

Appendix

Philippines Property Markets Scorecard

Center for International Private Enterprise

Institute for Solidarity in Asia



Annex 1: Matrix of Philippine Market Conditions for Entrepreneurs, Real Estate Practitioners and Credit Providers

By Mr. Ryan Patrick G. Evangelista, Focus Group Discussion Consultant and Facilitator

Mode of Access: Ownership or Leasing

Aspect	Binding Constraints ¹	Problematic area(s) ²	Threats, Concerns and Challenges				Needed Policy Reforms
			Entrepreneurs	Real Estate Sector	Credit Sector	Government	
1. Acquisition							
2. Maintenance							
3. Transfer							

¹ Lat, Claver: (1) Legal and Policy Framework; (2) Property Systems; (3) Institutions and agencies; (4) Access to Credit

² Lat, Claver: (1) Mapping and survey; (2) land classification; (3) origin and titling; (4) transfers of title; (5) land information and records; (6) land taxation, (7) Financing and, (8) land valuation.

Annex 2: Background Paper on Property Rights

PROPERTY RIGHTS (LAND)

Background Paper

Prepared by Atty. Tanya Lat and Atty. Francisca Claver

Introduction

This background paper has been prepared to inform the project team of the Institute for Solidarity in Asia and the Center for International Private Enterprise about the legal and regulatory framework governing property markets (particularly real estate markets) in the Philippines. This background paper aims to facilitate efficient and effective data-gathering for the project by enabling the team to: (1) identify the legal, data, and implementation gaps in Philippine property markets, (2) formulate the appropriate questions and data gathering methods, and (3) identify the appropriate sources of the data and information being sought.

The reader is advised to read this background paper in conjunction with the Philippines Property Markets Scorecard and accompanying report *Philippines Property Market Scorecard: Conditions for Small Businesses*.

Overview

The ultimate goal of the study is to have property rights that are legally protected, secure, recorded in a single, accurate, widely accessible electronic registry and that lead to high levels of formal ownership for all citizens.

To understand the system of property rights in the Philippines, one must look at (1) the legal and policy framework, (2) the property systems in place (i.e., registries), and (3) the institutions and agencies that play a role in the administration of the system.

One must also look at the various components of land administration in the Philippines. These consist of the following:

- (1) Mapping and survey;
- (2) Land classification;
- (3) Original land titling;
- (4) Transfers of title;
- (5) Land information and records;
- (6) Land taxation; and
- (7) Land valuation.³

These various aspects will be addressed in this background paper.

Part I.

Legal and Policy Framework

Under Philippine law, the recognition of property rights is contained in the Constitution, Civil Code, and various laws relating to land, property registration, and housing, among others.

A. Philippine Constitution

Article III - Bill of Rights

Section 1. "No person shall be deprived of life, liberty or property without due process of law nor shall any person be denied the equal protection of the laws."

Section 9. "Private property shall not be taken for public use without just compensation."

Article XII - National Economy and Patrimony

³ Rheyra Lyn M. Dealca, "Initiatives to Improve Land Administration in the Philippines" (2009), http://www.fig.net/pub/vietnam/papers/ts03d/ts03d_dealca_3652.pdf.

Section 6. “The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands.”

Section 3. “Lands of the public domain are classified into agricultural, forest or timber, mineral lands, and national parks. Agricultural lands of the public domain may be further classified by law according to the uses to which they may be devoted. Alienable lands of the public domain shall be limited to agricultural lands. Private corporations or associations may not hold such alienable lands of the public domain except by lease, for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and not to exceed one thousand hectares in area. Citizens of the Philippines may lease not more than five hundred hectares, or acquire not more than twelve hectares thereof by purchase, homestead, or grant.

Taking into account the requirements of conservation, ecology, and development, and subject to the requirements of agrarian reform, the Congress shall determine, by law, the size of lands of the public domain which may be acquired, developed, held, or leased and the conditions therefor.”

Section 7. “ Save in cases of hereditary succession, no private lands shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain.”

B. Land administration laws

Several laws govern various aspects of land administration in the Philippines. The more significant laws are the following:

- (1) Philippine Constitution
- (2) Land Registration Act (Act 496, as amended)
- (3) Cadastral Act of 1913 (Act 2259, as amended)
- (4) Public Land Act (Commonwealth Act No. 141, as amended)
- (5) Property Registration Decree (Presidential Decree No. 1529, as amended)
- (6) Local Government Code (Republic Act No. 7160, as amended)

The salient features and highlights of these laws are contained in Table 1 below.

Table 1. Philippine Land Administration Laws

Topic	Law	Description
Mapping and survey	Cadastral Act of 1913 (Act 2259)	Act 2259 provides the mechanism for the compulsory registration of all landholdings covered by cadastral survey.
Land classification	Philippine Constitution Article XII: Section 3	Classified lands of public domain into: -agricultural -forest -mineral -national parks. Agricultural lands of the public domain may be further classified by law according to the uses to which they may be devoted. Alienable lands of the public domain shall be limited to agricultural lands.

	Administrative Code of 1987, Book III, Sec. 14.	The President has the power to reserve any of the lands of the public domain for settlement or public use.
	Public Land Act Commonwealth Act No. 141, Chapter II, Section 6	On recommendation of the Secretary of Agriculture, the President shall from time to time classify the lands of the public domain into: (a) Alienable or disposable, (b) Timber, and (c) Mineral lands, and may at any time and in a like manner transfer such lands from one class to another, for the purposes of their administration and disposition.
	Local Government Code Republic Act No. 7160	The Sangguniang Bayan (legislature of municipal governments) has the power and mandate to: - Adopt a comprehensive land use plan for the municipality. ⁴ - Reclassify land within the jurisdiction of the municipality subject to pertinent provisions of the Local Government Code. ⁵ - Process and approve subdivision plans for residential, commercial, or industrial purposes and other development purposes, subject to national law. ⁶ The Sangguniang Panlungsod (local legislative branch of city governments) has the power to reclassify land within its jurisdiction. ⁷
Original land titling	PD 1529 (Property Registration Decree) – Original Registration filed before the RTC	Covers land titles filed by a person or entity who has been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership since June 12, 1945 or earlier.
	Commonwealth Act No. 141 Public Land Act, Sec. 48(b) - Judicial Confirmation filed before the Regional Trial Courts	Covers titles over alienable & disposable lands of the public domain that have been in open, continuous, exclusive and notorious possession and occupation under a bona fide claim of ownership. (As amended by PD 1073, Section 4, Jan. 25, 1977); Applies to members of the national cultural minorities who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of lands of the public domain suitable to agriculture, whether disposable or not, under a bona fide claim of ownership for at least 30 years. (As amended by RA 3872, June 18, 1964).
	Land Registration Act Property Registration Decree	PD 1529, issued on June 11, 1978, amended and codified the laws on property registration. This law,

⁴ Sec 447, (a)(2)(vii), RA 7160 (Local Government Code).

⁵ Sec 447, (a)(2)(viii), RA 7160.

⁶ Sec 447, (a)(2)(x), RA 7160.

⁷ Sec 458 (a) (2) (viii), RA 7160.

Transfers of title	(PD 1529)	which covers original registration of title and the registration of voluntary and involuntary dealings of registered lands, was intended to simplify registration proceedings. It was meant to supersede all other laws related to registration of property. ⁸
	PD 1529 Sec 55, 56, 57, 58, 59	Procedure pertaining to voluntary instruments such as deeds of sale, conveyance or transfers.
Land information and records	PD 1529 Sec 6 (2)	Provides that the Land Registration Authority shall be the central repository of records relative to original registration of lands titled under the Torrens System, including subdivision and consolidation of titled lands.
	PD 1529 Sec 10	Provides that the Register of Deeds (ROD) shall be the public repository of records of instruments affecting registered or unregistered lands and chattel mortgages in the province/city where office is located.
	Local Government Code Sec 205 (Listing of real property in the assessment rolls)	Maintenance of an assessment roll by each province/ city/municipality, which contains a list of all real property (both taxable and exempt).
	Local Government Code, Sec 209 (Duty of Register of Deeds to apprise assessor of real property listed in registry)	To ascertain whether any real property entered in the Registry of Property has escaped discovery and listing or the purpose of taxation, the ROD shall prepare and submit to the provincial, city or municipal assessor, within 6 months, an abstract of his registry, which shall include brief but sufficient description of the real properties entered therein, their present owners, and the dates of their most recent transfer/alienation.
Land taxation	Local Government Code, Sec. 135 Power of the province to tax transfers of real property	Tax on the sale, donation, barter, or on any other mode of transferring ownership or title to real property.
	Local Government Code, Sec 232 Power to levy real property taxes	A province/city/municipality within the Metro Manila Area may levy an annual ad valorem tax on real property such as land, bldg, machinery.
	Local Government Code, Sec 247 Collection of Tax	The collection of real property taxes is the responsibility of the city or municipal treasurer.
	National Internal Revenue Code (NIRC)	The NIRC sets the rules for payment of capital gains tax and creditable withholding tax on sales of land and other real property.
	Local Government Code, Sec 212 Preparation of Schedule of fair market values (FMV)	Provincial/city/municipal assessors in Metro Manila Area will prepare a schedule of fair market values for different classes of real property situated in their respective local government units for enactment by ordinance of the sanggunian concerned.

⁸ Amado D. Aquino, Land Registration & Related Proceedings 3-4 2002.

Land valuation	Local Government Code, Sec 214 Amendment of Schedule of FMV	The provincial/city/municipal assessor may recommend to the sanggunian concerned amendments to correct errors in the valuation in the schedule of the FMV. The sangguniang shall act by ordinance.
	Local Government Code, Sec 218 Assessment levels	Assessment levels shall be fixed by ordinances of the sanggunian (panlalawigan - provincial, panlungsod - city, and bayan - municipal).
	Executive Order No. 833, series of 2009	Created the Property Valuation Office (PVO) for purposes of sustaining and instituting real property valuation reforms.

It must be noted that according to experts the major land administration laws in the Philippines “are outdated and conflicting with each other. Due to the large number of these laws, inconsistencies often arise, especially on the mandates and functions of agencies.”⁹

C. Land classification

The classification of land is governed by different laws. The most fundamental classifications are laid down by the Philippine Constitution, which classifies lands of the public domain into agricultural, forest or timber, mineral lands, and national parks.

Land that has originally been classified may, however, be reclassified by an act of the President. (Commonwealth Act No. 141, Chapter II, Section 6) For instance, what has been earlier declared as forest land may be converted into alienable and disposable land (A&D) by an Executive Order of the President upon recommendation of the Secretary of Environment and Natural Resources. Moreover, the President has the power to reserve any of the lands of the public domain (be it agricultural, forest, mineral or park) for settlement or public use. (Administrative Code of 1987, Book III, Sec. 14) Agricultural lands, specifically, may be further classified by law.

Local government units (LGUs) have the power to reclassify lands which are within their jurisdiction. The Local Government Code specifically gives the Sangguniang Bayan the power to reclassify lands within its jurisdiction. Any reclassification, however, is always subject to national laws. It is therefore beyond the Sanggunian’s power to reclassify forest land located within its territory as this power properly belongs to the President. What the Sanggunian can do is reclassify lands according to residential, commercial, or industrial purposes.

