Urban LandMark Annual Conference

Investing in land and strengthening property rights

Hyatt Regency Hotel, Rosebank, Johannesburg

12 - 13 April 2012

Conference Report
Contents

Acronyms and abbreviations ........................................................................................................................................................................ 4
Urban LandMark Annual Conference ................................................................................................................................................................ 5
Introduction to the conference ................................................................................................................................................................. 5
Day 1: ........................................................................................................................................................................................................ 5
Opening session .............................................................................................................................................................................................................. 5
Welcome – Andrew Nethercott, DFID Southern Africa ......................................................................................................................... 6
Introducing the conference theme – Mark Napier, Programme Director: Urban LandMark .......................................................... 6
Opening address – Recognition, support and sound administration of a diversity of land rights in the South – Jean du Plessis, Global Land Tool Network Secretariat, UN-Habitat ........................................................... 9
Session 1: Access to property rights and markets in Southern Africa ........................................................................................................ 11
Session introduction by chair - Caroline Wanjiku Kihato, Urban LandMark......................................................................................... 12
The nature of the land market and its consequences for Hulene B and Luis Cabral wards in Maputo, Mozambique - José Raimundo, Pedagogic University, Maputo, Moçambique and Inês Raimundo, Eduardo Mondlane University, Maputo, Moçambique ......................................................................................................................... 12
One step at a time: linking the tenure security continuum concept to the findings of Urban LandMark’s operation of the market study in Maputo - Lauren Royston, Land Rights and Secure Tenure Theme Coordinator, Urban LandMark ......................................................................................................................................................................................... 13
Increasing tenure security in informal settlements in South Africa: legal and administrative recognition in Monwabisi Park, Khayelitsha - Kathryn Ewing, Sustainable Urban Neighbourhood Development.............................................................................................................................................................................. 15
Strengthening land rights in pursuit of poverty reduction: a commentary on the Lesotho 2010 land tenure reform project – Resetselemang Clement Leduka, National University of Lesotho .............................................................................................................................................................................................................. 17
Open discussion: ...................................................................................................................................................................................................................... 19
Session 2: The future of cities, settlements and transport ............................................................................................................................ 21
Panel discussion: South Africa 2030: will new spatial visions and plans transform the country? 21
Opening comments by panel chair, Mark Napier (Programme Director: Urban LandMark) .............................................................................................................. 21
Open discussion: ................................................................................................................................................................................................................... 23
Climate change: an urban perspective - Margot Rubin, independent consultant ................................................................................................................... 25
Open discussion: .................................................................................................................................................................................................................. 26
Session 3: Lessons from legislation ................................................................................................................................................................. 27
Session introduction by chair - Sharon Lewis, Johannesburg Development .......................................................................................................... 27
Land Governance Assessment Framework South Africa - Wendy Ovens, Wendy Ovens & Associates........................................................................................................................................................................................................................................ 27
Update on South Africa’s spatial planning and land use management legislation - Sunday Ogunronbi, Department of Rural Development & Land Reform ........................................................................................................................................................................................................................................ 30
The evolving land administration system in East Asia and the World Bank’s assistance, with a focus on China - Guo Li, World Bank........................................................................................................................................................................................................................................ 31
Open discussion: ...................................................................................................................................................................................................................... 32
Urban LandMark booklet launch: improving access to the city through value capture .................................................. 33
Opening Remarks: Chair - Mark Napier, Urban LandMark ........................................................................................................ 34
Opening remarks - Prof Philip Harrison, National Planning Commission ........................................................................................................ 35
Presentation - Rob McGaffin, ‘functional markets’ theme coordinator at Urban LandMark .................................................. 35

Day 2: ..................................................................................................................................................................................... 37
Session 1: Investing in land, infrastructure and emerging local economies ........................................................................... 37
Session introduction by Chair - Rob McGaffin, Urban LandMark ................................................................................................. 37
Capturing the value gained from transit-oriented development - Sukoluhle Nyathi, African Development Economic Consultants (ADEC) ........................................................................................................ 37
The legislative and policy context for municipalities’ application of value capture mechanisms - Alison Hickey-Tshangana, independent consultant .................................................................................................................. 40
Open discussion: ........................................................................................................................................................................ 42
The development of formal retail centres in South Africa’s ‘emerging economy’ areas- Rob McGaffin, Urban LandMark ........................................................................................................................................................................ 44
Exploring migrants relations to street trading: selected findings from field research conducted in Pretoria - Elsa Burzynski, Independent Consultant ........................................................................................................................................................................ 45
Open discussion: ........................................................................................................................................................................ 46
How to maximise the benefit of state investment in land: lessons from the application of the Urban LandMark Land Release Assessment Tool in the Western Cape and Gauteng - Nick Graham, Palmer Development Group (PDG) ........................................................................................................................................................................ 47
Open discussion: ........................................................................................................................................................................ 49
Session 2: Investments in township development and renewal: are they paying off? .................................................. 50
Panel discussion: ........................................................................................................................................................................ 50
Open discussion: ........................................................................................................................................................................ 51
Session 3: Investing in housing assets ........................................................................................................................................................................ 53
Session introduction by chair – Caroline Wanjiku Kihato, Urban LandMark ........................................................................................................ 53
Housing subsidy assets: exploring the performance of government subsidised housing in South Africa - Kecia Rust, Centre for Affordable Housing Finance in Africa, a division of FinMark Trust ........................................................................................................................................................................ 53
Investigation into the delays in issuing title deeds to housing subsidy beneficiaries - Mark Napier, Urban LandMark ........................................................................................................................................................................ 55
Open discussion: ........................................................................................................................................................................ 56
Affordable Land & Housing Data Centre: demonstration - Adelaide Steedley, Centre for Affordable Housing Finance in Africa, a division of FinMark Trust ........................................................................................................................................................................ 57
Open discussion: ........................................................................................................................................................................ 58
Concluding Remark: Mark Napier, Urban LandMark........................................................................................................................................................................ 60
### Acronyms and abbreviations

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADEC</td>
<td>African Development Economic Consultants</td>
</tr>
<tr>
<td>BID</td>
<td>Business Improvement District</td>
</tr>
<tr>
<td>BRT</td>
<td>Bus Rapid Transport</td>
</tr>
<tr>
<td>DAG</td>
<td>Development Action Group</td>
</tr>
<tr>
<td>DFID</td>
<td>Department for International Development</td>
</tr>
<tr>
<td>DHS</td>
<td>Department of Human Settlements</td>
</tr>
<tr>
<td>FCC</td>
<td>Financial and Fiscal Commission</td>
</tr>
<tr>
<td>GLTN</td>
<td>Global Land Tool Network</td>
</tr>
<tr>
<td>LAA</td>
<td>Land Administration Authority</td>
</tr>
<tr>
<td>LARP</td>
<td>Land Administration Reform Project</td>
</tr>
<tr>
<td>LEAP</td>
<td>Legal Entity Assessment Project</td>
</tr>
<tr>
<td>LGAF</td>
<td>Land Governance Assessment Framework</td>
</tr>
<tr>
<td>LRA</td>
<td>Land Release Assessment</td>
</tr>
<tr>
<td>MCC</td>
<td>Millennium Challenge Corporation</td>
</tr>
<tr>
<td>MFMA</td>
<td>Municipal Finance Management Act</td>
</tr>
<tr>
<td>NDP</td>
<td>National Development Plan</td>
</tr>
<tr>
<td>NDPG</td>
<td>Neighbourhood Development Programme Grant</td>
</tr>
<tr>
<td>NPV</td>
<td>Net Present Value</td>
</tr>
<tr>
<td>NOI</td>
<td>Net Operating Income</td>
</tr>
<tr>
<td>NPC</td>
<td>National Planning Commission</td>
</tr>
<tr>
<td>PSD</td>
<td>Private Sector Development</td>
</tr>
<tr>
<td>ROI</td>
<td>Return on Investment</td>
</tr>
<tr>
<td>STDM</td>
<td>Social Tenure Domain Model</td>
</tr>
<tr>
<td>SPLUMB</td>
<td>Spatial Planning and Land Use Management</td>
</tr>
<tr>
<td>TIF</td>
<td>Tax Increment Financing</td>
</tr>
<tr>
<td>TOD</td>
<td>Transit Orientated Development</td>
</tr>
<tr>
<td>SUN Developments</td>
<td>Sustainable Urban Neighbourhood Developments</td>
</tr>
<tr>
<td>UDF</td>
<td>Urban Development Framework</td>
</tr>
<tr>
<td>UCLGA</td>
<td>United Cities and Local Governments of Africa Association</td>
</tr>
<tr>
<td>Urban LandMark</td>
<td>Urban Land Markets Programme Southern Africa</td>
</tr>
</tbody>
</table>
Urban LandMark Annual Conference

Introduction to the conference

The Urban Land Markets Programme Southern Africa (Urban LandMark) has been working on land access issues since 2006, gathering evidence, implementing projects, developing approaches and influencing actors, all with the objective of improving access to land and markets for poorer people and communities. The Urban LandMark Annual Conference, held from Thursday 12 to Friday 13 April 2012 at the Hyatt Regency Hotel on Oxford Road, in Rosebank, Johannesburg, provided an opportunity for Urban LandMark to reflect on the work that it has completed over the last six years. It was also a chance to bring together a range of academic, government, civil society and private sector practitioners in the land, housing and property market sectors and further investigate the theme, ‘Investing in land and strengthening property rights’. Under this broader theme, participants were able to grapple with issues such as the nature and effectiveness of poor people’s access to land; land rights and recognition; and the relationship between these factors and the ability to unlock economic growth and opportunity. The conference also surfaced a range of concerns around property rights and how they can best be strengthened, looking at a constellation of inter-related factors i.e. traditional institutions, complementary activities and market opportunities/constraints that are key to ensuring sustainability. Equally, the conference recognised the need to build beyond individual defensible rights and to open up investment in land and infrastructure in places usually left out of the plans of private sector investors and, sometimes, even state projects.

Through a series of seven sessions, which were constituted of formal presentations, panel discussions and engagements with the participants, the conference successfully engaged with all of these topics and provided fresh insights and new innovations. The following report summarises the presentations and some of the key debates that took place over the two days.

The programme and full set of presentations can be found at www.urbanlandmark.org.za/conference/2012_programme.php

Day 1: 12 August 2012

Opening session

The opening session framed the conference by providing an overview of the key issues and themes that were to be addressed during the course of the conference. The opening presentation and welcome was presented by Andrew Nethercott of DFID Southern Africa, who gave a high-level account of global issues facing cities. He was followed by Dr Mark Napier, Programme Director of Urban Landmark, who presented an outline and retrospective of the key areas of work of Urban LandMark and gave an indication of their future trajectory. Jean du Plessis of UN-Habitat gave the final presentation of the first session, focussing on the Global Land Tool Network’s (GLTN’s) understanding of land and property rights.
Welcome – Andrew Nethercott, DFID Southern Africa

Andrew Nethercott opened the conference and welcomed the delegates. He began the conference with a brief overview of current concerns facing urban environments across the world. The problems of urban land governance weigh heavily on the issue of global poverty but the majority of world’s poor do have one asset - the piece of land on which they live. Collectively, Africa’s poor own a property portfolio worth billions. However, their inability to secure title means that they cannot use the land as collateral to secure loans and thus pull themselves out of poverty; the risk of eviction can be constant and it is more difficult to buy, sell and pass on the property.

Property rights are important to DFID. The UK’s Secretary of State has made it clear that this is an area that DFID will invest in. Land governance also touches on DFID’s core priorities of wealth creation, human development, and especially, climate change. The failure of land governance to make available affordable land in Africa’s growing cities means that this continent’s urban citizenry are forced to live in slums on the peripheries of cities, distant from services and employment opportunities. They are also often restricted to marginal land which will bear the brunt of climate change. If the poor living on the edges do find work, they face long commutes, which will increase their carbon footprint. Land governance is considered central to this problem, and as DFID develops a regional programme to address this issue, it is looking forward to drawing on the excellent work that Urban LandMark has completed in South Africa and the region.

Nethercott said DFID was very impressed by what Urban LandMark had achieved in South Africa, which was why DFID had just signed an agreement to extend its support for another year. Nethercott indicated that the objective was for Urban LandMark to contribute to work already being done or planned in a number of cities in South Africa to upgrade and/or formalise a number of informal settlements, while Urban LandMark’s in-depth research around delays in providing beneficiaries of the capital subsidy with their title deeds will hopefully lead to Urban LandMark supporting provincial and national government to unlock the more than a million blocked title deeds to RDP houses, leaving millions of parents secure in the knowledge that they can pass their homes on to their children.

Nethercott expressed his thanks to Mark Napier and his team for all their work, and stated that DFID was pleased to be working with Urban LandMark in the future.

Introducing the conference theme – Mark Napier, Programme Director: Urban LandMark

Mark Napier expressed the hope that the conference would be host to an interesting and relevant conversation, which would address the realities of how to open up land, space, location and rights to African cities. The theme for this event was ‘Investing in land and strengthening property rights’. Urban LandMark believes that one needs investment if access for all is going to happen and continue to happen in the medium and long term. Thus, what is needed is investment by the state, by communities themselves and by big and small business.

The opening address focussed on three main areas: it introduced the theme and what it means; it described what has changed in the environment over the last five years, which also served the purpose of introducing many of the topics being discussed during the two days; and it gave a detailed example of how evidence-based policy change, namely through Urban LandMark’s ‘Delays in title deeds project’ is taking place and its effects.
a) Introducing the theme

Urban LandMark chose the conference theme quite carefully. ‘Property’ is a contentious word. Investing in land and strengthening property rights are two parts of the equation which lead to improved resilience, economic growth and sustainable and equitable cities and settlements. At Urban LandMark’s last conference, towards the end of 2010, it was argued that ‘land security’ (which is a combination of land access and tenure security) should be seen as a development fundamental, along with food security, income security and safety, peace and security, and that these should be combined with mobility and market access in order to ensure that things will work better and more sustainably. What Urban LandMark was arguing for and focussing on at this conference, using this theme, was clear actions at many levels, which, together, will enhance growth, resilience, mobility and access for all urban residents. In order for this to happen, investment needs to be stimulated and a practically workable system of property rights, which will be relevant for African cities in their great diversity, must be established. The drivers of economic growth have to be accompanied by proactive initiatives to ensure that all people have fair access to the fruits of that growth. It is meaningless to talk about realising land rights without also talking about the delivery of land, the economic model in which land can be distributed sustainably, and the way cities and property markets can grow sustainably and contribute towards national and regional well-being.

For housing and development, one key enabling factor is adequate incomes. Housing, land and services can be supplied, but they do not become more affordable because they are handed out. There is a still a fissure between informal and formal land supply. The two systems, which can also be described as sub-markets, overlap, duplicate and compete. The responsibility to establish a relevant and efficiently performing unitary system sits with government. The ongoing lack of resolution of the predominant land and property systems holds back development in many countries. The UN-Habitat 2010 State of African Cities Report, when introducing the issue of urban land markets, states that governments should seek ways to overhaul formal land markets and their various dimensions.

Sorting out some of the land administration and management problems will certainly start to attract greater investment. It also creates the conditions for more complex land commodity markets, which the state and other actors can stimulate, incentivise and regulate in a myriad of ways. This cannot continue to be just about a single layer of basic occupation rights laid down on the ground, with a one-to-one mapping between occupier and space. It needs much greater complexity to evolve which, ironically, often already exists on ‘the fringes’.

The state has a key role to play in improving access to, and securing the claims of poorer people and communities, to land and property. Evidence shows that this is one of a number of key elements which can unlock full participation by the poor in the economy. That is why Urban LandMark has chosen this theme for the conference.

b) What has changed in the environment?

In order to give an overview of Urban LandMark’s work and the challenges and opportunities in the sector, it is useful to mention some things which have shifted in the urban/land/housing environment. The first group has to do with heightened awareness of urban land markets: urban land markets in five sub-regions of the African continent were profiled in UN-Habitat’s 2010 State of African Cities Report. These are now being followed through with a call to action from the United Cities and Local Governments of Africa Association (UCLGA) and UN-Habitat to implement urban land market improvements at the local authority level. Furthermore, there is more and more interest in land markets and property rights within DFID, the World Bank, UN-Habitat, Cities Alliance
and the African Union. The overall message is that the multilaterals and bilaterals have realised the critical role of land in development and of land security, and are prepared to invest in it. In South Africa, urban land market guidelines appear in the National Development Plan issued by the National Planning Commission.

The second group has to do with programmatic changes, which hold out hope for greater recognition of better land rights, mainly in South Africa. There is now a clear shift towards funding informal settlement upgrading, and away from mass housing in poor locations. The Housing Development Agency is mandated to assemble land for housing and thus addresses part of the location equation. There is broad recognition that the residential market is important for the national Department of Human Settlements (DHS) and that title deeds are important for people living in RDP housing. Lastly, the Spatial Planning and Land Use Management Bill (SPLUMB) is almost through Parliament, with the last draft accepted by Cabinet and now out for final round of comment. This Bill will revolutionise planning, and is touted as being far more concerned with low-income earners’ access and secure tenure than previous formulations.

The third group is about private sector patterns of investment: the largest area of growth in the retail space market has been in the historical ‘townships’ and rural nodes, and there is growing interest by the private sector in forming partnerships to achieve value creation and value capture in ways which achieve a more inclusive city.

c) Title deeds as an example of evidence-based policy change

Over the past five years, Urban LandMark has been focusing on ‘evidence-based policy change’. An example is the fact that Urban LandMark had become concerned that many title deeds were not getting to the beneficiaries of the state housing programme. There was evidence of this in Urban LandMark’s very early research, with only one-quarter of people in three RDP settlements surveyed in 2007 actually in possession of their property registration papers (another tenth of these households said they were expecting their papers soon). If this were the case, then there was severe dysfunctionality in the market. While Urban LandMark does not suggest that having a title deed is the panacea for poverty, it seemed a lost opportunity that people in formally built houses, on registered land, did not have their papers. Furthermore, according to official figures, one million houses were built in just over six years. No-one was sure how to prove this independently. Urban LandMark found a way to verify the state’s claims around housing delivery. This was largely through the work of the Centre for Housing Finance in Africa and their Affordable Land and Housing Data Centre, which was able to use the Deeds Registry to filter out properties on the deeds register, which looked like new RDP houses. Government also keeps a list of all beneficiaries of its housing programme, both those waiting in line and those who have received their houses. By matching up the identity numbers and the deeds records, the researchers could ‘see’ the RDP houses in the national records.

