

The financial support to the owners of affordable homes in the Kingdom of Saudi Arabia.

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Abstract

The demand for affordable housing around the world has increased in the past decades due to inflation, the variation of income levels, and the increase of population who do not have sufficient financial resources. Islamic banks that emerged in the Kingdom of Saudi Arabia in the 1980's provided Islamic financing to properties buyers. Banks usually provide the initial funds to the client to purchase the property. However, they do not take into account the ongoing requirements and preferences of their clients. The research suggests that present financing system is neither flexible nor sufficient. A field survey was undertaken to assess the extent of banks' and Real Estate Development Fund's (REDF) ongoing support to the low-income clients. This paper discusses the survey results within the context of the financial and legal constraints that limit the bank's capability to manage the property and the owner's ability and exercise his/ her rights. Keywords: affordable housing, Islamic built law, owner's lifelong rights, ongoing financing, owner's lifestyle



1. Introduction

The demand for affordable housing around the world has increased in the past decades due to: inflation, the variation of income levels, and the increase of population who do not have sufficient financial resources to buy a property from the market. (Payne 1984). During the next few years, the demand for affordable housing will increase in KSA, and there is some concern that financial organizations did not yet develop a feasible strategy

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and create flexible mechanisms to tackle the problem. Banks that provide initial funding to potential buyers consider a number of short term factors, meanwhile neglecting ongoing factors. The examination of online documents published by banks' and REDF (Real Estate Development Fund) on their web sites showed little evidence that banks support anything other the purchase of the property. It is suggested that ongoing financial support to the owner should meet the payment of the mortgage loan along with possible costs of the following aspects:

- lifelong environmental impacts on the property;
- upgrading the property in response to the climate change;
- lifelong maintenance and management of the property;
- the property's improvements in regards to user's lifestyle; and
- transfer of management and control, ownership and use/ utilization rights

This paper argues that such financial support is essential as it would reserve the value of the property and enable the owner to practise his/ her lifestyle. The absence of this support would badly affect the property particularly during international financial crisis. A survey has been undertaken on banks and REDF in the Kingdom of Saudi Arabia to find out the extent of banks' and REDF support to the owner and their future plans to provide ongoing financial support. Two main aspects that would affect the value of the property are discussed in this paper; namely: the owner's lifestyle; rights and responsibilities, and the environmental impacts on the property. The owner's characteristics can be categorized broadly into: the style of ownership, use, management; and control. The property characteristics would include Building quality, adaptability and the energy efficiency. The paper discusses the impact of these aspects within the context of financial and legal constraints. It highlights the need to incorporate these factors and constraints in the ongoing financing scheme of banks and REDF.

2. Standard finance theory and Islamic finance

The standard Finance theory deals with two major issues that affect the money value, one is the time value of money and the other is investment making decisions that is made by the investor. The time value of money is the value of money figuring in a given amount of interest earned over a given amount of time. Thus, certain amount of profit is expected over time. Investment making decision is the process of choosing investments for various purposes

(Wikipedia 2009). Investors such as banks apply this theory in their business deals including the real estate investments. They first consider the factors that affect the property value over a designated period of time, calculate the potential risks and losses/ gains, thus to make a decision whether to invest or not. On the other hand, Islamic law (or Shari'ah) set rules for Islamic finance¹(Freshfields Bruckhaus Deringer 2006). The main principles of Islamic finance include:

- the prohibition of taking or receiving interest;
- capital must have a social and ethical purpose beyond pure, unfettered return;
- investments in businesses dealing with alcohol, gambling, drugs or anything else that the Shari'ah considers unlawful are deemed undesirable and prohibited;
- a prohibition on transactions involving *masir* (speculation or gambling); and
- a prohibition on *gharar*, or uncertainty about the subject-matter and terms of contracts – this includes a prohibition on selling something that one does not own.

