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Making urban land markets work for the poor: Synthesis paper

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Introduction

What does it mean to make urban land markets work for the poor in South Africa? This paper provides an overview of this issue as conceptualized by seven position papers¹ invited by the Urban LandMark initiative. Urban LandMark is a DFID² funded programme which was initiated in May 2006 and is funded until March 2008. Its goal is 'to improve access to well-located urban land (in South Africa) by making markets work for the poor and improving governance systems, thus giving meaning and effect to the right to land' (Urban LandMark 2006b).

The notion of making urban land markets work for the poor builds on 'recent approaches to providing goods and services for the poor through market systems' (DFID 2005:1). Whilst markets can be 'an efficient mechanism for the exchange, coordination and allocation of resources, goods and services in an economy' (DFID 2005:2), markets also fail. It is recognized that past approaches to assisting the poor either by intervening in markets, or relying on the private sector to provide growth from which all can benefit, may not have worked well. The approach of 'Making Market Systems Work Better for the Poor (M4P)...learns from the well-known problems of both state and market failure', aiming to 'accelerate pro-poor growth by improving outcomes that matter to the poor in their roles as entrepreneurs, employees or consumers of markets' (DFID 2005:3).

It has been noted that 'the left' has tended to view markets as negative (Philips 2006). Indeed a number of the authors invited to participate in this project confessed to a suspicion of the notion of markets working for the poor, or the assertion that they could be made to work. However, others saw markets are merely social and political constructs, which can be shaped. This latter approach requires an understanding what the levers of economic change are and finding new ways to engage with the power – and limits - of markets (Philips 2006). In this regard several authors commented on

¹ It should be noted that the various authors have not commented on the interpretations provided in this synthesis paper, and that some references still need to be finalised.

² Department for International Development, UK

the *process* of participating in the project: ‘a journey of coming to terms with terminology’ (Royston 2006a), and ‘an opportunity to rethink some big questions’ such as ‘who are the poor’ and ‘how do the economies of cities work’ (Marx 2006a).

There are different perspectives on what constitutes a market that works better for the poor. Defining markets as ‘institutions which work by efficiently facilitating exchange’, the DFID background documents suggest that ‘for markets to work better for poor people, they must provide access to the opportunity to build and acquire assets, and help reduce vulnerability’ (DFID 2005:4).

The Urban LandMark programme focuses on the notion of making markets work for the poor in the arena of urban land. Napier notes that land differs from aspects of other markets such as labour (2006). Land is often seen as a right (which in South Africa is supported by the Constitution), it is a limited resource, and it is not transportable in the way that other types of capital are. The programme recognizes that to date there have been broadly two different approaches to the urban land issue, that of ‘the enabling markets view’, and that of the ‘right to land view’ (Affordable Housing Institute 2006:10). The Urban LandMark initiative seeks to draw from both of these in working towards ‘a mediated position on what it means for urban land markets to work better for the poor in South Africa’ (Urban LandMark 2006a).

Seven organizations or individuals were invited to provide a position paper, drawing on their particular field or area of expertise. For each paper a respondent was also invited to comment.

- Council for Scientific and Industrial Research (Karina Landman and Nana Ntombela). Respondent: Alison Todes, HSRC
- Development Action Group (Mercy Brown-Luthango). Respondent: Nigel Tapela, Cape Peninsula University of Technology
- Development Works (Lauren Royston). Respondent: Warren Smit
- Human Sciences Research Council (Catherine Cross). Respondent: Maurice Makhathini
- Isandla Institute (Colin Marx). Respondent: Sophie Oldfield, University of Cape Town

- Jeff McCarthy. Respondent: Kecia Rust
- Stephen Berrisford Consulting (Michael Kihato and Stephen Berrisford). Respondent: Dave De Groot, World Bank

These papers approach the issue of ‘what it means for urban land markets to work better for the poor in South Africa’ (Urban LandMark 2006) from quite different perspectives. Their input into the project was sourced precisely to provide a diversity of views on the subject and to explore the scope of how this topic could be interpreted and understood. It was anticipated that amongst these papers some would be distilled positions, some more empirical, and some would be think pieces, and that whilst some were mainly residential in focus others would be broader (Urban LandMark 2006a).

This synthesis extracts where possible commonalities and themes from amongst the papers, as well as noting particular positions or angles that are helpful in informing the research and advocacy agenda of the Urban LandMark programme. In addition the paper draws from comments made by the invited respondents, as well as input made by participants at a public workshop on 15 November 2006. Part One of the paper focuses on five key issues that authors were asked to address. Part Two discusses in more depth a series of themes running through the papers.

1. Part One: Five key issues

1.1 *The dimensions of the problem of access to urban land*

Authors were asked to address five key issues in their discussions. The first of these was the challenge of access to urban land by the poor in South Africa, as conceptualized from the area of specialism selected by each author. As might be expected there are divergent views on whether there is a problem at all, and if so, what is the nature and extent of the problem.

For Marx (2006) the problem is fundamental in nature. He argues that an underlying conceptual obstacle ultimately interferes with any attempts to reduce poverty, an example of which might be found in initiatives for the poor to access urban land. He suggests that prevailing paradigms in South Africa restrict attempts to justify changes to the relationship between poor people and urban land. Specifically he notes that the poor are typically considered to be disconnected from the priority imperative of economic growth, whilst at the same time a key connection is made between economic growth and urban land markets. These dominant frameworks therefore provide *conceptually* no logic for accommodating the poor in urban land markets (Marx 2006), as it is assumed that this will not contribute to economic growth.

McCarthy (2006), on the other hand, finds promising trends in *current* patterns of land use and market-related development trajectories in contemporary South Africa, within existing paradigms. His optimism relates to the phenomenon of residential filtering, in which established dwellings are sold on the secondary market, at below replacement or new stock value, to poorer people as the rich move to other parts of the city. In his analysis

‘It could be argued therefore that if it was more effectively planned for, the land use and residential filtering sequence that is beginning to unfold in South African cities could be the most efficient and redistributive form of market delivery for all class groups, including the poor’ (McCarthy 2006:8).

By implication, the problem is in fact the lack of conscious effective planning around this occurrence, rather than an inability on the part of the poor to access land at all.

Whilst supporting the potential offered by residential filtering, Rust's (2006) response to McCarthy flags the gaps in the 'housing ladder' which are evident in the South African residential sector. These refer to the large - and increasing - (affordability) jumps which are needed to access the next level up of residential accommodation. At the cheaper end of accommodation, Rust contends that RDP housing and informal settlements become the dominant form because occupants are unable to move from one to another and further up the ladder. Royston (2006a) also has concerns about whether the residential filtering process is really as dynamic and smooth flowing as suggested, noting evidence of blockages and obstacles along the way, especially at the bottom end of the affordability spectrum. Whilst she concurs that McCarthy provides compelling concepts to think about, she contends that the residential filtering picture indicated by him is not entirely representative of the current situation.

McCarthy (2006) also has a concern about the 'messages' contained within current low income housing policy proposals which suggest that new upmarket estates be required to include a certain percentage of housing for the poor. His anxiety relates not to the specific proposal *per se*, but rather

'the more general sense of housing strategy that is being set...insofar as it appears to rely upon a philosophy of 'atonement' for market performance, rather than on working with enlightened self-interest and the leveraging (of) market forces on any scale' (2006:9).

The imperative to work with prevailing market trends is clear in this position paper.

A sense that current urban spatial trends offer opportunity is however contested by Landman and Ntombela (2006) who identify the nature and design of current 'urban form' as a key issue which limits access to land and opportunities by the poor. Specifically the privatisation of urban spaces through the establishment of gated communities has two negative consequences for the poor. Arguing that 'the urban land markets in South Africa...cater for the middle and high income groups and completely exclude the poor' (2006:5) the authors note that the ability of the poor to achieve more sustainable livelihoods is constrained through limitations placed on accessing physical, social and financial capital that would otherwise be in the public domain (Landman and

Ntombela 2006). In addition, a sense of belonging, expressed by the authors as 'a sense of place in South Africa' (2006:2), is constrained by lack of access to well-developed public spaces. This also reduces the potential for positive social contact between class groups (Landman and Ntombela 2006).

In her response to Landman and Ntombela, Todes has some resonance with McCarthy in asking whether the proliferation of gated communities and enclosed neighbourhoods 'opens up space elsewhere in the urban system for the poor (e.g.: inner city areas)' (2006:2). She also queries whether gated communities should only be understood in terms of the rich, but points to examples at the lower end of the commercial market and asks whether this is in fact a '(significant) way for this end of the housing market to gain access to land/ housing' (2006:2).

Royston (2006) emphasizes that the poor *do* access urban land: the problem lies in knowing so little about the means by which this is done. Lack of knowledge is exacerbated by concepts around these practices proving to be elusive, thereby curtailing the ability to name practices and reference them. The significance of this lack of knowledge is that it inhibits judgements about what interventions might be supportive of the practices and aspirations of the poor. Without understanding 'the multiple means by which the poor access land in the context of market (and state) failure' (2006:2) Royston contends that approaches to making markets work for the poor run the risk of undermining such practices, potentially negatively impacting on the poor. Her call for better insights is situated in relation to the prominence accorded to the notion of assets and property markets in current government and policy discourse. Implicit within this is a focus on formal, recognized, 'acceptable' systems and practices. However due to the malfunctioning of market and state practices, 'other' practices currently exist, poorly understood and potentially vulnerable to uninformed interventions (Royston 2006).

A key government intervention which aims to make land available to the poor is the national housing programme. In recent times this has conceptualised housing delivery as a transfer of assets to the poor, predominantly through ownership of property within the formal land tenure system. Cross maintains that, as a poverty alleviation

approach 'this asset-accumulation strategy based on housing delivery is courageous, well-targeted and essentially correct' (2006:2). Although she notes that 'housing alone is not enough to ensure escape from poverty' (2006:1), it provides the 'basic platform' (2006:6) for household asset accumulation to take place.

However Cross (2006) flags institutional concerns which may impact on the ability of the state to accelerate delivery, as its strategy demands. A further problem, she suggests, lies in *securing* the asset value of state built houses, which have had a tendency to be financially undervalued by beneficiaries. Part of securing the asset value of formal state provided housing, she contends, lies in reducing the proportion of shack housing in, for example, informal settlements. However at the same time there is a growing need for 'immediate, very cheap housing' (Cross 2006:19), including rental accommodation, for migrant and mobile households. This is one of the markets currently served by shack housing, amongst other informal accommodation typologies, for whom there is currently little formal alternative.

Continuing with a focus on the asset value of low-income housing, Brown-Luthango (2006) highlights the uneven growth in the South African residential property market in recent years, with the 'affordable market' (properties with a value of less than R226 000) not reflecting the same level of growth as the upper end of the property market. Citing the Western Cape strategy for the development of sustainable human settlements, (June 2006) she notes that one factor is the limited trading underway in this section of the market, with the consequence that households are unable to realize the 'full' asset value of their housing. This, she contends, undermines housing as a potential investment for low income households, whilst it proves to be a very good investment for high income households. 'This means that the poor are effectively excluded from participating in this lucrative property market' (Brown-Luthango 2006:*)).

