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BUILDING ON BORROWED TIME: WHY PLANNING AND ZONING COMPLIANCE CAN MAKE OR BREAK REAL ESTATE INVESTMENT IN GHANA[1]

Introduction – Ghana's Real Estate Boom and the Hidden Legal Risk

Ghana's real estate sector has experienced remarkable growth over the past decade. Increasing urbanization, a growing middle class, expanded commercial activity, and government investment in infrastructure have fueled demand for residential estates, shopping centers, office developments, industrial parks, and mixed-use projects. The sector continues to attract domestic investors, pension funds, financial institutions, diaspora investors, and foreign direct investment seeking long-term returns.

Ordinarily, discussions surrounding property investment focus on title verification, ownership disputes, encumbrances, and registration at the Lands Commission. While these remain fundamental aspects of legal due diligence, they represent only one component of a legally secure investment. Ownership of land does not, by itself, guarantee the legal right to develop it.

Many investors wrongly assume that once a land title certificate has been issued or an interest has been duly registered, construction may commence without further regulatory approval. This assumption is legally incorrect. Ghana's planning legislation establishes a distinct regulatory framework governing land use, zoning, and physical development. Regardless of ownership, any person intending to undertake physical development must obtain the requisite planning approval and comply with applicable planning schemes before construction begins.

The importance of planning compliance has become increasingly apparent following recurring flooding in Accra and other urban centers. Recent reports attribute much of Ghana's perennial flooding to weak planning enforcement, uncontrolled urban expansion, encroachment on waterways and wetlands, and persistent failures in implementing approved planning schemes.

These developments have prompted renewed calls for stricter enforcement of planning laws and greater accountability in land-use management. Consequently, planning compliance should no longer be viewed as a procedural formality but as a critical component of investment risk management.

For developers, lenders, and institutional investors, the commercial implications are significant. A development that does not comply with planning laws may be delayed indefinitely, refused approval, subjected to enforcement action or, in extreme cases, demolished despite substantial financial investment. Such outcomes not only erode investor confidence but may also affect financing arrangements, insurance coverage, and the long-term value of the asset.

Against this backdrop, prudent investors must broaden the scope of legal due diligence beyond title verification to include planning and zoning compliance. The question is no longer simply whether the investor owns the land, but whether the proposed development is legally permissible.

Ghana's Planning and Zoning Framework

Planning and zoning laws regulate how land may be used and developed to promote orderly, sustainable, and resilient urban development. These laws balance private property rights with broader public interests, including environmental protection, public safety, infrastructure planning, and efficient land utilization.

The principal legislation governing physical planning in Ghana is the Land Use and Spatial Planning Act. The Act establishes a comprehensive legal framework for spatial planning at the national, regional and district levels, replacing the fragmented planning regime that previously existed under the Town and Country Planning Ordinance.

Act 925 empowers planning authorities to prepare spatial development frameworks, structure plans, and local planning schemes that designate permissible land uses within specific geographical areas. These planning schemes determine whether land may be developed for residential, commercial, industrial, agricultural, recreational, or institutional purposes. They also prescribe density requirements, building setbacks, road reservations, environmental buffers, and other development controls intended to ensure orderly physical development. The Act further provides that no person may undertake physical development without first obtaining a development permit from the relevant District Planning Authority. This requirement applies irrespective of whether the person holds a valid title to the land.

The Land Use and Spatial Planning Regulations complement Act 925 by prescribing the procedures for applying for development permits, the required documentation, consultation processes, and the circumstances under which permits may be granted, refused, suspended, or revoked. Together, these instruments form the legal foundation of Ghana's modern planning regime.

For investors, acquiring land without understanding the applicable planning scheme creates significant legal and commercial uncertainty. A parcel of land that appears commercially attractive may ultimately prove unsuitable for the intended development because of zoning restrictions, environmental constraints, or infrastructure reservations. Accordingly, planning due diligence should be undertaken with the same rigor as title due diligence before any acquisition is completed.

Why a Registered Title is Not Enough?

Consequently, ownership and development rights operate as separate legal concepts under Ghanaian law. One of the most common misconceptions among real estate investors in Ghana is that a registered title automatically confers an unrestricted right to develop land. While registration of title provides legal certainty regarding ownership and protects an owner's proprietary interest, it does not exempt the owner from complying with Ghana's planning and development control regime. In other words, ownership establishes the legal right to possess and enjoy land, whereas planning approval determines whether, and under what conditions, that land may lawfully be developed.

This distinction is fundamental to Ghana's land administration system. The Lands Commission is responsible for recording and registering interests in land, while District Planning Authorities regulate the use and physical development of land within their respective jurisdictions. Consequently, the fact that land has been registered or that a purchaser has acquired an indefeasible interest does not guarantee that the proposed development complies with an approved planning scheme or satisfies statutory development requirements.

For example, a parcel of land may be validly owned but designated under an approved planning scheme for agricultural, recreational or public purposes. Similarly, land may fall within a road reservation, utility corridor, floodplain, coastal setback, or environmentally sensitive area where development is either prohibited or subject to stringent conditions. In such circumstances, the owner's proprietary rights remain intact, but the ability to develop the land is restricted by law.

