

LAND MANAGEMENT AND DEMOCRATIC GOVERNANCE IN THE CITY OF JOHANNESBURG

JOINT PLANACT AND CUBES STUDY, 2007

SYNTHESIS REPORT

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1. BACKGROUND AND CONTEXT TO THE STUDY

1.1 Background to the study

The Land Management and Democratic Governance Study of Johannesburg was born out of deep sense of concern regarding current land management practices, systems and protocols in South Africa. Planact, the Centre for Urban and Built Environment Studies (CUBES) and the School of Architecture and Planning at the University of the Witwatersrand, Johannesburg identified the need for a study that critically interrogated the contemporary land use management systems and their operation at both a policy and practical level. Funded by the Ford Foundation and Urban LandMark the various partners commissioned seven pieces of work in an attempt to investigate land management.

The first element of the study consisted of an Overview Report that looked at land management at the national level and drilled down to the metro level by examining Johannesburg, Mangaung, Cape Town, Buffalo City and eThekwin¹.

The national and city-wide study of Johannesburg helped to frame and contextualise the five Johannesburg case studies. The five case study areas were chosen in an attempt to get a sense of the various settlement typologies in Johannesburg, in which different systems – social, cultural, formal and informal – are at work. Whilst the study does not make any claims of being comprehensive it does offer a series of accounts focusing on the interaction that Johannesburg residents have with land and the regulations surrounding, governing and limiting land use. The case study sites are:

- Diepkloof, Soweto
- Kliptown, Soweto
- Diepsloot, northern Johannesburg
- Fourways, north-western Johannesburg
- Hillbrow/Berea in the City's centre

Each site constitutes a separate report, which are discrete documents providing greater detail and insight into the land use management systems in operation within these areas, the contrasts, contradictions and conflicts that they result in, as well as the manner in which people make these systems, both formal and informal, "work" for them in ways that constructively contribute to their lives. The findings of the reports have then been brought together into a synthesis report, which will offer some of the details of each of the case studies. This report also examines the findings of each of the case studies and groups them under themes, which describe how land use is or is not contributing to an inclusive and equitable city.

1.2 Definition of Land Management

Land Management is generally understood in South Africa as the manner in which land is controlled, managed, planned for, utilised and transacted (Mahubane, 1998; Sisy, 1998). This study saw land management as having a number of dimensions including:

- a. The manner in which land is accessed and acquired;
- b. The process by which individuals, households and communities continue to have and to hold rights to land;
- c. The way in which land use is regulated;
- d. The systems by which land is developed; and
- e. How land is traded.

¹ Urban Land Mark will be making the full report available in early 2008.

Land Management further embraces systems of land administration, land use management, land information management, and land taxation. In a context such as Johannesburg there are diverse systems of land management ranging from highly formal and legally regulated to entirely informal systems. They also include various hybrids, which bring together the formal, informal, and even within this very urban context, the customary. Land management is also integrally related to broader concerns of participatory and developmental governance.

The case studies focused on these dimensions and attempted to draw out the manner in which these formal, informal, and hybridised systems were being utilised by the communities and households in these areas. Many of the researchers emphasised tenure and tenure-related issues, which influence how land and property is held and protected. In part this relates to the interwoven nature of housing and land in South Africa, which are difficult to separate and often conflated. Ovens, et al, (2007) see that, "...concepts of land, housing, and services are often used interchangeably. Land is often equated with residential development and ignored for commercial, industrial, ecological, transport and recreational purposes". Although the study set out to deal with the broader issue of land, concerns around housing inevitably came to the fore. This represents both a conceptual difficulty when trying to separate out the two issues from each other and the concern of many of the respondents around issues of land and housing. It also reflects the keen sensitivity that many researchers have to matters of tenure, housing and land, and the manner in which these concerns are related to each other.