Brown-Luthango reiterates the apartheid spatial dysfunctionality in which 'apartheid policies and urban management strategies affected the lives and life chances of the

urban poor in very significant ways' (2006:2)³. She maintains that some post-apartheid policies have tended to reinforce these patterns – for example, the large transport subsidies which prop up spatial inefficiencies⁴. The motives for these post-apartheid approaches need to be questioned, she contends, as they 'could be construed as a deliberate action by the state to continue to subsidise and reproduce capitalism' (Brown-Luthango 2006:*)). For Brown-Luthango therefore a major problem is that South Africa's existing broad urban development policy mechanisms for spatial restructuring and inclusive cities are 'insufficient to influence the behaviour of land and property markets to work for the poor' (2006:15).

Kihato and Berrisford (2006) have a slightly different position. Whilst noting that 'to all intents and purposes the regulatory framework inherited from the apartheid regime remains in place' (2006:3), they point out there are, in fact, 'a range of regulatory tools....available to the state to manage urban land better for the poor' (2006:30). However there are a variety of legislative and regulatory *issues* restricting access to urban land by the poor.

For example, with respect to the *supply* of urban land, strategic planning through the mechanism of Integrated Development Plans is restricted by administrative problems with land use management systems, as well as limited tools through which to translate strategic ideas in to 'day-to-day land use decisions' (Kihato and Berrisford 2006) This hampers the availability of well-located affordable land for socially driven land development. With respect to the *development and use* of land, projects are slowed by 'a profusion of regulatory hurdles that have to be cleared' (Kihato and Berrisford 2006:15). Confusion around planning law reform as a whole and which sphere of

³ Brown-Luthango (2006) notes that these included forced removals, cross subsidization of services to the rich by the poor, a concentration of commercial activity in rich white suburbs, forcing resources out of black areas, an unequal provision of services, environmental costs of the design and layout of the apartheid city.

⁴ 'Historically, transport subsidies underpinned the operation of the apartheid city' (Napier & Ntombela 2006:4)

government should take responsibility for this, has prevented the necessary revision and streamlining of various regulations.

Kihato and Berrisford (2006) also flag the current trend towards the privatization of public space as having a variety of implications, and note that gated communities use restrictive title deeds conditions in some instances to create these environments. In terms of using land for income generation, a mesh of regulations restrict this, with an emphasis on control and little guidance and encouragement where this might be appropriate (Kihato and Berrisford 2006).

Kihato and Berrisford conclude therefore that from a regulatory and legislative perspective current tools are 'either not being used adequately..... or have not been sufficiently well-developed to be useful' (2006:30), contributing to the problem that 'formal urban land markets do not sufficiently support the acquisition of well-located, affordable and adequately serviced land by and for the poor' (2006:3). This highlights the critical need for a focus on 'the integration of the available regulatory instruments into coherent programmes for managing urban land' (2006:30).

At a more fundamental level Kihato and Berrisford flag that 'the ideological underpinnings that shape these (regulatory) systems are based on certain preconceived notions of an ordered city' (2006:4). The 'social, financial and political values of urban land' (2006:3) consequently shape the manner in which the investment value of land is protected, and determine what land uses are considered permissible. The problem is that this may not accord with perspectives of the urban poor on the use and importance of urban land. In responding to their paper De Groot puts it more starkly: 'the largely unchanged apartheid era laws on urban land clearly and definitely favour the rich and influential segment of the population, that is what they were set up to do and that is what they still do' (2006:1).

In summary therefore, the problem of access to land by the urban poor is seen in part as a normative question by Kihato and Berrisford (2006), as the underlying regulatory framework is based on a set of assumptions about the perceived 'value' of urban land. For Marx (2006), the problem is seen to be stemming from underlying conceptual

issues with the way the poor are seen to relate to the economy. Significant gaps in knowledge about existing practices of the poor impede pro-poor deliberations, Royston (2006) argues, at both a conceptual and practical level. Within current frameworks legislative and regulatory issues limit the effectiveness of potentially positive regulatory tools (Kihato and Berrisford 2006), whilst for Brown-Luthango (2006) urban development policy mechanisms are inadequate. In practice McCarthy (2006) sees opportunity in current residential filtering trends, whereas Landman and Ntombela (2006) view the privatization of public space as a key component of the problem. Cross (2006) sees the low value accorded to state provided housing as a key part of the problem.

1.2 Motivations for why the poor should have access to urban land

Authors were asked to indicate why it makes social, economic or ideological sense to open up access to land, location and markets (Urban LandMark 2006). Marx (2006) argues that reconceptualising the poor's use of land, and the poor's link to the economy, provides a wider economic argument for access to urban land by the poor. From the perspective of the individual household economy, Landman and Ntombela suggest that access to, and ideally integration with, public parts of rich areas provides some opportunity for poorer inhabitants to 'gain access to opportunities and facilities which are generated through the resources of the more wealthy' (Dewar and Uytenbogaardt 1991 cited in Landman and Ntombela 2006 :14).

Landman and Ntombela (2006) also point to the relevance and importance of public space in cities for promoting human contact, social interaction and tolerance, in a context currently marked by widening inequalities, thus providing a social and moral argument for access to urban land by the poor. In her response Todes concurs, flagging the importance of thinking about 'more than just access to residential land for the poor; rather good public space, access to facilities, and more generally rights to the city are important..... it is important that (these points) are not lost in an emphasis on access to land for the poor' (2006:1). She notes that in the early 1990s several organizations explored mechanisms in this regard and that this line of thinking needs to be revived' (Todes 2006:2).

Cross (2006) stresses that access to urban land through housing is an important national poverty alleviation strategy, not only for the household but for the state: housing is the 'essential (line department) for the attack on poverty' (2006:7) because it is the only initiative with the potential to allow the poor to escape poverty in the medium term, thereby relieving the welfare strain on both the state and cities. For Cross, the main benefit is in promoting asset accumulation through self-investment. She distinguishes this approach from 'flashier strategies' which emphasise housing as a route to access credit and to entrepreneurial risk-taking (2006:19), focusing rather on the potential for 'household savings and gradual capital formation' (ibid). The importance of secure tenure, she maintains, is in providing a poor household 'with a reliable urban perch with which to build an asset base' (2006:19). In his response Makhathini indicates the need for further research on this aspect which talks of housing 'as a base for human improvement which is not immediately material' (2006:1), to do with improving life chances and intellectual development.

Kihato and Berrisford (2006) also highlight the influence of land on urban poverty. They concur that 'traditional formal system' assumptions that urban land is an investment asset for trade or raising collateral may not be the primary motivation for the urban poor to acquire land (2006:4). They flag the need to understand better the importance of land 'as a place that provides access to employment, income generation through home based industries and rental income or for purposes of building social networks' (2006:5). Similarly De Groot notes that 'lots of evidence indicates that the poor in South Africa don't really use their new land assets to leverage their way out of poverty, and the reasons this doesn't happen deserve some very close examination' (2006:20).

In emphasizing our lack of understanding of ways in which the poor access urban land, Royston contends that a lack of recognition of current practices 'perpetuates inequity', as the prevailing context recognizes, and by implication legitimizes, only the 'formal rules of the game' (Royston 2006:2) in the form of current formally recognized systems. This dominant conceptualization has knock-on effects on access to broader opportunities and to the economy.

For Brown-Luthango (2006) part of the motivation for why the poor should have access to urban land lies in redressing the historical lack of access to land and opportunity in the apartheid system, a motivation which could potentially be inferred also from McCarthy's (2006) paper. Brown-Luthango also flags the need to overcome the shortfalls of post-apartheid urban policies, and the uneven distribution of economic growth.

1.3 What does it mean to make urban land markets work for the poor in SA?

The third issue that authors were asked to engage with was the extent to which making urban land markets work for the poor is a relevant approach likely to lead to positive outcomes within the current socio-economic and political context (Urban LandMark 2006).

For McCarthy (2006) the notion of making urban land markets work involves reinforcing and building on an existing pattern of development prevalent in certain parts of South Africa. The overall intervention required is effective planning for the emerging trend of land use and residential filtering (McCarthy 2006:8). However whilst this approach may free-up accommodation for lower income groups in historically well-located areas, it is less clearly supportive for very poor people currently not living in formal accommodation, with limited evidence available on how the filtering process works at this end of the spectrum. As noted Rust (2006) flags the 'real gaps in the housing ladder', making a smooth filtering process across product prices and types unlikely. She also calls for more clarity on how local governments can plan for the residential filtering sequence described by McCarthy.

In his conclusion McCarthy (2006) also alludes to the need for enhancing public revenue from up-market development (for example through property taxes) and using this to subsidise better located low income housing. In part, Brown-Luthango also advocates working with current formal land market trends but she focuses on more directly seeking to extract benefit by the public sector for redistributive purposes. She suggests a variety of mechanisms under the broad umbrella of 'value capture', in which at least some of the increases in land value which can be attributed to 'public and 'community' interventions', are recouped by the public sector (2006:5). The paper

does not detail how this component of value increase is to be identified and measured. However this approach, she suggests, requires a strong and 'developmental' state, as well as the political will to follow through (Brown-Luthango 2006).

Anticipating negative reaction to some of the ideas, Brown-Luthango highlights the need for public participation in the planning and decision-making around these issues, and also emphasizes the incentives aspects to private developers, noting that this intervention requires both a combination of carrots (incentives) and sticks (legislation). At the same time as promoting the idea of value capture she warns of unintended negative consequences of value capture mechanisms suggesting that protective measures might be needed for vulnerable groups (Brown-Luthango 2006).

In addition, Brown-Luthango (2006) reiterates suggestions that the state should strategically use public land as levers for spatial and social restructuring, and that the state should lead in transferring well located land for low income housing developments. Whilst versions of this approach have been contained in various post-1994 urban policy documents, its realization has been hampered by an unfettered land market which has pushed up land prices and valued economic growth above redistributive concerns. Brown-Luthango (2006) suggests that the state must develop an ability to effectively use existing instruments as well as develop new instruments – including the targeting of infrastructure investment to trigger the crowding-in of public property development: it is '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' (Brown-Luthango 2006:15). The paper does not elaborate on how this coordination is to be done, but the overall approach advocated here is a combined one which partly works with the market, and by implication, partly intervenes in it.

Landman and Ntombela (2006) advocate intervention by local and possibly provincial government, in order to give strong guidance to development projects. This would take the form of promoting the design of safer cities, through planning guidelines and programmes. This is part of an inclusionary approach to urban design and housing (Landman and Ntombela 2006). In her response Todes queries whether 'the principles

of 'safe' urban design (defensible space etc) actually works in high crime contexts' (2006:3) such as that currently prevalent in South Africa .

For Kihato and Berrisford (2006), making markets work for the poor in the current context involves a range of advocacy activities, as well as research into current obstacles and blockages in the regulatory and legislative system. This might in turn lead to other targeted interventions. Advocacy includes activities such as according profile to certain issues, lobbying, and facilitating dialogue between key actors involved in situations where access to urban land by the poor comes in to conflict with the regulatory practices by other urban actors. It is essentially an approach which seeks to put the many dimensions of this issue into the consciousness and practice of various players.

