



Urban LandMark

making urban land markets work for the poor

URBAN LANDMARK CONFERENCE HIGHLIGHTS KEY RESEARCH ON LAND RIGHTS AND PROPERTY MARKETS

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Urban LandMark Conference Highlights Key Research on Land Rights and Property Markets

On 27 and 28 August 2008, Urban LandMark hosted its annual conference, *From Land Rights to Property Markets*, at the DBSA Vulindlela Academy in Midrand, South Africa. The aim of the conference was to showcase recent work undertaken by Urban LandMark in pursuit of its mandate to make urban land markets work for the poor. In particular, research presented in the conference highlighted the inequalities that exist in access to space and markets in South African cities and towns.

of two studies on how the poor access, trade and hold land. The results of qualitative and quantitative survey data served to disaggregate the informal land market, and to uncover how the transaction process works. The information generated by these studies provided the foundations for potential intervention strategies that would be able to reconcile the benefits of informality, such as flexibility and inclusion, while providing the legitimacy and clarity that accompany formal recognition.

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Understanding the interface between urban land development and poverty reduction requires a multidisciplinary lens, which is able to uncover the complexity inherent in producing an inclusive city. Urban LandMark approached the subject matter from several different angles, which were consolidated into three broad themes: the informal land market, urban land market dynamics and functional land governance.

Lauren Royston articulated the Urban LandMark perspective on these issues: in order to broaden access to well-located urban land, it is necessary to increase points of entry into the urban land market and multiply the channels of supply. Local rules, she argued, should be built upon in order to secure tenure status and ensure access to urban livelihood resources.

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Informal Land Markets

The presentations under this theme focused on recognition of evidence on the ground and their implications for the design of a normative policy framework. Margot Rubin discussed the findings of the Urban Land Biographies study, which detailed the diverse range of both informal and formal activity that takes place within a single urban precinct. People engage in both formal and informal practices according to their needs.

Urban Land Market Dynamics

Understanding the operation of the urban land market is fundamental to poverty reduction strategies that engage property interests. At the conference, Francois Viruly and Timothy Hobden of Genesis Analytics outlined the dynamics of the land market in South African cities in relation to economic theory and empirical evidence. The question underpinning the market analysis was how to use land in a way that encourages economic growth and produces the beneficial social outcomes for the poor. In order to compete with other "highest and best uses", the necessity to configure housing strategies around higher densities and to target housing delivery to both the "gap" housing market and the lower end of the property

Editor: Denise Buiten



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spectrum was put forward. Research into urban land market trends in South Africa reveals that there is a limited amount of stock and churn within each property bracket. In order to overcome the obstacles that inhibit development along the bottom rungs of the property ladder, the presenters highlighted the necessity to structure innovative incentives that encourage the growth of affordable housing options.



Kecia Rust, Philip North and Jacques du Toit presented on topics that suggested specific ways to improve market efficiency and effectiveness. Kecia Rust of FinMark and Philip North of Metonymy are in the process of designing a property price monitor that caters to the 80% of people who cannot afford to access the formal property market, thereby disseminating information and enabling a more comprehensive transaction process. Jacques du Toit from the University of Pretoria presented on research conducted into the relationship between developers and municipalities, identifying key areas of concern such as the lack of clarity and consistency in the institutional environment and the steep barriers of entry into the land development sector.

Caroline Kihato summed up the Urban LandMark perspective. The goal, she stressed, is to create a more inclusive market for the poor, which calls for government intervention in ways that expand the reach of the market. The guiding principles for this spatial prerogative are that the market should be effective, accessible and equitable. Government incentives and planning protocols should buoy market dynamics at the lower end of the property spectrum and provide people with leverage to extract themselves from poverty.

Functional Land Governance

At the nexus between policy and product, institutional frameworks and capacity constraints hinder the implementation process. The governance presentations progressed consecutively from looking at governance issues in towns, to a peri-urban environment, to South Africa's largest metropolises.