Islamic finance is based on the concept of a social order of brotherhood and solidarity. The participants in banking transactions are considered business partners who jointly bear the risks and profits. Islamic financial instruments and products are equity-oriented and based on various forms of profit and loss sharing (Imady& Seibel 2006). In the Kingdom of Saudi Arabia, a number of Islamic transactions/ financing methods are used by banks and other financial organizations to invest in real estate properties and provide Islamic mortgages to potential clients. The major type is the Sukuk (plural of sak) which are Shari'ah-compliant bonds. Sukuk do not pay interest; rather they generate a return through actual economic transactions in the form of sharing or leasing the underlying assets. Sukuk are generally built around one of the following main contracts which are used by banks in KSA to provide funding and invest in properties:

- Al-Ijara: The bank purchase assets, the bank then rents them to the customer, giving him/ her option to either purchase them during the rent period, or after its completion. It is the most efficient and flexible way to utilize high cost assets and technology related products.
- Mudaraba: A profit partnership agreement between the bank and the customer, whereby the bank provides complete funding, and the customer manages the business in return for a percentage of the profits - provided there are no losses. The basis of this is good management and a solid business plan.

- **Musharakah:** Profit and loss sharing. It is a partnership where profits are shared according to an agreed ratio whereas the losses are shared in proportion to the capital/investment of each partner.
- **Al-Murabahah:** Purchase and resale. Instead of lending out money, the capital provider purchases the desired commodity (for which the loan would have been taken out) from a third party and resells it at a predetermined higher price to the capital user. By paying this higher price over instalments, the capital user has effectively obtained credit without paying interest.
- **Al-Istinaa:** An agreement suited for construction projects, whereby the bank signs an agreement with the client for the construction of a site, or a building, and then signs another agreement with the construction company responsible for the development plan.
- **Istithmar:** or the investment agreement.
- **Al-Silm:** An agreement whereby money is paid in advance and the goods are received later. It is considered an important agreement for funding the agricultural and industrial sectors. The bank in this contract buys " the yet to be produced product", in return of full immediate payment. The bank resells the same quality and quantity of the product bought via a parallel Al-silm contract.

3. Impacts on the property value

3.1 The impact of the owner's/user's rights on the property value

The ownership and control/ management rights of the home owner in Saudi Arabia are partially addressed in the building laws. These set general guidelines on how to consider the home owner's rights in regard to the construction or alteration of his/her property. It certifies what designers should do regarding the building setback distances, distance between other properties, block's height restrictions and so on. It does not – for instance- define how the property should be designed in regards to the local lifestyle, traditions and norms or how the user should maintain the property. Akbar (1992) defined three types of an individual (i.e. user and owner) rights/ responsibilities that can be exercised in the Islamic world and these are: control and; management, ownership, and use. The latter includes right of use and right of benefit. The transfer of the right of benefit to relatives or a third party means the owner would keep the property ownership right with himself/herself while granting somebody else the

benefit from the property or a part of the property by letting it, using it for business or commercial uses. In the Islamic world, this right is still practised and the reason behind the transfer of this right by the owner is for good causes such as to help the poor relatives financially.

The above mentioned rights/ responsibilities are meant to be exercised by owner/ user in respect to his/ her Islamic faith, traditions and customs (Akbar 1992). The property ownership or/and control rights can be transferred partially or wholly from the original owner to other owners and/or individuals (e.g. property managers, relatives etc). The exercise of these rights by the owner/ user should not allow any violation to other parties, who share these rights with the owner nor to the neighbours' rights (Ahmed and Parry 2001, 2002). The possible dynamic and flexible transfer of the property rights throughout its life would affect the property value as the responsibility of ownership, control/ management and use would be exercised and shared by an individual or group of people. A number of research studies have highlighted the importance of the consideration of owner/ user characteristics such as these mentioned above in the home design and suggested that it is significant to build up knowledge that would be used in housing design to provide tailored design solution to people needs, lifestyle² and future preferences (Hillier 1984, 1996, Hojrup 2003, Habraken 2003, and Salama 2006).