Raising consciousness and profile is also part of Royston's (2006) approach, but with a focus on 'seeing' and understanding, the existing practices of the poor in accessing urban land. These practices are opaque, largely unacknowledged in the 'formal', recognized system, and poorly understood. Recognizing, and revealing current practices is a first step in working towards ways of assessing relative benefits and disadvantages of a spectrum of practice currently operating in urban areas, before formulating ways to reinforce or reduce support for particular approaches.

For Cross, the strategy is to work within and as well as to expand the current state low-income housing programme. Whilst noting that 'housing alone is not enough to ensure escape from poverty' (Cross 2006:1), she sees key importance in initiatives which contribute to securing the asset value of state subsidized housing. This needs to be coupled with the rapid delivery of both conventional state housing for ownership as well as extremely cheap rental housing for mobile and vulnerable households.

Marx's (2006) approach is perhaps more ambitious and fundamental, advocating the need to reconceptualise dominant understandings of the economy and of economic growth. He promotes a shift in economic focus to activities rather than outputs, noting the need to include poor people's economic activities in understandings of 'the economy' (Marx 2006). This approach tackles the urban land market head-on, by

challenging widely held views of economic growth and how this is a function of certain types of land use. Confronting the dominant understanding of the economic 'logic' of the land market, Marx's concern is how urban land markets can be 'related to supporting networks of innovation and productivity rather than immediately reducing all issues to profitability and outputs' (Marx 2006:19). One form of this would be to 'value land in terms of its ability to create new forms of interdependencies between economic activities' (Marx 2006).

1.4 Key actions which should be taken to change the status quo

With regard to key actions which should be taken to change the status quo, Marx (2006) notes that the notion of markets is elusive, and advocates for an interrogation of the way in which 'markets' are performed. By implication there is the suggestion for research which is able to question the dominance of formal land markets in economic growth.

McCarthy (2006) promotes the idea of effective planning for the residential and land use filtering sequence. He cautions against 'punishing' the successful market with low income housing obligations but rather advocates the use of revenues (and additional taxes if necessary) to subsidise housing for the poor. In municipalities where these potential revenues aren't available (due to a sluggish market), the focus should be on facilitating new lower-middle to mid-market private housing (McCarthy 2006).

Kihato and Berrisford (2006) identify an extensive range of key actions which should be taken. With regard to the acquisition of land, a critical advocacy exercise is required in profiling urban land as a resource for poverty alleviation. The authors suggest that the manner in which Urban LandMark (ULM) does this 'could assist in building the argument towards such an outcome in the future' (Kihato and Berrisford 2006:8). It is acknowledged this issue is likely to require a longer term engagement than the length of the current ULM programme. A more specific issue requiring lobbying is to make it easier for prescriptive acquisition (through long-term occupation in certain circumstances – such as informal settlement regularisation programmes) (Kihato and Berrisford 2006).

In his response De Groot suggests that a much stronger focus is needed on 'how publically owned land, especially land owned by State Owned Enterprises and mining companies, can be more easily acquired by implementing agencies' (2006:1), especially for uses such as low income housing.

With regard to advancing debate around secure tenure in controversial and contested situations, the Urban LandMark programme 'can play an influential role in promoting dialogue between local government and inner city residents as well as civil society to identify acceptable solutions' to the issue of evictions of poor residents in the inner city (Kihato and Berrisford 2006:11). De Groot (2006) suggests that this issue of evictions - which are often instigated by local authorities - as well as the supply of inner city secure tenure more generally, needs to be the subject of much closer examination, particularly 'the whole issue of how local by-laws should be adapted to meet the Constitutional provisions guaranteeing all SA citizens access to basic services and shelter' (2006:1).

In the development and use of urban land, the point has been made that planning law reform is needed. Kihato and Berrisford (2006) note that for the ULM there is an opportunity to engage with process of developing a new suite of planning laws applicable across the country. Whilst the authors flag that this matter requires resolution of the constitutional issue of national and provincial government planning competencies, they indicate that it needs to start with process of engagement with the state⁵ in order to expedite clarification of legislative mandates. This requires high level engagement with specifically the Presidency and National Treasury (where focus to date has been on the economic costs incurred as a result of a confused and inefficient regulatory framework) (ibid).

Urban LandMark could be important both in directing research and in playing 'a useful role in promoting and encouraging the building of shared positions on planning law reform, which will assist with breaking through the current impasse' (Kihato and

⁵ national government and selected provinces and municipalities

Berrisford 2006:20). Once the constitutional basis for proceeding with reform of planning law has been clarified then substantive issues can be addressed; for example the links between strategic planning tools and day to day decision-making mechanisms (Kihato and Berrisford 2006:21).

With regard to the transfer of land, the authors suggest that regulatory reform can ease speedy titling. They note that a potential area of investigation is into the high cost of property registration. Further, a first step should be research into reasons behind current backlog in Deeds registries around the country (Kihato and Berrisford 2006). De Groot states that a key problem in this regard is that the Deeds Registries 'are just not accountable to the public in any real way' (2006:1). This 'inability to deliver deeds/titles to the poor is a real impediment to asset based wealth creation', fully deserving of attention (ibid).

Kihato and Berrisford (2006) also advocate investigation into ways in which various informal systems can be successfully embraced within some form of legal framework, whilst still retaining their relative advantages. They caution however that this is a challenging area of engagement, and a complex and intricate area for potential reform. They warn that it is unpopular to engage in regulatory reform that creates a radical shift from the current recognized system of land holding (Kihato and Berrisford 2006).

As noted above, Royston similarly advocates investigating local practices in order to understand them better: 'we do not know enough about the local institutions (rules of the game) governing these transactions' (2006:11); for example, are they markets, and what is the scale of practices. It is critical to have a larger body of evidence than is currently available, she maintains, to feed this into the current policy environment with its emphasis on titling, assets and the property market. She offers a preliminary framework developed for assessing functionality of local practices, against which information on local institutions could be tested (Royston 2006). However 'without the descriptive information base (on local practices), little can be said about functionality' (Royston 2006:11).

Further, Royston argues for a recognition of and support to 'the variety of ways in which the poor access land' and a search for solutions to integration (2006:15). She promotes recognition as an 'intermediate tool for describing the legitimacy of tenure arrangements' (ibid), and integration as determining how local rules and procedures 'contradict, support or elude the state and market derived arrangements for land access and transfer in the country' (2006:15). She notes that state and market arrangements generally receive political approval and financial support, thereby prescribing what can be considered socially meaningful and legitimate rules and institutions (Royston 2006).

Royston (2006) is not advocating local systems at the expense of formal, recognized state, market and locally-based institutions. A range of actions suggested for each of these three arenas: for the state, for example, she suggests that current political attitudes to informality need to be addressed; whilst in the market there needs to be work on filling in gaps on the housing ladder.

Royston also flags the need to adopt both local and city wide perspectives for making markets work for the poor: a local perspective might involve a programme of support to understanding what these local practices are and how they work. A city-wide perspective might consider how the benefits of well functioning property markets in specific locations can be shared (Royston 2006), echoing some of the ideas of McCarthy (2006) and Brown-Luthango (2006).

Brown-Luthango (2006) notes that there are different instruments which government can use to capture value from government investments, in order to finance infrastructure and services, for example, for the poor. Value capture is not only about securing additional financial resources but is also aimed at using planning and development instruments strategically to give the poor better access to resources and economic opportunities (Brown-Luthango 2006). However she concedes that more research is needed into applicability of these measures to the SA context, and also the legislative and regulatory framework for implementation (Brown-Luthango 2006).

In addition she notes that the political climate needs to be tested, and that if the approach were adopted, education and capacity building of municipal officials would be needed. A further issue for investigation is the locus of these initiatives: considering the pros and cons of local level versus national level identification of measures and distribution of benefits (Brown-Luthango 2006). A related issue needing careful analysis is the origin and destination of value captured. Despite these directions for further investigation, Tapela (2006:2) interprets the paper as 'suggesting that a mediated position can perhaps only be resolved in a concrete engagement in the realm of practice rather than policy-level discursive engagement alone'.

In Cross's (2006) focus on the current delivery of state-funded low-income housing she notes the importance of securing the asset value of state built housing. Formalizing the informal housing market, at least among RDP houses, is part of this. She commends current initiatives in this regard by; for example, reducing the time period of no-resale rule as noted in the Breaking New Ground document, and with the state experimenting with larger and better quality houses to distinguish RDP houses from competing shacks and to encourage beneficiaries to see value in their housing asset. However what is needed, she contends are 'accessible land records and interventions to improve tenure security', recognizing fluid layers of rights, collective family rights and so on (Cross 2006:18). She also notes that in current government thinking, the 'reception strategy' for new households is based mainly on formal rental accommodation. Cross (2006) flags that consideration needs to go to the problematic of getting rental housing on the ground fast enough, and in enough suitable locations, to soak up the flow of new households needing low-income housing.

Amongst the key actions identified by authors therefore is a focus on critical research. A common thread is the imperative to understand more about both the formal systems as well as local institutions operating in South Africa. Related to this is a need to consider the applicability of mechanisms tried in international contexts. Other key actions concentrate on raising the debate and profiling certain key issues, and by inference piloting projects to test or demonstrate various proposals.

1.5 Key stakeholders

Key stakeholders needing to be drawn in to the activities above, either explicitly or implicitly identified by authors include several national government departments, such as the Department of Housing (Cross 2006), the national Treasury and the Presidency (Kihato and Berrisford 2006). By implication the Department of Provincial and Local government would also be a player in several initiatives. Processes in the Deeds Registry are specifically identified for investigation (Kihato and Berrisford 2006).

In addition several of the activities need to involve local government, presumably in targeted identified localities and activities, such as research around existing local practices in which the urban poor gain access to land (Royston 2006), piloting of various approaches to rental housing (Cross 2006), and engagement around evictions of illegal occupants of inner city buildings (Kihato and Berrisford 2006). Development planning and management aimed at including the urban poor (Landman and Ntombela 2006), or in promoting approaches which free up existing stock for the poor (McCarthy 2006) would need to be implemented at local government level. So too might some of the initiatives around value capture referred to by Brown-Luthango (2006) and McCarthy (2006), although these are likely to require national government department stakeholders involvement as well.

Some authors also allude to the political sensitivity of certain proposals, suggesting the need for political champions for issues such as profiling the importance of access to urban land by the poor as a poverty alleviation strategy (Kihato and Berrisford 2006). A level of political support is also suggested in according existing local land-access practices the status of valid areas of investigation and serious consideration, due to the current dominance of the formally recognised systems to the exclusion of any alternatives (Royston 2006, Kihato and Berrisford 2006). Planning practices which actively promote the inclusion of the poor in public spaces (Landman and Ntombela 2006) also need political support, particularly where these might go against prevailing market trends in residential, office and retail development.

1.6 Synthesis: short action statement translating theoretical position into targeted action

Succinctly, authors' positions can be summarized as follows:

For Cross (2006) what is required to make urban land markets work for the poor is 'instant, dirt-cheap housing options in a range of good city locations' (2006:20), although how this is to be achieved is less clear. This needs to be coupled with a strategy that secures the asset-value of state-provided houses.