This distinction has important commercial implications. Developers frequently negotiate land acquisitions, secure financing, and commence construction based solely on title verification without undertaking planning searches or confirming zoning restrictions. The result is often costly project delays, redesigns, enforcement action, or complete abandonment of the project after substantial capital has already been invested.

For institutional investors and financial institutions, planning compliance is equally important from a lending perspective. Banks financing real estate developments increasingly require borrowers to demonstrate that the proposed project has obtained all necessary planning approvals before loan disbursement. A development that cannot lawfully proceed may significantly impair the value of the lender's security and expose the parties to unnecessary financial risk.

Accordingly, legal due diligence should extend beyond ownership verification to include an assessment of whether the intended use of the property is permissible under the applicable planning scheme. A purchaser who acquires land without understanding these restrictions may obtain good title to property that cannot lawfully be developed in the manner intended.

Development Permits, Building Permits, and Development Control

Another area of confusion among investors is the distinction between a development permit and a building permit. Although these terms are often used interchangeably in practice, they serve different legal purposes and are governed by separate regulatory frameworks.

A development permit, issued under Act 925 and L.I. 2384, confirms that a proposed development complies with the applicable planning scheme, zoning requirements and broader land-use policies. Before granting a permit, the District Planning Authority assesses whether the proposed development conforms to the applicable spatial development framework, structure plan or local planning scheme, and whether it is compatible with surrounding land uses, zoning requirements, transportation networks, environmental considerations, public utilities and other planning standards. The development permit is therefore primarily concerned with where and how land may lawfully be developed in the public interest.

A building permit, by contrast, is concerned not with the suitability of the land use but with the technical safety, structural integrity, and regulatory compliance of the proposed building itself. Issued by the relevant Metropolitan, Municipal or District Assembly (MMDA) under the National Building Regulations, 1996 (L.I. 1630), and in accordance with the Assembly's functions under the Local Governance Act, 2016 (Act 936), the building permit process requires the submission and approval of detailed architectural and engineering drawings, structural calculations and other technical documentation. The Assembly evaluates whether the proposed works comply with applicable building standards relating to structural stability, fire safety, sanitation, accessibility, ventilation, drainage, public health and occupancy requirements before construction is authorized.

These approvals are complementary rather than interchangeable. A landowner who has obtained a development permit cannot lawfully commence construction without first securing the necessary building permit. Equally, the grant of a building permit does not validate a development that is inconsistent with an approved planning scheme or undertaken without the requisite planning approval. Both approvals form part of Ghana's integrated development control system and are intended to ensure that development is not only structurally safe but also environmentally sustainable, compatible with surrounding land uses and consistent with broader urban planning objectives.

Planning authorities and MMDAs retain continuing supervisory and enforcement powers throughout the construction process. Accordingly, where a developer departs materially from approved plans, undertakes unauthorized alterations or proceeds without the requisite approvals, the relevant authorities may issue stop-work notices, enforcement notices or demolition orders, in addition to imposing any other sanctions prescribed by law.

Consequences of Non-Compliance

The financial consequences of planning non-compliance can be severe. Investors frequently perceive planning requirements as obstacles to project delivery, , yet the legal and commercial consequences of ignoring them are often significantly more expensive than the cost of obtaining the necessary approvals.

Under the Land Use and Spatial Planning Act, planning authorities possess extensive enforcement powers to address unauthorized development. These include the power to issue enforcement notices requiring the cessation of unlawful development, prohibit further construction, require alterations to completed works, or direct the demolition of structures erected in contravention of planning laws. Where a developer fails to comply with an enforcement notice, the planning authority may undertake the necessary remedial works and recover the associated costs from the developer.

In addition to regulatory sanctions, investors may face substantial commercial losses. Construction delays can trigger contractual disputes with contractors, purchasers, and financiers. Loan repayments may become due before a project is capable of generating revenue. Marketing campaigns may fail where units cannot be lawfully occupied. Insurance claims may also become problematic if losses arise from developments undertaken contrary to statutory requirements.

Recent enforcement exercises undertaken by public authorities illustrate the practical reality of these risks. In response to recurring flooding and increasing encroachment on waterways, government agencies have intensified efforts to remove unauthorized structures situated on wetlands, drainage channels, and flood-prone areas.

From a commercial perspective, demolition represents only the most visible consequence. Equally damaging are the reputational harm, investor uncertainty, and diminished market confidence that accompany projects found to be in breach of planning laws. Developers with a history of regulatory non-compliance may experience greater difficulty securing future financing, obtaining regulatory approvals, or attracting institutional investment.

For these reasons, sophisticated investors regard planning compliance not as a legal obligation alone, but as an integral element of project governance, risk management and long-term asset protection.

Flooding, Climate Change and Planning Failure: The Emerging Investment Risk

Planning and zoning compliance is no longer concerned solely with regulatory approval; it has become an essential component of climate resilience and investment protection. Across Ghana, particularly within the Greater Accra Region, recurring floods have exposed the severe consequences of weak planning governance, indiscriminate urban expansion, and decades of inadequate enforcement of land-use regulations. For real estate investors, flooding is a material legal, financial, and operational risk capable of undermining the viability of an otherwise profitable investment.