Researchers suggested that non-consideration of owner's lifestyle in the architectural design has created an uncomfortable environment for the owner in the Kingdom of Saudi Arabia (Al-Kurdi 2002, Darweesh 2003). They pointed out to lifestyle aspects that are adhered with the life in Saudi Arabia, for example: the visual and sound privacy, the need for outdoor space for children activities or entertainment and the need for flexibility in spaces' design. These aspects have not been considered in the present housing design in KSA. The absence of these aspects has forced the owners to carry out a number of transformations to their properties, which are sometimes expensive, to adapt the property to suite the way he/ she would like to live. They recommended that property should be adaptable and flexible enough to accommodate the changing requirements of the owner. Mahmud (2007) mentioned similar lifestyle driven factors behind the transformation of properties such as:

- a. the adoption of the some of the modern lifestyle features by the owner such as the installation of a modern kitchen or bathroom;
- b. the need to achieve a higher degree of privacy for some spaces;

- c. to adapt the spaces to suite the owner lifestyle by – for example increasing the number of spaces or changing the function of some spaces; and

However, there are other reasons behind the exercise of ‘transformation/ adaptation’ rights by the owner such as financial needs. This happens when the owner transforms a part of the property to a shop that can be run by the owner or let to somebody else in order to generate additional income to support the family (Al-Naima, Mahmood 2007). This ‘transformation’ tradition roots back deep in the history of Arabic and Islamic cities as an enormous number of cases are observed by a number of researchers such as Ibn Al Rami (1995), Akbar (1992) and others during these cities’ life and evolvement. It can be considered as a part of people socio-economic life which is practised particularly by low income people (Mahmud 2007). Moser (1998) highlighted the importance of one of the owner’s rights which is the ownership right. He suggested that granting the client the right to own the property can reduce the vulnerability of low-income households as it enables them to generate income in the form of rent or provides space for income-generation activities. Therefore, the owner should have full control on the property to be able to exercise full ownership, management control and use rights. This research proposes the way that the owner exercises these rights and lifestyle would affect negatively or positively the property’s value. The research done by Sayce (2004) supports this hypothesis as it pointed out a number of user characteristics that have an impact on the property value such as the impact of the occupier and the occupier’s satisfaction with the property. Thus, the exercise of rights should be supported otherwise; it would negatively impact the property.

3.1.1 Legal and financial constraints on the exercise of the rights

Legal constraints

Under the present Saudi Built laws, no permission is usually required for internal works such as refurbishment, renovation etc. The property’s owner needs to get permission if he/ she wanted to extend the property or to convert part of his her property into commercial or other uses. The permission is also needed if the owner wants to change the elevations’ configurations (e.g. to open new doors or windows), increase the built area by building an external extension or the height of the house/ villa by adding an additional floor (Ministry of Municipal and Rural affairs 2009, Personal contact 2009). However, such exercise of rights by the landlord is difficult to inspect by the municipality as it is sometimes done behind the

high fences of the property. In case that the violation is detected by the municipality, the landlord can sometimes reach to some type of amicable settlement. The permission to convert a part of the property into commercial or business is permitted as long as the street/ road is classified by the municipality as commercial. Nevertheless, the classification of a residential street/ road as residential is not permanent and would be changed into commercial if applications made by the owners/ investors who have properties in the area to the municipality are approved. The conversion of the property/ a part of the property into a commercial needs an approval of the municipality and may be from other parties as well such as the civil defence, health authorities etc (the same sources). At present, any building application submitted to the local municipality should comply with the Saudi building code (SBCNC 2009) which is just published this year and will be experimented for two years. As a conclusion, the present built laws in KSA restrict the owner's freedom of exercising his/ her rights to a certain degree as it is - on one hand- does not address properly these rights and on the other hand are not strictly enforced as the case in the developed countries.

Financial constraints

A number of financial restrictions that constraint the major mortgage lenders i.e. banks and REDF in KSA can be identified and these would include:

- a. The financial market rigidities: it would include the structure and performance of the Saudi financial market, stability level, level of risk of recovery, pricing etc (International Monetary Fund 2006). Mortgage lenders therefore impose restrictions on the use of the property to protect themselves against any claim or possible financial loss.
- b. The Islamic financing practices: Islamic financing has a number of pitfalls (Freshfields Bruckhaus Deringer 2006) that concern mortgage lenders and restrict their financing practices. These pitfalls exist also in the Islamic financing system in KSA and they include the following:
 - Liquidity: Sukuk liquidity is low (Al-Fayez 2009) and this because of the restrictions and market rigidities imposed by immature Islamic lending practices that limit liquidity to Islamic financing. Financial instruments to generate liquidity for Shari'ah-compliant mortgage lenders seem to be absent. Liquidity constraints imposed on lenders would curb innovation and result in adverse selection.