For Brown-Luthango it is 'clear that market-oriented trickle down approach will not address South Africa's urban development and housing crisis. The scale of this crisis calls for brave initiatives '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' (Brown-Luthango 2006:5). She therefore argues for 'bold decisive strategic interventions in the market to ensure that the poor reap some of the benefits of government's investment in the market' (2006:1) Tapela (2006:2) casts this as tackling 'the centrality of the logic of land and property speculation that drives operation of land and property markets by wooing public sector funding and interventions into favoured sites, and by default, facilitating the red-lining and inaction in less-favoured locations. Speculation therefore tends to direct the movement of development financing – thus the notion that cities, or their residential areas, are shaped by the way they are financed'

For Marx, what is needed is to 'engage in activities that reconceptualise dominant understandings of 'the economy' and especially, one of the key economic processes – economic growth' (2006:1).

Kihato and Berrisford (2006) flag the key opportunity that exists for the ULM to engage, inter alia, with the complex process of developing and refining a revised set of planning laws applicable across the country, desperately needed to allow a range of pro-poor policy intentions to become reality. De Groot (2006) echoes this point more strongly, noting that there is no public pressure for these essential reforms, due in large part to their very complexity and 'messiness'. He suggests that a key role for

Urban LandMark would be 'to come out with a readily understandable, widely disseminated product which gets a lot more of the public to understand just what a mess this legislation is' (2006:1).

Royston (2006) advocates recognizing the nature of local institutions and how they work, and then identifying opportunities for integration between formal systems and local practices. Importantly, she promotes both city-wide as well as localized approaches.

McCarthy suggests that 'the most effective impacts on the fortunes of the poor will most likely be achieved through leveraging market forces with earmarked public funds...yielded partly through facilitating ...middle or higher-end developments' (2006:16). In this regard he specifically cautions against measures which are 'punitive' to the market

Landman and Ntombela (2006) advocate intervention in current urban spatial practices that work to exclude the poor, as well as proactive engagement in urban planning and design interventions that are inclusionary in nature.

2. Part Two: Five thematic areas

So far this paper has summarized what authors presented with respect to the key dimensions of the problem of access to urban land, motivations for access by the poor, what the overall strategic thrusts would be, key activities and key stakeholders. Whilst it was recognized that authors would approach the issue of what it means for urban land markets to work better for the poor from their particular area of research and experience (Urban LandMark 2006), a number of key thematic areas were also identified which would be addressed by the range of papers as a whole. These included

- social dynamics surrounding landlessness and landholding
- the operation of the urban land market
- regulatory and institutional frameworks
- physical spatial and environmental aspects (Urban LandMark 2006)

A further theme arising in several of the papers is that of normative and ideological issues. Additional information from papers has therefore been consolidated under these five themes, and in addition the comments of invited respondents has been included.

2.1 Social and economic dynamics surrounding landlessness and landholding

With respect to the social and economic dynamics surrounding landlessness and landholding, issues discussed in position papers included poverty reduction, the way in which urban land is used by the poor, the privatization of public space, the notion of integration, and power relations. These are discussed below.

2.1.1 Poverty reduction

A number of papers view access to urban land as a contribution to poverty alleviation (Marx 2006, Cross 2006, Kihato and Berrisford 2006). Linking this more directly to the economy, Marx (2006) contends that all three approaches to poverty reduction prevalent in South Africa since the 1980s, have considered economic growth necessary (if not sufficient). However, he argues that 'dominant theories of poverty rely on a

conceptualization of 'the economy' that restricts attempts to reduce poverty' (Marx 2006:5).

In the approach of income theory, for example, poor peoples' activities not considered to be inherently productive because of the perceived attributes assigned to poor people, such as being 'traditional' or 'uneducated', for example. From this perspective poor people are considered not to have the modern rational values that economic growth is assumed to depend on, and their activities are rather seen as survivalist, household oriented and lacking a 'growth logic' (Marx 2006).

In basic needs theory, the emphasis in analysis is on basic needs and survival, which, it is assumed, have limited capacity for productive actions that could contribute to economic growth. The notion of absolute poverty in developing countries has prevailed, with a focus on basic needs needing to be met, such as food, water, and healthcare. The emphasis is even more on the survivalist nature of activities, and seen to be to do with consumption: the logic of survival is seen to be different to logic of economic growth (Marx 2006). Whilst the causes of poverty are seen to be structural, the solution is viewed as 'endless allocation of resources to a bottomless pit' (Marx 2006:*)). The idea is eventual absorption into the economy, with links through infrastructure.

In sustainable livelihoods theory the focus is shifted to poor peoples' activities rather than their basic needs, with a recognition that people in poverty are economically active (Marx 2006). However poor people are still not seen as contributing to economic growth. Whilst this approach is informed by a study of the informal economy, this is considered subordinate to the formal (capitalist economy) (Marx 2006) Economic activity is still assumed to be within the household rather than the economy. However there is a recognition that economic growth can be harmful to some as well as beneficial, and a concern with pro-poor growth (ibid). Whilst considering not only the impact of impoverishing macro-economic factors, this perspective also considers the capability of the poor to respond, introducing some relationship to the notion of agency of the poor as per urban land research. Marx

(2006) makes the point that within this view the poor are still considered to be confined to a particular location.

Using a sustainable livelihoods perspective to consider current spatial trends in South Africa Landman and Ntombela identify several consequences of privatization of public space for the poor that influence 'their ability to achieve more sustainable livelihoods and access to well-developed places' (2006:10). These include reduced access to physical capital – the system of well-developed public spaces in a city such as parks, schools, libraries. In addition the authors cite the impact on traffic and movement patterns, noting that amongst others, pedestrians and cyclists are displaced to busy arterials which increases their vulnerability, levels of discomfort and travelling time. The authors point out that in some cities 'large areas are now changed into isolated and inaccessible super-blocks, with little resemblance to the original fine-grained urban form' (Landman and Ntombela 2006:1). There is also an impact on access to social capital, and limited 'opportunities for social interaction with the broader urban community and a collective sense of citizenship (Landman and Ntombela 2006:11). The privatization of public space also has an influence on potential access to financial capital – job seekers and 'postal' delivery people are often excluded (ibid).

In her commentary on the authors' paper Todes makes the point that some literature points to the importance of domestic work 'as a source of employment for the urban poor', and the need to access low income housing with close links to higher income residential areas' (2006:2). She puts forward a consideration that 'gated communities represent such a source of employment (although it is not clear how significant it might be)' (ibid).

Marx contends that when the 3 theories of poverty cited above are drawn on in poverty reduction strategies, there is 'an assumption that poor people's economic activities are disconnected from processes of economic growth' (2006:12). This has two effects: one is that researchers take for granted this disconnection, and that these activities of the poor are perceived to be conceptually different from other kinds of activities, with different logics, different activities, sizes and scales of activities (Marx 2006). The second consequence is that 'poor people are disabled from making immediate claims

on the results of economic growth' (Marx 2006:*)), with the right to claim being seen to be primarily the prerogative of those perceived to have contributed directly to it. In this regard some of the position papers discussed here suggest the capture of some benefits of economic growth from the rich for direction towards the poor (Brown-Luthango 2006, McCarthy 2006, Royston 2006).

In her response Oldfield (2006a) supports Marx's efforts to show economic theories as socially constructed, as well as very powerful. She notes the multiplicity - and the heterogeneity - of the actors involved in this subject area, and suggests that this complexity requires thinking about networks and inter-dependencies. This enables a view which recognises agency - the power that people have (politically, socially) - and an understanding that markets reflect social relations and power relations. This offers the potential of an alternative way to think about the material stories of very different poor people, as well as the practices of the recognized, dominant systems.

Oldfield (2006) flags the need to contextualize the theories Marx discusses as part of a contested set of debates. She suggests that it would be useful to name the theories discussed more explicitly - 'for instance as neo-classical economics, in general, but as represented through particular debates in South Africa or elsewhere in different periods - and as one, albeit hegemonic, part of a broader debate' (2006:2). She notes that

at the other end of the theoretical spectrum, for example, theories of under-development explicitly challenge modernization arguments about growth, for this paper importantly representing the poor explicitly as the basis on which economic growth and capitalism generates itself - the poor in these accounts are productive but trapped in cycles of exploitation, subject to 'accumulation by dispossession' in assessments by Harvey and Bond and others' (2006:2).

She suggests that the argument needs to 'build from the body of work on the informal sector that challenges assumptions that the paper represents as mainstream and dominant' (2006:1)

Oldfield calls for a more direct link between the theories in the paper and 'a particular set of policies on land in poor areas' (2006:2). In response, Marx contends that the use

of the concepts are very real and material, extending from theory to research and urban development practice. Using the example of Durban, he argues that these assumptions have profoundly shaped the Long Term Development Framework of Durban and the allocation of resources therein.

Moving from general economic growth to a focus on household economic growth, Landman and Ntombela (2006) note the importance accorded to asset building in South African government discourse (such as the Breaking New Ground document) as well as in some international literature. They raise concern about urban development processes which prevent the poor from accumulating assets and are thereby seen to heighten vulnerability. Specifically the closing off of public space, and the contribution of this to spatial fragmentation and separation raises questions about 'the poor's ability to accumulate assets' (Landman and Ntombela 2006:8). Linking these ideas to notions of broader economic growth, Marx (2006) notes that theories of economic growth assume, inter alia, the importance of aggregate savings by households, but these are assumed to be by the non-poor as the poor are considered to have no ability to save.

Turning to other social dynamics around landholding Cross (2006) notes that in World Bank circles, property rights are seen to have a generally uplifting effect. It is generally assumed that the introduction of markets into shack areas, supported by an honest and effective bureaucracy, 'will exclude shacklords and patronage politics' (2006:4). However, some research notes how 'areas of informal housing tend to close themselves off effectively from the larger economy and polity' (ibid). Cross (2006) notes that institutional concerns are central to 'the problem of shacks' and that informal institutions are seen to be unhelpful and at times exploitative of the poor. Marx (2006a) highlights the importance of reflecting on the advantages and disadvantages of using *housing* as a proxy for land markets.

Comment raised in relation to the poor and the economy during discussion at the workshop on 15 November 2006 included whether shareholding in land investments should be considered: in other words, promoting the idea of the poor becoming investors in the existing land market, rather than only focusing on the poor possessing

land. It is acknowledged that a weakness of this approach is that it avoids threatening or restructuring the market too much.

2.1.2 Use of urban land by the poor

With regard to use of urban land by the poor Kihato and Berrisford (2006) flag the need to consider the motivations for involvement in urban land market among the poor, questioning whether 'the traditional benefits that accrue to those involved in the formal land markets do so similarly for the poor' (Kihato and Berrisford 2006:*)). This is important to understand as current regulatory systems are intended to maintain and improve (enhance) urban land as an investment, as traditionally understood. For example, there are a range of restrictions on use of land for income generation. These include the various regulations circumscribe the use of residential land for rental purposes, such as zoning regulations controlling density, height etc; regulations with respect to the proper and safe use of premises such as building regulations, health regulations; use zones with respect to what trading is allowed. The authors emphasise that in this mesh of regulations, control is the priority, with little emphasis on guidance and encouragement where appropriate (Kihato and Berrisford 2006). In addition, many regulations are 'legally questionable in the current constitutional dispensation' such evictions under building and standards regulations (Kihato and Berrisford 2006:18).

