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A Refocus on Ghana's Residential Real Estate Market.

The pre-independence and post-independence era of Ghana saw many extended families living together as a household, resulting in a relatively low demand for housing. This trend has altered with modernisation, as increasingly, more nuclear families prefer to live as a separate unit. Residential housing units are now a major part of Ghana's real estate sector.

Ghana's population growth rate is at an average of 2.25%¹ per annum. This, coupled with other factors such as vast increase in rural-urban migration, has resulted in higher demand for housing, particularly in urban areas.

Further to this, the interests of key stakeholders (investors/sellers and buyers) have been vastly modified by recent economic trends, especially in respect of the economic effects of the Covid-19 pandemic. On a large scale, the Ghanaian economy has experienced a decline. Income and return on investments of real estate buyers and investors have relatively plummeted.

Usually, a buyer's decision to purchase a

residential unit is dependent on his purchasing power, desire for comfort and luxury, proximity and availability of social amenities. Recent demand patterns have however been altered. On one hand, people with investment capacity have identified luxury real estate as a reliable investment. Some have also had a rethink about the importance of investing in making one's home comfortable enough considering the prolonged periods that people were required to stay indoors at the height of the pandemic. This led to a relative rise in the acquisition of luxury real estate.

On the other hand, the average potential buyer has been faced with reduced purchasing power due to the economic effect of the pandemic. Such buyers have been compelled to balance the scales of comfort and luxury as against relatively affordable housing options.

Consequently, there has been a widening gap between the demand and supply for residential housing in the real estate market. The housing deficit stands at two million (2,000,000) residential units, which calls for an average of two hundred thousand (200,000) housing units² to be

built annually in order to close the gap.³ In view of this, it is important to consider the current economic state of buyers in order to offer the best real estate solutions.

Investors in Ghana's real estate market currently offer a number of solutions, including home reconstruction, home improvement, home purchase and land purchase options. With any of the options, the investor's primary interest is to maximise return. The pricing of residential units is largely driven by cost of construction, accompanying taxes and levies required of the seller as well as expenses incurred from compliance processes. These factors and more have fed into the gap where the selling cost of real estate units is at variance with the buyer's purchasing power.

The obvious gap between demand and supply in the real estate market ought to be closed. In response, there have been some financial products from private financial institutions to cushion the financial burden of real estate buyers. Ghana's government has played a role also by promoting the famous affordable housing development agenda.

In order to address the housing challenge, however, more must be done. Efficient solutions will go beyond government-led initiatives to involve private public partnerships. It will also involve technology, regulations and finance restructuring, bearing in mind Ghana's unique setting. In this regard, the introduction of the Real Estate Agency Act, 2020 (Act 1047) appears to be a positive step in the right direction.⁴ (Click on the link to Read more <https://www.bpaghana.com/2021/04/21/qa-session-on-the-new-real-estate-agency-act-of-ghana/>).

A part of the solution could be the introduction of multiple tenure systems, such as rent-to-own agreements and shared ownership tenure. Rent-to-own agreements permit the buyer to rent the property with the option or obligation to buy the property eventually, depending on the agreement between both parties. There is also the shared ownership tenure, which allows the buyer to purchase a share of the ownership of the property. For example, a sum is paid by the buyer representing forty-five percent (45%) of the total ownership of the property while paying rent for the remaining portion owned by the seller. The buyer would have the option to purchase the remaining portion in tranches as

agreed, which is described as "staircasing". Multiple tenure systems give the buyer the benefit of financial convenience and simultaneously secures the profits of the seller. By this, the investor is able to balance housing as a social good and as an investment for profit.

There is also the need to rely more on local sources for construction materials. This would affect the overall cost of construction and reduce the purchase price. Beyond the traditional construction materials, it would also be useful to encourage innovation in creating efficient, cheaper, eco-friendly materials for construction locally. In 2017, Indian Institute of Technology, Madras, developed research that suggested using Glass Fibre Reinforced Gypsum (GFRG) panels, to provide an eco-friendly and innovative solution for rapid and affordable mass housing.