- **Uncertainty:** banks usually submit themselves to a Shari'ah board to ensure that they act according to Shari'ah principles. A document or structure that is accepted by one Shari'ah board in one bank may be rejected by a different Shari'ah board of another bank.
- **Ownership risks:** In nearly all methods of Islamic financing, the lender is at some stage the owner of the financed goods. In some cases, the asset will be retained for a considerable period and therefore the legal issues surrounding ownership, such as risk, insurance and maintenance become important. Responsibility for these issues is allocated between the borrower and the financier on a transaction-by-transaction basis. In the Islamic element of a syndicated project financing, the majority of risks will be borne by the borrower, who will be responsible, for example, for insuring the financed asset and naming the financier as an insured party.
- **Security/ recourse:** A bank financing a transaction may expect to receive a mortgage over an asset as security and the availability of such security will tend to reduce the price of the transaction. The law of the jurisdictions involved varies and will have to be considered in determining whether appropriate security is available. Mortgages over movable assets are forbidden and a financier can only take security if it takes a pledge of the asset, which will often defeat the aim of the financing as a pledge will require the financier to have possession of the asset. Other factors such as registration, notarisation and payment of fees may also have an effect on the attractiveness of security in the transaction structure.
- **Default:** Conventional financing transactions usually provide for default interest on late payment of amounts due, which is not possible in Islamic financing. In Islamic financing, the same effect can be achieved in different ways. For example, some form of discount formula can be provided for where an agreed rate of discount is applied for each day that payment is made prior to a backstop date. The backstop date is chosen to reflect the latest date in which funds might be expected to be paid. However, if payment is made after the backstop date then the financier cannot recover any additional amount.
- **Documentary complexity:** The majority of the difficulties brought into a transaction by the Shari'ah-compliant elements are surmountable, even if this means that the documentation will be more complex than in a conventional financing. For example, in a structure that combines conventional debt with Islamic equity, the equity cannot be a party to the same document as the debt (for example, a participation agreement).

This has been resolved in some cases by making the equity a third party beneficiary to such document.

3.2. Environmental and property characteristics impacts on the property's value

Environmental impacts are due to climate changes and they include rising global temperatures, rising sea levels and increasing frequency and intensity of extreme weather. Extreme weather and natural disasters are expected to be more frequent as well (DEFRA 2008). In hot regions such as in KSA, the rise of temperature would enforce people to use air conditioning more frequently and this would send more gases into the air, causing more pollution and increasing the annual energy bill. In the future, properties may deteriorate faster and its' systems may collapse or fail quicker. Properties will be costive to run if they do not interact naturally with the environment. The degree of property's capability to positively respond to the environmental impacts would affect its value. Myers et al (2007) and Sayce et al (2004) suggested a link between the property value and sustainability indicators. Sayce created an appraisal model that incorporates the sustainability indicators (i.e. building flexibility, energy efficiency, transport, pollutants, location, occupier, ecology and design) into calculations of property value. The impact of each indicator on property value was done through changes in the allowances made for each of the property appraisal criterions³. By linking each of the sustainability indicators with one or more of these criterions it is possible to translate the sustainability of a property into an impact on value (see table 1). She pointed out that a range of sustainability issues should be considered by the investor or occupier who wishes to mitigate the risks represented by increasingly stringent environmental legislation, energy efficiency regulation and transport management policies operating at local, regional and national levels. She highlighted that a building that cannot be easily adapted to support the changing needs of its user, compared with other buildings within its class, will suffer relatively rapid depreciation; as utility falls willingness/ability to pay rent will also fall. A building that is not sufficiently adaptable for its existing use type (within use) may be sufficiently adaptable to move to another use (across use) making it more sustainable than one which cannot. In practical terms a building without sufficient adaptability within use will require sooner - and potentially more frequent- re-letting and refurbishment, and vice versa. This will reduce cash flow by increasing voids and refurbishment costs. Increasing an occupants' degree of control over their environment would increase the level of comfort and perceived productivity. This increased tolerance, particularly when integrated with other

building fabric design strategies, can enhance the adaptive potential of a building to climate change (Sayce et al 2004).