Recent flood events have demonstrated that many developments have been undertaken on waterways, wetlands, floodplains and natural drainage corridors in contravention of approved planning schemes and development control measures. Such developments impede the natural flow of stormwater, reduce the capacity of drainage infrastructure, and significantly increase the likelihood of flooding during periods of intense rainfall. The resulting damage extends beyond individual properties and often affects entire communities, critical infrastructure, and commercial districts.

The growing frequency and severity of flooding have prompted renewed scrutiny of Ghana's planning system. Experts have consistently attributed Accra's perennial flooding not only to climate change but also to systemic weaknesses in planning governance, including poor enforcement of planning laws, fragmented institutional coordination, unauthorized developments, and inadequate protection of environmentally sensitive areas. Consequently, climate change has amplified existing governance challenges rather than creating entirely new ones.

The Ghana Institute of Planners has similarly observed that while changing weather patterns have intensified rainfall events, flooding is fundamentally a planning and governance issue. According to the Institute, ineffective implementation of planning schemes, political interference in development control, encroachment on wetlands, and the absence of coordinated urban planning continue to undermine efforts to build resilient cities.

Planning authorities have responded by intensifying enforcement efforts against unauthorised developments located on waterways and wetlands. Following major flooding incidents, public authorities have undertaken demolition exercises targeting structures that obstruct drainage channels or have been constructed in breach of planning laws. While such measures often generate public debate, they underscore an important legal reality: planning laws exist not merely to regulate development but to safeguard public safety, protect environmental resources and promote sustainable urban growth. Investors who disregard these requirements expose themselves to significant regulatory and commercial risks.

Why Investors Continue to Get It Wrong

Despite the existence of a robust legal framework, planning and zoning disputes remain commonplace in Ghana. This raises an important question: why do experienced investors continue to encounter avoidable planning problems?

One explanation is the disproportionate emphasis placed on land ownership during property transactions. In practice, negotiations often focus almost exclusively on title verification, ownership history, and registration, while planning due diligence receives comparatively little attention. Purchasers frequently assume that because land is lawfully owned and capable of registration, it is automatically suitable for development. As discussed earlier, this assumption is legally flawed. Ownership and development rights are distinct legal concepts governed by separate regulatory regimes.

Another contributing factor is the perception that planning approvals can be obtained after acquisition or even after construction has commenced. While some developers view planning compliance as a procedural hurdle capable of being regularized retrospectively, Ghana's planning legislation clearly requires approval before physical development begins. Delaying compliance significantly increases regulatory risk and may ultimately prove more costly than obtaining the necessary approvals at the outset.

Institutional capacity constraints also contribute to the problem. Delays in processing permit applications, inconsistent enforcement practices, and overlapping responsibilities among public institutions have historically undermined confidence in the planning system. Although these administrative challenges do not excuse non-compliance, they have encouraged some developers to proceed without obtaining the requisite approvals, thereby perpetuating a cycle of unauthorized development.

Best Practices for Developers, Investors, and Lenders

The complexity of Ghana's planning regime requires a proactive approach to risk management. Investors who integrate legal, technical, and environmental considerations into project planning are significantly more likely to complete developments successfully while avoiding costly regulatory intervention.

First, planning compliance should commence before negotiations are concluded. Investors should resist commercial pressure to acquire land solely because of its strategic location or favourable purchase price without first confirming that the intended development is legally permissible. A parcel of land acquired at a discounted price may ultimately prove more expensive than a premium property that is fully compliant with applicable planning requirements.

Secondly, investors should engage experienced professionals at the earliest stages of the transaction. Lawyers, licensed surveyors, architects, physical planners, engineers, and environmental consultants each perform distinct but complementary functions during the due diligence process. Their collective expertise enables investors to identify legal, technical, and environmental risks before significant capital is committed to the project.

Thirdly, transaction documents should allocate planning risks appropriately between the parties. Depending on the nature of the transaction, purchasers should negotiate contractual warranties confirming compliance with applicable planning laws, representations regarding existing permits, indemnities against undisclosed regulatory breaches and conditions precedent requiring the satisfaction of specified planning approvals before completion. Such provisions may substantially reduce post-completion disputes and provide contractual remedies where planning issues subsequently emerge.

Financial institutions likewise have an important role to play. Lenders should incorporate planning compliance into their credit approval processes by requiring borrowers to produce development permits, building permits, and evidence of regulatory compliance before loan disbursement. Where planning risks remain unresolved, lenders should consider imposing additional conditions or withholding funding until the identified deficiencies have been addressed.

Finally, investors should recognize that planning compliance is not a one-time obligation. Significant amendments to approved plans, changes in land use, or subsequent phases of development may require additional approvals from the relevant planning authorities. Continuous regulatory compliance throughout the life cycle of the project is therefore essential to protecting the long-term value of the investment.

Conclusion

The increasing incidence of flooding in Accra and other urban centers provides a timely reminder that planning laws exist for reasons that extend beyond administrative regulation. They protect lives, preserve critical infrastructure, safeguard environmentally sensitive areas, and promote the orderly growth of Ghana's cities. Investors who disregard these objectives do so at considerable risk, while those who embrace planning compliance are better positioned to create resilient, commercially successful, and socially responsible developments.