Taking a different angle on the use of urban land by the poor, Cross focuses on strategies of poor households in taking advantage of cheap living conditions. Noting that household sizes are shrinking in South Africa, she maintains that larger urban families falling apart under the internal strain of unemployment and are breaking up. In part this is linked to the social grants available to women and children. In situations where this is the only available source of income, this is contested by other family members causing the original beneficiary to split off from family, sometimes ending up in her own shack in a settlement (Cross 2006).

In addition Cross (2006) flags the widespread social changes with respect to youth expectations and gender roles, and highlights the increase in the number of single households and in women headed households in shack settlements. She notes that these are often 'weak' households, generally consisting of single women with 1 - 3

children. Noting that 'shack housing already provides significant rental housing she emphasizes that 'the single most important demand of migrant and mobile households is for immediate, very cheap housing' (Cross 2006:19), indicating that it is not clear how government will meet this need. On a related issue she notes that formal housing delivery by the state is impeded by institutional conflicts and local-level interest politics which 'will probably exert a serious drag on efforts to get ahead of the housing backlog' (Cross 2006:20).

Some of these very poor households Cross (2006) contends may not be able to exist even with social welfare grants, and even with these may not be able to cover the costs of a formal house. Cross suggests that city indigency policies '..cannot deal with the entire problem of unaffordable formal housing.....being formally housed depends on enough income in the family to cover linked expenses over and above the indigent service charges' (Cross 2006:1). Noting that the state's social welfare intervention programme for the poor has not been addressed to sustaining a formal house with its associated costs she concludes that ' these weak family units seemed to have little chance to improve their housing situation or climb out of poverty without direct government help' (Cross 2006:10).

Responding to a question on why RDP beneficiaries apparently do not see monetary value in their houses, Cross (2006a) highlights a Gauteng study indicating that 70% of RDP housing no longer occupied by original beneficiaries. She notes that people sell because they want the money , or because they can't afford costs associated with the housing. These include socially defined expenses such as clothes and lifestyle concerns. In his response Makhathini (2006 & 2006a) emphasizes that there are also other reasons apart from poverty why people are slipping back to shacks. Commenting on the state's buy-back scheme for RDP housing, Royston notes that it could be interesting to apply the concept to land and not just low-income housing (Royston 2006a).

Informal settlements offer one example of access to urban land outside of formal recognized systems. Royston makes the point that many local practices such as these 'exhibit degrees of regulation....enforceable because of their local, social legitimacy'

(Royston 2006:4 *). Smit cautions however that there are limitations associated with local practices, and cites Jenkins (2000) in noting that ‘informal practices work well when use value predominates, but are less effective when exchange values grow more important’, as the need for peace of mind with respect to honouring of commitments in transactions limits the range of people with whom households are able to transact (2006:2).

Royston advocates the use of the term ‘institutions’ rather than ‘markets’ as a means to strive for greater recognition of practices on the ground rather than privileging one institution (markets) over others (e.g. gifts). Smit supports this careful use of terminology, noting that ‘although many local land processes are market-like, many are clearly not’ (Smit 2006:1). In highlighting that there are a range of practices, Royston offers the notion of a continuum of informality of tenure as a heuristic device (Leap 2005 cited in Royston 2006), with more formal practices located at one end and more informal at the other end. In making a case for recognition of diverse practices, Royston suggests that this conceptualization can be applied to land transfers, and land access arrangements. Smit (2006:1) emphasizes the limited usefulness of dualities in this regard by noting that ‘formality and informality are often closely related and intertwined’.

2.1.3 Privatisation of public space

Further to the social and economic dynamics surrounding landlessness and landholding, Landman and Ntombela (2006) identify four aspects of current city trends in South Africa which together contribute to ‘a segregated approach to urban design’ (2006:*)). Privatisation of public space results in space characterised by division, gates and fences. This is exemplified by gated communities which transform public space into private space through physical boundaries. ‘The end result of the multiplication of these measures across the city is the creation of a fortress city’ (Landman and Ntombela 2006:7). This is in contrast to an integrated approach which ‘focuses on and celebrates the public realm’ (Landman and Ntombela 2006:6), through for example permeable boundaries, externalization of public facilities and amenities, and transitional space dealing with hierarchies of publicness. Whilst privatisation is a worldwide trend, in South Africa the effects are particularly acute because of the

segregated nature of cities historically. Although these may appear to be issues solely to do with the physical environment and urban design, the implications for social interaction and governance, are acute.

Kihato and Berrisford (2006) flag the need to examine the use of restrictive title deed conditions to create gated communities. They indicate that the impacts of these appear to affect governance of the wider sub-region: 'through restrictive conditions tied to land titles, a system of micro managed environments in suburban areas has emerged. In addition a number of provinces have given this legislative backing' (2006:17).

Landman and Ntombela also discuss enclosed neighbourhoods, which are *existing* neighbourhoods with 'controlled access through gates or booms across existing roads' (2006:7), with a limited number of controlled entrances/ exits. There are different models of operation of these in South Africa, including a public approach (where the local authority still responsible for maintenance of these areas); private approach (in which residents responsible for their maintenance), or a combination (Landman and Ntombela 2006). These different models have different implications for accessibility: if they are under public control 'all people have the right to enter the public spaces within this area, and provision should be made for them to be able to do so at all times (Landman 2006 cited in Landman and Ntombela 2006:7) in terms of the constitution.

Security villages refer to suburbs where the 'entire area has been developed by a private developer'. (Landman and Ntombela 2006). Roads are private, maintained and managed by private body. These are not only residential areas, and within residential other land uses e.g. commercial and or recreational may be found (Landman et al 2006).

In her response to Landman and Ntombela's paper Todes (2006) asks whether the authors are suggesting that gated communities should not be allowed at all, and to engage with whether this is in fact politically likely or feasible.

McCarthy maintains that worldwide, class differences and socio-spatial distancing is actually widening: South African trends in this regard are 'part of a process in which

higher income groups are prepared to pay considerable housing cost premiums in order to avoid the perceived negative externalities of exposure to the urban poor..’ (McCarthy 2006:3 *).

In her response to McCarthy’s paper Rust (2006) challenges the apparent acceptance of class segregation implicit in it. She also flags the need to consider the relative performance of residential and other land uses, and notes that this should not focus only on economic performance but also ecological and socio-economic performance, for example. She reiterates that the MMW4P approach is about changing the structure of the market and is therefore about more than subsidy. However Rust notes also that currently 15% of formal housing is RDP stock and agrees that it is important to consider how much land-hungry *new* stock will be needed in the future. This is important in light of the current trend in which the price of new housing and price of resale housing is coming together: the price of land has virtually doubled, while the cost of building that has increased by 50%.

2.1.4 Unequal power relations

The segregation of urban areas discussed above points to a concern about unequal power relations in the city. It is suggested that serious concerns should arise when the activities of certain (privileged) groups start to ‘affect the quality of life of other groups’ and ‘the quality of the broader urban environment’ (Landman and Ntombela 2006:2). Marx makes the point that existing power relations in the urban system are not acknowledged, with the result that approaches to making markets work for the poor ‘risk entrenching power relations and opening up new areas of poor people’s lives to new forms of exploitation’ (Marx 2006:17). This relates to Royston’s (2006) concern that interfering in current local practices of the poor without understanding these can be counter-productive for the poor. Royston also flags the need to be aware of, and engage with, the many area of conflict associated with urban land.

Smit (2006:6) cautions that

‘even if formal land registration and transfer processes are made more flexible and accessible and more suited to the needs of the urban poor, and the pro-poor functioning of the state and market institutions is enhanced, there would

still be many households who would remain unable to access land through the market'.....Households such as these, with no regular income from employment, will clearly require some form of State support in order to be able to access land and housing' (2006:6).

2.1.5 Prejudice/ NIMBY concerns

Landman and Ntombela (2006) note various reasons given in international literature for the privatization of public space by a dominant group, including concerns with order, control, predictability, comfort and sameness. They note that some of these reasons overlap with motivations typically found in South African situations, such as fears of crime, insecurity, and the desire to create identity. These attitudes seeks to exclude those 'who do not fit with their definition of order, comfort and security' (Landman and Ntombela 2006:10). Perceptions of who is acceptable to let in through the barriers often resulting in generalization and stereotyping.

McCarthy (2006) also flags the key importance of perceptions about crime. South African property market prices have been driven predominantly by local demand, including the growth of the black middle class, relatively low interest rates, a sustained period of national economic growth, and 'the perceived historical obsolescence of many areas regarded to be highly exposed to the under-classes and/ or crime' (McCarthy 2006:7). He further notes that the 'avoidance of crime and the emergence of new security complexes...has been the primary new demand force over the past ten years' (McCarthy 2006:7). As a result, he contends, land for low income housing 'was seen as not only uncompetitive in price terms with any other potential uses; but it was perceived as a potential 'negative externality' for two reasons - its potential impacts upon rates of price appreciation of other properties, and its potential for enhancing neighbourhood crime rates' (McCarthy 2006:7).

As a result the cost of land and building make the integration of low income housing into new developments unlikely (McCarthy 2006). McCarthy also suggests that the proposal by the Department of Housing that 20% of all new residential developments be targeted for low income housing will never deal with the scale of low income

housing required (where the need is for 5 low income dwellings for every 1 upmarket house, not the other way round), although it may be symbolically important.

2.2 The operation of the urban land market

While the first thematic area discussed above was concerned with social and economic dynamics, the second key thematic area focuses on the operation of the urban land market. This section considers the role of a thriving formal market, the relationship between urban land markets and economic growth, and access to land by the poor.

2.2.1 Role of thriving market at the formal, upper income end of the spectrum

McCarthy (2006) argues strongly for an approach which makes use of a thriving market in parts of the city. He cites the example of the northern corridor of Durban as being a 'cash-cow' in rates and taxes income for the metropolitan area as a whole, derived from commercial and higher income housing land use in the area. He cautions that one should not 'kill the rich, gated suburbs goose that lays the golden egg' (Dumisa 2005 cited in McCarthy 2006): the issue is rather how to use the 'golden egg' for the benefit of the poor (McCarthy 2006).

In areas where there are high land prices, he argues, a huge subsidy will be required to purchase for low-income housing (McCarthy 2006). In addition he advises against 'punishing' a successful property market with low income housing obligations, but suggests rather that revenues (and additional taxes if necessary) be used to subsidise housing for the poor (McCarthy 2006). He laments that some aspects of the current low-income housing policy direction to release land to the poor 'seemingly misunderstand market forces and therefore appear to operate in open defiance of market forces' (McCarthy 2006.*).

