HOUSING LAW

AND

MANAGEMENT OF HUMAN SETTLEMENTS IN ZAMBIA

by

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ABSTRACT

This research is aimed at generating an understanding of the legal framework within which human settlements are built and managed in Zambia. It will also examine the manner in which the Zambian Government endeavours to implement its housing policies. It is therefore intended to:

(i) identify the legal arrangements under which human settlements are built and problems an individual involved in building a shelter encounters and particularly, those settlements that are created under legislation.

(ii) analyse and attempt to evaluate the success or otherwise of the various housing policy alternatives that have been employed in the establishment of human settlements.

Several policy statements have been made, all of them well intentioned, in National Development Plans, in circulars, seminars and at human settlements conventions outlining the steps to be taken in order to eliminate the national housing shortage.

Whatever action the government takes concerning the building of human settlements, is invariably expressed either in legal regulations or in the activity of government officials within the legal system broadly conceived. Like many other governments, especially those in developing
countries, the Zambian government lacks the capacity to gather data.

It may be argued that this has in the past led to inadequate decisions concerning housing. It is therefore necessary to develop better and more informed methods of tackling the legal, political, social and economic problems involved in housing, hopefully, with corresponding benefits to public officials responsible for planning and implementing housing development.

Despite determined government effort in this sphere, the problem of the shortage of housing particularly, in the urban sector persists and increases in magnitude every year. Stressing this point at a recent housing seminar held at Kalingalinga Squatter compound in Lusaka, District Governor, Mr Simon Mwewa, is reported in the Times of Zambia to have stated that:

"The demand for houses in Lusaka between 1963 and 1974 was 56,700 but the Council only managed to provide 6,934 homes. Because of this, and out of sheer necessity, squatters put up a mortley number of 27,000 shelters. In doing so, the squatters were either conscious of the fact that they were breaking the law or it did not occur to them that such a law existed at all.

In recognition of the enormous demand for urban housing, Council was forced to upgrade squatter areas by providing basic services such as gravel roads, water, street lighting, schools and clinics. Squatting, he said, was primarily a legal concept and involved the occupancy of land or building without the permission of the owner."

Times of Zambia dated 25th April, 1983.

Indeed to most squatters, the question of legality about putting up...
one's home does not arise. This anomaly arises from the fact that in some tribal areas of Zambia where urban squatters come from, it is not necessary to obtain permission to build a house. In areas where tribal custom requires a chief's permission, rules and procedures are not so stringent as they are in urban setting. In any case, these settlers resent the derogatory reference to them as squatters; they feel better of, with a roof over their heads. It is a question of which side of the fence one happens to be.

NATURE OF RESEARCH

The study deals, as stated above, with legal arrangements, that have been involved in the building of human settlements. Laws of any country are designed to promote the building of adequate and the sale of housing for its population. The rules and laws adopted are usually a means to this objective rather than an end in themselves. Zambia's problem is seen as one involving rules that facilitate the building of adequate and safe accommodation for its people thereby raising the levels of living standards of Zambians. With regard to the issues that will be discussed, no "strictly legal" study is possible. The problems of housing laws in Zambia are related to political, economic and social questions, so that any "detached" legal scrutiny is both impossible and meaningless. To study housing law meaningfully and usefully in Zambia or indeed elsewhere one has to be constantly aware of non-legal factors involved.

SOURCES OF INFORMATION

For preliminary information, the study relied on Library and archival sources and official reports and documents. For the information concerning
legislation, the study relied principally on acts of parliament and city bye-laws. For information concerning the daily working of the Institutions established to develop human settlements, the study examined the reports of these institutions.

To supplement the sources of information mentioned in the foregoing paragraph, I visited and interviewed Senior officials of the National Housing Authority. The Authority and its predecessor the Zambia Housing Board have played a predominant role in the initiation and implementation of housing policies.

Section 19(1) of the National Housing Authority Act vests in the Authority important housing functions and reads:

"It shall, subject to the provisions of this Act, be the object and general duty of the Authority to keep under continuous review housing conditions in the Republic and the needs of the Republic with respect to the provision of further housing accommodation and to provide, or to secure and promote the provision of, such housing accommodation for the Republic and to take all such steps as it may appear to the authority requisite or expedient in those respects".

A study of this nature would be incomplete without obtaining first hand information from officers of the Authority who are involved in the day to day implementation of housing policies. The Managing Director
and his staff are in a better position to experience at first hand the practical problems faced in the task of providing human shelter. For this reason, interviews at the National Housing Authority gave me an insight of the true nature of these problems.

The shortage of housing in the third world is acutely felt in urban areas. This is equally true in Zambia where urban populations have increased since independence at such a rapid rate that available housing resources could not cope with this unprecedented increase. This has led to unauthorised squatter settlements in urban areas. Urban local authorities have therefore become overburdened with squatter and other urban housing problems. Any measures proposed to overcome or mitigate hardships arising from acute housing shortages have to be administered and implemented by urban or rural local authorities. For this reason, it was necessary to interview those council officials who were closely involved in the implementation of the various housing policy directives.

My reason for choosing to interview officers in the Lusaka Urban Council was that the Council appeared to have successfully implemented site and service and squatter upgrading schemes through the Housing Project Unit.

The Site and Service Project which is nearing completion is financed by the World Bank. Officers, particularly the Project Director and field staff in the Housing Project Unit have valuable experience, information and literature that have accumulated during the implementation period and proved a useful source of material for my research.
Ndola and the Copperbelt towns have equally experienced similar influx of population from rural areas. Although they have not yet enjoyed financial assistance to the extent that Lusaka has, they are trying to resolve housing problems in their own way and visits to officers dealing with housing in those areas proved useful.

Reports and articles read on this subject, indicated that whilst rural emigration has created urban overcrowding and other attendant problems of unemployment and increasing crime rate, rural areas were experiencing problems of a different nature. Rural areas have been robbed of able bodied manpower. Villages are sparsely populated. As a result, the village re-grouping projects within the context of the Intensive Development Zones have failed to take root because rural leadership potential has emigrated to towns. The migration to urban areas has a bias towards young people who were supposed to be the backbone of the development projects mentioned above. The elderly population in the villages cannot provide the manpower necessary for projects implementation.

Whilst squatters in rural towns may experience similar problems, it is unlikely that the intensity of such problems will be to the same extent as those experienced in urban areas. It is not uncommon to find workers in rural towns being accommodated in nearby villages. A study of the European Development Fund (EDF) which is earmarked for the financing of plots and housing in rural towns pinpoints the fact that squatter settlements have sprung up in rural towns and the fund is meant to help solve this problem.
SCOPE OF STUDY

PART I

1. Part I deals with the urban housing situation with a view to identify the housing problems; categories of land available for housing, urban land tenure and the procedures followed in providing housing in Zambia. Reference is often made to such institutions as the National Housing Authority and Local Authorities which are charged with the responsibility of the implementation of housing policies.

Human settlements in villages do not pose very serious housing problems. However, this study has examined the manner in which permission, if any, is obtained to build houses and how houses are built in the villages.

This section tries to highlight problems encountered by both the central government and local authorities in controlling and regulating formal and unauthorised human settlements in the urban areas and further attempts to investigate the powers of chiefs with regard to settlements and the creation of villages.

2. Part I also examines the development of Human Settlements in Urban Areas. This section investigates and compiles the law relating to housing with a view to analyse the legal framework within which human settlements are built and regulated. This involves an
3. This part of the study also investigates the operations of such bodies as the National Housing Authority and the Local Council Housing Units.

Chapter One is an introductory Chapter aimed at discussing the general urban housing situation in Zambia. In this Chapter, an effort has been made to show the various categories of land available for the purpose of housing in urban areas and the relevant land tenure generally applicable to these areas. In this Chapter, institutions responsible for housing and the nature of the housing problems which they are expected to solve are examined.

Chapters Two and Three are concerned with the historical colonial housing policies and the law because most of the housing policies being pursued today arise from the colonial era. The emphasis here has been placed on the legacies of the colonial housing system.

Chapter Four analyses and discusses the housing policies which have been adopted by the government since independence in 1964. Colonial policies as inherited at independence have been suitably modified to suit the new political situation. For example, policies relating to 'home ownership within and outside Site and Service Areas, and the 'reluctant' recognition of the reality of Squatter Areas and the need to improve them have emerged. The gradual change which has taken place in these policies would appear to reflect an awareness of the complexity of the new housing situation and
an appreciation of the need to change course from the colonial housing policy to new policies in order to cope with an intractable housing shortage.

Post independence housing policies recognised the fact that it is futile to rely on local authority rental housing since there was no adequate housing stock in the Republic to house all members of the public. Even if government wished to provide housing, the sheer size of capital expenditure required for housing is prohibitive. For this reason, government abandoned the policy of rental housing in 1972 and instructed local authorities to stop any further investment in rental housing. This Chapter discusses the significance of new policies and changes in policy in the overall national housing programme and the source of finance for their implementation.

This Chapter is followed by an exposition of the legal difficulties and practical problems faced by developers in housing areas outside Site and Service Schemes and improved or upgraded squatter settlements. The problems appear to stem from the law and practice relating to dealing in land, planning permission under the Town and Country Planning Act and the Public Health (Building) Regulations. An endeavour has been made to evaluate the building standards as prescribed by the building regulations in terms of their suitability in the context of the post independence situation.
PART II

LEGAL FRAMEWORK AND PRACTICAL DIFFICULTIES ENCOUNTERED IN IMPLEMENTING HOUSING POLICIES

The Chapters under Part II have attempted to discuss the legal framework for the implementation of current housing policies namely; home ownership in Site and Service Schemes and upgraded squatter settlements. This is a discussion relating to the provisions of the Housing (Statutory and Improvement Areas) Act with regard to incentives towards housing development in the areas covered by the Act. Later Chapters have tried to ascertain whether or not the various statutory provisions enhance the implementation and management of human settlements in Zambia.

PART III

EVALUATION OF EXISTING LEGISLATION WITH REGARD TO SOLVING THE HOUSING PROBLEMS

Part III examines the provisions of the Housing Act with regard to security of tenure and attempts to evaluate the extent to which the Act has enhanced the implementation of the relevant housing policies.

The Conclusion under Chapter Seven summarises housing policies from the concept of the provision of housing by the state to that of individual self-reliance in the context of home ownership within site and service, formal housing or squatter development programmes.
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PART I

INTRODUCTORY
CHAPTER ONE

NATURE OF THE HOUSING PROBLEM

Housing is the cradle of human life. Man's procreation takes place there, he raises a family under his shelter, spends most of his time there.

Housing is universally accepted as a basic social need. It is in fact the foundation of human dignity which the United Nations Charter on Human Rights talks so much about.\(^1\) Although it may not be a right in a strict legal sense, housing is nevertheless, a social right.

In his Opening Address to the 9th Session of the United National Independence Party (UNIP) National Council at Kabwe, the President of Zambia, Dr. Kaunda, declared that the right of the individual to fight for shelter, nay, for more decent shelter, must be vigorously supported.\(^2\)

In our exciting historical era, an era in which the total emancipation of human personality in all aspects is central in our political strategy, denial of decent shelter is tantamount to denial of a basic human right. Good accommodation would enable man in Zambia to live a fuller and happier life. In a similar vein, the Minister of Local Government and Housing in his foreword to the Lusaka Site and Service Report\(^3\) stated that it was customary for families in Zambian villages to own the house in which they lived. This ensures the enjoyment of most of the individual liberties enshrined in the Country's constitution. It is therefore Government's duty to ensure that a simplified system of conveyancing would guarantee equal opportunities to those individuals who wish to own a home. In Zambia today, very few people are entirely without some kind of shelter. Shelter may take the form of an owner-occupied or rented house in the fashionable residential areas of Kabulonga and Woodlands in Lusaka or Parklands in Kitwe. It may be made only of cardboard, mud or scrap wood.
One of the problems in Zambia as indeed elsewhere in the third world is that the majority of households in urban areas lack a secure home capable of providing protection not only against adverse claims on title but also against adverse weather conditions and disease. In Lusaka, for example, many houses in Kanyama Squatter Settlement collapsed and were washed away by the floods of 1977/78 because the area was not properly serviced and lacked proper storm drainage and also because houses were built with inadequate foundations. This disaster led to the destruction of property and loss of life.

In order to cater for this social need properly, it is necessary to develop a suitable legal framework which adequately regulates the manner in which human settlements are established, managed and maintained.

The problem in Zambia is that whilst government and housing institutions have made every effort to satisfy the housing need by increasing housing accommodation, these efforts have been dwarfed by the immense proportions of the housing demand, hence the departure in emphasis from policies by which government and institutions provided formal housing to policies that limit their role to the provision of the necessary infrastructure within which individuals may build their own housing accommodation.

The housing problem is world wide, differing only in nature and extent. Developed countries see it in the context of slums and developing countries see it in the form of squatter and unauthorised settlements. Policies in developed countries are directed at slum clearance under which
slums give way to new and more modern housing estates. This exercise may involve the movement of an entire population to a new locality. In contrast, developing countries, due to their inadequate resources, look at the demolition of existing housing, however inferior, as a waste of valuable investment in housing and prefer the policy of squatter upgrading. However, the problem of making available, adequate housing accommodation is common to both. The availability of housing accommodation is primarily related to the availability of land. Many countries especially in Asia and Latin America experience the problem of acute shortage of land as the initial obstacle. In this respect, Zambia is no exception. Land problems have been highlighted by the Sakala Commission of Enquiry into land matters in the Southern Province. The question of land has also become a burning issue between the Zambia Cashew Company and the Litunga on one hand and the people of Mabumbu in the Western Province. The problem in South America, for example, is one of the land policy, as opposed to land shortage. Before the revolution, land in Nicaragua was held by few prominent families, the majority of the people were dispossessed. After the revolution, land was nationalised and in turn made available to the people there. It may be assumed that if Zambia had the same land policy, we would experience similar problems.

The 'habitat' problem is seen as consisting of three important aspects. First is the shortage of housing accommodation, the second is the quality of available housing, that is in compliance with building standards. The third is the conditions under which housing is provided or acquired. The last two aspects will be considered in some detail later. In this section, attention is directed on the context of housing need so as to highlight the enormity of the problem that face housing authorities.
A discussion of the housing need, poses two difficult problems. The first is as to the understanding of the term "need" when used in relation to housing. The second problem is associated with the methods of determining the extent of this need. Assuming that housing need is taken to mean the sum total of families or household without a permanent home, it may also be assumed for purposes of providing formal housing that these families have the ability to pay rent. However, this is not always the case, since a large number of people without accommodation are simply unable, on account of their low wages, to pay rent to local authorities or private landlords, let alone buy their own homes. At present, councils are facing a lot of difficulties with rent defaulters and also with those who are obliged to pay for the ground and service charges in Statutory Housing Areas and Improvement Areas.10 In an interview with the writer, the Director of Housing, Mr Robert Kamuzuza conceded that rent defaulters were mainly people with the ability to pay; each time they are threatened with eviction, they immediately find money to settle their arrears, so it seems the fault lies with the rent enforcement machinery. If the capability of people to pay rent in terms of income was taken into account in calculating housing need, the figures would not be so enormous.11 In order to reduce the incidence of rent defaulting, it is suggested that an independent body should be established for each urban council solely for the purpose of rent collection as opposed to general council administration. This will remove favouritism and the present unusually lenient approach to rent collection.

The second, equally important problem is the determination of the quantum of housing need. One method is to count housing units in squatter and unauthorised settlements. The resulting figure will represent a section of persons who are prepared to invest their income and labour by way
of "self-help" into housing. With the current policy emphasis on Site and Service Schemes in which participants are expected to construct their own houses, people in squatter areas are likely to make the Site and Service policy a success because of their experience acquired in squatter areas. But this assumption tends to ignore a certain number of persons who are tenants to landlords in squatter areas. In addition, there is also the problem of overcrowding which is not readily discernible from the figure representing housing units.

Another method is simply to count those in salaried employment. But this method is immediately discredited by the fact that the figure arrived at will exclude the increasing number of self-employed artisans, blacksmiths, hawkers and marketeers whose financial revenue may well exceed that of petty white collar clerks and manual workers. This method would complicate the problem of the housing planner much more due to the fact that the planner must anticipate the rise and fall in employment opportunities.

The present method is that of counting the households in squatter and unauthorised areas and make projections on the increase of workers as employment rises or decreases. The figures obtained through this approach not only represent those with initiative to make Site and Service and squatter upgrading schemes successful but also those who are tenants to squatter landlords. The present and future housing need as determined by the Third National Development Plan is shown in Appendix 1.

Appendix 1 indicates that housing shortage is much more acute in large urban areas than in small towns. It is no wonder therefore, that squatter areas are so numerous in cities such as Lusaka, Ndola and Kitwe. It is also apparent from the figure of estimated need with
five years from 1978 to 1983 that by the end of the plan period the situation will have worsened. Such an increase cannot be explained by increases in birth rates because small towns which are under the same conditions will have increased in population by the same percentage. The fact is, urban areas promise a better, easier and more glamorous life especially for the young. The increase in estimated need indicates the movement of people in search of better opportunities into large urban areas.

The planners acknowledge that the shortfall accumulated figure is low compared to figures of persons on waiting lists submitted by local authorities but point out that the majority of entries are not in respect of new requirements of housing accommodation, but reflect a desire for change to a better standard of dwelling "generally on the expectation of subsidised rent". The task confronting housing institutions is not however a small one. If housing was the major consideration in a development plan the solution would lie in the allocation of more funds into the housing sector. But there are other equally important sectors which require attention in a welfare state such as Zambia. These include free medical services, free education, and social welfare.

It would appear that even from the preliminary aspects relating to housing considered in this Chapter it seems that there is a need to modify the present tenure. There are of course other problems such as finance and manpower, the lack of which hinder the provision of adequate shelter for the people of Zambia.
CHAPTER TWO

URBAN SHELTER SITUATION

Under this chapter, it is intended to give a general background leading to a discussion of the legal framework for the implementation of the housing policy. The law applicable to the development of housing in urban areas differs depending on the category of land on which the house is built. Hence, this chapter discusses in some detail the different classes of land for housing and includes the land tenure by which land in Zambia is granted.

The role of public institutions in providing shelter in urban areas is emphasised. In spite of seemingly determined efforts of these institutions to provide shelter, housing in Zambia's urban areas remains in short supply and demand continues to be exceedingly high.