Sustainability factor	Conduit (i.e. property appreciable criterion)
Building adaptability	Risk premium, cash flow, rental growth, depreciation
Accessibility	Rental growth, depreciation
Building quality	Cash flow, rental growth, depreciation
Energy efficiency	Risk premium, cash flow, rental growth, depreciation
Pollutants	Risk premium, cash flow, rental growth, depreciation
Contextual fit	Rental growth
Waste and water	Cash flow, rental growth, depreciation
Occupier satisfaction	Risk premium
Occupier impact	Risk premium

Table 1: links between sustainability criteria and worth (source: Sayce 2004)

On the other hand, properties should be frequently maintained to prolong its service life. Steemers (2003) pointed out that the absence of frequent maintenance would create a situation where properties would be very costly to be maintained. The maintenance of residential properties in KSA is not mandatory as it is the case to some extent in the developed countries. Therefore, properties are ill maintained and a significant share of the housing stock in Saudi Arabia would need replacement in the next 20–25 years and around 30% requires improvement in the next 5 years (Struyk 2005).

As a conclusion, the property value would be affected by the following issues:

a. The owner/ user characteristics that include:

- the lifestyle of the owner/ user that affect the way that he/ she uses and manages the property;
- the way the ownership, control and use rights are exercised by a party or a number of parties and how each party conduct his responsibilities;
- the characteristics of each party that has certain rights in the property; and
- the transfer of one of the rights to a third party

b. The property characteristics such as:

- the adaptability, accessibility, and maintainability degree of the property
- the building quality of the property
- the sustainability level of the property

4. Research objectives and methodology

In regards to the above mentioned hypothesis, the research has the following objectives:

- a. to explore characteristics of the existing financing system and how far it supports the lifelong owner's lifestyle;
- b. to find out from banks which of the user lifestyle and environmental factors have significant impact on the property value;
- c. to make recommendations to banks and other financial organizations on how to respond to people needs and aspirations and provide ongoing financial support to them

To achieve these objectives, a survey questionnaire and discussion group tools were used to assess the level of ongoing support of banks to the owner. A questionnaire survey was used to target eleven Saudi banks and REDF. The questionnaire was sent to banks in March 2008 and feedback received accordingly. Simple statistic methods such as T-test, percentage and mean were used to analyze the data as the sample number was too small. Bank managers were

invited to the College of Architecture to discuss the results of the questionnaire and to find out banks' future plans regarding the ongoing financial support to the owner. Unfortunately, only three banks managers were able to attend the seminar which was chaired by a senior colleague from the College of architecture.

5. Discussion of the survey results and conclusion

5.1 Discussion of the questionnaire survey results

Banks have a very flexible policy regarding the alteration of the property by the owner as all of them do not mind the owner to carry out any alterations. Banks were divided over a number of issues regarding the owner rights and these include his/ her right to grant the right of benefit to somebody else, to let the property or part of it and to use the property for purposes other than residential. Most banks (i.e. 10 banks out of 12) have no problem with the owner hiring a third party to manage the property and they said that he/she has the right to sell the property provided he/she paid the outstanding mortgage loan (see table 2). Banks were divided over supporting the owner regarding the following issues: internal alteration, external alteration and management of the property by third party. Many of them (i.e. 8 banks out of 12) said that they can help - in a way or another- with transfer of the property to heirs (i.e. family members and relatives) and possible natural disaster. Some banks (i.e. 4- 5 banks out of 12) were unhappy to address the following issues in their future plans: to give the borrower more ongoing advantages and support, to extend the mortgage loan repayment period, and to support the future needs of the client as such future alterations of the property.

