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Project Document: Review of Supreme Court Cases and Inventory of Circuit Court Cases

I. Background

It was recently recommended by the consultant Dr. John Bruce that a thorough review of relevant land cases be conducted in preparation for drafting the Land Rights Law. This will inform the Legal Drafting Team of Liberian common law with respect to land and indicate gaps in the law as well as which elements of Liberia's case law should be revised or codified by the new law. A thorough, useable review and digest of relevant court cases is therefore critical to ensuring a harmonious legal framework. The review will cover relevant Supreme Court cases and Circuit Court records for Lofa, Nimba, Bong, Margibi, and Grand Bassa counties.

With respect to Liberian Supreme Court cases, the Land Commission contracted with the Law Reform Commission in 2010 to summarize all Liberian Supreme Court cases regarding land. Their report had significant gaps. Based on an on-line search using the terms "land," "real property," and "hinterland" and a review for relevance, their report was missing an estimated 498 relevant cases.

In addition, an inventory team will undertake an inventory of Circuit Court records regarding land disputes. These records may be in the form of written opinions or minutes of proceedings. By reviewing and digesting these records, the Legal Drafting Team will be made aware of previously unknown parts of Liberia's common law with respect to land.

II. Methodology

Seven Legal Interns will be recruited for the project from among current students at the Arthur Grimes School of Law: Four for the review of Supreme Court cases and 3 for the inventory of Circuit Court records. The estimated time to complete both parts of the project is 2 months. Prior to beginning the review and inventory, the interns will undergo a 1-day training at the Land Commission, led by the Program Officer for Law Reform and Attorney Caleb Stevens. The training will discuss the internship expectations in detail, provide an example of a case digest and index, and give each intern a brief assignment to test their knowledge of the methodology.

A. Review of Supreme Court Cases

Each of the four interns will be provided with a Microsoft Word volume containing the full opinions of relevant Supreme Court cases and an index with each case name. Each case will be digested (by Issue, Holding, Facts, and Cases Cited) and placed in an index ordered by legal issues addressed. They will be instructed to deal only with those issues, holdings, facts, and cases cited related to land. For example, an issue of whether the defendant was properly served with a notice is not related to land and the interns will exclude it. However, whether a court may probate a tribal certificate is a procedural issue but it relates to land and thus the

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intern will include it. Additional guidelines are as follows, with day-to-day supervision provided to ensure the interns' work product conforms to the guidelines.

- Issue
 - Frame the issue as a question. This is the legal issue that the Court is addressing. There may be more than one legal issue.
 - An example of an issue: “whether an adverse possessor may obtain legal title to public land?”
- Holding
 - The holding is the answer to the issue. But it should not be “yes” or “no.” The holding is the Court’s statement of a legal conclusion or principle. And there may be more than one holding in a single case if the Court makes several statements about what the law is or the principles that guide them.
 - An example of a holding: “Adverse possession may not be asserted as an affirmative defense when the case involves public land.”
- Summary of the Facts
 - This should be 4-5 sentences maximum. Again, only summarize those facts which are relevant to the Court’s legal issues and holdings related to land. Many of these cases have long, complex procedural histories. You do not generally need to summarize the procedural history unless it relates directly to the land related legal issues and holdings.
 - The reason the summary of the facts should be short is that we are primarily concerned with legal issues and holdings.
- Cases Cited
 - For each of the relevant cases in the index please note the cases cited. The end result will be an index of cases organized by legal issue with cross-references to other cases related to land that each case cites.

The index will conform to the following model.

- Real Property
 - Sub-Issue/Statutes at Issue
 - Holding (Case)
- Land Administration
 - Sub-Issue/Statutes at Issue
 - Holding (Case)
- Land Use/Management
 - Sub-Issue/Statutes at Issue
 - Holding (Case)
- Land Disputes
 - Sub-Issue/Statutes at Issue
 - Holding (Case)

Below is an example of the index based on the recent Supreme Court cases, *Mananaai v. Momo* (July 5, 2012).

