

GLTN PARTNERS' LAND TOOLS REVIEW WORKSHOP

Venue: Room CR-9, UN-Habitat HQ, Nairobi
5 and 6 September 2022
11h00 – 15h30 EAT
(Hybrid format: online and in-person)

A solution to urban sprawl issue: Vertical Title Schemes

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Challenging Issue: control Urban Sprawl

1/ outward spreading of cities is in cause of the a transformation of agricultural lands to residential lands

How to make a better use of a limited resource ?



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2/ Due to urban sprawl, higher density of the cities controlled by the population can make easier town planning in particular for:

- Public services (drinking water systems, networks ...)
- Transportation
- Security

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It is not about excessive urban sprawling (Mexico) neither extreme intensification of the population (Hong-Kong)



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Beyond architectural shapes, an efficient town planning has to offer flats in reasonable sized building, easy to manage.



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An answer : Vertical Urban Development in commonhold

Need to define :

- land rights that allow vertical development.
- rules for owners and associations which manage vertical housing.

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A French practice: Commonhold

An old and recognized know-how :

- A long experience ;
- A status adapted to all kind of buildings with commonhold ;
- A relevant and effective legal system
- A continual adaptation in law and jurisprudence.

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What is the commonhold?

A building with shared ownership which includes :

- Private units (flats, cellars, etc)
- General common parts with undivided property and responsibility (grounds, networks, road networks, corridors, green areas, roofs, etc)

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Land

- Ownership of the land is not a requirement.
- Commonhold may be based on :
 - Long term leases,
 - Concession
 - Right of use of the land
 - Right of use of superficies

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Commonhold units

Every unit includes:

- private ownership of a private area
- a fraction of the common areas which is a percentage determined by a land surveyor.

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Gathering of the owners

- The owners are gathered in a unit holders association which as a juridical status
- Function of this association :
 - Preservation of the building,
 - Maintenance and managing of the common parts,
 - Defense of collective rights.

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Common parts

Two categories :

- ❖ General common parts :
Undivided property of all the unit-holders used by all of them
- ❖ Special common parts :
Undivided property of several unit-holders reserved for their use

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The role of the descriptive state of division:

Identification of the unit of commonhold : private areas and distribution of the percentage of common areas for each unit

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Commonhold regulations

- Determinate the use of private areas and common parts.
- Set up rules relating to the use and maintenance of private areas
- Set up rules relating to the use and maintenance of common areas.
- Organize the functioning and management of commonhold.
- Determinate and distribute common service charges.
- Set up method of payment and method of collecting the sums due.

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Rights and obligations of the unit-holders

- Ownership right on private areas and enjoyment of the common parts restricted by the commonhold regulations.
- Possibility of the owner to occupy or rent it unit (commonhold regulations are opposable against the tenant)
- Contribution to all the common service charges

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• How to set up commonhold ? An interprofessional job

- **Surveyors and architects**
 - describing, drawing maps, measuring buildings and flats
- **Notaires**
 - writing acts : description of the division (different units and commonhol regulations)
- **Commonhold association**
 - Managing buildings

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Our expertise :

A simple global approach which can be adapted to every country :

- Notary (CSN) proposes a framework law and a framework regulation on commonhold ;
- Surveyors (Ordre des géomètres-experts) proposes method of calculation of the share of the common parts, stipulated in the deed of division and models of dimension maps ;
- Unit-holders associations (FNAIM) propose a model of contract and can present management and financial accounting tools (softwares).

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Face à l'urbanisation galopante : quelles solutions ?
What solutions for urbanisation in developing countries?
1^{er} juillet 2021 - July 1st 2021

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**Another solution ON-PLAN SALES
KIT
Or “VEFA Kit”**



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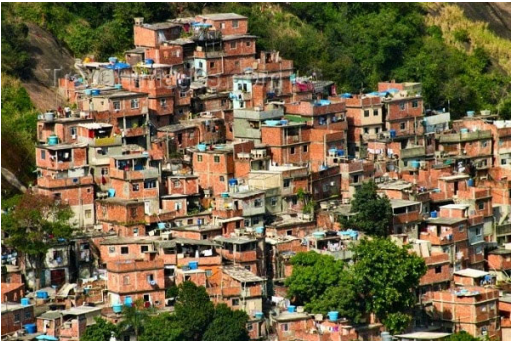
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In many countries, informal cities have their own economy... but also widespread poverty

(Soweto)



(Rio)



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- The main problem is to limit the sprawl of cities and the formation of megacities
- For this, it is necessary to control the land.
- This control could be done from the design of the construction program.....

Sales in the future state of completion or VEFA!

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The “VEFA kit” is the logical follow-up to the “co-ownership kit”

99% of VEFA property sales are in shared buildings that have been turned into co-ownership schemes

But what does VEFA means?

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It means buying on-plan (definition)

- *a security for the developers*
- *a security for the buyers*
- *a security for States*

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The many virtues of ON-PLAN SALES or VEFA

- *It takes less space*
- *It provides cost benefits (an apartment costs less to build than an individual house)*
- *A strict respect of environmental regulations in terms of materials used for construction*

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Co-ownership kit & VEFA kit : legal toolboxes for States and International Organizations

- ***Chronological legal tools***
- ***Adaptative tools***





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A necessary on-the-ground expertise

The on-the-ground expertise that is required is practical, legal and fiscal, meaning that notaries and surveyors-experts are ideally placed to provide it.

If you would like to speak to one of our experts :

Contact the multidisciplinary team at the High Council of Notaries and the Order of Surveyors-Experts.





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