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Capturing unearned value/ leakages to assist markets to work for the poor

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Introduction

South Africa's history of colonization, through legislation such as the 1913 Land Act, the Apartheid Group Areas Act and bantustan and influx control policies have produced a highly unequal urban land market which does not allow space or opportunity for the participation of the poor. The after effects of these policies still pervade the urban landscape in the form of increasing homelessness, a continuing rise in informality, persistent segregation and unabated urbanization of poverty. This paper will explore the use of different instruments which government can use to capture value from government investments in order to finance the provision of infrastructure and services, such as affordable housing to the poor. These mechanisms however should not only be directed at accessing more financial resources, but should be aimed at eradicating the remnants of the apartheid history and making the urban landscape more equitable, inclusive and sustainable. The paper will firstly discuss the urban development and planning challenges facing the state as contrasted with the booming property and land market. The argument will be made that the poor are not given space or opportunity to participate in this market and the market can therefore not be relied upon to cater to the needs of the poor and marginalized. The paper thus argues for bold, decisive and strategic interventions in the market to ensure that the poor reap some of the benefits of government's investment in the market.

1. Background

Over the last twelve years the South African government has made significant strides in addressing some of the major development challenges facing the country. Good progress has for example been made in improving people's access to electricity, clean water and sanitation. The number of electricity connections increased from 32% in 1996 to 70% in 2001, the percentage of people having access to clean water increased from 60% in 1996 to 85% in 2001, and access to sanitation improved from 49% to 63% during the same period[1]. Despite these gains though, a huge backlog in social service delivery still remains. The number of poor people in South Africa living on less than $1 dollar[2] a day has risen from 9.4% of the national population in 1995 to 10.5% in 2002. Poverty however, is not only about income deprivation. "Poverty exists when an individual or a household's access to income, jobs and infrastructure is inadequate or sufficiently unequal to prohibit full access to opportunities in society. The condition of poverty is caused by a combination of social, economic, spatial and environmental factors" (Boraine; 2002).

More than twenty-seven percent of the urban population lives in informal structures. Between 1996 and 2001 there was a net increase of 735 627 informal dwellings not in backyards and the absolute number of households without formal shelter increased by 264 649 during the same period (Boraine et al; 2004). According to the South African Human Rights Commission (SAHRC) there are six million landless people in South Africa[3]. By the end of 2001, little more than 1% of agricultural land in South Africa had been redistributed through South Africa's redistribution programme and by mid-2003 only 2.3% of agricultural land had been redistributed (Lahiff and Rugege; 2002). As a result the 87%-13% division of land in favour of white citizens of South Africa brought

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[1] Millennium Development Indicators for South Africa, December 2003

[2] This is the international poverty line

[3] "Making Urban Landmarks Work for the Poor – Excerpts from the Programme Proposal to DFID

about by the 1913 Land Act and subsequent apartheid policies remains virtually unchanged. Government has consequently had to revise its target of redistributing 30% of agricultural land by 1999 to reaching this target by 2014[4]. The current pace of land redistribution will however need to increase five times in order for government to reach this target[5]. Securing adequate finance has been identified as one of the factors impeding the success of government's land redistribution programme (Van den Brink; 2004)...

2. "The Apartheid City"

Under apartheid, urban planning and management shaped the urban landscape in very specific ways. The "Apartheid City was a political economy of space" which was based on two policies, i.e. racially-based spatial planning and development for some at the expense of others"[6]. Apartheid urban planning reserved specific spaces for the residential location of specific races and classes. Residential location ultimately determined the level of access to resources, infrastructure, other services and economic opportunity. Cities were specifically designed to push poor black citizens to the margins of the city, huddled in poorly designed and serviced settlements, far removed from socio-economic opportunities. As a result, poor, mostly black, people were "geographically, materially and psychologically distanced from opportunities and advantages normally associated with city life". Huge, well-located areas of the city were

[4] Land Agrarian Reform in South Africa: An Overview in Preparation for the Land Summit, 27-31 July 2005. Paper prepared by the Department of Land Affairs and Department of Agriculture, Version 5, 20 July 2005

[5] www.sahistory.org.za/pages/specialprojects/land/06_liberation.htm

[6] State of the Cities Report, 2004

reserved for the rich, mostly white sector of the population. These areas were well-resourced, well-serviced and located in close proximity to employment and other economic opportunity. The size of that part of the city reserved for whites was often far out of proportion to the actual size of the white population (Boraine et al, 2004).

Apartheid policies and urban management strategies affected the lives and life chances of the urban poor in very significant ways:

- Forced removals robbed people of prime land, and also destroyed important community social networks on which the poor depend for survival.

- A prominent feature of urban planning and management under apartheid was the cross-subsidization of services to the rich by the poor. Residents of informal settlements for example pay the highest per item cost on basic commodities such as water and fuel (Parnell; 2004, p13). Irrational urban design which puts the poor on the periphery of the city also means increased transport costs to the poor.