Table 2. Classification of land under various laws

Land Classification	Definition	Applicable Law
Public lands	<p>“...the term ‘public lands’ is uniformly used to describe so much of the national domain under the Legislative Power of Congress as has not been subjected to private right or devoted to public use... They are that part of governmental lands which are thrown open to private appropriation and settlement by homestead and other like general laws.”</p> <p>“Only those lands shall be declared open to</p>	Montano v Insular Government 12 Phil 570

⁹ Dealca, *ibid.*

	<p>disposition or concession which have been officially delimited and classified and, when practicable, surveyed, and which have not been reserved for public or quasi-public uses, nor appropriated by the Government, nor in any manner become private property..."</p> <p>"Public land refers to lands of the public domain which have been classified as agricultural lands and subject to management and disposition or concession under existing laws. "</p>	<p>Commonwealth Act 141 Sec 8 ("An Act to Amend and Compile the Laws Relative to Lands of The Public Domain")</p> <p><i>Philippine Mining Act of 1995</i> Section 3 (ap)</p>
Private lands	<p>"Refers to any land belonging to any private person which includes alienable and disposable land being claimed by a holder, claimant, or occupant who has already acquired a vested right thereto under the law, although the corresponding certificate or evidence of title or patent has not been actually issued."</p>	<p><i>Philippine Mining Act of 1995</i> Section 3 (ao)</p>
	<p>"Property of private ownership, (...) consists of all property belonging to private persons, either individually or collectively."</p>	<p>Civil Code Article 425</p>
Ancestral domain	<p>Refers to all areas generally belonging to indigenous cultural communities (ICCs) or indigenous peoples (IPs) comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals, corporations, and which are necessary to ensure their economic, social and cultural welfare.</p> <p>It shall include ancestral land, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which their traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators.</p>	<p>Republic Act No. 8371 Indigenous People's Rights Act of 1997 Section 3(a)</p>
Public parks, reservations	<p>National park refers to a forest reservation essentially of natural wilderness character which has been withdrawn from settlement,</p>	<p>Section 4(e), RA 7586 or the National Integrated Protected Areas System Act of 1992</p>

	occupancy or any form of exploitation except in conformity with approved management plan and set aside as such exclusively to conserve the area or preserve the scenery, the natural and historic objects, wild animals and plants therein and to provide enjoyment of these features in such areas.	
Forest lands	<p>Forest lands include the public forest, the permanent forest or forest reserves, and forest reservations.</p> <p><i>Public Forest</i> - is the mass of lands of the public domain which has not been the subject of the present system of classification for the determination of which lands are needed for forest purposes and which are not.</p> <p><i>Permanent forest</i> - forest reserves refer to those lands of the public domain which have been the subject of the present system of classification and determined to be needed for forest purposes.</p> <p><i>Forest reservations</i> - refer to forest lands which have been reserved by the President of the Philippines for any specific purpose or purposes.</p>	<p>Presidential Decree No. 705 Revised Forestry Code Section 3 (a, b, d, g)</p>
	<p>“The Department Head (Secretary of DENR) shall study, devise, determine and prescribe the criteria, guidelines and methods for the proper and accurate classification and survey of all lands of the public domain into agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest, and grazing lands, and into such other classes as now or may hereafter be provided by law, rules and regulations.</p> <p>In the meantime, the Department Head shall simplify ... the present system of determining which of the unclassified lands of the public domain are needed for forest purposes and declare them as permanent forest to form part of the forest reserves. He shall declare those classified and determined not to be needed for forest purposes as alienable and disposable lands, the administrative jurisdiction and management of which shall be transferred to the Bureau of Lands...”</p>	<p>Section 13 of PD 705</p>
Protected areas	Protected area refers to identified portions of land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation.	<p>Republic Act No. 7586 National Integrated Protected Areas System Act of 1992 Section 4 (b)</p>
Friar lands	These lands are not public lands but private and patrimonial lands of the government.	<p>Act 1120 Friar Lands Act</p>

Agricultural lands	Refers to land devoted to agricultural activity as defined in this Act (Comprehensive Agrarian Reform Act) and not classified as mineral, forest, residential, commercial or industrial land.	<p>Republic Act No. 6657 or the Comprehensive Agrarian Reform Law of 1988 Section 3 (c)</p> <p>The term “agricultural lands” merely pertains to lands used for agricultural activity. It is not any of the main classifications of lands of the public domain, but one of the purposes for which A&D lands are used.</p>
Economic zones (ecozones)	Selected areas with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist/recreational, commercial, banking, investment and financial centers. An ecozone may contain any or all of the following: Industrial Estates (IEs), Export Processing Zones (EPZs), Free Trade Zones, and Tourist/Recreational Centers.	Republic Act No. 7916 Special Economic Zone Act of 1995

D. Government agencies involved in land administration

There are at least 19 government agencies involved in land administration.

Table 3. Government agencies involved in various aspects of land administration¹⁰

Mandates/ Functions	Agencies involved	Issues; sources of duplication/overlap
Mapping and survey – undertaking of land surveys for titling purposes	Department of Environment and Natural Resources, Lands Management Bureau (DENR-LMB) Department of Agrarian Reform (DAR) Potentially National Commission on Indigenous Peoples (NCIP)	EO 292 (the Administrative Code of 1987) gives the DENR and DAR the authority to undertake land surveys. The Indigenous Peoples Rights Act of 1997 (IPRA) gives NCIP responsibility for the identification, delineation, and recognition of ancestral lands/domains.
Land classification - Primary classification of public land as alienable and disposable	DENR/NAMRIA NCIP	Conflict between responsibilities for land classification as determined by EO 292 and IPRA.
Original land titling – Award of original private rights to alienable and disposable land	DENR (issuance of patents) DAR (issuance of CLOAs) Courts (court decrees) NCIP (issuance of CADTs)	The law provides for 2 titling processes: administrative and judicial. Legislation authorizes different forms of ownership rights in land by administrative process.
Approval of subdivision surveys for titling purposes (for land already titled)	Lands Management Bureau (DENR)	The Property Registration Decree of 1978 (PD 1529, as amended) permits either LMB or LRA to approve such

¹⁰ Dealca, *ibid.*

	Land Registration Authority	plans.
Reclassification of land	Local Government Units (LGUs)	The Sanggunian has the power to reclassify land within the jurisdiction of the municipality (Sec 447, (a)(2)(viii), RA 7160.)
Transfers of title	Land Registration Authority (LRA), Register of Deeds	
Land information and records – maintenance of cadastral maps/records	LMB (DENR) LRA, Register of Deeds	This is a consequence of 2 agencies involved in 2 titling processes. The practice is neither explicitly mandated nor necessitated by law.
Land information and records – compilation of land maps and information	Multiple agencies	This is a reflection of differing agency needs for land information, but some unnecessary overlap occurs.
Land taxation	Bureau of Internal Revenue (BIR) LGUs	The mandate of BIR is for collection of taxes during conveyances (be it capital gains tax, donor’s tax), while the LGUs’ mandate is for assessment and collection of real property taxes. Certain LGUs also assess transfer taxes on the sale of real property.
Land valuation	BIR LGUs	Different valuation methods are mandated by different property taxation laws.

It may be observed that there is a “lack of a coordination mechanism among them, particularly on data exchange and sharing. There is also duplication and overlap of functions among these agencies.”¹¹

Part II. Property Registration Systems

“The identification and protection of property rights are based on secure data and information that are available to all parties. This necessarily implies the existence of an efficient cataloguing and classification system as well as ready access to information on titling, to which third parties can always refer to obtain proof of the legitimacy of the title of ownership over time. Regularly updated public registers and cadastral systems are needed to minimize risk of fraud in transactions and at the same time provide legitimacy to the lawful possession of an asset, which in turn will facilitate access to bank loans and insurance.”¹²

A. Cadastral registry

The Cadastral Act of 1913 (Act 2259) provides the mechanism for the compulsory registration of all landholdings covered by cadastral survey. The primary objective of the cadastral survey is land titling through the Torrens System: the survey maps out the land that is within a particular locality for the purpose of bringing unregistered land within the ambit of title registration. It is intended to quiet title¹³ to any land within a particular area by way of compulsory registration proceedings and thus minimize land conflicts.

¹¹ Dealca, *ibid*.

¹² UN Economic Commission for Europe (2010), Policy Framework for Sustainable Real Estate Markets, 4.

¹³ A proceeding to establish an individual's right to ownership of real property against one or more adverse claimants. Quiet Title Action - Property, Plaintiff, Claim, Real, Ownership, and Cloud - JRank Articles <http://law.jrank.org/pages/9615/Quiet-Title-Action.html#ixzz1bJPoNAPY>

In earlier years, cadastral survey projects were executed solely by the surveyors of the Bureau of Lands (now the Lands Management Bureau pursuant to EO 192 of 1987).¹⁴ Act 2989 allowed private surveyors to undertake cadastral projects upon assignment by the Bureau of Lands. Later, Act 3327 authorized private cadastral surveyors to negotiate cadastral surveys with the LGUs concerned but with the technical supervision being provided for by the Bureau of Lands.

The Administrative Code of 1987 gives the DENR and Department of Agrarian Reform the authority to undertake land surveys for purposes of titling. The Indigenous Peoples Act of 1997 gives the National Commission on Indigenous Peoples (NCIP) responsibility for the identification, delineation, and recognition of ancestral lands/domains.

There are 2 agencies that maintain cadastral maps/records: the DENR through its Lands Management Bureau, and the Land Registration Authority. This is a consequence of these 2 agencies being involved in 2 titling processes; however, this practice “is neither explicitly mandated nor necessitated by law.”¹⁵

In 2010, the DENR adopted the Land Administration and Management System (LAMS), an integrated computerized land information system that is designed to provide effective management of land records and efficient delivery of land transactions and information services to the public through the LAM one-stop-shops, Land Management Bureau, LMS and LGUs. LAMS is the platform for managing the land data and information of the LMB and LMS in the DENR’s regional offices. It will also link other land information to cadastral maps, approved land survey plans, public land applications, and titles.

Cong. JV Ejercito has filed House Bill No. 2540 proposing the conduct of a nationwide cadastral survey, although this has been pending with the Committee on Natural Resources since August 2010.

B. Issuance of land titles

Under Philippine law, there are many different kinds of land titles that can be issued. They are governed by different laws and implemented by different government agencies. A summary of these titles and the government agencies responsible for issuing them is contained in Table 4.

Table 4. Kinds of land titles and the government agencies responsible for issuing them

Agency involved	Applicable law	Mandate
DENR	Republic Act No. 10023, otherwise known as the New Free Patent Act on Residential Land.	Patents
	Sec. 12, Public Land Act	Homestead Patents Issued to those who do not own more than 24 hectares, and who complied with the residence (1 year) and cultivation (at least 1/5 of land applied for) requirements. ¹⁶
	Sec. 44, Public Land Act	Free Patent Constitutes an administrative mode of confirming an imperfect title for one who has continuously occupied a land for 30 years, and who does not own more than 12 hectares. ¹⁷
	Sec 22, Public Land Act	Sales Patent

¹⁴ The Insular Bureau of Public Lands was created in 1901 by virtue of Act 218 and was placed under the Department of the Interior. In 1906, it was renamed Bureau of Lands by virtue of Act 1407. In 1916, it was placed under the Department of Agriculture and Natural Resources (DANR), but was eventually transferred to the Ministry of Natural Resources when the DANR was broken up into 2 ministries under Presidential Decree 461. In 1987 it was renamed Lands Management Bureau pursuant to EO 192.

