

**THE IMPACT
OF
INFORMAL SETTLEMENT AREAS
ON
THE LAND REFORM PROGRAMME
IN
SOUTH AFRICA**

By

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ABSTRACT

Informal settlement areas (often referred to as squatter settlements or squatter camps) exist in all provinces of South Africa. These areas are characterized by rapid and unplanned development. The result of these is that property boundaries in most of these areas are not surveyed. Since the plots do not have boundary beacons, the land parcel is not properly defined and therefore, the property cannot be registered in the user or owner's name. Consequently, ownership is not guaranteed. Thus there are no legal documents to prove the relationship between an individual and the property.

This paper discusses the problems in the land reform process that can be attributed to the existence of informal settlements. The paper is based on a research carried out to assess the effect of informal settlements on the success of the land reform programme in South Africa. A review of literature on the land reform programme and its implementation plan was carried out. The research also included a literature review on informal settlements in relation to property ownership, cadastral surveying and land registration.

Three informal settlements in the KwaZulu-Natal province of South Africa were identified for study. These included Cato Manor and Umlazi section CC in Durban and Peace Valley 2 in Pietermaritzburg.

Disclaimer

This mini-dissertation comprises the original work of the author and has not otherwise been submitted in any form for any degree or diploma at any Educational Institution. Where use has been made of the work of others it is dully acknowledged in the text.



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Glossary of Terms

The following is a list of terms and acronyms used in this paper

Component A

AFRA	Association for Rural Advancement
DFA	Development Facilitation Act, 67 of 1995
DFR	Durban Functional Region
DoH	Department of Housing
FIG	International Federation of Surveyors
GPA	Greater Pietermaritzburg Area
Idasa	Institute for a Democratic Alternative for South Africa
Lts	Land Tenure Services
ND	Not dated
PTO	Permission to occupy
RDP	Reconstruction and Development Programme
UNCHS (Habitat)	United Nations Centre for Human Settlements
UN-HABITAT	United Nations Human Settlements Programme

Component B

ABM	Area Based Management
ANC	African National Congress
BESG	Built Environment Support Group
CBD	Central Business District
CMDA	Cato Manor Development Association
CMRA	Cato Manor Residents Association
DLA	Department of Land Affairs
DLGTA	Department of Local Government and Traditional Affairs
DoH	Department of Housing
EDF	Esindweni Development Forum
EMA	eThekweni Metropolitan Area
FIG	International Federation of Surveyors
IDP	integrated development plan
IDT	Independent Development Trust
LDM	Landless People's Movement
LDS	Land Data Services cc
PHP	People's Housing Process
PLS	Project Linked Subsidy
PPT	Project Preparation Trust
PTO	Permission to Occupy
RDP	Reconstruction and Development Programme

COMPONENT A

1. INTRODUCTION

1.1 Overview

The new government of South Africa has been promoting the vision of shack-free cities whose aim is to eradicate informal settlements and replace them with formal housing. Its aim is to create the conditions where people live on serviced stands and have title deeds to their properties. After ten years of democracy the government is still facing a major challenge from the continued growth of urban informal settlements.

The government's aims are that all areas with informal settlements should be formalized and have proper infrastructures. The people who moved into undesignated land have to be relocated and informal settlements that are located on land that is suitable for housing development should be upgraded. The communities need to be provided with adequate land and affordable housing. There should be proper roads, electricity, sanitation and a healthy environment, as well as economic opportunities and social services for members of the community. The communities in the informal settlements consist of a majority of poor people who are landless and homeless and they have a direct and immediate desire and needs to secure places to live. They need to be supported and assisted to make necessary linkages and strategies to turn these desires and needs into reality.

Land Reform as a key to better the life of the majority of African populations in South Africa is one of the main promises that were made by the African National Congress (ANC) when it came to power in 1994. The new government of South Africa launched the Land Reform pilot programme. The main aim was to address the racial imbalances and the inequalities of the past. The government stated in the Reconstruction and Development Programme (RDP, 1994) document, that the land reform policy is to redress the injustices of forced removals and the historical denial of access to land. It has to ensure security of tenure for rural dwellers, eliminate overcrowding and supply residential and productive land to the poorest section of the South African population

The democratic government of South Africa is believed to recognize the poor environmental conditions in the informal settlements, and the enormous gap between financial affordability of the people living in informal settlements areas and those living in formal housing areas. Poor people living in informal settlements cannot afford to build a good house structure that is secure, have sufficient space and services. The government needs to provide assistance to these poor people to help them in their efforts to improve their living conditions. Government needs to provide the residents of informal settlements with reasonable security of tenure and urban services.

1.2 Problem analysis and description

Informal settlement areas (often referred to as squatter settlements or squatter camps) exist in all provinces of South Africa. These areas are characterized by rapid and unplanned development. Property boundaries in most of these areas do not exist, which means that since the plots do not have boundary beacons, the land parcel is not properly defined, the property cannot be registered in the owner's name, and therefore ownership is not possible. There are no legal documents to prove the relationship between an individual and the property.

Effective planning requires access to accurate and up-to-date spatial data and this is not possible in the case of informal settlement areas. The emergence and growth of informal settlements have a negative impact on the government's land reform policy. The goals and vision of the South African Land Reform programme as stated by the Department of Land Affairs (ND), is to improve the terms and conditions through which people hold, use, occupy and access land and also to contribute towards an equitable redistribution of land.

The government needs to facilitate development initiatives by bringing together all the relevant stakeholders and to deal effectively with the need for land reform to reduce poverty and to contribute to economic growth.

Many cities have areas designated as public land. In most cases the city authorities do not have resources and/or strategies to cope with the number of people moving into these areas. These are poor people who are looking to improve their economic opportunities but on the other hand they cannot afford formal housing. The poor people move to areas closer to the cities in order to improve their chances for job opportunities, because accommodation is another problem these people end up living in the informal settlement areas. People in the informal settlements need services but it is not easy for the service providers to provide services to everybody's satisfaction.

1.3 Objectives of the research

To determine the impact of informal settlements on the government's land reform policy: the South African government has been promoting the vision of shack-free cities, the aim is to eradicate informal settlements and replace them with formal housing. The question of the emergence and the continued growth of informal settlements have received national attention because of land invasions, evictions and tensions.

In pursuance of the above objective, the following were set as sub-objectives:

- *To determine the extent of the problems in the process of the land reform programme:* The government has been criticised by different people and organisations for slow pace or non-delivery in many development categories. The goals and vision of land reform include: to facilitate development, to reduce poverty, to contribute to economic growth and to deal effectively with security and tenure for all. These goals give hope to the poor people that are living in the informal settlement areas that, the process of land reform would help them to better their lives.

- *To determine the comparable value of properties in informal settlements with similar properties in formal settlements:* Property Value in the informal settlements is considered to be very low no matter what kind of structure is built. The existence of informal settlement areas is believed to affect the property value of the nearby formal housing areas as well.

1.4 Hypotheses

- The existence of informal settlements areas have a significant negative impact on the progress of the land reform programme in South Africa
- The existence of informal settlements areas have a significant negative influence on the property value of the nearby formal housing areas.

2 LITERATURE REVIEW

2.1 Informal Settlements

Informal settlement areas are areas that have no formal housing. Many different names like shacks, squatter camps, shanty settlements, slums etc. are used to describe these areas. These are areas that exist outside the formal planning process of the managing authorities. They are made up of self-built dwellings of basic material with no building plans. Streets are in most cases narrow, not lined properly and in very poor conditions, and also not always in the best position from a town planning point of view.

Hindson & McCarthy (1994), defined informal settlements as dense settlements comprising communities housed in self constructed shelters under conditions of informal or traditional land tenure. They believe that this definition covers a range of different kinds of settlement in terms of shelter type, forms of informal tenure, degrees of official recognition and location in the rural-urban spectrum.