- Zoning and planning laws placed restrictions on trading and retail activity in the townships and ensured that commercial activity was concentrated in rich white suburbs. This forced resources out of black areas into white suburban areas and ensured that black townships remained economically underdeveloped while affluent, white suburbs flourished[7].

[7] ibid

- The unequal provision of services e.g. education means that the poor lack the skills needed to access employment thereby trapping them in a cycle of poverty. In 2001, only 26.9% of residents of the South African Cities Network (SACN) had a matric certificate and only 11% had tertiary education (Boraine et al; 2004).

- The design and layout of the apartheid city also had detrimental environmental costs in terms of the use of resources such as energy and water and transport routes. The State of the Cities Report (Boraine et al; 2004) quote the following alarming statistics:
    - According to projections for the "National Spatial Development Perspective", the use of water resources in at least four of the nine cities included in the report could possibly run into crisis in the near future.
    - The sewerage networks in many cities are running at full capacity and old infrastructure will soon need to be replaced.
    - The long time spent travelling to and from work, because of the location of settlements for the poor, is causing huge congestion on the roads. It is estimated that the average time it takes to travel to and from work in Johannesburg is 50 minutes. This increases to 91.7 minutes for those who have to take two buses to work and 120 minutes for those who have to use a train, bus and taxi (Boraine et al; 2004, pg. 15). Besides the impact on the road systems, this also has social costs in terms of the time spent away from family.
    - An ecological analysis of Cape Town revealed that "although the total municipal area for Cape Town is 2487 km^2 and its built up area is just

> 774km^{2}, its energy use, building materials inputs, waste outputs and food and fresh water requirements has an effective impact on some 128 264km^{2}.[8]

The issues raised above bear testimony to the unequal and exclusionary nature of the Apartheid city. Moreover, they illustrate the irrational, dysfunctional and unsustainable nature of urban planning and management under Apartheid. With the abolition of Apartheid in 1994, the new government made a commitment to redress these imbalances and inequality and to create cities that are more equal, inclusionary, well-governed, productive and sustainable. However, it has been said that rather than address these imbalances, post-Apartheid policies have tended to compound social and human challenges inherited from the past. According to the State of the Cities report, South African cities today are more unequal than they were ten years ago. The provision of housing to the poor in post-Apartheid South Africa illustrates this point very well. Although 1.6 million houses have been provided since 1994, they have tended to enforce traditional apartheid planning where the poor are still located on the periphery, far removed from employment and economic opportunities. A number of new housing developments have sprung up on the margins of the city. This has resulted in increased urban sprawl and de-densification. Between 1996 and 2001, there was a net increase of 743 843 formal self-standing houses in the nine cities included in the SACN report. This has implications, increasing costs being one of them, in terms of the provision of networked infrastructure and the provision of new service connections.

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[8] ibid

Public transport costs in Cape Town for example increased substantially between 1998 and 2002. Public transport subsidies for rail and bus transport in Cape Town increased from R415 million in 1998/1999 to R430 million in 2001/2002. During the same period, money spent on housing in Cape Town was R206 million in 2001/2002 and R231 million in 2002/2003. This means that the amount spent on the transport subsidy was more than double what was spent on the housing subsidy[9]. The motives for continued and exorbitant state spending on transport subsidies should be questioned. This could be construed as a deliberate action by the state to continue to subsidize and reproduce capitalism. The illogical increase in subsidising public transport to facilitate further peripheralisation of the poor in the city is a reflection of the divergence between policy and practice. Yet, in the midst of this crisis, the country has experienced a phenomenal boom in the property and land market over the last seven years. As the following discussion will show however, the poor have largely been excluded from participation in this market.

3. A Booming Property and Land Market

The South African residential property market has seen exceptional growth since 2000. Between 2000 and 2005, house prices increased by an average of 20% per year. In 2004 alone, house prices increased by 32.2%, although it slowed down somewhat in 2005, a still significant growth of 22.9% was recorded. Growth of 15.3% was experienced during the first six months of 2006 (ABSA; 2006). The increase in housing prices has put home ownership out of reach of a great proportion of the population. Between 2000 and 2004, the price of the average South African house (80m^2 – 400m$^{2)}$

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[9] Western Cape Strategy for the Development of Sustainable Human Settlements, June 2006

increased from R240 000 to R488 456 (Philp; 2004). Prices of houses at the top end of the market (>R2.6 million to R9.5million) doubled and in some cases trebled between 1999 and 2005. Houses in the "affordable" (<R226 000) segment of the market has however not shown the same level of growth. One factor accounting for this is a lack of "trading" in this sector of the market and below which is due to the fact that households in these segments are often unable to afford to move into a higher bracket of the housing market and thus hang on to their properties. This, according to the Western Cape Sustainable Human Settlement Strategy, means that "households are unable to realize the 'full' asset value of their housing, which undermines housing as a potential investment for low income households at a time when it is realizing astonishing growth for high income households". This means that the poor are effectively excluded from participating in this lucrative property market.