¹⁵ Dealca, *ibid.*

¹⁶ Amado D. Aquino, Land Registration & Related Proceedings 147 (2002).

¹⁷ *Id.* at 147-148.

		<p>Purchase of public agricultural land of not more than 12 hectares by a head of a family. He is required to have cultivated at least 1/5 of the land within 5 years from date of award.¹⁸</p>
		<p>“All land patents must be registered since the conveyance of the land ... is effective only upon such registration. This registration is mandatory to affect third parties. Absent such registration title to the land covered ... whether it be homestead, free patent or sales, may not be considered as perfected, perforce, not indefeasible. A patent becomes indefeasible as a Torrens Title only when the said patent is registered pursuant to PD 1529.”¹⁹</p>
DAR	Comprehensive Agrarian Reform Program under Republic Act 6657	<p>Based on the state policy to uphold the right of farmers and regular farm workers, who are landless, to own directly or collectively the lands they till or, in the case of other farm workers, to receive a share of the fruits thereof. To this end, the State shall encourage the just distribution of all agricultural lands, subject to the priorities and retention limits.²⁰</p> <p>The CLOA (Certificate of Land Ownership Award) is issued to a deserving beneficiary, and shall be recorded in the Registry of Deeds and annotated in the Certificate of Title.²¹</p>
NCIP	Indigenous People's Rights Act of 1997	The law provides for the issuance of a Certificate of Ancestral Land Title (CALT) and Certificate of Ancestral Domain Title (CADT) as the expression of the recognition of the rights of indigenous cultural communities to their territories.
	Sec 3 (c), IPRA	<i>Certificate of Ancestral Domain Title (CADT)</i> - refers to a title formally recognizing the rights of possession and ownership of ICCs/IPs over their ancestral domains identified and delineated in accordance with this law
	Sec 3 (d), IPRA	<i>Certificate of Ancestral Lands Title</i> - refers to a title formally recognizing the rights of ICCs/IPs over their ancestral lands
	Sec 52(k), IPRA	The NCIP shall register issued certificates of ancestral domain titles and certificates of ancestral lands titles before the Register of Deeds in the place where the property is situated.

¹⁸ *Id.* at 148.

¹⁹ *Id.* at 150.

²⁰ Sec. 2 par (3), RA 6657 (Comprehensive Agrarian Reform Act).

²¹ Sec. 24, RA 6657 (Comprehensive Agrarian Reform Act).

Courts	Supreme Court Administrative Circular No. 7-96	Titles to land may be awarded via decisions of Philippine courts.
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As illustrated above, multiple forms of land ownership and titles exist in the Philippines. The issuance of patents, CLOAs and CADTs/CALTs are governed by different laws and implemented by different agencies. They are similar in the sense that they provide modes of securing the ownership and possession of those who have been in possession/occupancy and cultivation of the lands. The end result of each mode is the issuance of a title to the farmer beneficiary (in the case of a CLOA), to the beneficiary or grantee (in the case of patents), or to the indigenous community or individual (in a CALT or CADT). Such titles are uniformly required to be registered with the Register of Deeds.

While these laws governing title issuances are meant to be harmonized, there is potential conflict and overlapping in the application of these laws in areas occupied by indigenous cultural communities as some areas can legally come under the mandate of different laws and modes of land titling. For example, an ICC area can qualify as a CARP or free patent area.

The Philippines employs two modes of land titling: administrative and judicial. This results in unnecessary costs, extensive delays and, in some cases, competing claims over land being determined by administrative and judicial processes concurrently but in isolation from each other.²² The rest of Southeast Asia uses only administrative procedures in the issuance of land titles.

C. Title Registry

All land titles are required by law to be registered with the Register of Deeds (RDs) and the Land Registration Authority (LRA).

The Register of Deeds is the public repository of records of instruments affecting registered or unregistered lands and chattel mortgages in the province or city where its office is situated. The LRA is the central, national repository of records relating to original registration of lands titled under the Torrens system, including subdivision and consolidation plans of title lands. In 2007, the LRA, which was previously attached to the Department of Justice, was attached to the DENR with the issuance of Executive Order No. 690.

Land information “is not efficiently managed in terms of filing storage, storage space capacity, lack of budget to operate records administration, poor technically trained personnel in records management units, lack of equipment and materials for records maintenance and reconstruction, limited inventory of records, and missing records.”²³ The LRA’s functional efficiency has been plagued by the following problems:

- Substitution and/or insertion of fake titles at the regional district level;
- Unsystematic records management;
- Difficulty in storing and maintaining large volumes of paper and microfilm;
- Variance of procedures in the RDs;
- Slow processing of transactions and queries; and
- Inadequate equipment and personnel.²⁴

“The LRA has embarked on a nationwide land titling computerization project (LTCP) designed to consolidate land records into a single national database and facilitate registration and authentication of titles. This reform is necessary as land records are scattered among the local Register of Deeds offices of the Land Registration Authority, instead of being consolidated in a single national database. This makes it difficult and expensive for property buyers to track the authenticity of tax clearances on land titles. The manual handling of deeds – with its potential for missing files and typographical errors – is a key reason for delays in the registration of deeds.”²⁵

“The LTCP involves the computerization of the processing and issuance of land titles to improve the land management record system in the country. The Computerized Land Titling System aims to link

²² Dealca, *ibid.*

²³ Dealca, *ibid.*

²⁴ Dealca, *ibid.*

²⁵ International Finance Corporation (2011), *Doing Business in the Philippines 2011*, p. 26.

all levels of the LRA Central Office, the Regional Registry of Deeds, and the Registries of Deeds nationwide. This will make available to the entire organization, historical and other knowledge bases for making informed and intelligent decisions on Land Titling and Registration.”²⁶

Annex 3: Background Paper on Access to Credit

ACCESS TO CREDIT

Background Paper

by Atty. Tanya Lat and Atty. Francisca Claver

“Credit policies directly influence real estate market dynamics in the sense that real estate assets form the collateral on which mortgages and loans are allocated. Competitive and affordable mortgage rates facilitate the purchase of real estate and have a direct influence on living standards. Competitive and affordable mortgage rates with easier repayment installments are increasingly an essential for both young couples and first-home family buyers. Competitive and affordable mortgages and loans, to provide access to private ownership or partial ownership for a growing number of citizens, would contribute to solving housing problems in the long run.”²⁷

A. Sources of credit in the Philippines

In the Philippines, credit can be sourced from the following:

- (1) Banks
- (2) Microfinance institutions
- (3) Financing corporations
- (4) Pawnshops
- (5) Informal lenders
- (6) Mutual help (“paluwagan”)

(1) Banks

Banks are the main source of credit in the Philippines. Under the General Banking Law of 2000 (Republic Act No. 8791), banks are classified into the following:

Table 1. Classification of Banks

Classification	Definition	Credit Window
1. Universal bank	A bank which exercises powers of a bank, a commercial bank, and of an investment house. (Sec. 23)	Like other banks, extends credit against real estate, in an amount which shall not exceed seventy-five percent (75%) of the appraised value of the respective real estate security, plus sixty percent (60%) of the appraised value of the insured improvements. (Sec. 37) Extends loans and other credit accommodations on security of chattels and intangible properties such as, but not limited to, patents, trademarks, trade names, and copyrights shall not exceed seventy-five percent (75%) of the appraised value of the security. (Sec. 38)
2. Commercial bank	A bank which exercises powers of a bank and in	Like other banks, extends credit against real estate, in an amount which shall not exceed seventy-five percent

²⁶ Dealca, *ibid.*

²⁷ UN Economic Commission for Europe (2010), Policy Framework for Sustainable Real Estate Markets, 12.

	<p>addition, accept drafts and issues letters of credits, discounting and negotiating promissory notes, drafts, bills of exchange; accepts or creates demand deposits; extending credit, among others. (Sec. 29)</p>	<p>(75%) of the appraised value of the respective real estate security, plus sixty percent (60%) of the appraised value of the insured improvements. (Sec. 37)</p> <p>Extends loans and other credit accommodations on security of chattels and intangible properties such as, but not limited to, patents, trademarks, trade names, and copyrights shall not exceed seventy-five percent (75%) of the appraised value of the security. (Sec. 38)</p>
3. Thrift bank	<p>Entities (savings & mortgage banks, stock savings & loan associations, private development banks) which:</p> <p>a. accumulate savings of depositors and invest them</p> <p>b. provide short-term working capital, medium and long-term financing, to businesses engaged in agriculture, services, industry and housing; and</p> <p>c. provide diversified financial and allied services for its chosen market and constituencies.²⁸</p>	<p>Issue mortgage and chattel mortgage certificates, buy and sell them for its own account or for the account of others, or accept and receive them in payment or as amortization of its loan.</p> <p>Such mortgage and chattel mortgage certificates shall be issued exclusively in national currency and exclusively for the financing of equipment loans, mortgage loans for the acquisition of machinery and other fixed installations, conservation, enlargement or improvement of productive properties and real estate mortgage loans for: (1) the construction, acquisition, expansion or improvement of rural and urban properties; (2) the refinancing of similar loans and mortgages; and (3) such other purposes as may be authorized by the Monetary Board.²⁹</p> <p>Extend credit facilities to private and government employees: <i>Provided</i>, that in the case of a borrower who is a permanent employee or wage earner, the treasurer, cashier or paymaster of the office employing him is authorized, notwithstanding the provisions of any existing law, rules and regulations to the contrary, to make deductions from his salary, wage or income pursuant to the terms of his loan, to remit deductions to the thrift bank concerned, and collect such reasonable fee for his services.³⁰</p> <p>Extend credit against the security of jewelry, precious stones and articles of similar nature, subject to such rules and regulations as the Monetary Board may prescribe.³¹</p>
4. Rural bank (RA 7353)	<p>A bank designed to make credit available and readily accessible in the rural areas on reasonable terms.³²</p>	<p>Loans or advances extended by rural banks organized and operated under this Act shall be primarily for the purpose of meeting the normal credit needs of farmers, fishermen or farm families owning or cultivating land dedicated to agricultural production as well as the normal credit needs of cooperatives and merchants. In</p>

²⁸ RA 7906 (An Act Providing for the Regulation of the Organization and Operations of Thrift Banks) at www.bsp.gov.ph/downloads/laws/RA7906.pdf.

²⁹ Sec 10(g), RA 7906.

³⁰ Sec 10(k), RA 7906.

³¹ Sec 10(l), RA 7906.

³² RA 7353 (Rural Bank Act) at www.chanrobles.com/republicactno7353.