Planning compliance should not be viewed as an obstacle to investment but as a strategic tool for managing legal and commercial risk. In today's sophisticated real estate market, successful developments will be distinguished not merely by their architectural design or commercial returns, but by their ability to withstand legal scrutiny, regulatory oversight and environmental challenges. The question for every investor is therefore no longer whether they can acquire land, but whether that land can be developed lawfully, safely, and sustainably. Those who answer that question before construction begins are far less likely to find themselves building on borrowed time.

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See Organisation for Economic Co-operation and Development, Citizenship and Residence by Investment Schemes: Potential Risks for Effective Exchange of Information in Tax Matters (OECD 2018) 8.

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Juxtapose Section 27(1)(h) of Act 865 with Section 32(1) of GIPA Act

Ibid, Section 5(1)(g)(iii)

Ibid, Section 7

Ibid, Section 12(2)(c)(iv)

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LEGISLATIVE UPDATE

Ghana Investment Promotion Authority Act, 2026 (Act 1173) – Notable Changes Introduced

In 2013, Parliament passed the Ghana Investment Promotion Centre Act, 2013 (Act 865) as the overarching legislation governing Ghana's investment landscape, and designed to attract, facilitate, and regulate foreign and domestic investment. Act 865 further established the Ghana Investment Promotion Centre as the central body responsible for encouraging and promoting investment in Ghana.

Over the years, several structural and practical weaknesses emerged. They include: the problematic blanket minimum capital requirements; the inadequacy of the incentive framework of Act 865; weak alignment with relatively newer legislations such as the Companies Act, the Exemptions Act, and the Public Financial Management Act; and poor harmonization of Ghana's investment climate with international or regional regimes such as the African Continental Free Trade Area (AfCFTA).

These gaps necessitated the passage of the new Ghana Investment Promotion Authority Act, 2026 (Act 1173) ("the GIPA Act"), a comprehensive law on investment in Ghana which aims to incentivise not only foreign direct investment in Ghana, but also facilitate outward investment by Ghanaian investors. Some notable changes introduced by the GIPA Act are discussed below.

Re-characterization and Expanded Mandate of the Regulator: The GIPA Act recharacterises the Centre as an "Authority". This change is significant because it is a deliberate shift in the institution's legal identity as a promotional "Centre", and subtly conveys to the general public that it has been given a stronger regulatory power, a broader administrative role and enforcement capacity. This is evident from some of the new functions of the Authority which include, inter alia: promoting outward investment by Ghanaian enterprises; acting as the National Focal Point regarding the African Continental Free Trade Area Agreement (AfCFTA); facilitating amicable resolution of investor grievances; and identifying and preparing project profiles on specific projects to attract interested investors.

Revised Minimum Capital Requirements for Foreign Investors: Another crucial change is the shift from blanket minimum capital requirements to industry-based capital requirements, in line with global best practices. Under the previous regime, foreign investors had to meet the following minimum capital requirements: $200,000 for a joint venture with a Ghanaian enterprise; $500,000 for wholly-owned foreign enterprises; and $1,000,000 for trading enterprises. This used to be a major impediment to foreign direct investment in Ghana. Currently, under the GIPA Act, the Authority shall register an enterprise if it is satisfied that the relevant minimum foreign capital requirements have been complied with. However, the exception is where the enterprise is engaged in trading, in which case, the Act has set the foreign minimum capital requirement at $500,000, and requires at least seventy-five percent of the employees of the foreign investor to be skilled Ghanaians. The aforesaid minimum capital requirement for trading does not apply to a portfolio investment. It is important to add, however, that registration for foreign enterprises remains mandatory, and an enterprise of which foreign ownership is permitted shall be registered with the Authority after incorporation and before commencement of operations.

Investor Grievance Mechanism: Another novelty introduced by the GIPA Act regarding investment in Ghana, is the Investor Grievance Mechanism. The Authority has been mandated to establish an Investor Grievance Mechanism for receiving and processing grievances submitted by enterprises regarding their investments in the country. The grievance shall contain information on the grievance; the state institution to which the grievance relates; and any other relevant information. The Authority upon receipt is to facilitate resolution of the grievance within three months, by consulting with the relevant state institution and the enterprise that submitted the grievance.

In practice, investors encounter all sorts of obstacles, ranging from licensing delays, immigration issues, permit disputes, conflicts with land administration, to tax administration conflicts. The introduction of a defined grievance resolution timeline and a coordinated inter-agency framework is one of the strongest aspects of the reform. Additionally, the Authority is obligated to submit quarterly reports to the Office of the President on the grievances received, the decision taken on each grievance, and the status of the grievance where it remains unresolved.

Obligations of an Investor: Under the previous Act 865 regime, the focus was on attracting investors, setting entry conditions, and registration. The new GIPA Act seeks to facilitate responsible investment by introducing "obligations of the investor". Some of the obligations include: complying with the relevant domestic laws, as well as human rights, business ethics, environmental standards, and safety standards. The Act further provides that the Authority may publish guidelines on these investor obligations and monitor compliance in coordination with other governmental agencies.