Commenting on this approach, Berrisford (2006a) cautions against exaggerating the size or likely endurance of the 'cash cow' of the upper-end of the property market. He notes that South Africa is coming out of a property boom, and suggests that in any event it is probably still the commercial and industrial properties that yield more income in rates.

Royston in her plea for a city-wide as well as a local focus also calls for a consideration of how the benefits of well functioning property markets in specific locations can be shared (Royston 2006). Landman and Ntombela (2006) note that some residents apparently privatize public space (for example in gated communities) for the financial advantage this offers in property values. On a similar note to other authors their question is whether property taxes inside these areas should in fact be increased.

Property tax is one form of value capture advocated by Brown-Luthango (2006). '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' (2006:5) by conversion of additional value into public revenues or through infrastructure developments to benefit the poor⁶. The idea is that value of land increases due to public investment as well (such as the installation of infrastructure), so the public should share benefits of increase in value. What is less clear is how the increase in value attributed to this means can be clearly identified. Other forms that value capture can take include for example land value taxation, either through site value rating (tax on the value of the land only), or a two-rate (composite system) (Brown-Luthango 2006). This tax it is argued also brings unused land close to the city into production (Brown-Luthango 2006).

One perspective is that part of the incredible property boom in South Africa in recent years has been due to the way in the state has intervened in managing the bottom end of the market, raising questions for what this means for notions of redistribution. In the Western Cape it has been noted that it is this boom that is really 'crowding in' public sector investment - in the wrong parts of the city from a pro-poor perspective. This is an under-researched area of investigation (Vawda 2006).

⁶ Rust (2006) highlights an interesting case study from Sri Lanka in which a community invaded valuable land, and then traded the value of the land to supplement costs of housing for residents: a form of value capture in reverse.

Whilst South Africa does have a history of property taxation it has been suggested that rates charged have been too low to allow substantial benefit (Brown-Luthango 2006). This is supported by De Groot (2006) who suggest that an international comparative perspective is needed with regard to rates charged. In addition, the New Property Rates Act (since 2004) levies a rate on the 'market value of the immovable improvements on a property' (Brown-Luthango 2006:*) , which has effectively done away with land value taxation. However there are calls from some researchers for a land value tax which it is argued could be politically and economically attractive, and was also one of the main recommendations of the National Land Summit 2005 (Brown-Luthango 2006). De Groot (2006) suggests that direct support to local governments is needed in reworking their property tax regimes and also flags the need to 'monitor and compare exactly what the various local governments are doing with their rates' (2006:2) . In a similar vein it might be important to consider ways of diversifying the income of city from a significant reliance on rates.

Another form of value capture is land leasing, in which the state retains ownership, and leases out the right to use, develop and transfer state land (Brown-Luthango 2006). In this way government retains opportunity to capture future increased land value, presumably through increased rents or sale. This is another mechanism which can be used in capturing surplus land value – that portion of the increased land value that is generated by changes in government land-value regulations, public investments in infrastructure, location advantages etc (Brown-Luthango 2006).

A further tool can be found in development levies, which is based on cost of being connected to services and infrastructure (like a connection charge) (Brown-Luthango 2006). Related to this is the notion of development gains levy, a tax on new property developments. An example is the United Kingdoms Planning Gain Supplement, which is levied on land on the basis that value of land increases once development permission has been granted (Brown-Luthango 2006). A zoning levy refers to payment for the specific use of a parcel of land. It is suggested that income from these various levies could be pooled at central government level and be redistributed to poor municipalities, although this approach would lessen the control of local authorities (Brown-Luthango 2006).

Incentive zoning allows a specific usage of land which has the potential to create value for a particular owner (Brown-Luthango 2006). Incentive zoning is used in many cities in the United States (US), where it has been legislated and received little opposition in terms of legitimacy. For example developers are offered zoning incentives such as a density bonus to allow more residential units, or extra building floor area, in return for certain benefits to the community such as parks, day care facilities etc (Brown-Luthango 2006). In the South African context for example: 'developers wishing to get zoning rights for the construction of a shopping mall or some other commercial property could get a rebate on a zoning levy in exchange for building a certain quota of affordable, medium density housing' (Brown-Luthango 2006:*)

Exactions are tools used in the US used to make developers to contribute towards the social costs of development. They are essentially conditions or financial obligations imposed on developers (in exchange for obtaining a development permit) which assist the local authority in providing public services. They can take various forms such as land donations, impact fees, or the financing of infrastructure (Brown-Luthango 2006). They force developers to consider the impact of a development on community and to compensate community by for example providing infrastructure, constructing affordable housing, sourcing local labour etc (Brown-Luthango 2006).

Todes asks whether the previous system of endowments (of land by developers for public facilities) is something that 'needs to be reintroduced or explored' (2006:2). This approach could presumably include consideration of other mechanisms used to direct private investment to public benefit, such as the example of Johannesburg's Apartheid Museum benefiting from its relationship to the adjacent Gold Reef City entertainment development. Tapela (2006:3) calls for a distinction to be made between those 'more market-led and responsive mechanisms' dealing with 'in-situ transfers of value' and those that 'are more amenable to state or community engagements'. Further he stresses that 'it is important to note that, as acknowledged in the paper, the implementation of value capture mechanisms does not ensure the equitable or developmental distribution thereof' (Tapela 2006:3)

Tapela (2006:2) notes that in order to implement a rights based approach the state must find 'ways to derive additional resources'. 'Central to this agenda is ..the need for more aggressive developmental state that has both the will and the capacity to reign in land and property markets in the creation of sustainable and inclusive urban and rural settlements'.

2.2.2 Urban land markets and economic growth

Marx (2006) makes the point that economic growth and urban land markets are perceived by researchers and policy makers to be closely related: growth is assumed to be the outcome of competitive urban land markets through an interrelated set of functions that urban land markets perform (Marx 2006). Specifically, economic growth is seen to depend on large-scale formal productive investments: 'from the perspective of local government planners, competitiveness is understood to depend on the incidence of advanced industries and land uses' (Marx 2006:4). Furthermore 'the efficient distribution of land uses relies on an efficient urban land market' (ibid).

The demand for land is understood to be derived from the demand for different economic activities, as different land uses have different potentials to contribute to economic growth. The land market encourages uses that will yield the highest residual land value; attempts to purchase for a lower intensity use lose out to those able to make a higher offer and 'as a consequence the market will be unable to work for the poor' (Marx 2006:*)). Policy makers, Marx contends are 'unlikely to be able to justify the allocation of productive land to poor people if poor people are not considered to be able to use the land productively' (Marx 2006:7). For Marx therefore, it is critical to challenge two dominant representations: one that 'urban land markets are deeply and fundamentally embedded in the functioning of the economy and its growth' (Marx 2006:20) and that markets are an efficient mechanism for the exchange of urban land. He contends that the task 'is to 're-place' markets in a different context rather than proposing to do away with either the term or the concept of 'markets' (Marx 2006:*)).

Marx (2006a) therefore suggests the need to see how urban land markets relate to networks rather than relate to productivity. He also argues that the supply of land is an investment rather than a cost.

2.2.3 Access to land by the poor

Earlier it was noted that Cross (2006) highlights the importance of access to cheap rental accommodation in urban areas. She maintains that the Department of Housing is working on 'an affordable rental programme for people in low-income brackets' (2006:8). She has confidence that government has 'anticipated most of the difficulties (in the housing programme) and is moving ahead on a broad front' (2006:9). However whilst Cross emphasizes the need for good location, fast access and tenure security, it is not clear how the blockages in this regard identified in the sector to date are to be overcome. Cross concedes that it is not easy to move new housing demand into the formal market quickly enough to avoid shacks. Royston notes that shacks, and informality more generally is a proxy indicator for the existence of local access arrangements' (2006:6) and notes that there has been a significant increase between 1996 - 2001 in the number of households living in shacks in informal settlements.

In his response Makhathini (2006 & 2006a) conceptualizes Cross's approach as an attack on poverty and on informality. He suggests that she advises on how to sharpen the 'weapon', how to go for the 'target', but also advises on the skills of the target in evading formalization. Makhathini (2006:1) refers to this as the 'skills of the poor communities in non compliance'. Whilst the paper is more about housing than about land, he notes the difficulty of talking about urban land without discussing housing.

In a similar vein to others (Kihato and Berrisford 2006, De Groot 2006) Makhathini (2006 & 2006a) highlights the need to engage with perceptions of the significance of land and housing in Africa, and flags that this has generally not been to do with seeing these goods as commodities. Value has been associated with things such as length of period of stay, sentimental value association with good memories, bad events that may have happened, and so on: 'it is these perceptions that **rended** land and housing in the hands of the poor to be dead capital' (2006:1).

Royston emphasizes that descriptions reveal that there is variety in the ways the poor access land, both between case studies in the South African and international literature, as well as within them over time. The scattered and partial evidence available to date suggests both positive and negative performance of these local

institutions for the poor (Royston 2006). Positive aspects include accessibility, adaptability, social legitimacy, whilst on the negative side these institutions – and the vulnerable populations they serve – are susceptible to exploitation of the rules. However there is little conclusive evidence about whether these institutions are functional and efficient (irrespective of whether they are markets or not). Royston therefore offers ‘an approach to determining the basis on which the institutions governing such transactions could be said to be functional for the poor or not’ (2006:11), using indicators such as⁷ whether tenure security is increasing, access to livelihoods is increasing and increasing ‘access to opportunities to build assets, enabling accumulation and longer term consolidation of assets’ (Moser 2006 cited in Royston 2006:12). This view would accord with Cross’s (2006) focus on the importance of a secure urban base in which to accumulate assets.

Royston also draws on Porteous (2004 cited in Royston 2006) to discuss indicators used to ascertain the existence of a market. She applies these indicators to a consideration of the ‘local rules of the game’ – local institutions – suggesting a range of criteria for assessment,⁸ including whether there are support organizations operational (including for conflict resolution) and whether the practice expands choice (although she notes that choice is a relative concept in exclusionary situations). Rust (2006) suggests the need for more exploration of local institutions *everywhere* (even in processes which lead to a formal end) – and particularly those which are available to the poor. Smit (2006) concurs that given the extent and depth of structural poverty in

⁷ Other indicators would include whether scale of supply of land is increasing, risks and costs of exchange are decreasing, equity is increasing, and disputes are being resolved (Royston 2006).

⁸ Other criteria in this regard are whether these institutions are accessible and appropriate for the poor (but these are slippery concepts), whether usage of the product by the poor is increasing over time, whether there are consumers, rules and procedures governing access and transfer and organizations which provide services in the market (Royston 2006).

South Africa the market will not work for everyone and redistribution of benefits of functioning market to the poor is an important mechanism.

2.2.4 International trends

Kihato and Berrisford (2006) note that international trends in making urban land available to the poor focus on tenure security to minimize the vulnerability of the urban poor, as well as a 'rights-based approach towards the spaces occupied by the urban poor' (2006:*)). They note that there has been less focus to date on the role of urban land markets in poverty alleviation. However the issue identified is that these formal markets are inadequate in assisting the poor to acquire 'well-located, affordable and adequately serviced land' (Kihato and Berrisford 2006:3). Emphasising the importance of learning from elsewhere De Groot notes that 'the situation in SA is not that different from post-independence Philippines, India, Zambia or any number of South American and other countries' (2006:1).