		<p>the granting of loans, the rural bank shall give preference to the application of farmers and merchants whose cash requirements are small.</p> <p>Loans may be granted utilizing as security lands without Torrens title where the property owner can show 5 or more years of peaceful/continuous/uninterrupted possession in concept of owner; or of portions of friar land estates, or other lands administered by the Bureau of Lands covered by sales contracts.³³</p>
5. Cooperative bank (RA 6938)	A bank organized by the majority shares of which is owned and controlled by cooperatives primarily to provide financial and credit services to cooperatives. It includes cooperative rural banks. ³⁴	One of the functions of a cooperative bank is to carry on banking and credit services for the cooperatives. ³⁵
6. Credit cooperative (RA 6938)	<p>A credit cooperative is a financial organization owned and operated by its members with the following objective:</p> <p>(1) To encourage savings among its members;</p> <p>(2) To create a pool of such savings for which loans for productive or provident purposes may be granted to its members.³⁶</p>	<p>Credit cooperatives may organize chapter or subsidiaries, or join leagues and federations for the purpose of providing commonly needed essential services Including but not limited to the following:</p> <p>(1) Inter-lending of surplus fund;</p> <p>(2) Mutual benefits;</p> <p>(3) Deposit guarantee;</p> <p>(4) Bonding;</p> <p>(5) Education and training;</p> <p>(6) Professional and technical assistance;</p> <p>(7) Research and development.³⁷</p>
7. Islamic Bank (RA 6848)	Al-Amanah Islamic Investment Bank of the Philippines created to promote and accelerate the socio-economic development of the autonomous region by performing banking, financing and investment operations and to establish and participate in	<p>To perform the following banking services, among others:</p> <p>(a) Open current or checking accounts;</p> <p>(b) Accept investment account placements and invest the same for a term with the Islamic Bank's funds in Islamically permissible transactions on participation basis;</p> <p>(c) Accept foreign currency deposits from banks, companies, organizations and individuals, including foreign governments;</p>

³³ Sec. 6, RA 7353.

³⁴ RA 6938 (An Act to Ordain a Cooperative Act of the Philippines), Section 100 at www.chanrobles.com/ra/ra6938.html.

³⁵ Sec. 100, RA 6938.

³⁶ Sec. 111, RA 6938.

³⁷ Sec. 113, RA 6938.

	agricultural, commercial and industrial ventures. based on the Islamic concept of banking. ³⁸	(d) Buy and sell foreign exchange; (e) Act as correspondent of banks and institutions to handle remittances or any fund transfers; (f) Accept drafts and issue letters of credit or letters of guarantee, negotiate notes and bills of exchange and other evidence of indebtedness under the universally accepted Islamic financial instruments; (g) Act as collection agent insofar as the payment orders, bills of exchange or other commercial documents are exclusive of <i>riba</i> or interest prohibitions; (h) Provide financing with or without collateral by way of leasing, sale and leaseback, or cost plus profit sales arrangement; (i) Undertake various investments in all transactions allowed by Islamic Shari'a in such a way that shall not permit the <i>haram</i> (forbidden), nor forbid the <i>halal</i> (permissible). ³⁹
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The General Banking Law of 2000 (Republic Act No. 8791) prescribes the basic requirements for securing a loan. Before granting a loan or other credit accommodation, a bank must ascertain that the debtor is capable of fulfilling his commitments to the bank. Toward this end, a bank may demand from its credit applicants a statement of their assets and liabilities and of their income and expenditures and such information as may be prescribed by law or by rules and regulations of the Monetary Board to enable the bank to properly evaluate the credit application which includes the corresponding financial statements submitted for taxation purposes to the Bureau of Internal Revenue. Should such statements prove to be false or incorrect in any material detail, the bank may terminate any loan or other credit accommodation granted on the basis of said statements and shall have the right to demand immediate repayment or liquidation of the obligation.⁴⁰

In addition to the loan contract, the borrower and the bank commonly enter into a real estate mortgage,⁴¹ with the bank accepting residential, commercial, or industrial property as collateral for the loan. The General Banking Law provides that loans against real estate shall not exceed 75% of the appraised value of the real estate security, plus 60% of the appraised value of the insured improvements.⁴² Such loans may be made to the owner of the real estate or to his/her assignees.

Various financial institutions basically have the same standard set of requirements for loans, as can be seen below:

Table 2. Sampling of financial institutions and their documentary requirements for loans

Financial institution	Requirements
Philippine National Bank	a. Financial program: Small business loan program, single proprietorship / partnership /

³⁸ RA 6848, Section 3 at www.lawphil.net/statutes/repacts/ra1990/ra_6848_1990.html.

³⁹ Sec. 6, par (7), RA 6848.

⁴⁰ Sec. 40, Rep. Act No. 8791.

⁴¹ A real estate mortgage is a contract in which the borrower (debtor) guarantees to the lender (creditor) the fulfillment of a principal obligation, secured by collateral of real property that can be used in case the borrower is unable to fulfill his/her obligation at the designated time.

⁴² Sec. 37, Rep. Act No. 8791.

	<p>corporations, Php 1 million to Php 10 million, interest fixed for 1 year, loan maturity 1 year to 5 years, payable monthly.</p> <p>b. Collateral/security: Residential property; commercial or industrial property</p> <p>c. Requirements: Should be engaged in business for the past 3 years; in light manufacturing, processing, services and retail/wholesale trade; with favorable track record/experience and credit standing; documents: Application form; 3 years' audited financial statement; 3 months' bank statement; business registration documents; photocopy of property plan; tax declaration survey plan.</p>
<p>Land Bank of the Philippines</p>	<p>a. Financial program: SME Unified Lending Opportunities for National Growth; SMEs that pass the credit parameters of the bank; Php 500,000 up to the cost of the project (must not exceed loan value of offered collateral); agreed interest rate of the committee, loan maturity 1 year (short term loan line) or 2 years to 7 years (term loan) ; payable monthly, quarterly or semi-annually; Easy pondong Pang-Asenso para sa maliliit na Negosyante or "funds for the progress of small businesses"; SMEs that pass the credit parameters of the bank; Php 500,000 up to the cost of the project (must not exceed loan value of offered collateral); prevailing rate at the time of availment; loan maturity 1 year (short term loan line) or 2 years to 7 years (long term loan line); payable monthly, quarterly or semi-annually</p> <p>b. Collateral/security: Real estate mortgage; chattel mortgage; deposits; Government Securities</p> <p>c. Requirements: For corporations: articles of incorporation and certificate of filing with the Securities and Exchange Commission (a bureau under the Department of Trade and Industry) for registration and current year business permit; certified list of stockholders; board of directors and key officers; bio-data of key officers; for sole proprietorship or co-partnership; bio-data of owner and partner; other documents: customer information sheet; BIR stamped audited financial statements (last 3 years) with Income Tax Return; latest interim financial statements; building plans and bill of materials; pro-forma invoices (if planning to acquire new equipment); photocopy of Letter of Credit / Purchase Order (if applicable); photocopy of Transfer Certificate of Title, tax declaration and vicinity or location map.</p>
<p>Development Bank of the Philippines</p>	<p>a. Financial program: DBP-One Town One Product credit facility for Overseas Filipino Workers (OFWs) and MSMEs (OTOP), OFWs</p>

	<p>and MSMEs with existing or start-up OTOP projects and other income generating undertakings highly supportive of the OTOP Program, Php 100,000 to repayment capacity of the borrower, 9% to 11% depending on the risk evaluated, loan maturity 1 year, payable monthly or quarterly or semi-annually depending on the cash flow of the project.</p> <p>b. Collateral/security: Real estate or chattel mortgage; hold-out on deposit; co-makship, joint and solidary signature; assignment of project income, purchase order, export receivables; guarantee from the Philippine Export-Import Credit Agency, the LGU Guarantee Commission, or other endorsing organizations.</p> <p>c. Requirements: For MSMEs: loan proposals shall be favorably endorsed by the DTI's regional or provincial offices; For OFWs: availed shall be required to open a DBP EC Card for loan amortization payments; documents: DTI endorsement of the project; application letter to DBP; customer information report and confidential information sheet (DBP Form); business plan; audited financial statement for the last 3 years for going concerns and pre-operating balance sheet / cash flow with authorized signature (medium-sized entrepreneurs) or in-house financial statements with the company accountant's certification(micro and small entrepreneurs); National Reintegration Center for OFW, Magsaysay Maritime Corp., Nippon Yusen Kaisa or other DBP partner agencies' endorsement of the OFWs.</p>
<p>Cooperative Bank of Camarines Sur</p>	<p>a. Financial program: Micro-enterprise Access to Banking Services, 18 to 60-year-old individuals who are in good health and who are physically fit to run viable income-generating activities or livelihood projects, Php 3,000 to Php 500,000, 25% per annum, loan maturity of 2 months to 2 years, payable daily / weekly / bi-monthly / monthly or quarterly.</p> <p>b. Collateral/security: Real estate mortgage; chattel mortgage; co-makers</p> <p>c. Requirements: Community tax certificate; 2 pieces 2x2 picture; barangay clearance; proof of billing; 2 valid IDs</p>
<p>Metro South Cooperative Bank</p>	<p>a. Financial program: Cooperative lending program, cooperatives / corporations / private individuals / single proprietorship, loanable amount depends on the entrepreneur's requirement, prevailing market rate, loan maturity 5 years, payment based on borrower's cash flow by way of post-dated checks (PDC).</p> <p>b. Collateral/security: Real Estate Mortgage; chattel mortgage for non-coops or individuals</p>

	<p>c. Requirements: Audited financial statements for the last 3 years with ITR; latest interim financial statement; company/business profile; 6 months bank statement; photocopy of the title with pictures and vicinity/location map; latest real estate tax receipt.</p>
<p>Cooperative Bank of Ilocos Norte</p>	<p>a. Financial program: Agricultural production loan; individual farmers with co-makers in need of financial assistance for crop production; loanable amount depends on project cost; 20% per annum; loan maturity 3 months to 2 years; payable semi-annually or lump sum payment; commercial and industrial loan; individuals and cooperatives in need of financial assistance loanable amount depends on project cost; 20% per annum (individual) or 10% per annum (cooperative); loan maturity 6 months to 2 years; payable daily, weekly, semi-monthly, monthly, quarterly; micro-lending (multi-purpose); aspiring and existing micro-entrepreneurs; Php 5,000 to Php 35,000; 20% per annum; loan maturity 6 months to 9 months; payable daily, weekly or semi-monthly; micro-lending (special financing program), micro-entrepreneurs with existing businesses, Php 5,000 to Php 100,000; 2.5% per month; loan maturity 100 days, payable daily, weekly or semi-monthly.</p> <p>b. Collateral/security: Real estate mortgage; chattel mortgage or CMS</p> <p>c. Requirements: Accomplished loan application form, promissory note and co-makers' statement; community tax certificate; barangay clearance; 2x2 picture</p>

How easy/difficult is it for property owners to get access to credit?

The difficulty encountered by low-income groups in accessing credit may be due to several factors. For those who own real property that may be utilized as collateral or security, access to credit may not necessarily come easy as they must hurdle technical and legal obstacles in relation to policies governing real property-secured loans or borrowings. The steps required before the loan is finally approved entail not only documentation requirements (preparation or accomplishment of loan contract/real estate mortgage contract), but dealing with a notary public, the concerned assessor's office, and the register of deeds. Even before a real property owner decides to secure a loan, she/he has to consider the appraisal value, interest rates, and duration of the loan.

What bank requirements make it intimidating for people to borrow?