Taylor (1994), point out that a characteristic of all informal settlements is an absence of adequate access and bulk infrastructure. He explains that in informal settlements roads are typically of poor quality and impassable in a wet weather due to erosion. A general lack of capacity in the areas of bulk water provision and bulk sewage disposal, coupled with awkward topography, often constrains development to only communal water points and pit latrines, which have environmental implications.

Gilbert & Gugler (1992), believe that, in general self help settlements fall normally into more or less the following categories:

- a) Most of the dwellings were built by the families which originally occupied them.

- b) The settlement as originally founded suffered from some degree of illegality or lack of planning permission.
- c) When settlement was first formed most of infrastructure and services were lacking and in many settlements services are still lacking.
- d) The settlements are occupied by the poor populations.

According to Hardoy and Satterthwaite (1989), land for illegal settlements which came to form such a large part of most Third World cities was acquired in many different ways. Sometimes it was through a group of households carefully organizing a land invasion. Sometimes it was through quiet encroachment, this happens when one or two households move onto a piece of wasteland of a river bank or some other vacant sites.

Aldrich and Sandhu (1995), argue that the amount of squatter settlement is one indication of the extent of housing poverty in a society. It indicates a crisis because squatter housing generally lacks the primary, fundamental requirement of certainty of tenure. The presence of informal settlements indicate a habitat which fails to contribute to human development, and lacks the most fundamental guarantees necessary for the building of human communities.

Hardoy and Satterthwaite (1989), point out that living in an illegal shelter has serious disadvantages, First there is the obvious problem of lack of public services, not only those associated with housing, but also services such as police and emergency services to cope with fire, accidents or serious health problems. Secondly, their inhabitants are not usually eligible for loans to buy, build or improve a house or to start or expand a business since their illegal shelter or land site is not accepted as collateral.

Populations living in the informal settlements areas are in most cases threatened by eviction because of reasons like land ownership, physical layout, planning processes, unpleasant environmental conditions of the neighbourhood etc. In some areas where these poor people are not threatened by eviction, there is plentiful evidence to show that they are

capable of improving their housing conditions (Gilbert & Gubler, 1992). Ramphele & McDowell (1991), describe Luganda as an Established Low density informal settlement. Luganda is approximately 13km from Pinetown central business district but still within municipal boundaries. The community of Luganda consists of approximately 320 households on an area of 116hactares, giving a density of approximately 32 people per hectare. There is no legal tenure. The houses in the area fall into three broad categories of wattle and daub, wood and iron, and block or stone. Houses vary in quality from sound, well built structures to poorly constructed shacks (Ramphele & McDowell, 1991).

Squatting is one of the factors that are causing urban sprawl. People often choose sites where they may be able to avoid or minimize harassment, thus resulting in the formation of informal settlement some distance from the boundaries or within the boundaries of an urban area. These new settlements would probably cause considerable impact upon the nature of the urban area. Hindson & McCarthy (1994), explain that in Kwazulu-Natal researchers and policy makers have been aware for sometime that most of informal settlements have occurred in the Durban Functional Region (DFR) and the Greater Pietermaritzburg Area (GPA). A similar trend is also occurring in or near smaller towns. This is an indication that the pattern of settlements follows closely the distribution of employment and service opportunities in the urban area.

The apartheid government of South Africa placed some strict measures to control the movement of African people into urban areas, but it failed to entirely eradicate illegal squatting which created unplanned informal urban settlements with overcrowded living conditions. The apartheid government prohibited the entry into an urban area of any African not employed in that area, and provided for the removal and resettlement of all Africans (Harley & Fotheringham, 1999). Many Africans were forcefully removed from areas within the cities of South Africa. Harley & Fotheringham, (1999) state that in one of the categories of relocating Africans, the government used the term Closer Settlement to describe a type of settlement established for African

people on reserve or Trust land that is for residential purpose only. In these areas people were provided with temporary accommodation and were expected to build their own permanent houses.

Percival and Homer-Dixon (ND), argue that families moving into informal settlements increasingly move from closely adjacent communities, and urban to urban migration is driven by the housing shortage (currently estimated at over a million units), migrant labourers bringing families to urban areas, and the unemployed attempting to avoid exploitative rents for backyard shacks in the townships. Violence also plays a role in determining migration. People often leave their homes after violence erupts, but migrants quickly take their place because they are desperate for housing.

KwaZulu-Natal was affected by political violence in the past that caused many families to leave their homes and resettled in other places. According to Hindson & McCarthy (1994), there have been important changes in trends within squatter settlements during the years since the un-banning of political organizations and opening up of democratic activities. Malignant forces such as violence and crime drove the movement and dislocation of people in the urban areas in the 1980s. Some movements were impelled by the search for better housing and employment opportunities. Hindson & McCarthy (1994), suggest that the process of movement and settlement that occurred in the 1990s appear to represent a continuation at accelerated pace of the processes that begun in the 1980s.

KwaZulu-Natal has seen huge influxes of people into its cities. According to Percival and Homer-Dixon (ND), approximately half the population in the Durban and Pietermaritzburg region now lives in informal settlements, lacking infrastructure and basic services. These settlements are often run by local leaders (land lords) who have limited or no ability to provide their communities with infrastructure or services. They have no real control over electricity; refuse removal, roads, and other services.

People who moved into informal settlements need to feel from the outset that, there is an achievable goal, in terms of housing and environment which they can secure at a cost which they can afford, (Parry and Gordon, 1987). According to white paper on South African land policy, (1998) rapid urbanization is creating enormous pressure on urban land. It is taking place in the absence of clear and coordinated policies and strategies to provide for speedy land delivery, management and development. According to Land tenure services (Lts, ND) there is an immense amount of informally held land in South Africa and the constitution has made the right to own land fundamental. The current distorted settlement pattern found in many places will not correct itself automatically, nor will it be addressed by default. The development of more efficient and enabling settlement systems is necessary to improve the quality of life in informal settlements (Lts, ND).

Hindson & McCarthy (1994), point out that an informal settlements policy should be developed with a clear understanding of the short and long term relationship between housing and informal settlement upgrading and development. The policy should be based on an approach which squarely addresses the needs sustainability dilemma in such a way that short term relief measures and investment in longer term projects are correlated and contribute to sustainable development in the long term.

The Development Facilitation Act No. 67 of 1995 was considered to be one of the major building blocks of the Reconstruction and Development Programme (RDP). The main purpose of the Act was to facilitate the development of hundreds of thousands of houses for low-income people and to upgrade the thousands of informal settlements in South Africa (Fourie, 2000).

The Department of Land Affairs in its annual report of 1998 reported that the pace of implementation of the Development Facilitation Act (DFA), increased dramatically in 1998. The Department points out that its role is to provide support to provincial and local government in their implementation of the DFA. The two main areas of support relate to the Development of Tribunals

set up in each province and the setting of Land Development Objectives by municipalities. The report states that the support provided by the department to local government bodies for the implementation of Land Development Objectives, provided for in the Act, increased greatly during 1998.

2.2 Land Reform in South Africa

An essential part of the South African land policy is the land reform programme. This programme has three legs namely; Land Redistribution, Land Restitution and Land Tenure Reform. Department of Land Affairs (DLA, ND) explains the three legs of land reform programme as follows:

- Land Redistribution aims to provide the disadvantaged and the poor with access to land for residential and productive purposes. Its scope includes the urban and rural poor, labour tenants, farm workers and new entrants to agriculture.
- Land Restitution covers cases of forced removals that took place after 1913. This is being dealt with by a land claims court and commission established under the Restitution of Land Rights act 22 of 1994.
- Land Tenure Reform aims to provide people with secure tenure where they live, to prevent arbitrary evictions and fulfill the constitutional requirement that all South Africans should have access to legally secure land. In other words Tenure Reform is about the improvement of terms and conditions through which people hold, use, occupy and access land.