The findings of the investigation were released late last year by FinMark Trust and Urban LandMark, and provided, for the first time since the new housing programme was introduced, independent evidence of over 1.4 million properties having been built by the state. In total 1.44 million government-subsidised properties were formally registered on the Deeds Registry. These comprise 24% of all formally registered residential properties in South Africa. At the time that the research was done, government reported 2.94 million deliveries. Thus, the deeds registry is exactly 1.5 million short. Urban LandMark is working on this with the DHS, and has a good idea of where some of the deeds registration and township establishment processes are stuck. However, the staggering fact was that state delivery so dominated the national property register.
The DHS and the Housing Ministry have welcomed this message and want to make it part of their action plan for the coming year. It was only when the evidence was so clearly uncovered and communicated that it became possible for the state to engage with the issue. This is the point of evidence-based policy research - it enables the possibility of causing change for the better. Urban LandMark is hoping that the emphasis on unblocking title and establishing a more accessible land system unlocks access for the many households waiting for deeds, land and housing in the future.

d. Conclusion

Urban LandMark hoped that the conference would cast some light on these issues, both on the investment side and the rights side. Urban Landmark’s shared aim and belief are in pro-poor urban development and wealth creation using land and market access as a base. Urban LandMark also thanked the people who organised the event, research theme coordinators and consultants, and DFID for its support.

Opening address – Recognition, support and sound administration of a diversity of land rights in the South – Jean du Plessis, Global Land Tool Network Secretariat, UN-Habitat

a. An introduction to the terrain

Jean Du Plessis, a capacity development specialist in the Global Land Tool Network (GLTN) secretariat, based in UN-Habitat, Nairobi, Kenya, introduced the work of the network by saying that they used the terms ‘land’ and ‘property rights’ interchangeably as UN-Habitat and GLTN try and go beyond the conventional definition of property rights. GLTN argue that to address the land agenda is vital to ensuring sustainable development in both the rural and urban contexts.

From a global perspective one of the key challenges is to move away from chaotic, divided cities, which are seen as normal, and look very carefully at where our cities in the south are heading. The growth in the urban population in the south is particularly daunting, and the numbers are staggering and being revisited all the time. The total urban population of the developing world will increase from 2.3 billion in 2005 to more than five billion in 2050. The growth of cities in Africa is marked by widespread land insecurity, with more than 70% of people falling outside any land register; in southern Africa, this figure is 60%. The consequences are severe and include massive inequalities in land, housing and income; the undermining of investment and the absence of services and amenities; forced eviction, corruption and ‘land grabbing’; gender discrimination whereby women globally own less than 3% of land; intergenerational challenges such that young people increasingly struggle to gain access to land and housing; and the increased undermining of rural food security and land management.

b. GLTN’s key questions

The question is: is slum development an inevitable scenario in African cities? And what is GLTN trying to achieve given the current trends in order to avoid a scenario of massive slum formation in African cities?

GLTN is a coalition of international organisations that are concerned with rural and urban land issues and are trying to formulate a proactive response to move the land agenda forward by providing appropriate land tools at a global scale to implement pro-poor land policies and land reform. A land tool is a metaphor for a practical method to achieve a defined objective in a particular context and which facilitates decision-making processes and implementation based on knowledge. Tools can take the form of principles, guidelines and criteria, among others. Currently, GLTN is developing
tools on 18 subjects, grouped into five broad themes, including land rights, records and registration; land use planning; land management, administration and information; land law and enforcement; and land value capture. The rest of the opening address focussed on the issues of security of tenure and participatory enumeration.

Many people living in the South rely on forms of tenure other than individual freehold/title deeds. This applies to more than 60% of people living in sub-Saharan Africa, and 20% of urban South Africans are living in informality. The GLTN is looking to make the basket of possible secure tenure forms bigger so that it offers people a secure place to live whilst changing/formalising their settlement. The GLTN supports a continuum of land rights and is looking towards a paradigm shift in thinking about land tenure, towards general recognition of the validity of tenure forms across the continuum. This thinking has been influenced by the growing understanding that the most supportive frameworks are those that recognise that at a certain stage of life, it is the ability to move and find good accommodation that is important.

c. Models of land rights: attempting to reflect reality

The GLTN have developed a continuum of land rights (see Figure 1), with formal land rights on the one end and informal on the other. It is a contentious document, and one which has been amended a number of times as the thinking around this area of work evolves. The Social Tenure Domain Model (STDM) has been developed to accommodate these different forms of tenure and it is intended to be able to record what is actually there, which is relatively easy; it is gaining legitimacy for these tenure forms that is more difficult. The STDM is a pro-poor land information management system for both urban and rural areas, which can be linked to the cadastral system so that all land information can be held together. It takes into account issues such as the lack of capacity and budget in many government departments and works with an open-source, adaptable software package that has been designed and is in the process of being tested. In addition, GLTN has produced an early design of the legal aspects of a pro-poor land record system, although this is still at conceptual design phase. Essentially, what this is intended to do is address the difficulty of recording locally recognised and constituted land rights. Kingwill et al\(^1\) have shown how difficult this actually is, which may account for women only owning 3% of land. The current registration systems are not able to reflect the evolving rights that are vested around women in rural settings and are generally too complex and fluid to be easily reflected in diagrams or on title deeds.

---

1 Kingwill R “Custom-building Freehold Title: The Impact of Family Values on Historical Ownership in the Eastern Cape”, in Claassens A and Cousins B (eds) Land, Power and Custom (UCT Press Cape Town 2008)
Currently the model is being piloted in Kenya, Uganda and the Eastern Caribbean states, and from what has been learnt in these contexts, the intention is to share the documents and documented experiences from the pilots, while creating more awareness and demand for the model and its implementation. In addition, the intention is to get the STDM model accepted more broadly and gain even greater access to comprehensive information of people’s land relations on the ground.

The GLTN is also very concerned with understanding the local context in which it fits and that informs many of their other programmes. One such tool that has been developed to achieve this end is ‘participatory enumeration’. The concept of participatory enumeration involves residents in data collection and is seen as a participatory and efficient way to generate up-to-date information about informal settlements, while building trust between residents and local authorities. It is intended to form the basis of locally appropriate solutions, with grassroots support. It is also a complicated process which can run into problems, but there is incredible value in such an approach and it can be used to build a deeper understanding of locally constructed land rights. The GLTN is engaged in constant evaluation to see how the different programmes affect various constituencies (e.g. women), and they have developed a set of criteria to evaluate their approach. The evaluation has demonstrated that there are success stories, such as in Uganda, where the tool was taken up by quite a large affiliation of people who raised their own funding and have taken over using it.

d. Past achievements and future trajectories

A few more achievements were shared, namely that there is increasing empathy and awareness in many sectors e.g. African Union Land Policy Initiative and UN-Habitat and among a number of different parties over the complexity of tenure forms and their need for inclusion, which provides an opportunity to try new ways of doing things. There is an emerging paradigm shift on land tenure, and 24 countries have passed legislation on what constitutes secure land tenure. For example, Kenya is looking towards regularising its land policy in line with its new constitution and the new approach to alternative tenures. There is growing recognition of problems and the need for solutions that involve grassroots, civil society, governments, professional bodies and bilateral and multilateral agencies. There is increased focus on transparency and good governance, and growing calls for support in capacity needs assessment and capacity development support, and increasing use of pro-poor and gender-responsive land tools. A current project is investigating adapted land readjustment as a pro-poor approach of city extension and redevelopment in the South, an approach that has been used successfully in Germany and Japan.

Session 1: Access to property rights and markets in Southern Africa

The theme of Session 1 focussed on access to property rights and markets in Southern Africa and looked specifically at case studies from Mozambique, Lesotho and South Africa. José and Inês Raimundo spoke on the nature of the land market and its consequences for Hulene B and Luis Cabral wards in Maputo, Mozambique. The case was then used by Lauren Royston and Caroline Kihato to explore the application of the tenure security concept to the findings from Mozambique. Following that Kathryn Ewing, from Sustainable Urban Neighbourhood Development, presented the work that she is involved with – ‘Increasing tenure security in informal settlements in South Africa: legal and administrative recognition in Monwabisi Park, Khayelitsha’. Reseitlemang Clement Leduka, of the National University of Lesotho, ended the session by providing insight into ‘Privatising land rights in pursuit of poverty reduction: a commentary on the Lesotho 2010 land tenure reform project’. The session ended with a mediated discussion between the presenters and attendees.
Session introduction by chair - Caroline Wanjiku Kihato, Urban LandMark

Kihato introduced the first session of the Thursday morning by noting that it fitted very well with what Urban LandMark is all about, namely evidence-based research. This session explored the work that Urban LandMark took on with its Mozambican partners.

The nature of the land market and its consequences for Hulene B and Luis Cabral wards in Maputo, Mozambique - José Raimundo, Pedagogic University, Maputo, Moçambique and Inês Raimundo, Eduardo Mondlane University, Maputo, Moçambique

a) Introduction and background

José Raimundo and Inês Raimundo’s presentation offered insights into some of the results of a project funded and supported by Urban LandMark in Maputo City in 2010, and discussed the nature of the land markets in two peripheral settlements, Hulene B and Luis Cabral wards in Maputo.

They provided the background to the study. The city of Maputo is home to about 1.09 million people, of whom 57% are poor and live in relative high-density (3531 Hba/km²). The country has had three distinct phases of land legislation: the Colonial period in which all land belonged to the Portuguese; the post-independence period from 1979 in which land was nationalised and rented to its users; and a post-independence capitalist system with two sets of laws allowing ownership. The first set of legislation was promulgated in 1996/7, where the DUAT was installed. The DUAT is a title deed for occupation of the land and gives the right for land use by nationals, foreigners and local communities. In 2006, the legislation was amended by the Urban Land Regulation, which defined urban land access through the Decree 60/2006, which gives the responsibility of land access to the municipality so that the municipalities have the right to entitle people with DUATs.

In the two study sites, the nature of land markets is influenced by larger trends within the City of Maputo. The city has a high population density and the numbers are growing. The population jumped after independence in the 1980-1991 period. This was followed by a civil war, which meant that urbanisation declined. Now Maputo is in a situation of quite slow growth due to the lack of room for new arrivals and high land values, which make it difficult to afford land. In addition, the value of land has increased because of the difficulties of obtaining a DUAT as there is a great deal of red tape. To obtain a DUAT, a resident is required to fill in an application form and submit it to the local authorities, the city, the municipal districts, the wards, the ‘quarteirao’, the blocks and the household blocks. In order to attain a DUAT, a resident has to embark on a long and complex process with a number of steps. The process starts from a 10-household block chief from whom the resident needs a declaration. Then it moves to the 50-quarter chief, followed by the secretary of the wards, the administrator of the municipal district and, finally, the president of the city.

2 DUAT can be roughly translated as the Land Usage Title Document - issued by municipal authorities in urban areas and the National Directorate of Geography and Cadastre in the Ministry of Agriculture in rural areas. For further details and discussion please see http://www.urbanlandmark.org.za/newsletter/issue/0603/02.php

3 To provide some details: typically, a bairro is divided into areas comprising 50 households which are registered and managed by the chefe de quarteirao who is responsible for managing the households in his/her area, ensuring that they are accurately registered, resolving conflicts and providing the secretario with information on land occupancy. Below the chefe de quarteirao is the chefe de block who is responsible for 25 households. These are further subdivided into areas of 10 households known as dez cas, managed by the chefe de dez cas. For further discussion please see http://www.urbanlandmark.org.za/newsletter/issue/0603/02.php
b. Findings from the investigations

In the two wards under discussion, Hulene B and Luis Cabral, the speakers pointed out that it is important to note that the municipality does not consider them as part of the city. The majority of the respondents in the two wards come from two main areas: provincial Maputo or the next closest province of Gaza. The migrants are mainly female, most of whom placed enormous value on the land as they said it was close to jobs, schools and transport, and it offered the women independence. Many of the respondents also felt that the land was important to the municipality mainly because of its proximity to the airport, its good management and good basic conditions.

Within the property market in the area, respondents perceived that when they transacted in the area they paid for either the land or the land and the house. The majority said that they did not know how much they paid for the land. Of those who did know how much they paid, most people said it was less than 2000 meticais, which is approximately US$50, and when considering the basic salary of the residents constitutes an enormous percentage of their earning.

c. Consequences and implications

The consequences for the land market are that there is very high demand of land at a very high price, which is exacerbated by a great deal of land speculation. The end result is that the very poor cannot compete with the rich and thus the distribution of land is about who can pay more for the same plot. There is some land insecurity as most people do not have DUATs and thus can be easily evicted. A further challenge is as a result of the fact that land can be owned by a variety of family-members, and the same piece of land can be re-sold to a number of different buyers, which causes conflict. The high demand for land has also seen a decrease in the width of roads, which should be 15m wide but have been reduced and the loss of space for public amenities and infrastructure.

One step at a time: linking the tenure security continuum concept to the findings of Urban LandMark's operation of the market study in Maputo - Lauren Royston, Land Rights and Secure Tenure Theme Coordinator, Urban LandMark

a. Background and conceptual framework

Lauren Royston, the co-ordinator for the Land Rights and Secure Tenure theme, focussed the presentation on linking the tenure security continuum concept to the findings from the Operation of the Market study conducted in Maputo (which was discussed in the previous presentation) and is located in Urban LandMark’s Tenure Theme Area. The work is a further development of the original operation of the land market study that was completed with Steven Berrisford Consulting, Progressus Research and Development, and the Isandla Institute. Following this study there is the idea for two additional studies: another one in Maputo and one in Luanda. Conceptually, the study rests on the incremental tenure security approach, which was developed in conjunction with Gemey Abrahams and Dan Smit. The presentation uses some of the findings from the Mozambican study to make the case for incremental tenure security, looks at the continuum and its implementation and then poses the question: does this concept have any potential applications in Maputo based on findings?

b. Relevant findings from the Maputo survey

The aspects of the Maputo survey study findings that will be addressed here include agreements (verbal and socially constituted); trade and transactions; perceived sense of security; investment in property; dispute resolution; and protecting interests. In terms of agreements one of the most important findings was that within the informal land market, despite a legal context of nationalised
land, people do perceive that what they are buying is land. Only 6.3% said that they had no agreements, indicating that having an agreement, whether it is verbal or documented, is an important aspect of accessing land. In the two settlements surveyed, only 2.6% of the surveyed households had a DUAT but most people still felt secure and 68% perceived their rights to be strong or very strong. Social networks and relationships play a major role, similar to what has been found in South Africa and in Luanda, Angola, and 19% had verbal agreements witnessed by family members, neighbours and local leaders. Local and neighbourhood leadership figures like the Secretario de Bairro are probably more significant than other individuals in legitimising agreements and the ‘declaração’ (which is essentially an affidavit) is the primary form of documented evidence. As evidence of its significance 29% of households responded that they had received a declaração from the Secretario de Bairro.

c. Implications of the findings and the case for incremental tenure

Households do not have title and the majority of agreements are verbal or through social networks. However, despite the lack of formal recognition, the majority of households report that their sense of rights to a place is strong. The arrangements for land registration, regulation and management are highly organised and local. However, it is also very important to understand that there is a range of civil war structures that have endured. These were mobilising and political figures during the civil war but in the current context, some of these figures have become critical for land management. Local land practices are in place and are widespread and fairly functional, but it must be asked what the opportunities are for urban dwellers to secure land, in the absence of an accessible and affordable formal system. Currently, the authorities are rolling out the titling system (DUAT) but they have not yet reached the communities that were investigated and, in general, are taking a long time to get to the grassroots.

The presenter then went on to present the case for incremental tenure. Currently, there is generally only one way into the formal system - through title. However, this means that there are delays in accessibility. As such are there grounds for opening up other routes? There is also empirical evidence about how land markets are functioning, and there are arguments to be made about giving greater recognition to existing informal mechanisms. The idea of the dual economy in development literature has had a lot of currency, which is tied in very neatly with the binaries of formal/informal, but it has been the critiques of the dual economy and binary understandings that have been very helpful. Collaboration over a number of years with the Learning Approach to Tenure (LEAP) and learning from the rural land reform sector was very important and has developed the idea of ‘stepping-stones’ to formality. Finally, there are resource arguments for an incremental approach, some of which have been led by the National Upgrading Support Programme (NUSP), which has been looking at what it would cost and how long it would take if the South African government continues with the provisions of all services, top structure and individual ownership.

The LEAP work seeks to capture existing tenure arrangements and legal tenure forms that are in practice. Within the continuum that has been devised, exclusive ownership - underpinned by the idea of land as an economic asset - is on one end, with customary forms of land tenure (where land is seen as a safety net, with layered rights of different users and co-ownership) on the other. LEAP tried to look at different ends and direction of arrows in order to attempt to break through binaries (see Figure 2). Urban LandMark’s approach has been about moving from an informal settlement to an upgraded settlement incrementally, and incremental tenure was one aspect of that. The thinking is to develop through ‘stepping-stones’ along a continuum for specific interventions, with legal recognition playing a very important part.
Royston stated that the question is whether this approach is applicable to Maputo. What ‘stepping-stones’ or increments would be appropriate? Such an incremental approach is distinct from the current titling approach. In phrasing the question, there exists the hope of opening up other ways than just waiting for a DUAT. In Maputo, people’s rights are potentially threatened and they need protection. The ultimate recognition is the DUAT, which is as good as it gets; however, on the other end, are the informal claims tenuous and do they exist under the threat of eviction? The law talks about compensation but eviction threats are very real where authority resides. The idea in Maputo would be to move from insecurity and threat to more security using the ‘stepping-stones’ of the existing master planning, which gives settlements an idea of where they stand in the queue. However, advocating further incremental recognition such that orally witnessed claims have legitimacy and can be used to defend claims in place of the DUAT. The continuum would also look at block planning and group rights and then locally administered registration, using the existing socially determined system. The idea is to then take this further with the Cities Alliance grant over the period of the next year and build on the results to explore alternatives based on findings of this work.

Increasing tenure security in informal settlements in South Africa: legal and administrative recognition in Monwabisi Park, Khayelitsha - Kathryn Ewing, Sustainable Urban Neighbourhood Development

a. Background and approach

Kathryn Ewing is Workstream Leader of Planning and Design: Informal Settlements for the Sustainable Urban Neighbourhood Development’s (SUN Development’s) programme, which is a partnership driven between her organisation and the City of Cape Town Development Services. The partnership offers a revised approach to upgrading informal settlements and is attempting to move from an ‘only infrastructure’ focussed approach to a holistic approach focussing on the incremental improvement of the living environment. They intend to ensure an improvement of quality of life and the built environment through mainstreaming the tested and proven VPUU methodology and principles that they have developed. They are working on a number of projects in parallel but the presentation focussed on just a few aspects of their work including the VPUU and the VPUU methodology.
b. The VPUU methodology and its application

Ewing described how this methodology has three components: social contracting; infrastructure operations and maintenance; and lastly, monitoring and evaluation. It provides a new way of looking at how to work with municipalities and communities. The project started with the Social Compact theme and established the safe Node Area Committee (SNAC), which discussed the issues and needs of the community and devised a community action plan; this process took 6-8 months to achieve. The action plan was signed by the community and the Mayor of Cape Town. The community also developed a spatial re-design plan for the area. Both had to be developed into community action plans to operationalise them. There were a number of components to these plans, such as dwelling sub-division and tenure plan, all of which were linked to a larger tenure strategy that looked to incremental tenure and land recognition options for the community. They worked very closely with the ECD and maintenance strategies and understood that each component was crucial to the others.