The most important requirement – though not normally listed – is the creditworthiness or credit history of the borrower. A first-time borrower will certainly have much more difficulty proving his or her capacity as a borrower.

(2) Microfinance institutions

While the basic legal framework of the banking system is in place, access to credit from banks and financial institutions by SMEs and the marginalized sectors is hardly robust. The country has a weak credit culture: for instance, only a small portion of rural financial requirements are sourced from the

formal credit system.⁴³ The emergence of microfinance has been a welcome development as it provides access to credit to low-income groups in both rural and urban areas.

Microfinance is defined as “the viable and sustainable provision of a broad range of financial services (savings and credit) generally, by the private sector to poor and low-income households engaged in livelihood and microenterprise activities using non-traditional and innovative methodologies and approaches.” The Bangko Sentral ng Pilipinas views microfinance as “the cornerstone for poverty alleviation.”⁴⁴

In comparison to traditional moneylending, microfinance does not require collateral arrangements in securing loans. The *Grameen* system is the most familiar microfinance lending model, in which the borrowers’ reputation is used to obtain loans. There are other models of microfinance lending, but all of them share the preference of collateral-free lending.⁴⁵

Legal and policy framework for microfinance

Microfinance was institutionalized in Republic Act No. 8425, otherwise known as the Social Reform and Poverty Alleviation Act of 1998. This law defines microfinance as:

“A credit and savings mobilization program exclusively for the poor to improve the asset base of households and expand the access to savings of the poor. It involves the use of viable alternative credit schemes and savings programs including the extension of small loans, simplified loan application procedures, group character loans, collateral-free arrangements, alternative loan repayments, minimum requirements for savings, and small denominated savers' instruments.”⁴⁶

The Social Reform and Poverty Alleviation Act strengthened the role of the People’s Credit and Finance Corporation (PCFC) as the lead government entity tasked to mobilize resources for microfinance services for the exclusive use of the poor.⁴⁷ On September 8, 1994, President Ramos issued Administrative Order (AO) 148 creating the Task force of Credit for the Poor which directed the defunct Presidential Commission to Fight Poverty (PCFP) – later replaced by the NAPC (National Anti-Poverty Commission) – and the LANDBANK to formulate a masterplan of operation for the Credit for the Poor program. One of the two major components of the masterplan was the Credit Fund Mobilization which created the PCFC. On February 9, 1995, Memorandum Order 261 was issued directing the establishment of the PCFC. On September 14, 1995, the PCFC was registered with the SEC as a finance company with an initial paid up capital of Php 100 million. During President Gloria M. Arroyo’s administration, the PCFC was the lead government agency in the delivery of microfinance services.⁴⁸

In 2000, the General Banking Law of 2000 directed the Monetary Board to issue measures governing microfinance in the country. These measures are contained in the Regulatory Framework for Microfinance in the Philippines and various BSP circulars.⁴⁹

⁴³ *Ma. Socorro Gochoco-Bautista*, The Past Performance of the Philippine Banking Sector and Challenges in the Post Crisis Period at http://www.adb.org/documents/books/rising_to_the_challenge/philippines/2-philbnk.pdf.

⁴⁴ Bangko Sentral ng Pilipinas [BSP] et al. n.d. Regulatory Framework for Microfinance in the Philippines. <http://www.dof.gov.ph/pdf/Annex1.pdf>.

⁴⁵ Daley, Stephen and Frederic Sautet. 2005. “Microfinance in action: the Philippine experience” in *Mercatus Policy Series 1*. Mercatus Center, George Mason University. <http://www.gdrc.org/icm/mf-philippines.pdf>.

⁴⁶ Section 3 (j), RA 8425 (Social Reform Agenda).

⁴⁷ Home page of People’s Credit & Finance Corporation website, www.pfc.gov.ph.

⁴⁸ www.pfc.gov.ph/Profile/History/tabid/77/Default.aspx.

⁴⁹ The Regulatory Framework for Microfinance in the Philippines was formulated by a technical working group composed of representatives from the following government agencies: Bangko Sentral ng Pilipinas (BSP), Cooperative Development Authority (CDA), Philippine Deposit Insurance Corporation (PDIC), Peoples Credit and Finance Corporation (PCFC), National Anti-Poverty Commission (NAPC), Land Bank of the Philippines (LBP), Development Bank of the Philippines (DBP), Department of Labor and Employment (DOLE), National Commission on the Role of Filipino Women (NCRFW), Agricultural Credit Policy Council (ACPC) The TWG is also composed of representatives from the private sector i.e. Rural Bankers Association of the Philippines (RBAP), National Confederation of Cooperatives

Microfinance services are delivered through microfinance institutions (MFIs). MFIs include rural and thrift banks, cooperatives and cooperative banks, credit unions and credit-granting NGOs.⁵⁰ A sampling is indicated in the table below:

Table 3. Sampling of microfinance institutions in the Philippines.

Rural Banks	Cooperative Banks	Credit Cooperative	Microfinance NGOs
BMS RURAL BANK, INC. 12 C. Raymundo Ave., Maybunga, Pasig City	COOPERATIVE BANK OF TARLAC, INC. Macabulos Drive, San Roque, Tarlac City	BARANGKA CREDIT COOPERATIVE #96 Julian Cruz St., Barangka, Marikina City	ABS – CBN BAYAN MICROFINANCE FOUNDATION, INC. 2nd floor Calderon Bldg., 827 EDSA Quezon City
RURAL BANK OF PORAC (PAMPANGA), INC. Gen. Luna St., Cangatba, Porac, Pampanga	COOPERATIVE RURAL BANK OF BULACAN, INC. BangaIst, Plaridel, Bulacan	EUROCREDIT COOPERATIVE RGround Floor, Sunrise Centre 488 Pablo Ocampo St., Malate, Manila	
ZAMBALES RURAL BANK, INC. #6 20th St., East BajacBajac, Olongapo City		SAVINGS CREDIT COOPERATIVE (UPSCC) Burgos St., Roxas City, Capiz	

Credit-granting NGOs came into existence due to the failure of the traditional formal banking system and the government DCPs (directed credit programs) to provide small-scale clients access to loans and other finance services.⁵¹ MFIs provide a broad range of financial services such as deposits, loans, payment services, money transfers and insurance products to the poor and low-income households and their microenterprises.

According to the United Nations Group on Inclusive Financial Sectors (UNGIFS), 195 banks, 4579 savings and credit cooperatives and approximately 500 NGOs are engaged in microfinance in the Philippines. Their main sources of funds are government programs, international lenders, local lenders, and international specialized microfinance funds.⁵²

MFI banks are regulated by the *Bangko Sentral ng Pilipinas* (BSP), while MFI unions and cooperatives are regulated by the Cooperative Development Authority (CDA), the authority that oversees the functions of all cooperatives in the country. MFI NGOs are not regulated by any government agency.⁵³

(NATCCO), and the Microfinance Council of the Philippines (MCP). See <http://www.dof.gov.ph/pdf/Annex1.pdf> for more details.

⁵⁰ p. 66, Ibid.

⁵¹ Llanto, Gilberto M. n.d. untitled. Asian Development Bank. http://www.adb.org/Documents/Books/Central_Banks_Microfinance/Country_Studies/phils.pdf

⁵² United Nations Advisors Group on Inclusive Financial Sectors – Private Sector Working Group. n.d. *Microfinance sector assessment: Philippines*. http://www.uncdf.org/english/microfinance/advisors_group/docs/1809B-UNCDF_philippines-low.pdf. The paper provides an appendix of MFIs and funds operating in the Philippines.

⁵³ For more details on the regulatory environment of MFIs in the Philippines, read *Regulatory Framework for Microfinance in the Philippines*.

The UNGIFS identified several constraints which impinge on microfinancing in the Philippines, and listed solutions to such constraints.⁵⁴ It also stated that:

“the performance of the microfinance sector in the Philippines has been largely disappointing. Although there are hundreds of small-scale rural banks, cooperatives, and NGOs that provide microfinance, total outreach has been quite limited. Only in the last 5 years or so have significant numbers of rural banks and cooperatives begun to consider microfinance as a profitable market niche. In addition, only a few microfinance NGOs have achieved scale or become financially viable (UNAGIFS n.d., p.9-10).

The BSP plays an important role in microfinance development, as it is responsible for overseeing the financial system of the country. The BSP has included microfinance in the basic rural and thrift banking courses. A number of institutions not linked to the BSP also provide training for microfinance. These include:

- PUNLA sa Tao Foundation which has an affiliation with Ateneo University and the Asian Institute of Management;
- CARD Training Center;
- TSPI Training Center; and
- Microfinance Council of the Philippines.

There are also technical assistance providers such as the Rural Bank Association of the Philippines-Microenterprise Access to Banking Services (RBAP-MABS) particularly for rural banks, and the Credit Union and Environment Services (CUES) specifically for Cooperatives.”⁵⁵

(3) Financing corporations

Financing companies are those “companies ... and other financial institutions organized or operating under other special laws, which are primarily organized for the purpose of extending credit facilities to consumers and to industrial, commercial, or agricultural enterprises, by direct lending or by discounting or factoring commercial papers or accounts receivable, or by buying and selling contracts, leases, chattel mortgages, or other evidences of indebtedness, or by financial leasing of movable as well as immovable property.” Financing companies are governed by Republic Act No. 8556, otherwise known as the Financing Company Act of 1998.

Section 13 of the Financing Company Act provides for the maintenance of a register of financial leases with the Register of Deeds.

(4) Pawnshops

Pawnshops are establishments that are engaged in the business of lending money on personal property delivered as security with loans. They are governed by Presidential Decree No. 114, otherwise known as the Pawnshop Regulation Act, which was issued on January 29, 1973.

Pawnshops are required to register with the Securities and Exchange Commission as well as the Bangko Sentral.

Section 9 of the Pawnshop Regulation Act states that the amount of the loan should not be less than 30% of the appraised value of the security offered for the loan, unless the pawner manifests in writing that he/she wishes to borrow a lesser amount.

(5) Informal lenders

The informal sector – which is comprised largely of severely resource-constrained small vendors operating in public markets – relies heavily on informal lenders or financiers known as “5-6.”⁵⁶ 5-6

⁵⁴ See note 26.

⁵⁵ Ibid.

⁵⁶ Mari Kondo, The "Bombay 5-6": Last Resource Informal Financiers for Philippine Micro-Enterprises at http://kyotoreview.cseas.kyoto-u.ac.jp/issue/issue3/article_298.html.

moneylenders charge a nominal interest rate of 20 percent over an agreed period of time. A person who borrows 5 pesos from a 5-6 moneylender over a period of one week repays 6 pesos, including 1 peso interest. 5-6 moneylenders do not require collateral or documents from their borrowers. Instead, the borrower's credibility is determined by the borrower's business and loan repayment history.

Since informal lenders collect on a daily basis, they tend to seek out businesses that generate cash on a daily basis. These include vendors, proprietors of small businesses, and small service providers (e.g. groceries, eateries, tailoring shops, and hair salons). Food-related businesses are ideal because of the perishable nature of food, their daily need for working capital in the form of cash, and their daily generation of profits.