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- Land Administration
 - Public Land Sale Deed
 - Public Land Sale Deed is the only evidence of title by purchase of public land (Mananaii v. Momo (July 5, 2012))
 - Tribal Certificate
 - A tribal certificate does not vest title to land in a party (Mananaii v. Momo (July 5, 2012))
- Land Disputes
 - Alternative Land Dispute Resolution
 - Arbitration award by vote of majority of arbitrators is valid unless contrary to law (Mananaii v. Momo (July 5, 2012))

B. Inventory of Circuit Court Records

Three interns will be accompanied by the Program Officer for Law Reform, Attorney Kula Jackson, and his Program Assistant. Mr. Jackson's presence will ensure the interns are permitted access to the relevant records and the correct procedures are followed. Prior to leaving Monrovia, the Circuit Courts in each county will be contacted to assess the state of their filing system and ensure their cooperation and availability on the scheduled day. Two to three days will be allotted for reviewing and collection of documents in each county, depending on how organized that Courts' files are. The counties will be visited in the following order: Grand Bassa, Margibi, Bong, Lofa, and Nimba.

To ensure the exercise is completed in a timely manner the scanner and generator used during the tribal certificate inventory process will be used, subject to the approval of LPIS. This will prevent the inventory team from having to rely on equipment in the respective courts, which is uncertain to say the least. The Law Reform Program Officer and Program Assistant will bring their work laptops for use during the exercise.

Once copies of relevant court records have been scanned the inventory team will move to the next county in sequence. After all counties have been inventoried, the team will return to Monrovia for a final review and digest in accordance with the methodology prescribed for Supreme Court cases.

III. Budget

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Appendix: TOR for Legal Interns

Background

The Land Commission in consultation with relevant government institutions and partners, such as the Law Reform Commission, has formed a Legal Drafting Team to transform the recently adopted Land Rights Policy into a new Land Rights Law. In support of the Team's work the Land Commission is undertaking a review of all relevant Supreme Court cases and an inventory of Circuit Court documents from Lofa, Nimba, Bong, Margibi, and Grand Bassa counties. Seven legal interns will be retained by the Commission for a period of 2 months to assist with this project. Interns will work on either the Supreme Court review or Circuit Court inventory, as decided by the Land Commission.

Responsibilities

The Legal Interns will have the following responsibilities, depending on whether assigned to the Circuit Court inventory or Supreme Court review:

- Review and summarize relevant Supreme Court cases regarding land by Issue, Holding, Facts, and Cases Cited, as instructed by the Land Commission supervisors;
- Compile an index of all Supreme Court cases reviewed arranged by issues/statutes addressed;
- Accompany the Law Reform Program Officer to the Circuit Courts in Lofa, Nimba, Bong, Margibi, and Grand Bassa counties to collect copies of court documents regarding land cases;
- Review and summarize court documents collected during the Circuit Court inventory by Issue, Holding, Facts, and Cases Cited; and
- Compile an index of all Circuit Court cases reviewed arranged by issues/statutes addressed

Outputs

The Legal Interns will be responsible for the following outputs, depending on whether assigned to the Circuit Court inventory or Supreme Court review. All outputs are to be completed within 2 months of the internship start date.

- Report containing a digest of all relevant Supreme Court cases
- Index of Supreme Court cases
- Report containing a digest of all relevant Circuit Court cases
- Index of Circuit Court cases

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Qualifications

All Legal Interns must be in their second year at the Arthur Grimes School of Law and possess the following qualifications:

- Have a keen interest in and commitment to the internship;
- Proficiency in Microsoft Word and Excel;
- Willingness to work FULL TIME during the two month period of the internship
- Have access to a personal laptop computer in working condition (a laptop will not be provided to interns; they must bring their own or will be immediately dismissed);
- Ability to understand cases easily and to synthesize information from different sources into a single report;
- Excellent English writing skills and analytical ability;
- Strong knowledge of Supreme Court cases;
- Some familiarity with the Circuit Courts;
- Knowledge of and experience with Liberian land law is highly desired, but not a requirement