Marcus (1991) in a paper from a workshop on the land question hosted by the Institute for a Democratic Alternative for South Africa (Idasa) in the Western Cape in 1990 stated that "land is a fundamental component of property relations in every society since it is one of the natural resources essential for social existence. Its distribution is of vital concern to every citizen as it affects their basic human rights". Marcus (1991), further points out that whoever owns the land controls access to it, determines the use to

which it is put, decides the economic, social and political beneficiaries of production on it, and how the wealth below it is to be exploited.

According to the government land policy as tabled by the Minister for Land Affairs, the government needs a system of tenure that is nationally uniform and sustainable. There should be a basis for implementing local taxation, land use and building control and for the provision of infrastructure. The government needs a flexible means of administering property rights. It needs to have the ability to accommodate individual and group rights, the rights of the middle class, business and poor people. It needs to be able to deliver land titles to the public in an accessible and user-friendly manner. The government wants to deliver land titles that are not perceived as inferior and which can be upgraded to full ownership (SA White Paper on Land Policy, 1998).

According to Marcus (1991), the struggle for land reform in South Africa is a complex web of interrelated national, class and gender issues which arise out of the legacy of apartheid. Land affects the political and social status of the majority of South Africans as much as their economic position. Marcus (1991) believes that the approach to land reform during the time of the apartheid government could not be separated from its thinking on reform in general. Marcus explains that reform is a mechanism used by those in power to adjust to changes in a social system (structural reforms) and to relieve pressures (ameliorative reforms) in order to continue to rule.

Un-Habitat (ND) in its Habitat Agenda states that "Access to land and legal security of tenure are strategic prerequisites for the provision of adequate shelter for all and for the development of sustainable human settlements affecting both urban and rural areas. It is also one way of breaking the vicious circle of poverty. Every Government must show a commitment to promoting the provision of an adequate supply of land in the context of sustainable land-use policies. While recognizing the existence of different national laws and/or systems of land tenure, Governments at the appropriate levels, including local authorities, should nevertheless strive to remove all possible obstacles that may hamper equitable access to land and ensure

that equal rights of women and men related to land and property are protected under the law. The failure to adopt, at all levels, appropriate rural and urban land policies and land management practices remains a primary cause of inequity and poverty. It is also the cause of increased living costs, the occupation of hazard-prone land, environmental degradation and the increased vulnerability of urban and rural habitats, affecting all people, especially disadvantaged and vulnerable groups, people living in poverty and low-income people”.

According to Toulmin and Quan (2000), land reform can be a very expensive business. It involves a lengthy consultation and legislative process, and a major programme of institution building, training and awareness raising, as well as staff and other costs. They gave an example that in the case of South Africa it was estimated that the annual costs, of setting up and running the institutions required by the Draft Land Bill would amount to 108 million rand.

Prosterman and Riedinger (1987) point out that in devising a land reform a government must take into account the limitations of administrative skills and legal infrastructure. They further point out that government must also recognize that the regular legal system is likely to be limited in capacity, slow, probably pro-landlords, and quite possibly corrupt and that even with the best of will (and it must devise means to ensure the best of will that is reasonably attainable), administrators cannot be expected to perform tasks out in the field that are too numerous or complex, nor can they be expected to exact socially optimum behavior from landlords who have been left with an array of potential loopholes in the land reform law.

The land reform programme is a strategy that the democratic government of South Africa intends to use as a tool to overcome the legacy of the past. The government is faced with enormous challenges concerning the land issue. Many people in particular the poorest are landless and they urgently need land. These poor populations have high expectations in the land reform

programme. They expect land reform to perform magic solutions to their land related problems.

Levin and Weiner (1997) point out that land reform is about the restructuring of the existing power relations regarding land. They explain that land reform policy is therefore, about mediating processes of political struggle over land ownership, land access, and land use.

Government acknowledges that land reform is an important part of the Reconstruction and Development Programme (RDP). Guidelines and principles that gave direction to the initial process of formulating a land reform policy and programme are provided in the RDP document. The successful implementation of land reform programme would be largely influenced by the quality of land management in all levels of the government.

2.3 Land Management

The method in which the land is managed can be the most important key for the success of the government's land reform programme. Good land management policies with good land information would play a great part to help the government to achieve its goals of land reform. The International Federation of Surveyors (FIG, 1995) defines land management as the process of managing the use and development of land resources. Dale and McLaughlin (1988), explain that land management entails decision-making and the implementation of decisions about land. Decisions may be taken singly by individuals or collectively by groups. They point out that land management is concerned with the stewardship of land, both for the present and for future generations.

The success of turning the informal settlements areas into formal housing areas would depend largely on good land management locally, provincially and countrywide. United Nations Human Settlements Programme (UN-HABITAT (ND)) explained that in the informal settlements, informal and/or illegal tenure types often exist, due to a variety of factors that force the poor into various forms of unauthorized developments.

These factors may include the fact that:

- Land registration systems are inaccessible, expensive, not transparent, unable to register illegal land parcels or customary areas, and often based on colonial laws
- Land management systems and land use plans are complex, expensive and bureaucratic
- Land dispute settlement mechanisms are too centralised, costly and lengthy
- For many reasons, freehold tenure cannot serve low income groups
- There is an absence of appropriate land laws and policies and an absence of strong local government structures.

Williamson (1991), concludes that one of the primary activities of land information management is the contribution to the efficient management and administration of land which in the urban context is closely tied to land and housing delivery, the housing finance system, town planning, utility and infrastructure management, land taxation, land ownership, land transfer and land development. Williams (1991) explains that by examining the operation of a country globally it is possible to view the role and importance of surveying, mapping and land information management with regard to all the other activities which support the running of a country.

South Africa is coming from the condition where many forms of land management or land tenure exist, because of the previous fragmented South Africa. The old South Africa was made up of homelands, which had different types of land tenure systems. In the old South Africa many African people were forcefully removed from urban areas and forced to settle in the homelands or areas designated only for Africans. Land policy was made up of territorial segregations, different types of land tenure for whites and

African people, and denial of urban residential rights for African population. Royston (ND), in the forum of United Nations Centre for Human Settlements (UNCHS (Habitat)), states that the apartheid legacy is compounded by severe material, economic constraints which continue to limit the access of South Africa's poor to the benefits of urban life.

The democratic government of South Africa has developed new national land policies to try to redress the injustice of the past, and to bring the old different types of land management into one acceptable type of land management. The government acknowledges that in the informal settlement area land management is a great challenge. People living in the informal settlements seem to ignore or know little about land management. These are mostly the poor people with financial restrictions to afford other types of land registration, land tenure etc. The land policy should aim to benefit the majority of these poor populations.

UN-Habitat (ND), states that "Laws and policies related to land and human settlements, land management and registration systems should minimise the hurdles the poor have to overcome to obtain land and housing legally. These systems should become more accessible, both in terms of location, cost, time taken and user friendliness, and be placed within a human rights framework. Accessible legal remedies must be provided for in case of disputes and the violation of rights. A flexible approach to innovative and informal tenure types is the way forward"

Improving the conditions of the poor people living in the informal settlements would mean to provide security of tenure and access to basic urban services as one of the major conditions. It would be necessary for the population concerned to understand clearly all the essential steps and to be involved accordingly. In some cases people have been accused of resisting the developments. This is because in many cases people do not understand the procedures as followed by the developers. Essential steps should be taken by Local Government and Central Government when regulating policies to improve the living conditions in informal settlements areas in order to avoid resistance from the concerned communities.

Durand-Lasserve (ND), in the forum of UNCHS (Habitat) (ND), suggested that in order to overcome resistance and obstacles emphasis should be placed on the following set of measures.