A key success factor for 5-6 businesses is the development of a large, good-quality client base which continually borrows and repays without default. However, clients of 5-6 financiers are vulnerable to internal and external shocks, and thus their ability to repay their debts tends to be unreliable. Because an existing "good" customer for a 5-6 business can easily become a "bad" customer, informal lenders look for new clients constantly. Informal lenders maximize profit and overall productive efficiency by equalizing their return across entrepreneurs, and interacting with multiple entrepreneurs.⁵⁷

(6) Mutual help ("*paluwagan*")

The *paluwagan* is a kind of rotating savings and credit association: a group of people contribute the same amount of money toward a common fund and take turns collecting the total, often called the "salary," over a fixed period (e.g., every seven days, every 30 days). The *paluwagan* is a common mechanism for saving money among Filipinos who do not have access to banks.

As an informal savings system, the *paluwagan* is vulnerable to members running away with the money and to delayed or missed payments. The *paluwagan* system therefore operates among people who know each other – who work in the same office, live in the same neighborhood, or can otherwise keep a check on each other. The *paluwagan* organizer has to be particularly trusted by the members, making this a client development mechanism.

B. Microenterprises

The term "microenterprise" is defined differently under various laws:

- Section 3(i) of the Social Reform and Poverty Alleviation Act defines micro-enterprise as:
"Any economic enterprise with a capital of one hundred fifty thousand pesos (Php 150,000.00) and below." This is subject to periodic determination of the Department of Trade and Industry to reflect economic changes.
- The Barangay Micro Business Enterprise (BMBE) Law, Republic Act No. 9178 (Nov. 13, 2002) defines a barangay micro business enterprise as:
"any business entity or enterprise engaged in the production, processing or manufacturing of products or commodities, including agro-processing, trading and services, whose total assets including those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, shall not be more than Three Million Pesos (P3,000,000.00)." This definition is subject to review and upward adjustment by the SMED Council, as mandated under Republic Act No. 6977, as amended by Republic Act No. 8289." (Sec. 3a)
- The Department of Trade and Industry states that:
"Micro, small, and medium enterprises (MSMEs) are defined as any business activity/enterprise engaged in industry, agri-business/services, whether single

⁵⁷ Andreas Madestam, "Informal Finance: A Theory of Moneylenders" at <http://www1.fee.uva.nl/fm/PAPERS/Madestam.pdf>.

proprietorship, cooperative, partnership, or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, must have value falling under the following categories:

By Asset Size*

Micro:	Up to P3,000,000
Small:	P3,000,001 - P15,000,000
Medium:	P15,000,001 - P100,000,000
Large:	above P100,000,000

Alternatively, MSMEs may also be categorized based on the number of employees:

Micro:	1 - 9 employees
Small:	10 -- 99 employees
Medium:	100 -- 199 employees
Large:	More than 200 employees" ⁵⁸

According to the DTI, as of 2009, there are 780,437 business enterprises operating in the Philippines. Of these, 99.6% (777,357) are micro, small, and medium enterprises (MSMEs) and the remaining 0.4% (3,080) are large enterprises. Of the total number of MSMEs, 91.4% (710,822) are microenterprises, 8.2% (63,529) are small enterprises, and 0.4% (3,006) are medium enterprises.

Majority of the 777,357 MSMEs in operation as of 2009 are in the wholesale and retail trade industries with 3385,610 business establishments; followed by manufacturing with 111,987; hotels and restaurants with 97,298; real estate, renting, and business activities with 47,654; and other community, social, and personal services with 44,313. These industries accounted for about 88.4% of the total number of SME establishments.⁵⁹

What credit windows are available for SMEs at government lending institutions?

Table 4. Sampling of Lending Windows for MSMEs in Government Lending Institutions.

BANK	LAW	CREDIT WINDOWS
1. Development Bank of the Philippines (DBP)	RA 85 Created the Rehabilitation Finance Corporation in 1947. In 1958, it was reorganized and became the Development Bank of the Philippines. ⁶⁰	The Sustainable Entrepreneurship Enhancement and Development Program (SEED) is DBP's umbrella program for micro, small and medium enterprises (MSMEs). Consistent with the Bank's developmental thrusts, the DBP-SEED Program aims to enhance the access of MSMEs to credit facilities and fast-track the credit process; bring SMEs to the mainstream of banking by implementing alternative ways of securing MSME loans; and maximize the Bank's lending reach and help create employment and income opportunities. Retail Lending is offered for all types of Micro and Small Enterprises with capitalization of Php 15 million and below.
2. Land Bank of the Philippines (LBP)	Republic Act 3844 (Agricultural Land Reform Code) created the Land Bank of the Philippines on August 8,	a. SPECIAL LOAN PROGRAMS FOR SMEs a.1 SPECIAL FINANCIAL ASSISTANCE TO SMALL AND MEDIUM EXPORTERS (SFA-SMEX) The Special Financial Assistance to Small and

⁵⁸ <http://www.dti.gov.ph/dti/index.php?p=532>

⁵⁹ <http://www.dti.gov.ph/dti/index.php?p=321>

⁶⁰ <http://www.dbp.ph/about.php?cat=9>

	<p>1963.</p>	<p>Medium Exporters (SFA-SMEX) Program is a liberal loan program designed to address the working capital requirements of small and medium exporters.</p> <p>a.2 EASY PONDONG PANG-ASENSO (EPPA)</p> <p>LANDBANK's EASY PONDONG PANG-ASENSO (Liberal Business Package for Small Enterprise) is a program designed to address the specific financing needs of small businesses.</p> <p>b. Loans for Cooperatives</p> <p>Eligible Borrowers</p> <ol style="list-style-type: none"> 1. Agricultural Cooperatives, composed of majority of small farmers and fisherfolk and small hog/poultry/livestock raisers; 2. Non-Farmers or Credit Cooperatives, composed of market vendors, employees, teachers, rural workers, etc.; 3. Institutional/Employees' Cooperatives and Associations, composed of regular/ permanent employees of the agency <p>Available Credit Facility</p> <ol style="list-style-type: none"> 1. Agricultural Production Loan (APL) – short/medium/long term loans (depending on the gestation period of the crops/projects), for relending to cooperative members intended to finance crop production, livestock and poultry raising/breeding fishery and aquaculture projects, and other agri-aqua related projects, including cottage industries which utilize excess farm labor 2. Working Capital Loan (WCL) – intended to finance coop activities requiring operating capital for the purchase of raw materials, processing and trading of inputs and/or finished products, and the operation of fixed assets 3. Rediscounting Line (RL) – to supplement the coop's operating capital via rediscounting of promissory notes of its members <p>Loanable Amount</p> <ol style="list-style-type: none"> 1. Depends on the project needs or established loan ceilings for traditional and high-value crops which should not exceed 80% of the project cost 2. For rediscounting, maximum of 85% of the outstanding balance of the sub-promissory notes 3. For Institutional/Employees' Cooperatives – up to six (6) months of the employees-sub-borrower's basic salary but not to exceed Php 300,000, or must be
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		within the amount of bonuses and benefits to be received by the employee-sub-borrowers, for the promissory notes rediscounted against the bonuses/benefits, provided further that the total loanable amount, inclusive of the loan amount against the salary, will not exceed Php 300,000
3. National Livelihood Development Corporation (NLDC)	A government corporation resulting from the merger of the National Livelihood Support Fund (NLSF) and the Livelihood Corporation (Livecor) on November 22, 2007 with the signing of Executive Order 681.	The Livelihood Credit Assistance Program (LCAP) provides livelihood and enterprise development assistance to small farmer beneficiaries in the Agrarian Reform Communities and members of the marginalized sectors by providing access to micro credit through accredited NLSF Program partners/conduits, supported by capability building/institutional development interventions.
4. Small Business (SB) Corp.	Republic Act 6977 (as amended by RA 8289) on January 24, 1991.	<p>The Corporation was given authority to offer a wide range of financial services, specifically for small and medium enterprises engaged in manufacturing, processing, agribusiness (except crop level production) and services (except trading). These financial services include among others guarantee, direct and indirect lending, financial leasing, secondary mortgage, venture capital operations and the issuance of debt instruments for compliance with the mandatory allocation provision.</p> <p>Who can benefit from the Livelihood Credit Assistance Program (LCAP)?</p> <p>a. Small farmer beneficiaries and/or their wives and dependents in the agrarian reform</p> <p>b. Non-farmer and marginalized households, including rural workers, youth, and microentrepreneurs, in the Agrarian Reform Communities and the zones of implementation of the the Kapit Bisig Laban sa Kahirapan (KALAHI) or "Linking Arms Against Poverty" assistance program of the government</p> <p>Does LCAP require collateral?</p> <p>No, the Program does not require collateral. In many cases, loans are secured by group accountability agreement among borrowers (e.g., Grameen method) or promissory notes.</p> <p>Does one need to have an existing business before he/she can avail of LCAP?</p> <p>Some MFIs prefer borrowers with existing businesses but they will cater to start-up clients provided they have the proper attitude and capacity and will use the loan for an income generating project such as vending, food processing, eateries, and other viable</p>

		<p>enterprises.</p> <p>What are the payment terms and interest rates of the loan?⁶¹</p> <p>MFIs have different loan repayment schemes depending on the capacity and nature of business of a borrower. Loans may be payable on a daily, weekly, or monthly basis for a period of six months. MFIs also maintain varying interest rates to cover different costs and operational expenses. These rates usually range from 24% to 36% per annum.</p>
5. Philippine Export-Import Credit Agency (PhilEXIM)	<p>The Corporation was established on January 31, 1977 as the Philippine Export and Foreign Loan Guarantee Corporation (PHILGUARANTEE) by virtue of Presidential Decree No. 1080. It was later renamed TIDCORP and granted expanded functions by Republic Act No. 8494 on February 12, 1998. In acknowledgment of its crucial role in providing a wide range of financial services, the Corporation was officially designated as the Philippine Export-Import Credit Agency or PhilEXIM through Executive Order No. 85 dated March 18, 2002.</p>	<p>SHORT TERM DIRECT LENDING FOR SMEs</p> <p>Short-term loans to direct and indirect exporters, firms involved in priority projects of the national government and import substitution industries.</p> <p>Eligible borrowers are: direct exporters with minimum export volume of US\$100,000.00 within the last six months prior to application.</p> <hr/> <p>MEDIUM-LONG TERM DIRECT LENDING FOR SMEs</p> <p>Medium and long term loans to direct and indirect exporters and firms involved in priority projects of the national government and import substitution industries</p> <ul style="list-style-type: none"> - Medium Term Loan: Up to 3 years - Long Term Loan: Up to 7 years - Loan limit : Up to Php 50 million but not more than 30% for land acquisition <hr/> <p>WHOLESALE DIRECT LENDING PROGRAM FOR SMEs</p> <p>Short term loan and capability building assistance to SME Export Sector offered to BSP-accredited financial institutions.</p>
		<p>SME UNIFIED LENDING OPPORTUNITIES (SULONG)</p> <p>a. Short term loans Loan Purpose: Revolving Credit Line (Temporary Working Capital)</p> <p>Eligible enterprises: At least 60% Filipino-owned whose assets are not more than Php 100 million, excluding the value of the land, or subject to ownership rules as defined under existing Philippine laws for specific industries.</p> <p>Amount: 70% of working capital requirement; maximum of Php 5 million</p>

