



# Urban LandMark

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## **INTERNATIONAL LAND BANKING PRACTICES: CONSIDERATIONS FOR GAUTENG PROVINCE**

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## **1. Introduction**

Gauteng is South Africa's smallest and most urban province. It is estimated that currently 9.5 million people live in Gauteng and that the number grows by approximately 3.8 % per annum. It is projected that by 2015, there will be 14.6 million people residing in Gauteng (GPGa, 2006: 6). The province has experienced steady economic growth in the past decade, but it continues to suffer problems of poverty and inequality. In-migration is increasing and creating great pressure on an already heavily populated province. As a result, land in Gauteng is at a premium. Land is a limited resource and one that is growing in cost. Moreover, land available for low-income housing is becoming increasingly scarce. In response to this, the Gauteng Department of Housing: Policy and Strategy is investigating the viability of land banking as a tool for ensuring that land in Gauteng remains an available and affordable resource for the future.

The Gauteng Growth and Development Strategy has a clear vision for Gauteng Province in the long term namely that 'by 2020 Gauteng will be an economically productive, socially just, globally competitive region that manages and utilises resources sustainably' (GPGb, 2006:8). Unless housing issues in the province are addressed, the economic, social and environmental objectives of the strategy will not materialise. The status of urban land is clearly one that is relevant to this vision. The challenge for Gauteng Province is how to manage this limited resource in a sustainable and equitable way and to preserve it for future generations. It is within this context that the possibility of land banking in Gauteng has been raised. The availability of land is closely tied in with the vision of creating sustainable human settlements. One of the

most critical questions is how to source and secure land for low income housing in localities that are optimally positioned in a sustainable way.

The Gauteng Global Competitive City-region strategy also speaks to the importance of land. It isolates the internal imbalances within the province as a potential constraint to future economic growth. In the strategy, it is argued that 'the most urgent issue – apart from creating a non-racial urban context and providing acceptable residential alternatives and employment for some two million informal settlement residents – is to create a more compact urban region' (GPGa, 2006: 25). Creating a compact urban form requires the provincial government to have significant influence over land use in the province. Historically and currently, Gauteng's urban poor are marginalised socially, economically and spatially. The urban poor continue to be thrust onto peripheral land located vast distances from economic opportunities. Strategically located and sought-after land remains the preserve of those who can afford it. Dealing with these spatial disparities is one of the greatest challenges facing South Africa. This is no more critical than in an urban province such as Gauteng which has an inadequate quantity of land and housing available.

Land banking was identified as an area of interest for the Gauteng Department of Housing in 2006. Given the difficulties in accessing suitable land for affordable housing in Gauteng, land banking is one approach for addressing the locational disadvantage often associated with low-cost housing. There is currently a national Department of Land Affairs and Department of Housing plan to create a special purpose vehicle for land acquisition, management and development. Therefore any

suggestions made in this paper will be subject to the national process already under way (Ensor and Musgrave, 2007: 18).

### ***1.1 Structure of the Report***

A myriad of strategies for sourcing well located land for housing has been proposed locally and internationally. The dilemma of a growing urban population coupled with a limited supply of land confronts most major urban centres internationally – in both developing and developed countries. Traditional methods of securing land, both public and private, such as land nationalisation or the regulation of the private sector have not been successful in most instances. Public authorities have not managed to deliver land and housing at the required scale on their own (Payne, 1998: 6). Current trends suggest that a partnership between public authorities and the private sector is the best way to secure well located affordable housing (Payne, 1998).

There are a number of state-managed strategies for acquiring land for affordable housing. These include:

- ‘Making publicly owned land available
- Use of eminent domain to obtain private land
- Subjecting land to social use requirements
- Land banking
- Controlling price – price control, speculation tax
- Progressive real property tax
- Legislative security of occupancy on squatted land
- Control land-use through planning and zoning to avoid wasteful or environmentally detrimental uses’ (Marcuse, 2006: 3).