The Monwabisi Park settlement where the project is taking place is divided into four areas: A, B, C, and M and is home to 25 000 people, most of whom are below the age of 40 with a large number of children under the age of 6. The organisation and its partners spent a lot of time mapping existing conditions which they used to draft the Dwelling and Subdivision Plan. This plan was linked to the Land Recognition, Land Management and Tenure Strategy and presented to the community through their leadership by means of workshops in 2011. The plan was approved, and this led to the next phase of the project, which was an investigation into the aspects of legal and administrative recognition. SUN Development looked at it in terms of a few stages, such as a preliminary phase, which involved introductory research and making contact with city officials and land tenure specialists. After this they looked into the existing legal framework, the options available, and finally what was taking place on the ground. They also engaged in community enumeration and developing a process of legal recognition and seeing what they could and could not do legally and financially.

The study of existing conditions in the area indicated that it borders a biodiversity area, owned by the province and city and whose status is considered undetermined. The study also revealed previous upgrading and regularisation attempts: in 1997 the South African Council for Non-Governmental Organisations (SANGCO) compiled a book of residents and residents had to pay a ZAR5 fee for a plot. The registration was very controversial as residents needed to be part of a particular political party to be able to access the book. There were also limited services and in 2000/2002 delivery cards were given to certain residents to claim services; however, the origins of these delivery cards remain obscure, no one claims responsibility and they have no legal standing. In 2008, the City and the community agreed that no additional structures could be built in the settlement.

To establish an agreed list of who currently lives in Monwabisi Park, a community audit was undertaken which had four key areas that were put onto a register: households were enumerated and social data was collected; households’ locations were geocoded; existing tenure arrangements were collected and existing skills that were available in the community were tallied. All of this information fed into different processes and were the responsibilities of different departments, partners and programmes. SUN Development set up a nine-step process with local leadership for enumeration and started surveying through GPSs. The team also took households and community leaders through conflict mediation training in anticipation of later contestations. In Phase 1 of the enumeration process, the teams were able to capture 90% of the households. In Phase 2 they are setting out to get the remaining 10% and at the same time confirm the data that they received in phase 1, after which they will then view the list as complete and will add no further names. They also mapped electrical connections and ‘GPS’ed’ who does and does not have access to electricity and
who needs it so that the community could start making decisions about who gets power first, as there is not sufficient funding available for everyone to get electricity immediately.

c. Legal recognition: investigating alternatives

Currently the team is looking into legal recognition but are not convinced that the conventional route of zoning, sub-division, consolidation and township establishment with individual title is what is needed or wanted by residents. Thus they are working closely with Urban LandMark to look into the administrative and legal aspects of incremental tenure. On the roadmap for legal recognition they have just gotten past the first step and have had the area demarcated and proclaimed. This means that they can start putting in services, without needing full recognition and formal tenure, and therefore have more flexibility to do further upgrading work. The layout is based on the spatial re-development plan where a small area is proclaimed first and services and electricity is put in, after which they can start subdividing into blocks and allocate addresses. They are, however, looking at all of the available options because they do not want the legal situation to limit what can be done. Such an approach also allows various tenure options, which is especially important considering that 30% of tenants are foreign nationals.

d. Further projects and programmes

SUN Development also looked towards replicating this process in Lotus Park in Gugulethu and has been approached by the Post Office to work in partnership with them. They have started with a spatial reconfiguration plan in which an enumeration process was carried out, ‘GPS’ed’ the households, with the participation of the Post Office and the community. As part of the process households were allocated house numbers to ensure that they had complete postal and physical addresses. As a result the community started putting up their own street names and numbering system. This process is quite different to what is happening in Monwabisi Park, Khayelitsha, but both of these processes are able to start informing legal and administrative frameworks.

Strengthening land rights in pursuit of poverty reduction: a commentary on the Lesotho 2010 land tenure reform project – Resetselemang Clement Leduka, National University of Lesotho

a. Introduction and background to land rights in Lesotho

In this presentation, Clement Leduka discussed the land reform process in Lesotho. He noted that the title of his paper and presentation has changed slightly from that used in the conference programme and was now called “Strengthening land rights in pursuit of poverty reduction...” rather than “Privatising land rights in pursuit of poverty reduction...”. Urban LandMark funded the scoping study on which Leduka’s presentation was based.

Lesotho is a landlocked country located in South Africa, with an area of 3 000km² and a population of 1.2 million people. It currently has the lowest level of urbanisation compared to other southern African countries.

In 2008 Lesotho signed what was called ‘the Compact’ with the US’ Millennium Challenge Corporation (MCC). The Compact was effectively a funding agreement between the two countries and was to be managed by the Millennium Challenge Account-Lesotho (MCA-L). The compact focuses on three key areas: health, water and private sector development (PSD).

The Land Administration Reform Project (LARP) forms part of the PSD and had four objectives:

- Improving land laws and policies;
- Improving people’s awareness of their land rights, especially women’s;
Enhancing the efficiency of issuing lease titles to people in urban areas of Lesotho, beginning with Maseru; and
Supporting the establishment of a Land Administration Authority (LAA) for the purpose of providing improved land administration services.

b. Progress of LARP

Leduka noted that progress to date included the LARP being put in place, coupled with the promulgation of the Land Act (2010), the establishment of the Land Court, to assist mediation and draft sectional title scheme, and the Land Administration Authority Act of 2010. Currently the Authority is in place and is considered a parastatal that is responsible for everything from the administration of the land registration systems to surveying and mapping functions, the resolution of registration and cadastre complaints and disputes; the collection of ground rent and fees, and the issuing of notices from time to time, prescribing the fees be paid for the Authority’s services. Most importantly it is hoped that land administration will be able to recover its own costs from services and be self-sufficient. Aside from the LAA there is also the Land Act, 2010 which replaced the 1979 Land Act and was intended to modernise land administration, to regularise peri-urban land and settlements, facilitate investment, including foreign investment and create land market and dissolve customary land schemes. The Land Act has also added a few key provisions to strengthen land rights, and is intended to have direct bearing on the delivery of regular titles and urban land markets in Lesotho.

c. Key provisions intended to strengthen land rights in Lesotho

Minister’s consent: Up until 2010, leases and land as a gift had to be consented to by the Minister. These provisions were intended to protect poorer people, but in effect held up the land market as there were no time limits on consent, resulting in applications remaining unprocessed for ages. In 2010, this was done away with or delegated to the DG of land.

Foreign ownership: (corporates not individuals) is strictly circumscribed so that a corporate may only own land in Lesotho if 20% of the company is owned by a Lesotho citizen. Sectional title, which is a modern invention, has been introduced in Lesotho and legislation similar to South African legislation has been drawn up to try and open up this housing market in Lesotho.

Systematic title regulation: This new provision facilitates retrospective legalisation of historic, as well as contemporary informal land allocations. As a result, Lesotho is currently in the process of mass titling; the idea is to get 50 000 land parcels regularised in Maseru and if successful, to extend the programme to peri-urban areas. A pilot project of 5 000 properties has been completed. Evidence that is used to claim title includes old title deeds and uncontested physical occupation. During the pilot and roll-out phases, regularisation (titling) was free, with minimal stamp duty fees. Experiences from the pilot project include the fact that 10% of plots are without claimants - it is thought that this was so because the property was transferred extra-legally, or due to disputes over plot ownership, or because some individuals were attempting to dodge ground rents. The regularisation process also surfaced issues of land hoarding and informal and extra-legal sales.

d. The potential impact of LARP on poverty reduction

The question that is raised is: What effect has regularisation had on poverty? It should be noted upfront that the MCC did not target the poor; rather, their work was aimed at landowners, which means that landless people and the poor are excluded and those who are not poor but landless are also excluded. The MCC is underscored by a neo-liberal view of property. The project has not been in
place long enough to get a clear sense of its impacts. However, drawing on experiences from the international context, the possible impact of regularisation on poverty can be considered:

- **Home improvement:** The literature claims that regularisation should have a direct and positive impact on house improvements due to secure tenure. In Lesotho, the absence of formal title has not deterred households from making substantial improvements to their homes, thus the impact of formal title on this aspect is expected to be quite minimal.

- **Access to credit:** It is expected that there will be no direct impact owing to a number of reasons, i.e., the poor are averse to credit, and banks are averse to lending to low-income households. Also, in many cases, poor households access credit without using their homes as collateral. Thus, here too, the impact is expected to be minimal.

- **Poverty reduction is not really the focus of the MCC and it is rather the case that the poor benefit by accident.** The majority of people in Lesotho will be excluded, as 80% of some areas are renters rather than owners.

- **Programme sustainability:** The Minister of Local Government and the land authority is a white elephant, and the Land Act 2010 and Land Authority Act do not talk to each other. With amendments to the Land Act, the DG has been re-designated to the Commissioner of Oaths.

*e. Conclusions and way forward*

Leduka concluded by saying that he believes that Urban LandMark does have a potential role to play in that it can be involved in, or support, a detailed review of land supply to the urban poor, an assessment of the impact of the MCA’s mass titling programme on poverty reduction and the access to formal credit by the poor. There is also the need for a community-based non-governmental organisation that could educate people on the virtues of formal titles and the need to stay within the system, which could mobilise communities around infrastructure and service provision (which is seen as the missing link in the ongoing MCA-funded regularisation programme.)

**Open discussion:**

The presentations of Session One were followed by a discussion involving all delegates who asked questions of the presenters:

**Francis Ringwood, Government Digest:** Did the upgrade improve households’ access to credit, considering South Africa is a context where there is more access to credit?

**Marcel Zimmerman, Zimmerman Consultants:** Posed a question to Clement and Kathryn: In formalising land rights how does it relate back to standards and services, i.e., people running business from home? Is there any research on that?

**Kathryn Ewing:** Information from the enumeration survey is that access is very informal, residents cannot even get a cell contract without an address. In Gugulethu, the Post Office recognises that an address can get someone a cell phone but not access to banks.

Standards and service requirements are part of what they are working on with the city. Basically they cannot work with existing standards so defining new standards and are also side-lining some of the building regulations, not emergency access, but utility standards but very much in progress.
**Clement Leduka:** There is no provision for lease of plots under multiple land uses. If an individual wants a lease, he/she would have to sub-divide; however, this time around one does not have to sub-divide, and can just have a residential lease. This is a way of trying to bend unbendable rules.

**Aly Karam, Wits University:** Question to Lauren Royston: From the continuum, what did you learn from the way it is done? This seems to be heading to legalisation but there is no acceptance of what is on the ground? The focus is on getting this piece of paper but there are other practices.

**Leepo Tsoai, Parliament of South Africa:** From the work you and SUN Developments have done in an area that is highly dense and congested, how would you advise the DHS go about upgrading such highly congested settlements?

**Guo Li, World Bank:** Question to Kathryn - In Cape Town, people working in informal settlements avoid tax. After the urban upgrading project has been completed, will they then be subject to tax? Question to Clement - You changed your change title from privatising to strengthening, can you tell us how many years can they use the land, lease, it, transfer it? Can it be used for collateral? Question to Ines - The Mozambican government does not recognise the value of land. How can we change the ideological perception that no one recognises what is actually on the ground?

**Lauren Royston:** What did we learn? Raises the dilemma of what direction the arrow should be moving in and argues that it depends on context. It should be noted in this project, Urban LandMark is not fundamentally questioning title. The way that the organisation has positioned work is that it is not looking at a law reform project – not a law or policy review period – but that it wants an implementation approach at this time. It would rather make the debate more nuanced and question the particular version of ownership in South Africa and whether it is appropriate.

**Kathryn Ewing:** How do we upgrade in dense settlements? A settlement of 82-102 units per ha is quite low for an informal settlement, but context is important - they have had to relocate only 5% of households in order to put in services. Fortunately, they have some land right next to the settlement for relocation. Keep as many people on the ground, but that is a negotiated solution between the city and the community, around relocation. But they work with number of programmes and projects; this is just one aspect of overall project, which needs time to engage with communities.

During the skills audit, people did not want to be registered, as they feared that they would be taxed on the work that they did. There is a need to allow informal activities to continue and allow that they wouldn’t be taxed but tax aspect is quite complex.

**José Raimundo:** (Ines Raimundo, provided translation from Jose’s answer given in Portuguese): There are three systems: the customary system, the socialist system and the capitalist system. The DUAT is an attempt to consolidate all three systems and supply security especially for poor people. The DUAT is a legal system to protect unprotected people who have historically, through three systems remained in precarious position.

**Clement Leduka:** The primary title is state leasehold which subsists for 90 years but a leaseholder can alienate interest in land in whatever manner they wish, mortgage transfers, etc., and can create sub-leases, to a foreign entity irrespective of percentage of ownership. There have been significant differences brought about by the Reform Act: before, everything had to be consented to by the Minister, could be withheld indefinitely and the only appeal was an appeal to the Minister.
Caroline Wanjiku Kihato: Follow up on Jose’s response and the World Bank comments – the DUAT is a response by government that recognises the value of land, so it in future becomes a form of taxation.

Ines Raimundo: Ines agreed with Caroline and that as a result of the DUAT people now pay some tax, an estimated 75 metical (about one US dollar). There are still remnants of the older socialist way of thinking about land but she believes that perhaps in 50 years the situation will change. The next generation will perhaps recognise the value of the land, and why there is a market, but the government has not yet made this transition in its thinking. However, there are also practical problems and if they increase the land value then they will have problems considering that 57% of the urban population are poor.

Max Rambau, COURC: How do the evictions in Maputo take place?
Comments: In dense informal settlements where municipalities do upgrading, it is not just about houses. They can do the re-blocking where people stay. His advice to the Human Settlements department is that they can do without relocation.

Ines Raimundo: People occupy land without permission; historically government has closed its eyes to the situation, but now the situation needs to be re-examined, and people now ‘have to be’ evicted – both people with title deeds and those without. Those with a title deed who are evicted (forced eviction) are provided with another space).

- Samantha Naidu, National Treasury

Session 2: The future of cities, settlements and transport

Panel discussion: South Africa 2030: will new spatial visions and plans transform the country?
Chair
- Mark Napier, Urban LandMark
Panellists
- Ahmed Vawda, the Presidency
- Bea Drost, the Presidency
- Peter Ahmad, City of Johannesburg

Opening comments by panel chair, Mark Napier (Programme Director: Urban LandMark)

The questions posed today are based around the vision of South Africa in 2030; will the New Spatial visions and plans transform the country? There are many plans underway, such as the National Planning Commission’s diagnostic work and subsequent vision, plus the World Bank and National Treasury have the Cities Support Programme and Green City Support Programme.

Questions this session attempted to address include:
- How will the institutional and planning level work with the new schemes?
- Will the new bill change the way land is managed, and change the future of the housing policy?
- Will these ideas make a real difference to the space economy, including how people live and experience life?
- Will South Africa be 70% urbanised?
- South Africa’s GDP is currently at 3-4%, which lags behind the rest of Africa at an average of 7%, what does this mean for the next 20years?
- How will climate change affect our land, when only 3% of our land is high agricultural yielding?
- What is affected if 48% of South Africa’s people are living on less than $2 per day?
- What will be the result of the fertility rate, which has reduced from 5.8% to 2.4% since 1993?
And what will be the result of a badly operating Education and Health system.

Bea Drost: The National Planning Commission [NPC] is made up of 25 independent, part-time commissioners and was given the mandate to report from a critical perspective, to define a desired South Africa in 20 years, and provide recommendations about to achieve a set of goals that they have defined. This team was appointed in May of 2010, and Cabinet will be considering their paper and recommendations in July 2012. The job of the NPC was to provide a vision which includes broad statements, broad principles, motivations and proposals. The documents do not provide new instruments; rather, it is a better usage of the instruments that are already in place. However, 2030 is too soon to see any radical change, and unless the process is started now, no transformation will be visible; 2050 might be more realistic to see change. Therefore, South Africa needs a long-term implementation plan, otherwise the result may be burn out and governmental frustration.

Samantha Naidu: Having a vision is important in respect of a development plan; however, how one understands the problems and goes about fixing them, is the key. The National Development Plan (NDP) states the challenges and issues; however, the interventions need to be packaged to make any sense of them. The National Treasury’s Cities Support Programme tries to package interventions that are outlined in the NDP. The focus is at the national level, including interventions, and recognises the importance of the role of municipalities. However going forward, these need to be more direct. The role of cities in general needs to be recognised in terms of their contribution to spatial economic transformation. The impact and role to date of cities has been positive and negative in how they have contributed to the priorities of the country, much of the work persists in terms of ‘silos’, but the question of how it can relate to translating spatial vision into reality is problematic.

The Treasury’s Cities Support Programme asks what technical support is required at a city level, such as transport and settlements, which are new functions; and then how do the policies relate to these items. The government is spending a lot of money, but the required spatial transformation of cities is not being witnessed. Additionally planning is dealt with in an ad-hoc manner, demonstrating a need for longer-term planning and thinking at a city level. As a country, South Africa has good visions and proposes good interventions, but it gets stuck in implementation; the Cities Support Programme is attempting to tackle this problem by linking resources to the process.

Ahmedi Vawda: The ‘inhuman settlements landscape’ informs an unsustainable racial divide, it does not inform enough about market investment logic, e.g. the data indicating low percentages of the populace holding mortgages. Addressing the issue of intergenerational urban/rural investment is the ward councillor who fights for housing at the bottom of the market on the wrong side of town, and that there is a whole institutional relationship that goes with the decisions being made.

There are five ‘Es’: equity, efficiency, effectiveness, ethical, ecological. The Financial and Fiscal Commission (FFC) Report on Human Settlements is silent on a rights-based approach and a sustainable livelihoods approach. Rental housing and vouchers have collapsed, with departments claiming “it is too difficult,” and the fact that the entire capital budget is sourced from fiscal transfers from ‘metro’ is simply not sustainable.

How, then, does South Africa create suburbs out of ‘townships’? By widening the scope to public/private finance, through the thickening and thinning of institutional capabilities, cities becoming rates based and taking responsibility for housing. No city has developed a housing framework yet. South Africa has fragmented planning, with small pockets of excellence, which need to be examined, to understand why these pockets are succeeding, and replicate it.
Peter Ahmad: The City of Johannesburg agrees with many of the points made so far, and that all spheres of government have long-term plans; similar themes but with different emphasis. One of the biggest problems is alignment - the NPC report came 10 years after the last similar report. The City of Johannesburg has had eight attempts at spatial planning. The complexities of a long-term vision are that South Africa falls short in implementation. Municipal governance is complex, with various sectors from transportation to housing. In the City’s planning department, staff try to make sense of the sectors spatially.

Has the City of Johannesburg demonstrated any success? Has it shown commitment to a vision that starts to paint a picture of how a city is going to progress? The City of Johannesburg has commitments that have been well stated, such as curbing urban sprawl, and that, in terms of the Urban Development Framework (UDF), in 10 years they will have arrested the sprawl to a large degree. They also have a strong commitment to public transport, not only the Gautrain, but also bus services (the commuter stations). They also have a commitment to upgrading informal settlements and linking city investment to private sector financing, but will it end up in success? And how is that success measured?

Mark Napier (chair): South Africa’s government oversight of its various institutions is stronger than it has ever been before in terms of processes, capacity, capability, vision and more powerful state organs; however, property owners and citizens believe that they build the city. Therefore, will having a vision be enough?