		<p>b. Long term loans Loan Purpose: Export financing</p> <p>Eligible enterprises: At least 60% Filipino-owned whose assets are not more than Php 100 million, excluding the value of the land, or subject to ownership rules as defined under existing Philippine laws for specific industries.</p> <p>Amount: Maximum of Php 5 million</p>
6. Quedan and Rural Credit Guarantee Corporation (QUEDANCOR)	Republic Act No. 7393, signed on April 13, 1992. QGFB was reorganized into QUEDANCOR.	<p>Presently, QUEDANCOR is implementing the QUEDANCOR-AGRICULTURAL CREDIT GUARANTEE FOR RURAL PRODUCTIVITY- AGRICULTURE AND LIVELIHOOD PROJECTS (AGRICORP-AFLIP). It is a guarantee financing program that supports on the marketing of various agriculture and fisheries commodities by extending credit guarantee assistance to farmers, fisherfolk and entrepreneurs while enticing the participation of banks and related lending entities to extend loans to the agri-fishery sector in order to stimulate the development of both the product and its retailer.</p> <p>For the QUEDANCOR AFLIP-FARE program, the initial loanable amount is Php 25,000 for non-collateralized loans. The borrower may be able to avail of a higher amount after at least two availments with a good repayment record.</p> <p>Loanable amount under the other programs vary depending on the capital requirement of the projects and the borrower's capacity to pay which will be determined during the evaluation of loan application.</p>

C. Credit information availability and access

In the Philippines, comprehensive credit information is only available through private credit bureaus as no public credit information bureau exists. This information is not easily accessible to the public. It is worth noting, however, that credit information is not heavily relied upon for purposes of obtaining financing because current financing practices favor the placement of collateral as a measure for hedging financing risks.⁶² The Bankers Association of the Philippines (BAP) Credit Bureau and the Credit Management Association of the Philippines are private initiatives which maintain records of creditworthiness.

The BAP Credit Bureau maintains the LIS (Loandex Information Exchange System) and the NFIS (Negative File Information System). The LIS, established in 1990, is a computerized credit information exchange among member banks that provide credit-dealing reports on individual and corporate borrowers. It has over 450,000 records of corporate and individual borrowers pooled for the use of participating banks. Access, however, is limited to BAP members.⁶³

⁶² Brandon L. Feraren, International Property Market Scorecard Project: Recommendations on Real Estate Market Reform in the Philippines, p. 29.

⁶³ http://www7.bapcb.com/v2_services.bap.htm.

The NFIS, established in 1992, provides data on borrowers and clients with adverse records. Among data available, it has over 2 million records of credit cards cancelled due to mishandling, current accounts closed due to improper handling.⁶⁴

To address the lack of a credit bureau, the Credit Information System Act (Republic Act No. 9510) was passed on October 31, 2008. The law was passed in recognition of the “need to establish a comprehensive and centralized credit information system for the collection and dissemination of fair and accurate information relevant to, or arising from, credit and credit-related activities of all entities participating in the financial system.”⁶⁵ Section 5 of the law provides for the creation of a Central Credit Information Corporation “whose primary purpose shall be to receive and consolidate basic credit data, to act as a central registry or central repository of credit information, and to provide access to reliable, standardized information on credit history and financial condition of borrowers.”

⁶⁴

Ibid

⁶⁵

Sec. 2, Republic Act 9510.

Annex 4: Interviews with Local Government Units

Interviews with Local Government Units

By: Jose Ma. Luis P. Montesclaros, ISA

As a part of research for the Philippines Property Markets Scorecard project, ISA held preliminary interviews with local government unit departments that dealt with property administration. Below are the areas of the offices from whom both qualitative and quantitative data were gathered.

Area	City of Manila	City of San Fernando Pampanga
Formal Ownership	Urban Settlements Office	Local Housing and Settlement Section, Community Affairs Division
Purchase and Registration of Real Estate	City Assessor's Office	
Commercial Courts and Dispute Settlement	City Legal Office	
Land Use and Mapping, Uses of Commercial Property	City Planning and Development Office	
	Drafting and Survey Division, City Engineer's Office	Local Building Official Division, City Administrator's Office
Informal Sector	Bureau of Permits	City's Economic Enterprises Division

Formal Home Ownership in the City of Manila

No. of households	332,142.80
No. of informal settler families	111,503
% of informal settlers	33.57%
Formal home ownership	66.43%

Source: National Statistics Office, 2007

Manila interviews

The interviews with both Manila and San Fernando officials focused on the issue of informal settlements. Manila, like many other cities in the Philippines has a significant population of poor informal settlers. Removal of informal settlers requires a Supreme Court Order. Moreover, as a part of removal procedures the city holds dialogues with the settlers on where they want to be relocated. City officials also conduct "trippings," or site visits, to evaluate the areas where the poor shall be moved.

Furthermore, the City of Manila provides financial assistance of Php 24,240 equivalent to the minimum wage for four months for relocated settlers. This assistance, however, is effective for those who choose to return to their provinces rather than stay in Manila. Prequalification verification for the relocation loan assistance to be given to informal settlers is done by the National Housing Authority (lead agency), the Presidential Commission for Urban Poor, the Commission on Human Rights, and the City's Urban Settlements Office.

Several relocation schemes are being applied by different groups of agencies depending on where the informal settlers live. For instance, those that live along the Pasig River Esteros are helped by the Pasig River Rehabilitation Commission and the Metro Manila Development Authority (MMDA). The National Housing Authority gives resource support through relocation sites such as those in Bulacan (Norzagaray and San Jose del Monte) and the one known as Estero de Paco in Laguna (Calawan). Furthermore, those informal settlers that live along the national highway are dealt with by the Department of Public Works and Highways.

These efforts are coordinated through a local integrated committee comprised of the head of the City Engineer's Office (who is the alternate chairman of the Mayor), the Department of Public Service (on cleanliness matters), the Manila Health Department, the Manila Barangay Bureau, the Division of City

Schools. The basis for deliberation, as well as the steps and rules on relocation, are guided by the Republic Act 7279.

San Fernando Pampanga interviews

	Lot	House Building
Owned	64.0%	78.3%
Rented	9.2%	8.4%
Amortized	5.1%	3.8%
Not Owned, Used with Owner's Consent	17.9%	7.9%
Not Owned/Squatting	1.5%	0.4%
Others	2.3%	1.1%

Source: Local Housing and Settlement Section, Community Affairs Division, City Administrator's Office
Local Building Official Division, City Administrator's Office

The level of informal settlers in San Fernando, Pampanga is very low because of a recent relocation initiative for those living along creeks and railways owned by the government. They have already been relocated to another site in San Fernando: Northville 14 – San Fernando Site. Nonetheless, there still remain an estimated 1,500 families that can be considered informal settlers.

I. Illegal Uses of Property

A. City of Manila

Commercial property is not always used based on the way it was registered. Multi-level subleasing is also a practice that is present and that needs to be avoided.

B. San Fernando Pampanga

Establishments rented/leased without permits are immediately ordered to close by the Local Building Official Division. Because of this, official data shows that there is no unregistered or illegal use of commercial properties. However, the following points should be noted:

1. **Temporary permits** are given to establishments that cannot immediately comply with government requirements. Thus, they cannot be considered illegal for as long as they work on their permits in due time. Some business owners do not see the point in moving to a more formal market, which is supposed to be provided by the city later this year.
2. **Sub-leasing issues** are an existing problem that needs to be addressed. For example, rental price for a stall amounts to Php 600 but bloats to Php 3,000- Php 5,000 because of this practice. Despite the difficulties in removing vendors that sublease, the City Economic Enterprises office is removing them one by one, by convincing each business to register, or by offering to them that they avail of temporary permits.
3. **Selling of rights over stall areas given to some establishments** – similar to sub-leasing.
4. **Alteration of stalls** – illegally dividing stalls to get more renters.

II. Informal Sector

A. City of Manila

Informal sector in Manila consists predominantly of hawkers, sidewalk vendors, and ambulant peddlers in Manila. Informal / unregistered markets for goods comprise 0.09 of registered businesses in terms of sellers / service providers. The main reason for becoming an informal vendor is the poverty situation in the City. There is no formal registration process for street vendors; rather, they pay dues of Php 20 per square meter.

According to the city officials, contractors and those involved in printing & publication are the members of the small business sector that complain of competition with unregistered firms.. Since the fees for formal registration are high, not all businesses have the capability and the willingness to pay it. However, the informal / unregistered firms are not the biggest problem for formal small businesses, since the stiffest competition they face comes from large malls that enter the area and take customers away.

Main current City initiatives are as follows:

- a) Implementation of organized vending projects
- b) Employment creation by:
 - a. Attracting more investors
 - b. Encouraging / establishing a cooperative market system
- c) Full implementation of the following laws:
 - a. Local Government Code
 - b. National Tax Code
 - c. Sanitation Code
 - d. Ordinance 7794
 - e. Zoning Ordinance 8119
 - f. Hawking Ordinance

B. City of San Fernando Pampanga

There are reportedly no informal / unregistered markets for goods in the City of San Fernando Pampanga. At present, there are 2 markets approved by the City Council. Small markets in the “talipapa” or fish market operate with temporary permits. The City Economic Enterprise Division (CEED) reports 2,340 registered vendors, while there are frequent closures of businesses without permits. Moreover, under the City’s OPLAN HABITAT program, illegal vendors are discouraged.

Instead, vendors are advised to sell in a regulated “tiangge” or bazaar market every night (from 7PM onwards) so as not to compete with market vendors, specifically dry goods stores.

One problem in informality is the transport sector where some unregistered Public Utility Vehicles ‘s that operate during night time. Regulating this is beyond the scope of the City, but police have recently been placed to catch them. Punishments, however, need to be put in place through ordinances in order to make law enforcement more effective and curtail informality in this and other sectors.

Current City Initiatives include regulation of vendors through the issuance of temporary permits. Those who cannot afford to pay expensive registration fees are required to pay Php 10/day so that it is not a burden on their part.

Constructing a new market is another initiative that can be undertaken, according to the City Government (Phase II of the proposed Market Rehabilitation Project at the Old Public Market) at the central village or district within the City to address both informal markets and subleasing issues. If a new market is constructed, the City could gain a clean slate for dealing with the vendors so that main owners of stalls can more easily be identified.

III. Commercial Courts

A. City of Manila

The LGU has two special commercial courts that handle intra-corporate cases (those concerning fraud or misrepresentation among boards of directors, business associates, officers or partners): Branches 24 and 46 of the Regional Trial Court. Regular courts (other branches of the Regional Trial Court) have jurisdiction over cases concerning the cancellation of titles and land registration.

Usually, instead of going to court, citizens seek the City Legal Office's advice. Clients sometimes prefer to settle rather than to go to court, since it costs 1.5% of the claim and court fees cost at least Php 3,000.

Expropriation happens relatively frequently, usually whenever the City Council passes legislation on informal settlers. Property owners are compensated based on fair market value. Politics is sometimes a factor that courts consider, especially if the property is occupied by informal settlers. The safeguard against unfair treatment, however, is that ordinances go through proper proceedings in the court.

