below

4.2.1.4.1 Tax Base

The Rating Act defines rateable property as land within an area which has been declared as rateable area which is **on title** and two years has lapsed since issuance of title and includes land and improvements on it. As stated earlier, two types of tenure exist in Zambia; customary and statutory. And as indicated earlier, land under customary tenure is not documented (not on title) and the only private documented tenure is public leasing. The provisions of the Rating Act therefore effectively exclude land on customary tenure.

The tax base for property tax in Zambia is therefore land held under public leasehold including improvements on such land.

4.2.1.4.2 Valuation Cycle

In chapter 2, the importance of updating valuation rolls regularly was brought about. One of the reasons identified for delayed updates was the cost implications. It was however concluded that even though there was no prescribed ideal period, updating valuation rolls at least once every five years was considered reasonable.

Section 8(3) of the Act provides that valuation rolls should be updated not less than once every five years. This notwithstanding, the same section also gives the Minister Powers to extend the life of a valuation roll. During field work the author discovered that most of the valuation rolls in the country were more than five years old. For instance, the current valuation roll for Lusaka is dated 2007. It was further revealed that even though this Valuation Roll was dated 2007, it was only implemented in 2011.

An enquiry with the council valuation section and the ministry of lands registry revealed that the existing valuation roll has 55,000 entries while the total number of properties on title at the lands registry was in excess of 59,000[18] implying that more than 8% of rateable properties are not on the current roll.

Review of documents for Lusaka city council further revealed that revenues from property rates increased by approximately 33% in 2012 following the implementation of a new valuation roll from **U$4,137,280** in 2011 to **US$6,171,610** in 2012. The above only emphasised the need for regular updates.

When asked why the situation was like that, the officers responsible for the preparation of valuation rolls for Lusaka responded that it was very costly to update valuation rolls regularly. They also indicated that the system they were using made it difficult to prepare valuation rolls within reasonable time. It was discovered that for valuation purposes, properties are physically inspected every time the roll was being updated. This coupled with the ever increasing number of properties result in the process taking long.

The above scenario implies that usually quite a number of properties do not appear on valuation rolls in addition to the outdated values.

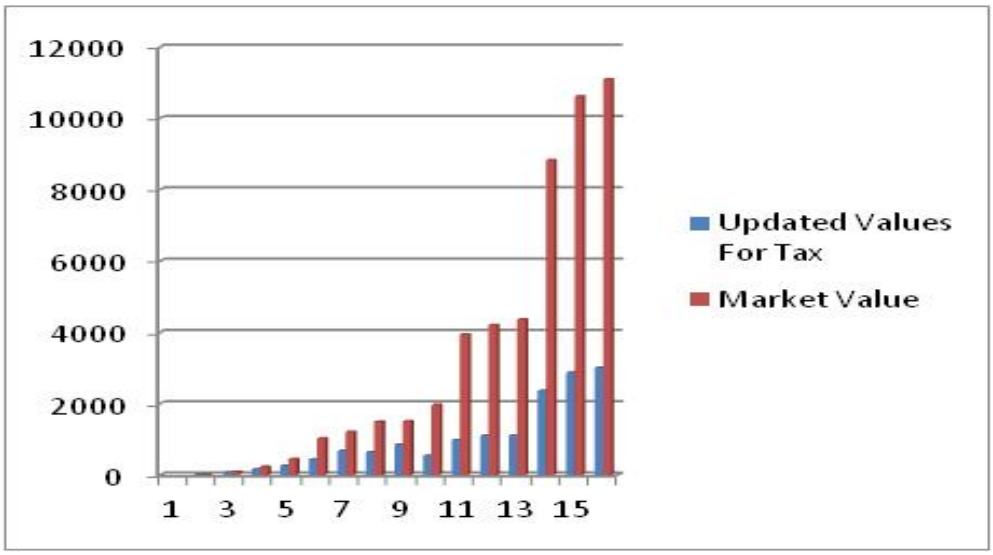
4.2.1.4.3 Proximity to Market Values

[18]An exact number could not be obtained as some of the titled property where still in the process of preparing title. The difference was attributed to new properties awaiting to be included on the roll.

As stated in chapter two, this is another important consideration when assessing the efficacy of property tax as a land value capture tool. Values for both land and buildings need to be assessed correctly and should be as close as possible to the prevailing market values. In order to achieve this, chapter two emphasised the need for expertise in the valuation profession.

The Rating Act provides that properties should be assessed on the basis of market value. The Act further provides that only qualified persons registered under the Valuation Surveyors Act(Government of the Republic of Zambia (GRZ), 1989) as Valuation Surveyors can be appointed to prepare valuation rolls. An analysis of the valuation roll for Lusaka revealed that even though the date of valuation appearing was 2007, the values generally appeared to be far much below the prevailing values of 2007. A comparison was made between the values of the selected properties for tax purposes and the true market values and the results were as indicated in the chart below:

Chart 2: Comparison between 2007 land values for property tax purposes and market values



Source: *Author's analysis based on the 2007 valuation roll for Lusaka and market land values assessed by Hallmark and Liberty Property Services 2014*

The values for tax purposes were lower than the market values in all the fifteen sample properties. The minimum and maximum of the LPT value as a percentage of the market value were 24.9% and 84.7% respectively. On average the percentage of land value for LPT purposes to market value was approximately 44%. The median was 42.3% while the mode was 27% which appeared three times in the analysed results.

Asked to comment about this state of affairs during the interview, the officer responsible for valuation gave the following reasons:

i) That the rates that are applied during assessment were usually historical in nature. The officer said that the time it took between the valuation date and actual completion of the assessment had an effect on the resultant figures;
ii) That normally flat valuation rates are applied for given areas without looking at the proper individual characteristics of the property.

Whilst the author agrees with the second reason, the first reason given was difficult to comprehend. The author was of the view that valuations are always based on historical data. Since valuations for rating taxation purposes was being carried out years after the valuation

date, the more reason why such assessments can easily be as close as possible to prevailing values as at the date of valuation.

The current state of affairs implies that in addition to the exclusion of new properties due to delays, the values appearing were also below market values.

4.2.1.4.4 Rate Levy

The rate (percentage of the tax levied on the value of a property) determines the amount of tax levied on any given property. As stated in chapter two, a rate is supposed to be high enough to be able to capture values and finance expenditures on infrastructure but also not too high to encourage rent seeking behaviour on the part of city managers.

Every valuation roll comes with an approved rate before implementation. Upon receiving a new roll it is a requirement of the Rating Act that the local authority proposes a rate to be levied after the roll becomes effective. This is subjected to the public through advertisements and notices delivered to leaseholders. Leaseholders are free to object to the valuations and proposed rates and are heard by the Rating Valuation Tribunal which is the body responsible for approving/disapproving valuation rolls and accompanying rate levies. During the interview with the officer in charge of valuations at the council, it was revealed that most of the objections received were on the grounds that the proposed levies were high. The officer further revealed that during the process of considering the 2007 valuation roll, the objections were so many that the tribunal reduced the proposed levies by half.

A review of documents at the Ministry of Local Government, Lusaka City Council and Government Valuation Department and interviews with relevant officials revealed that rate levies are determined using the budget on income ad expenditure. It was learnt that before arriving at a proposed rate levy, the local authority considers the expected expenditure for a particular year. The council then estimates how much is expected to be raised from other revenue sources apart from rates. The difference between the expected expenditure and revenue from other sources indicates what should be raised from property tax. The council will then take this remaining shortfall as a percentage of the total value of the property appearing on a roll to come up with a proposed rate.

Below is a simplified example of how the rate levy is determined by a local authority whose expected expenditure is **3,000,000,** expected revenue from other sources is **2,400,000** with a total rateable value of properties of **10,000,000.**

Table 19: Stylised calculation on determination of rate levy

BUDGET		
Expected Expenditure for the year	-	**3,000,000**
Expected Revenue from other Sources (Rentals, license fees, service charges etc)	-	**2,400,000**
Shortfall	-	600,000
Total Rateable Value of Properties		**10,000,000**
Proposed Rate Levy		**0.06**

Source: *Author's construct based on current Zambian practice 2014*

The above simplified logic is followed. However, in practice it is usually common to have different rates for different property categories. For instance at the time of collecting data, the rates for Lusaka were 0.2% and 0.4% for residential properties and other types of property respectively.

There is no prescribed ideal rate but as stated earlier it should be high enough to finance required expenditures but not too high. As stated in chapter two, prevailing banking interest rates are a good measure of determining if a rate levy is too high or too low. Between the years 2010 and 2014, interest rates in the country have been between 15% and 20%.

The tax base in Zambia is on both land and buildings and therefore the rate is supposed to be lower than what could be expected if the base was land only. In order to see whether the rate was too low or not, the tax payable on the selected properties were compared to the land value after conversion of tenure. As is shown under 4.2.3 below, property tax captured 2.5% of the current land value on average. In addition, during the analysis of land values, it was observed that land values on statutory land were generally increasing at a rate in excess of 30% per annum. Taking these facts into account, the author formed an opinion that the prevailing rates were low.

The review of literature indicated that usually there is expected to be public outcry when the period it is taking to update the roll is long (Walters, 2012). The case of the 2007 Lusaka valuation roll objections therefore may not necessarily mean that the proposed levies were high but the period it had taken to implement a new roll was too long and therefore the new levies were going to be a big jump from the previous ones.

Reflecting on the provisions of literature with regard to the four elements of property tax discussed in the section, the author formed an opinion that the most critical element requiring urgent attention in was the **valuation circle**. This element affects all the other elements directly.
To start with, because of delays in updating valuation rolls, the values appearing on the valuation rolls are usually below market value taking into account that the rapid population growth has been resulting in rapid value increments. Secondly, due to the rapid population growth Lusaka has been experiencing, land use patterns and therefore land value patterns have been changing rapidly. When the roll is not updated regularly, the values appearing are not only low but also distorted in relation to the real value patterns. Thirdly, these delays also impede the tax base in that most of the new properties are usually not on the existing valuation roll. Fourthly, the rate adopted is also affected in that there is usually public outcry when the period it takes to implement a new roll is too long which has resulted in adopting lower rates than would normally have been.

