



Land Tenure in Afghanistan Policy

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Objective

From time to time it is necessary for Mahboba's Promise NGO to purchase land in Afghanistan to fulfil projects.

Scope

This policy is designed to set out the rationale for land purchase in Afghanistan being in the name of an individual rather than in the name of an entity and measures required to protect or assert the right to the land.

Rationale for Policy

The reasons the land is not purchased in the name of Mahboba's Promise NGO are:

- Individual land tenure is considered more secure in Afghanistan because "according to Article 481 of the Civil Code, immovable property that is owned by individuals is considered private property. The Civil Code does not envisage private property owned by a group of individuals or body corporate." ¹
- Without individual land tenure, land and buildings not in use, can in theory, in Afghanistan be deemed "dead land." In other words, if there was a temporary cessation of operations through security problems or funding halts, land acquired by an NGO could be repossessed by Government.

Security of tenure may be strengthened by:

- A nominal annual rent shown to be paid by Mahboba's Promise NGO to the land holder to establish further proof of individual land ownership. This is only for land in Kabul which could be exposed in the event of insecurity or changes in Government in Afghanistan. The nominal rent would be returned as a donation or used for legitimate expenses.

Policy

Land purchased in Afghanistan with funds raised in Australia by Mahboba's Promise Inc may be purchased in the name of an individual provided the purchase has been endorsed by the Management Committee.

The Management Committee may also, at their discretion, agree a nominal rent to be paid for land purchased in Afghanistan in the name of an individual.

Afghanistan is changing rapidly and, at some stage in the future, if work on land titles and changes to the land tenure legislation in Afghanistan remove the obstacles to and risks regarding land ownership by Mahboba's Promise NGO, appropriate transfers can be undertaken.

Review

This policy to be reviewed every five years or when further purchases if any, are made.

¹ *Legal Issues Pertaining to Land Titling and Registration in Afghanistan . Land Titling and Economic Restructuring in Afghanistan (LTERA) Project. Written by: Dr. Yohannes Gebremedhin February 2006*

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