

**“LAND ACQUISITION IN THE CONTEXT OF  
INSTITUTIONAL  
PROBLEMS IN THE LEGAL AND ADMINISTRATIVE  
FRAMEWORK IN TRINIDAD AND TOBAGO”**

**Esric Huggins, Karen Roach and Germaine Jessemy**

*Ministry of Food Production, Land and Marine Affairs Land Management Division,  
Trinidad and Tobago*

**ABSTRACT:** Acquisition of land involves the identification of suitable space for a developmental purpose through proper investigative methodologies. This process requires planning, conveyancing or statutory permission, for various works to be undertaken, including but not limited to soil, structural and cadastral surveys. The process may involve problems of ownership and delays in the compensatory negotiation process, due to legal title being vague. Acquisition of land by the State acts as tool to assist in the management of a country’s natural resources. This tool may be used to help mitigate and prepare against damage from future disasters (both natural and manmade) in a country and assist in the satisfaction of human needs and wants via land development. Human resource capacity can be increased when jobs are created, unemployment reduced, skills developed and experiences gained, when an acquisition project is undertaken to develop land. Skills development and experience can assist in the alleviation of poverty. This paper examines Chapter 58:01, (The Land Acquisition Act) of the laws of the Republic of Trinidad and Tobago, with specific attention to the institutional influences by state agencies, acquiring land for a public purpose and their impact on the legal and administrative framework in the land acquisition process. For example acquisitions undertaken by Government Ministries, Special Purpose Companies (SPECs) and other quasi-state bodies, which have acquired property for a public purpose.

**KEYWORDS:** Acquisition, Development, Land Administration, Natural Resources and Institutional

## **INTRODUCTION**

As a developing nation, there is much to be done to assist the lives of everyday citizens in Trinidad and Tobago in order for them to enjoy some level of desired comfort. However, as with many undeveloped, developing and developed nations of this world, this so called desired comfort cannot be achieved without some sort of discomfort to the citizenry. Land acquisition is the tool governments use to acquire private property in order to provide public facilities for enjoyment by citizens.

The Land Acquisition Act allows land to be acquired by the State, when in the opinion of the President; the land is likely to be required for a public purpose. Corporations, companies and persons can also acquire land under the Land Acquisition Act. Entities or persons desirous of doing such are regarded as Promoters under Section 2 sub section 1, Part III and Part IV under “Special Cases” of the Act.

The Act gives the Commissioner of State Lands acting on behalf of the President, the responsibility to acquire lands on behalf of the State. In “Special Cases” the Act under Part I, Highway Authorities the Permanent Secretary to the Minister of Public Works and Part II, the Town Clerk or Chief Executive Officer in a Municipal Council can be referenced in the Act to be the Commissioner and they can also acquire land.

Although the Act does not define what is a public purpose a public purpose can be construed to be the development of land for public usage. A public purpose must be identified before land is acquired by the State compulsorily. All compulsory acquisitions except some acquisitions which may fall under a Highway Authority fall under the purview of the Ministry of Food Production, Land and Marine Affairs.