1.3 Key Objectives of the Study

The study was ambitious in its objectives and attempted to address some of the concerns facing low-income communities, policy makers and thinkers around land management issues. The study sought to address the partial paralysis in thinking and action in the field of land management and the anxiety that very little innovation has taken place since 1994. Kihato and Berrisford (2006) support such a perspective and argue in an earlier piece, "...very little has been done to review, revise or reform the regulatory frameworks governing urban land in South Africa. To all intents and purposes the regulatory framework inherited from the Apartheid regime remains in place". The project was also concerned with "making visible" the ways in which land management is happening in contemporary South Africa – as mentioned earlier in its formal, informal, customary and hybrid forms. For the most part the manner in which informal processes and poor people contribute economically and socially to the life of the city by utilising their spaces is either ignored or to put it simplistically under-estimated and misunderstood (Marx, 2006). The project intended to expose how these systems operate and the nature of their operation in order to grasp how they can be supported and facilitated. A further goal of the project was concerned with providing an holistic and integrated perspective on land management. To date most of the enquiries and practical interventions have been either very technically oriented, or focused at a micro-level. The project sought to provide the broader intellectual picture. It also attempted to address the fragmentations currently associated with the practise of land management.

The project has three further highly pragmatic aims, which included building capacity and partnerships within the field of land management. The work is also intended to influence thinking on issues of land management and to advocate these innovations and help to construct new and better land management policy. The final objective of the study was to assist key actors to find ways to manage land differently and better – ways that are more creative, socially equitable, and responsive to context.

With these goals firmly in mind the key normative question that framed the research was:

"What might a land management system look like that takes seriously questions of inclusive citizenship, rights to land, and social vulnerability?"

This question was formulated as a response to criticism that current land management systems serve mainly to support the interests and amenity of property owners, rather than addressing the needs of the most vulnerable segments of our society – who are most at risk in terms of health and safety and whose exclusion from the land market may be reinforced by regulative planning regimes (Charlton, 2006; De Groot, 2006 quoted in Charlton 2006). Through empirical evidence, it was hoped an understanding of: the nature of land; its use, management, acquisition and transactability; and its development (for all segments of the population) could be unpacked, to inform policy and practice recommendations at both the specific site and more general scales.

1.4 Background & Context: Five Case Study Sites

The five case study areas were chosen as a way of representing specific kinds of communities and contexts in Johannesburg and their response to land management. Initially the study hoped to take a full transect through Johannesburg but due to time and budgetary constraints, choices had to be made as to what would be most informative case studies when thinking about land management and issues of poverty, inclusion/exclusion, social justice and the unequal spread and application of land management systems. As such the chosen sites were intended to provide insights into specific settlement typologies:

- **Hillbrow/Berea** – the ‘inner city’, and older and more densely inhabited area of Johannesburg.
- **Diepsloot** – a younger, peripherally located settlement with both formal and informal aspects.
- **Kliptown** – an established township community with deep historical roots in Soweto and a very significant informal component.
- **Diepkloof** – an older and largely formal township settlement with a large number of residents who have been granted title to their units
- **Fourways** – an example of the burgeoning middle- to upper-income developments on the City’s edge, where formal middle- to high-income mixes with considerable informal enterprises operating in the vicinity.

Providing some background to each of the sites and introducing the formal land use systems in place in these areas will help to understand the dynamics and conflicts around land management, regulation and use in these areas.

1.4.1 Kliptown



Socio-Economic Conditions

Kliptown is situated in the heart of Soweto and is one of the oldest parts of the city, established in 1903 as a resettlement area for people who were removed from the “non-White” locations close to the Johannesburg CBD. Kliptown was initially intended as a buffer zone between Soweto and Eldorado Park, and for most of its existence fell outside of the City’s municipal boundaries. As a result Kliptown developed fairly autonomously and was excluded from investment in infrastructure. At present the area is still typified by a lack of infrastructure and has large numbers of people living in backyards and shacks. Access to potable water is mainly available through standpipes; sanitation is provided by flush toilets in 16 200 households, and communal mobile chemical toilets in the more informal parts of the settlement. Kliptown enjoys few amenities with no schools of any level, only two informal crèches and the nearest hospital located 15km-20km away. The most recently available statistics for Kliptown are from 2004 and estimate that almost 85% of all households live in informal structures. The Greater Kliptown area is constituted of three wards: Dlamini, Eldorado Park, and Pimville and according to the 2006 City of Johannesburg Report has a total population of 85 378 people (Himlin, et al, 2007).