Citizenship by Investment: The GIPA Act now explicitly links investment activity to citizenship eligibility by introducing Citizenship by Investment (CBI). A CBI Scheme is a legal pathway for foreign investors to obtain a second passport and citizenship in a country by making a significant financial contribution, typically through government donations or real estate investments. Under the Act, the Ministry of Interior shall, in consultation with the Authority, enact relevant legislation to specify the category of investors who qualify to apply for CBI.

Tax Incentives: Another major structural reform is the introduction of industry-specific tax incentives and special tax incentives for strategic investments. Under the GIPA Act, the Minister of Finance may, in consultation with the Authority, by legislative instruments, grant investors an industry-specific or programme-specific tax incentive for an industry or investment programme. Additionally, in furtherance of Section 16 of the Exemptions Act, Cabinet shall determine priority areas of investment for the purposes of promoting strategic investment. The shift towards selective and strategic economic incentivisation is important because it allows the Government to tailor incentives according to sectoral priorities and industrial policy objectives.

Expatriate Quotas and Work Permits: Under the old regime, there was an automatic expatriate quota once an enterprise's paid up capital met certain specified thresholds. The new regime does not necessarily shift from the automatic nature of the quotas, however, it increases the number of specified thresholds and quotas. For example, an enterprise that has invested a minimum capital of more than $10,000,000 is entitled to an expatriate quota of 12 persons. The quotas granted by the Authority upon application, are valid for up to 5 years and may be renewed for further periods, each not exceeding five years. Additionally, the Act explicitly provides that an enterprise that is registered with the Authority and wishes to obtain a work permit for expatriate staff shall apply, through the Authority, to the Ghana Immigration Service.

New Provisions on Technology Transfer Agreements: The GIPA Act explicitly states that a technology transfer agreement (TTA) that is not registered with the Authority is not legally enforceable. Where a TTA is registered, it is valid for five years and subject to renewal every five years, in consultation with the regulator of the relevant sector to which the agreement relates. Another interesting addition regarding TTAs, is that it is behooved on licensed banks to decline payment on behalf of an investor in respect of a TTA, unless the investor has presented to the bank: a certificate of registration of the TTA, and a certified true copy of the TTA.

National Investment Registry: Regarding monitoring and compliance, the GIPA Act mandates the Authority to establish a National Investment Registry and reporting system to undertake activities including: tracking of local and foreign investment performance; the annual compliance review for all local and foreign investors registered under this Act; and surveys on foreign direct investments on investments and re-investment. This inclusion of a centralized investment registry is a highly significant reform as it demonstrates that the new framework is moving decisively toward a data-driven and compliance-oriented investment governance model.

Compensation for Loss: The new GIPA Act also introduces a provision on compensating investors who suffer loss directly related to their investments as a result of war, armed conflict, revolution, revolt or any other similar event, and that loss is attributable to a failure of Government to comply with its obligations under Ghana's laws. In such circumstances, the investor shall be compensated whether it is a wholly Ghanaian-owned enterprise or a foreign investor registered under the Act.

Exclusion of Pool Betting and Lottery from Enterprises Reserved for Ghanaians: The betting and gaming industry has dramatically evolved since Act 865 was enacted. It comes as no surprise, therefore, that under the new regime, Parliament maintained all the reserved activities under the previous regime but for "all aspects of pool betting business and lotteries, except football". This removal indicates that foreign participation in pool betting and lottery-related businesses may now be permissible for foreigners, subject to regulatory oversight by the Gaming Commission.

Improved Governance Structure of the Authority: The new investment regime positions the Authority as a central strategic investment institution embedded within executive governance, and repositions investment governance as a matter of national economic strategy and executive policy coordination. Firstly, there is an inclusion of the Minister for Foreign Affairs, or a duly appointed representative from the said Ministry, on the governing body of the Authority ("the Board"). This furthers alignment of investment policy with Ghana's international obligations, foreign policy, and strategic bilateral relationships. Secondly, the GIPA Act imposes duties and liabilities on the Board to signal ethical governance, fiduciary responsibility, regulatory accountability, and transparency. Finally, the GIPA Act includes on the Technical Committee of the Board a representative from the Office of the Registrar of Companies. This reform is practical and very important because it creates institutional integration regarding company incorporation, investment regulation and compliance supervision.

Conclusion

The new GIPA Act represents a significant evolution of Ghana's investment governance framework from a registration and promotion-oriented regime into a more strategic, coordinated, and compliance-driven system of investment administration. The reforms collectively demonstrate a deliberate shift toward modern investment governance through stronger executive oversight, inter-agency coordination, data-driven compliance monitoring, investor grievance resolution mechanisms, responsible investment obligations, targeted incentive structures, and enhanced regulatory supervision. Additionally, the new framework tries to balance making Ghana attractive to investors with protecting the country's economic interests. It does this by allowing more foreign participation while also increasing supervision over sectors reserved for Ghanaians, promoting local participation, and ensuring investors follow proper standards of conduct. The introduction of special investment incentives, centralized reporting systems, and CBI provisions also shows an effort to use investment regulation as a tool for Ghana's broader economic growth and development.