Classes of Land Available for Housing

Land for housing purposes fall under two main categories, namely, state land and local authority land. An organization or individual wishing to build a house on state land normally applies to the Commissioner of Lands who, on behalf of the President issues pieces of land. Local authorities also possess land by way of state grants. In effect, conditions that apply to organizations and individuals equally apply to local authorities except for minor modifications as may be necessary to enable local authorities to discharge their public and statutory functions. Also, local authority land ear-marked for housing is further subdivided into three categories. This categorization is based on the cost to local authorities of the houses or the services provided. Under this classification there are high cost housing areas, low cost housing areas and site
In practice, local authorities do not build houses in site and service areas. They provide only services in the form of roads, street lights, trunk sewers, refuse collection and the general administration to facilitate the construction of houses by individual developers. A more recent addition to the three categories mentioned above is the one called improved areas. This category is fast gaining pride of place in the order of housing priorities. Improvement areas, commonly known as "squatter compounds" have now been recognised as an important factor in the housing situation in Zambia. Local Councils are expected to provide some kind of services, not quite on the same level as those provided to site and service areas but similar in a way but certainly less elaborate. Whereas water borne sanitation and tarmac roads are provided in site and service areas, only pit latrine and gravel roads are supplied to improvement areas. Once the necessary improvements have been introduced, the relevant local authority applies to the Minister responsible for housing, to have the area declared as an improvement area. Thereafter, residents are granted some kind of title to land in accordance with the Housing (Statutory and Improvement Areas) Act. Subsequent chapters will discuss the legal framework under which houses are built on state land, in site and service areas and in improvement areas.

Evaluation: Site and Service Areas

The services provided in Site and Service and Improvement Areas are rudimentary, for example, refuse collection is haphazardly done. In some areas, refuse collection is done once in three months. In others, refuse is left to accumulate on the dumps and only collected when it spills over to the roads or when residents submit complaints to the Council concerned.
Plot sizes in site and service projects are rather small, as a result, houses are built very close together. This generates a lot of unhappiness and criticism from inhabitants. Because of the greater number of plots, provided on a small piece of land, populations in these housing areas tend to be dense and therefore place excessive burdens on the services provided. Quite often, there are frequent breakdowns of utilities, e.g. blocked sewers, water shortage, etc.

Since these services are not adequately provided, many home seekers with resources to build there, do not wish to do so. They are discouraged by inadequate services provided and therefore do not participate in site and service schemes. People with less means are allocated these sites and usually start with building one or two rooms and thereafter fail to complete the house. Consequently the area becomes an eyesore and quickly degenerates into a slum.

However, annexure A to the Certificate of Title sets out conditions, which if not complied with may lead to the forfeiture of the lease. These are: non-payment of rates and taxes, failure to erect on the land concerned, a building to the value approved by a local authority within 24 months.

Land Tenure Applicable to Urban Areas

In both urban and rural areas, land tenure governs the mode of holding or occupying land. It also influences the form housing development will take. If the title granted is of a short duration, say 10 years, development will be of semi-permanent nature. It also influences the extent to which
members of the public will respond to government housing policies. An individual, employer or financial institutions would make a positive or negative decision to invest in housing on the basis of the security of tenure.\textsuperscript{4} Any investor or developer must be assured that the conditions upon which he enjoys his estate in land are not so onerous such that he may lose his interest simply because he is in breach of some trivial provision. Lending institutions such as commercial banks and building societies which grant mortgages for house building are particularly sensitive to tenure of doubtful validity which might not adequately secure their interest in the applicant's land for mortgage purposes.

In urban areas,\textsuperscript{5} land tenure is governed by the Land (Conversion of Titles) Act of 1975.\textsuperscript{6} The Act vests "all land" in Zambia "absolutely" in the President to be "held by him in perpetuity for and on behalf of the people of Zambia."\textsuperscript{7} This provision had no real effect on Reserves, Trust Lands and State Land\textsuperscript{8} which had in any case been vested in the Crown under the respective Orders-in-Council.\textsuperscript{9} When the Crown ceased to have constitutional influence over Northern Rhodesia (as Zambia then was) and Zambia became independent on 24th October, 1964, the President assumed the Crown's land rights. However, there were tracts of land owned in fee simple by the British South Africa Company\textsuperscript{10} and many other business concerns, farmers and individuals which have been affected by this provision.

In effect, the Act converted land held in freehold or "in any manner implying absolute rights in perpetuity" and all leases granted by the President for a period in excess of one hundred years to statutory
leasehold\textsuperscript{11} for a period of one hundred years.\textsuperscript{12} Leases granted before the coming into force of the Act were saved so long as their conditions, covenants or terms, were not contrary to the provisions of the prescribed terms of the Land (Conversion of Titles) Act.\textsuperscript{13} Nevertheless, such leases are to expire one day before the expiry of one hundred years from the first day of July, 1975.

After the coming into effect of the Act on the 1st of July, 1975, the terms applying to statutory lessees were published by statutory instrument.\textsuperscript{14} The method of imposing terms by statutory instrument does not give such security to the lessee because the Minister can at any time alter the terms unilaterally. This is not the case in contractual leases where parties agree on the terms which are to be included in the lease. In theory, the method of regulating lease terms by statutory instrument would have the effect of discouraging prospective land holders. But in practice, the Minister does not act independently in these matters, he normally refers changes of policy to the supreme organs of the United National Independence Party for consideration and decision.

Under the Regulations, four sets of covenants were prescribed. These apply to four different categories of land namely: Municipal areas, Township areas, Agricultural land, and Mining Areas.\textsuperscript{15} Rents varying according to the permitted user are charged where previously the freeholder paid almost nothing. The other conditions and covenants are in the main a reproduction of the requirements at common law such as the obligation on the lessees to pay rates and taxes; to permit the lessor
access to the property to effect repairs on water and electricity mains, to maintain survey beacons, and not to carry out improvements\textsuperscript{16} without prior planning permission from a council or planning authority. The lessee is duty bound to maintain the improvements on the land in a state of repair, but this is to his advantage since the "fair just" compensation due to the lessee upon the determination of the lease is based on the value of those improvements.\textsuperscript{17}

The anxiety created by the conversion of freehold titles to hundred-year leases is allayed by the provision for an automatic renewal of the statutory lease for another term of hundred years on the same terms.\textsuperscript{18} However, there is no automatic renewal unless the lease has determined by effluxion of time and the lessee has complied with the terms of the statutory lease, or where he has failed to comply with certain terms, the non-compliance of which does not render the lease liable to forfeiture.\textsuperscript{19} Neither the Act nor the Regulations indicate which terms in a lease would render it liable to forfeiture in the event of breach. Where a statutory lease is not renewed, the leaseholder is entitled to compensation for the unexhausted improvements.\textsuperscript{20} No compensation is payable in respect of undeveloped land.

Section 10 of the Act restricts the operation of mortgage, charges or trusts subsisting over land only against the unexhausted improvements. The Section also extinguished all encumbrances on undeveloped land in so far as the same could not operate against unexhausted improvements.\textsuperscript{21} This Section and Section 16 which limit the amount of compensation by the state to the lessee to the value of unexhausted improvements have in
theory rendered undeveloped land valueless in Zambia. In reality, this
is not the case, because there are cases in urban areas of undeveloped
residential plots attracting premium prices from holders who acquired
them almost free of charge from the state. Because of the secret nature
of this type of transaction, it is not possible to quote cases that might
have occurred but it is an open secret that due to the scarcity of serviced
land, plot holders sell these plots illegally at a premium and allow
willing purchasers to pay high prices for bare land and then develop
the plot in the owner's name until the state consent to assign is obtained
and the sale takes place.

Since the law has made bare land valueless, the result is that the facility
of raising funds on the open money market by way of mortgage has been greatly
impaired because lending institutions cannot accept undeveloped land
offered as security. This impediment is particularly serious to less well-
to-do people who would like to build their own houses.

So far as it is relevant to housing, the Land (Conversion of Titles) Act
may be discouraging investment in housing by the manner in which it is
being implemented. Under Section 13 no person may "subdivide, sell,
transfer, sublet, mortgage, charge or in any manner whatsoever encumber
or part with the possession of his land without the prior consent in
writing of the President". Power is conferred on the President, under
the same Section to impose conditions under which such dealings may be
subject, and to fix the maximum amount that may be charged as the price of
the improvements, in the case of assignments or as rent, in the case
of a sublease. This authority was conferred with a view to control
speculation and curb inflation in the property market.
But the requirement for the consent of the President has provoked two kinds of criticisms and has also led to illegal practices. One complaint has been that there are delays in processing applications for consent and these delays tend to hold up the construction of urgently needed dwellings. This complaint however, relates to the procedure and does not militate against the advantage of controlling land prices.

Section 13(1) does not permit sale of land without unexhausted improvements. In practice, this is not the case. Bare residential plots in major urban areas attract very high service charges, in some cases as much as K13,000 per plot depending on the size and the location of the plot. The spirit behind the Act is to stop speculation. But because of the shortage of serviced plots, land is still open to speculation. It is still lawful for a land owner to subdivide his land and then quietly arrange with prospective developers to build on the land pretending that it is the landlord who is carrying out the necessary development. Thereafter state consent to assign is obtained and the landlord is able to sell his land in this way. The Act has not succeeded in stopping land speculation. On the contrary, it has given rise to illegal transactions in land, a situation that did not exist before the Act.

The other criticism challenges the principle and the method of price control. In fixing the maximum price or rent, the government follows the advice of its officers who inspect and assess the value of improvements on the land. Difficulties arise when the consent price is less than the vendor's price and perhaps less than the cost of construction. The vendor may then refuse to sell or lease the property at the lower figure or may ask the purchaser to pay more than the price or rent approved illegally.
Faced with such uncertainties contractors and other developers of real estate may be reluctant to build houses for prospective purchasers. It is submitted that in cases where the amount of compensation is in dispute provision should have been made for an independent arbitrator to determine the value. Under the Lands Acquisition Act where compensation for improvement is payable by the state upon compulsory acquisition of land, disputes as to the amount of compensation are settled by the National Assembly. This method would not be practicable in cases of dealings in land because such transactions are so numerous that the National Assembly would have to devote a substantial part of their time determining prices or value of improvements and rents. The services of an independent arbitrator suggested above would be a fair alternative.

In retrospect, the present urban land tenure is not favourable to housing investment. The private investor dreads the supercilious manner by which covenants, terms and conditions are imposed on the statutory lessee. It is also difficult for an individual to raise housing finance on the security of undeveloped land. It is however conceded that while one may be unable to construct a house owing to financial constraints, it is still possible and it is in fact common for people to buy houses on sale. The lending institutions provide the money for the security of the house itself with the purchaser as the mortgagor. This facility however does not alleviate the housing shortage as it is dependent on the existence of ready houses. It does not contribute to the construction of new houses.

Provision of Shelter in Zambia

The emphasis on institutional housing dates back to the British colonial administration, and it was not until the early 1970s that a departure from
this trend was envisaged under the Second National Development Plan. The term institutional housing is used in this context to mean the reliance on institutions such as local authorities to provide formal housing for the residents in their respective areas. This is in contrast to individual initiative at housing. Since this trend is still significant, an exposition of the legal framework within which these institutions operate and the effectiveness of these institutions is necessary. The relevant institutions comprise, at local level, local authorities, namely the City, Municipal, Township and Rural Councils. Perhaps it is important to point out that every employer is legally bound to provide housing accommodation to the employee\(^{27}\) but the significance of this obligation has been virtually defeated by the proviso which enables an employer to pay a housing allowance in lieu thereof.

The National Housing Authority

Following the dissolution of the Zambia Housing Board, the National Housing Authority was established in its place by an Act of Parliament.\(^{28}\) Authority members were appointed in June 1971 and became fully operational on 1st August, of the same year, immediately after the dissolution of the Zambia Housing Board, its predecessor. The National Housing Authority Act provides for a wide range of functions. The terms are rather general and sweeping in nature, presumably so conceived in order to confer on the Authority the whole responsibility for the various aspects of housing in addition to the specific duty to provide housing. Section 19(1) specified the main function of the National Housing Authority thus:

"It shall, subject to the provisions of this Act, be the
object and general duty of the Authority to keep under continuous review housing conditions in the Republic and the needs of the Republic with respect to the provision of further housing accommodation and to provide, or to secure and promote the provision of, such housing accommodation for the Republic and to take all such steps as it may appear to the Authority requisite or expedient in those respects".

Subsection 2 of the above Section gives a breakdown of the Authority's functions "without prejudice to the generality of the provisions" of the preceding Subsection.

The need for the wide powers vested in the Authority can be better appreciated by considering the rationale for replacing the Zambia Housing Board established under the Housing Act\textsuperscript{29} with the Authority and making an inquiry as to why the Board was not able to cope with the country's housing problem following the achievement of independence.

The extent of the housing problem before and after Zambia's independence is shown elsewhere so that at this stage it is only necessary to make a comparison of the functions and powers of the dissolved Board and the Authority.
A cursory look at the preambles in the repealed Housing Act and the National Housing Authority Act shows the wide disparities of the intent in both Acts. Whereas the preamble to the Housing Act emphasises the development and control of housing throughout the country, the duty of the Housing Board was restricted to that of advising the Minister in matters relating to housing and the application of measures to provide for contributions by employers towards the cost of housing their employees according to plans approved by the Board. The Board was also obliged to assist local authorities in the preparation of proposals for the construction of dwellings and to review the existing minimum standards laid down for housing and recommend to the Minister any changes which the Board considered desirable. In the field of research, the duty of the Board was stated vaguely as one to undertake and encourage research and the "collection and dissemination of information concerning housing and matters connected therewith", and to carry out surveys of accommodation needs in any particular area.

With respect to its active duty, this was similarly limited. Under Section 19, when it appeared to the Minister after a public inquiry by a person appointed by the President for that purpose that the provision made in any local authority area for accommodation was inadequate or unsuitable, the Minister could by written notice order the responsible local authority to provide housing to such persons as specified in the notice. Upon the failure of the local authority to comply with the notice, the Board could carry out such work and do such things as to give effect to the requirement in the notice, and any reasonable expenditure incurred by the Board in pursuance of the above could be recovered from the responsible Authority in civil proceedings for the recovery of debt.
The National Housing Authority Act outlines some twenty-three separate functions\(^\text{33}\) to be performed by the Authority. These functions can however be divided into three major categories: advisory, regulatory and active.\(^\text{34}\) Advisory functions involve providing assistance to the Minister on a number of issues ranging from national housing policy to building standards and the determination of the demand for housing throughout the country. As the Authority has the greatest concentration of expertise in these matters in the country, the Authority is suitably qualified to perform this function.\(^\text{35}\) Its regulatory functions include responsibility to receive and approve building designs and plans from any public or private organisation. Most important, however, are its active functions. Such functions include the clearance of squatter areas and the planning of their improvement and redevelopment; the rendering of assistance to local authorities in housing construction; and the provision, management and control of housing accommodation of public officials. Other functions are the establishment of a national housing revolving fund; the purchase, manufacture or processing of building materials; the promotion of home ownership by the introduction of house purchase schemes; the establishment of a national building organisation capable of undertaking the development of housing estates and the formation of a company to carry out the above functions.
The Authority, is also empowered "to examine and approve, disapprove or vary any schemes proposed to be carried out by any local authority". In fact Section 22 prohibits any local authority or person from initiating detailed planning of any scheme in any area of a municipal or township council of any preliminary plan of the site of the scheme, showing the proposed development, and a written memorandum explaining the nature of the proposed development; have been submitted to and approved by the Authority. This sweeping power is modified in practice; for example schemes planned by the three consultants namely Doxiadis, Asco and the Authority engaged on the National Development Plan Programme were excluded.

The National Housing Authority has further powers with regard to housing estates which its predecessor, the Board, did not have. The Authority is empowered to "develop, build or manage and control housing estates" whenever requested by any local authority or person responsible for the development or management of such estates. It may sell a house or housing estate enter into contract for the maintenance or supervision of building on housing estates. Under Section 23, the Act provides the mode by which the Authority may provide housing accommodation. This may be by direct building, or conversion of buildings into dwelling houses, by direct acquisition through purchase, by agreement with any person with the required housing accommodation and more significantly in view of the acuteness of the country's housing problem, the clearance of squatter areas or improving and redeveloping them. Further, whereas the Board could only
build houses if there was housing shortage only after a public inquiry, the Authority has merely to consult the Minister before sending the notice to the responsible local authority to meet the need, in default of which the Authority may directly build the required houses and be reimbursed by the defaulting local authority. In addition to the afore-mentioned powers, the schedule to the Act vests twenty-four general powers.

Although the preamble to the Act and Section 19 makes no specific mention of the provision by the Authority of housing finance to developers, Section 45 makes provision for grants or loans of money to any local authority for the purpose of enabling such local authority to discharge certain functions prescribed under the Act. The Authority may also lend to any person, money by which such person could acquire land and construct thereon approved houses or carry out approved housing estates or schemes. In this respect, the Authority has a similar power as the Board with the exception of housing estates not provided for under the Housing Act. The interest that must be paid on such loan must be approved by the Minister responsible for finance. Before making any loan to any person, the Authority must take into account the financial position and the sufficiency or value of the security that the person proposes to offer for the repayment of the loan. Every such loan must be secured by a first mortgage or charge on the land upon which the house, housing estate or scheme is situated or to be constructed. This is in addition to any other security that may be required by the Authority.
Section 59 exempts the Authority from complying with the Town and Country Planning Act \(^{42}\) except for Part VII of that Act which deals with Regional plans, \(^{43}\) and Section 17 by which the Minister's approval of the development plan submitted to him in accordance with Section 19 is secured. In so far as Part VIII of the Act is applicable to land developed or proposed to be developed by the Authority, the planning authority is responsible for the preparation of a development plan, \(^{44}\) but this can be done by the Authority itself on its own behalf in which case it must comply with the procedure prescribed under the Act. The prescribed procedure includes, on submission of the development plan to the Minister, the publication of a notice to the public to submit their objections, if any, and the handling of such objections. Under Part VIII, the Minister responsible for Town and Country Planning may order the preparation of a regional plan and appoint a regional planning authority in any area inclusive of areas proposed to be developed by the National Housing Authority.

