



# Urban LandMark

making urban land markets work for the poor

## RESEARCH COMMISSIONED BY URBAN LANDMARK EXPLORES INTERNATIONAL LAND BANKING PRACTICES

### CONTENTS

#### Page 1 & 2

Research commissioned by Urban Landmark explores international land banking practices

#### Page 3

Urban Landmark Programme Director receives award for pro-poor urban land markets paper

#### Page 4

The right to adequate housing: UN expert concludes visit to South Africa

Mbeki calls for an end to "Apartheid" town planning practices

#### Page 5

Land dispute rages between sugar cane land owner and local community

Inclusionary housing policy made more flexible after negotiations

#### Page 6

Paper highlights gendered constraints in land inheritance in Zimbabwe

Editor: Denise Buiten

The results of a land banking study commissioned by Urban Landmark in partnership with the Gauteng Department of Housing have been made available. The objective of the study was to provide an international overview of land banking towards determining its potential feasibility in the Gauteng context. This feature article presents findings from the report authored by Dr Kirsten Harrison. Recommendations for potential application of land banking arising from the research are currently being taken under advisement by the Gauteng Department of Housing.

Development challenges around growing urban populations and limited land supply face the majority of urban centres internationally, in both developed and developing countries. In response, a myriad of strategies have been proposed for the sourcing of well-located land for affordable housing, including land banking. This strategy involves the relatively cheap acquisition of land by governments, where the land is held for future housing developments. While land banking in the 1960's was primarily viewed through the lens of its importance as a mechanism for public authorities to control urban development (Alex-ander, 2005: 26 cited by Harrison, 2007: 4), such ideas have largely lost ground and been replaced with the view of land banking as an instrument for urban renewal.

The study found, however, that there is no single definition of land banking, and that it is in fact a concept applicable in a range of ways dependant on context and whether it is being applied by the public or private sector. At a

technical level, land banking refers to "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". However, the research report suggests that a more appropriate definition, that is also better suited for the developing country context, is the following:

'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).

One of the guiding principles of land banking in developing countries includes the improvement of access by the poor to land. Further guiding principles of land banking in developing countries include the support of urban development projects, a reduction in inflation of land prices, the promotion of public/private partnerships and the improvement of land tenure structure.

However, in many developing countries the principle of land banking towards ensuring the equal distribution of land goes largely unrealised. While in principle land banking is premised upon the idea that, should government have access to a valuable pool of land, resources will be allocated more equitably than if left to the market, in practice this has not always been the case. The research indicates that land banking practices in Chile, India and Turkey have not been successful at delivering land to the poor, largely due to a lack of finance (Rivkin cited in Shisaka De-

# URBAN LANDMARK

*Continued from page 1*

velopment Management Services, 2003: 5).

The three fundamental components of land banking are:

- Land acquisition
- Land management
- Land development

Available literature suggests that it is only where efficiencies in all three of these areas are achieved that land banking objectives will be met. Structuring the appropriate managing entity is particularly important in light of the technical and legal complexity of each of these steps.

Literature pertaining to land banking is highly dominated by US-based literature, and is generally focused at city level. Therefore, the study found that a review of international best practice was in some regards limited by a shortage of varied international literature. Institutionally, two key possibilities emerged, also primarily phenomena of the USA, namely Land Banks and Community Land Trusts.

**Land banks:** Urban Land Banks are specific agencies directly tasked with the acquisition of land for housing development, urban development and the preservation of open spaces through accessing, holding and managing urban land. In the USA, the term 'Land Bank' describes 'a governmental entity that focuses on the conversion of vacant, abandoned and tax-delinquent properties into productive use' (Alexander, 2005: 9). 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. The USA appears to

have the most experience with land banking, and a number of USA Land Banks are considered to be the most successful.

**"Only where efficiencies in land acquisition, land management and land development are achieved can land banking objectives be met"**

**Community Land Trusts:** 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). CLTs own land, but they sell buildings on the land to individual owners. These owners are most often low income households.