Cape Town has seen the second largest growth in the property market after Gauteng. An analysis of building statistics confirms the growth in numbers and value of property in Cape Town for the period January 2004 to December 2005. The number of plans approved and units completed at the upper end of the property market in the Western Cape increased steadily and was only surpassed by Gauteng during the same period. Growth in commercial property followed a similar trend. The Western Cape experienced growth of 24.2% in this segment of the market for the period January 2004 – December 2005, representing 26.8% of national floor area of commercial space[10].

[10] Western Cape Strategy for the Development of Sustainable Human Settlements, June 2006

Land prices also increased substantially over the last few years. Nominal residential land prices increased by 17.3% to approximately R280 200 on average during the second quarter of 2006, compared to 22.9% in the first quarter (ABSA; 2006). Scarcity of suitable land for residential development means that this growth in the price of land is unlikely to slow down in the near future. Land speculation has been highlighted as one factor accounting for the significant increase in land prices. The investment potential of land has reached critical peaks, especially highly sought after coastal land in the Western Cape. On the West Coast, buyers of "raw" land have realised profits of up to 1000% after holding on to it for six to eighteen months (Business Report, 2005).

It is clear that a market-oriented, trickle-down approach will not address South Africa's urban development and housing crisis. The scale of this crisis calls for bold, decisive initiatives and strategic interventions in the market to make it work better for the poor. These interventions should be aimed at redistributing the value derived from a soaring property and land market more equally, and simultaneously strive to protect and secure the right of the poor in the city. Value capture refers to a process by which all or a portion of increments in land value attributed to public and "community" interventions are recouped by the public sector. Mechanisms to capture value include conversion of additional value into public revenues e.g. taxes, fees or through infrastructure developments to benefit the poor.

Value capture initiatives should however not only be aimed at securing additional financial resources, but should also be targeted at using planning and development instruments in a strategic way in order to transform the urban landscape and facilitate the poor's access to resources and economic opportunities. The next part of this paper will explore mechanisms for how government can capture value from the land and property markets which will provide the revenue to finance the provision of shelter and services to the poor in well located areas. It will also discuss how planning and development instruments like zoning and other development regulatory tools for example can be used in a creative way to make the urban milieu more accessible to the poor.

4. Capturing Value for Infrastructure and Services Provision.

4.1 Property Taxation - Land Value Taxation

Property taxation evokes different feelings from different people. "*It is the best of taxes, it is the worst of taxes*" (Hariss; …). Property taxation can take different forms. There is the flat rate system which is a tax on the value of the land and buildings. The other form of property taxation is land value taxation. Land value taxation could include site value rating, which is a tax on the value of the land only, excluding the value of buildings and improvements; or a form of composite rating, also referred to as the two-rate system. The two-rate system allows for the value of the land to be taxed at a higher rate than the value of the buildings or improvements. Property taxes, specifically the flat rate system, have been criticised for impeding urban renewal as it discourages property owners from investing money in the upgrading and maintenance of property. Another criticism of the property tax is that it is biased against low income earners as it often "burdens low-income groups more heavily in relation to income than those with higher incomes"[11]. Land value taxation, it is argued, is a fairer and more just

[11] ibid

system, because the land is a natural resource. It is ‘common property” which means that ‘all have an equal right to use and enjoy it”.

“The equal right of all men and women to the use of land is as clear as their equal right to breathe the air. It is a right proclaimed by the fact of their existence. For we cannot suppose that some men and women have a right to be in this world and others do not”[12]*.*

The value of land increases due to community inputs, e.g. provision of infrastructure and services rather than purely from the landowner’s individual efforts and it seems fair that the community share in the benefits of an increase in land values. However, besides the philosophical argument for land value taxation, it is purported to have a number of other benefits. Land value taxation, it is suggested, brings unused land close to the city into production and therefore reduces urban sprawl. It discourages land speculation by forcing landowners to develop land rather than hold on to vacant land for speculative purposes. A land value tax thus makes the economy grow more efficiently by diverting investment into expanding businesses which could stimulate job creation and productivity (Wetzel; 2004: p16).

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[12] Henry George quoted in Siochrú, E (2004)

The Land Tax and South Africa

As far back as 1994, land value taxation[13] was proposed as an important economic tool to help South Africa deal with the enormous backlog in the provision of the socio-economic rights of the majority of South Africa's citizens inherited from the previous Apartheid government. Feder and Harrison (1994) argued that a tax on land would "encourage investment, create jobs, and enable those who possessed land to choose either to use the land properly and pay the community for the benefits received or to release it to others". South Africa does have an established history of property taxation. The property tax, which refers to a tax called the "rates on property" has been in effect in South Africa since 1836 (Franzsen and McCluskey, 2004). Feder and Harrison (1994) however argued that the rates charged were too low to allow the country to benefit substantially from this tax. There was also great diversity in the methods used in different municipalities (areas) to collect the tax. In some cases the tax was levied on the site-value of land, some areas preferred the flat rate, while others preferred to levy the tax on the "composite value"[14].