- At capacity building level, particular attention must be placed on information and training of government officials in charge of land management, especially at the local level. Training must focus both on technical matters (new land management techniques, land information systems, etc.), on the social dimension of land management (social and economic function of urban land) and on the land markets mechanisms.
- At research level, particular attention should be given to alternatives to property rights for securing tenure, including research on innovative land surveying techniques and land registration procedures. Another research area concerns the understanding of land management practices within government administrations concerned. As far as possible, research must be combined with capacity-building
- At land management and planning level, experience stresses that successful regularization policies require that more decision-making power is transferred to local entities, including community-based organizations. In addition, appropriate procedures for the large-scale implementation of regularization policies must be set up, especially progressive procedures for allocating rights on land. This must be generally accompanied by a drastic revision of norms and standards.
- At political and administrative levels, one of the key issues is the decision making process. Particular attention must be given to improving transparency at all administrative levels. This requires the consolidation of local governance and decentralization of administrations in charge of land management. In this context,

compensatory measures must be found to encourage government officials to support regularization policies.

FIG (1995), lists some of the critical and sometimes conflicting objectives that must be addressed by land management policies as follows:

- Improving the efficiency of land resource use to support the rapidly growing population of many countries
- Providing incentives for development, including the provision of residential housing and basic infrastructure such as sewer and water facilities.
- Protecting the natural environment from degradation.
- Providing equitable and efficient access to the economic benefits of land and real estate markets.
- Supporting government services through taxation and fees related to land and improvements.

Looking at the above list of the objectives, it is clear that good land management would include in one way or the other the form of land registration and adjudication in order to achieve the objectives. In the World Bank study, Doeble (1985), cited in Larsson (1991), stated that "Urban land is among the most valuable economic and social resources of any nation, and it cannot be properly managed without an adequate system for the measurement and recording of the boundaries of parcels, and the registration of all legal rights related to each parcel, that is to say, without an adequate cadastral system".

Gwartney (1999), points out that, "The major function of a competent city government is to provide good community services by collecting the land rent created within the community to ensure the efficient use of land and equal opportunities for all of its citizens. Transportation is an important function of government which would facilitate the creation of a compact city, where people can easily find the facilities they desire for education, commerce, religion and recreation. Good land use, with the freedom of individuals to achieve the highest and best use of land, would ensure a

desirable community. A compact city would reduce the need to invade the wilderness and devastate the environment.”

Constitutional rights of the poor population living in informal settlements should be recognized in the land management policy. Some informal settlements are considered to be illegal because of the manner that the settlements started. Land management policy should state clearly the procedures that need to be taken in dealing with illegal informal settlements. The main point to consider is that these poor populations have the rights to have property and they desperately need land. Land is the most important need for people, because people need land in order to improve their living conditions. Land management policy should promote access to land even for the poor people. The relationship between people and land is very important and should be clearly documented in the form of a land register.

2.4 Land Registration

According to apartheid laws, African people in South Africa could not own land, but could only be issued with Permission to Occupy (PTO). Because of the laws of the apartheid government, land registration did not apply to land occupied by African people in South Africa. Most of the areas that could be legally occupied by African people in South Africa then were in rural areas. Although African people were employed in towns and cities, they were not permitted to reside in the cities.

The system of land registration provides a means for capturing a public resource of information about land ownership, leasehold, etc. Such information is needed for planning, development and control of land resources. Continuing expansion of production in the industrialised World exerts increasing pressure on scarce natural resources. Similar pressures on natural resources in the Third World stem mainly from unabated population growth, mostly around urban areas. Land, being in one way or the other the basic source of most material wealth, is of crucial importance and will require effective management systems (Larson, 1991).

It is stated in the white paper of the South African land policy that land, its ownership and use, has always played an important role in the political, economic and social processes in the country. Past land policies were a major cause of insecurity, landlessness, homelessness and poverty in South Africa. They also resulted in inefficient urban and rural land use patterns and a fragmented system of land administration. This has severely restricted effective resource utilisation and development (White Paper Land Policy, 1998).

The white paper for land policy states that land policy should ensure accessible means of recording and registering rights in property, establish broad norms and guidelines for land use planning, effectively manage public land and develop a responsive client-friendly land administration.

At present, South Africa boasts a sophisticated and efficient system of land registration. The right to property is enshrined in the bill of rights contained in the Constitution of the Republic of South Africa Act, 1996. The Act provides that no one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.

The International Federation of Surveyors (FIG) (1995) defines land registration as the official recording of legally recognized interests in land, as well as supporting conveyancing and property taxation. Registration systems are often a source of government revenue through the collection of fees and transfer taxes. FIG explains that in designing land registration systems, most jurisdictions have some form of registration of legal documents, ownership, or use rights. World wide there have been major efforts to improve land registration systems to meet new demands for information, land transactions, and cost reduction. In some cases, a new system of land registration may be introduced to replace existing systems or informal arrangements.

According to Larsson (1991), land registration primarily invests legal powers in the rights inscribed. If the property units are defined on maps, registration

also provides evidence concerning the extent and boundaries of the property. Larsson, (1991) further argues that this evidence seldom attains the status of a formal guarantee. Even if the boundaries are surveyed and recorded in detail, the map and the survey records will, in most countries not be conclusive evidence of the boundary. They will be treated merely as an indication whose strength will depend on the surveying methods employed, demarcation on the ground and whether or not there is formal approval from the parties. Larsson suggests that the law should as far as possible; explicitly define to what extent registration will provide legal guarantees for titles as well as for boundaries.

Most parcel boundaries are defined by stable marks or visible features on the ground, which can be natural or artificial. They can be represented by lines on maps, often described by bearings or azimuths and distances, or by coordinates. If the representation on the map has legal priority over the marks on the ground in cases of dispute, the demands for survey accuracy are usually higher than if the case is the opposite. Physical demarcation on the ground is important because it provides actual notice of the boundaries to the landowners (FIG, 1995).

Land information is important for development and planning. The author would simply explain land registration as an official process to produce land records that contain important information that is related to a particular piece of land. This specific type of information or land records is in most cases supported by sketches and maps. The main purpose of the registration process is to bring information about rights and interests on a specific piece of land in an official register. The names "legal land register" or/and "cadastre" are used to describe this official land record. Good cadastre would contain clear information that is necessary to know for the purpose of planning and land administration. This information is also valuable to use in case of land dispute.

Information that could be found in the cadastre includes area, ownership, land use type, etc. This information explains the relationship between the land and people who use the land. In the case of informal settlements this is

in many ways a problem because of the illegalities in the methods that were used when land was invaded. Land ownership is a big problem in the informal settlements, and I believe that it is lack of land ownership that is causing a serious problem of land dispute in these areas.

2.5 Adjudication

What is land adjudication and to what extent does land adjudication affect the communities that are living in the informal settlements areas? In trying to answer the question about adjudication, it is worthwhile considering how various texts define the term 'adjudication'.

Dale and McLaughlin (1988), define adjudication as the process whereby existing rights in a particular parcel of land are finally and authoritatively ascertained. It is a prerequisite to registration of title and to land consolidation and redistribution. There is a cardinal principle in land adjudication that the process does not alter existing rights or create new ones. It merely establishes what rights exist, by whom they are exercised and to what limitations if any they are subject. They explain that land adjudication should introduce certainty and finality into the land records. Unfortunately in areas of customary tenure where the manner of holding of rights in land may be undocumented and uncertain, distortions in the land ownership pattern have sometimes been introduced.

FIG (1995), defines adjudication as the process of final and authoritative determination of the existing rights and claims of people to land. It describes it as a standard procedure prior to the recording of these rights and claims in a registration system. It also states that adjudication is a standard procedure prior to the operation of a land consolidation scheme. The process of adjudication should simply reveal what rights already exist, by whom they are held and what restrictions or limitations there are on them.

Spangler, (2003) defines adjudication as the processes of decision making that involve a neutral third party with the authority to determine a binding resolution through some form of judgment or award. Adjudication is carried out in various forms, but most commonly occurs in the court system. He also

explains that adjudication can also take place outside the court system in the form of alternative dispute resolution processes such as arbitration, private judging, and mini-trials. However, court based adjudication is usually significantly more formal than other processes.