The percentage of rates to total revenue as is established in the proceeding sections - in the region of 20%, shows that property tax is an important source of revenue. However, from the foregoing discussion, it can be deduced that this instrument is performing far below its potential.

4.2.2 Land Value Capture

In order to establish which instrument captures more revenue amongst property tax, ground rent premium and gains sharing agreements, the initial idea was to compare how much each was capturing on the selected properties. However, due to the fact that there was only one recorded case of gains sharing agreement, comparing the four instruments together may not produce reliable conclusions. As such, comparisons were made mostly amongst the other

three instruments. The recorded case of gains sharing agreements was just used to provoke thinking as to the potential of such conditions.

Hong (2004 as cited in Anderson 2011) gives two ways by which the successfulness of an LVC mechanism may be measured. These are the percentage of the land value which is captured and the percentage of the expenditures on infrastructure which is financed through LVC. Table 20 below shows how much revenue is captured by property tax, ground rent and premium as percentages of land values on the sample properties.

The minimum property tax captured was 0.73% on serial number 14 which is a vacant commercial plot with a very large extent. The maximum property tax was 103.59%% on serial number 8 which is a highly improved commercial property. The above observation pointed to the fact that since the tax base was both land improvements, property tax yields under the current setup were higher on highly improved properties than sparsely developed properties. It was also observed that property tax captured on very large vacant parcels was also minimal.

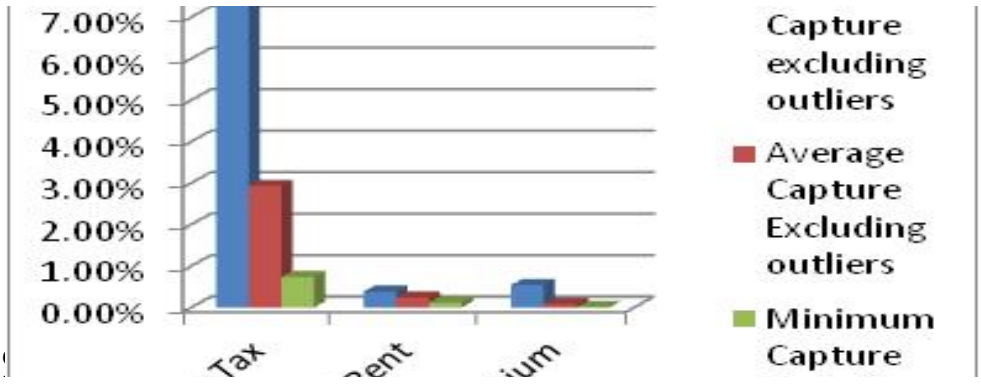
In all the three cases highlighted, there were some outliers and it was observed that generally the amounts captured were regressive. Larger parcels were receiving proportionally lower charges as percentages of land value. In particular, the following were observed:

i) For property tax purposes, outliers on the higher side included property in which the proportion of the improvements to land value was high. These were either highly improved properties or properties developed on smaller parcels. For instance serial numbers 2 and 8 are highly improved commercial properties while serial no. 1 is dwelling house developed on a very small plot. These three received the highest LPT charges as a percentage of land value.

ii) For ground rent purposes, serial numbers 14 and 15 are very large parcels but received the lowest ground rent and premium charges as a percentage of land value.

In order to have a balanced opinion, further analyses were undertaken on how much the instruments were capturing values excluding outliers. The results , as shown in chart 4, indicated that property tax was still the highest followed by ground rent. The medians which read 3.54%, 0.27% and 0.03% for property tax, ground rent and premium respectively also pointed to the same conclusion.

Chart 3: Maximum, average and minimum captured amounts excluding outliers



***Source**: Author's analysis 2014*

Another opinion formed was that under the current setup, premiums captured the least. For instance, on properties below 1 hectare, the current flat rate of premiums was only approximately 10 times the annual ground rent. This means that it only takes approximately 10 years (disregarding inflation) for the annual ground rent, which runs for 99 years, to equal what is captured by premiums throughout the lease period. The author therefore formed an opinion that the flat rate used in determining the premium was too low.

The amounts captured by each of the instruments were further compared to the size of the land of the sample properties.

Chart 4 illustrates the amounts captured through property tax, ground rent and premium expressed in terms of amount per hectare of land. The said figures were calculated by dividing the amount captured by the size of the land involved. This test also gave a similar result to the one in which the amounts were expressed as percentages of the current land value. In this test, property tax produced the highest amounts. The minimum captured property tax was US$ 410.00/ha while this was US$200.00/ha and US$2.50/m^2 for ground rent and premium respectively. The maximum captured by each instrument was US$180,100, US$3,000 and US$3,800 per hectare for property tax, ground rent and premium respectively.

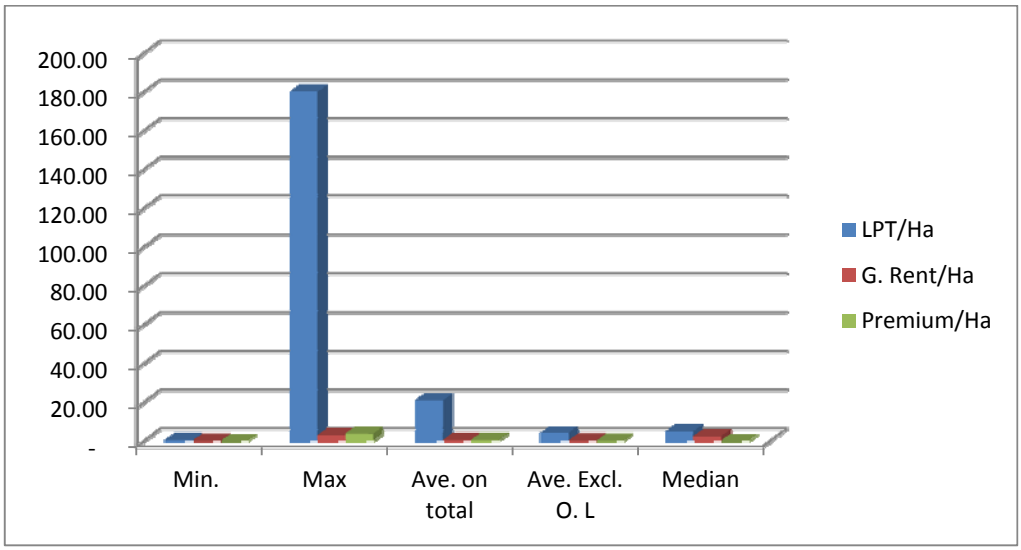
Table 20Amounts captured by property tax, ground rent, and premiums as percentages of current land values

SN.	Description	Land Size (Ha)	CMV US$,000	Cap. LPT US$,000	Cap. G.R. US$,000	Premium US$,000	LPT as a %	Ground rent as %	Premium as a %
		(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1	Dwelling House, Servants Quarter and Premises	0.11	16.49	2.84	0.35	0.42	* 17.25	* 2.15	* 2.53
2	2 Storey Office Block and Premises	0.50	92.54	31.71	0.35	0.50	* 34.26	0.38	0.54
3	Offices, Warehouses, Shop, Storeroom and Premises	1.51	232.18	18.21	0.62	0.50	7.84	0.27	0.22
4	Pleasure resort and Lodge. Construction works on going.	2.43	449.20	24.62	0.79	0.50	5.48	0.17	0.11
5	Paper Plant	5.60	1,036.00	33.02	1.58	0.50	3.19	0.15	0.05
6	Safari Lodge	6.52	1,206.20	34.81	1.51	0.50	2.89	0.13	0.04
7	University	8.10	1,498.35	53.01	1.79	0.50	3.54	0.12	0.03
8	Shopping Complex and Premises	8.14	1,506.27	1,560.28	1.80	0.50	* 103.59	0.12	0.03
9	Workshop and Offices	11.30	1,970.25	31.67	3.09	0.50	1.61	0.16	0.03
10	Agro Industrial – Hatchery	45.24	3,942.30	144.65	12.12	0.50	3.67	0.31	0.01
11	Lodge, Events Venue and Pleasure Resort	51.00	4,208.75	62.55	9.40	0.50	1.49	0.22	0.01
12	Oil Processing factory	54.40	4,365.84	178.32	14.56	0.50	4.08	0.33	0.01
13	International School	150.90	8,829.13	96.37	27.11	0.50	1.09	0.31	0.01
14	Land for a multi facility complex	189.52	10,615.12	77.84	33.96	0.50	0.73	0.32	* 0.00
15	Hotel and Ranching	200.00	11,100.00	272.96	35.82	0.50	2.46	0.32	* 0.00
Totals		735.27	51,068.60	2,622.86	144.84	7.42	5.14	0.28	0.01
Minimum Captured							0.73%	0.12%	0.0045 %
Maximum Captured							103.59 %	2.15%	2.53%
Average Captured Amount							12.88%	0.336	0.24
Average Without Outliers							2.93%	0.24%	0.08%
Median							3.54%	0.27%	0.03%

NOTES:
1. (f) = (c/b)*100
2. (g) = (d/b)*100
3. (h)= (e/b)*100
4. Property Tax Capture had three outliers – serial no. 1, 2 & 8
5. Ground rent one outlier – serial no. 1
6. Premium had three outliers – serial no. 1, 14 & 15