The area is also characterised by a great deal of unemployment: 60%-70% of a potentially employable 41 994 individuals have been unable to find work. As a result average monthly incomes are extremely low, with almost 16% of the population reporting no monthly income and the average income per household ranging from R1 600 to R3 200 per month (Himlin, et al, 2007). The education levels are significantly low and the consequences of the lack of past educational opportunities and current economic possibilities has meant a large proportion of the residents are living off piece-work, informal activities and government provided social grants.

Land Management and Land Use

Kliptown has a thriving informal economy but relatively few formal businesses and commercial activities, most of which are situated on the periphery of the area. Most people access transportation either through the Kliptown railway station or mini-bus taxis; both rail and taxis connect Kliptown to other parts of Soweto and central Johannesburg. Open space is somewhat limited and the majority of vacant land is constituted by the Soweto Country Club to the east of the area. It is a free golf course but some of the land has been taken over by the government for rental housing units. There are no recreational facilities in the informal settlements with most of the land committed to housing and informal trading.

The historical significance of Kliptown – as the place where the Freedom Charter was adopted at the Congress of People in 1955 – has been recognised and capitalised on. The Walter Sisulu Square of Dedication and its surrounds, located on the original Freedom Square, has been redeveloped to attract the tourist trade and create a residential and commercial node. The redevelopment of Kliptown, driven by the Gauteng Provincial Initiative Blue IQ as well as various City of Johannesburg departments, has thus far included:

- The construction of a 250 bay taxi rank;
- The relocation of 300 informal traders to the north block of the Square;
- The establishment of business support and environmental centres;
- The completion of the “People shall govern” museum;
- An operational tourist centre;
- Upgrading of the sewerage system; and
- The recent opening of a four-star hotel.

There are a number of other plans, most of which are around the upgrading of roads, facilities and housing according to the Johannesburg Development Agency’s (JDA) Kliptown Development Framework Masterplan. The plans for the Walter Sisulu Square of Dedication do not seem to address the realities of spontaneous trading, home-based enterprises, community gardens and public space that are part of daily life in Kliptown. Although the plans have been made in consultation with a number of stakeholders and community members, there is still a general feeling amongst residents that the needs of the poor remain excluded from the plans and masterplans the city is devising.

1.4.2 Diepsloot



Socio-economic Conditions

Diepsloot is a much newer low-income settlement that was established in 1994, in order to accommodate a number of people who were relocated from Alexandra township and other informal settlements. It is located on the far north-eastern edge of Johannesburg, 20km from the Johannesburg CBD, and is comprised of two wards (wards 95 and 96) and a total of almost 6km². It currently hosts between 21 000 – 23 000 households, 76% of whom live in informal housing. Unemployment levels are at about 54% and almost three-quarters of the population are living below the poverty line, with most people reporting that they have no monthly income. Those earning an average monthly income are on the lowest rungs of the economic ladder earning between R800-R1 600 per household (Himlin, et al, 2007).

Water is supplied through standpipes to the majority of residents and there are problems with water pressure and supply. The earlier sub-standard infrastructure that was put in place when the settlement was first established has meant the sewerage system is both inadequate and dangerous, as the manhole covers have a tendency to come off and flood the streets with raw waste. Tared roads, street lighting and drainage have also been identified as either lacking or inadequate for the settlement. There are more facilities and amenities in Diepsloot than in other low-income communities, and the area boasts one library, two informal playgrounds, three community centres, two clinics, and four primary schools. These facilities are useful, but woefully inadequate for the current 60 000 inhabitants of Diepsloot – or the large numbers of new residents joining the settlement every year.