For people being evicted, there are ejectment proceedings. The rent control law also protects people against excessive rent increases and arbitrary eviction. If there are disputes, the tenants first go to the barangays to settle ejectment cases. It is only when amicable settlement is not possible that the case is elevated to the Municipal Trial Court.

B. City of San Fernando, Pampanga

Currently, the Department of Justice does not see the need to have a specialized court for property disputes and foreclosures because there are other priority cases addressed in the City. There are no big disputes and there is a low volume of expropriation cases.

On the other hand, San Fernando houses eight Regional Trial Courts (RTC) and four Municipal Trial Courts in the Cities (MTCC). Violations of City Ordinances are addressed by the MTCC while expropriation cases are handled by the RTC.

IV. Purchase and Registration of Real Estate

A. City of Manila

Information on commercial properties that are for sale or have been sold is available through word of mouth, newspapers, classified ads, buy and sell magazine, flyers and poster prints by real estate brokers. Information about sold properties is available with the Register of Deeds and the City Assessor's Office.

There is also what is known as patrimonial property owned by the City because of foreclosure due to failure to pay property taxes for both residential and commercial lots, buildings and property). However, the procedures are not very well specified: there is no definite time for foreclosure or amount of arrears. The committee on public auction instead has the final say. It is composed of the City Legal Officer (Chairperson), the Assistant City Treasurer who is the OIC of the Officer of the City Treasurer (Vice Chairperson), the OIC of the Department of Assessment, the Register of Deeds of Manila, and the OIC of the Real Estate Division (Member - Secretary).

After foreclosures, properties are subject to public bidding / auction if they are below 250 sqm. The property, in this case, is published in newspapers for national circulation. If the properties are above 250 sqm, auctions go through the City Council.

While standard templates for purchase contracts are available on the Internet, the terms of property purchases are always based on an agreement between the buyer and the seller. Moreover, the City Legal Office offers to help people in customizing the contracts based on a mutual agreement between the seller and the buyer. However, in the case of property owned by the City, the City has the jurisdiction to monitor the contracts.

Currently, it takes around 20 working days to facilitate transfers of property, though the goal is 15 days with computerization. The common choke points are in the examination portion for real estate documents, in case the buyer fails to complete the form appropriately, or fails to provide the required annotations for clearance (e.g., the National Housing Authority may have some requirements). There are also times after examination that documents can be denied, but the clients can always raise this up to the level of the LRA should they have complaints. The struggle of the LGU is in migrating from manual to computerized forms.

Standard fees are paid for transactions with the Register of Deeds. The registration Information Officer and the clerk that takes care of entering the files makes use of a computer to generate the fees to be paid. While means exist to hide the real value of land from authorities, these irregularities are often discovered eventually by the City Assessor's Office. Title insurance is not used.

B. City of San Fernando Pampanga

Clients can obtain information on tax assessments, zoning and land use plans from the City Assessor's Office, the City Planning, and Development Coordinator's Office. Available commercial properties are also available through licensed brokers, newspaper ads, financial institutions and pawnshops.

Purchases are not governed by standard purchase contracts. Rather, the process involves the following: after the buyer and seller discuss and agree on the price, the buyer then obtains the deeds from the City Assessor's Office, obtains the Tax Clearance from the Bureau of Internal Revenue, and proceeds to the Treasurer's Office to pay the Transfer Tax.

The Real Property Tax Assessment processes in the City are currently in accordance with ISO 9001:2008 quality standards. There are 5 procedures required to register the transfer of property from one owner to another within the LGU:

1. Deed of Sale
2. Transfer Tax
3. Certified Tax Copy
4. Tax Clearance
5. Certificate of Registration

Other processes are not within the jurisdiction of the LGU since these involve other agencies such as the Bureau of Internal Revenue and the Registry of Deeds. To complete the transfer, it takes 30 minutes (or less) given that all requirements are complete (processes outside the City Hall, such as those with the national government, are not included).

The cost for transferring property is usually made up of the following:

- 2% of the assessed value for Real Property Tax
- Php 50 fee for assessment of documents
- .005 or ½ of 1% of the market value, whichever is higher for Transfer Tax

To guard against fixing, the LGU is currently applying ISO 9001:2008 Certification (for Real Property Tax Assessment processes) and is implementing the Anti-Red Tape Act of 2007. The LGU likewise affirmed that in practice, as stated by law, notaries are needed for deeds and transfers. Title insurance is not being used, since clients can seek the advice of offices concerned regarding land tax. They can also proceed to the Registry of Deeds.

V. Land Use

A. Manila

Although cadastral information is publicly available, it is incomplete since manual mapping is currently the practice, and some maps are no longer available. The register of deeds displays information on land published on the Land Registration Authority website through the Electronic Primary Entry Book (EPEB). However, zoning information is not included in the cadastral information since two different departments are in charge of this: the City Planning and Development Department for zoning, and the City Engineer's Office for the cadastral registry.

Zoning ordinances and land use plans are strictly imposed, and regulations on the use of property are strictly enforced. There is a rule, though, of retroactivity, wherein structures built before the regulation is passed (for instance, a height limit for buildings to guard against earth quakes) will not be subject to the enforcement of current rules. A major issue here was that the height of buildings allowed in Manila used to be suboptimal, as compared with the Central Business District (Makati). However, city officials are currently amending the Land Use Plan so that Manila can be a more competitive real estate market in this respect.

Last, although the use of a Geographic Information Systems (GIS) including Global Positioning Satellite (GPS) information has already been proposed by the City Council for creating and updating the cadastral registry, the current priority of the Mayor is improving healthcare, and so no funds are currently available.

B. City of San Fernando Pampanga

Cadastral information is available through the City Planning and Development Coordinator's Office (CPDCO), and zoning information is already included there. Currently, zoning regulations are being enforced at the CPDCO level, but this office has no direct control over reclassification decisions (according to Agricultural, Residential, Commercial, etc.) of the Sangguniang Panlungsod, nor over conversion from agricultural to non-agricultural uses by the Department of Agrarian Reform.

Currently, the first stage of installing a Geographic Information System (GIS) is already completed, and plans to integrate information from the City Assessor's Office and the CPDCO are already in the pipeline. For now, a detailed color-coded map of properties is available at the CPDCO.

Annex 5: Interviews with National Government: Land Registration Authority

Views of Land Registration Authority on Reforms Recommended: Findings based on an interview with Deputy Administrator Ronald A. Ortile, Land Registration Authority

Land Title Computerization Project (LTCP)

There are currently 107 automated Registers of Deeds out of the target total of 168 nationwide, which means that these are physically ready (in terms of land, building and space requirements) to take in hardware for computerization. The migration of over 24 million records, which began in 2007, is expected to be finished by April of 2012. Currently, 85% of the manual records have been converted from the paper form to electronic format accessible online.

The LTCP is currently being implemented in cooperation with a private sector partner to help support the efforts of the Registers of Deeds (RD) and help with their limited manpower. This arrangement is temporary and computerization be ultimately handled solely by the RDs in the near future.

The computerization effort, once completed, is expected to make a contact-free system possible, limiting the room for discretion by individual officials. The computerized version will include 8 steps, and sets the standard of 10 days for operations with registered land. Standards on the documentary requirements for facilitating transfers and other land operations are to be released by the end of July (at the latest). Once this is done, it is expected that the points of human contact would be minimized and the time it would take for the transaction would also go down.

The computerized system also measures the time it takes for transactions to progress (“ageing” of documents) in order to assess the weak points in the process. If forms without fulfilled requirements pass through, the units responsible for such oversight will be penalized. To add to transparency, the system also has an online feature for tracking of documents, allowing the person to see status of processing by the RD (<http://125.22.35.139:8080/TransactionStatus/>). These improvements were made possible because of the ongoing revision of the IT design, which is already at its 22nd version.

The role of the RD is primarily to ensure that the titles of owners are secure, and that fake copies are able to enter the system. The computerization project will serve this purpose because only the genuine bar-coded documents will be recognized by the computer. As computerization is currently a transition process, it is expected that speed will not yet be the main goal. The LRA is one of the few agencies who have gone far with the automation initiative because it is a revenue generating organization that does not need to rely on national government funding to hire external experts to implement the computerization project.

LRA is also implementing an anytime-anywhere feature that provides kiosks for accessing and printing the certified true copies of forms. Through this, a person need not go to the office of the register of deeds to obtain forms.

Views on one-stop shop and on coordination among national government agencies

The opinion of the Deputy Administrator is that a one-stop shop, in essence, means that information is available to the public. For this to happen, he does not see the need for a physical one-stop shop since relevant documents are currently available on the Internet.

Moreover, since the other departments have not yet moved to automation, he doubts that having physical one-stop shops would make a difference. However, he did point out strategic interconnections and issues in the interface between LRA and other government agencies. For instance, LRA often does not know if the Certificate of Authorized Registration, a requirement which comes from the Bureau of Internal Revenue and confirms that a client has paid the necessary capital gains tax, is valid. LRA is thus currently linking up with the BIR to improve the project, so that LRA officers will know that documents presented as coming from BIR are indeed real. BIR has not computerized this process yet, and there is a need for the computerization of this step.

Another problem regards the issuance of titles, which is the role of mandated national government agencies such as the Department of Environmental and Natural Resources, as well as the Department of Agrarian Reform. The LRA’s role is currently to process registrations, not to issue titles. There are currently gaps in the cadastral registries, wherein portions of land in the Philippines are not yet registered, or where there are unclear property boundaries. The computerization project of the LRA currently allows it to create its own cadastral maps, as plotting is being done in parallel to the registration of titles. However, despite this, the weakness of cadastral registries in the country is an issue which shall concern other departments. More national government support and better coordination across the

different offices, not to mention capacity building for each of the offices involved, would make this possible. Recommendations for improving this are updating of the Cadastral Act (promulgated in 1913) to include the procedures needed, and more support from the national government in terms of the funding required for bridging the technical and logistical gaps in the operations of the offices.

Dealings with Stakeholders

The LRA welcomes stakeholders in its monthly stakeholders summits. These include real estate developers, brokers, banks, government, and non-government organizations. Furthermore, LRA also has its customer service desk for public complaints, as well as a website that allows the public to monitor the processing of their documents.

Jose Ma. Luis P. Montesclaros
Institute for Solidarity in Asia
July 18, 2011

Annex 6: FGD Methodology: The World Cafe ^{66,67}

The World Cafe is a method, which makes use of an informal cafe for participants to explore an issue by discussing in small table groups. Discussion is held in multiple rounds of 20-30 minutes. The event is concluded with a plenary.

The World Cafe is a creative process set in a cafe setting. The event either takes place in a actual cafe or else the room is set up to resemble one as much as possible: participants are seated around small tables with tablecloths and tea, coffee and other beverages. The cafe ambiance allows for a more relaxed and open conversation to take place.

Participants discuss the issue at hand around their table and at regular intervals they move to a new table. One participant (the table host) remains and summarizes the previous conversation to the newly arrived participants. By moving participants around the room the conversations at each table are cross-fertilized with ideas from other tables. At the end of the process the main ideas are summarized in a plenary session and follow-up possibilities are discussed.

⁶⁶ <http://www.peopleandparticipation.net/display/Methods/World+Cafe>

⁶⁷ World Café was used in the San Fernando FGD while regular FGD was used in Manila.