Source: *Author's analysis 2014*

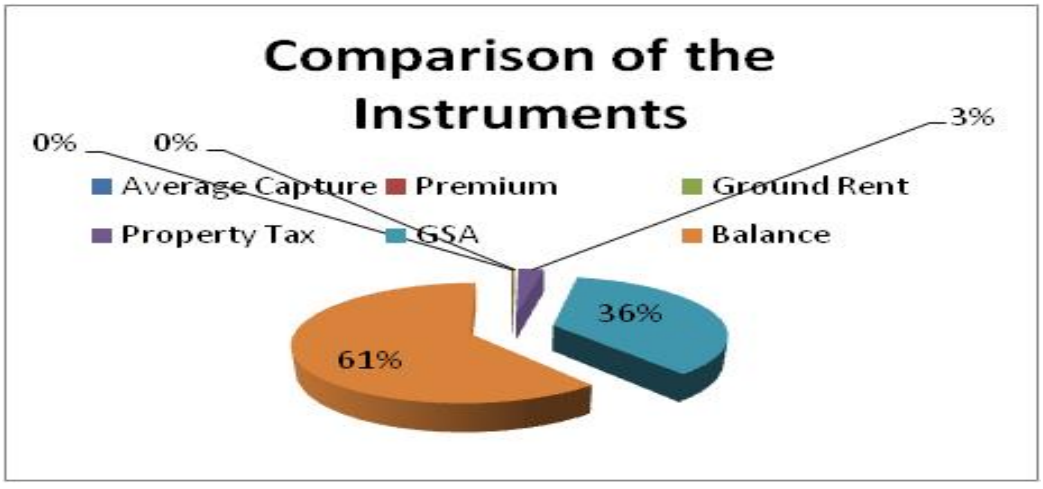
Chart 4: Captured amounts per hectare



Source: *Author's analysis 2014*

The medians were US$5,000, US$2,500 and US$61 per hectare of property tax, ground rent and premium respectively. The average captured through property tax was US$20,900 per hectare while both ground rent and premium captured US$400 per hectare on average. These averages however included some outliers: Serial numbers 1,2 and 8 on property tax, serial number 1 on ground rent and serial numbers 1,2 and 3 on premiums. When these were excluded, the average of the three instruments still indicated that property tax was capturing more than the other two instruments. The resultant figures are shown table 20.

Chart 5: Amounts captured by property tax, ground rent, premium & GSA



Source: *Author's analysis of actual amounts being captured on the sample properties 2014*

Chart 5 indicates that gains sharing agreements if properly administered have the potential of capturing more land value increments than the other three instruments. However, in the absence of such agreements, property tax is the highest followed by ground rent. To help form an opinion on the potential of gains sharing agreements (G.S.A), the percentage of the

land value captured by the only recorded agreement involving serial no. 14 was calculated and was found to be approximately 22% of land value.

In arriving at this opinion, the author was mindful that both ground rent and property tax were periodic payments and therefore involved the capitalization when standardizing comparison with other capital amounts. The discounted present values of the periodic payments were therefore used in the comparison.

Having taken all the above analyses and observation the answer to the question: *to what extent the four instruments were capturing land values* was as follows:

i) That the three instruments – property tax, ground rent and premiums were **not** capturing values to their full potential;
ii) That as percentages of land value property tax currently captured more - approximately 13%, followed by ground rent - 0.4% and the least is premium – less than 0.1%; and
iii) Gains sharing agreements exhibited to have the greatest potential but it is underutilized.

4.3 Sub Question 3 – Support for Infrastructure Provision

Having established that conversion of tenure from customary to statutory by foreign investors result in land value increments and also establishing that part of the values are captured through albeit at meagre levels, the next task was to answer the third sub question by establishing how the value captured was supporting the provision of infrastructural services. The course of action undertaken was as follows:

4.3.1 Property Tax

Semi structured Interviews were held with Lusaka City Council officials and revenue and expenditure data analysis was conducted. In particular, interviews were held with the official responsible for expenditure. Basically, two questions were being asked during data search. These were:

i) If the council was spending part of the revenue from property tax was being used to support infrastructure; and
ii) If the council was allowed to borrow using property tax revenue as a source of income for repayment.

The first question was necessary because in establishing from the onset if the council was spending anything on infrastructure provision. The interview revealed that the Ministry of Local government has given all local authorities a directive that at least 20% of the revenue collected from rates should be spent on service provision. During consultations with the officials in charge of expenditure at LCC, it was revealed that the 20% standing instruction covered provision of all municipal services including infrastructure.

Table 21: Budget, income from rates and expenditure on infrastructure – LCC

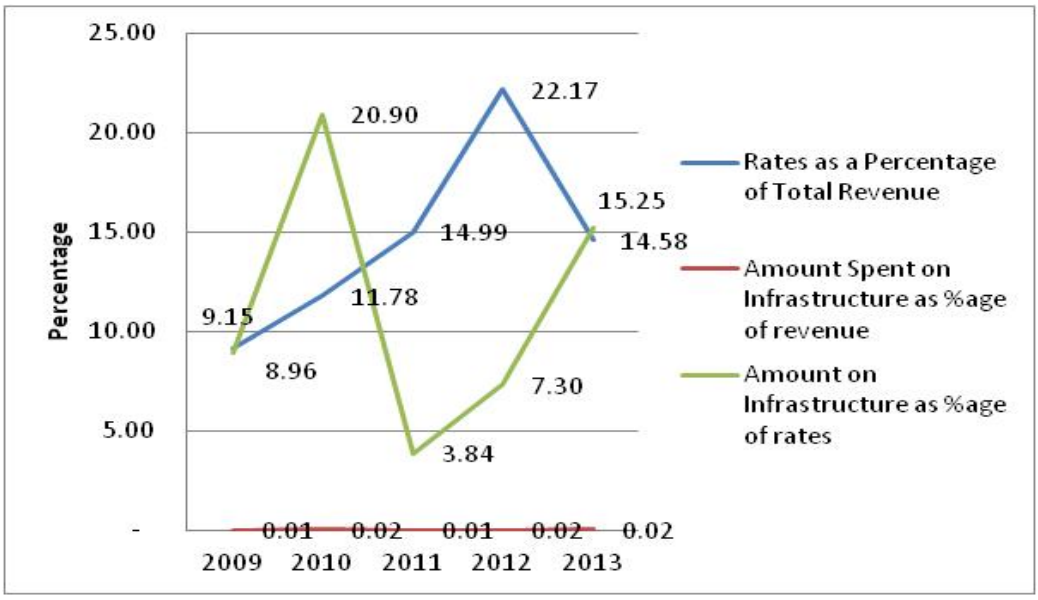
Year	Total Budget US$,000	Income From Rates US$,000	Amount Spent on Infrastructure US$,000	Rates as a percentage of Total Revenue	Amount Spent on Infrastructure as percentage revenue	Amount Spent on Infrastructure as percentage rates
2009	25,500.00	2,333.33	209.07	9.15	0.82	8.96
2010	17,666.67	2,080.30	434.88	11.78	2.46	20.90
2011	27,666.67	4,147.28	159.08	14.99	0.58	3.84
2012	27,833.33	6,171.61	450.68	22.17	1.62	7.30
2013	47,500.00	6,926.92	1,056.50	14.58	2.22	15.25

Source: *Author's analysis based on budgets of income and expenditure of Lusaka City Council – compilation done in consultation with the Assistant Director in Charge of Expenditure 2014*

Budgets on income and expenditure for LCC were provided for the period 2009 to 2013. In consultation with the officials responsible for expenditure, table 28 was constructed which was an analysis of rates and infrastructure.

The analysis of the documents indicated that from the year 2009 to 2013, income from rates as a percentage of total revenues for the council has ranged between 9% (lowest) in 2009 and 22% (highest) in 2012. The amounts spent on the provision of infrastructure as a percentage of total revenue have ranged between 0.58% (minimum) and 2.46% (maximum) for the years 2011 and 2010 respectively. As a percentage of income from rates, expenditure on infrastructure has ranged between 3.84% (minimum) and 20.9% (maximum) for the years 2011 and 2010 respectively. On average the percentage of rates on total revenue during the period under review has been approximately 15% while the average of infrastructure expenditure as a percentage of total revenue and income from rates has been approximately 2% and 11% respectively. Chart 6 gives is a summary of the relationship between total revenue, rates and infrastructure provision.

Chart 6: Revenue from rates as percentage of total revenue. and expenditures on infrastructure as percentage of revenue and rates



Source: *Author's analysis of the budget on income and expenditure for LCC 2014*

From the above chart the following was observed:

i) The importance of revenue from rates has been increasing steadily from 9.15% in 2009 until it reached its peak in 2012 – 22.37%;

ii) Even though the percentage of rates to total revenue dropped in 2013 to approximately15%, the total amount collected was still more than what was collected in 2012.

iii) Amounts spent on infrastructure during the period under review have been very low. For instance, as a percentage of total revenue, the maximum spent was in 2010 which was only 2.46%. AS a percentage of income from rates, the maximum was also in the same year and was only 20.9%.

iv) It was also observed that during the year 2012, the amounts collected from rates and as a percentage of total revenue had increased. This observation was brought to the attention of the council officers who responded that the increment was as a result of the implementation of a new valuation roll. This revelation supported the importance of updating valuation rolls regularly discussed in chapter two preceding sections.

In order to have an informed opinion on the above, the results were also compared to the performance of rates in selected African cities. Rates as a percentage of total revenue for Cape Town, Durban, Johannesburg and Kampala for the years 2005 and 2010 were as shown in table 22 below.