Land Use and Management

Diepsloot West was proclaimed according to the Less Formal Township Establishment Act in 1994, to try and accommodate large numbers of displaced families very quickly. In 1996, with the displacement of residents from Alexandra's Far East Bank, a further parcel of land was created as a reception area. The official status of Diepsloot was clarified in 1999 when the Northern Metropolitan Local Council, who were in charge of the area, recognised Diepsloot as a permanent area and in terms of the provisions of LFTEA were able to transfer the ownership of stands to residents. The original plans to accommodate the people who had been moved to the area fell apart after 2001, when more and more people were 'dumped' in Diepsloot as they were removed from other areas. The different parts of Diepsloot have, therefore, been established, proclaimed and developed using a range of different regulations and legislation:

- Diepsloot West (the original township) was proclaimed using LFTEA and has 1 124 formal units, and almost 4 000 backyard shacks.
- The Diepsloot West Extensions were developed in a co-operative project between Elcon Developers and the Council and accommodate 6 015 households in formal townships established under the Township Ordinance of 1985.
- The Reception area was recognised by Council and has 7 000 informal structures.
- There are also parcels that have been proclaimed using the Development Facilitation Act but the location of these remains unclear.

Informality of land use predominates; informal traders, mostly of a survivalist nature, are established along most of the main roads and taxi routes. Although a taxi rank does exist it is considered too far out of the way, and taxi drivers prefer to solicit business by driving through the settlement and picking up customers. Unlike other parts of Johannesburg, by-laws regarding informal trading have not yet been developed for the area but they are apparently in the process of being developed and will soon be implemented. There are formal commercial businesses along Informal Settlement Road, and there are plans to provide a shopping centre and more formal commercial activities within the settlement. A further issue concerning land management is the location of settlement on the City's contested urban development boundary, which restricts any further northern or eastern development. The logic governing this regulation is concerned with trying to curb the worst excesses of urban sprawl and associated problems. Unfortunately, the reality is that if the housing backlog is to be addressed using the current "one household, one stand" policy, a space approximately double that of the existing settlement will be needed to accommodate the existing informal population of Diepsloot (Himlin, et al, 2007).

1.4.3 Hillbrow/Berea



Socio-Economic Conditions

The suburbs of Hillbrow and Berea, which are located very close to Johannesburg's CBD, are two of Johannesburg's oldest suburbs. First proclaimed in the 1890s they originally housed middle- and upper-income white families. They were considered well-located and had excellent transport links to the city centre and the amenities and facilities that original CBD provided. At first both areas consisted of series of semi-detached row houses, but by the close of the 1920s Hillbrow saw the beginnings of densification with the growth of low rise three-four storey blocks. In the 1950s these gave way to high rise, high density living of multi-storied apartment blocks (Silverman and Zack, 2007). The high density lifestyle was supported by a range of recreational and commercial uses, with a number of bars, restaurants and small shops and boutiques supplying the middle classes with their entertainment and goods. Hillbrow attracted many of the City's European immigrants, who found echoes of the modern lifestyles of their native cities in this very chic suburb. Berea by contrast retained its more residential character with larger numbers of schools, religious buildings, and parks (Ibid.).

By the 1970s banks were offering low-interest bonds to first time home buyers, who were moving out to the suburbs; coloured, Indian and black Johannesburg residents, desperate for housing, moved into the vacant housing stock in the high-density zones. These new residents, wary of their illegal status (Hillbrow and Berea were 'whites only' areas), generally chose not to pursue complaints regarding maintenance and upkeep and of their buildings, by then over 30 years old. As such many of the buildings began to deteriorate. Unscrupulous landlords also charged non-white tenants rentals well above the market rate, encouraging an informal system of sub-letting in order to afford the high costs. Progressively bad relations between landlords and tenants led many property owners to abandon their buildings and abscond, completely relinquishing all responsibility. Local government chose not to intervene in a situation that was deteriorating rapidly and so, by the 1990s, the area became an uncontrolled and 'lawless' community. Plagued by criminality and social pathologies it became a haven for immigrants, both legal and illegal, local migrants, and people escaping township life and looking for cheap accommodation and easy access to the city (Silverman and Zack, 2007).

The demographics of the area show a population that is young (68% are between 20-40 years old), black and transient, with almost 38% having moved into the area over the last two years. There are reportedly more men than women in the area and the average household income is slightly higher than other parts of the city. Only 10% of households report incomes of less than R1 500 a month and over a third earn between R3 000 and R5 000 a month (Silverman and Zack, 2007).