Since the advent of democracy in South Africa in 1994, the new government has made a systematic effort to restructure the property tax in South Africa. The government's

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[13] Land value taxation could include site value rating, which is a tax on the value of the land only or a form of composite rating, which means that the value of the land is taxed at a higher rate than the value of the buildings or improvements.

[14] The site value refers to the value of the land, excluding any buildings or improvements; the flat rate refers to the total value including land and buildings while the composite value refers to a higher rate being charged on the land than on the value of the buildings or improvements.

efforts to restructure the country's property tax legislation commenced in 1997. The eighteenth draft of the "*Local Government: Property Rates Bill*" was published in March 2003 and made provision for the establishment of a single system for property taxation on a national basis with the aim of creating a more uniform property tax system (Franzsen and McCluskey, 2004). The system which was to be implemented is a rate levied on the "improved value of property". The Bill was enacted in May 2004 and makes provision for the levying of a rate on the market value of the immovable improvements on a property. Market value is defined in the act as "the amount the property would have realized if sold on the date of the valuation in the open market by a willing seller to a willing buyer"[15]. The new Property Rates Act has thus effectively done away with land value taxation.

The possibility of a national land value tax has however been raised again in recent times. In 2004 Van den Brink argued that a national land value tax could be a politically attractive source of revenue for the country. According to van den Brink, a national land value tax could lower the difference between the asset and agricultural value of land thereby facilitating small scale black farmers' access to agricultural land. This call was reiterated in March of 2006 when Thomas and van den Brink argued that a land value tax should form part of a broader land reform policy. They argued that a land value tax is politically and economically attractive because it would:

- bring more unused land into the market, thereby combating urban sprawl
- control land price inflation
- reduce speculation by absentee landlords

[15] Local Government: Municipal Property Rates Act, 2004

- be a great source of revenue for land reform and local government

The implementation of a land value tax was also one of the main recommendations which emerged out of the National Land Summit held in 2005 in Johannesburg, South Africa[16].

This call for a tax based on land values is echoed across the world, especially in developing countries that are facing similar development challenges as South Africa[17]. Case studies from two Latin American countries illustrate the use of property taxes and the land value tax in particular (*see box 1 and 2*). Some important lessons can be drawn from these case studies.

[16] Report of the National Land Summit 27-30 July 2005, Nasrec, Johannesburg, Gauteng, South Africa. "A partnership to fast track land reform: A new trajectory towards 2014".

[17] See for example Aller, P (2000) "Land Value Tax: Cure for Poverty and Unemployment", Siochrú, E (2004) "Land Value Tax: Unfinished Business", De Cesare, CM (1998) "Using the Property Tax for Value Capture: A Case Study from Brazil".

Box 1: Case Study: Porto Alegre, Brazil – "*Using the Property Tax to Capture Value*"

Porto Alegre is the capital and largest city of the Rio Grande do Sul province in Brazil. The city of Porto Alegre in Brazil faced very similar developmental challenges to South African cities in terms of urban planning and management. In 1994 it had a population of 1.5 million and 450 000 real estate units. During this time the city faced a huge challenge of providing housing to low and middle income households. Like in so many South African cities, poor families were pushed to the periphery of the city which proved very costly to the government in terms of transport and the provision of infrastructure to these areas. Urban sprawl was a prominent feature in the city due to the existence of large tracts of undeveloped land near the city, effectively pushing the poor to the edge of the city. Land speculation by wealthy landlords was a big contributing factor to this urban sprawl (De Cesare, 1998). The government of Porto Alegre desired to provide poor families with high quality infrastructure and services like education, public transport, street cleaning and security services, but lacked the necessary resources to finance the provision of these services to the poor. In contrast to the areas on the city's periphery, the central districts were well-resources with infrastructure, equipment and service. They also had much lower densities than what was prescribed by the city's urban development plan.

The government of Porto Alegre realised that it needed to take bold and decisive action in order to rectify this situation. The government decided to use the property tax[1] to capture some of its investments, because it believed that a property tax would:

- Allow it to capture increased land value
- Deter land speculation
- Promote social justice and economic growth
- Stimulate urban land occupation and development
- Reduce the housing shortfall
- Provide assistance to low-income families which would guarantee better living and working opportunities

By applying financial resources rationally, the government hoped to avoid large investments in infrastructure and services provision (De Cesare, 1998).

The government of Porto Alegre believed that the macro-economic environment was conducive to the implementation of property tax reforms. The introduction of an economic stabilization programme in 1994 reduced inflation rates from an annual rate of 7000% to between 0.7 and 1.7% per month. The economy also showed positive growth.