Table 22: Percentage of property taxes in selected African cities

City	Rates as percentage of t total revenue		Rates as percentage of l local tax	
	2005	**2010**	**2005**	**2010**
Cape Town	22.6	20.5	33.1	41.1
Durban	27.9	21.6	40.5	53.3
Johannesburg	19.9	16.3	30.0	43.8
Kampala	3.2	10.7 (2008)	20.2	40.6 (2008)

Source: *Data adopted from McCluskey 2013 – Property taxes in metropolitan cities*

Information on Lusaka was then compared to the data on these selected cities and the author was able to form an opinion that as a percentage of revenue, rates collected in Lusaka was an important source of revenue. The author was mindful that comparing Lusaka to the three cities of South Africa was somehow ambitious, but the view was strengthened by some experts views that property taxes in most metropolitan cities was at least 20% of total revenue (McCluskey and Franzsen, 2013). The intention was to establish how much of the property tax was spent on infrastructure in these cities but data could not be obtained. However, the collected figures on Lusaka pointed to the fact that infrastructure was getting a very minimal share.

The second question which was asked to the council officials was necessary for two reasons. Firstly, property tax is a periodic payment implying that the amounts collected would most likely not be adequate to support expenditure on infrastructure provision which normally requires huge sums of money. Secondly, during the review of literature, it was discovered that some selected councils worldwide have been able to borrow using anticipated revenues from rates as a source of income for repayment. Ingram and Brandt (2013) gives Johannesburg's "Jozi bonds" as one of the success stories of using municipal bonds to finance infrastructural service. During one of the interviews at the Ministry of Local Government, it was discovered that generally government does not encourage borrowing by councils. It was further discovered that for any council to borrow, specific authority had to be obtained from the Ministry of Local Government and Housing.

During the interview at the council, it was revealed that Lusaka City Council has been authorised to borrow and had a number of loan facilities running to support council activities. Specifically for infrastructure support, there were two facilities running with the Zambia National Commercial Bank to the tune of ZMW18,000,000 (US$3,000,000) and ZMW1,600,000(US$266,666) for the rehabilitation of a bus station and purchase of road maintenance equipment respectively. These two figures amount to approximately 7% of the total revenue of Lusaka city council for 2013.

4.3.2 Ground Rent and Premium

Section 16 under Part III of the Lands Act Chapter 184 of the Laws of Zambia provides for the establishment of the Land Development Fund (LDF). This fund consists of all moneys appropriated by Parliament, seventy-five percent of consideration collected (premiums), and fifty percent of ground rent collected. The fund is vested in the Minister of Finance but is administered by the Minister of Lands through the Permanent Secretary (Government of the

Republic of Zambia (GRZ), 1995). The Act further provides that the Minister of Lands shall use the said funds for opening up of new areas for the development of the land.

The Act further provides that the Minister of Lands shall disburse up to the maximum of fifty percent of ground rent and seventy five percent of consideration (premium) to local authorities upon request, for developing land.

Information collected during interviews with the Ministry of Lands indicated that collections are deposited into the main treasury account. The officers could therefore not segregate revenue data according to towns.

Disbursements made of funds given to different towns covered the period 2006 to 2010 and showed that Lusaka city did not benefit from the fund during this period. Enquiries with the Ministry of Lands official revealed that disbursements were based on requests and that there had never been a request from Lusaka city council during this period. During the last interview with the revenue section of the Lusaka City council, it was confirmed that Lusaka city council had never requested for funds from the LDF during the stated period. According to the officials at LCC, the reason was that Lusaka city council had established its own land development fund. Time however could not allow getting details on the LCC land development fund.

Disbursement given to the other cities were however available – Ndola and Kitwe. According to the statutory instrument no. 44 of 2006, Ndola and Kitwe are classified in the same category for ground rent and consideration purposes (Government of the Republic of Zambia (GRZ), 2006). In the absence of information on Lusaka, the disbursed funds to these other cities were used to help form an opinion on the significance of the disbursed funds.

Kitwe had received a total of ZMW500,000 in the year 2007. Ndola received a total of ZMW887, 000 in the year 2010. The two amounts were then adjusted for inflation over their respective periods using the official inflation rates given below.

Table 23: Inflation rates for Zambia 2007-2013

Year	2007	2008	2009	2010	2011	2012	2013
Inflation Rate (%)	6.2	5.7	6.4	7.6	6.8	7.3	6.5

Source: *Ministry of Finance publication June 2014*

The two figures were then updated with the help of Microsoft excel using the formula:

S = C(1+r1)(1+r2)(1+r3)..(1+rn) as indicated under “Data Analysis” in chapter three. This was done as in the table below.

Table 24: Analysis of LDF disbursement to Kitwe and Ndola

City	Amount ZMW	Year	Capitalising Factor	Current ZMW	US$ Equivalent
Kitwe	500,000	2007	1.568462	784,231	130,705.20
Ndola	887,000	2010	1.313206	1,164,814	194,135.70

Source: *Analysis based on LDF disbursements obtained from Ministry of Lands 2014*

The above figures were then compared to the total revenues and expenditures of Lusaka city council which gave the results as indicated in table 25.

Table 25 : Comparison of disbursed funds from LDF to Lusaka City income and expenditure

Total Budget US$,000	**Income From Rates US$,000**	**Amount paid to Kitwe US$,000**	**Amount paid to Ndola US$,000**	**Amount paid to Kitwe as % of total revenue**	**Amount paid to Ndola as % of total revenue**	**Amount paid to Kitwe as % of rates**	**Amount paid to Ndola as % of rates**	**Amount paid to Kitwe as % of infrast. expenditure**	**Amount paid to Ndola as % of infrast. expenditure**
47,500	6,926	131	194	0.2	0.41	1.89	2.8	12.41	18.37

Source: *Analysis based on LDF disbursements obtained from Ministry of Lands and income/expenditure documents from Lusaka City Council 2014*

When compared to the total revenue of Lusaka, the two disbursed amounts accounted for approximately 0.2% and 0.4% for Kitwe and Ndola respectively. The two figures as percentages of what was spent on infrastructure in Lusaka amounted to approximately 12.4% and 19.4% for Kitwe and Ndola respectively. These percentages were quite significant when compared to the proportion of collections between property tax and ground rent/premium put together.

When comparing the value capturing capacity of the instruments under Sub question 3, it was shown that on average ground rent and premium put together captured approximately 0.4% of the total land value while property tax captured approximately 13%. Using this comparison, values captured on the sample group by property tax alone on average was approximately 3.3%. Taking for instance the Ndola amount which is approximately 2.8% as a percentage of rates indicates that under the current calculations of ground rent and premium, the disbursed amounts were quite significant.

Chapter 5: Conclusions and recommendations

5.1 Introduction

The study demonstrated the unique nature of infrastructure services and explained why the traditional methods of finance were failing to provide adequate infrastructure. The study then identified the use of land based instruments as one of the methods that has been used by both developed and developing countries to finance infrastructure. The concept of Land Value Capture (LVC) was singled out as one of the most equitable ways by which governments capture benefits arising from public's investments/actions and redistribute for the benefit of the general public.

Conversion of tenure from customary to statutory was identified as one such government action which results in land value increments capable of being captured for purposes of providing infrastructure services. To capture such increments in Zambia, two instruments were identified - property tax and public land leasing. The study looked at property tax as one instrument and considered public land leasing under three sub instruments – ground rent, premium, and gains sharing agreements. The aim of the study was to compare the four instruments and establish which one captured more value increments on land converted from customary to statutory tenure by foreign investors in Lusaka to finance urban infrastructure.

This chapter will therefore give conclusions made in the study. Based on the conclusions, the chapter then makes recommendations on how the current system may be improved.

5.2 Conclusion

In order to achieve the aim of the study, the research was focused on answering whether conversion of tenure resulted in value increments and to what extent each of the four instruments captured the increments to support expenditure on infrastructure provision. In order to address these questions systematically, the study was divided into dimensions; economic, financial and social dimension. Conclusions are made based on the same dimensions.

5.2.1 Economic Dimension

Sub question: *Does conversion of tenure from customary to statutory tenure by foreign investors result in land value increment?*

Using Literature, it was revealed that land under statutory tenure was more attractive than land under customary tenure(Dale and McLauglin, 1999, Ingram and Hong, 2009, Payne, 2001, Peterson, 2009b). This was because people felt more comfortable to invest in land with documented title than land without documents.

Having acquired the above knowledge, the research started by studying the values of land under customary tenure and land which was previously customary and was later converted to statutory tenure by foreign investors for the period 2009 to 2014. The study revealed that land values in both tenure types were increasing in real terms. However, the average annual percentage increase on land under statutory tenure, at 38.35%, was more than double the rate for land under customary which was approximately 16.90% per annum. Two conclusions were made:-

i) That there were other factors affecting both categories of land which was resulting in value increments; and
ii) Since land on statutory tenure was experiencing value increments faster than land still under customary, conversion of tenure made land more attractive and hence resulted in value increment.

Further enquiries revealed two issues. There was an unprecedented population growth in the city and a critical shortage of developable land within the greater city of Lusaka. Data obtained from the Central Statistical Office revealed that Lusaka's population growth of approximately 5% was almost double the countries average growth rate.

Having considered the above the answer to the first sub question as to whether conversion of tenure from customary to statutory tenure resulted in value increment was therefore: yes.

5.2.2 Financial Dimension

Sub question: *To what extent is the resultant increment in land value captured through property tax, ground rent, premium and gain sharing agreements;*

Through literature review, ideal practices in the application of the four land based instruments was done as below.