Many of the flats have been subdivided and partitioned into family and individual quarters; as such densities are estimated at about one person per 15m². The density throughout the area is put at 135 000 in just over 2km². Many of the buildings have not had the necessary investment in infrastructure or maintenance needed to sustain their systems. As a result, many buildings have malfunctioning or completely non-functioning sanitation pumps and lifts, as well as no water or electricity supply. The lack of these services causes detrimental affects on both the tenants and the neighbouring buildings that are affected by overflowing sewerage and blocked drains. Crime is also a concern with a number of cases of violent crime being reported in the area and many people feeling unsafe to leave their flats after dark (Silverman and Zack, 2007).

Land Use and Management

The current land management system that is officially in place for Hillbrow and Berea is the formal cadastre and town planning scheme established in 1975. Although the formal zoning scheme is still officially in place, it has little to no bearing on the current land use and management within the Hillbrow/Berea area. The vast majority of land use is residential with formal retail activity along some of the main roads, and informal trading taking place outside of buildings, on the pavements and in open spaces. Although there are some parks intended for recreational use they are unkempt and used as taxi ranks, informal trading spaces, and places where the indigent take refuge (Silverman and Zack, 2007). There are also a number of religious institutions in these areas; they have taken over flats, houses and in some cases shops in which they hold their services and events. Shebeens, laundries, spaza shops, hairdressing services and informal crèches are also operating from any available space in these buildings.

Both areas have seen a great deal of dilapidation in the physical environment, but are now seeing large property owners and developers coming into the area and re-developing large buildings with 100 units and over. Smaller buildings have failed to attract investment as they do not pose significant profit-making opportunities. Property owners take on the role of not only renting out units, but have also instituted and agreed to alternative uses of their units including commercial home-based enterprises and religious activities. Property owners have also clubbed together and negotiated with the City of Johannesburg waste removal service, Pikitup, and other service providers to take care of the services such as waste collection that they need. In addition they have employed private security companies to guard their buildings and the streets in front of their buildings, which has meant that they control access to public space and decide whether informal trading is acceptable or not. In many ways the private property owners have taken on the role of local government and have redeveloped and are currently managing these areas.

1.4.4 Diepkloof



Socio-economic Conditions

Diepkloof (located in Soweto) was established in 1959 as a resettlement township for people who were forcibly removed from Alexandra. The settlement has a reputation for a strong tradition of political activism, which came to the fore in the previous regime. Residents of Diepkloof protested vehemently against the injustices of the Apartheid system and students from the local schools were an integral part of the 1976 protests. Today the community is still characterised by a spirit of coherence brought about by a shared history of activism and protest (Hoosen and Mafukidze, 2007).

The area is spatially divided into a number of different sections, including the original settlement typified by Apartheid-built three- and four-bedroomed houses, which house a number of the older residents of the area. Most of these homes have backyard shacks and structures, which house both relatives and tenants [of the owners]. There is also the newer and wealthier suburb known as Diepkloof Extension, which was built in the 1980s for the more affluent members of Soweto society. Diepkloof Extension has tarred roads, good services and no backyard shacks. The third part of Diepkloof is an

informal settlement of 1 289 informal structures previously called Mandela Village but now known as Elias Motsoaledi Informal Settlement, which lacks basic services and infrastructure. Diepkloof is also home to a number of hostels that since 1994 have moved from single sex accommodation to family residences (Hoosen and Mafukidze, 2007).

Diepkloof is approximately 2,5km² in size and holds a population of just under 105 000 people. It is relatively well provisioned with amenities and has a library, recreational facilities, community halls, clinics and religious facilities. However, these services are now getting old and have not been effectively maintained; they are also difficult to reach from many parts of the settlement. The population ranges from the relatively affluent in Diepkloof Extension to the poor and indigent in Elias Motsoaledi and in the dilapidated hostels most of which are considered structurally unsound (Hoosen and Mafukidze, 2007).