Using the constitution of Brazil as a legal base, the government introduced the following measures to capture value and to transform the spatial planning of the city to make it more socially and economically just:

- Specific priority urban zones, which had access to high-quality urban infrastructure, equipment and services, were earmarked for development and occupation. The idea was to increase densities in these areas without necessarily increasing public investment in these areas, effectively giving more people access to well-located areas with high quality infrastructure and services.
- One hundred and twenty vacant sites of between 3, 000 to 360 000 square metres were identified within these priority areas and legislation was introduced which made the development of these sites within a stipulated time period mandatory. In terms of this legislation, if the identified sites were not developed within the specified times, the property tax rate on that land would be raised by 20% annually up to a maximum rate of 30%. Priority was also given to construction on these sites (De Cesare, 1998).

These initiatives were introduced in 1994. Three years later only five of the 120 vacant sites had been developed, while 50 of the land owners were penalised for not developing the property within the set time period and were thus paying the property tax at the progressive rate. A few of the land owners appealed to the Supreme Court against the initiatives introduced by the government.

A more recent update on the developments in Porto Alegre is required to assess the effectiveness of the initiatives introduced by the government. Four valuable lessons can however be learned from this case study:

- A careful consideration of the macro-economic environment is required before one embarks on initiatives to capture value.
- Political will and decisive action are needed to address problems such as land speculation and the associated condition of urban sprawl. This impedes the poor's access to well-located land which is close to transport, high-quality infrastructure, services and economic opportunity.
- Value capture initiatives should not only be aimed at accessing additional financial resources, but should also be geared towards using planning instruments such as zoning and development rights for example to eradicate spatial inequalities in the city and ensure that the city develops in a responsible and rational manner.
- In some cases, if the legislative framework does not support the introduction of value capture instruments, bold action such as the enactment of necessary legislation is needed to ensure that the city develops in an equitable and socially just manner.

***Box 2*: Mexicali Case Study: "A Success Story of Property Tax Reform"**

Mexicali is the capital city of the state of Baja California in Mexico. During the 1980's the city experienced a substantial drop in the collection of property tax and other local revenues due to high inflation, economic recession, lack of political interest and administrative competence of the local government. A change in Mexico's macro-economic performance in the late 1980's made conditions favourable for a restructuring of the property tax system. In 1989 the newly elected mayor of Mexicali made a decision to introduce certain reforms to the property tax system. The first step in the process was to do a re-evaluation of property (cadastral) values. The property tax system was changed from a mixed-value tax base on land and buildings to a land value system, because the mayor believed that the land value tax was the quickest and easiest way to collect revenues.

This initiative was particularly successful; it allowed the local government to raise revenues quickly plus the system had political buy-in from opposition parties and taxpayers. It became the most important source of revenue for the city and the mayor was able to implement a massive bulk infrastructure works programme for the city (Cohen; 1999). The initiative was so successful that subsequent governments, even opposition parties, continued to employ the land value taxation system as a means of raising revenue. In 1999 property tax revenues accounted for more than 50% of local municipal revenues and Mexicali managed to out-perform both the state and the country in terms of the relative share of property tax revenues to total revenues.

The Mexicali case shows that the property tax is an important source for raising sufficient funds for urban development. According to Cohen "it can also provide government officials with the skills to organise the tax system in a way that can be sound, legitimate and transparent" (1999: 2). As in the case of Porto Alegre, the importance of political will, leadership and vision for the implementation of value capture instruments is again illustrated by the Mexicali case. Also of critical importance is a sound technical base and buy-in from the larger public. Land value taxation can be a potentially powerful tool to raise revenues which can be directed at meeting the needs of the poor, but it needs to be supported by other measures such as clear policies on tax rates and tax collection as well as public participation.

4.2 Land Leasing

Another value capture mechanism is land leasing. Land leasing refers to a process through which "the state retains the right to own land and lease only the right to use, develop and transfer land to private individuals" (Hong; 1996). The advantage of land leasing is that it provides the government with an opportunity to capture the future increased land value as government revenue for public infrastructure investment. Land leasing also allows governments to achieve a balance between capturing surplus land value as revenue to finance public infrastructure and service provision whilst at the same time facilitating private incentives for investment in land and real estate development (Hong; 1998: p1577). Lease revenues, which is the money generated by the government through land leasing, can be collected at four points;

- initial establishment of leases through public auctions for example;
- through lease modifications;
- renewal of leases, and
- through the collection of land rent (Hong; 1998).

In the case of Hong Kong, it was found that land leasing was an effective way for government to access revenue to finance the provision of public infrastructure and services (Hong; 1996). The efficacy of Hong Kong's land leasing programme was measured on the basis of two criteria; the percentages of land-value captured and the percentages of public infrastructure investment financed by the captured land values (Hong; 1996). Hong's study of 92 randomly selected land parcels leased by the Hong Kong government in the 1970's found that between 1970 and 1991, the Hong Kong government was able to capture 39% of land value increases.