5.2.2.1 Property Tax

Four attributes of property tax reviewed – tax base, valuation cycle, proximity to market values and determination of the rate levy (Kitchen, 2013, Walters, 2011, Walters, 2012). From literature, it was established that the combination of these attributes define what type of tax LPT becomes and amount of revenue collected in any given setting. The study of these attributes was therefore necessary to answer the question as *to what extent property tax was capturing values*. Having acquired knowledge on international practices, the Zambian system was studied and the following were the observations:

5.2.2.2 Tax Base

Property tax base in Zambia is both land and buildings. It was observed that generally, the yields were higher on highly improved properties than on sparsely developed properties and large vacant parcels of land. For instance, taxable amounts as percentages of land value for two of the highly improved properties were 103.59% and 34% while this was only 1.09% and 0.7% for a sparsely improved property and a large vacant plot respectively. Literature highlighted that taxing land only was a good LVC in that the bulk of the value in land was as a result of public initiative while the bulk of improvements may be as a result of private investments (De Cesare Claudia M., da Silva Filho Luiz Carlos P., et al., 2003, Kitchen, 2013, McCluskey and Franzsen, 2013, Walters, 2011, Walters, 2012). However in the case of the poor, the land constitute a bigger proportion of the value which brings the danger of the tax becoming regressive. There is therefore need to strike a balance in making the tax an LVC and at the same time progressive.

5.2.2.3 Valuation Cycle

The importance of updating valuation rolls regularly was brought out and that no matter the system, the review period should not exceed five years (Fainstein, 2012, Kitchen, 2013, McCluskey and Franzsen, 2013, Walters, 2011, Walters, 2012). In Zambia the law provides for updating valuation rolls at least once every five years but also gives the Minister Powers

to extend the period. Most of the valuation rolls in the country are more than five years old. For instance, the existing roll for Lusaka is dated 2007.

The population growth highlighted above implies changes in demand patterns, land use patterns and therefore, also value patterns which all need to be taken into account every time a new roll is put in place. In order for the tax to capture increments, the valuation rolls should move at the same pace with these changes (Walters, 2011, Walters, 2012). One of the reasons identified for failure to update rolls regularly in Lusaka was the outdated valuation system and the cost of undertaking the revaluations.

An enquiry with the council valuation section and the ministry of lands registry revealed that the existing valuation roll has 55,000 entries while the total number of properties on title at the lands registry was in excess of 59,000 implying that more than 8% of rateable properties are not on the current roll. Updating valuation rolls regularly therefore becomes important so as not only to track value changes but also ensuring that new properties are brought captured on the roll.

Review of documents for Lusaka city council further revealed that revenues from property rates increased by approximately 33% in 2012 following the implementation of a new valuation roll from **U$4,137,280** in 2011 to **US$6,171,610** in 2012.

5.2.2.4 Proximity to Market Value

The importance of a market value approach to property taxation was highlighted in the review of literature (Ambaye, 2009, Fainstein, 2012, Ingram and Hong, 2012, Walters, 2012). The Zambian law provides that values should be on the basis of open market value and that only persons registered as valuation surveyors can undertake the valuations. Records of the Valuation Surveyors Registration Board indicated that the country has approximately sixty (60) registered valuation surveyors which was adequate to undertake valuations for the country[19]. A review of the Lusaka main valuation roll however revealed that the values on the roll were generally below market values. The minimum and maximum of the LPT value as a percentage of the market value were 24.9% and 84.7% respectively. On average values for LPT purposes as percentages of market value was approximately 44%. The median was 42.3% while the mode was 27%.

5.2.2.5 Rate Levy

For LPT to be an effective LVC, literature provides that the rate was supposed to be high enough to be able to collect revenue enough to support expenditures (Walters, 2012). As highlighted in chapter four, in Zambia the rate is determined using the difference between total projected expenditure and expected income from other sources as a percentage of total value of properties appearing on the valuation roll. However, it was discovered that the current roll's proposed rate levies of 0.4% and 0.8% for residential and non residential properties were reduced to 0.2% and 0.4% respectively due to public outcry apparently caused by non regular updates. In effect, the municipality can only collect property tax to a maximum tune of half the budget shortfall.

[19] Zambia has four cities, sixteen municipal councils and fifty district councils.

From the above discussion of property tax, an opinion was formed that improving the valuation cycle was very critical because it tended to affect the other three attributes.

5.2.2.6 Relationship of the Attributes

The above revelation only pointed to the fact that the issue of the valuation cycle was very critical in Lusaka as it affected all the other attributes of the tax system. With regular updates, more properties are captured thereby widening the tax base. Regular updates reduce the amount of objections and make it possible to adopt higher rate levies. With regular updates of the valuation roll, changes in land use patterns, value patterns and value increments are kept in check.

Despite the above shortcomings, it was discovered that property tax was capturing more values than the other instruments. For instance, on the study sample, property tax was capturing approximately 13% of the current land value while this was only approximately 0.25% and less than 0.1% by ground rent and premium respectively. As a percentage of total revenues property tax was approximately 20%.

5.2.3 Ground Rent and Premiums

The study revealed that ground rent and premiums were very effective methods of capturing value increments especially when rent reviews and additional premiums are included. Literature further revealed that for a leasehold system to be an effective LVC, annual ground rentals and premiums were supposed to be related to the actual market values (Bourassa and Hong, 2004, Hong, 2004, Needham, 2004, Walters, 2012). From the foregoing, it can be safely concluded that the effectiveness of the two instruments can be established by finding their proportion to the market value. The study of Hong Kong revealed that under an effective functioning public land leasing system, government can capture values in excess of 30% without distorting investments (Hong, 2004).

In Zambia, the existing structures of both ground rent and premium are unreasonable. For instance, for a one hectare residential plot in Lusaka, which is currently valued at approximately US$180,000, with an annual rental value (9.4% yield) of approximately US$17,000, the premium and annual ground rent is only US$500 and US$33.33 respectively.

In addition to the above, land size is not taken into account when determining premiums. Further, ground rent has no regular reviews while there is no provision for additional premiums for the duration of the lease.

From the above, it was not surprising that while other countries have been able to use these two instruments to raise substantial amounts, very little revenue was being achieved in Zambia. The two instruments combined were capturing less below one percent of the land value – only 0.25% and less than 0.1% of the land value for ground rent and premium respectively. A complete redesign of the system is inevitable.

5.2.4 Gains Sharing Agreements (GSA)

The need to have extra obligations agreed with foreign investors for the provision of infrastructure was brought out from literature (Bourassa and Hong, 2004, Hong, 2004, Peterson, 2009b). The need for government involvement also became very clear because foreign investors have a track record of taking advantage of customary land occupants (Cotula, Vermeulen, et al., 2009).

It was discovered that previously, when granting leases, prospective foreign investors were at some point asked to institute an element of corporate social responsibility by building schools, health centres and clinics in an effort to help the people around the area. Investors were also asked to create employment opportunities for the locals. Further enquiries revealed that such obligations were based on mutual trust and could not be enforced as they were not based on any signed contracts. The position regarding this was that the investors could or could not perform any of the requested obligations and that would have no effect on the lease.

There was one agreement which was recently signed by the government and an investor. Even though it was only one made it difficult to have a fair comparison with the other instruments, the agreement brought out the potential of GSA to support infrastructure provision. The amount collected on this agreement as a percentage of the land value was approximately 22%. Despite this, it was disappointing in that the allocation of this lease was not subjected either to an auction or tender. This also implies that the transaction could have been concluded at a much better figure (Bourassa and Hong, 2004, Hong, 2004, Needham, 2004).

Taking all the above into consideration, the answer to the second sub question was therefore that property tax, ground rent and premiums were **not** capturing values to their **full potential**. However, between the three instruments property tax was capturing more than the other two- as percentages of land value the three instruments captured approximately 13%, 0.25% and less than 0.1% respectively. In addition to the above, gains sharing agreements appear to be one way the country would be able to utilise conversion of tenure from customary to statutory as a land value capture tool.

5.3 Social Dimension

Sub Question: *How is the captured land value supporting public expenditure on provision of urban infrastructure?*

Even though property tax may not necessarily be taken to be a direct charge for service delivery, literature indicates that rate payers choose to stay in certain jurisdictions because of the services being offered and the service which offers the most services is the provision of infrastructure (Bird and Slack, 2002, Smolka 2013). However, data at Lusaka city council revealed that expenditures on infrastructure as a percentage of rates were very low - approximately 11% on average. The study of the Ministry of Lands LDF revealed a standing arrangement to spend 50% and 75% of total collection of ground rent and premium respectively on the development of land. The percentages may appear high but the actual disbursements depend on the amounts collected which are meagre under the current set up. On average ground rent and premium are capturing approximately 0.25% and less than 1% which are too little to cover the cost of providing infrastructure.

5.4 Quality of Data and Limitations

Data collected from government institutions was quite reliable and in most cases supported by policy documents and/or statutory instruments. Sale transactions of customary land were however mostly based on information collected from customary occupants who in some cases may not have provided accurate information. Such transactions are rarely recorded and it was therefore a bit difficult to get round this problem.

The available time was also not enough and did not permit further enquiries on unanticipated findings. For instance, during interviews with ZDA and Ministry of Lands officials, it was

revealed that most of the agreements were to do with provision of employment made with developers in certain priority sectors. Even though it was further revealed that such agreements were generally not enforceable, in order to form a balanced opinion, the author would have liked to assess how such developers were complying with such obligations.

In spite of the above limitations, the data collected was valid enough to conclude as follows:

iv) that conversion of tenure from customary to statutory resulted in value increments;
v) that property tax was capturing more values than ground rent and premiums, and that gains sharing agreements have great potential of making conversion tenure an effective land value capture tool; and
vi) That the levels of infrastructure financing from these land based tools were very minimal.