## THE TRINIDAD AND TOBAGO LAND ACQUISITION FRAMEWORK

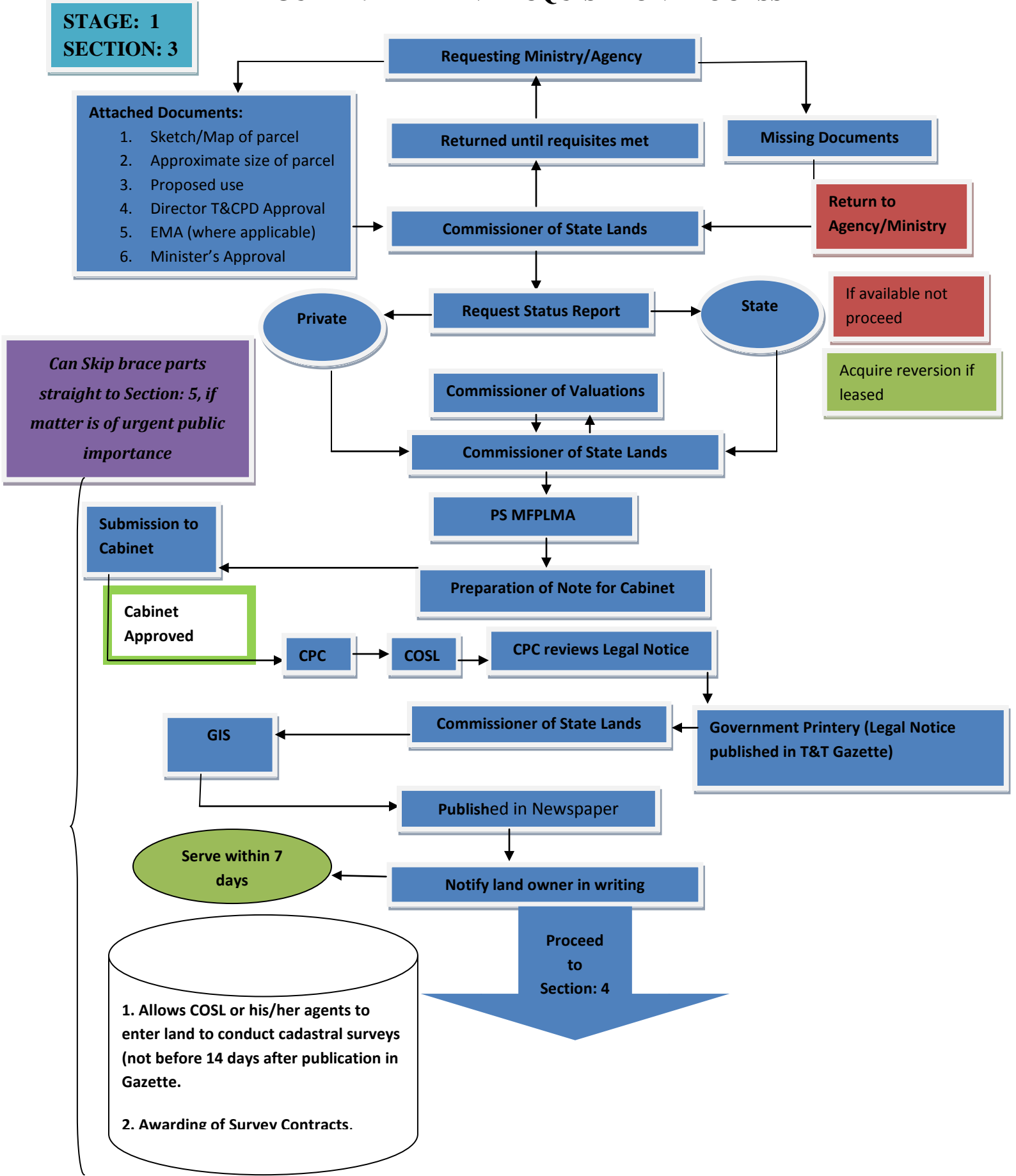
There are various institutions involved in the compulsory Land acquisition process in Trinidad and Tobago.

**TABLE 1: INSTITUTIONS & THEIR FUNCTIONS IN THE LAND ACQUISITION PROCESS**

<b>INSTITUTION</b>	<b>FUNCTION</b>
1. REQUESTING MINISTRY/AUTHORITY	Locate site/s, gather relevant documentation and take possession of land
2. LAND MANAGEMENT DIVISION (COSL)	Initiates, coordinates process and obtains all relevant information and documents in respect of an acquisition
3. MAPPING & SURVEYS DIVISION (DIRECTOR OF SURVEYS)	Issuing of survey contracts and processing of survey plans
4. VALUATION DIVISION	Provide Sections 3 & 5 Valuation reports, as well as negotiate with claimants/representatives
5. a. CHIEF STATE SOLICITOR b. CHIEF PARLIAMENTARY COUNSEL (CPC)	To Provide legal advice to the COSL and prepare Legal Notices
6. MINISTRY OF FOOD PRODUCTION, LAND & MARINE AFFAIRS (PSMFPLMA)	Reviews & submits Notes to Cabinet
7. MINISTRY OF FINANCE	Allocates funds to meet payments
8. CABINET	Gives approval to proceed with an acquisition
9. GOVERNMENT PRINTERY	Prints & publishes the legal notice in the Trinidad and Tobago Gazette
10. GOVERNMENT INFORMATION SERVICES LTD (GIS)	Publishes Legal notice in daily newspaper
11. PARLIAMENT	Grants approval for formal vesting of land in State
12. REVENUE OFFICE	Provides Information on parcel ownership. Assists in the serving of Notices
13. REGISTRAR GENERAL	Registers caveats and updates land registry
14. TOWN & COUNTRY PLANNING DIVISION	Authorizes Planning Approval
15. ENVIRONMENTAL MANAGEMENT AGENCY	Agency with authority to provide environmental clearance for developmental projects to commence (where applicable)