Amongst those strategies, land banking is one where governments acquire land cheaply and hold it for future housing developments. Land banking in the 1960s was viewed as an important mechanism through which public authorities could control urban development (Alexander, 2005: 26). But this idea has largely been discarded in recent times in favour of land banking as an instrument for urban renewal. Contemporary documented practice on land banking is primarily based on the experiences of the United States of America (USA).

The objective of this study is to offer an overview of land banking internationally with a view to providing information for determining its feasibility in the context of Gauteng. Given the legal, institutional and financial complexities that are implicit in a practice such as land banking, this paper will outline some of the basic tenets of land banking as it functions internationally as a starting point for a more detailed analysis of its viability in the local milieu. Land banking is most often discussed in conjunction with an institutional entity such as Land Banks or Community Land Trusts. Therefore, some attention will be paid in this paper to Land Banks and Community Land Trusts and their role in the acquisition, management and development of land.

This study has been commissioned by the Urban LandMark, a DFID funded programme, and the Gauteng Department of Housing: Policy and Strategy. This paper will provide an introductory overview of land banking. Specifically, the paper is divided into 6 sections.

- Section 1 introduces the paper.
- Section 2 outlines definitions of land banking.
- Section 3 investigates the practice of land banking in an international context.

- Section 4 looks at best practice in land banking and land banks.
- Section 5 presents a conclusion.

Given that land banking is not generally practiced by the state in South Africa, this background paper is based on secondary data. The intention of the piece is to be informative and not to be a policy document. Each of the themes will contribute towards generating an overview of land banking that will provide a background for a more comprehensive and specific study on how exclusively to use land banking as a pro-poor instrument.

## **2. What is Land Banking?**

There is no one single definition of land banking. The land banking concept can be applied in a variety of different ways depending on the context and whether it is applied by the private sector or public sector. Land banking is not only a tool for public authorities it is also used by private investors speculating on land value as a profit-making endeavour. Land banking in the context of the public sector in developed countries is most often discussed as a strategy for dealing with:

- a) Urban renewal;
- b) Preserving open spaces; and
- c) Stabilising property and land values in a particular area (Cleveland State University, 2005: 17)

Technically, land banking is the practice of purchasing land with the intent to hold onto it until such time as it is useful or profitable to release the land for housing or other purposes (compare [http://en.wikipedia.org/wiki/Land\\_Banking](http://en.wikipedia.org/wiki/Land_Banking)).

Land banking in developing countries is a concept most often associated with accessing land for public purposes such as for housing, managing land markets and directing land speculation. A more appropriate definition of land banking and one that which seems more fitted for developing countries is presented below:

‘Land banking implies that government acquires land in advance of needs. The main advantages are that it allows the purchase of land, relatively cheaply, for public purposes and provides a tool to influence the pattern of development in accordance to overall planning objectives’ (UNESCAP, 1993).

The guiding principles of land banking in developing countries are as follows:

- ‘To improve access of the poor and other specific target groups to land
- To support the implementation of urban development projects
- To reduce inflation in land prices and reduce land speculation
- To promote public/private partnerships
- To improve the land tenure structure’ (GTZ, 1998: 1)

Land banking is also an option for commercial and industrial projects. The West Bengal government recently created West Bengal Land Holdings which will purchase land for special economic zones (Ghosal, 2006: 1). In this instance, a public authority is using land banking as an instrument for economic growth. In a private sector context, land banking is associated with the purchase of land for investment purposes and land speculation. This practice is common in many countries ranging from India to the United Kingdom.



### 3. The Practice of Land Banking

Why have governments embarked on a land banking programme rather than using other mechanisms for addressing urban land and housing needs? Lichfield<sup>1</sup> (1965) contends that successful land banking is able to ensure:

- a) Allocative efficiency, and
- b) Distributive equity

In many developing countries access to land is a highly politicised and emotive issue. While governments have policies whose objectives are to ensure that land is distributed equitably, these objectives remain largely unrealised. Land banking is underpinned by the belief that if government has access to a valuable pool of land, they will be a responsible custodian of this resource and allocate it more equitably than if left to the market. In principle this could be the case, but only in instances where the technical and legal processes of land banking are effectively managed and where there is an ongoing commitment to equity. Land banking practices in Chile, India and Turkey have not been successful at delivering land to the poor primarily due to a lack of finance (Rivkin cited in Shisaka Development Management Services, 2003:5).