The National Housing Authority has fared well in the performance of some of its obligations, notably research. Its annual reports are full of detailed accounts of approved schemes, loans and has tables of the present national housing stock and housing need. These reports also indicate amenities provided in low cost housing areas although the figures indicating housing need are acknowledged to be exaggerated owing to the failure by local authorities, on whom it relies, to differentiate between
urban centres of employment for workers, and the ease of establishing a drainage system, and the most favourable area in respect of the above criteria gets priority.\footnote{49} In retrospect, although the array of functions of the Authority is broad, the impact of the National Housing Authority on national policies and local programmes remains obscure.\footnote{50} Its essentially non-political functions, or at least more technically-based decision-making, sets the Authority at some distance from the Ministerial nerve centre and local authorities. The result has been an attempt by the Ministry of Local Government and Housing to narrow down the National Housing Authority's functions and delimit its areas of activity.\footnote{51}

**Local Authorities**

Local authorities comprising the Urban and Rural District Councils fall under the Ministry of Provincial Administration under the general supervision of the Prime Minister's office, and are the major institutions which provide rental housing. Their functions and powers are prescribed by the Municipal and Township Acts and Local Government Act. Originally and under the Municipal and Township Acts,\footnote{52} the functions of the local authorities were restricted to the control and maintenance of streets and lands within their areas.\footnote{53} The repealed Urban African Housing Act\footnote{54} provided for the establishment of African Housing by local authorities in their respective areas for rental to individuals and employers who were obliged to provide accommodation for their employees.\footnote{55} The Local Government Act extended the powers of local authorities to the actual construction of dwelling houses.\footnote{56}
The Local Administration Act No. 15 of 1980

The Local Administration Act was enacted in 1980 and Section 92(1) of the Act provided for the repeal of the following Acts:

(a) The Local Government Act
(b) The Local Government Election Act
(c) The Municipal Corporations Act
(d) The Townships Act
(e) The Mine Townships Act
(f) The Local Government Service Act

Before the enactment of the Local Administration Act, Local Government was run side by side with but independent of the central government administration. Residents in local authority areas were eligible to stand for election for the post of councillor on non-political basis. Councillors so elected in turn elected a mayor or chairman as the case may be from among themselves. Similarly, Council officers such as Town clerks, City Engineers and Treasurers were appointed by respective councils. These officers were not civil servants and were therefore not transferable. The new Act has changed all this. It has had the effect of merging the local authority administration with the central government system. In the process, local government officers, have been brought under the civil service structure with the Public Service Commission as the sole appointing authority. Section 91 provides for the transfer of local authority employees to the public service.
The most significant development brought by the Act is that for the first time in the history of Local Government in Zambia, a political party membership has been made the main condition for those wishing to be elected as councillors. Whilst Regulation 10 of the repealed Local Government Act provided for independent candidates, Section 12(1)(a)(c) of the Local Administration Act does not leave any room for "independents." This Section stipulates that no person can become a member of a council, "unless he is a member of the party and the Central Committee has given prior approval to his candidature." This provision deprives all rate payers and other residents who may otherwise be eminently suitable to serve on councils but lack the qualification of party membership.

Under the Local Government Act, mayors and chairmen were elected by and from among councillors themselves. These elected posts have been abolished and replaced by a District Governor, who, by virtue of his office, becomes an ex-officio Chairman of the council under Section 10(1)(a). All other functions of council listed in Part I of the schedule to the Act are virtually identical with those under the Local Government Act.

The Act does not in any way affect the housing functions performed by local authorities under the Local Government Act, neither is there evidence yet of discernible decentralisation which appeared to form the basis of public statements prior to the enactment of the Act. The overall effect seems to be that the Act seeks to bring local authorities under closer and effective central government control. Evidence of this will be found in sections 10, 81 and 83; composition of councils, district committees and provincial councils respectively.
Provision of housing by local authorities is now a legal obligation. Under the National Housing Authority Act, the National Housing Authority may compel a local authority to build the required number of houses so as to satisfy the housing need. Where a local authority fails to carry out the order, the Authority may proceed to construct the required number of houses, but the local authority responsible has to reimburse the Authority for the expenses reasonably incurred in the process.

Local authorities are empowered to raise loans for the construction of houses where such a loan is obtained from the National Housing Authority, it can only be used in accordance with the provisions of the National Housing Authority Act. Under this Act, the Council may, out of the loans, acquire land, construct approved houses or execute approved housing estates or schemes within the area of its jurisdiction or outside this area if the consent of the National Housing Authority has been obtained. Out of the said loans, local authorities may make loans to any person to enable such person to build himself a house or purchase one. The loan granted to such person and the interest thereon must be repaid within a period not exceeding thirty years.

The fast rate of urban population growth since independence has made it impossible for local authorities to meet their legal obligations. This failure is mainly due to financial constraints exacerbated by rent defaulting by many of the Council's tenants. Attention has as a result been focussed not so much on formal provision of housing accommodation by local authorities but rather the provision of site or plots of land on which individuals can construct their own accommodation, while Councils
provide roads, sanitary services, water and lighting as planned under the Site and Services policy.\textsuperscript{61}

The realisation of the difficulty of providing official rented housing has also manifested itself in the final resort to squatter upgrading, a policy under which selected squatter areas are imposed or developed through the provision of roads, water and other services at nominal rates. The Site and Services Policy and Squatter upgrading policy find expression in the Housing (Statutory and Improvement Areas) Act\textsuperscript{62} examined in greater detail under Chapter 5 dealing with Statutory Housing Areas and Improvements Areas.
CHAPTER THREE
THE PRE-INDEPENDENCE HOUSING POLICY AND LAW

The British South African Company and subsequently the British Colonial administration evolved most of the housing policies up to 1964 which were inherited by Zambia at independence; mainly housing tied to employment\(^1\) and home ownership.\(^2\) The Urban African Housing Ordinance\(^3\) was the cornerstone of the policy by which local authorities built houses for rent to the public. This policy continued under the Local Government Act\(^4\) until 1972 when it was substantially modified.\(^5\) Other relevant pieces of legislation in support of the housing policy then were: the Public Health Ordinance,\(^6\) The Township Ordinance,\(^7\) Municipal Corporations Ordinance,\(^8\) Employment of Native Ordinance,\(^9\) Private Locations Ordinance\(^10\) and the Natives on Private Estates Ordinance.\(^11\)

This Chapter will endeavour to trace the development of these policies, the factors that led to various changes and their effectiveness by the end of the British Colonial administration and beyond.

The Beginning of Urbanisation in Zambia

Before the arrival of the colonial administration, Zambia was entirely rural in every respect. No urban settlements such as those found in West Africa\(^12\) then were ever known here. Scattered small urban centres were purely a colonial creation and were established for the purposes of commercial, mining, agricultural and administrative convenience and nothing more.

Urbanisation as we know it today was a process which started with the opening up of copper mines in the Western Province since re-named the Copperbelt Province. For the purpose of hauling copper ingots for export
to the sea, the railway line was built from the Cape in the Union of South Africa, (as the Republic of South Africa was then called) across the Zambezi River, through the Southern Province, up to Livingstone and other Copperbelt towns. The railway project opened up much of the Southern Province to farming and attracted white commercial farming communities from the United Kingdom and South Africa. Similarly, large numbers of white migrant labour flocked to the newly opened mines from South Africa and Southern Rhodesia (now Zimbabwe). Thus the railway line cleared the way for the early beginnings of commercial farms by white settlers.

The Copperbelt was by 1930, in the throes of construction and mining boom. The mines at Bwana Mkubwa, Roan, Nkana, Mufulira and Nchanga were the scene of great activity. This feverish development process required a labour force of some 30,000 Africans. Initially, the mining companies found it difficult to persuade Africans to work underground, hence the formation of the Native Labour Association in 1923 to recruit native labour. Suffice it to say that both the Native Labour Association and Witswatersrand Native Labour Association originated from the same root. The mining companies namely the Anglo American Corporation and the Roan Selection Trust which controlled the mines in Northern Rhodesia were also shareholders in the South African gold and diamond mines. Hence policies relating to African labour recruitment and housing were much the same. For example, in South Africa, no married accommodation for Africans was provided. This is the case to this day. Similarly, in Northern Rhodesia native labour housing policy on the mines was based on the South African model. In both cases African workers were required under the migratory labour system to leave their families at home. The Native Labour Association helped to resolve the underground native labour problems. As a result of the formation of the Native Labour Association, the number of Africans employed in industry and agriculture rose from 69,500 men in
1931 to 126,000 in 1946\textsuperscript{16} inspite of the depression of the 1930s which resulted in the fall of the copper prices and consequent unemployment, a phenomenon never known before among the rural African population. In 1956, the number of African labour nearly doubled to 230,000.\textsuperscript{17} This rapid growth is attributed to factors well beyond the perimeters of this thesis and cannot therefore be pursued.\textsuperscript{18}

**Reasons for Obscure Housing Policy Before 1948**

Before the enactment of the Urban African Housing Ordinance in 1948, housing for the African employee was not the responsibility of the government, let alone the Native Labour Association. For this reason, no government housing policy could be evolved. There were also other factors which contributed to this state of affairs. The most important of these was the very nature of the African labour force at the time.

In the early days of commercial and industrial organisation, a haphazard system of migrant labour existed. According to Helmut Heisler, "a class of proletarianised peasant was formed prior to the urban proletariat in Zambia".\textsuperscript{19} The phrase proletariats meant peasants who worked in paid employment for short labour contract periods of two to three years and then returned to their villages and resumed tilling the soil and fishing for their livelihood.\textsuperscript{20} This class of peasant normally worked in town for as long as it suited them in order to save enough money to buy specific articles (novelties) and pay poll tax.
Other explanations offered for short labour "stints" though not altogether convincing are that the African attitude was conditioned by the fact that wages were very low then and a number of years had to be spent in employment to enable the "peasant" sufficient time to save up enough money with which to acquire his "target". In the meantime, his family would have grown too large for him to remain in town. Resort had therefore to be had to the rural area where he could easily maintain it.\textsuperscript{21} Equally, the status of family head and the importance of tribal eldership made village life much more attractive to the older and mature.\textsuperscript{22}

\textbf{Government Labour Policy}

Conveniently, government favoured a migratory labour system due to envisaged housing problems and the fear of a breakdown of law and order which would follow the establishment of a stable and organised African labour force.\textsuperscript{23}

At this time, the colonial government was under considerable pressure from white settlers who viewed permanent African settlement on the mines and along the railway line as a threat to their economic, social and political privileges. In fact most of the white miners were South African and over there it was anathema for blacks to be in urban areas as permanent residents. Another source of pressure came from industrialists led by the mining companies. Because of the depression of the early thirties, mining companies and others experienced great economic problems and were forced to declare their workers redundant. The lesson learnt in this difficult period was that it was preferable to keep a labour force which was amenable to increasing or decreasing as economic circumstances dictated.
For this purpose, a stable urbanised work force would not meet the yardstick.

In line with this thinking, official policy was to encourage workers to leave their families at their villages. To reinforce this policy, no employer was, under the Natives Ordinance, obliged to provide accommodation for a family but only for single employees. All this was designed to control labour migration to centres of employment and to prevent the emergency of a potentially volatile urban labour force. Of far greater significance in the government attempt to control migration of labour to towns was the "pass system" which was introduced under the Native Registration Ordinance. The Ordinance provided for the registration of every African who entered a district following which he was issued with an identity certificate (ichitupa). This was and still is a typical South African way of controlling urban blacks.

Employers of Africans for a period in excess of forty eight hours were obliged by the law to demand the workers identification certificate and to record its particulars. In addition, visitors to African townships were required, under the Townships Ordinance to have a visitor's permit which enabled them to reside in a particular area for a specified period. Between 1947 and 1956 a total of 94,858 convictions were recorded for breaches of these pass laws.

It is clear therefore that before 1948, no specific housing policy existed. Reliance was placed entirely upon employers housing their employees in accordance with the Employment of Natives Ordinance. Local Authority function was restricted to the maintenance of public health and the prevention of epidemics, maintenance of cleanliness, and sanitary
conditions, and the prevention of conditions dangerous to health arising from overcrowding. Local authorities were not obliged by law to build houses for Africans. Only Ndola is on record to have built rental houses for Africans in accordance with special by-laws. The Municipal Corporations and Township Ordinance gave responsibility to local authorities with respect to the building and the maintenance of streets and street lighting.

In consequence, private landlords took advantage and allowed their African workers to settle on their property for a consideration of rent or free labour in lieu of rent. Alarmed by this development, government passed the Private Estates Ordinance with a view to controlling settlements of Africans on private property. S.3 of the Ordinance states:

"3. Every landholder upon whose land a location exists at the date of the commencement of this Ordinance or who thereafter desires to establish a location on his land shall apply to the District Commissioner of the district in which such land is situated for permission to establish a location and it shall be the duty of such District Commissioner to forward such application with his report thereon for the approval or otherwise of the Governor. In the case of a location existing at the date of the commencement of this Ordinance such application shall be made within three months of such date: Provided that where such land is situated within three miles of the area of any Local Authority the District Commissioner on receiving an application under this section shall first refer such application to the Local Authority concerned and shall forward with his report to the Governor any observations which the Local Authority may have deemed fit to make in regard to the application."

However, this attempt failed but led to the enactment of the Private Locations Ordinance in 1939. The object of the Ordinance was to regularise the establishment of settlements referred to as locations on estates. Under
Sections 6, 7 and 10 of this Ordinance, landlords were obliged to obtain permits for locations and to enter into agreements with every person stating concisely the terms of the occupation, subject to attestation by the District Commissioner and Provincial Commissioner's approval.

The Urban Shelter Position Before 1948

The urban housing situation by 1948 followed this pattern:

(a) Locations: Although there was no legal compulsion for local authorities to establish residential areas for Africans, some local authorities did establish residential areas within their boundaries, popularly known as locations.

(b) Grass Compounds: These were certain sections in which Africans erected their own huts with thatched roof.

(c) Private Compounds: These were areas outside local authority jurisdiction where employers provided accommodation for their employees.

(d) Private Locations: These were settlements established on private land in which plots were rented to Africans who erected their own housing.

(e) African Suburbs: Approved settlements on sites immediately next to Municipal or Township boundaries, not falling under local authority control, e.g. Kansuswa, in Mafalila, Chibuluma in Kitwe and Twapia in Ndola.
(f) Mine Townships: Residential areas established by mining companies under the Mine Townships Ordinance for their employees.

In addition to the above, there were unauthorised settlements established by African squatters on Crownland in the vicinity of municipalities or townships.

The Status of Labour Under New Colonial Housing Management

The system of labour under the migratory labour policy was proving wasteful. The short periods that Africans were allowed to remain in employment did not give them time within which to acquire skills and suitable experience on the job that continuous service gives. The migratory labour system meant therefore that African labour lacked the necessary skills and remained inefficient. Consequently, wages also remained low in line with the minimum unskilled labour so provided. Because of the growing importance of commerce and industry in the country, the need for a stable labour force was increasingly being felt by the colonial government and more so by the mining companies.

Despite this realisation of the need for a stable labour force, government policy drew a distinct line between stabilisation and urbanisation. The Government's feeling then was that in stabilising the African worker, one runs the risk of making the African break ties with his rural origin. The only acceptable form of stabilisation by government was one that required the worker to spend his childhood years in the village, proceed to town under strict pass law system during his youth and spend most of his productive
years working for wages, but return on old age, to his village. The process of urbanisation which meant the total severance of village ties upon securing employment in town was not acceptable to the government of the day. Hence, the policy of stabilisation without urbanisation continued to be the accepted official policy until the British government gave up sovereignty over Zambia in 1964.

Under the policy of stabilisation, the question of African housing became a problem and had to be resolved. The Eccles Commission of 1944 found that conditions in areas set aside by local authorities for employers to build houses for their workers were unsatisfactory; so were conditions in private locations. The commission found that there was overcrowding and pointed out the urgent need for improved housing conditions. One of its findings underlined government and local authority failure to set an example in providing adequate housing for their employees. In addition, the Commission attributed this state of affairs to the unwillingness on the part of employers and local authorities to accept full responsibility for the accommodation of Africans. Regarding private locations, the Commission condemned them as being "unhygienic, abominable and squalid in the extreme," whose presence so near the towns constituted a threat to public health.

Following the findings of the Eccles Commission, government passed the Urban African Housing Ordinance of 1948 without departing in any way from its policy of stabilisation without urbanisation. The Ordinance gave more responsibility for African housing to local authorities and is the basis for two of the colonial housing policies discussed in the next paragraphs.
The Evolution of Specific Housing Policies

The most significant colonial contribution to housing is manifested in three major housing policies namely: housing tied to employment; rental housing provided by local authorities and home ownership attempted towards the close of the colonial era. The discussion below is restricted to Africans for the simple reason that European workers served under very favourable contractual housing terms and other conditions of employment. For them there was really no housing problem whatever.

(i) Housing Tied to Employment

Housing tied to employment refers to the policy by which the provision of housing was restricted to Africans in salaried employment. There were two aspects to this policy. In the first place there was the obligation on employers to provide accommodation to their employees under the Employment of Natives Ordinance. Second there was the restriction on the allocation of local authority houses to Africans in salaried employment under the Urban African Housing Ordinance.43

Under the Employment of Natives Ordinance of 1929, employers were bound to provide "adequate" housing accommodation at their own expense and in so doing to observe all reasonable directions in respect of housing and sanitary arrangements prescribed by labour officers or medical officers.44 The labour department elaborating on the responsibility of the employer under the Ordinance explained that where servants were required by the employer to erect their own houses for instance, this had
to be done at the expense of the employer. The servant had to be paid for the time and labour in building the house. Further, the department explained that building materials were to be provided to the employee at no cost to him. But where the servant was living near his village and it was possible for such servant to commute easily from his village to his place of work, then the employer had no obligation to provide housing. In compliance with this Ordinance, some employers established private compounds outside local authority areas for the accommodation of their employees. In Kitwe such compounds as MacKenzie, Rabbi and Weat and in Lusaka George, Antonio and Misisi Compounds were established.

The Urban African Housing Ordinance of 1948 perpetuated the policy of tying housing to employment. Under section 3;

"Every person who employs an African under a contract of service to perform work within any urban area shall at his own expense provide accommodation for such African, and on such African's request, for one wife".

Two things are worthy of comment on this provision; first the obligation on the employer to house Africans "under a contract of service" and secondly, the provision for the first time of married accommodation at the request of the employees. The Ordinance does not define "contract of service" but it can be inferred from the obligation to provide housing that temporary workers were not deemed to be under a contract of service, although in common parlance contract of service refers to an agreement to work for a pecuniary consideration. The provision for married
accommodation was a new innovation in that hitherto, African workers had been encouraged to leave their families at home under the migratory labour system. The change was a clear recognition that African workers were becoming increasingly urbanised.\textsuperscript{50} It is also important to note that accommodation could only be provided for one wife so that where the worker was a polygamist he had to choose one of them.\textsuperscript{51} This change was also an extension of the labour stabilisation policy.

The second aspect of housing tied to employment was the restriction of the allocation of local authority housing to Africans in employment. The Urban African Housing Ordinance of 1948 was the first legislative enactment which imposed a duty on local authorities to establish housing areas for the accommodation of all Africans employed within local authority areas.\textsuperscript{52} Throughout the Ordinance, housing is made dependent on the fact of employment.