In terms of international best practice, while it was difficult to present a comprehensive analysis given the dominance of developed country literature, the authors of the research report contend that they are largely applicable to the local context. In a review done by Cleveland State University of land banking best practice, the following eight features were considered to be the most important contributing fac-

tors towards land bank success:

- The objectives of Land Banks should be narrow and focused and the aims of Land Banks should be specific.
- 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 stakeholder coordination.
- An accelerated judicial process for obtaining land is necessary.
- An independently established entity is required to manage the distribution of land.
- An integrated management information system with detailed property information is essential.
- The aims of land banking should be incorporated into the strategic planning of municipalities or states.
- Expropriation procedures should be efficient.
- Funding is required to be efficient and progressive. (Cleveland State University, 2005)

The author of the research report concludes that should Gauteng apply the land bank concept, it will be important to take strategic enabling action around the land banking process, ensuring that land acquisition is effective and that intergovernmental coordination is guaranteed.

To access the research report go to [www.urbanlandmark.org.za/archive.html](http://www.urbanlandmark.org.za/archive.html)



# URBAN LANDMARK

## URBAN LANDMARK PROGRAMME DIRECTOR RECEIVES AWARD FOR PRO-POOR URBAN LAND MARKETS PAPER

Urban Landmark's Programme Director, Mark Napier, accepted an award for his paper on urban land markets in South Africa at the Fourth Urban Research Symposium on Urban Land Use and Land Markets held in Washington D.C. in May 2007.

Hosted by the World Bank in conjunction with Sida, the Lincoln Institute for Land Policy, Cities Alliance and GTZ, the symposium aimed at exploring the links between various aspects of urban land management and welfare, the implications of commonly used land and related policies, and related program design and implementation issues.

The symposium featured the presentations of 5 commissioned survey papers, as well as papers presented by international researchers working on land related issues linked to the following emerging research clusters:

- The implications of various land market distortions on urban welfare and quality of life, particularly for the poor;
- The implications of the continuum of property claims and rights, and associated formalisation strategies existing in developing country cities;
- Elements of good practice for public land management;
- Practices and experience with public land acquisition; and institutions for urban land management and economic performance.

A total of forty-two papers were presented and two prizes were awarded, with the award for exemplary contribution in terms of paper

and presentation being granted to Mark Napier.



In the paper submitted by Urban LandMark "*Making Urban Land Markets Work Better in South African Cities and Towns: Arguing the Basis for Access by the Poor*", Mark Napier reflects upon the ways in which current and historical state interventions in South African cities and towns have distorted urban land markets, with particular reference to implications for the poor.

This, he argues, has resulted in market failure for the poor, with a detrimental impact on their potential livelihood strategies.

The paper discusses the balance between state allocation of urban land, and market distribution of land as a resource, arguing that a critical consideration of the ways in which land markets have been distorted to date should lead to the understanding that better locations for poor communities in

South African urban areas makes sense not only ideologically, but socially and economically as well.

Mark Napier argues for the circumspect and judicious "bending" (rather than distortion) of land markets towards addressing the spatial disparity of South

African cities and towns, contending that the lessons for doing so successfully lie in part in drawing from best practices drawn from around the world.

However, Mark Napier argues that, for this to happen:

"support is needed to capacitate officials to negotiate with market players, to reduce the costs and complexities of administrative systems, to make market information available to

**"Circumspect and judicious bending of land markets can assist towards addressing the spatial disparities in South Africa... The key to the success of such interventions lies in the sufficient understanding of the complexities of urban land market systems"**

potential buyers and sellers, to extract value through municipal rating and disburse it responsibly, to bring urban actors together around common actions, to transfer best practices, and to cleverly predict and monitor the impacts of interventions."

The paper concludes with the assertion that the key to the success of interventions in the land market lies in the sufficient understanding of the complexities of urban land market systems, to enable interventions that address market failures without creating detrimental distortions that will impact on all.

To view the full paper go to [www.worldbank.org/urban/symposium2007/papers/napier.pdf](http://www.worldbank.org/urban/symposium2007/papers/napier.pdf)



# LOCAL NEWS

## THE RIGHT TO ADEQUATE HOUSING: UN EXPERT CONCLUDES VISIT TO SOUTH AFRICA

While South Africa remains one of the world's leading nations in terms of legislative and constitutional commitments to protecting the right of access to adequate housing, truly translating policy and law into practice will require further concerted efforts by all stakeholders. This key message emerged at the conclusion of the visit of United Nations' Special Rapporteur on adequate housing, Miloon Kothari, to South African from 12 to 24 April 2007. Conducting a mission aimed at appraising the status of the realisation of the human right to adequate housing in South Africa, the Special Rapporteur called on a variety of both rural and urban areas during his stay.