Open discussion:

The responses of the panellists were followed by a discussion involving all delegates who asked questions of the presenters:

Wendy Ovens, Wendy Ovens and Associates: A question addressed to Bea Drost, the importance of local government is not clearly defined in the national plan, is that going to be problem in the implementation?

Tsephong Makane: Samantha stated that South Africa has good programmes, but she believes that the problem is in implementation, so what is the problem with South Africa’s implementation? If there is a problem with implementation, do people agree or not, and why?

Rob McGaffin, Urban LandMark: A question addressed to Peter: The City of Johannesburg is one of the few municipalities that do monitoring and assessment of strategies, and are commended for it, are there any places where the City of Johannesburg realised problems and then adjusted to compensate?

Caroline Kihato, Urban LandMark: A response to Ahmedi; what is the expectation that anything tangible will really come out of this, with all the good work, brains, and political goodwill, for example if only 7% of the populace hold mortgages this requires a huge paradigm shift, not just changing a bureaucracy and vision.

Marcel Zimmerman, Zimmerman Consultants: South Africa has the best plans and visions in the world, but if the market and economy does not follow in the process the country will have dire problems. Where has South African city market grown? It has grown mostly to the northern suburbs of Johannesburg, Durban and Cape Town. How can economies be diverted to other areas? There’s been no economic growth since 2008, but costs are rising, the question is then, what are cities expected to do? It’s not all the problem of the planners; it’s also the problem of the economists.
Kathryn Ewing, Sustainable Urban Neighbourhood Development: An example of a project SUN Development is struggling with in Khayelitsha, Cape Town, is the fact that land close to the train station, which previously fell within particular ward boundaries, was demarcated to fall within new ward boundaries, which saw this community being disadvantaged because of the change. The power of communities is that they have the power to change development.

‘JoJo’ (unidentified delegate), University of Johannesburg: A question to Peter, in his briefing he stated there were two long-term visions, but asked what was wrong with the previous vision. There is a tendency for most squatter settlements to be located far away from city services, but what are cities trying to do to get people located closer to city services?

Bea Drost: South Africa is weak on implementation because if something is not working, South Africa changes it, rather than finding a way to rectify it and make it work better - there are too many radical changes that lose the momentum of something that has already been built up. The example mentioned about changing ward boundaries is a good one; momentum is lost in things that need a long time to prepare for.

Ahmedi Vawda: Addressing the comment around the market and the cities, and how the market includes and excludes large portions of the population: South Africa does not get principles right, such as reducing cost for homeowners. Cities are supposed to drive and move values more equitably around its residents, which is the heart of the problem. The comment about Khayelitsha boundaries shifting demonstrates that there are no plans. Developers are saying they will add the cost and do the development for the cities, but the State fiscus pays for it, added to which the city’s rates base won’t be used to administer the systems. This is a system that ignores the poor because 20% of the population contributes to the city’s rates base, so anger and resentment exist among those that do pay. There is also an administrative breakdown, and there is not enough talk about it. The FFC got it horribly wrong in their last document.

The question is then, are South Africa’s cities succeeding? It is known that rates based growth is not sufficient, and costs are going up, so is the City’s income growing? South Africa has everything in place, and needs to get back to the business of administering cities, to stop bringing in new public management and new development theories.

Samantha Naidu: There is a range of challenges and capacity issues at a city level, but it’s important to understand that if cities are to play a central role they must include better participation and communication with their citizens. Cities need to be supported in a way that highlights the outcomes, and encourages citizens to have a stake in the city. The cities do not have enough capacity, and it’s important to understand the resources they have available and how that can be used. There is a lot of inertia at a City level; i.e. people do things that they’ve always been doing because they don’t really understand how it comes together.

Peter Ahmad: The City of Johannesburg has revisited their approach to growth trends. It’s too early to start saying whether it needs to change track, but it does demonstrate that in the past the City has worked on anecdotes, e.g. the City thought there was more investment in the north and south sides of the city, but now they can quantify it. Data needs to show that earlier plans are starting to take effect, e.g. higher residency developments around the new public transport systems would demonstrate changes, which is currently happening in the north of the city but not in Soweto.

A point was made earlier in the session that each elemental project has its own dynamics, the example of the ward boundaries changing demonstrated that the way that cities interact with each
community requires a unique approach to each one. The problem in Khayelitsha is unlikely to be purely due to the ward boundaries, there were probably additional issues.

There is nothing wrong with the plans; rather, it is about trying to understand the public demands being put on the city. Addressing the comment about public land, the cost of land is prohibitive. The City of Johannesburg alongside Johannesburg Property Company, has tried to understand what land is currently available, and how that land can be used as a lever for public/private partnerships. If the City can start to show the market a successful project that demonstrates implementation of projects in a financially sustainable manner, then it can show developers. However, access to prime land is a huge problem.

**Mark Napier (chair):** There are no silver bullets because the situation is complicated; but spatial and policy plans can serve to unify people and departments around agendas. There exist good examples of good interventions that demonstrate that it is not the visions themselves that make the change, it is the devices that make the change, and the simple task of getting on with the bread and butter issues of administering cities.

---

**Climate change: an urban perspective - Margot Rubin, independent consultant**

*a. The climate change-urban nexus: an introduction*

Margot Rubin, who completed a position paper for Urban LandMark in 2011 on the vulnerability to climate change of people living in slums in South Africa, began by asking a key question: why is it necessary to look at the issue of climate change from an urban perspective? The answer is that cities will be the most affected sites, as well as the greatest contributors to climate change; therefore, the city is a site of intervention.

There are three main trends coalescing:

1. High levels of migration and natural growth,
2. Poor planning, lack of land and poor service provision,
3. Climate change.

There will be further marginalisation and increased vulnerability of poorer and marginalised people throughout Africa. One fact is that by 2020, between 75 and 250 million people will be exposed to water stress due to climate change, and in some countries there may be up to 50% reduction in agricultural yields.

Climate change is affecting surface temperatures, creating rising sea levels and changed weather patterns, and most importantly for urban areas, there will be an increase in natural disasters. There will be warmer summers and generally drier year-round climates. These factors will contribute to changing the location disease vectors, e.g. malaria areas will shift, and other diseases may increase. However, part of the problem is that predicting changes around precipitation has proven to be an inexact science.

*b. Urban growth and management: not a good news story*

In relation to urban growth, the majority of the world’s population now live in cities and by 2030 there will be two billion new urban dwellers. By 2030, Africa, currently the world’s least urbanised continent, is predicted to have most of its population living in cities, and cities on the east of the continent will reach a population of 10 million. It is assumed that between 2040 and 2050, migration
to cities will slow down. However, the dynamics of migration are complex and not completely understood, and different forms of migration occur, including circular migrations, non-linear migrations, multi-nodal households, rural areas used as social safety nets and environmental refugees where agriculture is no longer sustainable.

Urbanisation issues have not been addressed very well to date. For example, 70% of the African population are living in slums, as access to land is poor and most slum dwellers live in situations of insecure tenure and inadequate housing. Contributing to these vulnerabilities of land access, costs and lack of secure tenure is the refusal by some governments in Africa to acknowledge the legitimacy of informal settlements, which often results in a lack of services and lack of planning. Demographic factors also increase vulnerability; communities are not homogenous but have different needs for each demographic such as age, gender, homelessness, migrants, poverty and assets. Africa has been acknowledged to be the most affected by climate change, through poverty, corruption, limited access to capital, disasters and conflicts.

There are other issues that will be exacerbated by climate change such as poor quality housing, poor sanitation, lack of services or planning, lack of tenure security. Women will be more affected than men and the elderly more than youth, with some areas also more affected than others, resulting in a decreased asset base, and those affected by ill health will experience increased ill health.

The global average consumption of resources, including water, food, energy, is 2.63 hectares per capita per year; however, the problem is that 1.8 hectares is a realistic figure of what is available. High-density cities such as New York are incredibly efficient, as opposed to sprawling sub-urban areas. Therefore cities need to find ways of putting the energy that is used back into the city, e.g. through recycling products and goods.

c. Making the worst off, worse off

In conclusion, Rubin argued that climate change will make the worse off far worse off. Africa will be the hardest hit and least able to resist. To address the effects of climate change, cities need to understand the nature of migration, and address baseline urban vulnerabilities, which cannot be done without addressing existing vulnerabilities.

Open discussion:

Rubin’s presentation was followed by an open discussion.

Mark Napier (chair): The question is whether urban growth automatically translates into vulnerability.

Professor Leduka, National University of Lesotho: An interesting point was made in the presentation of the migration levels. A recent article by Debra Potts stated that she felt that many of the statistics were suspect. In her abstract she mentioned that the natural increase for the past couple of years has been quite normal. To complicate this fact, some people say there are high levels of migration, some people say low levels of migration, some people say circular migrations.

Mark Napier (chair): Debra Potts looked at only some countries, and in the first instance pointed out that the data was very thin, and in the second instance found countries where migration growth was different to the rest of the continent. Overall, there is not migration to the bigger urban centres as is sometimes thought, so it cannot be assumed that people are automatically going to the bigger cities, but it does raise the issue that where bigger infrastructure is provided is not necessarily where it is assumed it will be required. The climate debate has led to some belief that cities could be facing
collapse due to problems to be encountered in food supply and water production, however, this was also stated in the 1960s, and cities have not yet collapsed and have not yet stopped hitting populations of 20 million people. It is daunting to try to help African ministers plan for urbanisation when the London School of Economics says there will be no such thing.

**Margot Rubin:** It is far easier for cities to state that they ‘won’t plan for growth’; however cities have to be very careful in trying to understand what the issues will be.

**Kathryn Ewing, SUN Developments:** Posed questions of whether crime was considered in the research. Also, a question about whether consideration was given to migration between countries, and conflict between nationals and non-nationals was considered.

**Andrew Nethercott, DFID Southern Africa:** If someone had a pot of money, where would you spend it?

**Margot Rubin:** Responding to Kathryn, the study did not deal with issues of crime but did deal with conflict and the nature of things that would contribute to issues of conflict. Resource scarcity will increase, creating conflict between wealthy and poor, between older nationals and newer nationals, between nationals and non-nationals, and food insecurity conflict will increase, with every indication that the people with the least amount of clout and support will be on the losing side.

All the issues are interrelated, however, coping with disaster and disaster management is clearly linked to location, planning and land use management, as well as deeply entwined with land tenure, and the ability of those living in those environments to make claims on the state (if one is seen as non-legitimate, it decreases one’s claim and access to services, plus it affects one’s ability to source assistance from the state). Thus, money and efforts should be directed to issues of land governance and urban governance, which will in turn help to reduce vulnerability and improve resilience.

**Session 3: Lessons from legislation**

The session focussed on what could be learnt from legislation and had three presentations from three different perspectives: Wendy Ovens offered an account of the Land Governance Assessment Framework as it was undertaken in South Africa; Sunday Ogunronbi provided an update on the Spatial Planning and Land Use Management (SPLUMB) legislation and Guo Li gave insight into the evolving land administration system in East Asia and the World Bank’s assistance, with a focus on China.

**Session introduction by chair - Sharon Lewis, Johannesburg Development**

Lewis said she looked to the speakers in this session to focus on a few main questions:
- How assertive should government be in regularising land?
- How big should it be?
- What sort of regulation is most effective?

**Land Governance Assessment Framework South Africa - Wendy Ovens, Wendy Ovens & Associates**

*a. Land Governance Assessment Framework: a diagnostic tool*

Wendy Ovens had facilitated the Land Governance Assessment Framework for South Africa and reported back on the assessment and the tool. She began by explaining that the Land Governance Assessment Framework is a World Bank diagnostic tool that provides a sense of what is the state of play of land governance. It is a tool meant to give an in-depth, high-level and quick evaluation of
land governance and indicate where its strengths and weaknesses are. The LGAF has five broad thematic areas, 21 indicators and 80 dimensions and conducts expert investigation around legal aspects, statistics and data. Panels are called around key areas where panellists are asked to score certain statements from A-D (a = best, d = worst) to see which statement best represents the South African situation and then to justify their answers and make recommendations. Once that is completed the panel summaries are collated and incorporated into a country report.

In general, South Africa is regarded internationally as having one of the most progressive and far-reaching Constitutions and since 1994 South African policy has been extensive in protecting rights. In addition the South African government has been both proactive and reactive in addressing the developmental needs of communities. Academic institutions and NGOs have increasingly been researching land and its related issues and have started to lobby government. However, serious challenges remain. Land governance is highly fragmented and there are many specialists in many areas, each one focussing on a very specific aspect. The LGAF provided the opportunity to examine the sector as a whole, asking what South Africa looks like? It also usefully exposes successes and failures as well as the rigid duality and complexity of the informal and formal systems.

b. Land Governance Assessment Framework methodology in South Africa

A total of eight panels were established, with panellists selected from the private sector, NGOs, local government, national government and academic institutions. Each panel had a minimum of three and a maximum of five panellists. In two cases panels had to go ahead with two members, as people did not show up. A half-day session was held for each panel; a standard format was used and a final verification workshop was held. The national report is considered to be a fair representation of the South African situation with a very slight bias to the private sector, due to the non-attendance in two of the sessions.

c. Findings from the assessment

Under the legal and institutional framework it was found that there are somewhere between 16 million and 19 million people living on customary land. Currently, there is no legal mechanism for recognising these rights. The Department has launched a programme to measure the outer boundaries of these parcels of land but there is no mechanism to determine internal boundaries of traditional areas. There are also only 620 land surveyors and 20 million properties in South Africa. Furthermore there is an acute policy vacuum around rural tenure, which was made worse by the striking down of CLARA. The question of rural tenure is an important problem in South Africa. In urban areas it was found that the formal system is highly regulated with title deeds and lease agreements. However, there are almost five million people who live in situations of informality that are not regulated and there is limited political will to develop these areas. Government, although aware of informal settlements, has shied away from dealing with these socially dominated markets. An important difference between rural and urban battles over land rights is that in rural areas the fight is for group rights, while in urban areas it is a fight for individual rights. An emerging issue is the backlog of title deeds that have yet to be registered for state-subsidised housing.

Urban land planning in South Africa is performing relatively well. Public participation is well legislated and the hierarchy of land-use plans is well entrenched in legislation, although implementation may be problematic and challenging. Regularisation of informal settlements and the incorporation of the poor into our cities is a key challenge for all metropolitans and there is evidence that informal settlements are growing in density and numbers. The primary response to informality has been the state’s RDP programme, which is land extensive and problematic and has entrenched the Apartheid spatial structure. There is evidence that planning legislation needs to be reviewed and
simplified; currently the timeframe for obtaining a ‘building permit’ varies between three and 18 months. A further issue is that of transparency and efficiency in the collection of land/property taxes. In addition, the implementation of the Municipal Properties Rates Act outside the metropolitan areas and large local municipalities remains a challenge, mainly due to capacity constraints.

Public land is owned by all three spheres of government but it is difficult to access well-located public land for housing, which raises the question of whether HDA is sufficient for poor communities to get well-located land. Although there is legislation around expropriation it is acknowledged that expropriation is a hard option for land acquisition. Public provision of land information is relatively good, with 90% of land in the formal sector in the registry, which is accurate, up to date and readily identifiable on maps. The formal systems are efficient, effective and reliable and corruption is more the exception than the rule. Contrary to the land information sector, where South Africa performs well, is the area of dispute and conflict management. The use of informal systems varies from area to area, and is generally not sufficiently acknowledged, recognised or used by government. Formal mechanisms are in place for appealing land rulings but the costs are high and they are not easily accessible. In addition the resolution of land claims takes an excessively long time, with some cases having taken more than 12 years.

Under the theme of large-scale land acquisition the dimensions for agricultural purposes were seen as quite positive, but alienation and relocation have not been sufficiently considered. The impact of mining in South Africa and in southern Africa, where it is growing as a large-scale land acquisitor, was also not sufficiently considered. Further issues included a lack of capacity for conflict resolution and the lack of mechanisms in place to prevent projects from proceeding, based on the projected social impacts.

There were a number of policy recommendations, only a few of which were highlighted: In the rural context there is the need for a strategy that is able to identify an alternative method for land-parcel identification. Legislative changes are needed to rationalise rural land-use guidelines and to respond to communal land rights. There is also the urgent need to find ways to deal with the rights of farm-workers. In urban areas there is the need to develop a methodology and tools for supporting municipalities in the implementation of an incremental tenure approach. Attention should also be paid to addressing the backlog in RDP registrations and transfers. In terms of large-scale land acquisition, funding should be identified for undertaking a time-based study on large-scale land acquisition within the southern African sub-region and the implications thereof. South Africa has been party to irresponsible large-scale land acquisition in other parts of Africa.

d. Concluding remarks

In conclusion, the LGAF can be seen as a quick assessment tool that is useful in providing a ‘date-stamped benchmark’, and is really a measure of how well a country has done in terms of the broad definition of land governance. The problem is that after having identified the issues, e.g. uncontrolled growth and lack of tenure security in rural areas, there may be limited political and administrative appetite for addressing the changes required - especially those in the rural land governance sectors.
Update on South Africa’s spatial planning and land-use management legislation - Sunday
Ogunronbi, Department of Rural Development & Land Reform

a. The history and development of spatial and land-use management legislation in South Africa

South Africa has a long history of land-use management legislation. In 1994, there were different laws depending on where you were in South Africa, provinces, Bantustans, municipalities, etc. The consequences were segregation, unevenness and differentiation. There were a number of efforts to address this problem, beginning with a White Paper in 1998 that formed the basis for a Green Paper (1999) on development and planning and which spoke of the complex legal framework that existed. In 2001 there was a Land Use Management Bill and a whole host of provincial draft legislation to try and address land-use management. The June 2010 Constitutional Court DFA judgement was a major milestone in land-use management as it assisted in solving one of the critical issues of contention, which was clarifying which sphere of government was responsible for planning. It also assisted in clarifying some of the questions around planning, zoning, terminology and which department should do what and who is better suited. The DFA will go once national legislation has been sorted out.

b. The need for and trajectory of SPLUMB

There are a number of reasons why national legislation is required, including the need for clarity on the allocation of powers and functions. Previously under the DFA, there was parallel authority on the ‘same subject’, which the Supreme Court of Appeal determined as being of a disruptive nature for planning and development. The Constitutional Court provided a 24-month grace period from the date of judgement to remedy defects in the DFA or promulgate new legislation. The due date was 17 June 2012. The objective of the legislation would also be to provide coherence in policy and synergy and the delineation of powers between the various spheres of government. There is also the need for a predictable and transparent regulatory system (key to protection of rights) that offers a clear, rational and efficient interlinked set of sectoral and inter-spheral spatial planning tools and policies. There were many debates about the level of detail that the legislation should contain but it was finally decided to go for a national framework legislation with supplementary provincial legislation. The legislation has also been designed so that a whole suite of older and outdated legislation can be repealed.

