



**Urban LandMark**



Submission to Portfolio Committee  
on Rural Development & Land  
Reform  
Spatial Planning & Land Use  
Management Bill

Cape Town, 22 August 2012

**MAKING URBAN LAND MARKETS WORK FOR THE POOR**

# Background to Urban LandMark

- Thinktank funded by UKAid to find ways to '*make urban land markets work better for the poor in South Africa*'.
- Worked closely, with the Presidency, on supporting earlier drafts of the SPLUMB, especially since the 2008 hearings.
- ULM has a direct interest in the legal framework for land use management as it draws the legal line between what housing and buildings are lawful and which are not, which form part of the formal economy and which remain informal.
- Together with Community Law Centre (main organizer), SACN and DRDLR we are hosting a roundtable on the difficult legal issues that have arisen in the SPLUMB process
- A date clash with these hearings means that the roundtable is tomorrow



# Tomorrow's roundtable on legal questions arising from the SPLUMB

- This is a watershed year for the development of post-apartheid spatial planning and land use management legislation
  - SPLUMB
  - Provincial legislation
  - Municipal law-making processes
- Everyone grappling with the implications of
  - DFA judgment
  - Maccsands & Swartland judgments
  - Lagoon Bay judgment
- The law is changing fast – both through legislatures and the courts
- Purpose of the roundtable was to get a group of people who have been working through these issues to discuss openly and informally how to go about resolving the difficult legal questions



# What are the difficult legal questions?

1. How does the law secure national and provincial interests while simultaneously respecting local government's role, as confirmed in the *City of Joburg* DFA judgment?
2. Where a party is unsatisfied with a municipality's decision, what remedies are available to him or her?
3. As local government assumes greater responsibilities, what will be the impact of new legislation on professional and administrative capacity?
4. How can the law ensure that development management is harmonised across sectors and spheres, especially in the light of the *Maccsands* and *Swartland* decisions?

There are of course others! But these are what we will focus on tomorrow.



# The SPLUMB: our view

1. The bill is much improved since 2008.
2. There are still difficult issues to resolve.
3. The challenge with this SPLUMB is to confirm and clarify the respective roles and functions of the spheres and sectors.
4. Then future legislation can develop the innovative instruments needed to redress spatial imbalances and integrated legislation.
5. This is not ideal, but a realistic assessment.
6. Until the respective roles and functions are confirmed it is difficult to expect the various spheres to innovate and take on strong vested interests.
7. Regulating a market, in this case the urban land market, is complex: the first step is to know who the regulators are and what their powers are. We must get this right in the SPLUMB.



# Specific issues that have to be addressed in revised SPLUMB

- Narrowing down the definition of what constitutes a provincial interest in a) a spatial planning process and b) a land use decision.
- Narrowing down the definition of what constitutes the national interest (art. 52)
- Articulating clearly an approach to provincial (or national) intervention in the spatial planning and land use management functions of local government (bearing in mind section 139 of the Constitution) (art. 10(1)(c))
- Clarifying the legal status of a municipal SDF in relation to provincial and national government decision-making (art. 22(1) and (3))
- Clarifying the role of the executive authority of a municipality in relation to the Muni Planning Tribunal (art. 23)
- Clarifying the status of the SPLUMB in areas under traditional leadership, especially in peri-urban areas.





# Thank you

If any members of the Portfolio Committee can join us at the roundtable tomorrow, you are very welcome. Please let me or Prof De Visser know:

- 082 460 1962 (Berrisford)
- 083 254 4395 (De Visser)

We will write up the outcomes of the roundtable tomorrow and submit to the Portfolio Committee as soon as we can.

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