There are at least three fundamental actions to land banking namely:

- a) Land acquisition

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<sup>1</sup> Cited in United Nations Economic and Social Commission for Asia and the Pacific (1993) Municipal Land Management in Asia: A Comparative Study.

[www.unescap.org/huset/m\\_land/toc](http://www.unescap.org/huset/m_land/toc)

- b) Land management
- c) Land development

Achieving efficiencies in every one of these actions determines whether land banking objectives are met. It is most often a delayed and expensive land acquisition process that undermines the objectives of land banking. Given the technical and legal nature of each of these steps, structuring the appropriate managing entity is crucial. What is required is an entity that has the authority to acquire, assemble and manage the development of large parcels of land.

In most instances land banking is managed through an independent body such as a Land Bank or Community Land Trusts (CLT). Community Land Trusts are often the vehicle used in instances where the objective of land banking is the pursuit of affordable housing.

### ***3.1.1 Land Acquisition***

The land acquisition process for land banking is critical. If government entities wish to acquire and hold land, they need to purchase it first. International land banking practice has occurred in situations where the public sector has been able to purchase land cheaply. Given the scale of land purchase for land banking, managing the cost of land is vital.

Public sector land acquisition can happen in a number of different ways. Berrisford et al (2003) contend that there are various methods of acquiring land and they list these methods as follows:

- 'Compulsory acquisition (or expropriation)
- Government purchase in the open market
- Developer purchase in the open market
- Statutory purchase in the open market
- Developer with delegated power of compulsory acquisition
- Statutory authority with power of compulsory acquisition
- Public private partnerships, for instance land pooling/re-adjustment' (Berrisford et al, 2003: 20).

In South Africa, expropriation procedures are governed by the Expropriation Act. It has been proposed by the National Department of Land Affairs that the existing Expropriation Act be amended so that negotiations with land owners for acquisition will be reduced to six months. In addition, the reason for expropriation will be extended from 'public purpose' to 'in the public interest' – a broader definition (Ensor and Musgrave, 2007). But expropriation can be a politically difficult issue and although it is less expensive than purchasing land on the open market, land is still purchased at a market related price.

At a municipal level, local authorities are equally able to land swap and purchase land for municipal purposes. Municipalities can also use expropriation as a means of acquiring land. In addition, they are in a position to use property tax or service arrears as a means of leverage for land acquisition. This is common practice in the USA for minimising the costs associated with acquiring land.

### ***3.1.2 Land Management***

The management of large parcels of land over a long time period requires considerable resources. Maintenance and security issues are vital especially in locations where land is in prime position for economic, transportation and social opportunities. Alexander (2005) recommends that land banking should have a specific geographical focus and that land is purchased for the purposes of productive re-use.

### ***3.1.3 Land Development***

One of the core functions of land banks is managing the redevelopment of the parcels of land. The land can be transferred to private developers or non-profit organisations. However as public entities, they need to ensure when redevelopment does happen, it does so within the interests of the local community and according to their strategic objectives. Historically in a South African context, government has had limited success in negotiating with private developers and at a municipal level have sold off land to developers without in all instances evaluating the strategic benefits of doing so. Internationally, the redevelopment of land for the urban poor has not been financially viable and it is here that the urban poor lose access. This has been the case in India and Colombia and is discussed later.

## **3.2 Institutional Possibilities**

### ***3.2.1 Land Banks***

Urban Land Banks have been used as instruments for accessing, holding and managing urban land. In many countries land banks are nationally based and often operate primarily in rural areas. Their mandate is to provide finance for the agricultural sector.