The core issue is not just urban areas but the whole country and then there has to be the consideration of how to limit land use, not just to existing rights but going forward and providing new land-use rights. There are challenges in this area and not everything will be covered by the legislation. One of the key weaknesses is the lack of resolution on land-tenure issues. Furthermore, how do you deal with questions of exclusion so as not to criminalise poverty and discourage informal dwellers and traders who are forced to use land illegally? What is the framework in which they function and how do you include those with special needs and not criminalise them?

c. Key principles

SPLUMB has a set of key principles, which include:
- Norms and standards;
- National and provincial monitoring and support;
- Spatial Development Frameworks (SDFs) across national, provincial, regional and municipal scales, where municipalities cannot do their own land-use management and spatial planning and provinces should step in;
- Land-use schemes; and
- Supportive provincial laws.
Way forward: timelines and deadlines

There is still hope that the team will be able to finalise the Bill by the deadline at the end of June and they are still working according to the agreed timeframes as described in Figure 3. However, there is a possibility that they might need to go to the Constitutional Court for an extension to this deadline.

---

**d. Way forward: timelines and deadlines**

**Figure 3: Way forward for SPLUMB (Source: Ogunronbi, 2012)**

**WAY FORWARD**

<table>
<thead>
<tr>
<th>TASKS</th>
<th>DATES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Redraft of Bill</td>
<td>Jan/March 2012</td>
</tr>
<tr>
<td>2. State Law Advisor Opinion (and Redraft of Bill)</td>
<td>Jan/March 2012</td>
</tr>
<tr>
<td>3. Presentation to DG Cluster</td>
<td>Feb 2012</td>
</tr>
<tr>
<td>4. Additional Consultation with National Departments</td>
<td>Feb 2012</td>
</tr>
<tr>
<td>5. Full Ministers Cluster</td>
<td>Feb 26 2012</td>
</tr>
<tr>
<td>6. Cabinet Committee approval of Bill and possible recommendations</td>
<td>14 March 2012</td>
</tr>
<tr>
<td>7. Current for limited extension of June 2012 deadline</td>
<td>20 March 2012</td>
</tr>
<tr>
<td>8. Publication of Bill / Formal Introduction into Parliament</td>
<td>March/April 2012</td>
</tr>
<tr>
<td>9. Translation of Bill into 2nd Language</td>
<td>April 2012</td>
</tr>
<tr>
<td>10. Parliament's JTMM (Joint Tapping Mechanism - Sec 78 Bill) (2-3 weeks after Cabinet Approval)</td>
<td>April 2012</td>
</tr>
<tr>
<td>(a) Special Ad hoc Committee on SPLUMB and Committees on Cooperative Governance, Human Settlement, Rural Development &amp; Land Reform etc</td>
<td></td>
</tr>
<tr>
<td>(b) Accelerated Process on the Consideration of the Bill (negotiating dates for public hearings, Committee, etc)</td>
<td></td>
</tr>
<tr>
<td>13. Draft Regulations to the Bill</td>
<td>April 2012</td>
</tr>
<tr>
<td>16. Presidential Assent (subject to progress on 8 – 14)</td>
<td>June 2012</td>
</tr>
<tr>
<td>17. Commencement (subject to progress on 6 – 14)</td>
<td>June 2012</td>
</tr>
</tbody>
</table>

---

The evolving land administration system in East Asia and the World Bank's assistance, with a focus on China - Guo Li, World Bank

**a. Overview of the East Asian experience**

Guo Li from the World Bank noted that the aim of his presentation was to provide a quick overview about the East Asian experience in the land sector. The question of why the focus on land he answered as follows. There is a strong sense that tenure security has a profound impact on poverty reduction through direct linkages such as increases in agricultural efficiency in rural areas, the construction of efficient land markets, the facilitation of urban expansion, and the establishment of efficient and effective housing finance schemes. Tenure security also has a profound impact on poverty reduction through indirect linkages, which include being able to expand the credit base, property taxation – which is seen as crucial for fiscal decentralisation – and natural resource management.

The World Bank is working in 10 countries that can be grouped by land-allocation systems and tenure. By way of illustration, China has higher amounts of land security and a strong state, whereas Thailand and Indonesia are very market-orientated with emphasis on customary law. There is also more equality of distribution in China than in Thailand. The World Bank has assisted in land issues and has been very active in East and Central Asia, Central and East Europe where land has been quickly privatised and the countries needed help to quickly set up cadastral systems. In East Asia they have financed 13 projects on lending services on land administration since 1984 (in Thailand, Indonesia, Philippines, Laos, Cambodia, and Vietnam) spending a total of US$550 million. In addition to lending services, the World Bank has provided advisory services and land-policy dialogues, which have attempted to help client countries address land-related and legal issues. For example, in Indonesia, customary law is important and should be respected but urban areas do not follow this law, thus the question, how does one align different systems and provide institutional alignment? The World Bank also tried to address outdated and fragmented policy and legal frameworks, inappropriate institutional arrangements and inadequate services provision, and weak land
administration and management capacity. One example of weak land administration and management capacity is the average time required to transfer a property: in Thailand it takes two hours but in the Philippines 14-800 days.

World Bank activities have also included the development of land policy and regulatory frameworks in various countries, using their international expertise, institutional development, capacity building and training. In one case, students from Indonesia were selected for a Masters programme in Australia, after which they went back to work for the state. The activities also include implementation of an accelerated land-titling programme, which is considered its most important activity and where it has identified an urgent need to strengthen capacity at local level. The distribution of investment has been about 70%-80% for project costs, which have been used for adjudication and registration activities, and the remaining 20%-30% of the project costs were used for other components.

b. Lessons learnt from the World Bank projects

Li reflected on the overall impact and lessons from the World Bank’s projects. Each project has had its own impact evaluation but the following gives a sense of the general results: tenure security is perceived to have improved, which has in turn improved landowners’ access to credit. Land titles also seem to have strengthened investment incentives of landholders, land markets have become more active and land prices higher than those in non-project areas. There is, however, no evidence to support the idea of an increase of land concentration or landlessness as a result of registration.

Some of the lessons from the World Bank projects have demonstrated that what is needed is strong and high-level government commitment to the land-titling programme, where land policy is viewed as an integral element of a broader policy dialogue rather than a string of narrowly oriented technical interventions. Land titling should be area-based, particularly in rural areas. There is also a set of enabling factors behind the success of various programmes, which are considered the building blocks of institutional base and policy strategy for rural development. These include issues such as land reform, market liberalisation (regional integration and globalisation), investment into agricultural technology, investment in water and other infrastructures, rural industrialisation and off-farm jobs, specially designed national poverty reduction programmes, and new subsidy programmes. China provides an interesting case study for rural land registration and land reform, which is seen as the starting point of China’s economic and social transformation and growth in the past 30 years.

Open discussion:

The presentations of Session Three were followed by a discussion involving all delegates who asked questions of the presenters:

Sharon Lewis, JDA: The chair first made some observations about the session’s presentations: There is a great deal of complexity in the sector and it is very interesting to note how fragmented the environment is but still so interdependent; for example, land use is dependent on tenure. The story of informality is a big challenge and we need to make sure that we can respond to informality and at the same time be fair and balanced. There is an entire set of issues, of cost and capacity of regulation and their implementation and the question of the cost of registration i.e. how do you cost application without making people go underground?

David Gardner, Consultant: It is fascinating looking at China and the East Asian model of land use, which demonstrated the difference between simplicity and complexity. South Africa makes things very complex. Take, for example, a case study in the North West province where a community of
200,000 people completed an entire cadastral review of every single plot, as well as an SDF, gained approval of a land use management scheme and produced a rural village plan. It took ZAR2 million to complete all of those activities. Once they were completed, they were taken to a traditional authorities’ council who approved them. However, a year later nothing had happened. Implementation is where we need to focus. Nothing happened due to institutional complexities on the ground.

Mayerun (Unidentified delegate): To reflect on the proposal and Bill that Sunday has put on the table. The Bill is supposed to be framework legislation but the challenges are deep and structural, how would we begin to deal with some of the challenges that have been identified? Each province will have its own interpretation of how it defines integration, informality etc, framework legislation does not deal with these issues surely some issues should begin to be identified so that throughout the country there are typical regulations, norms and standards?

Guo Li: Does the framework legislation work in your experience?

(Unidentified delegate): Thailand is it an outlier? What accounts for the speed of registering a title deed? What challenges have they overcome to be able to do that?

Sunday Ogunronbi: To address the first comment, there is good news - the department has expressly said that it needs to learn from best practice and look at municipalities where things have worked. The department wishes to engage with David and see what was done there and why the municipality has not implemented. The framework is a compromise – norms and standards do try to ensure that there is not huge variance and to ensure a focus on the specific needs of each province.

Wendy Ovens: Mayerun hit the nail on the head: some of the complexities that will face implementation of SPLUMB, communal land areas, and appropriate tenure response remain in question. Until they are addressed, planners, local communities and officials will not be able to address planning development in those areas. But spatial planning aspects of the legislation might help quite considerably in rural areas, especially where uncontrolled land allocation is in evidence. There is a great deal of complexity and tension between traditional leaders and local authorities, which are afraid of tackling the problems. David raised the question that although the municipalities may have digitised, etc., there is not much of a sense of how this changes the lives of the people who live there? Is it really their property? Can they trade it? The Municipality did nothing with it, but what could they do? Much sits outside of their mandate, and then they are seen to be not doing anything. The Government really has to be brave enough to tackle this issue urgently.

Guo Li: In terms of implementation the Chinese government just does it. They have discipline. In the past 30 years land legislation and implementation have been very good; however, in the last 60 years, China made a lot of mistakes. The point is to keep doing, to keep trying. A word of caution is not to give land for free. It was a big mistake in China, which resulted in there being no respect for property rights, and made building a market economy without a sense of property rights very difficult. There should also be consistency of legislation and administration. The national level should at least provide guidelines. Land title, should be part of national regulations and should not be left up to the local authorities. Local authorities should focus on land management.

Urban LandMark booklet launch: improving access to the city through value capture

Urban LandMark launched its booklet on the creation, measurement and capture of value from transport interchanges on the evening of the first day of the conference (Thursday 12 April 2012).
The booklet looks into the opportunities/obstacles to municipalities' use of value capture instruments.

It also investigates the economics of value creation and value capture to identify the possibility of 'getting ahead of the curve' in securing these sites for more socially orientated development.

It also gives the user the opportunity to learn about:

- How value is created at transport interchange sites
- Which value capture instruments would most effectively capture that value for public good
- What legislative, policy and fiscal changes are required to allow for greater use of such mechanisms.

Cities attribute much of their economic expansion to the development of transit systems that link people efficiently to jobs. However, due to the sprawling nature of South Africa’s cities and the lack of modern transit systems, many low-income South Africans spend a high share of their disposable income on transport.

Since 2005, South Africa has massively stepped up its investment in rail, road and air transport infrastructure, with the Gautrain, the Bus Rapid Transit Systems and new highways representing huge investment in the country’s transportation network.

Such transport infrastructure development often brings greater passenger loads, increased traffic and improved exposure to the immediate area. As a result, local businesses may receive a boost, new businesses may wish to locate there and more residents may wish to move to the area to benefit from convenient, accessible transport.

The resultant increase in the demand for nearby land often increases property values in the area.

Such potential increase in land value surrounding public infrastructure offers major opportunities for cities to promote development and for local government to accumulate some of the value created by using various 'value-capture' mechanisms. However, despite these opportunities, local authorities in South Africa have adopted few value-capture mechanisms to date.

The Urban LandMark booklet builds on a 2009/2010 Urban LandMark-commissioned investigation by African Development Economic Consultants into value creation and value capture around transport interchanges in South Africa and international best practices in capturing this increase for public good. It further builds on a 2011 Urban LandMark-commissioned study by Alison Hickey-Tshangana into the legislative, policy and fiscal frameworks impacting on the use of value capture mechanisms in South Africa.

**Opening Remarks: Chair - Mark Napier, Urban LandMark**

Napier opened the session by defining what value land capture is and the aims and intentions of the booklet. Value capture effectively means the ability of a number of actors to recoup value of investment, generally by government. Urban Landmark wanted to see how this concept applied in the South Africa context and wanted to ask the question of whether it could it open up spaces for the poor.
Opening remarks - Prof Philip Harrison, National Planning Commission

Phill Harrison, a commissioner of the National Planning Commission (NPC) congratulated Urban LandMark on the completion of this booklet. He said that the NPC viewed the product as useful and timely and thought it would provide assistance to a number of agencies, including the City of Johannesburg. He went on to say that the Draft NPC was presented on 11 November 2011. There was much engagement and the final draft was expected to be completed by the end of May 2012 and sent to Cabinet for comment. In relation to the NPC’s work on human settlements, this booklet is a valuable addition that will help to strengthen the chapter on this topic. The transformation of human settlements is complex and there is no silver bullet; rather, what is required is sustained political will, with complex technical inputs. There is a commitment to reshaping these environments so that they function for ordinary people, reduce costs, expand access, reduce damage to the environment, make it easier to secure livelihoods and make jobs available. In order to achieve this end, there is the need to continually clarify the NPC’s vision. In addition there is the need to build capacity in all segments of society and build capabilities in state, to deal with these matters. There is also the need to build spatial literacy amongst ordinary citizens, and the need for forums to ensure the co-solving of problems; if that can be done over the next five years it will go some way to achieving this vision.

Harrison went on to say that the booklet has sharpened the sector’s interests, and that progress has been made, but there are still many deficiencies. There are a number of instruments but many are not working properly and there are many instruments that haven’t been included in the planning arsenal, where value capture comes in. The government has already missed opportunities, some transit opportunities have been realised but the instruments are not yet in place. Municipalities are struggling to finance new capital investments. A city like Sao Paolo funds all capital investments from value capture. This is not a new term, but what has been missing is the possibility of value capture in South Africa. The NPC will now be opening the space for value capture in its new draft and welcomes the work that Urban LandMark has completed on this topic.

Presentation - Rob McGaffin, ‘functional markets’ theme coordinator at Urban LandMark

Rob McGaffin, the functional markets theme coordinator at Urban LandMark, provided an outline and introduction of the booklet and its genesis. He began by looking at the National Budget 2012, which indicates the opportunities that value capture may present, whereby R845 billion will be spent on infrastructure. Considering that value capture is when one can see an upside from someone else’s actions and benefit from someone else’s action, one can begin to see why the large budget allocation may be interesting for this concept. But the question is, why is Urban LandMark interested?

Urban LandMark’s aim is improving access to the city by the poor. In Johannesburg, the CBD and Soweto are 15km apart. There are thus two alternatives: move people to the opportunities or move the opportunities to the people. The question is thus: can infrastructure be used to improve access for the poor?

To answer this question, Urban LandMark’s research looked at the key issues and debates with respect to the four components of value capture:

---

4 The National Planning Commission is a new initiative of government. Chaired by the Minister in The Presidency for National Planning, the NPC is responsible for developing a long-term vision and strategic plan for South Africa. For further details please see http://www.npc.gov.za/
• Value creation
• Value measurement
• Value capture
• Value use.

What has been happening up until recently was explored by the Development Action Group (DAG) who highlighted some of the opportunities, and pulled in some international experience. There is now the need to take it to the next stage, and ask how can the concepts be applied in the South Africa context? We do not want to ask that question in five years’ time but would rather be proactive?

A key message out of this work is to break value down, to look at its component parts. There is a misconception that if the government or anyone else builds infrastructure value is created. That is not true. Rather, there is the need for certain circumstances to be in evidence. In order to change the economics of a site, there is the need to change the number of people in a space, the money spent etc. Unless this is done, it is very unlikely to create additional value. There is also the need to see how much value one can generate; for example, the Gautrain versus a Bus Rapid Transport (BRT) station. Much of the initial work was around how to quantify that. The study looked at three different interchanges:

• PWV proposed interchange
• Metrorail station
• BRT station in Soweto.

The study compared the land value if there was no infrastructure investment and the value if an investment were made.

The next component of land value captures focussed on the key question: how does one actually get hold of the value? How does one take it off the top? There are different types of instruments:

• Those that try to change the urban forms and increase the urban densities
• Income-related instruments, such as change taxes, levies
• Hybrids of both systems.

The key issue is that the instruments are quite sophisticated and municipalities need to know the legalities and how to administer them. It is also important to make sure that the institutional frameworks and instruments are in place, which may involve building the necessary capacity. If weak municipalities try to roll out sophisticated instruments, they may very well fail. Municipalities must be careful of adding another layer of complexity to the system. It also raises the concern about whether local authorities should not focus on getting the existing ones right, and whether there is really a need for more instruments, especially considering that many municipalities do not spend the money that they do get particularly well. So, in order to facilitate land value capture the first thing is to get the fundamentals working properly

However, when the value is captured it can be used to fund a number of different things and there are exciting possibilities and things that it can be used for. However, it is not a panacea to inclusionary housing. It could, however, ‘free’ municipalities such as the City of Johannesburg, which is increasingly reliant on national grants, from being locked into the conditions that come with these grants. These weaken local determination of spending and accountability to local communities.
Day 2: 13 August 2012

Session 1: Investing in land, infrastructure and emerging local economies

Session introduction by Chair - Rob McGaffin, Urban LandMark

Friday morning’s session focussed on the theme ‘Investing in land, infrastructure and emerging local economies’. There are two ways of improving access: people can be moved to activities, or activities/opportunities can be brought to people. This session also built on the booklet launch from the previous evening entitled ‘Improving access to the city through value capture’. The booklet began with providing an example of value capture, whereby Standard Bank, which was located on Bolton Road in Rosebank, initially wanted to relocate due to the Gautrain, but once they realised the potential that the Gautrain station offered, they immediately built four other buildings in the area. The booklet was based on a number of inputs and this session intended discussing many of those components.

Capturing the value gained from transit-oriented development - Sukoluhle Nyathi, African Development Economic Consultants (ADEC)

*a. Value capture through transit-orientated development*

Sukoluhle Nyathi presented on the potential for transit-orientated development (TOD) to capture value, and presented case studies carried out by ADEC around such developments.

Value capture can be created through public intervention, which can result in increasing land values, which is what is captured, and therefore can be used to alleviate poverty. Sukoluhle proposed that this could be achieved in an urban context through TOD, which means a development at or near public transit hubs in order to encourage the use of mass transit. Many people spend up to 50% of their salary on transport, therefore it is expected that TOD could assist in all of the following ways: reducing suburban sprawl, improving environmental conditions, increasing access to jobs, creating affordable housing and reducing transport costs to workers and the poor. TOD aims to increase land value and allow for cross-subsidies.