Banks were asked about the significance rank of a number of management and ownership factors to the affordable property value during the repayment period of the mortgage loan. Five Banks considered a number of factors would have a influence above average on the property value and these are: building adaptability, the owner occupant daily lifestyle activities, energy efficiency of the property, Internal and external alterations carried out by the owner to suit his/her lifestyle, maintenance and management practice style of the property by the owner, building quality and other criterion (see table 3). Factors 5, 7, 11& 12 (see table 3) are found also by Sayce (2003) as potential factors that affect the property value.

Banks' managers mentioned a number of aspects which would affect the financing of affordable housing in KSA:

- The slowness of REDF residential loan procedures;
- Very few and weak links that exist between banks themselves, between them and Joint-stock, other financial organizations including big investors; and

In depth analysis (i.e. cross tabulation) has found links between banks' characteristics, their views about user rights and support to the owner. Banks which has high mortgage lending activity during the last year said:

- it is the owner's right to grant the *right of benefit*
- to let the property to somebody else
- internal alteration expenses can be supported through other/ re-mortgage loan arrangement
- they are happy to support the future needs of clients

Financial support to help the owner	Irrelevant	It is not considered	Can be considered in the initial mortgage	Would be considered through a separate loan	Would be considered through a re-mortgage arrangement	Other arrangements would be considered	Total: can be considered in a way or another
Transfer of right to benefit to a third party by owner	6	3	1	0	2	0	3
Transfer of the property to heirs i.e. family members and relatives	1	3	1	2	1	4	8

Commercial investment in the property by the owner (e.g. use a part of the property as a shop)	5	3	2	0	2	0	4
Internal alteration	0	6	2	3	1	0	6
External alteration	0	6	2	3	1	0	6
Management of the property by a third party	0	7	2	1	2	0	5
Possible negative impacts of the environment on the property	0	5	3	1	1	2	7
Possible natural disaster	0	4	2	0	0	6	8

Table 2: Type of financial support that would be granted to help the owner to cope with physical, management and ownership changes to the affordable property

Banks with high mortgage lending activity since the start of their financing scheme are happy that:

- the owner has the right to grant the *right of benefit*
- internal alteration expenses can be supported through other/ re-mortgage loan arrangement
- the owner can obtain financial support to transfer the *right of benefit* in a way or another
- the owner who likes to invest in the property, can get financial help through a re-mortgage loan arrangement

All banks are happy with the following issues:

- to have a very flexible policy towards the alteration of the property
- to help the owner in some way to transfer of the property to heirs
- to help the owner with possible natural disasters

Regardless of their financing history length, banks were divided over the following issues:

- the owner's right to hire a third party to manage the property
- the significance of the maintenance and management practices of the owner to the property value
- the building quality significance to the property value

Banks which consider providing financial support to the owner to carry out the internal alteration said that the internal alteration has a significant weight on the property value.

Property characterises and owner's rights	Weighting out of 10
1. Partial transfer of the ownership	0.17
2. The transfer of right to benefit to a third party	2.83
3. Commercial investment in the property by owner (i.e. use part of the property for other uses such as commercial)	3.00
4. Management of the property by a third party	4.00
5. Building adaptability	5.27
6. The owner occupant daily lifestyle activities	5.33
7. Energy efficiency of the property	5.50

8. Internal alteration carried out by the owner to suit his lifestyle	5.83
9. Maintenance and management practices of the owner	5.83
10. External alteration carried out by the owner to suit his lifestyle (i.e. external extension)	6.36
11. Building quality	7.33
12. Other criterion (i.e. building location, age and area)	8.40

Table 3: The weight of each of property characteristics and owner rights on the property value during the repayment period of the mortgage loan (*weight above average is in bold*)

5.2. The discussion from results

Banks' representatives were invited to discuss the questionnaire results. The output of the discussion revealed the following potential factors that would affect the ongoing financial support to the owner.

I. The society's culture and customer's knowledge: The Saudi Society expects that everything is free or should be free. Thus, when banks provide mortgage loans, people have vague understanding of the mortgage loan's terms and conditions, whether it is free, or contradicts with their Islamic beliefs. Bankers stressed that customers should be educated about financing products and process, should understand he/she is entering into a business transaction relationship and the mortgage loan will not be subsidized by the government, because it is a loan based on affordability and commitment to pay back.