Community Service Bill, 2026

On 8 July 2026, Parliament passed the Community Service Bill, 2026, marking a significant step in Ghana's criminal justice reform. The Bill establishes a legal framework for community service as a non-custodial sentencing option for eligible offenders convicted of minor offences, with the objective of reducing prison overcrowding, lowering incarceration costs, and promoting rehabilitation and reintegration.

A key feature of the Bill is the establishment of the National Community Service Secretariat under the Ministry of the Interior to administer, coordinate and oversee the implementation of community service orders nationwide.

The Bill empowers courts to impose community service for specified offences, including offences punishable by imprisonment of up to three years and certain fine-only offences, while excluding offences that are unsuitable for summary determination.

The Bill, which is awaiting presidential assent, gives effect to the non-custodial sentencing provisions under the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) and the Interpretation Act, 2009 (Act 792). If implemented effectively, it is expected to ease pressure on Ghana's correctional system while advancing a more rehabilitative and restorative approach to criminal justice.

Tribunals Bill, 2026

Parliament has passed the Tribunals Bill, 2026, establishing a comprehensive legal framework for the constitution, jurisdiction and operation of Regional and District Tribunals under the 1992 Constitution. The Bill also establishes a Tribunal Oversight Committee to strengthen institutional accountability and oversight.

The Bill formally integrates Regional and District Tribunals into Ghana's judicial system while affirming their independence. It clearly defines their respective criminal jurisdictions, with Regional Tribunals exercising High Court-equivalent jurisdiction over specified offences, including economic crimes, taxation, customs, mining and other offences against the State, while District Tribunals exercise concurrent criminal jurisdiction with the Circuit Court, subject to certain constitutional limitations.

The Bill also introduces a structured appellate framework, with appeals from District Tribunals lying to the Regional Tribunal and appeals from Regional Tribunals to the Court of Appeal. Constitutional questions arising in tribunal proceedings must be referred to the Supreme Court for determination before proceedings continue.
A notable feature of the Bill is the introduction of expedited procedures for criminal proceedings under the Minerals and Mining Act, 2006 (Act 703), including strict timelines for commencing and hearing cases, day-to-day trials where practicable, and restrictions on stays of proceedings. The reforms are intended to enhance the efficiency, consistency and accountability of tribunal proceedings while supporting the swift prosecution of offences of significant public and economic importance.

National Identity Register (Amendment) Regulations, 2026 (L.I. 2523)

The National Identity Register (Amendment) Regulations, 2026 (L.I. 2523) introduce a mandatory biometric identity verification regime for transactions requiring the Ghana Card, marking a significant shift from document-based to biometric authentication.

Under the Regulations, organisations must verify an individual's identity directly against the National Identity Database or through approved match-on-card technology before providing specified services. The Regulations prohibit reliance on visual inspection of the Ghana Card or on photocopies, scanned copies or images of the card for identity verification.

To strengthen compliance, the Regulations impose criminal and administrative sanctions on organisations that fail to comply with the new verification requirements, including substantial fines and the suspension or termination of access to the National Identification Authority's Identity Verification Services Platform. The Regulations also create an offence for refusing, without reasonable excuse, to surrender a Ghana Card for biometric authentication by an authorised officer.

The reforms are intended to strengthen the integrity of Ghana's identity verification framework, reduce identity fraud, and promote secure and reliable authentication across both public and private sector transactions.

BUSINESS UPDATE

Ghana International Bank and Ghana Export-Import Bank Strengthen Partnership to Boost Export-Led Growth

Ghana International Bank (GHIB) and the Ghana Export-Import Bank (GEXIM) have announced a strategic partnership aimed at accelerating Ghana's export-led growth by improving Ghanaian businesses' access to international markets, trade finance, and global banking services.

The partnership, which will be formalised through a Memorandum of Understanding, will combine GEXIM's domestic export financing, advisory, and export development programmes with GHIB's expertise in correspondent banking, treasury and foreign exchange services, syndicated finance, commodity finance, and international trade. Together, the two institutions intend to provide end-to-end support for exporters, from export readiness and production to international trade execution and access to global financial markets.

The collaboration is expected to strengthen Ghana's trade finance ecosystem, improve access to international markets, attract greater investment into export sectors, and enhance the competitiveness of Ghanaian businesses, particularly micro, small and medium-sized enterprises (MSMEs). The initiative also supports Ghana's long-term ambition of becoming a leading regional hub for trade, investment, and export-led growth.

National Communications Authority Ends Next Gen Infraco Limited's Exclusive 5G Licence

The National Communications Authority (NCA) has amended the Wholesale Electronic Communications Infrastructure Licence of Next Gen Infraco Limited (NGIC), removing the condition that granted the company exclusive rights to operate as Ghana's sole wholesale 5G infrastructure provider.

According to the NCA, the decision reflects the evolution of Ghana's telecommunications sector and the need to foster a more competitive wholesale 5G market. The Authority stated that opening the market to competition is expected to encourage greater investment, innovation, network resilience, improved service quality, and wider access to advanced communications services.