The responsibility of local authorities under the Ordinance as provided in Section 23 is to "provide or cause to be provided suitable accommodation to African workers". To do this, they had to set up African Housing Areas of two kinds, industrial African Housing Areas, and temporary African Housing Areas. The former were areas set aside by local authorities for employers to erect houses for their employees according to plans and specifications approved by the Commissioner for Local Government and African Housing.\textsuperscript{53} Temporary African Housing Areas were also for the employers to erect temporary housing for their casual labour or for whom no permanent accommodation was available.\textsuperscript{54} Local authorities themselves were obliged to construct in African Housing Areas, both single and married quarters for Africans in search of employment.
Such Africans could occupy those houses only for a prescribed period.\textsuperscript{55}

A closer examination of the provision of the Ordinance locates the emphasis on employment as the prerequisite of housing. The provisions regarding the establishment of African Housing Areas all restricted housing to Africans who were employed either permanently or temporarily. If the fact of being in employment had been the only criterion which housing was offered, it would have followed that on leaving employment, the African would have to vacate the local authority's or employer's accommodation. The consequent hardship on the employee was appreciated at the time the Ordinance was under debate\textsuperscript{56} and for these reasons under Section 36 a worker who had lost his job was permitted to retain his house provided by the local authority if he satisfied three requirements: first he had to show that he had been in continuous employment for not less than six months; second, that the person who had replaced him (at the factory or other place of work) if any, had alternative accommodation, and third that he could manage to pay rent to the local authority. One other rationale for Section 36 was the maintenance of a small reservoir of African labourers within the urban areas.\textsuperscript{57} This rationale also serves to explain the necessity of providing accommodation for job seekers in accordance with Section 36 for either a month or the unexpired period of validity of the worker's pass whichever was the longer.\textsuperscript{58}

(ii) \textbf{Local Authority Rental Housing}

The Urban African Housing Ordinance was the first legislative enactment empowering local authorities to construct houses for rent. Workers occupying local authority housing in African
Housing Areas, did so as long as they remained in employment and paid rent directly to local authorities deductible at source, that is, from the employers.

Owing to the increases in the cost of construction of houses which were reflected in high rents, the Colonial Office in London introduced rental subsidy in the colonies. In both East and Central Africa, subsidies took various forms. It could be by direct grant, that is, the government paid a portion of the rent to local authorities, leaving the occupant to pay the balance; or the government paid local authorities for their services in African Housing Areas so that the cost of such services were not included in the rent. The most popular method however, was the former, that is, the charging of uneconomic rent.\(^5^9\)

The effect of rent subsidy was to obscure the need for higher housing standards as it was difficult to determine how much rent Africans were capable of paying in the absence of subsidy. Accordingly, the conference on urban housing problems in East and Central Africa\(^6^0\) stated in its resolutions that governments and public authorities should avoid subsidies whereever possible and prevent the resultant hardship to occupiers by increasing wages.\(^6^1\) A major obstacle however was that wages had slipped a long way below what had been termed, "The Poverty Datum Line",\(^6^2\) hence opposition towards withdrawal of rental subsidy in the report the Committee appointed to review the Financing of Services an
Amenities for Africans in Urban Areas, (Coleman Report) of 1961. The Coleman Report pointed out that there would have to be a very big wage increase to reach the "Poverty Datum Line" and at the same time include enough money to pay unsubsidised rent. Local authorities were afraid that if wage increase was not substantial people would be unwilling or unable to pay Council housing rents and thus many houses would not be let to tenants with consequent loss of rental income.

(iii) **Home Ownership Schemes**

Home ownership signifies ownership of the house by the occupier irrespective of interest in land. The policy to encourage people to construct their own houses on plots leased to them by local authorities was the latest to be introduced in the country. This was probably because it is a relatively complicated undertaking. Modern housing standards demand bricks, mortar, iron or asbestos roof and timber of high quality, skilled artisans and compliance with building regulations and public health regulations. The average man is thus unable to embark on such an undertaking and hence looks for an agent who will not only provide the building materials and construct the house, but is also willing to finance the whole project and recover his capital outlay over a long period of time at a rate of interest acceptable to both parties.

It is not surprising therefore, that the policy of home ownership during the colonial period was not fully developed. In Ndola for
instance at the time of independence, home ownership constituted only seven percent of total housing, all of which belonged to Europeans. In Lusaka, home ownership constituted nine percent of total housing and again the majority of home ownership housing belonged to Europeans. 65

Home ownership on rented plots began in 1958. In the course of that year plots became available for the first time for alienation to Africans on the Copperbelt and Kabwe. This was in a bid to encourage the stabilization of the African worker. The term of the lease varied in accordance with the standard of buildings erected. The period varied between fourteen and sixty-six years depending on the quality of building materials used. 66 The government assisted prospective home owners by providing demarcated and serviced plots, and technical advice and assistance, although on the latter it was impeded by lack of adequate staff. 67 Building Societies, 68 Commercial Banks and Insurance Companies assisted with finance.

In order to encourage home ownership by low wage earners, the government in conjunction with building societies created the low cost/high density guarantee scheme. This scheme applied to houses with a valuation of not more than K4,000. Building Societies could advance up to 90 percent of the valuation. The government guarantee extended to the whole amount actually lent by the Society so that in effect the Society had a completed guarantee. In the event of default by the borrower, the Society could sell the house and after getting the best possible price, call on the government to make up the shortfall, if any, within thirty days. Very few loans
however were made on this basis. At the same time some employers were encouraging their employees to own houses. The government and local authorities granted loans for this purpose to their senior staff, while mining companies were encouraging their employees to purchase houses on mine properties. Many other commercial and industrial concerns were persuading their employees to become home owners.

Two experiments may be cited to illustrate the working of these schemes. Under the home ownership scheme tried in Ndola in 1958, loans of up to ninety-five percent of the capital cost were made available at an interest rate of five percent repayable over a period of twenty-five years. Houses varied in respect of facilities and accordingly their prices ranged from K860 to K1,900. Although there was an overwhelming demand which necessitated the screening of applicants with respect to their financial ability to repay the loan, there was a problem of finding suitable purchasers because most of them did not fully appreciate the consequences of home ownership. This lack of appreciation had been engendered by the migratory labour system. To the migrant worker who retained his allegiance and affections in the tribal culture, a house was "a place to sleep and eat and repository for his belongings". Housing was not perceived as a necessity, hence the fewer demands his accommodation made on his purse the greater the chances of accumulating cash with which to purchase potential novelties from town or to enhance his rural status through the display and the giving away of wealth on returning home.
Occupants were under the mistaken impression that they could rely on the local authority for repairs. Those who carried on trade in rural areas would leave their homes for months without paying the instalments. Subsequently, it was found necessary to convert these purchasers to tenants so that on default of rent, local authorities could repossess the house. 7

In Lusaka, the home ownership scheme began in 1961. The British South African Company in conjunction with Richard Costain (Afri Ltd.) initiated the scheme in Lilanda. 74 In addition to developing the land, the Company also provided funds amounting to K200,000. Five types of houses were constructed with varying facilities and sold at varying prices. In contrast to Ndola scheme, in Lusaka, the houses were constructed on serviced freehold plots. On buying a house, the initial deposit was ten percent of the purchase price and monthly repayment of the loan was over twenty-five years.

Extra facilities in addition to electricity, pipe-borne water and water borne sewage could be incorporated at a small extra cost. Monthly repayment ranged from twelve to nineteen kwacha depending on the type of house purchased.

Notwithstanding the efforts taken to make the home ownership policy a success, the response was rather disappointing. The lack of interest in these schemes on the part of developers has been attributed to the fact that housing had been made available by employers to employees on "extremely and probably too attractive rental terms", a fact necessary in order to attract workers of all grades of skills to urban areas. 75
(iv) Consequences of the Colonial Housing System

The housing policies discussed did not cater for many Africans who required housing. Housing tied to employment was discriminatory of the numerous persons who carried on trade such as hawkers, pedlars and other self-employed people such as charcoal burners, tailors and shoe repairers. Many of these could not have afforded local authority rental houses even if they had been made available to them. Also rental housing proved inadequate for the increasing number of employees.76 Two alternatives were available for those without housing accommodation, home ownership, which was however a failure for the reasons given above, and the additional reason that home ownership was not meant for low income earners.77

Those who settled on European estates paid rent to the landlord. However, as the number of settlers increased, it became difficult for the landlord to exact rent and control settlement on the estate. In Lusaka there are numerous such settlements still in existence and they are named after the names of the landlords for example John Howard and George Compounds.
The others found it easier to squat on local authority or on Crownland.

By 1933, Lusaka had a large number of unauthorised or squatter settlements. Owing to the poor quality of housing in squatter settlements,⁷⁹ and the absence of proper water and sanitary facilities, the government in conjunction with the Lusaka Municipal Council (as it then was) decided to demolish them as soon as the Council could provide and service a suitable site. In 1957, despite the housing shortfall of 28,000 some squatter settlements were demolished. The residents were however taken into African Housing Areas.⁸₀

In spite of the efforts at demolishing squatter areas, they continued to expand and as independence drew near, there were at least six squatter compounds comprising in the order of their respective population strengths Kalingalinga, Kanyama, Marrapodi, Mandevu, Antonio and Mtendo.⁸¹

CONCLUSION

The British Colonial Government was caught in the dilemma of their own policy of stabilisation without urbanisation. An attempt which failed in effect, because such a policy was contradictory, as developments discussed in the preceding paragraphs have shown. The policy only succeeded in delaying for too long the development of suitable and enduring housing policies. Except for the policy by which housing was tied to employment which began with the Employment of Natives Ordinance, the most important of the housing policies during the colonial era, that is, rental housing by local authorities was not introduced until 1948 under the Urban African Housing Ordinance. By this time settlements on private land were already flourishing.
Housing tied to employment although vindicated by the need to prevent unemployed Africans from residing in Urban areas was counter productive. Its success was dependent on the success of the labour policy of stabilising but not urbanising the African worker. When the labour policy failed, African workers who were out of employment or in search of employment decided to squat on private land or local authority or Crownland.

While the legal framework for housing tied to employment was adequate, that for rental housing and home ownership were inadequate. Rental housing was a policy but the duty to construct rental housing by local authorities was not clearly spelt out as emphasis was on employers to build houses in African housing areas than local authorities erecting houses and then offering them to employers. Home ownership only provided for the acquisition of houses already constructed. The cost of the houses could only be afforded by the privileged few. Instead, plots should have been allocated to any enterprising African to construct his own house.
CHAPTER FOUR

POLICIES AND MANAGEMENT OF HUMAN SETTLEMENTS AFTER INDEPENDENCE

The achievement of political independence in 1964 was not followed by the often stated\(^1\) demand for revolutionary change in the policies and management of human settlements. The provision and management of the housing stock continued to be based on the colonial rental housing policies. Local authorities throughout the Republic continued to provide heavily subsidised rental housing without any modification until 1972 when the Second Five year National Development Plan (SNDP) was launched. The SNDP sought to phase out rental housing through "Site and Service Schemes".\(^2\) The new housing management strategy also officially recognised, for the first time, that squatter settlements were a fact of Zambian life and had come to stay. The government recognised that although squatter settlements were unplanned and an intolerable eye sore, they nevertheless represented an asset in housing stock, both in financial and social terms, and that wholesale demolition was no longer a practical solution.\(^3\) Hence, the SNDP accorded squatter settlements the right to exist and provided for their upgrading and improvement rather than their demolition.

Rural Housing

The Order-in-Council of 1928 creating Reserves and Native Trust land recognised customary law as a source of land law and stipulated that "The Governor shall within each reserve assign lands to natives whether as tribes or portions of tribes". At this time, chiefs administered and controlled the allocation and use of land. Similarly S.16 of the
Subordinate Courts Act recognised customary law as a source of land law and stipulated that "In cases between Africans regarding land disputes, African Customary law shall be deemed to apply." The land tenure system in Northern Rhodesia, as Zambia then was, reflected two land tenure systems, namely: English land law imported into the country by the British colonial Government and an indigenous customary land tenure. The English land law applied to foreign settlers along the railway line and other centres with substantial European settlement. The law was designed to encourage individuals and such business organizations as the British South Africa Company (BSA) and the African Lakes Corporation (Mandala Stores) to hold and develop land for economic purposes. This system of land holding also provided security for capital investment in housing development. Elsewhere, customary land tenure prevailed. The Northern Rhodesia (Crownlands and Native Reserves) Order-in-Council of 1928 provided that in the reserves, the indigenous people could acquire land and exercise interests and rights there in accordance with customary law.\(^4\) Constitutional and land law amendments since independence have hardly altered the pattern of customary land tenure in rural areas.

The chief is still looked upon as the custodian of tribal lands. He continues to exercise regulatory functions over the acquisition and the use of land. The chief allocates land to an individual or a group of individuals for the purpose of working on the land or building houses either in existing villages or to establish new villages. A stranger is not allowed to build a house or to till the land without the Chief's permission. Subject only to the Chief's authorisation, villagers are
free to construct and manage their settlements without the kind of planning restrictions one finds in the development of urban settlements. Customary land tenure follows the pattern of tribal practices and norms. It may be in the nature of individual ownership, concurrent or communal ownership, according to customary practices prevailing in the tribal area concerned. Customary land tenure is not subject to registration of title as is the case in urban areas. Because of this, the sale and purchase transactions involving human settlements on rural land are rare.

In presenting the Land (Conversion of Titles) Bill to Parliament, the Minister of Lands and Natural Resources gave an assurance to the House when he stated that "... whilst reserves and trust lands are already vested in the President, the traditional role of our chiefs in the administration of land in the areas will continue just as the customary rights of Zambians to occupy and use the land in rural areas without payment of ground rent except where a formal lease has been granted". The legal implications, however, go far beyond the Minister's understanding of the Land (Conversion of Titles) Act.

Section 10(1)(a) of Chapter 479 of the Laws of Zambia which has assigned traditional functions to the office of the Chief stipulates that chiefs may perform traditional functions under African customary law, provided the exercise of such functions is not inconsistent with the Constitution or any written law or repugnant to natural justice or morality. "It
would appear from this that the practice of allocating of land by chiefs under customary law is inconsistent with the written law, namely, the Land (Conversion of Titles) Act of 1975. Similarly, S.5 of this Act terminates all absolute rights in land in perpetuity and all leases extending over one hundred years. All such rights are converted into statutory leases subsisting for one hundred years effective from 1st July, 1975. And yet customary landowners in the form of clans hold land more or less in perpetuity resembling ownership in fee simple. On the death of a member of the clan, ownership passes to members of that clan and to nobody else. Under these circumstances, it is difficult to argue that land under customary law is subject to the one hundred year statutory lease. In practice, this is not so.

Even if Sections 5 and 6 of the Act governed land held under customary law, it does not seem reasonable to expect people in villages who may not know the existence of such a law to abide by the provisions of such an Act. It is clear, one would be led to the assumption, nay, to the conclusion that Sections 5 and 6 of the Act were not intended to include land held under customary law. This is so because land in rural areas is not scarce and is not subject to speculation which gave rise to the Act. Chiefs do not sell land to their subjects. They merely allocate it to those who need it. The Land (Conversion of Titles) Act is therefore a town dwellers Act.

The Village Registration Act of 1967

Soon after independence, government was anxious to strengthen the fabric of village life by measures directed at encouraging the construction of decent housing, community participation in economic and social activi
ties of the village. Because of this concern for the welfare of the rural inhabitants the Village Registration Act was enacted in 1967. The object of the Act is to foster social and economic development, and the Act provides for the registration of human settlements and the movement of individuals from one village to another. To achieve these objectives, the Act establishes institutions of elected ward councillors, village productivity and ward development committees to mobilise village resources in a spirit of self-help for the common good.

Prior to independence, the minimum number qualifying for village registration was ten households. The new government, however, felt that for the purpose of establishing viable, efficient and effective village committees, it was more practical to have twenty-five (25) households as the minimum basis for an administratively viable village committee.  

To facilitate regional planning and land settlement programmes, villagers are encouraged under the village regrouping policy, to move from unproductive areas to lands with greater potential for economic and social advancement and to participate fully in the construction of suitable houses and the maintenance of such allied services as wells, feeder roads and pit latrines. Consequently, rural aided self-help housing programmes were established in such areas as Mungwi in the Northern Province and Namushakende in the Western Province.

Whilst the introduction of the Act was well intended, it has had adverse effects on the administration of human settlements in villages.
It has undermined the traditional pattern of village life. The role of the chief, let alone that of the village headman, is obscure. Chiefly functions have been diluted, if not withdrawn altogether. The Chief's powers and executive authority are somewhat restricted. Regarding their authority, the most relevant piece of legislation here is the Local Courts Act. In 1965, it was decided to remove chiefs from the Native Courts system. In 1966, Native Courts were abolished and replaced by the Local Courts Act Chapter 54 of the Laws. This Act deprived chiefs of their legislative and judicial powers - the authority which was necessary in the administration of housing policies within the framework of the Native Courts Ordinance.

One of the most important and positive features of the Act was that Local Courts have jurisdiction over all persons irrespective of tribe or race as in an adultery case in Crubler v Lusambo 1969 L.C. (Appeal) heard in the Lusaka Urban Local Court on 13th July, 1966 (unreported Local Court case in the custody of the Lusaka Province Local Courts Officer) and also in Ndamikwe and Long. Presumably these changes were made with a view to fostering democratic principles enshrined in the Zambian Constitution. In the short run, however, this development brought about the weakening of the village resolve in tackling problems of human settlements in rural areas. Connected to this problem is the fact that because the chief has no real control over the community for which he is head, villagers are no longer obliged to seek the chief's permission to leave the village and go to towns or indeed elsewhere. As a result, able bodied young men have left the villages and only old men and women have remained. These people are not in a position to implement the economic and social development programmes envisaged by the Village Registration Act.
The Decline of Local Authority Rental Housing

Between 1966 and 1970, the first National Development Plan (FNDP) placed emphasis on the provision by local councils, of low cost houses for rent. Under this plan, government budgetary allocations amounted to K8.4 million each year. Yet, between 1956 and 1965, government spent an average of just over K2 million per year.\(^{11}\)

The four-fold increase in capital expenditure did not necessarily result in the four-fold increase in the number of low cost housing units. On the contrary, house building costs had risen from K640 to K1000 per house.\(^ {12}\)

The inflationary spiral of the time eroded what could have been the corresponding increase in the local authority housing stock. The Second National Development Plan (SNDP) did not provide for the construction of high cost houses. It was decided that every effort had to be made to reduce the effects of increasing prices of building materials by "making more and more reduction in the number of more expensive houses to be constructed".\(^ {13}\) Local authorities were also urged to make use of available local building materials to alleviate the effects of inflation on imported building materials. Greater emphasis was placed on quantity rather than quality. This is apparently in conformity with the official housing programme introduced in April, 1965,\(^ {14}\) the objective of which was to build as many houses as possible from the available funds.\(^ {15}\) Although provision was made for serviced plots in the First National Development Plan (FNDP) and the 1965 Housing Programme, 70 percent of expenditure on housing was on local authority rental housing. The problem of rental subsidy remained unresolved until 1972 when, under SNDP, it was decided to phase out rental subsidy.
In the circular explaining housing management under the SNDP it was acknowledged that annual rental subsidies had been increasing at an alarming rate. The mechanics by which rental subsidy was to be phased out were firstly, the promotion of home ownership through the sale of council houses, upon which subsidies would cease; and secondly, for houses not sold, by a gradual decrease in the amount of subsidy between 1972 and 1975.

Notwithstanding the change in policy, rental subsidy has in fact continued to the present time albeit in a decreased form. There is however some merit in maintaining it since the low wages paid to the majority of employees occupying rental housing would make it impossible for them to remain in occupation of council houses or government houses as the case may be. But it has been argued that rental subsidy apart from placing a heavy burden on government revenue, has the effect of militating against the supply of houses in the country. The argument is that because those in gainful employment are accommodated in houses where they enjoy rental subsidy, they are in fact less inclined to acquire their own houses and in this way the effective demand for housing is artificially reduced.