*b. Testing the potential of TOD: a methodology*

ADEC developed a methodology in order to test the potential that TOD could offer in the South African context. A series of criteria were put in place to carry out the study, which included restricting the study to three sites (which later turned out to be Mooki-Magoye BRT Station [Soweto]; Diepsloot PWV 9 Highway Interchange [Johannesburg] and Kuyasa and Chris Hani Metrorail Stations, [Khayelitsha, Cape Town] where baseline conditions could be examined in order to be able to later forecast market potentials, establish a development programme and therefore determine residual value and the ‘value premium’ (differential) relating to the interchange. ADEC developed a set of further selection criteria, which included:

- Sites that offered a selection of modal ‘typologies’ that had been planned but not yet built.
- Sites that displayed some type of transportation diversity i.e. close to some combination of highways, commuter rail, BRT, airport, long-distance rail, urban mass transit (e.g. Gautrain), other, and had to have interchanges.
- In political terms the sites needed be broad-based and representative of government direction.
• The three sites also had to offer geographic diversity (urban, township, suburban) and be located near concentrations of poverty or less-developed sites and settlements.
• Since the team also needed to have a baseline, the site should not yet have displayed any apparent impacts.

c. Case studies and programmes in three sites

Mooki-Magoye BRT Station (Soweto) had not been built when ADEC began the study, but some parts surrounding the site were developed and other areas were vacant. The site was also able to demonstrate the trade-off between BRT and rail, due to its location close to the Mlalankuzi Metrorail Station and the Soweto Highway.

Diepsloot PWV (Johannesburg), scoped as a regional highway, was seen as offering a great deal of potential to the area as it was close to, but not in, Diepsloot, which is an area of extreme poverty. It is also an interchange in an area of rural character and some agro-business.

Kuyasa and Chris Hani Metrorail Stations (Khayelitsha, Cape Town) are the last stations on the line and thus offered the opportunity to examine the dynamics of end-of-the-line destinations and the effects of competition with regards to the Khayelitsha CBD. At the time of the study both stations were under development. The site was located in a site of extreme poverty with high rates of immigration.

ADEC undertook a market analysis and had to review the different areas and decide what opportunities existed in each site, as well as what was the highest and best use of those sites. ADEC looked at the detailed market conditions around housing, retail and land supply and the different trends in each site as well as the economic and demographic conditions, forecasts for each site and what could happen with various interventions. The market analysis looked at the different demands that the site would experience and tried to model, within different competitive frameworks, what and how much can be captured. ADEC then developed a programme, products, pricing and phasing, and came up with a hypothetical model for each site.

ADEC developed programmes for the different areas:
• Mooki-Magoye BRT: the intention was to diversify income mix, cross-subsidise affordable housing, create an employment node and increase connectivity.
• Chris Hani Metrorail stations: the team decided that affordable rental housing was needed, along with end-of-the-line commerce and business, and increased ridership (which needed to be accomplished without taking business away from the existing CBD).
• Diepsloot PWV: the idea was to give Diepsloot residents affordable housing and the creation of a bigger industrial office park to provide employment opportunities.

d. Value determination in the three sites

ADEC developed a method of value determination, which included the development of a pro-forma model that considered how much it would cost to develop the site and what the potential income would be from the development. Then, the model considered a range of other factors that included development costs (CAPEX), construction financing, net operating income (NOI) and the residual land value. The model was then able to come up with three different ways of calculating value:

1. Existing value differential – where the sites are compared to the pro forma and then the difference is calculated.
2. Market-based differential – where the site was compared with the interchange vs no interchange, which determines the premium.

3. Comparable differential - whereby they compared the sites to similar areas and see what value would be.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Mooki-Magoye:</td>
<td>ZAR422/m² (Single family) – ZAR969/ m² (retail)</td>
</tr>
<tr>
<td>Chris Hani:</td>
<td>ZAR230 (Townhouse) – ZAR852 (retail)</td>
</tr>
<tr>
<td>Diepsloot:</td>
<td>ZAR1424 (Industrial) – ZAR2725 (retail)</td>
</tr>
</tbody>
</table>

The three models provide different premiums, but overall Diepsloot achieved the largest change and increase in all three models, whereas Chris Hani saw the least change.

e. International best practice

Once the models had been developed and a sense of the various increases calculated, ADEC looked at international best practice to understand the mechanisms that they had used and to see which would be most appropriate for the South African context. Ring-fencing offered a range of mechanisms, such as creating special purpose precincts/districts through taxation and fees, i.e. tax increment financing (TIF), Improvement Districts (e.g., CID) or Impact Fees. These could have a wide variety of uses including infrastructure financing, improvements of public assets or public services. The regulatory mechanisms suggest using interchange ‘carrots’ to regulate development and ‘sticks’ for public purpose. Sukoluhle suggested that a range of options is available, such as density bonuses, which can be coupled with other options, such as inclusionary zoning and affordable housing provisions. Another option suggested was coupling density bonuses with overlay zoning, e.g. marketing/recruitment of specific businesses, inclusion of SMMEs, asset development or even engaging communities as equity partners in joint development agreements.

ADEC examined the different options for each site, and it was suggested that Mooki-Magoye BRT use inclusionary housing options and joint development agreements. Similarly it was suggested that Chris Hani focus on inclusionary housing provision, joint development agreements and business/city improvement districts. Diepsloot was seen to have a larger range of potentially workable mechanisms including development impact fees and bulk service contributions, land value increment taxes, special district regulatory employment conditions, land banking and leasehold options and tax increment financing.

f. Policy recommendation of government flexibility in fiscal collection

Eventually, the ADEC team came up with a set of policy recommendations, which argued that the key to value capture lies in government flexibility in fiscal collection policy mechanisms for LED and urban regeneration. Currently, municipalities are in a situation where they cannot collect some forms of suggested taxation i.e. TIF, so there are mechanisms that simply cannot be applied at the moment. Inclusionary housing has faced a great deal of resistance. There is the need to change people’s minds about inclusionary housing. Density bonuses can currently be applied; however, a lot of intervention needs to be done at Treasury to create an enabling environment for various value-capture tools to be used. Sukoluhle also noted that value capture can only be maximised in certain areas so that the public sector can leverage from their investments, and money should be ring-fenced for specific areas and specific purposes.
The legislative and policy context for municipalities’ application of value-capture mechanisms - Alison Hickey-Tshangana, independent consultant

a. Introduction

Alison Hickey-Tshangana, an independent consultant who had completed an Urban LandMark-commissioned report on the current legislative policy context in relation to value capture, addressed the question of whether legislation would allow some of the land value-capture mechanisms to go ahead, and if not, what would need to change. The presentation reviewed the current legislative and policy frameworks impacting on the use of value capture in the South African context, as well as the fiscal framework for local government budgets, to set the backdrop for the application of value-capture mechanisms by municipalities. Alison then reviewed key value-capture instruments to ascertain what would be allowed.

b. Current income sources for municipalities

The local government context currently indicates that local authorities’ share of the national fiscus is quite small because it is intended that they should be able to raise their own revenue through other forms of taxation. Of the amount that is sent to local authorities from the national fiscus, 90% are conditional grants comprised of 40% equitable share grant for operations, capital and basics for indigent households and then there is a 32% fuel levy. Service charges constitute 50% of local authorities’ revenue but the figure varies significantly, depending on the size of the municipalities and thus the significance of national transfers varies. There are other municipal taxes including development charges that constitute one value-capture mechanism, but it does not have its own category yet, as it is still a new area. National grants have not risen quickly but are climbing as a share of municipal revenue and national government would like to see municipalities use more of their own money for development. In terms of income from development charges, Dave Savage has looked at that and shows how 1.4% of total capital budgets is coming from development charges. Development levies are now at 2.1% of total property value, which is a very small ask of developers. In municipal capital budgets the capital side of the budget is a quarter to a third of the total budget. However, it is national government transfers that play a much larger and increasing role in local budgets. The biggest increase that municipalities have seen was in 2008 where there was a jump due to capital investments for the 2010 FIFA World Cup. Thus there is a lot of space for municipalities to explore around value capture.

c. Does legislation allow for value capture?

There is a range of legislation that would influence the possibility of implementing land value capture:

- In terms of user charges and tariffs, the Municipal Finance Management Act (MFMA) and Systems act set out principles for tariff setting
- The MFMA gives the Ministers of Finance and Local Government the authority to make regulations and guidelines around tariffs.
- In terms of transit-oriented development, the Transport Act comes into effect, especially the section that relates to user charges and allows for the creation of a separate fund from user charges that can be ring-fenced for a specific purpose.

These Acts would govern the ability of municipalities to levy service charges. In addition the Constitution allows municipalities to levy other taxes and duties and the Municipal Fiscal Powers and Functions Act is the legislation that governs setting other municipal taxes and duties. Then, if a new
tax needs to be implemented the local authorities apply to National Treasury. Very few taxes are
taking up this space and a number of value-capture instruments could fall under this legislation.
SPLUMB Sections 47 and 48 deal with the payment of development charges and the provision of
land for parks and open space by landowners seeking development approval. Section 49 authorises
the Minister of Rural Development and Land Reform to issue guidelines on development charges in
consultation with the Minister of Finance. The Bill talks about development charges, but there is a
need to make sure it is allowed by other acts. Other legislation allows the Minister of Rural
Development to set charges so it looks like the various pieces of legislation are heading for a conflict.
Local authorities can add surcharges but not yet set guidelines. The implications are that land value
instruments fall under different legislation depending on how they are defined. The definitional
issue is at the root of the issues facing the current court case in Durban.

d. Definitional issues

There is a great deal of confusion as to the definitions of different instruments, both in South Africa
and internationally. Different groups use the same words but have different understandings.
Definitional issues are very important but until there is some common understanding it is better to
look at design features of revenue instruments (tax base, purpose for which revenue used etc.)
instead of the label. Furthermore, if a municipality is looking to apply land value capture, then they
need to think through purpose, definitions and then work back to legislation that would apply and
then design the instrument that would best serve the specific purpose. Furthermore the
categorisation of the revenue instrument (as a tax, surcharge or user charge) is critical because it
determines the applicable legislation that will govern implementation.

e. Ring fencing

International experience shows that the success of value capture depends on the ability to ring-
fence the income for a specific purpose. Ring fencing in South Africa is approved by the National
Treasury. Currently, National Treasury’s position is to try and avoid ring fencing. If a municipality is
looking to ring fence then the onus is on the local authority to prove the benefit of the tax, and the
National Treasury will also be looking for evidence of design features that enhance transparency and
accountability. They use a rule of thumb that goes as follows: the closer a fee or charge can be
designed as a user charge, the more suitable it becomes for earmarking. The closer the design is to a
tax, the less desirable earmarking becomes. When applying for a new tax, Treasury can decide and
specify if the municipality is allowed to ring fence; if not, the council can still do it, keeping in mind
why the municipality wants to ring fence.

f. Conflict between legislation

There is policy on development charges but much is still in draft form. SPLUMB includes sections on
development charges, but they are in conflict with other legislation. Tax increment financing is not
possible under legislation; however, it could be, but would have to be implemented very carefully to
avoid contestation under the Property Rates Act or guides, which dictate the setting of levies and
use different legislation. In terms of property rates there is the possibility of special rating, which
designates a particular area and then gets property owners to agree to the increase and use debt
costs for infrastructure development or for infrastructure funding. If, however, the value capture
mechanism is designated as a levy then it falls under National Treasury and different acts. Thus,
there are options but one needs to tread carefully to avoid litigation. In terms of BIDs and
betterment taxes the main finding is that they are much more practice than other value capture
mechanisms. There are, however, a number of pieces of legislation that apply. It has not happened
yet, but there could be case at some stage that shows up conflicts in the legislation.
g. Recommendations

The study made a series of recommendations and noted that none of the value-capture mechanisms necessarily require an application by the municipality to the National Treasury for the approval of a new tax or levy, as per the process set out in the MFPFA. However there are gaps or areas in the legislative framework needing further clarification in order to create a more enabling environment for the increased uptake of value-capture instruments by local government. Improvement districts could be carried out right now but it would be better to get clarity in the legislation. Legislation is not the obstacle to value capture; rather there are issues with municipal and institutional capacity that need to be addressed first in order to make existing systems efficient and effective. There is no reason to do all of this if municipalities aren’t getting what they can out of existing instruments.

Open discussion:

The presentations were followed by a discussion involving all delegates who asked questions of the presenters:

Francois Viruly, University of Cape Town (UCT): Francois noted that although some municipalities look at value creation, some municipalities are good at value destruction. Francois felt that the private sector would also argue that there is value that is created i.e. shadow rentals that gets captured largely through rates and taxes - but posed the question ‘why should we think differently because government is doing what it should be doing?’ and ‘why does it require government to pluck up those benefits so directly?’

Marcel Zimmerman, Zimmerman Consultants: Adding on to Francois’s comments, Marcel pointed out that municipalities are underperforming; one of their functions is to provide infrastructure to help an economy grow and they have either not been able to deliver infrastructure, or have been underperforming. Marcel asked how a line could be defined to show where municipalities are going, and to compare it to what is expected. Marcel pointed out a moral right of when municipalities supply above what is expected, which is not the case at the moment. There are also the BIDs investment taxes in municipalities who are scared of litigation, why? Marcel believes that the reason is because municipalities are underperforming their functions, and could be taken to court. Therefore, Marcel felt the key question again should be ‘what is the minimum performance required and from what point onwards can municipalities charge value add?’

Yondela Silimela, Public Investment Corporation: Commenting on the issue in more detail, when one looks at TIFs in a place like Diepsloot, if additional value could be calculated then it would be on that basis that one would go to capital markets and use tax increments to service the debt, therefore it would not use the municipal balance sheet to service the debt. Therefore the question is ‘is it your sense that capital markets would respond? Or would they price the capital so high as to make it unworkable?’

Rob McGaffin, Urban LandMark: Rob believes that the issue is to look at value capture and break it down, and then get into detail around each of the points made.

Sukoluhle Nyathi, ADEC: Sukoluhle responded to Francois question about ‘why should one militantly capture value’, and that is because municipalities are currently doing the bare minimum and are not going as high as they could from a poverty alleviation perspective. For example the Gautrain stations could have so much more value by learning from international stations that are hubs of activity. That is why municipalities pursue value capture because they are not currently achieving their potential.
Responding to the comment about ‘value destruction’, this is a point that has not yet been examined.

Responding to the question about how one differentiates between what is the norm vs what is value add, Rob felt that the best way is to look before and after, at what was there and what the value is after - that is where the ceiling can be put.

**Alison Hickey-Tshangana, independent consultant:** Alison pointed out another example of the zoning levy: if the local authority changes the zoning of a particular area and as a result property rates go up, why should the government not capture some of that value? Government has changed the paperwork and the owners are benefitting.

**Marcel Zimmerman, Zimmerman Consultants:** Marcel agreed with the previous comment, but pointed out that it is the developer that has taken the risk to change the zone in the first place.

**Alison Hickey-Tshangana, independent consultant:** Alison replied that it is the city that changes the zoning.

**Marcel Zimmerman, Zimmerman Consultants:** Marcel commented that in that particular case then, the city is doing the developer’s function and can charge accordingly. In that sense, the developer is doing a development function and can charge for added value.

**Alison Hickey-Tshangana, independent consultant:** The public finance argument will be that if government provide public infrastructure, property rates will rise, and some of that will be captured through rates. However, the benefits to the properties in the immediate vicinity of the station are much higher than to a property 12km away, yet both paying the same property rates.

**Marcel Zimmerman, Zimmerman Consultants:** Because of the additional building improvement costs that property is rated on, it is not just the property itself; and those rates will increase because development will continue until a 10-storey building is built. It is then rather a matter of revaluing property more regularly to get more accurate rating, which will then capture the value.

**Alison Hickey-Tshangana, independent consultant:** Alison pointed out a difference between the property value going up because a station was built and the property value going up because the developer put in improvements. She disagreed that litigation is being caused by poor performance of municipalities, and said, rather, that the municipalities are being taken to court because they do not think that the municipality has the right to levy the tax. Legally, the two items are completely separate and therefore need to be dealt with separately.

Responding to the comment about TIFs working in developing economies, this would depend on the market confidence, which in turn depends on the overall financial strength of the municipalities. It would also depend on whether municipalities would have the capacity to carry out the required projects.
The development of formal retail centres in South Africa’s ‘emerging economy’ areas- Rob McGaffin, Urban LandMark

a. Emerging retail centres and TOD

Rob McGaffin, Urban LandMark’s ‘Functional Markets’ theme co-ordinator, provided a brief overview of work that has been done in the sector on the emerging retail centres and their relationship to transport interchanges.

Retail is one of the few significant forms of investment occurring in the emerging market areas in our cities. Retail investment was initially slow, but a number of centres were built after the 1970s, which became a rush. It is estimated that ZAR21 billion worth of retail investment has taken place in emerging economies since the 1980s. Approximately 75% of the National Treasury’s Neighbourhood Development Programme Grant (NDPG) is targeted towards retail-orientated intervention. Over the last decade 25% of all formal centres have been in emerging economic areas driven mainly by changing LSM factors in those areas, and increases in social grants. This has been coupled with the private sector looking for new opportunities, and untapped markets.

b. Impact on consumer and traders

The impact on consumers has generally been positive and perception surveys have demonstrated the perceived positive impacts of reduced travel and cost, and the greater availability of choice. The impact on small business\(^5\) demonstrated that some small businesses have suffered, yet others have grown and have been able to tap into and trade on the back of these developments. In fact, the formal centres have brought people in and improved business opportunities. Other work by authors such as Piper, Petersen and Charman\(^6\) have also demonstrated that local residents still go to local shops for daily needs, but instead of going outside the area for larger monthly shopping, they now do it within the larger shopping centres in the area. Interesting findings include the fact that there is a reciprocal relationship between small traders and formal shops where traders trade off the back of centres, but also found that the centres were trading off the back of traders, which was not as one-sided as one would expect (this is a mutually beneficial relationship). There are generally no formal relationships between the shops and traders and very little stock came from formal centres. There is also little competition owing to market differentiation around who is targeted. It is also important not to be too quick to homogenise or categorise these businesses. There are big distinctions between traders and how they operate and there are also big differences in levels of sophistication. Some traders are very entrepreneurial and some are survivalists - there are different dynamics in different enterprises. There are also significant differences in business practices and how enterprises become competitive i.e. the ability to procure and bulk buy.

c. Traders formalised into the retail context?

In one of the surveys, traders were asked whether they wanted to be incorporated into the formal centres. There was a 50/50 split in responses, some wanted to, others not – the answers very much depended on the operating models of the traders, some of which are incompatible with formal stores and require greater flexibility in trading practices, such as the ability to move as and when


needed to respond to changed transport patterns. A fixed space can undermine these business activities. In addition, many of the small traders are not registered for VAT and a number of the goods sold were pirated; both issues make it difficult to put these traders into a formal context. Design and interface between the traders and the formal centres is very important but ironically, the amount of facilities has not been correlated with success and in some of the areas where little has been provided, there have been some of the greatest successes. How to manage the interface between formal and informal has also been seen as an important issue. One of the most successful formulations of management has been where the traders have some buy-in and where a traders’ forum takes over some management and sub-leases down some activities such as security and cleaning. Where there has been good management with buy-in, they have been far more successful in getting market-related rentals.

*d. Concluding remarks*

In conclusion, it is possible to maximise the positive impacts of retail centres and minimise their negative impact, while at the same time ensuring their viability. In order to do so it is important that the sector understands the logic behind them. However, it is also important to realise that the capital investment and borrowing required to develop a centre result in developers having to be risk averse, especially in the current economic climate. Hence, the room to deviate from accepted investment practices is very limited and therefore engagement around how centres can benefit and contribute to local economic development should be realistic and mindful of prevailing conditions.