2.3 Formal regulatory and institutional frameworks

The third thematic area under which to organize material from the position papers is that of the regulatory and institutional frameworks.

Kihato and Berrisford (2006) note the uneven 'regulatory reach' of South Africa law over urban land, with the greatest extent of formal regulation being in areas of high land values. Regulation diminishes as land values decrease, with 'effectively no formal regulation in the former African townships and informal settlements' (2006:*)). They also make the point however that regulation is not the same as regulatory compliance.

With regard to access to land by the poor, Kihato and Berrisford (2006) highlight the influence of regulatory frameworks on the cost of acquisition of land, as well as costs related to ownership (e.g. maintenance and land taxes). In addition they flag other hurdles to acquisition, noting for example that the law can be used by 'better-off communities' as powerful tool to block integration with the poor: 'many of these laws previously served as protectors of racial spatial privilege but have found a new lease of life in the current era protecting high property values in certain areas, with the effect of pricing out socially driven development' (Kihato and Berrisford 2006:16).

Limitations in the land development system (such as fragmentation of processes, lack of coordination, divided institutional responsibility) necessitate a lengthy, focused follow through on the part of developers in order to achieve success. Frequently, however, it is under-capacitated state institutions which are responsible for leading these initiatives (Kihato and Berrisford 2006). Laws are highly procedural and technocratic, hindering activities on the land itself, thus limiting ability of landowners to maximize the use of their land...contrary to 'commitments to facilitate urban land development and densification' (Kihato and Berrisford 2006:*)). There are multiple town planning schemes in urban areas with different schemes, varying in complexity and sophistication, applying to different previous group areas (Kihato and Berrisford 2006). This results in administrative problems and, as noted, restricts attempts through which to translate strategic planning ideas in to 'day-to-day land use decisions' (Kihato and Berrisford 2006:*)).

Given this scenario, often the most 'realistic avenue for entry to the urban land market' by the urban poor is by informal land markets: 'the fact that there exists a parallel and unrecognized system that provides for a certain segment of society points at the inherent disadvantages created by the formal and regulated procedures. The role of the formal regulator frameworks in driving this system "underground" need to be better understood' (Kihato and Berrisford 2006:5). This point is reiterated by Smit (2006:2) who notes that 'the complexity and expensiveness of the formal system, and its inappropriateness for the needs of the urban poor, has resulted in local practices for the buying, selling, and allocation of land becoming increasingly prevalent' in 'formal' areas such as townships and subsidized housing project areas. Citing research in subsidized housing projects, as well as in formal mortgage bond properties to demonstrate the existence simultaneously of both formal and local practices (2006), Smit makes the point that these issues are real and immediate, not mere academic concerns (Smit 2006a).

Kihato and Berrisford highlight the need to investigate ways of incorporating this (informal) system within the ambit of 'recognised procedures' without destroying its 'inherent advantages' (2006:5). Smit suggests that 'reforming the formal legal system

to accommodate some of the principles and the values of local practices' (2006:4) includes, for example,

'ensuring that the formal system provides forms of tenure that are appropriate for, and affordable by the urban poor; ensuring security of tenure for all members of the household; and ensuring that land registration and transfer processes are accessible by the poor (both in terms of cost and location)' (2006:4).

One example of this could be through a decentralized municipal office where property transfer could be registered (Smit 2006:6). He notes that it has 'become increasingly clear that formal systems need to be changed in order to accommodate greater integration of local practices' (2006:3). An example of this is the concept of 'family ownership' which challenges 'the emphasis on the individual in our inherited formal legal system' (2006:5)

With regard to urban land transactions, these are strictly regulated by statute in the formal sector. There is a high degree of certainty with respect to ownership but as it is a specialized field of law and other professions, the expense of it is a substantial hurdle to the acquisition of urban land (Kihato and Berrisford 2006). As noted the Deeds registration system is overwhelmed by large numbers of state subsidized low-income housing (RDP housing), with the result that many new home owners are effectively unregistered (Kihato and Berrisford 2006). Processes and procedures for transferring land are based on a European derived model and system, and are complex, expensive, and time-consuming. Some of the opinion with respect to these systems in Africa is that they are 'ill-suited for the realities of urban land regimes that intermingle common property and traditional regimes with other informal and pragmatic practices as a response to the needs of the urban poor' (Kihato and Berrisford 2006:24). Smit cites Durand-Lasserve in noting that conferring real rights of ownership is costly, slow and involved, and that the emphasis should be on ensuring that the right to occupy land for housing 'can be converted into a real right if the household needs it (for selling, inheritance reasons, investment projects or to mortgage the property' (Durand-Lasserve 1999:13 cited in Smit 2006:4).

Tapela (2006a) notes that internationally there are contestations with respect to the role of planning and development law, with for example one perspective being an approach which protects private property. He contends that in South Africa the tendency (in the Constitution and elsewhere) is to go towards laws for public good, whilst in practice things have rather favoured the private sector.

Van der Brink notes that in the World Bank circles there is no expectation that land markets will transfer from rich to poor or that they will increase productivity (Van der Brink 2006). It is understood that the price of land in the market reflects two things: the income stream created from land based activities and the value of the land as an asset. As the poor can typically only afford to pay the present value of the income stream they will be outbid in the land market by the rich. The implication of this is the need to remove all distortions favouring the rich, a number of which are evident in the South African legislative and regulatory system. Well developed mortgage markets as are found in the USA could go some way to overcoming the lack of access to credit by the poor, but in South Africa these markets do not exist (Van der Brink 2006).

Subsidies for the poor are also needed, as well as a land tax (a tax on value of land, not the investments on it). As noted the new Property Rates act does away with a land tax, leaving municipalities in a difficult situation. A key focus area for Urban LandMark therefore could be providing assistance in the development of alternative rates systems for municipalities.

Van der Brink (2006) points out that the World Bank does not have a policy on land titling. Two conditions have been identified for this to work: firstly land needs to be scarce to be valuable and worth titling. If this scarcity exists there probably is already a land market. Van der Brink notes that most benefits of title come from better access to credit, not better security. He argues that there is a weaker case for titling programmes where land values are low, and where banking systems are not in place (these are unlikely to evolve because of titling). A poorly executed titling system, he suggests, has dangers.

Berrisford (2006a) asks what the meaning is for the poor, and for South African cities, of the World Bank lesson that the success of titling programmes are in areas of highest value. This suggests an almost 'inevitable lack of access to the market'.

In response Van der Brink (2006) notes that full titling programmes can be seen as the 'Rolls Royce' of secure tenure initiatives, and that lesser vehicles can function very well. He asks whether it is possible to upgrade current informal practice to at least become more transparent in the areas in which they are working, and thereafter make the step to formal systems. This, he argues, is the key question. A possible precedent can be found in the Thailand example, but it should be noted that success there is the result of a very long process – 20 years at least. South Africa, he notes, has not even made a start in this regard, with, he contends 4 -5 land invasions a day currently occurring in all major cities in South Africa.

Royston (2006a) notes an important aspects of the World Bank experience: the importance of security of tenure and the fact that this is not direct linked to title either in low value or high value areas. This shifts the focus on to what makes or constitutes 'security'. She suggests that there is some available information on this but that this is an issue needing to be explored: how can security be improved without going the title route?

2.4 Physical spatial and environmental aspects

The fourth thematic area of engagement focuses on the physical, spatial and environmental aspects.

2.4.1 Geography/ spatiality of poverty and economic growth

Marx contends that understandings of the spatiality of poor peoples' economic activities within dominant economic theories reinforce the view that poor people are unable to contribute to economic growth (Marx 2006:13). There is an assumption that to contribute to economic growth an activity must be well located relative to overall location of dominant economic activity, and that success depends on physical concentration and proximity. As things outside this spatially are seen to have little chance to contribute to economic growth, attention focuses on areas of existing econ

activity, thereby marginalizing other areas (Marx 2006). However he contends that some SA studies show that the economic activities of poor people go beyond the spatial boundaries around poverty assumed by policy makers (Marx 2006).

In cities, policy makers assume that poor peoples' activities are confined to certain parts of the city, tending to overlap with those parts assumed not to contribute to economic growth (Marx 2006). Conversely a concern with the physical conditions of settlements where poor people live often 'translates poverty reduction strategies into the provision and upgrading of public infrastructure'. Marx (2006) argues that this results in poverty being seen to be spatially confined to informal settlements and slums, for example, with basic needs theory suggesting the 'conflation' between poverty alleviation and infrastructure provision. There is a danger that 'an assumption of poverty as spatially confined in urban areas will lead to a view that the locus of making urban land markets work for the poor is to be found in informal settlements and other marginal areas occupied by poor people' (Marx 2006:16).

Landman and Ntombela (2006) note that changes in urban form through gated developments and the like serve to make the poor more vulnerable rather than to integrate them, through impacting on the poor's access to land and opportunities. They also note the poor's lack of access to well-developed public spaces 'in their own neighbourhoods', which also demonstrates that 'the quality of the public space system is also linked to social and economic opportunities' (Landman et al 2006:14).

Tapela (2006) comments that planned low income housing settlements generally remain much lower density than informal settlements and old townships, and that Brown-Luthango's paper (2006) 'implicitly suggests that the reasons for this include to a continued reliance on conventional infrastructure (engineering standards) and planning (layouts, erven size and form, location and land) assumptions and principles' (2006:2).

2.4.2 South African city trends

Landman and Ntombela (2006) note that the emerging South African city is based on four components. The first of these is a spatial system which 'organizes the urban

population according to income groups based on separate neighbourhood cells' (2006:5). These are well developed for the rich and under-developed for the poor, with resultant inefficiencies in land use, transport and so on. The second component is the urban system of governance which is based on 'perforated sovereignty and multiple points of influence' (2006:5) such as strong Home Owners Associations which constitute private micro-governments. This can contribute to institutional fragmentation and detrimentally affect metropolitan local government, as well as create problems for urban management and maintenance (e.g. road maintenance and traffic congestion). It should be noted that in her commentary Todes queries whether the 'argument of the power of Home Owners Associations and its implications for fragmenting local government really apply in SA' (2006:2).

The third component is a system of urban service provision 'that severely disadvantages the poor and benefits those that have access to various forms of 'privatised' urban space, services and facilities, often still maintained by the local government' (Landman and Ntombela 2006:6). The fourth component is a housing delivery system which is distorted between low-income housing with limited secondary value, and developer-driven middle and high income housing, where prices are shaped by various kinds of gated communities with negative externalities. This perpetuates a housing-driven settlement planning process (Landman and Ntombela 2006). McCarthy (2006) on the other hand doesn't take issue with the residential property market *per se*. As noted he sees value in the residential filtering currently occurring in some areas. This supply drive for upper middle income creates space for lower-middle opportunity, as, for example, new office developments in suburbs open up former office blocks for low cost apartments in the CBD. McCarthy contends that this might be 'the principal land market dynamic of the 21C in South African cities' (2006:8).