Given that Gauteng is urban, the needs of the province are more aligned with what urban land banks can offer. Urban land banks are specific agencies directly tasked with the acquisition of land for housing development, urban development and the preservation of open spaces. Urban land banks in the USA have specific legal status that empowers them to acquire land through procedures such as property tax foreclosure, donations and eminent domain (or expropriation). Although the pre-eminent aim of urban land banks in the USA is to revitalise urban neighbourhoods through redevelopment, they can also be used as a method for securing affordable housing in established neighbourhoods (Alexander, 2005: 4). While the concern in this paper is the utility of land banking for securing land for housing and other public purposes, the overall international principles for land banking can be applied in the context of Gauteng.

The term 'Land Bank' is used in the USA to describe 'a governmental entity that focuses on the conversion of vacant, abandoned and tax-delinquent properties into productive use' (Alexander, 2005: 9). Furthermore, the utility of land banks is as follows:

'By using the legal tools a land bank provides, a community can ensure that tax-foreclosed property is sold or developed with the long-term interest of the community and surrounding property owners in mind' (Alexander, 2005: 4)

Urban Land Banks are very much a phenomenon of the USA. Introduced as a mechanism for state intervention in urban regeneration and the management of neighbourhoods in decline, many Land Banks have provided an innovative mechanism for dealing with urban sprawl and decline. It appears that the USA has the most

experience with land banking. Within the USA, there are a number of Land Banks and those considered to be the most successful include the City of Cleveland, Flint, Michigan, Baltimore, Philadelphia, St Louis and Atlanta (Cleveland State University, 2005: 5). The majority of Land Banks have as their key objective the promotion of neighbourhood revitalisation through the reutilisation of abandoned and derelict buildings.

### ***3.2.2 Community Land Trusts (CLTs)***

Community Land Trusts (CLTs) are 'local, regional, state-wide or national organizations that protect lands that have natural, ecological, recreational, scenic, historic or productive value' (City of Miami, 2005: 4). Land Trusts are commonly associated with land practices in the USA and in this context they also acquire, manage and protect land (City of Miami, 2005: 4). According to Tom Peterson, Community Land Trusts in particular are concerned with housing and community development issues. CLTs own land but they sell buildings on the land to individual owners. These owners are most often low income households.

The functions of CLTs include:

- a) ensuring that low income households have access to land
- b) maintaining housing affordability
- c) facilitating home ownership (Peterson, 1996).

CLTs are non-profit corporations with a board of trustees. They often deal with the most difficult development projects including low income housing.

#### 4. International Best Practice

It is difficult to present a comprehensive analysis of international best practice in land banking given the dominance of USA-oriented literature<sup>2</sup>. Recent analysis that has been done again relates primarily to land banking and land banks in the USA. Frank Alexander's piece '*A Guide for the Creation and Operation of Local Land Banks*' is the most comprehensive description of land banks and it discusses the best practice among the largest land banks in the USA. Alexander is at pains to point out that each of these land banks is different in its structure, legal composition and objectives and furthermore that each bank is organised according to the needs and specificities of the city or state in which it is based. Land Banks need to be structured to meet the unique needs of their locality, argues Alexander.

In a review done by Cleveland State University of land bank best practice, the following eight features were considered to be the most important contributing factors to land bank success. They are presented below:

- 1) The objectives of Land Banks should be narrow and focused and the aims of Land Banks should be specific.
- 2) The coordination of city departments is crucial. Unless, city departments cooperate and work closely together with the Land Bank, efficiencies will be hindered. The success of a Land Bank relies on coordination amongst the various players. If there are inefficiencies within local authorities, the success of the Land Bank will be severely undermined.

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<sup>2</sup> There is a limited literature available on land banking in Central and Eastern European Countries but these initiatives are focused on rural land.

- 3) An accelerated judicial process for obtaining land is necessary.
- 4) An independently established entity is required to manage the distribution of land.
- 5) An integrated management information system with detailed property information is essential.
- 6) The aims of land banking should be incorporated into the strategic planning of municipalities or states.
- 7) Expropriation procedures should be efficient.
- 8) Funding is required to be efficient and progressive<sup>3</sup>. (Cleveland State University, 2005)

While these best practice factors are based the experiences of Land Banks in the USA, they can be applied in our local context. Should Gauteng go the land bank route, it is equally important for them to have a land banking process that is strategic, where land acquisition is effective and where intergovernmental coordination is ensured. The specific best practice details of five USA land banks are listed below. In addition, land banking processes in India and Colombia are also discussed.