Felicity Kitchin and Wendy Ovens underlined the constraints that face local authorities in their efforts to control the parameters of development. They cited specific case studies that highlight the need to strengthen the connection between strategic planning and land use management in order to achieve meaningful integration of the poor into the city. Likewise, Riana du Plessis concentrated on the institutional limitations that dampen local development in a peri-urban municipality. She argued that capacity constraints, such as understaffed offices, a lack of institutional memory and inefficient processing protocols impede pro-poor development because they increase cost and uncertainty.

Gemey Abrahams discussed innovative local governance tech-

niques that are being developed by the City of Johannesburg. The city is exploring two concurrent strategies for bringing informal settlements within the ambit of government: the first involves a planning mechanism that identifies "special zones" for upgrading and the second secures the tenure status of occupiers through various legal instruments that currently exist in the Development Facilitation Act.



Finally, Stephen Berrisford outlined the Urban LandMark perspective on functional land governance and emphasized the importance of structuring rules that will abate the tensions between the forces of the market and the powers of a regulator. In order to achieve equitable and sustainable outcomes, he underlined, it is necessary to transform the governance regime: planning, taxation and land acquisition are integral to producing an urban land market that works for the poor.

From Land Rights to Property Markets

As the conference moderator, Monty Narsoo stated that there is a stark imbalance within the traditional demand-defined and supply-negotiated paradigm. He noted that "the problem is that we are

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asking people to understand demand but supply instruments are broad and blunt". On many levels, he said, the challenge is to reconcile the factual realities that characterize the built environment with the developmental priorities espoused by policy literature.



The research presented at the Urban LandMark conference outlined the area of intersection between urban land markets and poverty reduction strategies. The presentations underscored the need to understand and engage with the property market in order to provide meaningful content to the right to adequate housing. The principles that emerged from the cumulative research efforts of the presenters included the need for the following:

- Lower access frontiers to urban land;
- Recognition of informal trade;
- Improvement of governance systems and legislative frameworks to respond to the facts on the ground;
- Diversification of housing and land access options;
- Developing partnerships between the private sector and the poor; and
- Improving the bidding power of the poor to compete in the urban land market.

Urban LandMark is poised to apply these concepts to new projects in order to produce an inclusive cityscape that effectively responds

to the needs of the poor. For more information feel free to contact Urban LandMark.

EXPROPRIATION BILL IS SHELVED

Following the routing of the Expropriation Bill to Parliament earlier this year, the Bill was recently shelved by the Public Works Committee. The Committee cited insufficient public consultation as the reason for deferring the Bill. The new Bill, which seeks to replace the Expropriation Act of 1975, is intended to accelerate land reform, restitution and redistribution, and make the acquisition of land for these purposes cheaper.

According to Cabinet spokesperson, Themba Maseko, the Expropriation Act of 1975 is not consistent with the Constitution. For example, while the existing Act provides only for expropriation for a public purpose, the Constitution extends this to allow it "in the public interest". Similarly, while the compensation necessitated by the Act encompasses market value, actual financial loss and *solatium* (consolation for loss), the Constitution provides that compensation be just and equitable, "reflecting an equitable balance between the public interest and the interest of those affected".

A vocal challenger to the Bill has been the South African Institute of Race Relations, which has argued that the proposed legislation allows for the expropriation not only of property, but also of property rights, including mineral rights and rights to business premises, homes, patents and shares in companies. Frans Cronjé, the Institute's deputy chief executive, argues that the Bill proposes unconstitutional changes to legislation and that,

although land redistribution has been faulted for poor implementation, the Bill's provisions will not serve to alleviate poverty. He has asserted, instead, that the Bill "breeds a certain amount of anxiety" about the country's political stability, thereby "detering foreign investment".

Democratic Alliance leader in parliament, Sandra Botha, said that a "lack of consultation" did not explain the shelving of the Bill, as hearings had been extensive and evoked an overwhelming response from civil society. Instead, Botha said that the ANC had become concerned with the economic implications of the Bill.