It was hoped that the sale of council houses would be expedited, but unfortunately, owing to some legal problems discussed in the succeeding chapters, there has been no significant progress in this direction. Under the Third National Development Plan (TNDP) it was decided to withdraw all "hidden subsidies" and convert them into "directed subsidies". In this plan, the government was to define or identify much more clearly the categories of people entitled to rental subsidy as well as determine the extent of such subsidies. Appropriate steps were to be taken to re-channel
direct subsidies to the lowest income groups and extend them to Bomas as district administrative centres were then called in the rural areas.\textsuperscript{22}

The SNDP made no provision for the official construction of rental housing, whether low cost or high cost. Under the Plan, all housing built during the plan period by local authorities were to be sold. Similarly, the TNDP made no provision for rental housing. It can therefore, be safely assumed that rental housing has been officially abandoned. At the time the SNDP was launched rental housing in urban areas constituted 71.9 percent of all housing and appendix II shows the ownership of rented dwellings as of 1972.

**Home Ownership**

This category of housing before the introduction of site and service areas was only available to the privileged few who could afford the costs of building their own houses in accordance with existing building standards. The TNDP estimated that the need for this high standard of housing was only five percent\textsuperscript{22} as the idea was essentially practicable only for the relatively small, high and middle income groups.\textsuperscript{23}

There are two methods by which a person may provide himself with a home outside site and service areas and squatter settlements. One method is by direct acquisition from a vendor. The other method involves an elaborate procedure commencing with an application for a plot to the Commissioner of Lands followed by the securing of development permission required under the Town and Country Planning Act \textsuperscript{24} from the Town Planning Authority to commence construction.\textsuperscript{25}

The house must then be constructed in accordance with building standards under the Public Health (Building) Regulations\textsuperscript{26} and the Local Government (Building) Regulations.\textsuperscript{27} Agents of Local Authorities are empowered to inspect the work and may cancel demolition or alteration
where there is non-compliance with the prescribed standards.\textsuperscript{28} The practical difficulties arising from the duty to comply with the said regulations and provisions under statutes relevant to housing are discussed in the succeeding Chapter.

Aronovici\textsuperscript{29} suggests some pre-requisites to the success of home ownership in the American States. Some of these prerequisites are relevant to developing countries such as Zambia. Among these is the need for a steady income so that payments on the home are met promptly and the danger of foreclosure practically eliminated. This of course is important where the finance has been raised by way of mortgage which is more common than total reliance on private resources. Secondly, changes in the character of the neighbourhood should not be such as would lead to depreciation in the value of the house and thus render continuance of occupancy undesirable or impossible. The character of the neighbourhood may be affected by alteration in the zoning of the area or the indiscriminate construction of various types of housing in the absence of a requirement for a minimum investment value. It is submitted that preservation of the character of the neighbourhood, if insisted upon, may hinder the implementation of the policy to integrate housing in Zambia.\textsuperscript{30}

Until the attainment of Independence in 1964, housing estates in Zambia followed a pattern of separate development. Africans had their locations in Chilenje and Matero in Lusaka and Chifubu and Chimwemwe in Ndola and Kitwe respectively. Indians and coloureds had their own, while Europeans lived in Kabulonga and Woodlands in Lusaka and Parklands in Kitwe. This pattern has not changed. What has changed is that more affluent Zambians and high government officials have taken residence in these areas. There is a subtle but distinct feeling of anathema even among Zambians against
living anywhere near site and service areas let alone squatter settlements. In newspaper advertisements for rental accommodation and for purchase especially by companies, housing in Kabulonga, Sunningdale, Woodlands and Parklands are most sought after due to pleasant neighbourhood and also these areas are far away from squatter settlements. This preference for these estates both among Zambians and expatriates (contract employees) continue to make it difficult for government policy of integrated development to be implemented successfully.

Other prerequisites are that the housing market should be capable of absorbing the home in case of transfers of owners without "serious loss of equity". Further, municipal and other tax burdens should be within a reasonable range, while the value of the original investment should not depreciate in times of economic depression. It is however difficult to avoid the latter where an economic depression has the effect of devaluing existing currency. In such a situation the original investment may depreciate.

Home ownership outside site and service areas does not receive government financial support. The reason for this is undoubtedly due to the high cost of building houses. The government prefers to channel its limited resources into Site and Service Schemes and Squatter Areas where the majority benefit. The only significant and major source of finance has been the Zambia National Building Society which offers loans on the security of the house to be purchased. Appendix III shows the estimate of loans granted by the Society during the period of the SNPDP. Taking
an average house of K50,000, the individual borrower contributes only 10%. In case of civil servants, government guarantees the entire mortgage. Monthly mortgage and interest repayments work out at K405 per month. Owner occupier employees are paid a monthly housing allowance of K300 for a house valued at K30,000 or above.\textsuperscript{33} In this case K300 housing allowance per month goes a long way towards paying the mortgage. If the house was leased, it should, under the present market conditions fetch at least K750 rent per month. In addition interest paid on house mortgages is tax deductible. This means that, in most cases, unless the home owner is unemployed, the house pays its own way.

An examination of Appendix III indicates the emphasis the Society has laid on medium cost housing (between K15,000 - K50,000) inspite of housing shortage in the country. It is in view of this that the government has urged the Zambia National Building Society (ZNBS) in the TNDP to shift its emphasis to low cost housing.

\textbf{Site and Service Schemes}

In these schemes, local authorities demarcate plots called sites and provide rudimentary services such as water, sanitation facilities and roads.\textsuperscript{34} Individual developers of plots in these schemes, called "participants" do their own construction of houses. They are, however, assisted with technical advice and some loans for building materials.

The services provided in these schemes are much more than those provided in similar schemes in Kenya. Under the schemes in Kenya, provision is made for roads and the demarcation of plots only.\textsuperscript{35} It is because of this
limitation in services that the measure has been said to fall under town planning rather than housing. The reason for the restriction in the role of local authorities is that Site and Service Schemes have been supported by the government in Kenya.

In Zambia, the schemes are fully backed by the government as one method by which housing shortage can be eliminated. Site and Service Schemes were introduced as a result of government policy review in 1965. The government may have been influenced by Koenigsberger's reconnaissance survey of April 1964. He was invited to Northern Rhodesia in early 1964 to "identify questions of general policy which would require top level decisions as prerequisites for a programme of action" in the fields of housing and planning. His report highlighted the policy options available to the government, whether it should continue the system of housing as social justice or change course and insist that towns-people should provide their own housing. The second alternative is tantamount to home ownership.

The objectives of site and service schemes are that the government should cause the construction of large numbers of houses by utilising the efforts of interested participants; encourage the building of homes by the provision of serviced sites, technical and other advice, loans for building materials and by the introduction of a simple and acceptable form of land tenure.
Participants in these schemes have to show that they are in salaried employment earning at least K20.00 and also that they can afford to buy at least K20.00 worth of building materials. At the present time, these figures are outdated and need to be revised to bring them in line with current costs.

In 1968 it was decided to diversify the type of services to be provided in site and service schemes. A distinction was made between "basic" and "normal" plots. In the former, that is basic, the services rendered are relatively low in standard although allowance is made for the provision in future of a better water supply and water-borne sewage disposal system. The only services provided are gravel access roads and common water stand pipes. Each water tap is shared among twenty-five occupiers. Participants have to construct their own pit latrines.

On normal site and service plots, a high standard of services is provided. Water taps are on each and every plot. Constructed on each plot is a semi-detached ablution block with a water-borne sewage system. As a model of the houses acceptable by local authorities, "core houses" are constructed. Core houses are units of two rooms and a kitchen with internal ablutions and connections to water and sewers for extension by the tenant. The standard of services provided to core houses are the same as those provided in normal plots. In both normal and basic site and service plots, kimberly bricks were officially accepted as an adequate building material.

Local authorities have criticised the idea of the basic plot as a reversion to colonial standards. But this type of plot was defended by the defunct Zambia Housing Board on the ground that its demand on
the infrastructure is so minimal that it is the only form of planned development which can be provided at a rate which will keep pace with the increase in demand for new housing.\textsuperscript{46} It is submitted that in view of the enormity of the housing shortage,\textsuperscript{47} standards should be sacrificed. Further, individual participants are at liberty to improve the amenities on their plots by themselves in due course.

One important measure introduced by the SNDF was the broadening of the scope of participants. Hitherto, participants were restricted to low income earners. Under the SNDF however anybody irrespective of income, could apply for a plot, since the plan expected people at all levels to accommodate themselves.\textsuperscript{48} In a discussion with the Lusaka Council Acting Director of the Project Unit, Mr. Makungo, he brought out the point that there was evidence that most of the participants in the high income bracket are known to have built houses in site and service areas either as a second home or for rent.\textsuperscript{49} Local authorities determine the number of plots which should be granted to either category of participants, that is, high and low income groups. In order to ensure that the right number of plots can be given to either category, when plots are advertised, applicants are requested to indicate their capital or income.

\textbf{Importance of Site and Service Schemes}

The site and service policy although introduced later than rental housing has since 1972 occupied a significant place in the overall national housing programme. Out of the total Lusaka Urban population of 538,000 about 326,000 people (just over 60\%) live in site and service and squatter settlements,\textsuperscript{51} while 212,000 inhabitants are accommodated
in rental housing and owner occupied housing. Under the FNDP, the site and service scheme was accorded 30 percent of financial allocation. But under the TNDP, the total investment was reduced to 27.5 percent of all investment in housing. The reduction is due to the increase in emphasis on the upgrading of squatter settlements.

Financing of Site and Service Schemes

The burden of financing site and service schemes has been the responsibility of the government. Government funds are used mainly to provide plots serviced to the level that can be afforded by the participants. The FNDP and SNDP did not define any role that financial institutions namely the Zambia National Building Society, the Local Authorities Superannuation Fund, the Zambia State Insurance Corporation, and the Zambia National Provident Fund would play. The first three were urged to make available for private borrowers a total of K32 million primarily for conventional housing, but also to a limited extent for self-help housing. The Zambia National Provident Fund is to encourage people withdrawing their benefits to take up home ownership.

The financial institutions mentioned are all statutory bodies, so that anything they do must be specifically provided for in the statutes under which they were established. Apart from the Zambia National Building Society which is legally empowered to lend money for housing, the others do not have similar legal backing. It is therefore necessary to extend the powers of these institutions to lending money for the construction of houses by appropriate amendments to the relevant statute under which they are respectively constituted.
Part of the money granted to local authorities by the government is used to provide loans to participants. Under the FNDF, this amounted to K2.6 million. But, this was insufficient for the success of the site and service policy. Local authority loans take the form of building materials.

Squatter Upgrading

The squatter upgrading policy has been the final resort in the quest for a solution to the housing crisis. The policy seeks to strike a balance or compromise between two options, one being demolition and the other formal recognition without much ado. The option to demolish, if exercised, would have left homeless a great number of families. In the absence of an alternative accommodation owing to the inability of local authorities to cope with the housing problem, the displaced families would rebuild in another locality and wait for demolition. The tug-of-war between the government and squatters would go on indefinitely. Demolition is ineffective when there is no alternative accommodation readily available. On the other hand, outright recognition would have implied conferment of title to land to squatters. Hence the need for the government to acquire title to private land on which squatters are settled. Recognition by the government not only depends on the title to land being vested in it but also in the provision of services such as water, and the construction of roads.

Historically, the policy has been a very controversial one between the central government and local authorities. Immediately after independence
in 1964, local authorities began agitating for the demolition of these settlements. The government did not succumb to this pressure because squatters could, if mobilised, be transformed into a decisive political force through their numerical electoral strength. This argument was equally true for local authorities as well, because, councillors needed such electorate to put them into local authority councils. In practice, the government was sympathetic, and in 1966, it installed a piped water supply in Kanyama compound in Lusaka, and appropriated funds for the supply of chlorinated water to Robert's and Bauleni compounds also in Lusaka. By 1968 the project for the supply of water to Chawama in Lusaka was well under way while on the Copperbelt, pipe-borne water had been introduced to Zambia City in Luanshya and Chibwe in Ndola.

In spite of these projects however, the government avoided total commitment to improving or upgrading squatter compounds and it was not until 1972 that the government in the SNDP formulated the policy. The government had recognised that "although squatter areas are unplanned, they nevertheless represent assets both in social and financial terms". It was stated in the SNDP that the areas required planning and services, and that the wholesale demolition of good and bad houses alike was not a practical solution.

In Kenya, faced with a choice between demolition and improvement of squatter settlements, the government opted for demolition. In November 1970, Nairobi's forty-nine squatter settlements containing
about 180 dwelling units accommodating about 8,820 people, were pulled down and burnt by the Nairobi City Council. To prevent the rebuilding of the huts the Council confiscated building materials.\textsuperscript{63}

Under the SNDP, the first step in pursuance of the upgrading policy was to contain the existing squatter settlements to their sizes and the preparation of serviced plots to be allocated to those whose houses would be demolished to give way to road construction. The second step is the planning by the Council as to the provision of pipe-borne water, road and refuse removal services and thereafter sewage and street lighting.\textsuperscript{64}

Squatter upgrading is not merely a temporary expedient while awaiting better housing.\textsuperscript{65} The government envisages that people will, given the right encouragement, improve their houses to the same standards, if not above that of local authority housing. In order to allow for this improvement, planners must ensure that water pipes are so sized that, although initially, they only serve stand pipes, subsequently every house can be supplied with its own pipe-borne water. For the same reason, population densities of squatter settlements are examined to ensure that there is room for every house to expand to a size of four or five rooms. Those people whose houses are cramped are encouraged to build elsewhere where space is available.\textsuperscript{66} In practice, the opposite is the case. In fact nobody bothers about room for expansion. In any case, plot allocation is done by party officials who are not altogether enlightened about the expansion policies. In Lusaka, the upgrading exercise is being undertaken by the Council's Housing Project Unit.
The Impact of Squatter Upgrading

As pointed out earlier, prior to 1972, squatter upgrading had no place in the national housing programme. The FNDP provided only for the control in the growth of these settlements. The SNDP however provided for a sum of K5 million for squatter improvement. Although this amount was incorporated into the 1972 Government Estimates of Expenditure, it was not possible during the year to spend this sum because time had to be allowed for preparations to implement the policy.

Nevertheless, part of the money was utilised for the scheme to upgrade plots in Malota compound in Livingstone, and the taking of aerial photographs of squatter areas in all urban centres. The amount allocated for squatter improvement in the SNDP only constituted 4.7 percent of the total amount spent on housing and fourteen percent of the total sum allocated for site and service schemes and squatter upgrading. The emphasis was on site and service schemes during this period.

Financing of Squatter Upgrading

Broadly, squatter settlements are the responsibilities of two bodies, urban local authorities (for squatters in local authority areas) and the Department of Lands (for squatters outside local authority areas, that is, squatter on state land). Since the government is responsible for both local authorities and the Department of Lands, it is the main financier of the upgrading programme. The TNPD has made provision for K198 million. Of this amount government planned to raise only K46 million. The rest, it was hoped would be raised by local authorities and
financial institutions. The International Bank for Reconstruction and Development is also assisting in the financing of the squatter upgrading programme being undertaken by the Lusaka Urban District Council. The World Bank has loaned the government of Zambia, the sum of K26 million for the purpose of financing site and service and squatter upgrading programmes in Lusaka.

Evaluation of Policies and Management of Human Settlements After Independence

All considered, the post-independence housing policies are the only logical alternatives to housing shortage. These policies have the advantage of involving the labour of individuals who require houses. They also offer a better security to urban dwellers than housing tied to employment or rental housing.

In practice, however, they are difficult to implement. Home ownership outside site and service areas has been hampered by inadequate sources of money to buy or build houses inspite of the existence of the Zambia National Building Society. The government does not assist developers outside site and service areas except by a meagre 15 percent guarantee of the National Building Society Mortgage. The government guarantee is 100 percent for civil servants, but this category of persons is a minority. The majority have to fend for themselves.

Home ownership has also been hindered by statutes such as the Public Health Act, Local Government Act, the Lands and Deeds Registry Act, the Town and Country Planning Act and the Land Survey Act. Chapter five focusses attention on these statutes.
Site and Service Schemes are also experiencing financial constraints in spite of government assistance to participants. The Building Society's lending policy is that money can be borrowed on the mortgage of leasehold property. But site and service scheme participants had no acceptable title until 1974 when the Housing (Statutory and Improvement Areas) Act was passed. The Society therefore excluded participants from borrowing. Even after the passing of the Act, the Society has been reluctant to lend participants in these schemes.

Site and Service policy has also suffered due to the apathy among the persons who are intended to benefit from it. Some people prefer to squat rather than be regimented by the laws of the state and local authority bye-laws. In addition, it is becoming increasingly difficult, as the scale at which the policy is being implemented expands, to secure sufficient manpower to give technical advice to participants in the course of constructing houses.

Squatter upgrading is fairing better in Lusaka than Site and Service Schemes. The ever increasing numbers of squatters however mean that upgrading is attracting more and more squatters and must therefore keep pace with the rate of the formation or expansion of squatter settlements. The above shortcomings are however with respect to the implementation and not the rationale. It is submitted therefore that it is in the interests of the community that these management policies must continue to be pursued.

CONCLUSION

During the post-independence period, significant changes in the management of human settlements have taken place. Rental housing has been replaced
by site and service schemes and squatter upgrading. The former, 
that is rental housing, was costly to the government owing to rental 
subsidies. The change is an acknowledgement of the inability of the 
state and local authorities to cope with the upsurge of urban population.

The government and local authorities have been concerned mainly with the 
low income group. This is the category of persons who require assistance 
much more than the higher income group. Hence the emphasis on site and 
service and squatter upgrading. What is needed at present is a legal 
framework that is complementary to the stated management policies. The 
present legal framework is discussed in subsequent chapters.
PART II

LEGAL CONSTRAINTS
INHIBITING HOUSING DEVELOPMENT
CHAPTER FIVE

THE LEGAL AND PRACTICAL CONSTRAINTS ENCOUNTERED IN THE DEVELOPMENT AND MANAGEMENT OF HUMAN SETTLEMENTS OUTSIDE THE HOUSING ACT

Home ownership is envisaged on two levels, institutional and the individual or private initiative. As a matter of policy, local authorities are directed to sell their houses to the public\(^1\) while private individuals are permitted to build houses for themselves. This Chapter attempts to evaluate the present law with a view to determining whether it is practical for local authorities to sell their houses to the public. In this connection attention is focussed on the practical problems arising from the Land Survey Act\(^2\) and the regulations made thereunder.

Secondly, this Chapter looks at the legal framework for individual initiative in housing development directing attention on the legal constraints and practical difficulties arising from the law. The Lands and Deeds Registry Act,\(^3\) Town and Country Planning Act,\(^4\) and the Public Health Act\(^5\) and the regulations made under the above Acts are particularly relevant.