Looking at the above definitions one could conclude that land adjudication is the process of making authoritative decisions to clarify existing land rights. Adjudication would be a very important necessity for land registration because it would help to establish a land register that has a great degree of legal validity. Through adjudication the existing rights on property would be stipulated clearly and the type of ownership would be clarified. The conditions of informal settlements or squatting, however, are likely to pose some serious problems for adjudication and subsequently land registration which adjudication supports.

The forms of adjudication to determine the land rights can be classified as sporadic adjudication or systematic adjudication. Dale and Mclaughlin (1988) explain that by sporadic adjudication is meant “here and there” or “now and then”, implying “whenever or wherever” there is a need or any other reasons for determining the precise ownership of an individual land parcel. The sequence in which parcels are brought on to the register is unsystematic and unpredictable. Systematic approach on the other hand has been defined as the methodical and orderly sequence in which all parcels are brought on to the register area by area.

Sporadic adjudication may be voluntary or compulsory while systematic adjudication would have to be compulsory for everyone in the affected area. Dale and Mclaughlin (1988), argue that without some degree of compulsory adjudication, registration of title will almost certainly fail and complete registration of all land is never likely to be achieved. In the informal settlements areas where the goal is to establish and maintain an improved system of cadastre, systematic adjudication would be more relevant.

Analyzing the two types of adjudication as explained above, the author would say that the two types of adjudication explain the method that could

be used in the process of making an official decision about land problems like land ownership, land dispute, boundaries etc. Land problems must be solved before registration of the affected land. Sporadic adjudication could be used selectively and to a certain extent successfully in the case of those informal settlements that are regarded to be legal by virtue of being given permission to occupy the land. In sporadic adjudication parcel by parcel would be considered at any intervals that have no apparent pattern.

Sporadic adjudication should have a clear plan with time frame to help the process to be successful. The author argues that if there is no time frame, there would be a minimum chance for a sporadic adjudication to be successful. In the case of those informal settlements that are regarded to be illegal because permission to occupy was not given, systematic adjudication should be used. Systematic approach would make everyone affected to be involved, and this would help to make the process successful. In this approach, parcels would be considered in a methodical and organized manner.

Benefits of land registration and adjudication

According to Dale and McLaughlin (1988), the benefits of land registration and adjudication system include the following:

- a) **Certainty of ownership:** The compilation of land records will necessitate the formal identification and recognition of the ownership of the land, a process known as adjudication. This should provide certainty not only as to the landowner but also about what other rights exist in the land. This in turn should lead to greater social cohesion.
- b) **Security of tenure:** through the adjudication process, existing defects in any titles to land can be cured by the judicious use of appropriate powers. In many countries the official record is supported by a state guarantee of the title to the land. Greater security should in turn lead to greater productivity, especially in rural areas where farmers have

an incentive to take greater care of the land and to invest their capital and resources in it

- c) **Reduction in land dispute:** Dispute concerning land and boundaries can give rise to expensive litigation. The settlement of such disputes should be part of the process of adjudication and will not only lead to greater productivity from the land but also reduce court costs and money wasted on litigation.
- d) **Improved conveyancing:** The costs and delays in transferring property rights can be substantially reduced through the operation of a land registration system. Duplication of effort, for instance in the repeated investigation of old titles, can be avoided, thus saving on costs.
- e) **Stimulation of the land market:** The introduction of a cheap, secure, and effective system for recording and transferring interests in land should improve the operation and efficiency of the land market. It should not only lower transaction costs but also permit the market to respond effectively to all the needs of users.
- f) **Security for credit:** The land title can be used as security against any loan. Evidence suggests that the combination of a sound title with the ability to raise long term credit can give rise to a substantial increase in productivity from the land.
- g) **Monitoring of land market:** the cadastral system may be used to monitor and if necessary to control land transactions and ownership.
- h) **Facilitating of land reform:** Land redistribution, land consolidation, and land assembly for development and redevelopment can be expedited through the ready availability of information on who currently owns what.

- i) **Management of state lands:** The state is often the major landowner in a country. The development of a cadastral system and in particular the creation of cadastral maps in a systematic manner will benefit the state in the administration of its own land that it leases. Also, the public acquisition of land through compulsory purchase prior to development can be expedited.
- j) **Support on land taxation.** Many countries have some form of land assessment and derive revenue from charges made on the land. Often the costs of improvements in the cadastral system are offset by greater efficiency in tax collection and the consequential greater rate of recovery of tax.
- k) **Improvements in physical planning:** The cadastral system may be used to support physical planning in both the urban and rural sectors. Better land administration should lead to greater efficiency in local government. Many development programmes have failed or been unnecessarily expensive because of lack of knowledge of existing land rights. The cadastre also provides a basis for restricting certain uses of the land, for instance those that might give rise to pollution.
- l) **Recording of land resource information:** The availability of up to date large scale cadastral plans can lead to the creation of an efficient land information system that services a variety of land resource management activities.

Land information is of considerable importance in land management. The success on the upgrading programmes of the informal settlements would depend largely on the quality of land information. Planning and development could not be carried out successfully without having the required land information.

Authorities would have to make a decision whether the most appropriate approach would be sporadic or systematic approach when the new land

registration and adjudication system is introduced. KwaZulu-Natal was involved in the process of land registration and adjudication system during the years of 1980's. I will refer to an interview held by Landman J C with Mr. Marais of the Surveyor General in pietermaritzburg.

Landman J C (ND), recorded an interview with Mr. Marais as follows:

"During the 19th century land was allocated to tribal chiefs, or AmaKhosi by the then Colonial Government. In 1907, 21 Reserves and approximately 20 "Locations" were registered. Both Reserves and Locations were registered as Communal Property. Some of this land was lost after the Black Land Act No. 27 of 1913, and the Development Trust and Land Act No. 18 of 1936.

During the 1980's the KwaZulu Government surveyed the boundaries of reserves and Locations, to establish survey diagrams for the various tribes. This required the application of adjudication procedures to establish the positions of some of the boundaries, involving the AmaKhosi and other stakeholders. Evidence based on existing survey data was often not accepted. Problems also arose when grazing rights were granted by some owners to others, who interpreted such rights as ownership.

This adjudication exercise continued between the various tribes until 1994. At the time of the 1994 elections all Reserves and Locations were placed under the control of the Zulu King, who formed the Ingonyama Trust to administer this land. This resulted in the majority of tribal land in KwaZulu-Natal not being registered.

Land Restitution claims have been dealt with on evidence based on positions of ancestral graves, aerial photographs and maps, and involve the community and other stakeholders, e.g. farmers. Such claims also required the application of adjudication

procedures involving a range of stakeholders. This includes claims by labour tenants. “

Land registration and adjudication processes carried out as explained above were to introduce a formal land rights system for the African populations. These populations lived on the relevant land without the advantages of having formal land rights. During these processes of land registration and adjudication the new land register is created and land rights are clarified. In the case of unregistered settlements there is no formal means that exists to identify the rights of the land users or to clarify what that particular land user is entitled to in legal means.

2.6 Shelter for the poor population

Poor populations living in the informal settlement areas live in poorly constructed shelters. These populations have the desire to live in proper constructed structures but because they are poor they are unable to afford the financial requirements of the proper structures without some form of assistance. According to Parry and Gordon (1987) the type of housing people can afford is naturally affected by its cost. They believe that the cost of housing is strongly influenced by standards and regulations imposed by authorities.

Un-Habitat (ND), in its habitat agenda state that “All Governments without exception have a responsibility in the shelter sector, as exemplified by their creation of ministries of housing or agencies, by their allocation of funds for the housing sector and by their policies, programmes and projects. The provision of adequate housing for everyone requires action not only by Governments, but by all sectors of society, including the private sector, non-governmental organizations, communities and local authorities, as well as by partner organizations and entities of the international community. Within the overall context of an enabling approach, Governments should take appropriate action in order to promote, protect and ensure the full and progressive realization of the right to adequate housing”.