The amendment was made pursuant to Article 6.1.2 of NGIC's Licence and Section 14 of the Electronic Communications Act, 2008 (Act 775), following a regulatory process in which NGIC was notified of the proposed amendment and given the opportunity to make both written and oral representations. After considering these submissions, the NCA concluded that removing the exclusivity condition was in the public interest.

The amendment, which took effect on 15 July 2026, affects only NGIC's exclusive rights and does not alter the remainder of its Licence, including its spectrum assignment. The move aligns with the Government's objective of expanding access to 5G services and achieving 70% nationwide population coverage by Ghana's 70th Independence Anniversary in 2027.

United Kingdom, Ghana Infrastructure Investment Fund and FSD Africa Launch Green Infrastructure Financing Facility

The United Kingdom, the Ghana Infrastructure Investment Fund (GIIF) and FSD Africa have launched a Green Project Preparation Facility (PPF) to develop climate-resilient infrastructure projects and mobilise private investment for Ghana's infrastructure sector.

The facility, first announced during President John Dramani Mahama's visit to the United Kingdom under the UK-Ghana Growth Partnership, is backed by an initial £5 million commitment from the UK Government. Hosted and managed by FSD Africa in partnership with GIIF, the PPF will support the preparation of investment-ready green projects by reducing project development risks and creating a pipeline of bankable infrastructure opportunities.

The facility will be open to both public and private sector developers of climate-aligned projects across sectors including renewable energy, transport, water and waste management, housing, urban infrastructure and social infrastructure. Projects will be assessed based on their climate impact, financial viability and investment potential. The initiative is expected to strengthen Ghana's climate resilience, attract private capital, and help address the country's infrastructure financing gap while supporting the transition to a low-carbon economy.

JUDICIAL CORNER

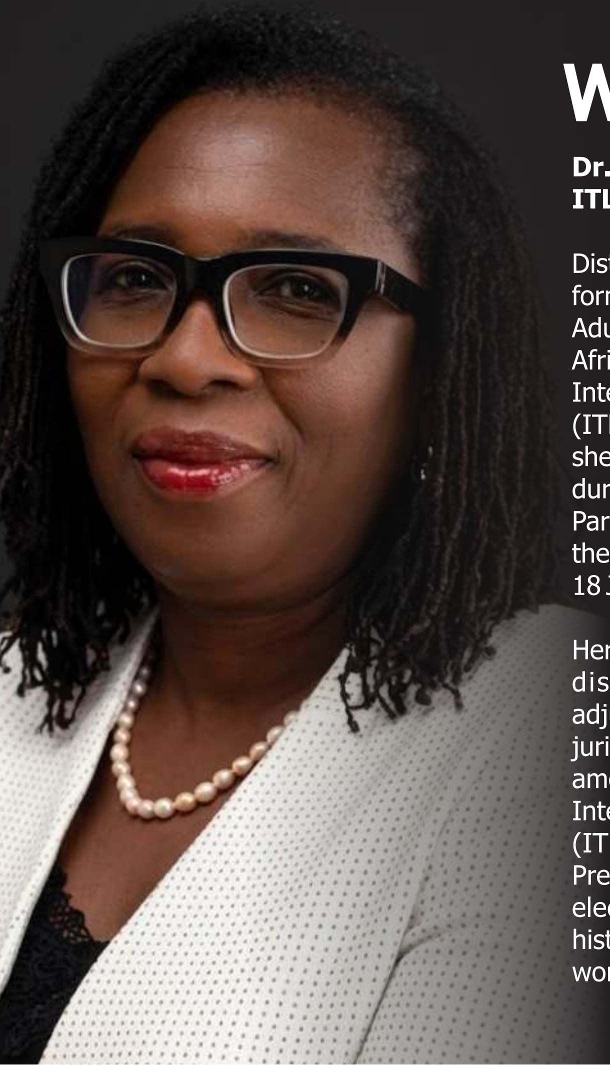
Supreme Court Celebrates 150 Years

The year 2026 marks a significant milestone in Ghana's legal history as the apex court of the land celebrates 150 years of judicial service. The Supreme Court was established by the Supreme Court Ordinance of 1876 as the highest tribunal of the Gold Coast during the colonial era. Although the Court experienced periods of interference during the years of military rule that followed Ghana's independence, it has since remained a vital institution in the administration of justice.

Over the years, the Supreme Court has delivered numerous landmark decisions including Tuffour v. Attorney General, New Patriotic Party v. Attorney General and JH Mensah v Attorney General, which have profoundly shaped Ghanaian jurisprudence. Through its judgments, the court has clarified constitutional provisions, resolved complex legal disputes, and reaffirmed the enduring principle that no individual or institution is above the law.

The theme for the celebration was "Honouring the Past, Celebrating the Present and Defining the Future." The celebration was officially launched on 16th April 2026 at the Cedi Conference Centre, University of Ghana. Over the course of the commemorative period, a series of activities were held, including legal outreach programmes, media engagements, and moot court sessions. The celebrations culminated in a thanksgiving service held on 31st July 2026.