5.5 Recommendations

5.5.1 Areas of Further Research

Based on the review of literature, research findings and observations, the following recommendations are made:

1. Finding ways of resolving the dilemma of making property tax an effective land value capture instrument at the same time protecting the interest of the poor;

2. Ways in which existing leases can be revisited without infringing the rights of the foreign leaseholders;

3. Ways of adopting mass appraisal techniques by the valuation profession in Zambia

4. Studies of land value capture be incorporated in the curriculum of the two universities offering built environment studies in the country

5. Studies on how to mitigate issues of raising revenues and at the same time reserving land for public use

6. Studies on the implementation of gains sharing agreements on all new leases involving foreign investors

5.5.2 General Recommendations

1. In order to improve the performance of property taxation in the country, the law should not provide for extension of the valuation cycle beyond five years. Regular updates will ensure that the rolls keep up pace with changing values in the city. This will also make it easier when implementing new rate levies because it will reduce public outcry experienced over delayed implementation. Mass appraisal valuation systems should be adopted so as to improve the period it takes to update the valuation

rolls. It is also recommended that ways should be found by which land owners with big parcels of land are taxed highly than holders with smaller parcels of land.

2. The standing instruction of spending at least 20% of rates on services is not enough. Government should firstly increase that percentage and secondly specifically mention infrastructural service provision.

3. In order to improve the efficacy of ground rent and premium, the manner in which each of these two are set should be changed. Regular reviews should also be put in place with options of additional premiums in future.

4. Government should take a more aggressive position with regard to conversion of tenure by foreign investors to ensure that appropriate levels of value increments are captured. During negotiations, professional land assessors should be involved so that future gains are accurately determined and fair shares agreed upon. Data has indicated how foreign investors have ended up driving customary land occupants from their land. Issues of protecting land grabbing by unscrupulous investors should therefore be taken very seriously.

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Annexes

Annex 1 : Interview/data search guide

Based on the operationalisation matrix and the grouping of key respondents for the respective variables, the following guided the researcher in collecting information from the documents and also interviews with respective officers.

In all the interviews/request for information the following procedure was followed:

1. Introduction of the Researcher and purpose of visit/research
2. The time frame
3. Confidentiality
4. Informing respondents in the case of interviews on the need to record the proceedings
5. Getting informed consent of the respondent

GUIDE FOR THE VALUERS, ESTATE AGENTS AND FINANCIAL INSTITUTIONS

Question being addressed	Questions to be Asked
• Is there value increment when land is converted from customary to statutory tenure?	**1.** Does conversion of tenure from customary to statutory result in land value increment? **2.** Do you have specific examples of value increments? **3.** What have been the average land values per sq.m in the past 5 years on Statutory land? **4.** What have been the average land values per sq.m in the past 5 years on customary land? **5.** What other factors may have contributed to land value increments?

GUIDE FOR THE MUNICIPALITY

Questions being addressed	Questions to be Asked
• To what extent is the resultant increment in land value captured through property tax? • How is the captured land value supporting public expenditure on provision of urban infrastructure?	**Municipality** 1. What is the basis of value of property for tax purposes? 2. How close is this value to the true market value? 3. What are the property values of ten selected properties in the past 5 years 4. How is the rate levy (% of value charged as tax) determined? 5. What has been the rate levies for the past 5 years. 6. How much property tax has been collected on the selected properties in the past five years? 7. Are you allowed to issue bonds/borrow. 8. Can revenue from LPT be used as collateral? 9. What is the % of LPT used to support infrastructure provision? 10. How is infrastructure service provision financed generally (Housing, roads, etc)?

GUIDE FOR THE ZAMBIA DEVELOPMENT AGENCY (ZDA)

Question being addressed	Questions to be Asked
• To what extent is the resultant increment in land value captured through additional obligations?	1. What is the role of ZDA in converting tenure from customary to statutory by foreign investors? 2. Do you negotiate any additional obligations or conditions to be given to foreign investors in addition to the ordinary lease conditions? 3. How do you ensure that such obligations are implemented after negotiating? 4. Who monitors these obligations? 5. What obligations were given to the ten selected properties? 6. What is the value of the obligations on the ten selected properties? and 7. Any other comments.

GUIDE FOR THE OFFICE OF COMMISSIONER OF LANDS

Questions being addressed	Questions to be Asked
• To what extent is the resultant increment in land value captured through public land leasing? • How is the captured land value supporting public expenditure on provision of urban infrastructure?	1. What is the procedure of converting tenure from customary to statutory? 2. What are the payments involved in converting tenure? (List) 3. How much premium is paid at the commencement of the lease? 4. How is the premium calculated? 5. What is the review period? 6. How is the ground rent calculated? 7. How much ground rent is paid on the selected properties? 8. What is the review period? 9. What other obligations/conditions are given to foreign investors in addition to the ordinary conditions? 10. Are such obligations fixed or negotiable? 11. If not fixed, who negotiates? 12. How is ground rent or premium used to support infrastructure provision? 13. Any other comments

GUIDE FOR THE CHIEFS/HEADMEN

Question being addressed	Questions to be Asked
	A. Chiefs 1. What are the steps followed in converting land from customary to statutory tenure? 2. Are there payments either in kind or cash before converting tenure? 3. Are such payments fixed or through negotiation? 4. How much was paid as additional obligation on the selected ten properties 5. Any other comments relevant to the topic **B. Headmen** 1. What are the steps followed in converting land from customary to statutory tenure? 2. Are there payments either in kind or cash before converting tenure? 3. Are such payments fixed or through negotiation? 4. How much was paid as additional obligation on the selected ten properties? 5. Any other comments relevant to the topic

GUIDE FOR THE DEVELOPERS

Question being addressed	Questions to be Asked
• Is there value increment when land is converted from customary to statutory tenure? • To what extent is the resultant increment in land value captured through property tax, premium, ground rent or additional obligations?	1. Was the land allocated or purchased? 2. If it was purchased, before conversion, how much was the cost? 3. If it was allocated, were there payments made before allocation? List of payments and recipients. 4. Where the payments fixed all negotiated? 5. How much premium was paid? 6. Is there a review period for such premium? 7. How much has been paid in the last 5 years or any such shorter period (which ever is applicable) as :- i) Property tax; ii) Ground rent; and iii) Other periodic payments. 8. Any other comments

GUIDE FOR THE CUSTOMARY LAND OWNERS

Question being addressed	Questions to be Asked
• Is there value increment when land is converted from customary to statutory tenure? • To what extent is the resultant increment in land value captured through property tax, premium, ground rent or additional obligations?	1. Was the land allocated or purchased? 2. If it was purchased, how much was the cost? 3. If it was allocated, were there payments made before allocation? List of payments and recipients. 4. Where the payments fixed all negotiated? 5. How much premium was paid? 6. Is there a review period for such premium? 7. How much has been paid in the last 5 years or any such shorter period (which ever is applicable) as :- iv) Property tax; v) Ground rent; and vi) Other periodic payments. 8. Any other comments

Annex 1.1: Interview extract with senior valuation officer

LUSAKA CITY COUNCIL

BACKGROUND

This interview was held on Wednesday 9th July 2014 in the office of the Senior Valuation Officer, Lusaka City Council at 15.00 hours.

In order to allow the respondents prepare in advance, some questions had been sent earlier. These questions were forming the core of the interview.

INTERVIEW

My name is Evans C Chande and I am pursuing a Master of Science Degree in Urban Management and Development at Erasmus University Rotterdam in Netherlands. I am currently undertaking a research entitled "Conversion of Tenure from Customary to Statutory Tenure as a Land Value Capture Instrument" in partial fulfilment of the requirements of the curriculum. In relation to this, I would like to have your opinion on some questions on the subject. Please be informed that the information given will be treated as confidential and only be used for academic purposes.

Name of officer: Andrew Kalemba

Designation: Senior Valuation Officer – Lusaka City Council

Question: What is the basis of value of property for tax purposes?

Response: The Rating Act under Section 7 provides that basis of valuation for rating purposes should be open market value.

Question :How close is this value to the true market value?

Response: From experience the values are usually lower than the actual market value. People have attested to this fact when they come to inspect the valuation rolls.

Question: Why are the values lower than true market values?

Response: Two reasons can explain this;

11. The rates that are applied are historical in nature and we don't look at individual features in detail. The time it takes between the valuation date and actual implementation.
12. A flat rate is applied for an area without looking at the proper individual characteristics of the property.

Question:What are the property values of ten selected properties in the past 5 years–

List is prepared with corresponding information

Question: How is the rate levy (% of value charged as tax) determined?

Response: Rate levy is determined from the budget point of view. What the council does is determine the expected expenditure in a particular year. Then they will look at other sources of revenue first. How much is collectable from these other sources of revenue. This is compared to the total expenditure. The shortfall between these two figures is what is expected to come from property rates. This figure is then used to determine the rates based on the property values.

Question: What are the current rate levies

Response: The current rates are as follows:

i) Residential 0.2% in every kwacha
ii) Commercial and Industrial 0.4% in every kwacha

The above rates are based on the 2007.

Question: Why are the levies so low

Response: We are coming from a period when it took so long to have a roll updated. When the roll was finally approved, there was an outcry to the proposed levies of 0.4% and 0.7% on residential and commercial/industrial properties respectively. As a result the Tribunal reduced the levies to their current levels.

Question: When was the current valuation roll implemented.

Response: Even though the current roll is dated 2007, it was only implemented in 2011. This further made the values far much below the true market value.

Question: Council budgets are prepared annually, how come the rate levy has been static.

Response: Even though the budgeting is done annually, there is what is called the medium term expenditure framework. This is a budget which done to cover a period of three years.

Question: Does it mean the shortfall is expected to be static for the three years?

Response: That is the assumption for budgeting purposes. However, in practice the demands are always increasing.For instance in 2013 the budget was ZMK285Million while this was ZMK331Million in 2014.

Question: How much was the shortfall in the said years.

Response. Not readily available but ZMK30Million and ZMK44Million was collected from rates in 2012 and 2013 respectively. These amounts accounts for approximately 33% of the total budget. The increase despite the rate being static was as a result of a supplementary roll which was implemented in 2013.

Question: How much property tax has been collected on selected properties in the past five years? List provided

Question: As a local authority, are you allowed to issue bonds/borrow.

Response: Yes the council is allowed to borrow. Currently, we are having a loan with ZANACO to buy capital equipment.