British Government white paper on housing (United Kingdom, 1971), cited in Kemeny (1981), explains that “home ownership is the most rewarding form of house tenure. It satisfies a deep and natural desire on the part of the householder to have independent control of the home that shelters him and his family. It gives him the greater possible security against the loss of his home and particularly against price changes that may threaten his ability to keep it”.

Governments should review and rationalize, where appropriate, systems of subsidies through policies that would ensure their viability, equity and transparency, thus allowing many people without access to credit and land to enter the market. This would help to facilitate access to housing to those people that are not served by existing finance mechanisms (UN-Habitat, ND).

The democratic government of South Africa inherited the housing system which has severe abnormalities because of apartheid rules. The government formulated the new national housing policies with the aim of addressing the abnormalities of the past. Department of Housing (DoH, ND) summarized some of the key Characteristics of the South African Housing Market as follows:

- Severe housing shortage: There is a severe housing shortage in South Africa. In 1997 the National Housing Department estimated that the number of families without adequate housing was 2,2 million. Due to population growth this figure increases by about 204 000 every year.
- Lack of affordability: Due to high levels of unemployment and relatively low average wage levels, a significant number of South Africans cannot independently provide for their own housing needs. These households are defined as those with no income, and those earning up to R3 500 per month. In 1996 it was estimated that of all

the families living in South Africa, 80% fell into this category. It was further estimated that in fact more than 50% of families earned between R0 and R1 500 per month.

- Inexperienced housing consumers: Because of apartheid many people have never bought or rented a house, or know anyone who has. There are therefore many inexperienced housing consumers. Such consumers often make mistakes or fall prey to unscrupulous operators who steal their money.
- A culture of building: Many cultural groups in South Africa have a culture of building where individuals and households are able to build their own homes. This is a significant opportunity whereby poor households are able to save money by building their own homes.
- The Housing Sector as a contributor to the economy: The Housing Sector if effective can contribute significantly to the national economy. The Housing Sector has the potential to increase employment and individual wealth, improve the balance of payments, reduce inflation, encourage households to save, increase the demand for consumer goods and services, impact positively on the health of households and increase the Gross Domestic Product. Given these factors investment into the housing sector has an important contribution to make to the overall economic growth of South Africa.

Housing delivery would be dependent on the land delivery process. Land identification, allocation and development are critical component of the housing delivery process. DoH (ND) explained that the effectiveness of land delivery has a fundamental impact on:

- The rate scale of housing supply
- The potential for housing supply to contribute to the socio-economic development and environment of poor communities

- The potential for housing supply to contribute to the racial, economic and spatial integration of South Africa.

Access to housing opportunities is impossible if the necessary land is not available. The delays involved in accessing land not only mean that housing delivery is delayed, but also that the investments tied up in the housing delivery process are unproductive for this time. The consequence of unproductive investments is an increased cost of delivery and a concomitant decrease in value for subsidy. Delays of this nature also increase the perceived level of administrative risk and discourage new investment in housing for the poor (DoH, ND).

2.7 Land Value

Land value depends on many factors. The main factors that could control land value are land use type and some advantages related to location of the particular land. The other important factor to consider is the nature of land supply and the demand for land. According to Breese (1966), almost everywhere different kinds of land uses are associated with varying land values which may be related to the types of operations taking place upon the property but also may reflect factors of land ownership.

Gwartney (1999), points out that “land holds a unique and pivotal position in social, political, environmental and economic theory. Land supports all life and stands at the centre of human culture and institutions. All people, at all times, must make use of land. Land has no cost of production. It is nature's gift to mankind, which enables life to continue and prosper.”

International Valuation Standards (IVS) (2003), explains that, “Valuation of land as if vacant or of land and improvements to or on the land, is an economic concept. Whether vacant or improved, land is also referred to as real estate. Value is created by real estate's utility, or capacity to satisfy the needs and wants of human societies. Contributing to value are real estate's

general uniqueness, durability, fixity of location, relatively limited supply, and the specific utility of a given site.”

According to Boddy (2002), land value is determined by the dynamics of the local real estate market. When supply exceeds demand, this causes land values to rise very slowly, remain the same or even decline. This is called an oversupplied or “buyers” market. When demand exceeds supply, this causes land values to rise. This is called an undersupplied or “sellers” market.

Bryant et al (1982), State that “the value of land at particular point in time and space reflects pressures in the market place, the overall condition of the economy, the preferences of the various actors involved and their abilities and levels of knowledge, and generally, all of the factors – institutional, cultural and economic – that impinge upon the value of real estate. Thus different factors affect the pattern of change in land value at different scales of analysis.”

International Valuation Standards (IVS) (2003), list and explain the six primary methods of valuing land as follows:

- a) A sales comparison technique for land valuation involves direct comparison of the subject property with similar land parcels for which actual data on recent market transactions are available. Although sales are the most important, analysis of the listings and prices offered for similar parcels that compete with the subject may contribute to greater understanding of the market.
- b) A subdivision development technique may also be applied to land valuation. This process entails projecting the subdivision of a particular property into a series of lots, developing incomes and expenses associated with the process, and discounting the resulting net incomes into an indication of value. This technique may be supportable in some situations, but is subject to a number of assumptions that may be exceedingly difficult to associate with the

market value definition. Caution is advised in the development of supportable assumptions, of which the valuer is advised to make full disclosure.

- c) Allocation is an indirect comparison technique that develops a ratio between land value and improvement value or some other relationship between property components. The result is a measure that allocates a total market price between the land and improvements for comparative purposes.
- d) Extraction is another indirect comparison technique (sometimes called abstraction). It provides a value estimate of improvements by applying a cost less depreciation analysis and extracting the result from the total price of otherwise comparable properties. This residual is an indication of possible land value.
- e) The land residual technique for land valuation also applies income and expense data as elements in its analysis. A financial analysis is made of the net income that can be obtained by an income producing use and a deduction from the net income is made for the financial return required by the improvements. The remaining income is considered residual to land and is capitalised into a value indication. The method is limited to income producing properties and is most applicable to newer properties for which fewer assumptions are required.
- f) Land can also be valued by ground rent capitalisation. If the land is capable of independently producing a ground rental, that rent may be capitalised into a market value indication where sufficient market data are available. Care must be taken, however, not to be misled by special terms and conditions in a ground rent lease that may not necessarily be representative of the particular market. In addition since ground leases may have been drawn up many years before the

valuation date, the rents quoted therein may be outdated, and current income capitalisation rates may be hard to obtain.

According to Badcock (1984), the value of urban land is determined more by its scarcity and capacity for intensive use or yield than by its cost of production. In a growing urban economy producers can adjust to the demand for additional land in either of two ways. First, by using land more intensively or as technological improvements permit. Second other way would be by expanding the urban area. The expansion that takes place on the periphery of cities pushes up the value of previously developed land closer to the centre. This causes the inner city dwellers to pay a premium for accessibility and convenience. In most cases the rule in the land sales markets is that the larger the urban area the greater the differential between the value of undeveloped and developed land at the edge of the city (Badcock, 1984).

Parcel size affects the market value per unit area. Land sales markets provide an opportunity to obtain land for permanent use and to use land as collateral in credit markets. According to Deininger (2003), while it is a good thing that permanent land transfers normally provides higher incentives for long term investment, land sales markets are normally associated with higher transaction costs than land rental markets. In addition acquiring land through purchase requires a considerable outlay of cash which may be out of reach for most of the households of the poor populations.

Households in the informal settlement areas are made up of poor people. The truth of the matter is that, these people need to acquire land, but they do not have the ability to afford the high transaction costs related to land sales. Transaction costs may include registration fees, transfer fees, survey costs etc. which makes acquisition of land more difficult for the poor populations living in informal settlements.

Land is essential to human life and to all living creatures. It is of a great importance that every human being should have access to land. The value

of land would vary in accordance with land demand. In urban areas the demand is in most cases very high and thus causing a high land value. Purchasing of land requires that one should have sufficient cash flow to purchase or finance the site. This is a big problem for the poor populations living in informal settlement areas. Government should develop a clear policy and strategies to provide assistance to the poor populations living in informal settlements. These populations want a chance to acquire land and have secure land rights, healthy environment and leave inheritance to their future generations.