The study also found that the revenues raised through land leasing covered an average of 55% of the public works expenditures in Hong Kong. The combined revenues generated through the collection of property taxes and those collected through land leasing, financed 80% of the average annual infrastructure investment between 1970 and 1991 (Hong; 1996:p13). Land leasing is thus not a substitute for property taxes, but can act as an effective supplement to assist governments in capturing surplus land value[18]. An analysis of the transaction costs attached to each of the four points at which land lease revenues can be collected shows that it is more effective for government to raise maximum lease revenues at the point of auction due to lower transactions costs at this point (Hong; 1998). Governments can thus lease land rights to the highest bidders. In the case of Hong Kong, between 1970 and 1995, payments received through auctions accounted for 78% of total lease revenues (Hong; 1998).

As has been argued before, the state's efforts can not only be directed at collecting more money. In order to re-shape the urban landscape and make our cities more inclusive and sustainable, planning and zoning instruments need to be used creatively and strategically to alter the spatial arrangements of the apartheid city. The rest of the paper offers some suggestions in this regard.

5. Planning and Development Regulatory Instruments- Towards more Sustainable and Inclusive Cities

5.1 Development and Zoning Levies

> "*The telecommunications sector has evolved a model for charging for the benefit of connection to virtual communication and informational resources which is useful as a framework for connecting real natural and common resources" (Siochrú; 2002:p.8).*

[18] Surplus land value refers to the portion of the increased land value that is generated by changes in government land-value regulations, public investments in infrastructure, urbanization, location advantages and/or population growth (Hong; 1996: 18).

Siochrú (2004) uses the telecommunications industry as an example to make sense of instruments like a development or a zoning levy. He argues that in the telecommunications industry, users are typically required to pay three different charges, a connection charge, a rental charge and a user charge. A development levy is similar to a connection charge as it is based on the cost of being connected to roads, water, drainage waste and other infrastructure and according to Siochrú, “it is the connectivity to public services and amenities which comprises most of the value of land” (2004).

The idea of a development gains levy, a tax on new property developments, has been raised on more than one occasion by the premier of the Western Cape, Mr. Ebrahim Rasool[19]. This idea although criticised by the Democratic Alliance for having the potential of being “difficult to administer and subject to fraud” is not an unrealistic one and has been implemented in a number of countries.

The United Kingdom is currently investigating the idea of implementing a similar development gains levy which it refers to as the “Planning Gain Supplement” (PGS). Property market data in the United Kingdom showed that the value of land increases simply because planning permission has been granted (Cooper; 2006). The PGS is aimed at financing sustainable community development through infrastructure and service provision, specifically the provision of more affordable housing. The PGS is expected to come into effect in 2008. The PGS will be levied on land once a developer has been granted permission to develop the land. The government is also considering

[19] Mail and Guardian of 10 February 2006

the idea of allowing developers to claim the PGS as a business expense for tax purposes. Another proposal is to charge those developers who fail to comply and pay the PGS interest and penalties (Geoffrey Leaver Solicitors; 2006). A criticism of PGS however, is that it could discourage developers from investing in development of land which could freeze the land market and lead to an increase in land prices (Wetzel; 2004). This however does not necessarily have to be the case if development levies are set a rate which realistically reflects the benefit for the developer of connection to infrastructure and services.

A zoning levy, according to Siochrú's analogy, would be similar to a rental charge and is levied as a payment for the specific use of a parcel of land. Development and zoning levies should be charged at a progressive rate; areas such as rural areas for example which are poorly serviced should have lower levies than areas in towns and cities which are well-serviced. Income from development and zoning levies according to Siochrú, could be pooled in a central government fund and be redistributed by central government to "redress imbalances in revenue between wealthy and poorer authorities" (2004: p9). A downside to this however, could be that the control of the local authority may be diminished. Another form of using zoning for developmental purposes is incentive zoning.

5.2 Incentive zoning

Traditionally zoning provisions stipulate the property owner's rights in terms of the use and development of a particular parcel of land. Zoning has the potential to create value for a particular owner, depending on the specific usage of the land allowed. Although zoning in the colonial and apartheid periods has been used as vehicle for reproducing exclusion in space under the guise of protecting property rights and a rallying point for articulating NIMBY[20] issues, more flexible of zoning can be applied by the state to direct and influence the development of land in a specific way. It can for example be used by government as a means of producing higher densities and discouraging wasteful layouts thereby creating more compact settlements (Siochrú; 2004).