Question: Can revenue from property tax be used as collateral?

Response: Yes though not to use on infrastructure specifically. For instance, council has borrowed ZMK16Million for capital equipment. There is another loan to finance updating of valuation roll and has to be paid using revenue from rates. Another facility of ZMK8Million to finance ticketing office at intercity bus terminus.

Question: What is the percentage of property tax that is used to support infrastructure provision?

There is no specific percentage. However, according to the approved budget for this year, it is provided that 41% of the total budget should go to the provision of services. This implies that out of the ZMK331Million approximately ZMK125Million is to be spent on the provision of services. This figure however includes all services not infrastructure only.

Further analysis can be made from the details budget which will be provided to you.

Thanking you in anticipation.

Annex 1.2: Atlas TI coded extract

P 5: INTERVIEW VALUATION SURVEYOR 1.docx - 5:8 [. Therefore the answer to your..] (13:13) (Super)
Codes: [TENURE CONVERSION] [TENURE CONVERSION-unlocking values]
Memos: [RESERACH QUESTION 1]

Therefore the answer to your question is a total years. Converting tenure to statutory therefore makes it more marketable not only to the locals but also foreign investors. The above makes land under statutory tenure more attractive and as value is determined by demand, it means that land under statutory will have higher values

P 5: INTERVIEW VALUATION SURVEYOR 1.docx - 5:2 [Do you have specific examples ..] (14:15) (Super)
Codes: [LAND VALUES] [TENURE CONVERSION] [TENURE CONVERSION-unlocking values]
Memos: [RESERACH QUESTION 1]

P 5: INTERVIEW VALUATION SURVEYOR 1.docx - 5:3 [Question: What have been the a..] (16:48) (Super)
Codes: [LAND VALUES]
Memos: [RESERACH QUESTION 1]

Question: What have been the average land values per sq.m in the past 5 years on Statutory land in Lusaka and surrounding areas?

Response

P 5: INTERVIEW VALUATION SURVEYOR 1.docx - 5:4 [What other factors may have co..] (51:60) (Super)
Codes: [LAND VALUES] [LAND VALUES_other factors]
Memos: [RESERACH QUESTION 1]

Question: In your opinion are these investors providing any infrastructure, e.g. roads or building schools?

P 6: INTERVIEW VALUATION SURVEYOR 2.docx - 6:1 [Question: Does conversion of t..] (8:9) (Super)
Codes: [TENURE CONVERSION] [TENURE CONVERSION-unlocking values]
Memos: [RESERACH QUESTION 1]

Question: Does conversion of tenure from customary to statutory result in land value increment?

Response: Yes. From experience, Land under statutory tenure have been selling at higher prices than land under customary in the same areas.

P 6: INTERVIEW VALUATION SURVEYOR 2.docx - 6:2 [Question: Do you have specific..] (10:11) (Super)
Codes: [TENURE CONVERSION] [TENURE CONVERSION-unlocking values]
Memos: [RESERACH QUESTION 1]

Question: Do you have specific examples of value increments?

Annex 2: The process of tenure conversion

Section 4(1) of the Lands Act provides that the President can alienate land under customary and grant it under leasehold tenure for a term not exceeding ninety nine years. The Act further provides that the President cannot alienate any such land without the approval of the chief and local authority in which the land is located. In line with the above provisions, the following is the process of conversion of customary tenure to statutory tenure.

1. Identification of the Land

In cases where foreign investors have partnered with Zambians, investors may identify suitable land on their own and engage the concerned chief for consideration. With regard to other foreign investors however, this is facilitated by the Zambia Development Agency (ZDA). Foreign investors are required to submit detailed proposals on their intended projects. From this, ZDA is able to establish how much land is required and also identify suitable locations. ZDA will then engage the local chiefs.

2. Recommendation to the Chief

For the day to day running of the chiefdoms, chiefs are assisted by headmen. These are the people who are on the ground and know exactly the status of various portions of land within the chiefdom. When investors identify suitable land, they engage the headmen for possible purchase, if there are people occupying such land or allocation if the land is vacant.

According to the lands Act, land under customary law is not supposed to be sold and as such there are no payments made, legally that is, either to the chief or customary occupiers. If the land is occupied, occupants are expected to be compensated only for the improvements.

However, during field work, it was established beyond any reasonable doubt that land under customary tenure whether occupied or not is being paid for before allocation. Where the land is occupied, payments are being made to the occupants and then to the chief before giving consent. With regard to vacant land, payments are being made to the chiefs.

When the chief has no objection to the proposed acquisition, he completes a conversion form and recommends to the local authority. The recommendation to the local authority goes with a sketch plan of the affected site which is also endorsed by the chief. Attached to these sketch plans are the following documents:-

i) Form 1: this is signed by the chief; and
ii) Form 2: this is completed by the applicant and includes all details about the applicant and intended use.

Upon receipt of the above documents, the council completes Form 3 in which the applicant is requested to fill in annexure C which is a council application form for title. At this stage, the applicant is invited to an interview with the local authority to review the steps taken and establish the true picture as to the intended use. A site visit is then arranged for the council to verify that the piece of land free from any disputes and encroachment. Neighbouring occupants will be consulted at this stage. All costs related to this process are to be borne by the applicant.

If the local authority is satisfied that the proposed site is free from any disputes and encroachment, site plans are prepared which are forwarded to the Surveyor General for numbering.

3. Numbering

The Surveyor General will scrutinise the proposed site plan and all other attachments and if satisfied that it does not conflict with any existing or future plans will number the site.

4. Surveying and Issuance of Title

After numbering, the proposed site has to be surveyed by a registered land survey who prepares survey diagrams. The survey diagrams are then submitted to the Commissioner of Lands for issuance of title deed.

5. Fees and Charges

Issuance of offer is accompanied by the following fees and charges annex 9.

Annex 3: Interest rates

Name of Financial Institution	Product Name	Revised interest Rate	Arrangement fee	Insurance
ZNBS	**Personal Loan**			
	Friendly Loan	18%	4%	2%
	Building Material Loan	17%	3%	2%
	Mortgage Loan	14%	5%	TBA
Investrust	Mortgage Loan	15%	TBA	TBA
	Personal Loan			
UBA	Personal Loan	16%	TBA/negotiable	TBA/negotiable
	Mortgage Loan	N/A		
FNB	Personal Loan	17%	TBA	TBA
	Mortgage	15%		
Stanbic	Personal Loan	18%	TBA	TBA
	Mortgage Loan	14%		
Pan African Building Society	Personal Loan	17%	TBA	TBA
	Mortgage Loan	15% to 30%		

The Market Fixed Deposits vary from 2% to 10% depending the amount and the tenure the customer negotiates for.

Saving Accounts vary between 1.5% to 4%

Compiled By: Phannuel Chibuye – Director Banking
Zambia National Building Society

Annex 4: Statutory instrument number 44 of 2006

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 44 OF 2006

The Lands Act
(Laws, Volume 12, Cap 184)

The Lands (Ground Rent, Fees and Charges) Regulations, 2006

IN EXERCISE of the powers contained in section *thirty-one* of the Lands Act, the following regulations are hereby made:

1. (1) These Regulations may be cited as the Lands (Ground Rent, Fees and charges) Regulations, 2006 These Regulations shall come into effect on 4th February, 2006.	Title and commencement
2. The ground rents as set out in the First Schedule shall be payable by persons holding land specified in that Schedule.	Ground rent
3. The fees and charges are set out in the Second Schedule shall be payable in respect of transactions in land specified in that Schedule.	Fees and charges
4. The Lands (Ground Rent and Fees) Regulations, 1997 are hereby revoked	Revocation of SI No. 18 of 1997

FIRST SCHEDULE
(Regulation 2)

ANNUAL GROUND RENT FOR STANDS IN AREAS OF CITY, MUNICIPAL, AND DISTRICT COUNCILS

A. City Areas- Lusaka, Kitwe, Ndola and Livingstone

Zoning	*Category*	*Parcel size (in Hectares)*	*Cumulative charge per additional Hectarage*	*Annual ground rent chargeable Fee units*	*Annual ground rent chargeable Kwacha*
Residential	Very high Cost	up to 1 Ha.	50,000	1111	199,980
	High cost	up to 1 Ha.	40,000	556	100,080
	Medium Cost	up to 1 Ha.	30,000	333	59,940
	Low cost	up to 1 Ha.	20,000	166	29,880

Zoning	*Category*	*Parcel size (in Hectares)*	*Cumulative charge per additional Hectarage*	*Annual ground rent chargeable Fee units*	*Annual ground rent chargeable Kwacha*

Copies of this Statutory Instrument can be obtained from the Government Printers,
P. O. Box 30136, 10100 Lusaka. Price K2000 each

Industrial	Heavy industry	up to 1 Ha	150,000	1111	199,980
	Light industry	up to 1 Ha	100,000	1111	199,980
Commercial	very high cost	up to 1 Ha	100,000	1666	299,880
	High cost	up to 1 Ha	80,000	1388	249,840
	Medium cost	up to 1 Ha	60,000	1111	199,980
	Low cost	up to 1 Ha	40,000	833	149,940
Religious	Religious	up to 1 Ha	40,000	416	74,880
Recreational	Recreational	up to 1 Ha	100,000	1666	299,880

B. Municipal council Areas

Zoning	*Category*	*Parcel size (in Hectares)*	*Cumulative charge per additional Hectarage*	*Annual ground rent chargeable Fee units*	*Annual ground rent chargeable Kwacha*
Residential	High cost	up to 1 Ha	40,000	416	74,880
	Medium cost	up to 1 Ha	30,000	250	45,000
	Low cost	up to 1 Ha	20,000	166	29,880
Industrial	Industrial	up to 1 Ha	100,000	833	149,940
Commercial	High cost	up to 1 Ha	50,000	416	74,880
	Low cost	up to 1 Ha	30,000	277	49,860
Religious	Religious	up to 1 Ha	20,000	277	49,860
Recreational	Recreational	up to 1 Ha	50,000	416	74,880

C. District Council Areas

Zoning	*Category*	*Parcel size (in Hectares)*	*Cumulative charge per additional Hectarage*	*Annual ground rent chargeable Fee units*	*Annual ground rent chargeable Kwacha*
Residential	High cost	up to 1 Ha	30,000	333	59,940
	Medium cost	up to 1 Ha	20,000	222	39,960
	Low cost	up to 1 Ha	10,000	138	24,840
Industrial	Industrial	up to 1 Ha	50,000	556	100,080
Commercial	High cost	up to 1 Ha	30,000	277	49,860
	Low cost	up to 1 Ha	15,000	138	24,840
Religious	Religious	up to 1 Ha	20,000	222	39,960
Recreational	Recreational	up to 1 Ha	30,000	277	49,860

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D. Small District Council Areas (Sub Bomas)
E.