Land Use and Management

The Township was originally established under the Black (Native) Laws Amendment Act, No. 46 of 1937 and later influenced by the Black Communities Development Act of 1984 both of which named the area as a place of residence for black people but firmly maintained it as an area in which black South Africans could not own land. At present the Black Communities Development Act has all but for Annexure F been repealed. The provision within Annexure F allows for residential property to be used for other purposes, including recreational, religious and commercial uses at the discretion of the local authority. Whether the authorities will grant these activities or not remains an open question. There is, however, one rather large snag regarding land and its use and management in Diepkloof, namely that Diepkloof Extension 2 has not had its general plan approved and a register has thus not been opened. As such it remains a leasehold township whereby ownership is impossible. Diepkloof Extension and Diepkloof Extension 10 have been established according the Black Communities Development Act and are deemed "freehold townships" except where indicated. Extension 2 remains a leasehold title as the conditions for township proclamation have not yet been met and until that happens free-hold title will not be available to the residents (Hoosen and Mafukidze, 2007).

Under the Land Regularisation Process the local authorities, led by the Johannesburg Property Company, are attempting to formalise property rights by identifying Council-owned properties, occupied land, and land that is still zoned as agricultural or farm portions. The final aim would be to make this land available for development and use by the public and in a range of public-private partnerships (Hoosen and Mafukidze, 2007). A commercial area designated as the Diepkloof Business District has also been approved. It is a 10ha area of Council-owned land in the middle of Diepkloof that is intended be a mixed-use area of residential, commercial and public facilities including a hospice, office park, community centre, and housing developments of various densities and types. The issue of housing is also very much in the minds of the settlement's planners, and upgrading projects for the informal settlement and re-development projects for the hostels are very much on the agenda (Ibid.).

1.4.5 Fourways



Socio-Economic Conditions

Fourways is one of the most rapidly developing areas of Johannesburg, located north of the Sandton CBD. It is a generally middle- to upper-income area that is constituted of recreational, residential, and commercial land use. Of the 250 000 strong community 24% are between the ages of 20-29, marking the area as extremely young; and with house prices averaging at about R650 000, extremely affluent. Housing in the area includes boomed-off areas and gated communities, security complexes and low-density cluster housing. From the street the houses are fenced off and invisible as well as difficult to access. Private security companies employed by individual households and community organisations patrol the streets and guard the entrances to the complexes and the gated communities (Klug and Naik, 2007).

Fourways lacks public schools, clinics, and libraries, in part due to the fact that private developers dominated the area's development and designed a settlement for middle- to upper-income households, who do not generally use public facilities. It also has inadequate sewerage, water and electricity provision, even though all of these services have been upgraded over the last few years. This is due to rate at which the area has grown and the inability of the City to increase bulk services at the required pace. In stark contrast to the affluence of the majority of Fourways' residents there are also a small number of people who are sleeping rough. Evidence of people sleeping near the river and erecting temporary shelters has been found (Klug and Naik, 2007). There is also an efficient taxi system, which is a vital and necessary part of the current infrastructure; there has been no provision for the taxis needs and currently there are no ranks, taxi stands or ablutions for either drivers or their passengers. There is also a great deal of informal trading as hawkers sell goods to the motorists driving by and informal kiosks service workers in the area with food and other goods and services that they need.

Land Use and Management

The current town planning scheme that is applicable to Fourways is the Sandton Town Planning Scheme of 1980. It designates four different residential zoning schemes, all of which include provision for other uses mainly to do with recreation and religious observances. The Town Planning Scheme also identifies four types of business zones that are wide ranging but exclude noxious industries and require special consent for liquor stores. Home-based enterprises are not disallowed by the scheme but permission is required in order to change the land from residential to business rights. Existing by-laws and decisions taken by the local community have outlawed all informal activities and hawking in the area. Signs and harassment by the SAPS are used to try and curtail, if not halt, all informal trading in the area. Public spaces other than pavements and road reserves have either been fenced off and incorporated into the housing developments or access is blocked by boom gates (Klug and Naik, 2007).

There are large commercial sections in Fourways and it boasts 60 336m² of office space all of which is A-grade and there are a number of retail developments, with well-established anchor tenants. There are also plans afoot for even more retail space to be built, including expanding the existing Fourways Mall and building the Fourways Boulevard with an adjoining office park of a further 30 000m², the Cedar Square centre and the Fourways Lifestyle Centre. The rapid growth in commercial enterprises has resulted in a great deal of traffic congestion. There is public transport available but the majority of people living in Fourways are private car owners, and the majority of people working in the suburb use taxis as their main form of access (Klug and Naik, 2007).