The general posture of investors and financial institutions would be an important factor in solving the housing deficit. In considering construction, investors have to also ensure that they serve housing needs and not just satisfy investment priorities. From that perspective, the investor becomes more aware and sensitive to the

market and is able to creatively provide solutions while securing profits. Financial institutions would also be able to develop products that also cater for the needs of the buyer. Perhaps, taking this view would encourage some owners of vacant properties to repurpose such properties or characterise them to meet the mood of the market.

The current state of Ghana's real estate market in respect of residential housing leaves much to be desired. As explained, there is a gap between the nature of demand and the nature of supply. The onus therefore falls on the investor to read the market and supply housing facilities that meet the buyer's needs. This calls for some level of creativity and innovation; yet it is a worthy opportunity for the persistent among players in the market.

1 <https://www.modernghana.com/news/1070867/article-forecasting-the-next-five-years-of-ghana.html>

2 <https://www.devtraco.com/overview-of-real-estate-in-ghana/>

3 <https://www.modernghana.com/news/1070867/article-forecasting-the-next-five-years-of-ghana.html>

4 <https://www.bpaghana.com/2021/04/21/qa-session-on-the-new-real-estate-agency-act-of-ghana/>

5 https://www.researchgate.net/profile/Philip-Cherian/publication/312061938_Use_of_glass_fibre_reinforced_gypsum_panels_with_reinforced_concrete_infills_for_construction_of_walls_and_slabs/links/5953c8e2458515a207029528/Use-of-glass-fibre-reinforced-gypsum-panels-with-reinforced-concrete-infills-for-construction-of-walls

BUSINESS UPDATE



RGD is Ready to Strike Off.

Companies in Ghana are expected to be fully compliant with the regulatory framework of the Companies Act, 2019 (Act 992). The Registrar-General's Department ("RGD") served the last notice on an impending strike out of dormant companies on March 18, 2021. Companies which have not filed their annual returns up until 2020 are at risk of being struck off the Companies Register by June 30, 2021. These companies will be struck off and regarded as legally non-existent, with their respective names unavailable for use for a period of five (5) years.

Tax Administration Goes Digital.

Pursuant to the government's digitisation policy, the Ghana Card Personal Identification Number (Ghana card PIN) will replace the Taxpayer Identification Number (TIN) for all Ghanaian citizens. The Ghana card PIN is set to be the single unique identifier for tax and non-tax transactions requiring personal identification in Ghana. This change was effective from the 1st April, 2021. Consequently, the RGD currently requires all company officers and members to provide a clear coloured copy of their Ghana Card for the purpose of updating RGD's records.⁶

Nowhere to Hide.

The Judicial Service of Ghana has approved the establishment of a Tax Court. A designated Tax Court would likely improve the prosecution of tax cases thereby promoting the speed and efficiency with which these cases are going to be handled.⁷ This will empower the Ghana Revenue Authority to reduce losses in tax revenue and translate into a positive improvement in compliance.

A New State-Owned Enterprise.

All shares, customers, assets and agreed liabilities of AirtelTigo have been transferred to the government of Ghana.⁸ Bearing in mind this new ownership and the already existing government stake in Vodafone Ghana,⁹ the conversation of state versus private investor involvement in the telecommunications sector is increasingly, not far-fetched.

⁶ <https://gra.gov.gh/news/portfolio/commencement-of-the-use-of-ghana-card-personal-identification-number-as-taxpayer-identification-number/>

⁷ <https://www.myjoyonline.com/chief-justice-set-to-establish-tax-court-to-help-gra-prosecute-defaulters/>

⁸ <https://www.graphic.com.gh/business-news/ghana-govt-signs-agreement-with-airteltigo-for-transfer-of-ownership.html>

⁹ <https://siga.gov.gh/sector/vodafone-ghana-telecom/>



LEGISLATIVE CORNER.

Real Estate Agency Act, 2020 (Act 1047).

The Real Estate Agency Act, 2020 (Act 1047) seeks to regulate real estate agency practice, commercial transactions in real estate including sale, purchase, rental and leasing of real estate and other related fixed assets. The Act applies to real estate transactions including a tenancy for a term of not less than one year.

Public Private Partnership Act, 2020 (Act 1039).