Zoning	*Category*	*Parcel size (in Hectares)*	*Cumulative charge per additional Hectarage*	*Annual ground rent chargeable Fee units*	*Annual ground rent chargeable Kwacha*
Residential	Medium cost	up to 1 Ha	25,000	194	34,920
	Low cost	up to 1 Ha	20,000	166	29,880
Industrial	Industrial	up to 1 Ha	50,000	416	74,880
Commercial	Medium cost	up to 1 Ha	30,000	222	39,960
	Low cost	up to 1 Ha	15,000	138	24,840
Religious	Religious	up to 1 Ha	20,000	194	34,920
Recreational	Recreational	up to 1 Ha	30,000	222	39,960

ANNUAL GROUND RENT FOR SMALL HOLDINGS AND FARMS
(AGRICULRURAL LAND)

Category A – Land within Lusaka, Copperbelt, Central and southern Provinces

Parcel size (in Hectares)	*Cumulating charge per Additional Hectarage*	*Annual ground rent chargeable Fee units*	*Annual ground rent chargeable Kwacha*
Up to 1 Ha	nil	277	49,860
Above 1 Ha	5,000	277	49,860

Category B – Land within Eastern, North-Western, Luapula and Northern Provinces

Parcel size (in Hectares)	*Cumulative charge per Additional Hectarage*	*Annual ground rent chargeable Fee units*	*Annual ground rent chargeable Kwacha*
Up to 1 Ha	nil	277	49,860
Above 1 Ha	4,000	277	49,860

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SECOND SCHEDULE
(Regulation 3)

PART 1

CONSIDERATION FEES

Category A- Cities: Lusaka, Kitwe, Ndola and Livingstone

Zoning	*Category*	*Unit charge per land parcel (fees units)*	*Unit charge per land parcel Kwacha*
Residential	Very high cost	16666	2,999,880
	High cost	13888	2,499,840
	Medium cost	11111	1,999,980
	Low cost	8333	1,499,940
Commercial	Commercial	16666	2,999,880
Industrial	Industrial	16666	2,999,880
Recreational	Recreational	16666	2,999,880
Religious	Religious	5555	999,900

Category B – Municipal Council Areas

Zoning	*Category*	*Unit charge per land parcel (fees units)*	*Unit charge per land parcel Kwacha*
Residential	High Cost	11111	1,999,980
	Medium cost	8333	1,499,940
	Low cost	5555	999,900
Commercial	Commercial	13888	2,499,840
Industrial	Industrial	13888	2,499,840
Recreational	Recreational	13888	2,499,840
Religious	Religious	5555	999,900

Category C – District Council & Small Council Areas (Sub Bomas)

Zoning	*Category*	*Unit charge per land parcel (fees units)*	*Unit charge per land parcel Kwacha*
Residential	Very High cost	8333	1,499,940
	Medium cost	5555	999,900
	Low cost	2777	499,860
Commercial	Commercial	11111	1,999,980
Industrial	Industrial	11111	1,999,980
Recreational	Recreational	11111	1,999,980
Religious	Religious	2777	499,860

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P. O. Box 30136, 10100 Lusaka. Price K2000 each

Category D – All Agricultural Land in Zambia

Zoning	*Category*	*Unit charge per land parcel (fees units)*	*Unit charge per land parcel Kwacha*
Agricultural	(up to 50 Ha)	11111	1,999,980
	50 Ha – 150 Ha	13888	2,499,840
	150 Ha – 250 Ha	16666	2,999,880
	250 Ha – 500 Ha	19444	3,499,920
	500 Ha – 1000 Ha	22222	3,999,960
	Above 1000 Ha	27777	4,999,860

PART II

PREPARATION FEES FOR LEASES

For all categories of land (Residential, Agriculture, commercial, Industrial, Recreational and Religious) in Zambia

Zoning	*Category*	*Unit charge per land parcel (fees units)*	*Unit charge per land parcel Kwacha*
Agricultural	Agricultural	277	49,860
Residential	Very high cost	277	49,860
	High Cost	277	49,860
	Medium cost	277	49,860
	Low cost	277	49,860
Commercial	Commercial	277	49,860
Industrial	Industrial	277	49,860
Recreational	Recreational	277	49,860
Religious	Religious	277	49,860

PART III

OTHER CHARGES

Type	Charge (fees units)	Charge (Kwacha)
Consent	556	100,080
Surrender Deed	556	100,080
Certificate of expiration of lease	556	100,080
Certificate of cancellation of notice of intention to Re-enter	556	100,080
Tenancy agreement	1111	199,980
Deed of substitution of diagrams	556	100,080
Deed of rectification	556	100,080
Certificate of incorporation	833	149,940

Copies of this Statutory Instrument can be obtained from the Government Printers,
P. O. Box 30136, 10100 Lusaka. Price K2000 each

Annex 5: LDF guidelines for accessing land development fund

REPUBLIC OF ZAMBIA

GUIDELINES FOR ACCESSING LAND DEVELOPMENT FUND

OFFICE OF THE PERMANENT SECRETARY
MINISTRY OF LANDS
MULUNGUSHI HOUSE
P.O. BOX 50694
LUSAKA
ZAMBIA

Revised MARCH, 2010

Acronyms

LDF	-	Land Development Fund
LDFC	-	Land Development Fund Committee
EIA	-	Environmental Impact Assessment
MOU	-	Memorandum of Understanding
ECZ	-	Environmental Council of Zambia

Annex 6: OVP Circular minute 2014

VICE PRESIDENT

OVP/ 12/8/1

OFFICE OF THE VICE PRESIDENT, CIRCULAR MINUTE 2014

To: All Ministers
Provincial Ministers
Deputy Ministers
Secretary to the Cabinet
Permanent Secretaries
Members of Parliament
Councils
Chiefs

CLARIFICATION ON THE MINISTERIAL STATEMENT REGARDING THE BAN ON THE PURPOTED SALE OF CUSTOMARY LAND

The government continues to be concerned about irregularities relating to the allocation and transfer of land Under Customary Tenure (Customary Land). This is despite the Ministerial Statement issued to Parliament by Honourable Harry Kalaba, MP, Minister of Lands on 12th December, 2013.

This circular is intended to clarify the Honourable Minister's statement vis-á-vis the conceptions held regarding the allocation, use, conversion or transfer of customary land in Zambia as provided under the provisions of the Land Act of 1995.

THE LAND ACT OF 1995

1. The act provides for the following:

   (a) Vesting of all land in Zambia in His Excellency the President on behalf of the people.
   (b) The recognition of both leasehold and customary land tenure.

THE VICE PRESIDENT
LUSAKA, REPUBLIC OF ZAMBIA

(c) The conversion of Customary Land tenure to leasehold land tenure with the consent of the Chief and the District Council of the area in which the land is located.

2. The Act **does not** allow the following:

(a) The sale of customary land.
(b) The allocation of large tracts of customary land to a foreigner or foreign investor.
(c) The displacement of local people from customary land for whatever reason(s).
(d) The transfer of customary land by a Zambian to a foreign company.
(e) Informal leasing of customary land by the Chief to a foreign company/investor.

3. The Ministerial Statement **did not** ban the following transactions:

(a) The acquisition of customary land by a District Council in order to allow for the extension of the township boundaries or any other purpose by consent of the Chief(s).
(b) The conversion of land from customary tenure to leasehold tenure by a Zambian occupying such land.
(c) Land acquired for economic empowerment purposes, for the underprivileged, resettlement and investment purposes, with the express consent of His Excellency the President.

Any land transaction in respect of customary land which is not covered by the contents of this circular shall be repossessed without any compensation and the culprits shall be liable to prosecution.

Dr. Guy L. Scott, MP
VICE PRESIDENT OF THE REPUBLIC OF ZAMBIA

THE VICE PRESIDENT
LUSAKA, REPUBLIC OF ZAMBIA

Annex 7: Photo gallery for selected sample properties

Figure 6: Selected Views of the safari lodge. SN.6

Figure 7: Continuation of pictures for safari lodge

Source: *Photographs taken by the author during fieldwork 2014*

Figure 8: Entrance and side views of St. Eugine University. SN. 7

Figure 9: Entrance and way to the Agro Industrial - Hatchery. SN. 10

Figure 10: Agro Industrial hatchery from the gate

Source: *Photographs taken by the author during fieldwork 2014*

Figure 11: Warehouse and manager's house, poultry houses and yard. SN. 10

Source: *Photographs taken by the author during fieldwork 2014*

Figure 12: Offices, warehouses and part of the plant house for the oil processing. SN. 12

Source: *Photographs taken by the author during fieldwork 2014*

Figure 13: : Warehouse and Plant: SN. 10

Source: *Photographs taken by the author during fieldwork 2014*

End of Photo Gallery