Not to be taken as exhaustive, Table: 1 shows the main institutions and a summary of their functions above. Most of the institutions above operate at more than one stage or various parts of the acquisition process.

**FIGURE 1: THE LAND ACQUISITION PROCESS**



Continue from Section: 3

Not earlier than 2 months after section 3 publication in Gazette

**STAGE: 2b**  
**SECTION: 4**

Section 4 Approved by Cabinet/ Legal Notice approved by CPC

COSL gives authority to requesting Ministry or Agency to enter the land

Did not take possession of land within 6 months after publication of Legal Notice

Published in T&T Gazette & Daily Newspapers

Commissioner of State Lands

Within 7 days

Notice served on land owner

Proceed to Section: 5

1. Possession taken at Date of Entry
2. Compensation determined from Date of Entry
3. Advanced Payment not exceeding 80% can be made
4. Registrar General to be notified of all advanced payments
5. Caveat to be lodged on property

**STAGE: 2a**  
**SECTIONS: 8 & 9**

Abandoned if no order issued under Section: 4 and no declaration under Section: 5

**STAGE: 3**  
**SECTIONS: 5-7**

Continue  
from  
Section: 4

Approved Survey Plans  
By Director of Surveys

Commissioner of State Lands

For Section 5 Valuation Report

2 copies of approved survey plan sent  
to Commissioner of Valuations

Report together with Survey Plan and  
recommendations from COSL

PSMFPLMA

Cabinet

Approval tabled in both Houses of  
Parliament

CPC prepares Legal Notice

Government Printery for Publication in  
Gazette

Date of Publication  
is effective date  
land becomes  
vested in the State

Commissioner of State Lands

GIS

Notice served on land  
owners

Warden's Office

Publication (2) twice in a daily  
Newspaper

Registrar General

Figure 1 gives a diagrammatic representation of the land acquisition process from Section 3 to Section 7 in the compulsory Land Acquisition Process. From the requesting Ministry/Agency where the development is conceptualized at Stage 1 (Section 3 of the ACT) to the Registrar General, Publication in the Gazette and Service of Notice on land owners at Stage 3 (Sections 5-7).

## **INSTITUTIONAL PROBLEMS**

The institutional problems in the Land Acquisition process can be classified into both legal and administrative delays. These are;

### ***LEGAL***

#### **Ignorance to law**

Most are genuinely unaware of their correct role and function and the law as it pertains to the Land Acquisition Act. These have caused delays, even from the onset in an acquisition process, with the submission of missing documents to the Commissioner of State Lands to start an acquisition. Additionally, the Act is interpreted differently at by different agencies of the State.

#### **Title and Status Reports**

A status report is conducted to determine whether a parcel of land is state or private. These statuses are done manually. At times the plans, lease and survey order books at the vault of the Director of Surveys are soiled, torn and missing. These cause delays in moving from one step to the next in the process. There are also damaged books at the vault of the Director of Surveys which have not been scanned in the ongoing digitization process at that Division.

At the Registrar General a search is conducted to determine the true recipient of compensation. This can be done at any stage and part along the acquisition process. However, with two systems of registration operating parallel to each other, i.e. Registration of Deeds and Registration of Title, there are delays in producing a sound report. The Registration of Deeds System is computerized post 1969, with previous years and the Registration of Titles System not computerized.