II. The limitation of present mortgage loan package: one of the bank representatives pointed out that property financing schemes should not be limited to the appraisal and financing issues but it should be extended to include the property maintenance. On the other hand, it is guaranteed that the owner of a house/ villa has full control on the whole property whereas in the flat case, the owner would have full control on his/ her flat but may not have control of the shared parts of the block. Thus, this would affect the quality of maintenance of the whole block.

III. The problem of finding and creating Islamic financing mechanisms: the creation of new products in respect of the Islamic Shari'ah would be a problem as banks have to develop

new Islamic financing mechanisms. When a new Islamic mechanism is created, the bank compares the effect of the new Islamic mechanism with the conventional one in order to assess the potential risks. As an example, the bank has created an Islamic mechanism for selling up a property on paper before construction. The banker said: “*we do it through Ijara Mawsofa Be-Zema which means that the bank let the property to the client through a letting contract. The bank and client signs Istisnaa contract in which the client instructs the bank to construct the building for him/her. The bank instructs a building developer to construct the building according to the client’s specifications*”. Ijara Mawsofa Be-Zema has its’ risk and the Istisnaa contract as well and these cannot be put together back to back as one contract because each one has its legal liabilities. Such financial arrangements would constitute a high level of risk to the bank. Therefore, when the bank is engaged in a relationship with a building developer, the problem is to find the right Islamic mechanism that control such a relationship and provide the right product to the client.

IV. The mortgage loan product and lending process risks: Banks are concerned about risk/ reward issues. The bank wants to be certain that its value will not decline while it is under its custody until it is sold/ handed over to the customer and all potential risks such as the client profile is considered.

V. The weight of free land provision by government on property value: Land should not be granted to influential individuals as there is moral and legal hazard problems associated with land grants such as leaving the land undeveloped or reselling the land grant at the market price, which may be more lucrative than occupying the land. The Islamic principal Ihya Al-Mawat (i.e. revivification) of unclaimed and unused land would be a possible solution of this problem. Revivification, according to the Prophet's traditions, ruler's actions and jurists' opinions, is the revival of dead land or bringing of uncultivated and dead (Mawat) land to life. It means that land which is not put to use and has no determined owner can be 'revived' by someone who cultivates or builds on it over an established period of time and subsequently becomes its owner (Malinumbay& Salasal 1998). Through Ihya Al-Mawat- whereby an individual can acquire ownership by way of irrigating or rehabilitating dead or Mawat land. One way to apply this concept practically is to grant land plots to reputable giant companies which would set the infrastructure within a designated period. Thus the land would be handed to low-income citizens and the land price which includes the infrastructure costs would be much cheaper.

5.3. Conclusion

The study demonstrated that banks have a flexible policy towards the owner's ownership, control and use rights and are willing to help him/her in regards to certain environmental impacts. This is on a condition that the rights are exercised in a way that would not affect negatively the property value. They are happy to provide long term finance to low-income customers but they need a guarantee that their financial lending activities are fully protected by law and risk of losing money is minimal. The findings of the study complemented by the literature review, illustrated that banks are constrained by a number of legal and financial constraints. The legal constraints include the present Saudi built laws which do not consider the people's lifelong requirements and the land ownership rights, distribution, moral and legal rights surrounding it. Banks usually apply the standard financing theory to make sure that certain amount of profit is gained over time but they cannot do so under the Islamic financial system as they are obligated to abide with Islamic laws that obligates them to share the profit/loss with their clients. Furthermore, Islamic financing practices - which seem to be still under development- and financial market rigidities in KSA restrict banks' practices; limit their financing flexibility thus restricting their clients from exercising their rights.