Sale of Local Authority Houses

There are three methods by which this may be achieved, namely:

(i) Sale to an existing tenant of the house which the tenant occupies, hereinafter referred to as "sales of isolated existing houses";
(ii) Sale to individual purchasers of houses situated within a defined block of houses (referred to as "sales of existing houses in a designated block");

(iii) A new estate layout with houses built specifically for sale (referred to as "a new estate layout").

Local Authorities are granted land in blocks and are granted one certificate of title for each local authority area. In order to sell existing houses, they have to carry out separate surveys for each and every house and then prepare diagrams required for the registration of documents transferring title to the purchaser. Section 4 of the Lands and Deeds Registry Act requires the registration of every document "purporting to grant, convey or transfer land...". Every document presented for registration under Section 4 must be accompanied by a diagram as defined in the Land Survey Act and such diagram must be approved by the Surveyor-General.  

Regulations made under the Land Survey Act prescribe the nature and standard of field work, while the First and Second schedules contain the rates of charges or fees for professional work carried out in accordance with the provisions of the Act. Almost all surveys are in practice carried out by traversing with theodolites with either steel tapes or distance electromagnetic/measurement, the latter of which has allowed considerable productivity.
The Survey Cost

Many commentators have pointed out the high cost of survey under the Zambian system. As local authorities have one certificate of title for the whole of a housing area, the cost of surveying isolated existing houses would take a very long time to accomplish and may be impracticable.

In the case of a survey of a block of plots whether it be to facilitate sales of existing houses in a designated block or a new estate layout, the cost of surveying a series of contiguous plots must be less than the survey of isolated existing houses. It has been pointed out however that, survey costs render the existing system (appear to be an) unnecessarily high in proportion to the total cost of a house and plot provided with services such as water and electricity.

The standard of survey in Zambia is extremely high compared with many other more developed countries. This high standard has distinct advantages as it is so accurate that all boundary disputes are virtually eliminated. Without resort to lowering standards or the charges for professional survey work, it has been suggested that an accurate delineation of a plot of land can be achieved at a lower cost than at present. This can be done by the introduction of reference beacon system at present used to delinate boundaries in a swamp or river. Under this system there would be fewer beacons to erect and hence survey costs would be reduced.
One weakness with the reference beacon system is the danger of destruction of the few beacons by earth moving equipment. There is no such danger where the beacons are in a swamp. The casualty rate of survey beacons arising from the work of bull-dozers, and road graders is very high.\textsuperscript{14} It is however possible to avert this danger by erecting beacons that do not abutt the roads and are therefore free from destruction.

Conveyancing Costs

In the process of conveying property to individual purchasers, local authorities will have to pay various types of fees for the preparation and certification of documents conveying the leasehold interest in land. These fees which are required under the Lands and Deeds Registry Act,\textsuperscript{15} the Stamp Duty Act,\textsuperscript{16} and the Land (Conversion of Titles) Act\textsuperscript{16} will ultimately be reflected in the cost of the house to be borne by the purchaser. The government could grant a subsidy in respect of low cost housing by reducing stamp duty on transaction of less than a determined monetary figure and also reducing the registration fees in respect of such transaction.

Private Home Ownership

Private individuals may provide themselves with housing in two ways, either by purchase of an already existing house or the building of a house on undeveloped land. With respect to the former, the main problem is that of availability of finance. Where an individual intends to build his own house, the procedure by which he can develop his house depends on the purpose for which the area in which he wants
to settle is zoned. If the area is zoned under the Town and Country Planning Act for residential purposes, he only has to secure the building permit under the Public Health (Building) Regulations. But in all cases where the area is not zoned for residential purposes, the developer has, in addition to securing the Building permit, to obtain the planning permission from the planning authority. It is also required under the Public Health (Building) Regulations that buildings comply with the standards laid down by the building regulations.

In both situations however, that is, housing by purchasers or the construction of a new house, the developer is affected by the intricacies of the law and practice relating to dealings in land. Grants of land and dealings in land are affected by means of documents which are drafted in compliance with the formalities required by the English Law as applied in Zambia. The validity, subject to the requirement of registration under the Lands and Deeds Registry Act, of the documents and their effect is governed by the rules and technicalities of English conveyancing law and practice. Failure to comply with them may result in defective documents being used. Any such defect may continue to affect the title to the land until corrected notwithstanding that the document has been registered. Hence conveyancing by deeds has resulted in complications, expenses and delays in land transfers.

Planning Permission

Having acquired a piece of land, a developer must, depending on the circumstances affecting that land, secure planning permission from the Minister\textsuperscript{17} or planning authority. The Town and Country Planning Act provides for the appointment by the Minister of Planning Authorities which prepare development plans.\textsuperscript{18} In these development plans certain areas
are zoned for different types of development or use for example industrial residential, commercial, etc. When these plans are prepared and approved by the Minister all types of development must conform to the development plan. Section 22 requires that permission should be secured from the Minister or Planning Authority for any development within an area subject to a development plan. The Act defines development as the "carrying out of any building, rebuilding or other works or operations on or under land or the making of any material changes in the use of land or buildings."\(^{19}\) Clearly the construction of a dwelling house comes within the meaning of the term development.

The Minister had, under his powers to make regulations for carrying into effect the provisions of the Act,\(^ {20}\) and he must also make regulations prescribing the procedure for securing planning permission. Under Regulation 4, all applications must comply with the statutory form. Such applications must include prescribed particulars and must be accompanied by such plans and drawings as indicated on the form.

The particulars required in the prescribed form include, inter alia the area of land, affected area of buildings proposed to be constructed, and the building materials to be used. Three plans are required: the site plan, which shows the boundaries of the land and any adjoining plot or road; a block plan showing the position of any existing or proposed buildings on the land; and a building plan, showing the plan of each of the parts or sides of the building.\(^ {21}\)
Similar building and block plans are required to be submitted to local authorities under the Public Health (Building) Regulations\textsuperscript{22} as a prerequisite to the grant of a building permit. There is some difference however in detail and size of the plans and this variation necessitates the preparation of separate plans for planning permission and building permission. These plans cannot be prepared by a layman. They require the services of qualified and competent architects, thus adding to the overall cost of housing construction.\textsuperscript{23} In view of the costs, it would be advisable to standardise the particulars of the plans so that the developer does not have to go back to the architect for different plans and incur further costs.

**Building Permit**

A building permit is the permit authorising a developer to proceed with the construction of a dwelling house. No construction may proceed until such a permit has been secured in accordance with the Public Health (Building) Regulations.\textsuperscript{24} Reference has already been made to the requirement of building and block plans above. The securing of the building permit has been made dependent on the applicant having secured development permission. In some improvement areas, however, building permits are not always required. In the absence of such permits lower standards of building are resorted to. Houses are built without concrete foundations or strong roof trusses. These lower standards lead to catastrophies such as occurred in Kanyama squatter settlements in Lusaka in 1977, when, due to floods, some houses collapsed thereby causing loss of life and property. And yet houses in the neighbouring Makeni area which were constructed under the requirements of the Building Permit
withstood the storms and floods of 1977. Regulation 8 stipulates the following instances in which an application for a building permit may be refused:

(a) Plans contravene the regulations or any rules for the time being in force in the Township;
(b) The system of drainage is unsatisfactory;
(c) There is insufficient provision of access to sanitary carts;
(d) For building on plots where there are some buildings standing that government has not sanctioned subdivision;
(e) Latrine accommodation is not sufficiently provided for;
(f) The plans do not adequately provide for the strength and stability of the building nor for the sanitary requirements thereof;
(g) The site is zoned for a different purpose;
(h) The plan is not accompanied by an undertaking in writing by the person submitting such plan that the building operations will be supervised by a qualified architect or other competent person approved by the local authority so as to ensure that the building complies with the plan.

Notwithstanding the above grounds, a permit may be refused where the authority considers on any other ground that it is objectionable to grant it.25

It is obvious from grounds (d) and (h) that a building permit can only be issued after planning permission has been granted. This causes unnecessary delay. At present, in cases where development permission
is not necessary, the grant of a building permit may take one to two months from the time the application is lodged.\textsuperscript{26} Where planning permission must be obtained, a similar period is required for the planning authority to grant the permission, where upon the local authority considers the application for a building permit. It is difficult to appreciate the rationale for the grant of a building permit being dependent on securing planning permission. It would be more convenient to the developer if applications for planning permission and building permit could be lodged simultaneously so that both applications are considered by the responsible authorities at the same time.

It may well be that the grant of a building permit was made consequent upon securing planning permission in order to stop people from commencing construction in the absence of planning permission and then only to be compelled to demolish the building on the ground that the area was zoned for a different purpose. Indeed, it has sometimes happened especially in cases where the local authority (which grants the building permit) is not the planning authority for that area,\textsuperscript{27} that the local authority grants a permit for the construction of a building to be used for a purpose contrary to the development plan.\textsuperscript{28} The developer is then ordered to demolish the building or secure planning permission. Such a predicament can be costly to the developer.

The above situation can however be avoided by either creating or evolving a machinery for liaison between the two authorities or by including an
express term in the building permit to the effect that construction should not commence until planning permission has been secured. A similar term can be found in the prescribed form for planning permission stating that the application is for permission under that Act only and does not "absolve the applicant from obtaining any other consent under any law, by-law, regulation, state lease agreement etc., that may be required". It is advisable for the building permit to contain a similar provision which should expressly refer to planning permission.

Regulation 11\textsuperscript{29} requires the developer to commence construction within six calendar months of the date of the building permit. In default of commencement, the permit lapses. Similarly, construction must be completed within twelve months, otherwise, the permit is deemed to have lapsed. The developer is however entitled to submit a fresh application following the same procedure.

The period within which construction must commence is too short especially in cases where, as is often the case, the developer relies on the Building Society or other institutions for housing finance. A home developer often finds that because the Building Society will not release the money until the foundation and slab have been constructed (which form the security for the first instalment) and the money for so doing must be raised by the individual developer from other sources, it is difficult to commence construction within the stipulated six months.\textsuperscript{30} With respect to completion, a building contractor, who builds and sells houses has
pointed out that completion within twelve months is not possible owing to present scarcity of building materials and delays by the Society in releasing money. He explained that the Society will only grant a further instalment on the basis of the value of the improvements, but their valuers take a long time in evaluating the property, thereby causing delays. It is submitted therefore that the requirements of commencement and completion constitute an impediment rather than an encouragement to housing development.

Further, it is submitted that there is no rationale for a public health authority to prescribe the period within which completion must be attained since the lapsing of the permit consequent upon failure to complete does not result in the developer losing his title to the land. The lapsing of the permit merely leaves the land undeveloped until such time as a fresh application is submitted and approved, thus causing further delay.

But the foregoing criticism is not to detract from the necessity of developing the land within a reasonable time. There is the covenant in the statutory lease granted by the state under the Land (Conversion of Titles) Act by which the state may treat the lease as forfeited in the event of failure to develop the land.32

Building Standards

There are two Acts that prescribe building standards, namely, the Public Health Act and the Local Government Act.33 The Local Administration Act which has replaced the Local Government Act contains similar provisions regarding building standards. The building regulations made under the two Acts do not apply universally. The Minister, may, by statutory
instrument apply either all or any of the regulations under any of the Acts. The regulations under the Local Government Act have never been applied in practice but the Public Health (Building) Regulations\textsuperscript{34} have been applied extensively. The application of the building standards has been restricted to all high cost housing areas which are open to the public for housing construction. Their application have not been restricted to important commercial and industrial centres along the railway line but also in the rural towns.\textsuperscript{35}

Regulations 21 to 49\textsuperscript{36} prescribe requirements relating to building materials, the height of walls, thickness of walls and minimum area of every habitable room. All the foundations and floors must be made of concrete, stone, good sound burnt brick, wood or other material approved by local authorities. The regulations also prescribe the acceptable degrees of ventilation and the mode of building construction. In addition to building regulations, there are other regulations prescribing the construction of drainage system and ablutions made under the Public Health Act. The Drainage and Latrine regulations\textsuperscript{37} apply to most areas where the building regulations apply. The application of the two sets of regulations has rendered construction of dwelling houses and the arrangement of drainage and sewage highly technical processes. The costs incurred in a bid to comply with these regulations are therefore enormous.

The building regulations under the Public Health Act have been the subject of persistent criticism. The East African Royal Commission observed that in the economic circumstances of East Africa (which had a similar code) the territories could not afford to spend their limited resources on houses
of the standards required by the regulations. The National Housing Authority has expressed the view that "countries with a chronic housing shortage like Zambia cannot afford to be too exacting about minimum standards".

Before we join in the controversy against the present building standards, a perusal of a research paper prepared by the National Housing Authority concerning the life expectancy of dwelling houses based on materials used for construction will be helpful. The National Housing Authority found that the most durable houses are those constructed from hollow concrete blocks with asbestos roofing sheets or from wire-cut brick work with plaster and galvanised iron roofing sheets. Such houses can last for a period in excess of fifty years. But the life of sun-dried mud blocks (kimberley bricks) is much shorter than concrete blocks.

The building regulations prescribe standards by which the houses constructed in compliance thereof can serve the occupant for more than forty years. To that extent, these regulations render investment in housing fruitful. Any reduction in the quality of building materials has the corresponding effect of reducing the life expectancy of the house. One must also recall the annual catastrophes in which huts constructed from relatively inferior building materials in squatter compounds such as Kanyama collapse during the rain season owing to inadequate foundation and roof support.
It is submitted however that while prescriptions as to the quality of building materials are necessary despite fluctuations in the supply of building materials in the country, the technicalities involved in housing construction should be done away with. It has earlier been pointed out that the combination of building and drainage regulations has rendered housing construction an extremely technical process. It calls for the engagement of building contractors.

The building industry in Zambia is not fully developed. It is necessary therefore to remove these technicalities so that independent artisans or bricklayers can construct houses without much difficulty. This will have the added advantage of reducing construction costs as the developer has a better chance of negotiating for a lower charge with an individual artisan than a firm of building contractors. The development of human settlements in villages is not governed by building regulations. Developers find it a lot easier and cheaper because there is an abundance of local building materials most of which can be obtained from the forest free of cost and one does not have to pay for artisans and building plans to build one's home. Because of the availability of materials, repairs are effected quickly. As a result one hardly hears of calamities arising from houses collapsing in villages. Problems occur in urban areas because building materials are expensive. Even a cardboard costs money. There are no forests left to provide free poles and rafters. Craftsmen have to be paid. Hence inhabitants in squatter settlements such as Kanyama cannot afford these costs and therefore resort to cheaper ways of putting up a human shelter.
CONCLUSION

The foregoing discussion serves to indicate that there are some serious impediments to housing development outside Site and Service Areas. The present legal framework involves costs, duplicity and delay. It is quite probable that these inhibiting factors have to the flourishing of squatter settlements.
PART III

EVALUATION OF THE LAW AND POLICIES AFTER 1974
CHAPTER SIX

THE MANAGEMENT OF HOME OWNERSHIP UNDER THE HOUSING
(STATUTORY AND IMPROVEMENT AREAS) ACT, 1974

The evolution and significance of the policies relating to Site and
Service Schemes and the upgrading of squatter settlements have been
discussed in Chapter Four. Inspite of their long history\(^1\) it was
not until 1974 that the Housing (Statutory and Improvement Areas)
Act\(^2\) hereinafter referred to as the "Housing Act" was passed providing
the legal framework within which the management policies could be
implemented.

This Chapter examines the provisions of the Housing Act particularly
with regard to security of tenure. The review will also be concerned with
the availability of incentives for housing development in areas covered
by the Housing Act as well as an evaluation of the extent to which the
Act enhances the implementation of the relevant policies. Security
of tenure is important because it serves as protection against adverse
claims and encourages development and can be offered as security for
house building loans. The Chapter concludes with some comments on the
extent to which the Housing Act has been applied.

The legal and practical difficulties encountered in housing development
outside areas covered by the Housing Act have been discussed in Chapter
Five. The legislative enactments that have hampered development in those
areas have been excluded by the Act.\(^3\) The Act also excludes the
application of the Rent Act,\(^4\) and the Stamp Duty Act.\(^5\) The costs of
survey incurred in the preparation of diagrams of each house are reduced because the Housing Act only requires the preparation of a plan for the whole area in which plots are identified by serial numbers. The exclusion of the Town and Country Planning Act has removed areas covered by the Housing Act from planning authorities appointed under that Act, and the National Housing Authority is now the planning agency for these areas.

On the other hand, the Public Health Act under which the controversial building standards have been prescribed has not been specifically excluded. This omission should not pose any problem however because the application of the Building Regulations are dependent upon the declaration of the Minister to that effect presumably due to the cumbersomeness of the regulations.

### Declaration of Statutory Housing Areas and Improvement Areas

The Minister may, by statutory order or instrument declare any area to be a Statutory Housing Area or Improvement Area as the case may be. There are two prerequisites to these declarations. First, the area to be declared must be owned in fee simple or in leasehold from the State under the provision of the Zambia (State Lands and Reserves) Orders. In view of Section 4 of the Land (Conversion of Titles) Act, which has converted all freeholds to leaseholds for a period of a hundred years, the reference to the fee simple estate must be taken to mean the statutory lease granted under the Act.
Secondly, the Local Authority responsible must prepare a Statutory Housing Area Plan or Improvement Area Plan as the case may be. The plan must be approved by the Surveyor-General (who retains one copy). Copies of the plan must be deposited with the Registrar of Lands and Deeds and also, in the case of the Statutory Housing Area Plan, with the Commissioner of Lands. The plan indicates the name and description of the area, existing roads, if any, the roads proposed to be constructed, existing areas for common user, and the area and dimension of each plot of land identified by a serial number.\textsuperscript{14}

Since the details required in the plan are the same for both Statutory Housing Areas and Improvement Areas, it is not clear just how the local authority determines which area should be declared a statutory Housing Area and which area should be declared an Improvement Area. The Act is silent on the distinction. Other sources however reveal the basis of distinction between the two areas. In the parliamentary debate introducing the Bill, the Minister of Local Government and Housing said:

"The Bill relates to the improvement and control of squatter compounds which will henceforth be referred to as "Improvement Areas" and it relates to the letting of land in what are commonly called "Site and Service Schemes" which will henceforth be referred to as Statutory Housing Areas".\textsuperscript{15}

Squatter compounds are illegal and unplanned settlements without basic amenities whereas site and service areas as the name implies are serviced areas on which holders legally build houses and are granted some form of security of tenure.
In a circular entitled "The Housing (Statutory and Improvement Areas) Act, 1974," explaining the mode of implementing the Act from the Ministry of Local Government and Housing it is stated:

"For purposes of classification on ordinary council housing estate such as Libala and Matero in Lusaka, Chifubu and Masaka in Ndola, Chimwemwe and Ndeke in Kitwe or Mikomfwa in Luanshya or any other fully serviced areas should be classified as a Statutory Housing Area. An upgraded area such as Kanyama in Lusaka or particularly serviced area should be classified as an Improvement Area. In case of doubt the matter should be referred to this office for consideration."