3 METHODOLOGY

This is an empirical study, which seeks to describe and identify the various problems in land reform that are related to the existence of informal settlements. An assessment of factors contributing to the existence of informal settlements was carried out. Selected government departments and relevant stakeholders were visited and relevant documents were studied in order to critically analyze the processes that are used for the upgrading of the informal settlement areas.

Research study looked at the land reform policy and its implementation plans and evaluated the success and failure of the plans in dealing with informal settlements as follows.

a) Review of the literature

Study of relevant materials has been carried out in order to acquire more information, understanding and experience necessary that would help in the smooth carrying out of this research study. The information is obtainable from books, internet and from any other relevant sources.

Issues addressed include informal settlements, land registration, land adjudication and land Values, etc. Previous researches concerning informal settlements by different researchers were studied in order to take note of the work that have been done.

b) Visits to relevant government offices.

Government offices visited include Surveyor General, local government, Department of Land Affairs and Department of housing. During the visits interviews were conducted with identified officials. Relevant documents were also studied

c) Visits and interview with relevant individuals or groups.

Councilors and members of the communities in informal settlements areas were visited and interviewed. Relevant materials from offices of the councilors were looked at and have been used where possible. Estate agents were visited and interviewed in order to gain more information about comparable property value. Where possible, residents living in the formal residential areas close to the informal settlements areas were visited and interviewed

d) Compile and analyze data

The collected data were compiled and analyzed accordingly and then evaluated to draw opinions and conclusions.

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COMPONENT B

THE IMPACT OF INFORMAL SETTLEMENT AREAS ON THE LAND REFORM PROGRAMME IN SOUTH AFRICA

B. J. Saane

Informal settlement areas (often referred to as squatter settlements or squatter camps) exist in all provinces of South Africa. These areas are characterized by rapid and unplanned development. The result of these is that property boundaries in most of these areas are not surveyed. Since the plots do not have boundary beacons, the land parcel is not properly defined and therefore, the property cannot be registered in the user or owner's name. Consequently, ownership is not guaranteed. Thus there are no legal documents to prove the relationship between an individual and the property.

This paper discusses the problems in the land reform process that can be attributed to the existence of informal settlements. The paper is based on a research carried out to assess the effect of informal settlements on the success of the land reform policy in South Africa. A review of literature on the land reform policy and its implementation plan was carried out. The research also included a literature review on informal settlements in relation to property ownership, cadastral surveying and land registration.

Three informal settlements in the KwaZulu-Natal province of South Africa were identified for study. These included Cato Manor and Umlazi Section CC in Durban and Peace Valley 2 in Pietermaritzburg.

1 BACKGROUND

1.1 Introduction

Informal settlement areas are areas that have no formal housing. Many different names like squatter camps, shanty settlements, slums etc. are used to describe these areas. These are areas that exist outside the formal planning process of the managing authorities. They are made up of self built-dwellings of basic material with no building plans. Streets are in most cases narrow, not lined properly and in very poor

conditions, and also not always in the best position from a town planning point of view.

The new government of South Africa has been promoting the vision of shack-free cities whose aim is to eradicate informal settlements and replace them with formal housing. Its aim is to create the conditions where people live on serviced stands and have title deeds to their properties. After ten years of democracy the government is still facing a major challenge from the continued growth of urban informal settlements.

The government's aims are that all areas with informal settlements should be formalized and have proper infrastructures. The people who moved into undesignated land have to be relocated and informal settlements that are located on land that is suitable for housing development should be upgraded. The communities need to be provided with adequate land and affordable housing. There should be proper roads, electricity, sanitation and a healthy environment, as well as economic opportunities and social services for members of the community. The communities in the informal settlements consist of a majority of poor people who are landless and homeless and they have a direct and immediate desire and needs to secure places to live. They need to be supported and assisted to make necessary linkages and strategies to turn these desires and needs into reality.

Land Reform is one of the main promises made by the African National Congress when it came to power in 1994. The new government of South Africa launched the Land Reform pilot programme. The main aim was to address the racial imbalances and the inequalities of the past. The government stated in the Reconstruction and Development Programme (RDP, 1994) document that the land reform policy is to redress the injustices of forced removals and the historical denial of access to land. It has to ensure security of tenure for rural dwellers,

eliminate overcrowding and supply residential and productive land to the poorest section of the South African population

The democratic government of South Africa is believed to recognize the poor environmental conditions in the informal settlements, and the enormous gap between financial affordability of the people living in informal settlements areas and those living in formal housing areas. Poor people living in informal settlements cannot afford to build a good house structure that is secure, have sufficient space and services. The government needs to provide assistance to these poor people to help them in their efforts to improve their living conditions. Government needs to provide the residents of informal settlements with reasonable security of tenure and urban services.

1.1.1 Land Reform in South Africa

The land question was one of the main issues among the liberation movements during the struggle against apartheid in South Africa. The ANC government which took power in 1994 introduced a land reform programme as an essential part of the government's land policy.

The land reform programme has three legs namely; Land Redistribution, Land Restitution and Land Tenure Reform. Department of Land Affairs (DLA, ND) explains the three legs of land reform programme as follows:

- Land redistribution aims to provide the disadvantaged and the poor with access to land for residential and productive purposes. Its scope includes the urban and rural poor, labour tenants, farm workers and new entrants to agriculture.
- Land restitution covers cases of forced removals that took place after 1913. This is being dealt with by a land claims court and

commission established under the Restitution of Land Rights act 22 of 1994.

- Land tenure reform aims to provide people with secure tenure where they live, to prevent arbitrary evictions and fulfill the constitutional requirement that all South Africans should have access to legally secure land. In other words Tenure Reform is about the improvement of terms and conditions through which people hold, use, occupy and access land.

The land reform programme is a strategy that the democratic government of South Africa intends to use as a tool to overcome the legacy of the past. The government is faced with enormous challenges concerning the land issue. Many people in particular the poorest are landless and they urgently need land. These poor populations have high expectations in the land reform programme. They expect land reform to perform magic solutions to their land related problems.

The Government is being criticized by mostly African led political parties and movements for the slow pace of delivery in redistributing the land. The Landless People's Movement (LDM) continue to criticize the government saying that current legislations had not done enough to increase the pace of delivery in redistribution of land to the poor African majority. One of the criticisms is that the land redistribution programme focuses on what has come to be called cheque book approach redistribution, which is seen as allowing the *status quo* to continue.

Marcus (1991) in a paper presented at a workshop on the land question hosted by the Institute for a Democratic Alternative for South Africa (Idasa) in the Western Cape in 1990 stated that "land is a fundamental component of property relations in every society since it is one of the natural resources essential for social existence. Its

distribution is of vital concern to every citizen as it affects their basic human rights”

Levin and Weiner (1997) point out that land reform is about the restructuring of existing power relations regarding land. They explain that land reform policy is therefore, about mediating processes of political struggle over land ownership, land access, and land use.

Government acknowledges that land reform is an important part of the Reconstruction and Development Programme (RDP). Guidelines and principles that gave direction to the initial process of formulating a land reform policy and programme are provided in the RDP document. The successful implementation of the land reform programme would be largely influenced by the quality of land management in all levels of the government

1.1.2 Land management

The method in which the land is managed can be the most important key for the success of the government’s land reform programme. Good land management policies with good land information systems would play a great part to help the government to achieve its goals of land reform

Federation of Surveyors (FIG, 1995) defines land management as the process of managing the use and development of land resources. According to Toulmin and Quan (2000), land policy and tenure reform processes need to be set within the broader objectives and programmes pursued by government, to ensure a consistent approach. Such linkages with other areas of policy should also enable these different activities to build constructively on interventions underway in their respective domains.