The 150th anniversary offers an opportunity to honour and celebrate the invaluable contributions of generations of judges, lawyers, and judicial staff whose dedication and service have shaped Ghana's legal system. It is also a moment to reflect on the Supreme Court's enduring role as the guardian of the Constitution, the protector of fundamental rights, and the final arbiter of legal disputes. Today, operating from its majestic 1929 home in Accra, the Supreme Court continues to stand as a symbol of justice and the rule of law.



B&P ASSOCIATES

WHO's WHO?

Dr. Sylvia Adusu: Ghana's First Female ITLOS Judge

Distinguished international law expert and former Chief State Attorney Dr. Sylvia Ama Adusu has made history by becoming the first African woman elected as a Judge of the International Tribunal for the Law of the Sea (ITLOS). Securing 130 of the 169 votes cast, she was elected for the 2026–2035 term during the Thirty-Sixth Meeting of States Parties to the United Nations Convention on the Law of the Sea (UNCLOS) in New York on 18 June 2026.

Her election further consolidates Ghana's distinguished legacy in international adjudication. Notably, the eminent Ghanaian jurist, Judge Thomas Aboagye Mensah, was among the inaugural judges elected to the International Tribunal for the Law of the Sea (ITLOS) in 1996 and served as its first President from 1996 to 1999. Dr. Adusu's election therefore represents not only a historic breakthrough as the first African woman to serve on the Tribunal, but also a reaffirmation of Ghana's longstanding contribution to the development and progressive evolution of international maritime law.

Dr. Adusu has played a significant role in advancing Ghana's interests in international maritime law. She was a key member of the legal team that secured Ghana's victory in the maritime boundary dispute with Côte d'Ivoire before ITLOS, advised on the ARA Libertad (Argentina v. Ghana) case, contributed to Ghana's extended continental shelf submissions, and represented the country in climate change advisory opinion proceedings before the International Court of Justice. Her election reflects international recognition of her expertise, integrity, and contributions to the development of the law of the sea.

FIRM NEWS

B&P Associates' Milestone of Excellence at the African Legal Awards 2026

B&P Associates is proud to celebrate the recognition of both its leadership and practice excellence at the African Legal Awards 2026. Our Managing Partner, Adelaide Benneh Prempeh, has been shortlisted for Partner of the Year – West Africa (Private Practice), while our Property & Construction Team has earned a well-deserved shortlist for Property & Construction Team of the Year.

These prestigious nominations are a testament to the exceptional leadership, technical excellence, and unwavering commitment to client service that define our Firm. They also reflect the dedication and collaborative spirit of our lawyers in delivering outstanding legal solutions across practice areas

We warmly congratulate Adelaide and our Property & Construction Team on this remarkable achievement and wish them every success at the African Legal Awards 2026.

BPA Academy Launches Its Inaugural Mentorship Programme

The Firm officially announced its inaugural mentorship initiative dedicated to nurturing the next generation of legal professionals – the BPA Academy. Officially launched during the Firm's 2026 Pro Bono Week, the BPA Academy was established to bridge the gap between legal education and professional practice by equipping aspiring lawyers with the practical knowledge, mentorship, and professional guidance essential for a successful legal career.

Participants will benefit from meaningful engagement with experienced practitioners, practical insights into the realities of legal practice, and opportunities to develop the skills, professionalism, and confidence required to transition from the classroom to the profession.

Through the BPA Academy, B&P Associates reaffirms its commitment to investing in the future of the legal profession by creating opportunities that inspire excellence, foster professional growth, and make a lasting impact within the wider legal community. We encourage all eligible law students seeking valuable mentorship and practical exposure to submit their applications.

Strengthening Expertise in Private Markets: A Milestone for Michelle Essuman

The Firm is pleased to congratulate our Partner, Michelle Nana Yaa Essuman, on the successful completion of the Oxford Private Markets Investments Programme at the Saïd Business School, University of Oxford.

This significant achievement further strengthens the Firm's capacity to advise investors, fund managers, founders, and businesses on complex private market transactions. It also reinforces our commitment to delivering commercially astute legal advice, underpinned by technical excellence and a deep understanding of the evolving investment landscape.

Michelle's accomplishment reflects our continued investment in professional development and our dedication to equipping our lawyers with world-class knowledge to better serve our clients. We extend our warmest congratulations to Michelle on this well-deserved milestone and wish her continued success in her professional journey.

CONTRIBUTORS

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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.

B&P ASSOCIATES

About B & P ASSOCIATES

B&P ASSOCIATES is ranked as a Legal 500 Europe, Middle East & Africa (EMEA) and a Chambers & Partners Global Leading Law firm. We are a Corporate and Commercial legal practice and consultancy, with an excellent reputation, based in the 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 https://www.bpaghana.com

BPA Community First Podcast

The Firm launched its Podcast at the beginning of 2023- "The BPA Community FIRST Podcast".
Our focus is to bring together a diverse group of experts and practitioners to share their views on various legal and social issues that matter most to our community. We are excited to collaborate and build effective partnerships to enrich the quality of our discussions. Our goal is to empower individuals with the knowledge of the law as a tool for creating lasting, positive change.

B&P ASSOCIATES

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