(Lynley Donnelly, Mail & Guardian, 9 September 2008)

LAND USE MANAGEMENT BILL : URBAN LANDMARK SUBMITS LETTER TO PARLIAMENT

The Land Use Management Bill recently submitted to Parliament was dogged by concerns from some corners over its effectiveness to advance the regulation of land use and development management even before it was indefinitely shelved by Parliament.

In July 2008, Urban LandMark submitted a letter to parliament detailing key concerns over the Bill's current form and suggesting areas for improvement. Urban LandMark's submission stressed the importance of the proposed legislation in the context of a confusing and inefficient land use management legislative environment that, it argues, is impeding the redress of discriminatory land use legacies. Urban LandMark strongly supports legislation that can offer a coherent national legislative framework to govern land use and management.

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However, it also cautioned that the Bill does not meet the crucial need for legislative clarity.

A maze of existing, inherited planning legislation has led to widespread uncertainty as to where the various legislative and executive powers lie, and which spheres of government are empowered to undertake various aspects of land management. The Bill largely leaves this existing legislation in place, with prescribed structures and processes laid over already complex and inappropriate systems.

Urban LandMark also highlights the silence of the Bill on the issue of approvals systems. Currently, the overlapping approvals needed for land use planning create numerous opportunities for well-resourced objectors to new housing and other integrative land uses to assert their rights in a way that thwarts efforts to reverse the spatial patterns of apartheid. The Bill does not, according to Urban LandMark, address these issues. The following key amendments were suggested to parliament:

- Clear guidance on each government sphere's responsibilities;
- A clear legal path to the scrapping of apartheid legislation and the transition of inherited regulatory systems into ones reflecting current political and economic challenges;
- An efficient and effective relationship between the planning law and regulatory land use and development, as

well as environmental and other laws;

- Mechanisms for effecting and equitably fast-tracking identified projects in specific circumstances.

Urban LandMark is working with its partners in government to support the development of future legislation that will address these issues.



DOING BUSINESS 2009 INDICATES RECORD PROPERTY REFORMS

Making it easier to formally register and transfer property encourages investment and enables better access to credit for entrepreneurs and small businesses to grow and create jobs. However, in many developing countries, entrepreneurs and small businesses still face restrictive and cumbersome land registration systems and processes. Ida, a Gambian entrepreneur, is a case in point. She wants to sell her plot of land to expand her manufacturing business, and has an interested buyer, but has learned that transferring property requires ministerial consent and can take a year. Issues such as these are covered in the annual *Doing Business* report, the sixth edition of which (*Doing Business 2009*)

has recently been published by the World Bank and the International Finance Corporation (IFC). *Doing Business* tracks formal property transfer and registration reforms across ten stages in the life of businesses. Rankings are based on 10 key indicators of business regulation, recording the time and cost involved in meeting government requirements for starting and operating a business, trading across borders, paying taxes, and closing a business. Of the 181 economies covered by the latest report, a record 239 reforms were recorded in 113 economies.

The latest report shows that Eastern Europe and Central Asia led the World's regions in reforms in the last year, with over 90 per cent of its countries making reforms. Africa also made considerable progress, with a record year for regulatory reforms. 28 African countries underwent 58 reforms in the last year, and three of the world's top 10 reformers are in Africa. Africa's leading reformer, Senegal, set up a "one-stop-shop" for business registration by merging seven start-up procedures into one. Through this reform, start-up time fell drastically from 58 days to 8, and an 80 per cent increase in new business registrations followed in the first 10 months after the reform. In the cases of Botswana and Namibia, reforms centred on computerised registration systems. *Doing Business* asserts that the key to effective regulatory reform and resulting benefits is continued commitment.

(The World Bank & IFC, *Doing Business 2009*)

Urban LandMark is a programme of DFID Southern Africa.

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