**“UN Special Rapporteur expressed concern over recurring evictions often executed in breach of procedural requirements and through the improper application of ‘urgent eviction’”**

A number of efforts and initiatives aimed at addressing the right to adequate housing in South Africa were acknowledged and commended by the Special Rapporteur. He particularly highlighted legislative and constitutional commitments to the recognition and protection of socio-economic rights, including access to adequate housing, and expressed support for several land and housing initiatives. However, he underlined the need to improve mechanisms towards ensuring that well intentioned policies are properly implemented. In particular, recurring evictions throughout South Africa, sometimes aimed at gentrifying areas in attempts to promote urban regeneration and



development, were a key point for concern. The Special Rapporteur noted that evictions are often executed in breach of procedural requirements, and through the improper application of ‘urgent eviction’ provisions justified through claims of health threats to occupants. Evictions in opposition to human rights provisions in South Africa are not only contained to urban areas, he observed, but are also a great source of concern for black farm dwellers and backyard shack dwellers.

The Special Rapporteur raised the roles of weak post-settlement support, basic service provision and facility maintenance in certain areas in undermining the impact of resettlement endeavours. In particular, he raised concern over large-scale privatisation and outsourcing of public services, as well as deficits in accountability and monitoring mechanisms towards ensuring that delivery occurs in compliance with policy, law and human rights standards.

While the Special Rapporteur recognised government efforts to target 30% of housing for women-headed households, he noted remaining problems in actualising gender equality in housing access, and highlighted the role of housing problems in exacerbating women's vulnerability to domestic violence and HIV/AIDS.

(7 May 2007, Press release: Office of the United Nations High Commissioner for Human Rights)

## MBEKI CALLS FOR AN END TO “APARTHEID” TOWN PLANNING PRACTICES

The persistent tendency of land for the poor being demarcated on the outskirts of town, far from employment opportunities, was criticized by President Thabo Mbeki at the South African Local Government Association (SALGA) conference in Johannesburg on 23 April 2007.

President Mbeki recalled the transformation of apartheid settlement patterns as a key area of focus identified at SALGA in 2004, and underscored the lack of adequate progress in this regard. “Except for a few cases, our municipalities have not responded positively to this challenge”, said Mbeki. “It is unacceptable that municipalities continue allocating land that is closer to commercial centres solely to developers who build for the upper end of the housing market.”

**“It is unacceptable that municipalities continue allocating land that is closer to the commercial centres solely to developers who build for the upper end of the market”  
- President Thabo Mbeki**

He further criticized the failure of municipalities to ensure that sports grounds and parks are also built for the youth in areas of development. President Mbeki asserted that by continuing to facilitate housing development that perpetuated apartheid town planning patterns, local government was “failing to use housing as a catalyst to integrate communities that have been divided for many years by apartheid”.

(23 April 2007, available: [www.info.gov.za/speeches/2007/07042314451001.htm](http://www.info.gov.za/speeches/2007/07042314451001.htm))

# LOCAL NEWS

## LAND DISPUTE RAGES BETWEEN SUGAR CANE LAND OWNER AND LOCAL COMMUNITY

An ongoing land battle between a sugar land owner and a local community threatens to derail the development of an up-market resort on the North Coast of KwaZulu-Natal. The Dube community of 782 families first laid a claim to the land in 1998 with the Land Claims Commission, contending that they had been forcibly removed from land they had lived on for generations to make way for sugar cane farmers.

The claim was declared valid by the Land Claims Commission. However, a R20-million offer by SA Sugar Association chairman Roger Stewart, and the éLan Group (developers of the billion-dollar Blythedale Coastal Resort planned for development on 1000ha of Stewart's sugar estate) was rejected last month. The R20-million settlement offered to the Dube community by Stewart and the éLan Group was proposed to be paid as follows:

- R6-million on transfer of the land from New Guelderland Sugar Estate (Pty) Ltd to Blythedale Coastal Resort (Pty) Ltd;
- Five successive annual installments of R2-million
- R4-million towards the purchase of a sugar cane farm, with Stewart mentoring and assisting in its management.
- 10% share of a R200-million shopping complex earmarked for the resort.
- 100 start-up houses in the resort.