**Exploring migrants’ relations to street trading: selected findings from field research conducted in Pretoria - Elsa Burzynski, Independent Consultant**

*a. An ethnographic approach to informal trade*

Elsa Burzynski conducted a study on the informal side of the local economy, in particular on street trading in Pretoria. The work is couched in the discipline of social anthropology, which made it easier for the researcher to relate to the transnational migrants, a sensitive issue in South Africa. The research focussed on how migrants relate to street trading activity, how they perceive street trading and how they act upon it.

Elsa chose a research method which required spending a significant amount of time interacting with people on the street, engaging in discussions and listening to life stories. The research was conducted in the vicinity of Scheiding and Van der Walt Streets, Pretoria. Participants included 18 men and four women aged between 20 and 40 years old, with a range of different family situations, as well as varying education backgrounds.

*b. Motivation for migration and trade*

The main motivation of the participants to come to South Africa was to improve their livelihoods and those of their relatives. There were other motivations including political, personal or simply for the experience. Most of the respondents did not have much of an idea what to do once they got to South Africa and becoming street traders was mostly a result of a perceived lack of alternatives, mainly due to the fact that it was easy to enter and provided a chance to learn about local processes, e.g. building networks. Street trading was also a way to earn a living and support their family at home.
c. Business practices: storage, security and profit

In terms of their business practice, stock is purchased both locally and further away, but participants had to find ways of storing goods, which was resolved by varied means, including doing deals with other traders who had shops, or street families were paid to watch their goods. Profit varied from day to day as well as seasonally, with mostly low profit margins. Obtaining a trading licence was perceived as costly and taking too long. There was unwillingness by the responsible department to deliver licences in the inner city due to overcrowding. The majority of participants felt that they would be discriminated against, and did not feel as though street trading required a licence. However, businesses such as shoe repairs or hairdressers disagreed and applied for licences.

The traders used a variety of strategies to overcome the challenges they faced, including obtaining help or partners in the business, comparing products, anticipating customers’ demands, developing personal relations with customers, which helped people feel safer, building social capital, and building networks for subletting. Some people preferred to sublet because they felt that by not being an owner they did not require a licence.

d. Informal trade livelihoods and life strategies

Some people saw street trading as a stepping-stone, for example, towards opening a shop. To do this they used multiple strategies such as selling cigarettes and sweets, which then led to selling clothing and other goods. Some saw it as wanting to move to other areas or as a backstop while between jobs. Some of the respondents had businesses still running at their homes, and others were sending money home and did not really have an incentive to expand their business.

The conclusions of the research were that street trading is a viable livelihood for migrants, but it is full of uncertainties. The question that should be asked is: how can migrants’ positive contribution to the urban economy be enhanced, while recognising their relations to street trading? There seem to be two main strategies: by taking different perceptions of street trading into account, and by taking migration questions into account in other fields of practice. The presentation was concluded with a word of caution, noting that there are not that many migrants despite perceptions being otherwise.

Open discussion:

The presentations were followed by a discussion involving all delegates who asked questions of the presenters:

Aly Karam, University of the Witwatersrand: There has been a great deal of work in South Africa on the informal trading topic since the 1970s, is there much difference in the studies between now and then?

Elsa Burzynski, independent consultant: Commenting on work by a researcher in Durban, it was highlighted that migrants are likely to be male, 20 to 30 years old, and that South African traders are more likely to be women in same age group. Non-nationals are thought to be more aggressive and more competitive. Elsa’s small-scale research did not see much of a difference between national and non-national traders, but it would be interesting to compare studies further.

Nigel Tapela, Cape Peninsula University of Technology: Other bodies of work carried out in Cape Town and Khayelitsha tried to understand township retail and the degree of fixedness and mobility, the special structure of trading, and the relationship between formal and informal trading.
Francois Viruly, University of Cape Town: Francois spoke of his own experience in recently moving to Cape Town, and that the car guards seemed to be 100% dominated by migrants, such as Congolese and Rwandan citizens, and that after one year of living in Cape Town he was still to meet one South African car guard. He posed the questions – has the whole sector been taken over by migrants and how easy is it for South Africans to get into the car guard sector? What would be the interventions that could assist this sector? What could cities do to help the informal retail sector?

Elsa Burzynski, independent consultant: The biggest challenge is that street trading relies on movement, and that it remains non-fixed to urban space. If traders are fixed to one space it might work for some, but not all. An example is a faith-based organisation that works with refugees, which has set up a team to support people in the process of obtaining a shop, namely by getting assistance with negotiating rent, or setting up with a group of people, so individual traders were not tied to a lease. This organisation seemed to be doing good work.

Rob McGaffin, Urban LandMark: Rob felt that understanding the complexities and dynamics are critical to understanding the informal sector.

Jean du Plessis, UN Habitat: There is a relationship between people who are trading and living in the areas; travel costs between outlying areas and trading in a different area is prohibitive.

Elsa Burzynski: The bulk of the research participants were based in the inner city and within walking distance from their business. Most participants did not want to, or could not, live in informal settlements because of fear of discrimination.

How to maximise the benefit of state investment in land: lessons from the application of the Urban LandMark Land Release Assessment Tool in the Western Cape and Gauteng - Nick Graham, Palmer Development Group (PDG)

a. The land release assessment tool: what it is and what it does

Nick Graham, a director at PDG responsible for the Sustainable Urban Systems Practice Area undertook a study that looked at the potential benefits of the Urban LandMark Land Release Assessment Tool. He reported on his findings from the study, beginning with a description of the tool. The Land Release Assessment (LRA) tool looked at financial costs in order to understand how to maximise the benefit of state investment in land. The LRA tool was applied to four case studies in an Excel-based format, with a 30-year time horizon. It divided projects into housing typologies and calculated net present value (NPV) of the total cost.

b. Western Cape and Gauteng case studies

The case studies used were Mitchell’s Plain, Cosmo City, Blue Downs and Pennyville. Each one was very different in scale and type, and as such the developer’s cost of capital varied due to the varied processes. For example:

- Cosmo City had market rental units and the Cape Town case studies (Mitchell’s Plain and Blue Downs) did not
- The land in Mitchell’s Plain was purchased outright from the City of Cape Town by the developer
- Blue Downs had an agreement between the province and developer with transfer happening on payment of market value
- Cosmo was similar, with fixed value plus 50% on profits of bonded and commercial lots
• Pennyville’s land was owned by the developer, transferred to the City, and then sold off to unit owners.

There were a number of differences between the case studies of Gauteng and the Western Cape, including the following:

• Property rates, which meant that properties in the Western Cape generated less income
• The difference in the sale price of electricity between Gauteng and the Western Cape meant that there were differences in operating costs
• The sale prices of units were similar, and total subsidy amounts were also similar, although slightly higher in the Western Cape due to additional amounts attributed to climatic conditions.

The study compared all subsidies, from land donations to land holdings costs, housing subsidies, etc. The Gauteng case studies had a heavy cost to state in the long term, due to large capital upfront costs in bulk infrastructure and services, which were not recovered in tariffs in the longer term. The reason why development has not gone ahead in some areas was due to non-return of investment.

c. Key findings

The comparison of findings from a State perspective showed a great deal of variance in the NPV, with the findings in Pennyville skewed due to Joshco charges being low. By comparison, the total NPVs were as follows:

• Cosmo City - ZAR784 million
• Pennyville - ZAR424 million
• Mitchell’s Plain - ZAR7 million
• Blue Downs - ZAR477 million.

By comparison the findings from a developer perspective indicated similar returns on investment [ROI], e.g.:

• Blue Downs’ return on investment (ROI) was 8%
• Mitchell’s Plain’s was 14%
• Cosmo City’s was 13%
• Pennyville’s ROI was 29%.

The negatives were that the developer was making higher profits on some items, such as the higher-income portion of the development, and subsidising the cost of the lower-income portion. The householder benefitted due to owning property, excluding rental units.

It was, and remains, necessary for the developer to have a return on investment, and in that instance subsidised households were winners, which is the intention of the policy. The bonded units in Cosmo City are expected to increase in value (from ZAR500 000 - ZAR1 million). Blue Downs bonded households were shown to benefit less than everyone else. In the Cosmo City development, the State is losing out as well as market rental tenants. In Pennyville, the renters benefitted due to subsidies creating low rental costs in highly desirable areas with good access to services.

The long-term viability for the State was questionable in the Gauteng case studies. Overall bulk infrastructure development was shown to be a ‘make or break’ scenario for the developers. In terms of subsidisation, subsidy recipients are the big ‘winners’, and internal cross-subsidising is essential,
but the question is, which portion should subsidise which portion? The findings also noted that gap housing increases project risk and compromises viability – perhaps, then, social rental housing is a better alternative?

In summary, it would seem that developers have gotten the housing mix right, but there is concern over the level of subsidy required and the question of whether it is sustainable.

**Open discussion:**

Following Graham’s presentation, the floor was opened for questions and discussion.

**Rob McGaffin, Urban LandMark:** The purpose of the previous study was to provide a tool that said ‘You choose the option, whatever your political motivation would be, and whichever you choose this tool can help you to understand the true costs’.

**George Onatu, University of Johannesburg:** Querying the Cosmo City project that took five to seven years to get off the ground, is it not too early to conduct a cost benefit analysis?

Another point to note in the analysis is that in the case of Cosmo City the cost of development was brought down due to State input.

**Lauren Royston, Urban LandMark:** From the model it can be seen that household benefits are based on return, therefore the outcomes are not unexpected. The presentation showed that social rental fared much better than market rental. Lauren requested that the conclusion be made more specific, and also to explain the comparison between gap housing and social rental – she asked why social housing was preferable.

**Sue Nyathi, African Development Economic Consultants:** Was land value included in the model?

**Nick Graham, PDG:** Confirmed that land value was included in the model.

**Jean du Plessis, UN Habitat:** The study seems to show that land was approximately 10% of the overall cost, could that figure be assumed with other research?

**Marcel Zimmerman, Zimmerman Consultants:** Commenting on Cosmo City being based in ‘Noweto’, what would happen if the government started buying out a place such as Linbro Park?

**Nick Graham, PDG:** It would be very different if the state were buying up land.

**Rob McGaffin, Urban LandMark:** What is the mixed-use opportunity cost?

**Marcel Zimmerman, Zimmerman Consultants:** The State has a lot of land in bad places, what are the implications of that land?

**Nick Graham, PDG:** The impact of time on Cosmo City does not affect the case study - data were taken from when the project was conceived and included the five-year delays. However, a projected cost base of land prices had to be assumed - perhaps redoing the exercise in a few years could result in a different conclusion.

Responding to the question about the State bringing cost down through ownership of the land, Nick noted that the developer still had to pay for the land. However, bulk infrastructure contributions outweighed the cost of the land (take, for example, the cost of the Malibongwe Drive upgrade – the
road that provides access to Cosmo City). Imputed rent is what people would pay as market-related rent on the property they occupy. If someone occupies social housing, the reputed rent is much lower, which is why people benefit. This fact bought the study to the conclusion that social rental housing is a better option for the gap market. The risk is on the developer’s side, but in terms of demand experienced, for example, at Pennyville, developers made strategic decisions that worked very well. Social rented housing demand is enormous.

Targeting the gap market required differentiation from subsidised units so that people felt there were benefits. There was not sufficient profit in what people could afford versus developer profit. In terms of a question asked about land as a percentage of cost, the answer was that it was project specific but that it would depend on what the project did. It did not, however, include the cost of the infrastructure, e.g. the cost of the contributions to a wastewater treatment facility that is 20km away, or the diversion of a river running alongside the development.

Rob McGaffin, Urban LandMark: The figure that came in around 5-8% seemed low, but serviced land with rights pushes that figure up to 15-20%.

Session 2: Investments in township development and renewal: are they paying off?

Panel discussion:

Chair - Rob McGaffin, Urban LandMark
Panellists - Francois Viruly, University of Cape Town
- Yondela Silimela, Public Investment Corporation
- David van Niekerk, National Treasury

Francois Viruly, University of Cape Town: The retail sector is entering townships across Africa, including South Africa, however developers do not invest in these regions by building offices. This is because national retailers are stable investors, e.g. during the economic downturn in 2007/2008 very few of them closed shop; therefore a retail investment for developers is fairly resistant to economic downturns. A shopping centre is largely about capturing as much value as possible. If a shop is built, the next shop also benefits. In a retail environment the doors are closed around the shops, and therefore value is kept in the same space. How could South Africa go forward in the townships and other small areas in a manner that can broaden the value capture beyond the shopping centre? Does this require master plans?

Yondela Silimela, Public Investment Corporation: From an investor’s point of view, the answer to that question is yes. The Public Investment Corporation manages 26 shopping centres in townships and rural areas, with a total value of about ZAR5 billion, a portfolio that started in 2001 and has consistently performed well. The logic is the same, whether in townships or towns - investors are only interested in making money, therefore every development has to ask the question, ‘Can it make money?’ Places that can support retail require clear terms with the State and a level of predictability around services. The markets have always existed; perhaps it is the investors that have only recently realised it. Soweto is often referred to as an emerging economy, but where is it emerging to? There is a knock-on effect of demystifying these areas as economies.

The Public Investment Corporation invests government employee pension funds; PIC is ‘an investor with a conscience’. The private sector has to be profitable, but there can be negative consequences from development processes that need to be mediated and checked by government.
David van Niekerk, National Treasury: Every rand invested in a township will have impact of some form, but what is the long-term impact of investments? And is there value to be found in the processes currently being employed? The National Treasury’s Neighbourhood Development Partnership (NDP) programme has two different types of grants – planning, and capital. The planning grant was introduced five years ago, is area-based and intended to be used over a long term. In terms of the impact of this grant, there is a lot of work that needs to be done. The fundamental problem in government, not only in terms of township investment and the built environment, is that South Africa has a strategy gap - it has policies that were developed 20 years ago that have all the good ingredients, but has problems when it goes to budget and implementation.

One reality check South Africa needs to understand is that townships and informal settlements are here to stay and there is a huge trend among practitioners to make everything as complex as possible, when it needs to be as simple as possible, through understanding the root causes of the problems. For example, South Africa’s government is pushing a job creation and economic development agenda, so everything should be aimed at exactly that, and focussed on simplification.

Currently there is a lot of discussion about public/private partnerships, and it is time to act on these discussions. NDP is starting to create partnerships with players responsible for infrastructure. What is needed is an approach that considers the full life cycle for township investment. As development takes place, management functions need to be considered and planned for to complete the full life cycle. A starting point is potentially to identify space and the best areas as neighbourhood hubs, and to connect these with the rest of the city fabric. There is a lot of effort and funding going into initiatives, but the sustainability of these initiatives is a concern. In 18 months, National Treasury has had five municipal managers, four CFOs and no NDP coordinators - as soon as capacity is built, a vacancy opens up. How can there be a capacity-building programme for 300 municipalities across the country?

Rob McGaffin, Urban LandMark: The panellists answered ‘yes’ to the question posed for the session, but the ‘yes’ had conditions attached. South Africa needs to focus more broadly - broader returns to society, business, state, etc. The question was opened up to the floor, requesting questions to keep in mind the broader terms. Questions and comments were also asked to respond to what seemed to be a contradiction. While there was a theme of normalising places, there was also a negative response to outside influences, such as township retail centres.

Open discussion:

The panel was followed by a discussion involving all delegates who asked questions of the panellists:

Jean du Plessis, UN Habitat: South Africa was not addressing the question around de-densification, nor were there any plans to resolve it. This conference hosted presentations on the theme of transport and distance from work, but found that if work were not being created in the right areas the poor would still be travelling. In Nairobi, since June, Jean has witnessed spontaneous uncontrolled densification along transport routes. The following questions were asked: how big will Johannesburg become before spontaneous controlled densification begins, to allow people to move closer to work areas? If South Africa is only building shopping malls, there is a serious problem; the city will just get bigger.

Denise, Media 24, Penguin Publishing: There is seen to be little development of offices and industrial spaces, but an increase in social grants that are intended to improve the lives of recipients, not to encourage retail therapy. Social grants are driving retail growth but Denise questioned how sustainable it is.
Marcel Zimmerman, Zimmerman Consultants: Marcel believes that the person that controls land, controls development. All big and successful developments have massive land holdings, part of the strategy should be to include the public sector buying land and therefore directing the goals. In addition, neighbourhood hubs should be mixed-use developments, not solely housing.

Nigel Tapela, Cape Peninsula University of Technology: There are many discourses around analysing the problem, e.g. what captures value and for what. One study of value capturing should be to find out how to create instruments that capture value. Townships are concentrations of poverty, the outside maps show townships, medium towns, and rural towns. These are dormitory towns - many were created as places to service the labour market. What can be done to intervene in those areas, what strategy can be used to transform them from dormitory towns to productive ones? In addition, markets are sometimes unforgiving, and sometimes they are adaptive, how could the State negotiate this issue?

Francois Viruly, University of Cape Town: The way people think about the built environment is important, it is seen as an outcome of economic growth, e.g. retail, how do people think about the type of space provided? Ask whether that space creates opportunities for small players. Shopping centres are a sign of densification – they bring people into one spot. The moment this happens it also brings opportunities for smaller players. But the question is posed, at what point does planning begin? Planners like to think planning is done first, but in South Africa there seems to be a situation of settlement first, followed by building, and finally planning.

Does it make sense to live in a slum and use the money one would have spent on rent to put one’s children in a better school? Or vice versa? Who decides how cash should be used? Where are the growth towns? Some research completed in small towns in South Africa could not figure out the economic base. A lot of retail is underpinned by the social grants, which create stability due to the fact that if the economy goes down, social grants carry on.

Yondela Silimela, Public Investment Corporation: Signals that regulators have sent to the market in townships and rural areas are that money can be made if shopping centres are built. But the problem is that money does not stay in the area. Perhaps there will be a return to the old SDPs? It’s a consumption-based activity, not productivity based. Money is still made elsewhere, so it is better to create more production opportunities.

Addressing the question about value capture and responding to David’s comment about simplicity. Some immediate things that could be done include making developers create informal trading or taxi ranks. Municipalities are saying developers won’t agree, but it should be a requirement for development dictated by municipalities. The investor, not the State, should carry negative parts of investments.

Markets are very fragile. Perhaps an issue is that the State is unable to understand and work with them. It’s not illegal to make money, it’s necessary, but negotiation should be about not making money at the expense of the broader public; this is where state needs to get involved.

David van Niekerk, National Treasury: The root cause is specifically around the spatial form of our cities and towns, and around access to opportunities, and the efficiency of how they work to develop economic growth and development. Nodes are created in cities; in townships the NDP is looking at a draft form of creating ‘secondary town centres’. David provided an explanation:
Primary network: Identify established nodes, then identify one potential town centre for each township cluster, then connect these regional nodes with BRT systems.

Secondary networks: A neighbourhood hub would become a ‘town centre’, with a secondary transport system linking neighbourhoods within the township. This hub then connects to the primary network.