#### ***4.1 Genesee County and City of Flint Land Bank, Michigan, USA***

The City of Flint, home to General Motors, is in Genesee County, Michigan. Flint was a city on the move and the dynamic manufacturing sector in this city meant that it experienced consistent in-migration for decades. In 2000 however, the City of Flint experienced a mass exodus of residents as a result of economic changes and a slump in the manufacturing industry. The consequence of its declining population was the

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<sup>3</sup> These points are paraphrased from the Cleveland University study on land banks.



surfacing of thousands of unoccupied buildings and empty lots. These properties were purchased by private land speculators and the state, but were not rehabilitated.

The establishment of the Genesee Land Bank in 2003 sought to transform the city and these properties. The Land Bank with the support of progressive legislation converted these non-performing assets into performing assets. One of the most useful legislative changes was the authority given to the Land Bank to expedite the acquisition of land. This acquired land was re-used to meet the needs of its community. Since the establishment of the Land Bank, it has acquired 3600 parcels of land amounting to 6% of the City of Flint's land; 1004 families have been assisted when experiencing problems of foreclosure due to property tax arrears through the intervention of the Foreclosure Prevention Program, buildings have been re-developed and properties owned by the Land Bank have been managed by a non-profit housing organisation (SmartGrowth, 2005: 6).

A distinct feature of this land banking process has been the collaboration between state, non-profit organisations and the local community in determining how the re-developed land would be utilised in the future. The best practice in this example which might be useful in the context of Gauteng is noted below:

- a) The Land Bank endeavoured to assist property owners experiencing financial problems and maintain their ownership of the property where possible.
- b) The Land Bank acquired land and discussed its redevelopment with all relevant stakeholders (Smartgrowth, 2005).

#### ***4.2 Urban Land Bank Program – Dallas, Texas, USA***

In response to the prevalence of abandoned and derelict buildings in Dallas, the City of Dallas secured legislation establishing an Urban Land Bank to expedite the acquisition of land and buildings. The objective of the Urban Land Bank was to ‘develop affordable single-family homes on vacant tax delinquent properties in the City of Dallas’ (United States Conference of Mayors, 2006: 26). The Texas Urban Land Bank Demonstration Program allowed for the expedition of tax foreclosure processes and the re-sale of these properties to housing developers for affordable housing. Specifically, the ‘Urban Land Bank Demonstration Program is to acquire unproductive, vacant and development lots to be ‘banked’ for affordable housing development. The acquisition of these lots will enable new single family development to house low and moderate income homeowners and stabilise distressed communities’ (City of Dallas Urban Land Bank Demo Program Plan, 2005-06: 2)

#### ***4.3 Cleveland Land Bank, USA***

The objectives of the Cleveland Land Bank are twofold namely:

- To deal with the problem of vacant and abandoned properties in Cleveland neighbourhoods
- To expedite the redevelopment of these neighbourhoods.

The Cleveland Land Bank works closely with community members. The Land Bank also importantly has the ability to fast track access to property and is able to ‘waive all delinquent property taxes on parcels of land it acquires and conveys’. (Cleveland State University, 2005: 12).

In the best practice study done by Cleveland University, it is argued that Cleveland's Land Bank is unique because:

- It is able to sell properties below market value.
- It is able to speed up the foreclosure process.
- It is able to not claim property tax on properties.
- It works directly with community members and other governmental departments (Cleveland State University, 2005: 13).

#### ***4.4 Philadelphia Land Bank, USA***

The Philadelphia Land Bank uses technology as a strategic planning tool in its operations. The Land Bank identifies strategic land through a sophisticated GIS process and then through the use of a Decision Support Model is able to acquire, manage and develop land according to the long-term strategic objectives of the City (Cleveland State University, 2005: 13).