Incentive zoning is defined as "a development in land use regulation that encourages the creation of certain amenities and land use designs that a community wishes to promote" (Murphy and Stinson; 1996). Incentive zoning is a tool used in many US cities to obtain certain benefits for the community, e.g. affordable housing, open spaces/parks or day care facilities, from a specific development. Developers are offered zoning incentives such as a density bonus for example which would allow more residential units "or a greater building floor area than is otherwise permitted under the zoning ordinance"[21]. The density bonus creates a win-win situation for both the developer and the local authority. On the one hand the developer can realise greater profits due to more intensive use of the property and on the other hand it encourages density and more effective use of space in addition to the amenities the community receives as part of the deal. In the US, incentive zoning has been legislated in a number of cities and has received very little opposition in terms of the legitimacy of the regulatory tool being challenged in a court of law. Incentive zoning can be very effective in the South African context, especially considering the exceptionally high

[20] Not in my backyard

[21] www.law.pace.edu/landuse/bincent.html

rate of property development which major South African cities like Cape Town and Johannesburg have experienced over the last few years.

The current context requires that zoning be used as a regulatory tool which can be applied in creative ways in the South African context. Specific areas around viable transport routes for example could be zoned for affordable, medium-density housing developments. Developers wishing to obtain zoning rights for construction of a shopping mall or some other commercial property in the area could then get a rebate on a zoning levy in exchange for building a certain quota of affordable, medium density housing. Government is constantly spending money on infrastructure provision such as roads and railways. According to the South African Railways Planning report, construction of a railway line now costs the government up to R30 million per km and takes up to four years to plan[22]. Government should use the planning and regulatory tools at its disposal to plan very carefully for the use of land around the construction of such infrastructure in order to make it more equitable and allow the poor greater access to the city.

Another planning and regulatory tool, similar in some ways to a development levy, is exactions. The difference between the two though is that an exaction can take the form of a levy or "payments in kind".

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[22] Personal communication with the Head of Planning at the South African Commuter Railway Corporation

5.3 Exactions

Exactions are tools used in the United States in particular to encourage developers to contribute towards the social costs of development. Exactions are defined as "conditions or financial obligations imposed on developers to aid the local government in providing public services" and can take several forms e.g. impact fees levied on developers, financing of infrastructure improvements and land donations (Freeman et al;). Exactions are contributions or a payment which a developer must make to the local authority in exchange for obtaining a development permit. In the city of Francisco for example impact fees from downtown commercial development are used for public transit improvements, low and moderate-income housing and child care. The City of Irvine uses impact fees for traffic improvements while the City of Fresno uses impact fees to pay for fire stations, overpasses, railroad crossings and traffic signals required by new growth[23]. Exactions have grown in popularity as a mechanism used by local authorities to force developers to consider the impact that their developments have on the community and to compensate the community. By the mid-80's approximately 90% of localities in the United States imposed exactions compared to only ten percent prior to 1960. Exactions can be used in the following way for the benefit of the poor:

Infrastructure costs – a local authority can enact specific legislation which makes the provision of certain infrastructure, e.g. roads, parks, school or other services, mandatory before a new development is approved (Freeman et al;)

Affordable Housing – local authorities can require that the developer constructs a certain percentage of affordable housing units as part of a new development (also referred to as inclusionary housing or inclusionary zoning) or that developers pay

[23] "A Planner's Guide to Financing Public Improvements: Chapter 4 – Fees and Exactions".

money into a housing fund (Freeman et al,). South Africa has already seen one or two such initiatives springing up, although they are few and far between. One such initiative is the Blythedale Coastal resort on the KwaZulu Natal north coast which is a 1000 ha luxury development. The development will include 1 200 housing units. The developer, the éLan Group, has agreed that 20% of the units would be reserved for affordable, subsidized housing. These units will be between $30m^2$ and $80m^2$ big and will cost between R30 000 and R250 000 (Bhengu; 2006). Owners of these housing units will have access to the same level of amenities and services that their "richer" neighbors will have access to. This kind of development should be encouraged and should be made mandatory through legislation where necessary, rather than just depend on the goodwill of individual developers.

Community Benefits – local authorities could also negotiate with developers to only source local labour from the community and pay a living wage thereby ensuring that some of the benefits of development get redistributed to the broader community (Freeman et al;).

6. Implications for the South African Context

The implications of the proposed value capture mechanisms have to be carefully considered as they might have unintended consequences. The introduction of a land value tax could for example put an unnecessary burden on small-scale, subsistence farmers or emerging black farmers. Clear protective measures such as progressive rates, tax rebates and tax exemptions need to be considered for vulnerable groups. In the case of farmers, the annual farm income could for example be used as a basis to determine the tax rate. This will ensure a fairer and more equitable assessment of tax liability.