Until proper legal and financial mechanisms that do not contradict the Islamic principals are developed, banks can still operate and provide some ongoing support to their clients. The study suggests that banks should take into account the present constraints and factors that restrict the owner from exercising his/ her rights. They can produce a number of financing products and advise their low-income clients which of these products would best respond to their lifelong requirements and would not exhaust them financially. As shown in figure (1) an owner would take a decision to do a certain change to the property such as building an extension, transforming a part of the property into a shop, letting or refurbishing the property. From the owner point of view, letting the property or using it for other uses other than residential would provide an extra income and help him/ her to maintain the monthly mortgage payment to the bank. On the other hand, it may incur potential risks which would financially trouble the owner. The construction of an external extension would enlarge the property and accommodate new or elderly family members but it increases the building plot and may have a positive/ negative impact on the property's value. The bank's role is to assess the impact degree of a certain change on the property by considering the financial constraints

and implementing the risk criteria (Syace 2003) into risk calculation and advises the owner accordingly (figure 1). This can be done in co-ordination with other financial organizations, the government authorities (e.g. the local municipalities) and the charities. It would ensure – to a certain degree- that interests of both sides (i.e. the bank and customer) are fully protected and potential risks are considered.

The researcher would like to appreciate the limitation of the present case study illustrated in this paper but argues it can be used as a grounded theory for future research. The future research should investigate how legal, financial and built laws in KSA should be developed to respond effectively to low-income citizens’ lifelong requirements. It is important to sort out the legal and moral issues of land ownership and distribution including the land title, pricing, reselling and considering the reimplementation of Ihya Al-Mawat principal in a practical and efficient way.

The submission of an application by the owner regarding proposed changes	Considering the owner's lifelong requirements	Incorporation of the following criteria into risk calculation	Incorporating financial and legal constraints
	Letting the property or part of it	Risk premium, cash flow, rental growth, rental depreciation	Islamic financing system , Saudi built laws etc
	Using the property/ part of it for uses other than residential	Risk premium, cash flow, rental/ Usage depreciation	
	Transferring the right of benefit of a part of the property to somebody else	Risk premium, cash flow, rental growth, rental depreciation	
	Doing Internal or external alteration	Risk premium, cash flow, Usage depreciation	

	Management of the property by a third party	Risk premium, cash flow	Assessment of the impact constraints and certain risks on property value and give feedback to the owner
	The owner daily lifestyle activities	Risk premium, cash flow	
	Maintenance and management practices of the owner	Risk premium, cash flow	

Figure 1: A proposed model of the bank's support to the owner regarding the exercise of his/ her lifelong requirements

It also should explore the possibilities of developing new mortgage loan products that comply with Islamic Shari'ah laws. These would incorporate the owner/user's lifestyle, environmental impacts and legal requirements. The mortgage loan products may include property development (i.e. design and construction), use/ownership, management options or portions of each according to the client request and his/ her lifelong plans. Mixing portions of these options would enable banks to produce multiple and flexible mortgage packages. However, this requires an in-depth study to find out how to structure mortgage contracts in a simple and practical way that do not contradict the Islamic principals. These innovative products would support the owner's socio-economic life and enable them to manage their properties, generate money and would create a lively built environment where each citizen can exercise his/ her lifestyle in a way that would not harm the neighbourhood. A further investigation is required regarding the present/ prospected borrower satisfaction about the ongoing financial support of banks and whether it enables him/ her to exercise his/ her lifelong rights.

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³The basic sources of Shari'ah are the Qur'an and the Sunna, which are followed by the consensus of the jurists and interpreters of Islamic law

²The owner lifestyle would have the following spatial dimensions:

- Physical dimension: is the need for comfortable space in terms of configuration, size, area, dimensions, shape, form etc
- Psychological dimension: the need for space that provides relaxation in terms of colour, isolation, type of link with other internal spaces and link with the outdoor spaces etc. Spaces should provide users with feeling of security and safety
- Social dimension: the need for space for an individual to socialise with family, relatives, guests, and neighbours; and
- Spiritual dimension: the need for a space for spiritual practice, worship and adoration

³ Rental growth: the parameters developed for rental growth assume a direct relationship between rent and occupier costs; any increase in occupier costs will reduce the amount available for rent. Rental depreciation is commonly used by appraisers to reflect refurbishment costs. Cash flow: in some instances a sustainability factor may impact directly through the cash flow. This will normally be due to a requirement for a one off or series of cash payments to insure against or mitigate a potential risk. Where this is the case, assuming the cost can be accurately estimated, a figure can simply be deducted from the cash flow at the appropriate point. Risk: such as business and investment risk. These criteria are calculated over a number of years (see Sayce 2003)