The Public Private Partnership Act, 2020 (Act 1039) provides the framework for the regulation of Public Private Partnerships

(PPPs). The Act focuses on the implementation and development of PPPs to provide infrastructure and services in order to maximise potential commercial benefits.

Borrowers and Lenders Act, 2020 (1052).

The newly passed Borrowers and Lenders Act, 2020 (Act 1052) repeals the Act 773 of 2008. It pertains to credit agreements to streamline and regulate transactions between borrowers and lenders, and includes registration of security in functional equivalents such as finance lease, hire purchase, sales with reservation of title, and outright assignment of accounts receivable.

The new law also synchronises the Collateral Registry with other registries and provides a legal regime for the registration and enforcement of security interests against third parties.

Ghana Infrastructure Investment Fund (Amendment) Act, 2021 (Act 1063).

This Act amends the Ghana Infrastructure Investment Fund Act, 2014, Act 877, introducing additional sources of money for the Fund. It also extends the period of exemption from payment of taxes to a period spanning the first fifteen (15) years of the operation of the Fund.

Cybersecurity Act, 2020 (Act 1038).

The Cybersecurity Act, 2020 (Act 1038) establishes the Cyber Security Authority as the regulatory body for cyber security activities in Ghana. Persons involved in providing services intended primarily for safeguarding the cyber security of a computer system are required to obtain a licence from the Authority in order to operate in Ghana. The Act also protects minors on the internet.

Anti-Money Laundering Act, 2020 (1044).

The Anti-Money Laundering Act, 2020 (Act 1044) has been passed to consolidate all anti-money laundering laws in Ghana. It addresses the loopholes of the pre-existing anti-money laundering regulatory framework. The Act modifies Ghana's standards to conform with international standards.

FIRM NEWS



B & P is a recommended Law firm by Legal 500 (EMEA).

We are proud to announce that B & P ASSOCIATES has been ranked in The Legal 500 Europe, Middle East & Africa (EMEA) 2021 legal directory as a Leading Law Firm. The 2021 Ranking achieved by the B & P Team showcases the broad reach of our Firm's Commercial Corporate and M&A practice.

The Testimonials of our Clients include:

"B&P distinguishes itself as a highly professional law firm. In my interactions with B&P it distinguished itself due to the clarity of its communication and speed of delivery; the lawyers exceeded our expectations. The team has a great depth of knowledge about the legal environment in Ghana and is capable of explaining this with great clarity and detail to clients."

"In every case B&P has delivered prompt, efficient and pertinent service. The founder and main partner Adelaide is outstanding in her competence, acumen and attention to client needs. She's also very good at supervising the more junior elements of the firm and ensuring consistently solid services."

"It provides excellent professional legal advice on various topics and has an outstanding in-depth knowledge on various legal matters."

*The **Chambers Global 2021** ranked our Managing Partner as one who "supports her clients on corporate transactions and is a well-regarded lawyer in the Ghanaian legal market".*

We greatly value our relationships with our clients and are extremely proud of our ability to partner with them to achieve successful results.

WHO'S WHO?



Kosi Yankey-Ayeh is the Executive Director of the National Board for Small Scale Industries (NBSSI). Under her leadership, the NBSSI has seen innovative programmes introduced in the interest of women-led SMEs. Ms. Yankey-Ayeh was instrumental in the passage of the Ghana Enterprises Agency Act, 2020 (Act 1043) and continues to lead the efforts towards establishing the Ghana Enterprises Agency. Act 1043 provides an appropriate institutional and legal framework for the coordination and promotion of programs and projects for the development of the MSME sector in Ghana.

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About B & P ASSOCIATES

B & P ASSOCIATES is ranked as a Legal 500 Europe, Middle East & Africa (EMEA) Leading Law firm. We are a Corporate and Commercial legal practice and consultancy, with an excellent reputation, based in heart of Accra. The Team is highly regarded for its cross-border legal expertise, responsiveness and commitment. We provide business-oriented legal advice across a range of sectors, to both local and international clients. For more information, visit us at www.bpaghana.com to learn more about what we do.

This publication may provide a summary of legal issues but is not intended to give specific legal advice. If you require legal advice, please speak to a qualified lawyer, which may include a qualified member of our legal team at B&P ASSOCIATES.