It would seem then that the test is the extent to which an area is provided with services. What is not clear is the contrast between fully serviced and partially serviced areas, as most of the settlements presently enjoy pipe-borne water, roads, sewage services although in the case of water, stand pipes may be shared.

In this uncertainty, local authorities have so far only sought the declaration of their housing estates in which houses have already been constructed by themselves as Statutory Housing Areas but have excluded Site and Service Schemes, whether they are fully serviced or not contrary to the Minister's statement in Parliament and the circular. Confirming the above practice by local authorities, the Registrar of Deeds at the Lusaka Urban District Council disclosed that to the best of his knowledge and experience he had only issued leases under the Housing Act to occupiers of houses in council housing estates and that persons in Site and Service Schemes and upgraded squatter settlements, alike,
had been issued Occupancy Licences pertaining to Improvement Areas. A lease is granted for a period of 99 years whereas an occupancy licence is given for a period of 30 years.

The declaration of one area as a Statutory Housing Area is of crucial importance to the public because the conditions, terms and covenants in the lease offered in Statutory Housing Areas are more favourable than the covenants in Occupancy Licences offered in Improvement Areas. Covenants in an occupancy licence are more onerous than those prescribed in the lease. Covenant 7 states that the licence does not confer tenancy upon the occupant. An Occupancy Licence can be determined for commission or breach of a minor council by-law.

**Council's Powers in Statutory Housing Areas and Improvement Areas**

Sections 5 and 38 confer powers on local authorities in respect of Statutory Housing Areas and Improvement Areas respectively. In both areas, a Council may subdivide the land, and "in accordance with the specifications prescribed by the National Housing Authority erect any building or effect any improvement on any piece or parcel of land". In addition to the above, a Council may in a Statutory Housing Area let a piece of land on terms and conditions prescribed by the Minister, while by contrast, in Improvement Areas, the Council may issue an occupancy licence and may carry out the construction and maintenance of roads, sewage, etc. and other works for public amenity. The latter is the basis for squatter improvement or upgrading.
The provisos to Sections 5 and 39 are of utmost importance to the quest for a solution to the housing shortage. The proviso to Section 5 states that the Council shall not (so far as relevant):

(i) Let more than one piece or parcel of land to any one person;
(ii) Save for use and occupation by himself or his BONA FIDE dependants, let to any person engaged in the business of buying, selling, letting, developing, or in any way dealing in immovable property".

The proviso to Section 39(2) reads:

"Provided that no more than one occupancy licence shall be issued to any one person".

The rationale for the inclusion of the above proviso seems to have been to prevent people from speculating in Statutory Housing Areas and Improvement Areas. The question whether speculators in housing should be permitted to participate in Site and Service Areas has been one of controversy. The argument of the government in support of prohibition in the Act against speculators, has been that to do so would encourage the emergence of a class of landlords.

In a circular entitled "Aided Self-help Housing on Site and Service Schemes", from the Ministry of Local Government and Housing, which was the basis for the Site and Service policy, the government argued that by permitting speculation, a nation of landlords whose aim will be profiteering and exploiting the unwary masses will emerge. In view of the shrewdness of these businessmen, it will be virtually impossible to control the rents. In fact, both individuals and businessmen are indeed shrewd
According to Director of Housing of the Lusaka Urban District Council, speculation has become the order of the day. About 50% of houses built in Kamwala/Kabwata Site and Service Scheme are on rent. Twenty percent have been sold. Similarly, small rooms in squatter settlement areas are let for as much as K30 per room with no facilities whatsoever.\textsuperscript{26}

The choice in the view of the government has been between encouraging speculators or upholding the government's "moral duty to the populace of protecting them from the caprice and avarice of.... astute profiteers".\textsuperscript{27} For this reason, it was previously decided that subletting in Site and Service Areas and Improved Squatter Settlements should not be permitted altogether. But in view of the fact that under the Housing Act subletting is permitted subject to the consent of the Local Authority responsible being obtained,\textsuperscript{28} the question of participation of housing prospectors in Statutory Housing Areas and Improvement Areas should be considered afresh.

It is submitted that the Act contains a safeguard against the fears expressed by the government. Under Section 42, the Registrar is precluded from registering any document purporting to "transfer, deal in, or affect any land unless the Council is a party to the transaction recorded therein or has signified its consent to any such transaction". The reason for making the Council a party to the transaction is that such transaction must be with the consent of the Council. It is therefore possible for the Council to control rent or the purchase price in the case of a sale, by withholding the necessary consent. It should also be pointed out that the government controls the amount of money payable as rent under a sublease, under the Land (Conversion of Titles) Act.\textsuperscript{29} If the government can perform such a function in respect of the whole country, local authorities would find it
easier to discharge the same function as their responsibility would be restricted to areas within their respective jurisdictions.

In any event, the argument is rather weak when applied to Statutory Housing Areas because an exception is made with regard to the government, local authorities, public authorities or other public bodies and employers in Statutory Housing Areas. These bodies, having provided accommodation to their employees, deduct rent from their income at source. But the Council has no power under the Housing Act to control the amounts deducted as rent from employees resident in Statutory Housing Areas.

On the other hand, the benefits accruing from permitting speculators to develop housing in these areas should not be underestimated. They have the necessary finance to construct as many houses or purchase the same as to satisfy the current housing need. By stopping them outright, the growth of housing stock in the country is being hampered.

Land Tenure Under the Housing Act

The rights and obligations of occupiers in Statutory Housing Areas and Improvement Areas must be examined with regard to the incentives or lack of them towards investment in either category of land. In connection with the discussion concerning the declaration of areas as Statutory Housing Areas or Improvement Areas, we have alluded to the disparities in the rights enjoyed by lessees in statutory Housing Areas and licencees in Improvement Areas.
which is that the lessee has exclusive possession.\textsuperscript{40}

Although the occupancy licence has been said to be vague and thus attract the interpretation of licence at common law,\textsuperscript{41} there seems to be little justification for this conclusion. The crux of the matter is that Section 39(5) excludes by implication any resort to the common law for purposes of interpretation by expressly providing that the rights and obligations of a holder are those prescribed. There is no reason why the occupancy licence should not have its own unique attributes and the mere fact that the terminology used has a parallel at common law is not sufficient.\textsuperscript{42}

The Inhibiting Effect of Covenants in Statutory Housing and Improvement Areas

The covenants pertaining to Statutory Housing Areas and Improvement Areas have been reproduced verbatim in the lease and occupancy licence respectively. These covenants negate the idea of home ownership. The basis of home ownership is that the occupier enjoys the fullest possible rights with respect to the use of the house subject, of course, to the general law concerning public health and nuisance. The occupier expects some reasonable degree of non-interference from local authorities or the State. Covenants which may discourage investment in Statutory Housing Areas and Improvement Areas are mainly the covenant to repair and the covenant relating to the grounds upon which the lease or licence as the case may be, may be determined. In addition to the above
covenants, occupancy licences contain other onerous covenants such as the covenant against exclusive possession; and the closure of water taps for failure to pay water rates.

Repair

The statutory lease and occupancy licence both contain covenants for repair. In the statutory lease, the lessee covenants with the lessor to keep the premises in "good and substantial repair" together with all the fixtures erected by the lessor. Another covenant empowers the lessor to enter the premises and view the state of repair of the said premises and the fixtures. Under the occupancy licence, the licensee must not only maintain the premises in a state of good repair but must also keep the premises "clean and tidy and clear of litter....." There is also a corresponding power in the local authority to enter the premises and inspect the buildings thereon.

In a circular entitled "Aided Self-help Housing on Site and Service Schemes", the government justified the covenant relating to repair on the basis that it would prevent housing areas from deteriorating into slums and novels. This may be a commendable idea but the consequences of default, forfeiture of the lease or determination of the licence is too harsh. In view of the cost of purchasing or erecting the house, it is suggested that the covenant should only be enforced where the state of disrepair is such as to jeopardise the safety of the occupant or the public health of the neighbourhood.
Determination of Lease and Licence

The grounds for determining a lease in Statutory Housing Areas and a licence in Improvement Areas are onerous. Apart from determination by effluxion of time, a lease may be determined by reason of a breach of any one of the covenants or for being in arrear with respect to rent for fifteen days whether demanded or not. The forfeiture clause seems to treat all the covenants as being of equal importance. Admittedly, some covenants are quite important especially those relating to the general maintenance of public health and the safety of occupants in Statutory Housing Areas. But covenants against the cutting of timber or the putting up of fences should hardly give rise to forfeiture of the lease. With respect to the construction or raising of fences, local authorities should themselves put up the fence and include the cost incurred in the overall purchase price. An ordinary action for damages should suffice for the cutting of timber. The determination of an occupancy licence by reason of being in arrear of payment of water rates for three months is unfair, since the period of three months is too short. However, in practice these harsh provisions have been rarely enforced.

In addition to the covenants discussed above, a licensee is under more onerous covenants which render his position less enviable than that of a lessee notwithstanding the possibility that the cost of his house may be higher than the cost of a house in a council housing estate. The licensee
has neither quiet possession nor exclusive possession both of which
the lessee enjoys in Statutory Housing Areas. The occupancy licence
expressly states:

"The licence shall confer no tenancy upon the occupant, and
possession of the premises shall be retained by the Council... and the Council shall at any time have the right to enter upon
the lands and to inspect the buildings upon such lands or to
install or erect any works thereon which the Council deems to
be in the general interest of the Improvement Area or its
occupants".44

The most unjust covenant however is the covenant that empowers the
Council to discontinue the supply of water to the part of the Improvement
Area within which the house of a licensee who is in arrear with respect
to water rates, is situated. The idea is undoubtedly to punish the
defaulting licensee. But the consequences of closure of a water tap may
be far-reaching. In Chapter Four it was said that in some Site and Service
Schemes there is one common water tap serving twenty-five plots. Councils
have often used this power to the detriment of the other licensees who
depend on the same source for the supply of water. This may be an indirect
way of soliciting pressure from the other licensees to force the defaulting
party to pay.

Closure of a common water tap on default of one licensee to pay the rates
can only be justified at common law, if the licensees are tenants in
common with respect to the tap. As tenants in common the licensees have
the rights to the use of the water tap in undivided shares, and are
therefore severally responsible for the due payment of water rates.45
But the application of the common law doctrine of concurrent interests to licensees in Improvement Areas who have no relationship with one another except the fact of proximity of the plots of land to one another is not satisfactory and is impliedly not permissible under Section 38 of the Housing (Statutory and Improvement Areas) Act. Councils, it is suggested, should include the water rate and other service charges in one lumpsum and thus render default in paying the total sum punishable by determination of the occupancy licence. The repercussion of default will hence fall on one individual, leaving the others unaffected.

The other covenant which may inhibit investment in Improvement Areas is the covenant regarding the use to which the house should be put. Unlike a tenant in a Statutory Housing Area, a licensee must occupy the premises as a residence for himself and his "immediate family only" and in particular should not take in "any lodger or other occupant without the consent of the Council".

The reference in the covenant to the immediate family must be understood to mean the "nuclear" family in developed European countries. In view of the prevalence of the extended family system in this country, the rationale for this covenant is somewhat obscure. It might well be that the intention is to discourage further migration to urban areas by using the home of relatives as spring-boards. Even if this is taken to be the intended effect, it is an ineffective solution which might even be counter-productive, since it would encourage the establishment or growth of squatter settlements. Perhaps the idea was to prevent sub-licensing of one or more rooms without the consent of the council for some monetary payment. But the covenant is too sweeping for the above suggestion.
The position of the tenant in Statutory Housing Areas and the licensee in Improvement Areas is therefore unsatisfactory. The law permits the individual to invest substantial sums of money in the acquisition or the construction of the house, but thereafter his activities are heavily circumscribed. It has been found in respect of squatter settlements that the introduction of council rules after the declaration of an area as an improvement Area had led to some licensees emigrating from the area to unauthorised or squatter areas where they can live without interference.\(^{46}\) That there has been no emigration from site and service schemes may be due to the relatively higher value of investment as the houses are much more costly than in squatter areas.

**Extent of Application**

Since the Housing (Statutory and Improvement Areas) Act came into operation,\(^{44}\) only about ten areas have been declared Statutory Housing Areas\(^ {48}\) and about four areas have been declared Improvement Areas,\(^ {49}\) in the five years that have elapsed. This falls far short of the expectations of the public which had been led to believe that legislative backing of the policies of Site and Service Schemes, and Squatter upgrading would result in the abundant growth of housing stock so as to alleviate housing shortage.

The sparing use of the Act as related to Statutory Housing Areas is due to the restriction by the Council (quite unwarranted by the Act) of the declaration of the Statutory Housing Areas to the council’s housing estates. All that is necessary under the Act, as a prerequisite to declaration is the demarcation of plots, the construction of roads and
the provision of services. The construction of the house itself is the sole responsibility of the owner. If the Councils addressed themselves to the above mentioned prerequisites only, many more areas could have been declared Statutory Housing Areas.

With respect to Improvement Areas, the problem has been that of acquisition of title to the land on which squatters are settled. Where the registered proprietor has no objection, very few problems arise. But in the event of the ordinary procedure of acquisition being impracticable, either by reason of the proprietor's disagreement or absence from the country, the government has to utilise the Lands Acquisition Act to compulsorily acquire the land.

The Lands Acquisition Act empowers the President "Whenever he is of the opinion that it is desirable or expedient in the interest of the Republic so to do, to compulsorily acquire any property of any description". The Act provides for compensation which is dependent on whether the land acquired is "developed and utilised" or undevolved and unutilised. Hence the government policy underlying what is compensable or non-compensable land is the use to which it is being put. The government in passing the Act was concerned primarily with land held by absentee landlords which happens to be the land on which squatters have settled.
Inspite of the existence of the Lands Acquisition Act, much of the Land still remains in the hands of absentee landlords, a factor which hampers the upgrading of squatter settlements. The implementation of the Lands Acquisition Act has not been successful owing to problems of administration and inadequacies in the law.\textsuperscript{54} The main problem relating to administration has been the non-availability of funds for compensation. It has been asserted that financial constraint has seriously limited compulsory acquisition to cases where there is a government ministry requiring land for a specific project for which money is already available.

The other administrative bottle-neck has been the shortage of skilled staff and transport. The government has no knowledge of what land is undeveloped inspite of development clauses in state leases of agricultural as well as residential land. To date, knowledge of the location of such land is haphazard depending principally on reports from members of the public. But even where field investigations are conducted, there is some confusion among the officers as to which land is compensable.\textsuperscript{55} For this reason, it has been argued that the terms "undeveloped" and "unutilized"\textsuperscript{56} which lack precision should be simplified by relating them to a minimum monetary value to be attached to development on the land.\textsuperscript{57} The other administrative problem is delay in the determination that acquisition will be in the interest of the Republic.\textsuperscript{58}

With respect to the Act itself the major flaw is the provision in Section 11 that in the event of a dispute as to the amount of compensation, the Minister must deposit in court the amount he considers "just" prior to
his taking possession. It is therefore possible for the owner to frivolously dispute the amount of compensation on the ground that it is meagre or inadequate, thereby making it difficult to proceed with the acquisition due to non-availability of funds to deposit with the court.  

The Act has mainly been used hitherto to acquire land for agricultural projects, new school sites, police, customs, and immigration stations. To a limited extent however, the Act has also been used to acquire land for residential purposes.

CONCLUSION

The fact that the Housing (Statutory and Improvement Areas) Act has been used sparingly indicates that the law itself and the manner in which it is being implemented is unsatisfactory. The Housing Act was intended to encourage people to construct their own homes, but the covenants in the lease granted in Statutory Housing Areas and occupancy licences in Improvement Areas negate the idea of home ownership. There is a need to create some incentives towards housing development in Statutory Housing Areas and Improvement Areas. At present the areas being declared either as Statutory Housing Areas or Improvement Areas have already been developed, so that the effect of declaration is mainly to grant a good title to the land. We have seen that the introduction of Council rules in squatter areas led to the emigration of occupiers to other places where they could live without interference from the Council. When the Project Unit of the Lusaka City Council started upgrading Chawama squatter
settlement, many squatters moved away in protest and settled in a new locality called Jack Compound. However, because the large sums of money involved in the construction of a house in Site and Service Schemes, the residents in these schemes cannot readily leave the area. If undeveloped land was declared a Statutory Housing or Improvement Area and then the public invited to construct houses in the area, the inhibiting effect of covenants would become apparent.

In terms of alleviating housing shortage the present practice of declaring areas in which houses have already been constructed does not lead to the increase in the housing stock in the country. The people in the areas declared are already accommodated and they are not included in the figure representing housing need. Councils should strictly adhere to the provisions of the Act so that more areas are developed.
CHAPTER SEVEN

CONCLUSION

Housing policies in Zambia reflect a change from the concept of housing as a social service to that of self-reliance. They have been moulded to cope with the housing need. We have seen in Chapter Two that the legal framework within which housing institutions operate is adequate for them to discharge their responsibilities. It was also pointed out however that the demand for housing has increased so much as to reduce their effectiveness to discharge their functions under the policies inherited from the colonial government. The enormity of the housing problem has seriously limited the various policy options available to the government. As the need for housing affects mainly the poor, the post-independence housing policies put emphasis on quantity rather than quality both in Site and Service Schemes and upgraded squatter settlements.

The policy of home ownership in Site and Service Schemes and upgraded squatter areas underline the extent of the housing shortage. As indicated in Chapter Four, this policy is laudable considering the inability of local authorities to construct houses at a rate that corresponds to the increase in demand. That this policy was not fully developed during the British colonial administration is due mainly to the fear of creating an urban proletariat that would have led to political confrontation and consequent deterioration in the maintenance of law and order as explained in Chapter Three.
Two adverse observations may be made however, with respect to the home ownership policy. Home ownership tends to slacken mobility, that is to say, people are tied down to their houses, thus making it difficult to utilise employment opportunities available elsewhere. This tendency may discourage low income earners from participating in Site and Service Schemes as they are the most vulnerable to redundancy declarations and loss of employment. Even when they finally secure a job, they cannot immediately apply for another plot on which to construct another house. With the abandonment of rental housing as indicated in Chapter Three, they have to rely completely on the employer for housing. But as we have seen in the same Chapter, the duty on employers to provide housing accommodation to their employees has been reduced by the proviso for housing allowance in lieu of housing. In the circumstances, the worker may be faced with no choice but squatting. This problem does not apply with equal force to home ownership in high and medium cost areas. Owners in these areas are able to lease their houses at highly remunerative rents when they move either on transfer or to seek employment elsewhere.