Government will also need to make provision for possible negative reactions from other stakeholders such as private residents and private developers. Public participation in the planning and decision-making around value capture mechanisms should be encouraged and should form a critical element of any initiative to capture value. Case studies of property tax reforms in Tanzania, Kenya and Uganda for example demonstrate the importance of taxpayer education programmes to ensure that taxpayers have a good understanding of the rationale and procedures for the property tax. This should be accompanied by an improvement in the quality of infrastructure and services provided to the community in order to manage possible resistance from taxpayers (Kelly; 2000: p.12).

Buy-in from private developers could be secured through the provision of specific incentives to developers for example rebates on development levies, density bonuses, flexible zoning standards, speedier approval of development plans, etc. Research conducted of twenty-eight cities in California over a twenty year period found that the introduction of mandatory inclusionary housing[24] programmes, which make allowance for the provision of certain incentives to developers, did not negatively affect the overall level of housing production in these cities and in a number of jurisdictions, housing production actually increased (Brunick; 2004: p.5). Evidence from different states and cities in the USA show that mandatory inclusionary housing programmes,

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[24] Inclusionary housing, also referred to as inclusionary zoning, refers to the passing of certain city planning ordinances which require that developers construct a certain percentage of affordable (for households with low to moderate incomes) housing units as part of a new housing development. – www.transcoalition.org/ia/hsincent/01html

coupled with “cost offsets” granted to private developers provide more predictability to developers, produce more housing for lower-income households and do not “stifle development activity” (Brunick; 2004: p.2).

Future research efforts should be aimed at identifying additional value capture mechanisms and their history of implementation in other countries. More research is needed to study the applicability of the value capture and regulatory tools discussed to the South African context. This will include an examination of the legislative framework for the implementation of these mechanisms. Research should be conducted to test the political climate through for example interviews with government officials in order to assess their response to the proposed mechanisms. A very important element of future research will be a careful analysis of the origin and destination of the value captured. Questions which need close scrutiny in this regard are:

- Is a centralized or a more decentralized approach desirable?
- Should each municipality be responsible for devising its own mechanisms of capturing value and administering those resources in a way which would be most appropriate for the conditions and development challenges which exist within that particular municipal area?
- Should money be pooled in a central fund and dispersed on a needs basis? Or
- Should a certain percentage of value captured go to national government for redistribution and the rest be retained by local government?

A lot of education and capacity building of municipal officials will be an essential component of any attempt to introduce value capture mechanisms. Municipalities are not homogenous, some are “weaker” than others in terms of administrative capacity, competency of municipal officials and the potential to capture value in that specific locality. These are critical issues which need to be considered. However, they do not detract from the central argument that the magnitude of the development challenge which the country faces necessitates bold, urgent, decisive and strategic interventions in the market to make it work for the poor.

7. Conclusion

While South Africa has a broad urban development policy agenda in place for promoting spatial restructuring and inclusive cities, it is insufficient to influence the behaviour of land and property markets to work for the poor and to change the current form of urban development practice which is structured around the spatial imperfections of these markets. This paper argues that in the same way as a strong state was needed to create the apartheid city over a protracted period, for restructuring and transformation to take place an equally strong and ‘developmental’ state is needed. The state will require the political will to pursue such transformation and to generate buy-in, leverage resources, institute the necessary planning and development regulatory frameworks and develop the instruments needed to change current development practice in order to transform the urban context and ensure that markets include the poor. It can not be left up to the market to address the current development and spatial challenges as the current operation of the market reproduces and reinforces marginality, exclusion and poverty.

Secondly, it will be important to ensure that planning processes, housing instruments, infrastructure budgets and investment interventions are synchronized and targeted to begin to shift spatial configuration of the city to engender a more participatory and inclusive practice. The state must develop the ability to effectively use existing and devise new innovative instruments for effective spatial restructuring, social equity and better functioning of land and property markets through the various means at their disposal including the strategic alignment of spatial development frameworks, design and location of restructuring zones, zoning and urban edge instruments as informed by Integrated Development Plans (IDPs). This will also include the strategic and incremental targeting of infrastructure investment and upgrading to trigger the crowding-in of public property development in specific nodes, zones and corridors identified in strategic spatial planning and development frameworks to promote densification along public transport spines

A third element for spatial restructuring is for the state (all tiers of government, and parastatals to co-operate) to strategically use public land and other state resources (especially land located adjacent to public transport routes and public infrastructure investments) as strategic levers for spatial and social restructuring and particularly targeting development zones. Additionally, the state should lead, by invoking the inter-governmental relations framework, in transferring suitable and well-located public land targeted and prioritized for integrated low-income housing development.

The development of mechanisms for value capture and shared growth from benefits of surplus values accruing from the 'boom conditions' in the upper end of the land and property market can generate the necessary additional resources for infrastructure investment that promotes densification, integration and the generation of resources for low income residential development on well-located land. In this regard, it is critical to explore the use of both the 'carrot' of incentives and the 'stick' in the legislative approaches adopted for implementing inclusionary development programmes. An innovative cocktail of interventions should be used, in concert, to address spatial, social and economic imbalances.

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