The community, however, rejected the offer as “peanuts” as compared with what developers were set to gain from the project,

“The offer was rejected as ‘peanuts’ compared to what developers were set to gain from the project”

and further argued that they would only want to become part of the development after their ancestral land had been restored. However, Stewart, who is also disputing the claim, said he was not informed about a rejection of the offer by the community. The proposed project, already launched in Cape Town, Johannesburg and London by the éLan Group, has generated more than R1-billion in sales thus far.

(17 June 2007, available: [www.eprop.co.za/news/article.aspx?idArticle=8975](http://www.eprop.co.za/news/article.aspx?idArticle=8975))

## INCLUSIONARY HOUSING POLICY MADE MORE FLEXIBLE AFTER NEGOTIATIONS

The National Department of Housing has announced that the proposed inclusionary housing policy is expected to be finalized soon. A more flexible policy - the outcome of negotiations between the Department of Housing, commercial property association SAPOA and other stakeholders - will be taken to cabinet on the agreement of private sector stakeholders.



([www.affordablehousinginstitute.org](http://www.affordablehousinginstitute.org))

The proposal reflects long-standing negotiations between government and the private sec-

tor in its move away from the notion of a fixed percentage of new developments set aside for inclusionary housing. Instead, housing director-general Itumeleng Ketsoane has indicated that the percentage set aside could range from 1%-30% in accordance with the outcomes of negotiations between developers and municipalities.

A combination of voluntary and town planning-compliant approaches was further favoured by government, said Ketsoane. This would involve a primarily voluntary approach applied to state-owned land, in which the state would make prime land for residential development available to developers on condition that they set aside a percentage for low-income housing.

The town planning-compliant approach would apply more generally to privately owned land. This would include, for example, the obligation among landowners to show in their applications for rezoning that their developments would have a positive impact on inclusionary housing. Ketsoane further noted that discussions with stakeholders are continuing regarding potential incentives for developers in the implementation of the inclusionary housing programme.

While the policy, according to Ketsoane, was “on the draft now”, he also indicated that the department wanted a draft bill published for public consultation. He furthermore noted that the extensive implications of the policy would need to be addressed, from impacts on municipal by-laws to integrated development plans and provincial ordinances.

(1 June 2007, available: [www.eprop.co.za/news/article.aspx?idArticle=8867](http://www.eprop.co.za/news/article.aspx?idArticle=8867))

## LOCAL NEWS

### PAPER HIGHLIGHTS GENDERED CONSTRAINTS IN LAND INHERITANCE IN ZIMBABWE

Gaynor Paradza, of the Wageningen University in the Netherlands, recently delivered a paper highlighting the critical roles of gender and poverty in land inheritance processes in Zimbabwe. Drawing on a case study, the paper explored experiences illustrating the constraints faced by poor widows in Zimbabwe in accessing immovable property.

**“The significant nexus between gender and poverty is explored by Paradza within the context of socio-economic impediments to women’s access to land and a dual legal system”**



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In particular, the significant nexus between gender and poverty was explored within the context of socio-economic impediments and a dual legal system.

In 1997, inheritance law in Zimbabwe changed to elevate widows above all beneficiaries, opposing gender discriminatory traditional customary law in which widows have no rights

over productive land. However, Paradza’s paper emphasises the obstacles which continue to exclude women despite the positive legal reform.

According to Paradza, in addition to the fact that widows prior to 1997 did not benefit from the new law, widows currently battle to navigate the new system due to gendered socio-economic constraints such as access to necessary financial resources and information, socio-cultural factors and high illiteracy rates.

For example, widows often do not have official identity or marriage documents. While women with unregistered marriages can obtain an affidavit to overcome this, dependence on in-laws with interests counter to those of the widow to do so can pose problems. This can be further complicated where polygamous marriages exist. Poor widows’ ability to use lawyers to access their inheritance is limited by financial constraints, and low literacy levels have an impact on their ability to understand and negotiate their way through legal process.

The effect of multiple constraints is that many widows ignore or eventually abandon or lose their property rights, argues Paradza.

(Gaynor Paradza, Law and Governance, Wageningen University, Netherlands)

*A poster illustrating this research can be found at [www.worldbank.org/urban/symposium2007/posters/paradza.pdf](http://www.worldbank.org/urban/symposium2007/posters/paradza.pdf)*

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