The second criticism that may be levelled at this policy is that it encourages permanent urban settlement. In the face of the call to the people to "go back to the land" the government seems to involve itself in contradictions. This factor was highlighted during the parliamentary debate which preceded the passing of the Housing (Statutory and Improvement Areas) Act, but to no avail. The evils sought to be avoided by housing tied to employment under the Urban African Housing Ordinance of 1948 namely urban population explosion, slums, unemployment and crime have already caught up with us. Undoubtedly, housing may not necessarily be the direct cause but it is logical to suppose that it may have contributed to the escalation of urban problems.
Nonetheless, the trend is now irreversible. Everything must therefore be done to encourage people to build proper housing accommodation for themselves. The housing policies pursued after independence, discussed in Chapter Four are adequate to solve the housing problem although building standards may have to be sacrificed for quantity.

What the policies need however is a legal framework that will ensure that they are successfully implemented. The intentions of the government as shown in various policy statements must find expression in the law itself so that they are acted upon by local authorities.

Attention should also be directed at the absence of a machinery for co-ordination or consultation among the several bodies or institutions responsible for various aspects of housing, namely local authorities, the National Housing Authority, and the Zambia National Building Society. This factor has led to delays in the development of housing. If all the steps necessary for the construction of a house, discussed in Chapter Five, such as planning permission, and building permission were decided by one body, the practical difficulties encountered by developers would be minimised.

There is also the need to consolidate legislation regulating housing. At present, a study of housing law involves an examination of statutes which, to a greater extent, inhibit housing development such as the Public Health Act, the Town and Country Planning Act and the Land
Survey Act. This is of special importance in respect of housing development outside areas covered by the Housing (Statutory and Improvement Areas) Act.

On the substantive law, the most urgent reform must be in respect of survey and building standards. We have seen in Chapter Five how the current high standard of survey may inhibit the implementation and management of government policy of selling council houses especially with respect to isolated existing houses, owing to prohibitive cost. It was also pointed out with respect to building standards, that they are too technical. Reform of building standards has been urged by many writers on the subject of housing. The suggestion is that the law must lower the present building standards, but at the same time permit those with sufficient funds to construct more costly and durable homes.

In areas where the prescribed standards do not apply, it is necessary to prescribe by law minimum standards. The present legislation governing Site and Service Schemes and upgraded squatter settlements have no statutory standards.

Minimum requirements concerning the type and quality of building materials and the mode of construction are decided upon by local authorities and contained in circulars and other extra-legal material. These standards have been varied from time to time under different housing programmes with the result that there is variation in the standards of housing among different housing areas. Standards for home ownership areas such as Sunningdale,
Olympia Park in Lusaka and Riverside in Kitwe allow for larger plots, tarmac roads and piped water to each plot; whereas only small plots and shared stand pipes are planned for site and service and squatter settlements.

The policy of home ownership in Site and Service Schemes and Upgraded Squatter Settlements requires a legal framework within which it should find expression because it is regarded as the solution to the housing shortage. But the Housing (Statutory and Improvement Areas) Act does not fully incorporate the idea of home ownership as conceived by the government. In Chapter Six it was shown that the covenants in leases granted in Statutory Housing Areas and in occupancy licences in respect of Improvement Areas are not consistent with the idea of home ownership. For these reasons, these covenants will discourage investment in housing in the areas to which the Act is applied.

At present, the effect of these covenants are not very apparent in Statutory Housing Areas because the houses were already constructed before the declaration, and the high cost of purchasing houses leaves the lessee no option but to resign himself to the onerous covenants. By contrast, in squatter areas where the cost of construction is less, some licensees are leaving following declaration of such an area as an Improvement Area.

One cannot escape the conclusion therefore that on the whole, the law does not in fact reflect the housing policies declared by the government, and that in certain respects it is actually hampering housing development in Zambia.


4. In this context, the word squatter means unauthorised settlers on land to which he has no title. To distinguish squatters on private and local authority land and squatters on state land, the description unauthorised settler is commonly used to refer to squatters on state land.

5. Casanova R.: "Land Policies & Practices" in HOUSING ASIA MILLIONS Ed. Yeh & Laquian, International Development Centre, Ottawa, 1976. Casanova states: "In South East Asia as in many developing regions the main problem of housing the urban poor is usually not the construction of dwellings but more so the availability of land and the planning and regulation of its use."


8. Baross Paul: "Evolutionary Housing Strategies"
   Urban Edge Vol. 5 No. 11 December, 1981.
   (Urban Edge is a Human Settlements publication, published for the World Bank by
   the Council for International Urban Liaison in Washington DC)

9. Conditions under which housing is provided or acquired refer to security of tenure assuring the holder of land of quiet or undisturbed possession of land.


11. See Appendix 1.


13. Ibid, P.323

14. The inadequacy of urban land tenure has been discussed under "land tenure in urban areas, ante."
1. National Housing Authority: Kitwe Development Plan 1979. P. 58 states that: Low cost area: 2900-4,499 sq. feet costs around K8,000; Medium cost area: 4500-10,999 sq. feet costs about K15,000; High cost area: 11,000 sq. feet and above costs around K35,000.

2. Housing (Statutory and Improvement Areas) Act No. 30 of 1975.

3. Chapters 4 and 5.

4. Security of tenure here refers to the conditions that assure the holder of land of quiet enjoyment and possession of the land.

5. There is some doubt as to whether the land (Conversion of Titles) Act No. 20 of 1975 applies to land under customary law i.e. Reserves and Trust lands. One view on the subject is that; customary land is held for an interest in perpetuity hence falls under "absolute rights in perpetuity" although converted to leaseholds by the Act. However studies by Gluckman "IDEAS IN BAROTSE JURISPRUDENCE, MEEK's LAND LAW AND CUSTOM IN THE COLONIES and R. Palmer "Land in Zambia" in Zambia Land and Labour Studies" Yale University Press New Haven 1965, PP. 75-112; Oxford University Press, London 1946 PP. 11-27; No. 2 vol. 3, National Archives, Lusaka 19 respectively tend to point to the absence of absolute right in land if "absolute" means the freedom of interest from dependence on other things.


7. Ibid. Section 4.


9. Ibid. Section 4.

10. These portions of land are in the Eastern Province of Zambia.
11. Section 5 of Act No. 20 of 1975
12. Ibid. Section 6
13. Ibid. Section 8
15. Ibid. Section 9
16. The Act and the Regulations do not define the word "Improvement" but section 3 of the Act defines "unexhausted improvements" as anything resulting from the expenditure of capital or labour.
17. Ibid. Section 16
18. Ibid. Section 7
19. Ibid. Section 8
20. Ibid. Section 16
21. Ibid. Section 10
23. Offer of Stand No. 8628 to Messrs Golden Spear Limited
25. Act No. 2 of 1970
26. Ibid. Section 10
27. Ibid. Section 11
28. Section 41, Employment Act, No. 57 of 1965
29. Act No. 16 of 1971
30. Act No. 42 of 1966
31. Ibid. Section 7(b)
32. Ibid. Section 20(1)
33. Ibid. Section 20(2)
33. Section 19(2) of Act No. 16 of 1971.

34. Active functions are functions that entail execution of plans, schemes or the construction of estates.


36. Section 20 of Act No. 16 of 1971.


38. Ibid. Section 25 of Act No. 16 of 1971.

39. Ibid. Section 45(1).

40. Ibid. Section 51.


42. Regional plans are those prepared by planning authorities on request by the Minister in accordance with Sections 41 and 45 of the Town and Country Planning Act.


45. Interview with Mr. A.B. Kasongo: Research Officer, National Housing Authority, June 15, 1983.


47. Ibid. P. 5.

48. Interview with Mr Kasongo: Research Officer, National Housing Authority, June 15, 1983.

49. World Bank: OP. CIT. P. 30.

50. Ibid. P. 30.
51. Act No. 16 of 1927 and Act No. 53 of 1929 respectively
52. Sections 3 of both Acts.
53. Municipal & Township Act No. 32 of 1948
54. Ibid. Section 21
55. Section 65 of Act No. 69 of 1965
56. Section 24 of Act No. 16 of 1971
57. Ibid. Section 25
58. Ibid. Section 48.
59. Ibid. Section 50.
60. Government of Zambia: Circular LGH/54/7/3 Ministry of Local Government and Housing
61. Ibid.
62. Housing (Statutory and Improvement Areas) Act No. 30 of 1974
FOOTNOTES  (CHAPTER THREE)

1. Provision of Housing then was restricted to Africans in salaried employment G. KAY, a Social Geography of Zambia, University of London Press Limited, London 1967 P.91


3. Urban African Ordinance No. 32 of 1948

4. Local Government Act No. 69 of 1968

5. Legally, local authorities are empowered to build houses for rent, however Government no longer allocates money to local authorities for this purpose.

6. Public Health Ordinance No. 12 of 1930

7. Township Ordinance No. 53 of 1929

8. Ordinance No. 16 of 1927

9. Private Estates Ordinance No. 56 of 1919

10. Municipal Corporations Ordinance No. 15 of 1930

11. Private Estates Ordinance No. 57 of 1919

(MSC. Thesis) Columbia University 1970  
(unpublished) P.10


14. Ibid. P.93

16. Bates R.: *Rural response to Industrialisation*
Yale University Press, New Haven, 1976 P. 41

17. Ibid. _P.41_

18. Some of the factors are economic, the benefits of which gave rise to the imposition of poll tax by the Colonial Governments.

Gann L.: *A history of Northern Rhodesia*
Chatto & Windus, London 1964 PP. 101-102

19. Heisler H.: "A class of Target Proletarians"

20. Ibid. No. 3 July, 1970
22. Ibid. 1.74 P. 18
23. Gray R.: OP. CIT. P. 111
24. Ibid. P. 75
25. Ibid. P. 111
26. Native Registration Ordinance No. 50 of 1929
27. Ibid. Section 5
OP. CIT. P. 101

29. Employment of Natives Ordinance No. 56 of 1919
30. Section 6, Public Health Ordinance, No. 12 of 1930
31. Ibid. Section 65
32. Ibid. Section 66
33. Eccles Commission of Inquiry into the administration and Finance of native locations in urban areas, Government Printers, Lusaka, 1944 P. 11 and 23.
34. Mine Townships Ordinance No. 11 of 1932
35. Reserves and Trustlands were subject to customary land tenure while Crownland was generally located in urban areas. The 1964 Order-in-Council converted Crownland into State land.
37. Ibid. P. 103
38. Ibid. P. 104
39. See Eccles Commission of Inquiry Report 1944
40. Ibid. P. 13
41. Ibid. P. 14
42. Ibid. P. 13
43. Urban African Housing Ordinance No. 32 of 1948
44. Ibid. Section 45(a)
45. Employment of Native Ordinance (Labour Department) Government Printers, Lusaka 1945, P. 73
46. Ibid. P. 73
47. Peri-urban privately owned compounds outside local authority direct influence in which employers provided accommodation for their labour force.
48. Kay G.: OP. CIT. P. 130
49. There is no clear or consistent statutory definition
50. As the Bill was being introduced in the Legislative Council, Mr. Eccles, a nominated official urged the Legislative Council to recognise the fact that Africans were becoming more and more urbanised. Northern Rhodesia Legislative Council Debates No. 61 of 1948, Government Printers, Lusaka 15th to 30th June, 1948.
51. Section 3 of the Urban African Housing Ordinance of 1948
52. Ibid. Section 21
53. Ibid. Section 27
54. Ibid. Section 28
55. Ibid. Section 26
56. Northern Rhodesia Legislative Council Debates OP. CIT.
57. Ibid. P.61
58. The length of time allowed for unemployed Africans to live in town was one month or the unexpired duration of his pass whichever was the longer. Section 36 of Urban African Housing Ordinance.
60. Ibid. Para. 46
61. Ibid. Para. 46
63. In contrast with the common law doctrine fixtures by which buildings are included in the definition of land under the maxim "quid quid plantur solo solo cedit".
65. Ibid. P.6


68. History of building societies, see G. Hope OP. CIT. P.6

69. Ibid. P.7

70. Ibid. P.7


72. Ibid. P.3

73. Hope G.: OP. CIT. P.8

74. Ibid. P.9

75. Ibid. P.7


77. Hope G.: OP. CIT. P.9


79. Ibid. Para. 75


81. Kay G.: OP. CIT. P. 125
FOOTNOTES


3. Ibid. P.9


8. Ibid P.3


10. Section (e), Village Registration Act


12. Ibid. P.42

13. Ibid. 42


15. Ibid. P.3

17. Ibid. P.9


19. Ibid. P.7

20. Indirect subsidies are sums paid to local authorities by the Government for the costs of maintenance and services. This amount would otherwise be reflected in the rent payable by the tenant. Direct subsidies are sums paid to local authorities as a portion of rent so that the tenant pays a reduced or uneconomic rent.


22. Ibid. P. 317

23. This category of people is not defined, but some guideline may be derived from what the government calls "middle income" which is between K160-K250 per month. See TNPD OP. CIT. P. 326, Table XVI. 7

24. Town and Country Planning Act No. 32 of 1961

25. Ibid Section 22

26. Statutory Instrument No. 357 of 1965

27. Statutory Instrument No. 314 of 1968

28. Ibid. No. 314 of 1968
   New York, 1939, P. 109

30. Government of Zambia Circular TPH/02/1 Ministry of Local
    Government and Housing dated 7th August, 1968

31. Established International organisation seeks quality housing in
    Kabulonga or other good Lusaka neighbourhood.
    A plot urgently required in a good neighbourhood of Kabulonga
    Sunningdale or Woodlands. High Price offered.

32. Aronovici C.: OP. CIT. P. 109

    Cabinet Office

34. Government of Zambia Circular No. 17/65 Ministry of Local

    AFRICAN REVIEW, Vol. 3, No.4 of 1973 PP. 611-
    627

36. Ibid. P. 611

37. ANNUAL REPORT AND STATEMENT OF ACCOUNTS, 1970 - 1971 Zambia
    Housing Board, Government Printers, Lusaka, 1972 P.3

38. Koenigsberger O.H.: HOUSING AND PLANNING IN NORTHERN RHODESIA
    A RECONNAISSANCE SURVEY, London Architectural

39. Ibid. P.9

40. Government of Zambia Circular 59/66 Ministry of Local

41. LOW COST RESIDENTIAL DEVELOPMENT IN LUSAKA, Department of
    Town and Country Planning, Government Printers, Lusaka
    1972, P. 86
42. Ibid. P. 87

43. Ibid. P. 103

44. ANNUAL REPORT AND STATEMENT OF ACCOUNT 1970-1971 OP. CIT. P.4

45. The Board was dissolved on the repeal of the Housing Act, CAP 426 by the National Housing Authority Act, No. 16 of 1971, Section 66 and Statutory Instrument No. 223 of 1972.

46. ANNUAL REPORT AND STATEMENT OF ACCOUNTS 1970-1971, OP. CIT. P.4

47. See Appendix One

48. SNDP OP. CIT. P. 318

49. Interview with Mr. Makungo, Acting Director of Project Unit 10/4/84

50. Interview with Mr. Kamumuza, Director of Housing, Lusaka Urban District Council, 8th February, 1983.


52. SNDP, OP. CIT. P. 318

53. Ibid. P. 318

54. TNDP, OP. CIT. P.325

55. Section 60, Building Societies Act, No. 46 of 1963

56. SNDP, OP. CIT. P.27

57. Ibid. P. 28


61. Ibid. P.3
62. SNDP, OP. CIT. P.43
63. Werlin H.H.: OP. CIT. P.619
64. Government of Zambia: Circular LGH/54/7/3 Ministry of Local Government and Housing OP. CIT. P.2
66. Ibid. P. 73
67. FNNDP, OP. CIT. P. 253
68. ANNUAL REPORT - 1972, National Housing Authority, Government Printers, Lusaka P.3
69. Ibid. P.3
70. TNNDP OP. CIT. P.325
71. Interview with Mr Kamuhuza, Director of Housing, Lusaka Urban District Council, 8th February, 1983
72. The same has been said of the schemes in Tanzania. See Bienefeld M.A.: "A Long-Term Housing Policy for Tanzania" in ECONOMIC RESEARCH BUREAU PAPERS, Dar-es-Salaam University College, 1969, PP. 23-25
73. ZAMBIA NATIONAL BUILDING SOCIETY MORTGAGE MANUAL, PP. 12-14
74. Public Health Act No. 25 of 1960
75. Local Government Act No. 69 of 1965
76. Lands and Registry Act No. 15 of 1914
77. Town and Country Planning Act No. 32 of 1961
78. Land Survey Act No. 59 of 1960
FOOTNOTES (CHAPTER FIVE)

1. Government of Zambia Circular LH/54/7/3 headed: "Housing Policy under The Second National Development Plan".

2. Land Survey Act No. 59 of 1960

3. Land & Deeds Registry Act No. 15 of 1914, as amended by Act No. 5 of 1943

4. Town and Country Planning Act No. 32 of 1961

5. Public Health Act No. 12 of 1930

6. Section 12 of the Lands and Deeds Registry Act, No. 14 of 1914

7. S.I. No. 99 of 1971


10. The system is said to have been imported from South Africa, hence the prevalence of South African Surveyors in the Country - Dale OP. CIT., P. 269

11. Dare OP CIT. Appendix F

12. Ibid. Appendix F

13. Ibid. Appendix F

14. Ibid. Appendix F

15. Stamp Duty Act No. 2 of 1961

16. Land (Conversion of Titles) Act No. 20 of 1975

18. Section 15 of the Town and Country Planning Act
19. Ibid. Section 22
20. Ibid. Section 53
21. Form T & CP 1
22. S.I. No. 357 of Public Health (Building) Regulations, 1965
23. The charges for the preparation of plans and supervision under the Public Health (Building) Regulations may go up to K6,000; Interview with Mr E.A. Dudhia, Legal Practitioner of Musa Dudhia & Co., Lusaka - 3/1/84
24. S.I. No. 357, SUPRA
25. Regulation 8(2) of Town and Country Planning Act.
26. Interviews with Mr. H. Golson of Lewis Construction 5/2/84 and P. Patel, Senior Architect in Pramod Patel - Architects.
27. Areas coming under the Northern Planning Authority and the Southern Planning Authority, Government Notices Nos. 356 of 1962 and 357 of 1962 respectively.
29. S.I. No. 357 of 1965
30. Interview with Mr H. Golson of Lewis Construction 5/2/84
31. Mr. D. Frangeskides of Velos Enterprises 12/2/84
32. Interview with Mr H. Golson of Lewis Construction 5/2/84
33. Covenant 4 of the Standard Statutory Lease granted by the state under the Land (Conversion of Titles) Act
34. No. 69 of 1965 as amended by Act No. 1 of 1970;
35. S.I. No. 357 of 1965
36. Ibid. S.I. 357, Supra
36. Ibid. S.I. 357, Supra


38. REPORT OF THE CONFERENCE ON URBAN PROBLEMS IN EAST AND CENTRAL AFRICA HELD AT NDOLA, NORTHERN RHODESIA (HMSO) London, 1958


40. Ibid. P.38 Table 3.1

41. Kanyama Disaster caused by floods of 1977/78 rain season

42. Interview with Mr H. Golson: Lewis Construction 5/2/84

43. TNPD, OP. CIT. P. 307