2.5 Values and normative issues

A fifth thematic area touched on by some of the papers relates to underlying normative issues and values, and the way in which these impact on attitudes to, as well as practical instruments for, making urban land markets work for the poor.

Kihato and Berrisford (2006) flag that the regulatory framework of South Africa is rooted in the apartheid era with the result that these kinds of laws are 'neither ideologically nor economically neutral' (*): 'They shape the social, financial and political values of urban land and they influence directly the extent to which households ...are able to realize the financial value held in their largest single investment, their homes' (Kihato and Berrisford 2006:3). Kihato and Berrisford comment that the imperative is to focus on mechanisms for a 'more efficient, more just and more inclusive system' (2006:5).

Napier and Ntombela (2006) note that the assumption that the urban poor *should* get access to well located urban land, is not universally held. They note that

'In most government departments and agencies, amongst design professionals (i.e. planners, urban designers, architects, and geographers), development-oriented NGOs and CBOs, and the social sciences of academia, the normative position that there should be access for the poor to better location in cities and towns, as a matter of better practice, is mostly uncontested. This is based on the assertion that through accessing better urban location for the poor there will be greater chance of improvement in living and working conditions, greater participation in a variety of markets, and therefore ultimately some measure of upward social and economic mobility. It is also based upon the assumption that a sprawling city with the poorest living at the furthest periphery is both unjust and inefficient. This normative position is not automatically shared by property developers and land owners (small and large). It is also not automatically shared by the property divisions of municipalities and parastatal organisations for whom the sale of land in their possession represents much needed revenue.'

(Napier and Ntombela 2006)

Landman and Ntombela contend that a 'city should have a series of well-developed public places open to all law abiding citizens, whether they are poor or not' (2006:17). 'The debate around the access to urban land should therefore not only refer to access to private land and therefore property rights for the poor, but should also be

extending to promote access to public (state owned) land for the use (for trade, recreation, play, congregation etc) of all urban residents including the poor' (2006:17).

Royston calls attention to the 'privileging' of the formal system over any other. She highlights the problem of terminology, which tends to polarize descriptions of reality which are in practice more complicated (by for example contrasting terms such as 'formal' with 'informal'). She contends that this tends to privilege formal over informal; with informal suggestive of 'disorganized, chaotic, anarchic "other"'. This is indicative of a false polarisation of an issue more appropriately represented as a continuum (Royston 2006). Terms such as 'legal' and 'extra legal' (meaning operating 'outside of the law', which differs from illegal) are more helpful, but her concern is that these terms imply that solution lies in legislation (Leap 2004 cited in Royston 2006). In making a case for alternative terminology Royston (2006) offers the term 'local' institutions is suggested in preference to informal land markets: as this avoids a polarization of problem, highlights diversity (as it focuses on one practice at one place at one time), and doesn't assume local practice disorganized etc

2.6 Inequality

Landman and Ntombela (2006) flag three dimensions of privatization which are related to widening inequalities in SA. These include the physical gap, manifested as restricted access and physically separated neighbourhoods, in which some are more affected by others e.g. cyclists, walkers. Their concern is also that social space for interaction between groups is also thereby limited, seen to be 'a prerequisite for social cohesion and tolerance' (Landman and Ntombela 2006:15). The institutional gap that results from the strong management through Home Owners Associations (HOS) may have several consequences: it either ignores local government, resulting in the privatization of local government functions and possibly resulting in reduced participation and a 'loss of citizenship' which 'affects the efficiency of metropolitan governance' (2006:*)); or alternatively HOS's challenges local authorities and demands certain services. This influences the 'distribution of scarce resources in cities' (2006:*) with huge implications for access to sustainable livelihoods assets by the poor.

The market gap reinforces property price discrepancies between insiders and outsiders, contribute to the creation of large gap between affordable housing and insiders of privileged estates (Landman and Ntombela 2006). As noted however, McCarthy (2006) contends that South Africa is less exceptional in world terms these days in one aspect of this, and that class segregation is seen as part of ‘normal’ world experience.

Conclusion

The positions discussed above reveal a wealth of diverse and complex material. In brief summary, the seven commissioned position papers suggest that making urban land markets work for the poor in South Africa involves one or more of the following diverse but potentially complementary broad approaches:

Firstly, *intervening in a range of existing thriving market practices* which have overtly or potentially negative consequences for the poor by:

- Curtailing existing upmarket practices which have direct negative impacts on the poor, such as the creation of enclosed neighbourhoods and gated communities (Landman and Ntombela 2006).
- Imposing obligations on existing thriving market activities, such as introducing additional taxes on new upmarket residential and commercial practices (Brown-Luthango 2006, Royston 2006).
 - It should be noted that these first two positions are however, not necessarily favoured by McCarthy (2006) who might view these as ‘punishing’ market performance.

Secondly, *encouraging practices which benefit the poor* by:

- Providing incentives for upmarket developments to have a pro-poor spinoff (e.g. planning rights in exchange for public contributions or interventions) (Brown-Luthango 2006, aspects of McCarthy 2006).
- Promoting active public spaces of engagement which are accessible and attractive across class and income profiles (Landman and Ntombela 2006).

- Consolidating and reinforcing the potential both to perform in the formal market place, and to provide a site of asset accumulation of property delivered in terms of the national state housing programme (Cross 2006).

Thirdly, *engaging with practices of the poor* in different ways by:

- Acknowledging, understanding and assessing existing local practices with a view to intervening in ways that are supportive to the poor (Royston 2006, Kihato and Berrisford 2006).
- Acknowledging and exploring alternative conceptualizations of the relationship between the poor and the economy (Marx 2006).

Fourthly, *intervening in the 'rules of the game'*⁹ by

- Altering, reforming and streamlining recognized land management procedures and regulations (Kihato and Berrisford 2006, Royston 2006). It has been noted that a key potential area of engagement for Urban LandMark in this regard is in persuading law makers of the need for reform and in prioritizing areas where it is most needed.

A range of additional commentaries and perspectives have been added to this by the invited respondents as well as participants in the 15 November 2006 workshop. Through this it has become apparent that a number of other key issues need to be engaged with in a consideration of what it means to make urban land markets work for the poor. These include the following:

- A more explicit consideration of what the role of government in its various forms is in both shaping and intervening in the market. Critically this includes the need to focus on the relationship between the Urban LandMark project and the state. In this regard Vawda (2006) notes the importance of identifying firstly what the substantive content needs to be in making urban land markets work for the poor, and secondly what actions, interventions and approaches this implies. This latter aspect of the discussion is under-developed. In this regard

⁹ (DFID 2005:9)

Vawda flags the need for clarity on the nature of the engagement with the state – in which departments are partners from the state to be sourced?. He notes the institutional ‘thinness’ that exists in South Africa and the need to be focused on what the project can offer on, for example, the difference between policy intent and institutional capacity, the issue of resources and constitutional obligations, and the values that the project is wanting to reinforce. Vawda notes that the most successful organizations from a developmental perspective have been those rooted in a particular set of networks and hierarchies, such as the Cato Manor Development Association or the Johannesburg Housing Company. At the workshop on 15 November 2006 an official from the Western Cape Provincial Government noted that within the state there are debates about the purpose and role of public land, and the disposal of this. The challenge currently is in negotiating between departments who have different departure points about the function of such land. An official from the Department of Housing queried how and in what way the state should be involved. Whilst various position papers discuss the state, it is not always clear which department or sphere of government is referred to, and who should take the lead in ideas presented¹⁰.

- The link between property values and rates income for local authorities. This would explore aspects of the underlying logics or rationales *for the state* of the financial value of land in urban settings, and the link between this and systems of land and urban management at the heart of local government. This takes further issues of ideology noted by some of the papers, and probes at a deeper level some of the assumptions behind the notion of property ownership. It would build on themes identified in certain papers, such as exploring the ‘meanings’ associated with land possession for the poor in urban areas in contemporary South Africa, and the beliefs which underpin the various components of the formal system of property ownership. The significance of this work would be in revealing the extent of commonality and difference in

¹⁰ It was noted that so far the discussion initiated by Urban LandMark has not secured the participation of various key national departments such as Land Affairs, Treasury, the Presidency etc.

approach of both users of property and components of the state which support the formal system, and what this means in the context of a market dominated property and economic system.

- What rights there are to access and how these have been interpreted in the legal system in SA. Vawda (2006) notes that since the landmark Grootboom judgement in 2001*, there have been approximately 38 related court judgements on land and housing. Landman and Ntombela note that 'in extreme cases, restricted access (to gated communities) may also lead to the violation of human rights, especially when potential visitors are denied access based on their appearance' (2006:12). They note that the Human Rights Commission does not support the use of boom gates and gated communities. There have been a variety of other judgements and legal matters which need to be explored in this regard, such as orders against the eviction of poor, unlawful occupants of inner city buildings, as well as other legal cases involving land and building occupations. As well as interrogating the patterns of legal engagement around this issue, there might also be a case for supporting a legal challenge, around for example a NIMBY contestation, which could then provoke a constitutional interpretation.
- A perspective which focuses on land economics in the current South African context - what Napier (2006) refers to rigorously mapping the land market of South African cities. Napier (2006) notes that 'the exact impact of land speculation vis-à-vis the poor's attempts to secure a place in the city is.. a big unknown'. Related to this Rust (2006) noted that nothing has been said about the Property Charter, which doesn't include access to land as an issue. This could be a key advocacy issue given that, for example, the Financial Services charter has been incredibly important.
- Perceptions of 'the place of the poor' in urban areas. This includes both a focus on who is assumed or viewed as having 'entitlement' to reside and own property in which parts of the city, but it also suggests a much deeper engagement with the role and use of public space. The importance of this is in extending the

consideration of urban land markets for the poor beyond the residential realm and into the realm of public interaction, communal space and the function and value of civic place. It would delve into the manner in which various uses of public space, and particular users of such spaces, are constructed, constrained, facilitated and controlled, and the effect of this on access to land by the poor.

- Use of the city by various ‘segments’ of the poor. This acknowledges the heterogeneity of ‘the poor’ identified in several documents and aims for a more nuanced understanding of the interactions between people and land in urban areas. In this regard it was noted by an official from the Mogale City Housing Dept that little has been said on patterns of access by the poor, and what this might suggest for the activities of local government. He cited the example of a Muldersdrift case in which government has tried to assist a community to access land but has made no progress. He also emphasized the need to understand how poor people perceive the value of land, in for example thinking about whether people in informal settlements should be encouraged to transfer property through government. He noted that many of these people are very mobile and need to get in and out of land cheaply and easily. Napier (2006) notes that there is not empirical clarity on how informal exchanges of land work, nor their frequency, and that there is Urban LandMark-commissioned work currently exploring this dimension.

The points noted above do not imply an exclusive focus on research for the Urban LandMark programme but rather a range of activities, as noted earlier in this document. These include the facilitating public discussion to bring certain issues into the forefront of the consciousness of key players in the urban realm, mediating between actors grappling with specific flashpoints, supporting research work and demonstration projects in particular local contexts, and supporting a engagement with land legal reforms. These, it is suggested, can contribute to the formulation of a ‘mediated position on what it means to make urban land markets work for the poor in South Africa’.

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