This neighbourhood hub would be mixed use and the most accessible place; some townships may have two hubs. Current and future places where people converge are identified, and this establishes a hub. NDP is currently designing a model of what this neighbourhood could look like, referencing traditional African and international precedents. There would be mixed use of recreational facilities. Offices such as call centres are created, followed by more office development. The main principle is that these are places for high density and high investment that are very visible and well connected. These spaces require entities that manage these precincts, to be created over time. If strong urban structure is created at city level, and secondly at township level, there should be catalytic effects.

Rob McGaffin, Urban LandMark: Rob felt that the question of the definition of emerging economies was not addressed in the discussions up to this point. Semantics such as ‘global north’ and ‘global south’ are useful terms but also problematic, e.g. is Greece now ‘global north’ or ‘global south’? Many areas are set up without economic logic, therefore the question should be ‘how can economic investment be attracted to a place without economic logic?’

Session 3: Investing in housing assets

This session looked at the general theme of investing in housing assets from a number of perspectives, including the performance of state-supplied housing as an asset, using FinMark Trust’s data from the Centre for Affordable Housing Finance in Africa and Urban LandMark’s research work titled ‘Investigation into the delays in issuing title deeds to housing subsidy beneficiaries and the impacts of these delays’. These presentations were then followed by a demonstration by Adelaide Steedley of the Affordable Land and Housing Data Centre, showing the data they had collected and the usefulness of the database.

Session introduction by chair – Caroline Wanjiku Kihato, Urban LandMark

Housing subsidy assets: exploring the performance of government-subsidised housing in South Africa - Kecia Rust, Centre for Affordable Housing Finance in Africa, a division of FinMark Trust

a. Key questions for the Centre for Affordable Housing Finance

Kecia Rust is the housing finance theme coordinator with the FinMark Trust and the founder of the Centre for Affordable Housing Finance in Africa. She explained the purpose and motivation behind the research conducted by the Centre for Affordable Housing Finance, which asks questions of the performance of government subsidised housing: does it work? Are there real assets coming out? How do people receive subsidies? And how do people use those subsidies? The Centre has a great deal of research on its website, plus the study about to be presented, and requests comments and critique from the audience and website viewers.

Since 1994 South Africa has tried to rectify an enormous housing shortfall and provide a ‘better life for all’. The South African government decided to dedicate 84% of its budget for housing, which was a very large amount, and as a result has built approximately three million housing units. The Centre wants to understand how people are using these houses by asking questions such as: How does the
house perform? Does it improve their lives? Does it improve their livelihood? Does it improve their access to income?

b. Research methodology: sourcing data

Rust mentioned that in order to source the houses for the study, the Centre used the deeds registry and at reselling values, and hoped to find that people purchased a subsidised house, which was sold for profit later. There were some issues encountered due to the title deeds office experiencing delays in issuing title deeds. To try to understand what kinds of state investment might affect the performance of housing, a household survey asked people how they felt about their homes.

The government provided its database of who had received the subsidy, which showed that 3.8 million people had been approved since 1994. The DHS update the list to prevent people from applying twice. ID-numbers were entered into the deeds registry list; the results were that 1.7 million households were identified whose first property looked like a subsidy, another 240 000 received housing and registered before 1994, which were excluded due to the fact that they were not part of the RDP subsidy scheme, and a further 1.8 million did not appear, i.e. ID-numbers did not match any property.

Of the 1.7 million, some of the beneficiaries shared a house, which corresponded to approximately 1.44 million properties. The RDP scheme was around the same time as the discount benefits scheme where old township stock was transferred to people. The trouble was that nothing on the deeds registry indicates whether a house that had been transferred by the state is a house from the discount benefit scheme or the RDP scheme. Thus, the study felt it was 95% sure it was project linked.

It took eight months for the data to arrive due to South Africa’s system having very bad documenting and tracking methods. A total of 3.8 million subsidies have been approved, which peak in 2002 and 2003, but construction and deeds registration of course lag behind approval. The study indicated that in 2007 only 17% of the properties were listed as subsidies on the deeds registry. In total, subsidised housing constitutes 24% of South Africa’s property market, which represents a major portion, especially when considering that many properties are not yet listed on the deeds registry.

c. How effective is subsidised housing as an asset?

The question was then raised, how effective is subsidised housing as a social and economic asset? The study looked at case studies of RDPs from 1995, e.g. one house located a container in the front yard and opened a spaza shop, which then gave the owner access to a micro-loan, which was used to stock the spaza shop further. The profits of this were used to build three backyard rooms. Furthermore, 120 000 mortgage loans have been extended against subsidy housing independent of a sale, one can see developments everywhere with the building of additional rooms and extensions onto the original houses. Some houses are improved sooner rather than later. In total, the government-subsidised properties were used to leverage ZAR20 billion for improvements, which do not include other non-governmental subsidy programmes.

The study also looked at the sale price of the properties, and reviewed the sale price over different periods. It found that between the years 1994 and 2000 the sale price averaged ZAR54 000 and between the years 2004 and 2009 the sale price averaged ZAR160 000. It is interesting to note that these prices are very similar to the rates of subsidy; the question arose whether the subsidy price defines the purchase price? In the absence of a market to define the value, perhaps the sale price is set by government, bearing in mind that the price does not include land and infrastructure.
d. Findings from the study

From the findings, the study has developed a number of recommendations which include the following: the premise that housing stock should improve not only lives but also the wealth of the people who access them; it should be acknowledged that the resale of subsidised housing is a potential and important supply for the gap market, filling in the gaps in the housing ladder; and lastly that interventions should be put in place to support asset performance and enable the sub market to operate more effectively. However, for these recommendations to be made into a reality they require:

- Clear and consistent policy and political messaging on the housing asset;
- Housing asset quality must be addressed by eradicating the title registration backlog;
- Facilitate property market functioning and remove restrictions to trade;
- Support the use of a house as an economic asset;
- Develop detailed monitoring and analysis.

Investigation into the delays in issuing title deeds to housing subsidy beneficiaries - Mark Napier, Urban LandMark

a. Where are 1.5 million title deeds?

Mark Napier pointed out that the purpose of this body of research was to find out why 1.5 million people have received subsidy benefits, but have not registered a formal title. The research comprised a desktop review and interviews with 32 stakeholders. It was noted that the individuals showing up on the title deeds register may not be in the hands of people on the ground, so the figure of 1.5 million could be even worse. A title deed is the property owner’s proof of ownership. In South Africa, a property owner cannot do their own transfer of title deeds – it has to be done by what is known as a conveyancer. In other countries it is possible for owners to transfer their own details, but in South Africa it costs between ZAR5000 and ZAR6000 to change details on a title deed, which is a lot of money for a low-income housing property owner.

b. What is the problem with title deeds in South Africa?

The problems encountered with title deeds were many and included different issues in different parts of the country. Mark discussed the Urban LandMark-commissioned report “The struggle for property ownership in New Crossroads”, which talks about houses where people are unsure if they’re paying rent or rates. There is an issue of property law versus transaction law, i.e. the title deed might not have changed yet there might have been a transaction. Title deeds can be passed on to heirs but there may not be any formal record of transfer. The process of registration is convoluted and includes registering land, township establishment as well as purchasing and transferring land, and township establishment requires many steps. A further issue around cost is that once a mortgage is paid, it costs approximately ZAR3000 to receive the title deed from the bank.

c. Should it really be all that complicated?

The delays in the process that are caused by delays in township establishment and proclamation processes are due to delays in proclamation where the various requirements to get an approval of a general plan are not set, and where there are difficulties in resolving underlying land rights. Further

---

7 See www.urbanlandmark.org.za/research/x44.php for a copy of the report.
reasons include municipal and provincial difficulties due to lack of capacity, officials not understanding the process, misalignment between departments, and difficulties in rectifying misallocations of subsidy houses, and a disproportionate focus on delivery at the expense of ensuring title registration. There are also issues in the physical implementation due to sites being occupied informally and problems with the legislation. There are three different legislative options i.e. the Provincial Ordinances, the Less Formal Township Establishment Act and the Development Facilitation Act (DFA). The Constitutional Court ruling that invalidates sections of the DFA is a further problem, with implications for the other two routes. In addition there are problems within the Deeds Registry offices, including repeated returns on applications. Another key challenge, particularly for rural areas, is land that is held in trust by traditional leaders and legal uncertainty around tribal land.

Some additional problems may be caused by the fact that there have been many revisions to the payment process between 1995 and the present. Another problem could be that during the township establishment process, many developers walk away before the last payments; this could be because there are higher earlier payments and the final pay-off is too low and not worth their time and expense. Title deeds are sitting in filing cabinets at the Deeds Office. Is it appropriate that the deed registration system is so heavy on fees? If legal oversight is required, then it’s necessary for transfer to become cheaper per unit.

d. The consequences of delays in issuing title deeds

- Due to informal sales there is a discrepancy between occupants and owners in the registry.
- The longer a title deed is left to update, the greater the backlog at the deeds office, making it harder to resolve.
- Many title deeds can’t be found, which then requires court action.
- Unresolved estates are an issue, which provides no protection for children of property owners.

In conclusion, strong campaigning is required to unblock the system, plus a much more simplified system of registration.

Open discussion:

Following the presentations, the floor was opened for debate and discussion.

Marcel Zimmerman, Zimmerman Consultants: A question addressed to Kecia, asking if the research was spatially located. ‘Housing is an asset but in some ways it’s distorting South African cities from a strategy perspective, therefore can the study expand any further to look at the issue of location?’

Aly Karam, University of the Witwatersrand: If people are happy where they are, will they want to move? South Africa has a stable democracy and the idea of ownership was to keep people happy and stable in their current locations.

Rob McGaffin, Urban LandMark: There is value differentiation between the subsidy and discounted benefits scheme; perhaps the question to ask is about location?

Jean du Plessis, UN Habitat: What about someone that remains poor, that gets bought out of their RDP because of its low value, and ends up back in their previous situation; are people re-joining the subsidy/housing waiting list? It would be good to have some hard data.

Marcel Zimmerman, Zimmerman Consultants: How many people have two RDP houses?
Kecia Rust, Centre for Affordable Housing Finance in Africa, a division of FinMark trust: The following presentation by Adelaide will demonstrate that the study did not know how to spatially locate millions of properties and make sense of the data within the research that was carried out. It would be advantageous to have a tool that provides better information about how all the markets work together.

Responding to the question about place; many more discount benefits applied to bonded properties that were sold; it could be the age of the household, it could be that people were in the wrong places.

It is difficult to understand the issue of downward raiding and selling of houses because there is no data, and the reasons for this are that:

1) Many transactions are cash
2) Many people are terrified of having the conversation because they think that selling RDP houses is illegal.

It is not illegal anymore, so information needs to be made available to clarify the issue.

For the market to work people need to be able to do what they want, for example sell their property, as well as have existing systems they can draw upon for assistance and information - the complexity of the process is a problem. There is going to be downward grading, but South Africa needs wider housing opportunities, e.g. enabling people to build backyard accommodation that is suitable for their particular affordability level, and to be able to change that when they want to.

Mark Napier, Urban LandMark: Mark commented that the situation could be perceived as the State giving an asset that the public has paid for, or it could be perceived as a market of buying and selling, or it could be perceived as building stock in a country - any country – in which people are where they want to be. With production being managed by the state, at some stage housing will be built in the wrong place. However, take the examples of Khayelitsha and Diepsloot - places that were thought to have been built in the wrong area then, but are now in desirable locations.

Affordable Land & Housing Data Centre: demonstration - Adelaide Steedley, Centre for Affordable Housing Finance in Africa, a division of FinMark Trust

a. Motivation for developing the tool

Adelaide Steedley, coordinator for the Centre for Affordable Housing Finance in Africa, provided an introduction to and explanation of the Affordable Land and Housing Data Centre tool (to be found at www.alhdc.org).

She explained that the tool was developed because of the following data facts:

- The title deeds registry has six million properties on its registry, of which 58% are valued at less than ZAR500 000.
- 92% of these are in affordable suburbs.
- The affordable-market average value is ZAR500 000, which represents 88.14% of the population.
- The high-value market – properties exceeding ZAR500 000 – represents 11.86% of the population.
The Affordable Land and Housing Data Centre is managed in partnership with Urban LandMark, and supported by the organisation Eighty20.

The affordable market is the largest market in South Africa, with the largest number of people and properties. It is growing faster than the high-value market, and is a target of growing investment. Incomes are also growing, with an 8.2% increase in the people entering the bracket of annual income between ZAR300 000 and ZAR500 000. According to AMPS the BoP has declined considerably since 2005. At that time there were almost 13 million adults in the BoP. In 2010 the BoP was estimated to comprise less than 10 million adults.

b. Details of the Data Centre

In order to build this housing South Africa has built at scale. The Data Centre was created to provide market intelligence. The data tool, available at [www.alhdc.org](http://www.alhdc.org), allows users to click on profiles using Google Earth maps, high-level indicators, download transaction-level data and provide survey analytics. When people were given access to the data, the questions that were raised were ‘What is the scope?’, ‘what is the nature of the data?’, ‘where do those particular conditions occur?’, ‘what is the differentiation?’ and ‘how does that compare to the same kinds of things going on in other neighbourhoods?’. For example, if one looks at trends on housing bands and then compare them to the City of Tshwane, the data may not mean as much if it is known that the entire city is behaving the same way.

A big challenge of this project was building the information, looking at issues of market size (where the market is distributed and its value), market potential (what assets the market has and its value - every neighbourhood has a value, but how can this be quantified?) and market dynamics (there is a need to build indicators in cities, suburbs, towns, over time, so it is possible to see the potential over the whole context). Markets behave differently so the question is posed, how can people be pulled into a housing market that’s equitable?

(A demonstration of the website was carried out)

The online tool is attempting to get municipal-owned properties entered in the system. The Data Centre is trying to develop the system into a tool that provides good access and leverage for development, while also building strategies (not IT), leveraging opportunities and making the bigger picture even clearer.

Open discussion:

After the demonstration was completed the delegates were invited to ask questions and discuss the tool that had been presented.

Marcel Zimmerman, Zimmerman Consultants: Questioned whether the data includes the high-end market?

Adelaide Steedley, Centre for Affordable Housing Finance in Africa, a division of FinMark trust: Replied that it did not, but that the Data Centre wants to build it. The current focus is on the affordable market area, with building indicators that will show the strength of the affordable market.

Caroline Wanjiku-Kihato: The website is a powerful tool that the private sector could learn from, filling in the trends to provide a much better understanding of the property market.
Nick Graham, PDG: There was more of a distortion on subsidy housing than on the value of sold properties.

Adelaide Steedley, Centre for Affordable Housing Finance in Africa, a division of FinMark trust: A big part of the data was sales, which is difficult when there are no transactions, so the tool is trying to indicate where the distortions are in neighbourhoods where the situation is unique. One of the Data Centre’s goals is to take this information and include the market value sector (such as banks, developers, buyers and sellers) in order to try to understand the differences.

Simon Mayson, Planact, University of the Witwatersrand: There seems to be very few entries in some of the smaller suburbs, yet there should have been many more sales taking place. How does that interact with conveyancing charges? Is it possible that there are sales that are not being registered? Are there any other data sources that could be drawn on?

Aly Karam, University of the Witwatersrand: Commented that he had undertaken housing research in 2000 to find out if houses were being sold or not. The team realised that they could not ask outright if property was for sale due to perceptions of it being illegal to sell RDP houses, but managed to get some information by asking questions such as ‘have you heard?’ or ‘do you know?’ or ‘does your neighbour?’. The research discovered that 12 to 20% are re-sold every year, which came close to the official market.

Aly also commented on the issue of conveyancing and registration, and how it is directed towards the ‘12%’ – he said it’s an old system from apartheid and should be thrown away. South Africa is trying to fit these houses into a system that is not designed for them. Housing is a commodity, not a right. It’s a commodity for some and a right for others.

Mark Napier, Urban LandMark: Replied that access to housing, within the government’s means, is a right.

Jean du Plessis, UN Habitat: Retorted that housing is a shelter and is a right in terms of international law and the South African Constitution says that it cannot be a right only when you can afford it. A report on the sub-prime collapse says that treating housing as a commodity is the root of the problem. This needs to be kept in mind when figures such as ‘60% of people in Africa are living in informal dwellings’ are stated. Therefore if the ‘norm’ is informal, what does one do? It cannot be said that one form of RDP is better than another.

Rob McGaffin, Urban LandMark: A house might cost ZAR86 000 to construct, increasing to ZAR120 000 with all the hidden subsidies, yet is sold for ZAR50 000; if the house is in the wrong place the market value is really ZAR50 000, not ZAR120 000. The problem is that it was built in the wrong place in the first place. A question directed to Adelaide - how has the tool overcome the problem of having to update data continuously? When there are multiple sources from different places, how does Data Centre manage that dilemma?

Adelaide Steedley, Centre for Affordable Housing Finance in Africa: There is a contract between the provider of data and the Data Centre. The data are targeting people who want to use this tool, and these firms use it all the time. Firms provide Data Centre with the data, Data Centre decides what is required on an ongoing basis, in exchange for access to the tool. For example, Data Centre might only work with building permits, and if the data come out strangely, it must then be cleaned and re-entered. There is a spirit of collaboration between all parties. The more often the data are received, the sharper it will be. Another point is that confidentiality is critical for all parties.
Once people have entered the housing market they should want all the benefits that go along with it, but how are benefits granted that acknowledge every situation of the homeowner? The South African government produced a tremendous amount of assets, and it’s very expensive to keep doing that, so can the system leverage the investment that’s been made, so it’s possible then to build for more and more people? The US took housing to such an extreme that the whole world is now paying for its errors. But it was actually security fraud - equity was stolen from people’s houses and has made large numbers of people homeless in the process. The same could have happened for cars or insurance. The small number of people responsible for it is still not being held accountable, and the world is paying for it.

**Kecia Rust, Centre for Affordable Housing Finance in Africa, a division of FinMark trust:** The transaction is an expression of value. From a policy-maker’s perspective, the Data Centre worked quite hard on trying to understand the question ‘what is this housing asset which is multidimensional?’ Houses have different values within the whole system, of which there needs to be a broader understanding. If a house is sold for ZAR50 000, but the sale is restricted due to the expensive conveyancing system, or it’s too complicated to take the formal path, or perhaps the owner did not have tools to transfer it properly; all of this constrains the system.

**Rob McGaffin, Urban LandMark:** Replied that this applies to the whole market, not just the lower-income end.

**Francois Viruly, University of Cape Town:** The lower end is a shelter for the poor, we can’t deny certain people from playing the property market. The US situation was not solely the responsibility of Wall Street - it was also the US policy-makers’, more specifically the policy-owning constitution.

**Concluding remarks: Mark Napier, Urban LandMark**

Concluded the discussion by stating that if people in the market are starving this demonstrates market failure. He felt that was need for a ‘skunk works’, which is a workshop where people from different contexts, different backgrounds and lots of experience, are locked in a room for three days to plan how to make something that is relevant.

In conclusion, four things need to be kept in mind:
- Good governance
- People and their rights
- Provision of humane and good places
- Mobility and markets that work for the poor.