#### ***4.5 Atlanta Land Bank Authority, USA***

The Atlanta Land Bank Authority is structured similarly to other land banks in the USA. Its main focus is the redevelopment of residential properties. The Atlanta Land Bank Authority meets community members monthly through housing forums in order to interact with local communities. These interactions direct the redevelopment of properties.

#### ***4.6 The Delhi Development Authority<sup>4</sup>, India***

The Delhi Land Bank, known as the Delhi Development Authority (DDA), is the largest landowner in Delhi, India. It was established in the 1950s to ensure that the Indian state was able to control land use in the city. The DDA has acquired huge tracts of land in the City over 50 years but the efficiencies of the DDA have been questioned.

Acharya (1987) and a study done by the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) (1993) argue that the land bank has been a failure. They attribute the failure to problems experienced in the acquisition, disposal and development of land. Given the lack of clear direction, processes are cumbersome and inefficient. Instead of regulating land values, land values have risen dramatically since the inception of the DDA. According to Acharya (1987)<sup>1</sup>, one of the objectives of the DDA was 'to prevent the concentration of land ownership in a few private hands and safeguard the interests of the poor and underprivileged'. However, no specific targets were set along with the objectives. By 1982, only 44 per cent of plots of land distributed had gone to low income groups. Gill argues in a later paper that low-income families have not received access to affordable housing because the income categories required for allotment were ignored. Instead, middle and high-income families were the recipients of housing (Gill, year unknown: 8) thus undermining the equity objectives of land banking.

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<sup>4</sup> This study was done in 1993. A more recent analysis is not available.

#### ***4.7 MetroVivienda, Bogota, Colombia***

The MetroVivienda is Bogota's land banking agency. It was established to address the problems of the lack of affordable housing in the City and to mitigate against an expanding informal housing market. The function of the MetroVivienda is to purchase open spaces on the periphery of the city for housing development. The agency assembles large land parcels and sells them off to private developers to develop affordable housing. The agency is financially self-sufficient and this has undermined the development of low-cost housing. The MetroVivienda purchases land on the periphery of Bogota and not in more strategically located inner city land. A series of criticisms levelled at the MetroVivienda include:

- 1) Their housing reaches low-income households but not the urban poor
- 2) The acquired land is divided into uses such as commercial, residential and institutional. Most often residential blocks are built and sold prior to the development of commercial building leaving residences without access to services (Cullen-Cheung, 2007).

### **5. Conclusions**

International land banking experience suggests land banking is a viable option in the following instances:

- When city policies allow for affordable housing to be built on the periphery of an expanding city. Land is cheaper on the periphery thus making the acquisition process financially viable.
- When cities project their future housing needs using a medium and long-term timeframe. These timeframes enable public authorities to secure land at a low

price and hold it until the demand for affordable housing grows. This is the case in Delhi, India.

- When cities are able to secure access to properties in neighbourhoods experiencing urban decline and redevelop these properties into affordable housing. This is the case in cities in the United States.

And even in these circumstances, successful land banking is not guaranteed. Existing international land banking best practice is not directly applicable in the case of Gauteng. The commitment of the province to sustainable human settlements discounts both purchasing land on the periphery and using land banking solely as the tool for urban renewal.

This paper has provided an overview of the concept of land banking as an international practice. As best practice suggests land banking is most effective in instances where there are large tracts of unused land or when there are neighbourhoods with abandoned buildings that require urban regeneration.

Land banking is one option for securing land for development in strategically located areas. It is not however likely to be a successful integration tool if used in isolation. The cost of well located land in Gauteng is high and the value of land in the province is likely to continue to grow. The USA land banking practices can be applied in inner city areas in Gauteng and although it would not deliver housing at scale, it would make a contribution.

The utility of land banking for new affordable housing developments is questionable unless complementary mechanisms can be put in place which makes the acquisition of land affordable to the public sector and the development of affordable housing on that land financially viable.

Finally, a critical issue when determining the utility of land banking in Gauteng is ascertaining which sphere of government manages the process. At the same time it is important to determine how intergovernmental relations will be managed and planning alignment secured.

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