“Minors’ property” is another problem, especially in Tobago. Many people believe that legal interest in property automatically passes down from one generation to the next, but this is not the case in local law. Additionally, Applications for Grant of Probate or Letters of Administration take time to process. Title for these properties cause delays and time loss occurs in determination of title and compensation.

## **ADMINISTRATIVE**

### **Cooperation**

Lack of synergistic cooperation occurs amongst State agencies. For example title searches on parcels which would have been conducted on parcels of land for a highway acquired a decade ago cannot be accessed by another State agency undertaking an acquisition project for the laying of pipelines or overhead cables on the same parcel of land and a new title search is done. This causes inadequate delays in the acquisition process and untimely restitution for affected land owners who under compulsory purchase powers by the State are forced to sell their lands against their will.

### **Compensation**

The Land Acquisition process at times can be very long and drawn out. Most times State entities are unaware of their role and function in the process. Ministries and State agencies tend to cut corners and this usually lead to compensatory problems for the affected land owners and other State entities later in the process. In a lot of cases the State has acquired and utilized private properties long before compensating the land owner. Many of these cases show that claimants have waited decades to be compensated and others are still waiting to be compensated.

Claimants awaiting payment for lands acquired face further disappointment. Though budget estimates are submitted before the beginning of each financial year by the Ministry of Food Production, Land and Marine Affairs to pay claimants, the sums received from the Ministry of Finance is always below in adequate. In many circumstances claimants are paid years later from the date of settlement thus costing the State additional interest at 9% per annum, which adds up to millions of dollars. Where there is more than one owner to a property they tend not to agree on compensation and delay the negotiation process. Persons are also unwilling or slow in obtaining valuation advice.

### **Duplication**

Why is there the need to go to Cabinet two or three times in some instances for each of the Sections 3, 4 and 5? Why Parliament is only consulted at the end of the process? Why does a legal notice have to be manually reviewed by Chief Parliamentary Counsel (CPC), then the Commissioner of State Lands and back to CPC before its publication? These are some administrative and issues which add to time to the closure of a land acquisition project.

### **Surveys**

There seem to be a shortage of land surveyors under the purview of the Director of Surveys. However, there are inordinate delays in the completion of survey plans and at times the survey order has to be contracted.



## **SOLUTIONS**

Technology has bolt from the stable and the State need to keep abreast. Each agency should be able to interact via the use of the web or some government portal utilizing data sheets to assist in a timelier management of the process.

There lies the need to increase land survey staff under the Director of Surveys Division. In addition, the digitization process at the vault of the Director of Surveys is an ongoing process and though some of the records cannot be saved, steps should be taken for re-surveys to be done and the use of technology in the determination of the status of parcels of land.

Efforts are also being made to computerize pre-1970 deeds. There is need for a fully computerized titling system to cut the time it takes to conduct a title search at the Registrar's Office. Proclamation of the Land Adjudication Act can provide assistance.

Affected land owners have claimed that compensation received is in adequate. However, in many instances persons have negotiated with the Commissioner of Valuations on their own behalf instead of accessing the services of a professional valuator.

Recommendations should be made to Cabinet to set up a fund so that budgetary expenditure can be met and claimants paid on time. This would greatly reduce compensation delays as claimants would not have to wait until funds are released or the new financial year.

There is the need for adequate staffing of the Land Acquisition Unit of the State were the staff should also consist of Land Surveyors, Attorneys, GIS technicians and additional field personnel to compliment the present unit. In the developed world the time taken for an acquisition is reduced, since each agency such as for water, heating, lights, rail, etc. have specialist units dedicated towards land acquisition. Also, private firms are contracted to carry out an acquisition on behalf of the State.

There exists the need for greater synergistic and cooperative approach among State entities. Time is of essence and everyone should have a proper understanding of their role and function in the Land acquisition process so that things should move faster. These should involve all agencies in the process applying thorough management using technology for risk assessment and critical analysis of each acquisition project. These value engineered tools can assist in a high delay reduction and a much shortened land acquisition time frame.

It's been ten (10) years since the Land Acquisition Act has been reviewed and amended. This can assist in the removal duplicated parts of the process.

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