South Africa is coming from the condition where many forms of land management or land tenure existed, because of the previous fragmented South Africa. The old South Africa was made up of homelands, which had different types of land tenure systems. In the old South Africa many African people were forcefully removed from urban areas and forced to settle in the homelands or areas designated only for Africans. Land policy was made up of territorial segregations, different types of land tenure for whites and African people, and denial of urban residential rights for African population.

The democratic government of South Africa has developed new national land policies to try to redress the injustice of the past, and to bring the old different types of land management into one acceptable type of land management. The government acknowledges that in the informal settlement areas land management is a great challenge. People living in the informal settlements seem to ignore or know little about land management. These are mostly the poor people with financial restrictions to afford other types of land registration, land tenure etc. The land policy should aim to benefit the majority of these poor populations.

Improving the conditions of the poor people living in the informal settlements would mean to provide security of tenure and access to basic urban services as one of the major conditions. It would be necessary for the population concerned to understand clearly all the essential steps and to be involved accordingly in the development processes. In some cases people have been accused of resisting the developments. This is because in many cases people do not understand the procedures as followed by the developers. Essential steps should be taken by Local Government and Central Government when regulating policies to improve the living conditions in informal settlements areas in order to avoid resistance from the concerned communities.

Constitutional rights of the poor population living in informal settlements should be recognized in the land management policy. Some informal settlements are considered to be illegal because of the manner that the settlements started. Land management policy should state clearly the procedures that need to be taken in dealing with illegal informal settlements. The main point to consider is that these poor populations have the rights to have property and they desperately need land. Land is the most important need for people, because people need land in order to improve their living conditions. Land management policy should promote access to land even for the poor people. The relationship between people and land is very important and should be clearly documented in the form of legal land register.

1.1.3 Land Registration

According to apartheid laws, African people in South Africa could not own land, but could only be issued with Permission to Occupy (PTO). Because of the laws of the apartheid government of South Africa, land registration did not apply to land occupied by African people in South Africa. Most of the areas that could be legally occupied by African people in South Africa then were in rural areas. Although African people were employed in towns and cities, they were not permitted to reside in the cities.

Land registration is a system that would provide a means of capturing information about a piece of land so that the relationship between the land and the user can be legally explained. The white paper for land policy (1998), states that land policy should ensure accessible means of recording and registering rights in property, establish broad norms and guidelines for land use planning, effectively manage public land and develop a responsive client-friendly land administration. International Federation of Surveyors (FIG) (1995) defines land registration as the official recording of legally recognized interests in land, as well as supporting conveyancing and property taxation.

Registration process serves the purpose of bringing information about the rights and interests on a specific piece of land in an official register. The names “legal land register” or/and “cadastre” are used to describe this official land record. Good cadastre would contain clear information that is necessary to know for the purpose of planning and land administration. This information is also valuable to be used in the case of land dispute.

Information that could be found in the cadastre includes area, ownership, land use type etc. This information explains the relationship between the land and people who uses the land. In the case of informal settlements this is in many ways a problem because of the legality in the method used when land was invaded. Land ownership is a big problem in the informal settlements, and I believe that it is land ownership that is causing a serious problem of land dispute in these areas.

1.1.4 Adjudication

What is land adjudication and to what extent does land adjudication affect the communities that are living in the informal settlements areas? Dale and Mclaughlin (1988), define adjudication as the process whereby existing rights in a particular parcel of land are finally and authoritatively ascertained. It is a prerequisite to registration of title and to land consolidation and redistribution.

Toulmin and Quan (2000), point out that in a social context dominated by huge differences in education levels and by differential access to the state administration, there is concern that the adjudication or registration process will be manipulated by the elite in its favour. They explained that experience with land registration and titling schemes has shown that well-informed, powerful and usually educated individuals often compete successfully for land not previously registered in their own name, while the mass of rural people are generally unaware of the new land provisions or do not grasp the implications of registration.

The forms of adjudication to determine land rights can be classified as sporadic adjudication or systematic adjudication. Dale and McLaughlin (1988) explain that by sporadic adjudication is meant “here and there” or “now and then”, implying “whenever or wherever” there is a need or any other reasons for determining the precise ownership of an individual land parcel. The sequence in which parcels are brought on to the register is unsystematic and unpredictable. Systematic approach on the other hand has been defined as the methodical and orderly sequence in which all parcels are brought on to the register area by area.

Sporadic adjudication may be voluntary or compulsory while systematic adjudication would have to be compulsory for everyone in the affected area. Sporadic and systematic approach explain the method that could be used in the process of making an official decision about land problems like land ownership, land dispute, boundaries etc. Land problems must be solved before registration of the affected land. Sporadic adjudication could be used selectively and to a certain extent successfully in the case of those informal settlements that are regarded to be legal. In sporadic approach parcel by parcel would be considered at any intervals that have no apparent pattern.

The sporadic approach should have a clear plan with time frame to help the process to be successful. I argue that if there is no time frame, there would be a minimum chance for a sporadic approach to be successful. In the case of those informal settlements that are regarded to be illegal, systematic adjudication should be used. Systematic approach would make everyone affected to be involved, and this would help to make the process successful. In this approach, parcels would be considered in a methodical and organized manner.

Land information is of considerable importance in land management. The success on the upgrading programmes of the informal settlements

would depend largely on the quality of land information system. Planning and development could not be carried out successfully without having the required land information. Authorities would have to make a decision whether the most appropriate approach would be sporadic or systematic approach when the new land registration and adjudication system is introduced for a new project.

1.1.5 Land Value

Land value depends on many factors. The main factors that could control land value are land use type and geographical location of the particular piece of land. The other important factor to consider is the nature of land supply and the demand for land. According to Breese (1966), almost everywhere different kinds of land uses are associated with varying land values which may be related to the types of operations taking place upon the property but also may reflect factors of land ownership

Land sales markets provide an opportunity to obtain land for permanent use and to use land as collateral in credit market. Households in the informal settlement areas are made up of poor people. The truth of the matter is that, these people need to acquire land, but they do not have the ability to afford the high transaction costs related to land sales. Transaction costs may include registration fees, transfer fees, survey costs etc. which makes acquisition of land more difficult for the poor populations living in informal settlements.

Land value is created by real estate's utility, or capacity to satisfy the needs and wants of human societies. Contributing to value are real estate's general uniqueness, durability, fixity of location, relatively limited supply, and the specific utility of a given site (International Valuation Standards (IVS), 2003)

Constitution of the country guarantees equal access to land for all citizens. The right to gain access to land is based on the idea that there are people who need land and others who live in informal settlements areas and are not secure on the land they live on. Land reform programme provides the approach of acquiring land through the willing seller and willing buyer practice. The problem with this approach is that many land owners uses the intention by the government to buy their land as their chance to yield great riches.

Land is essential to human life and to all living creatures. It is of a great importance that every human being should have access to land. The value of land would vary in accordance with land demand. In urban areas the demand is in most cases very high and thus causing a high land value. Purchasing of land require that one should have sufficient cash flow to purchase or finance the site. This is a big problem for the poor populations living in informal settlement areas. Government should develop a clear policy and strategies to provide assistance to the poor populations living in informal settlements. These populations want a chance to acquire land and have secure land rights, healthy environment and leave inheritance in the form of land related properties to their future generations.

Informal settlements residents need to have a feeling and a belief that they could benefit from the processes of the land reform. The poor cannot be expected to pay a market price for land ownership or rental. The author suggests that in some cases land value should be regulated to accommodate the poor population living in informal settlement areas. Land reform programme should be the mechanism that provides the opportunity to regulate the land value where necessary to assist the poor communities that are living in the informal settlement areas.

1.2 Problem analysis and description

Informal settlement areas (often referred to as squatter settlements or squatter camps) exist in all provinces of South Africa. These areas are characterized by rapid and unplanned development. Property boundaries in most of these areas do not exist, which means that since the plots do not have boundary beacons, the land parcel is not properly defined, the property cannot be registered in the user or owner's name, and therefore ownership is not possible. There are no legal documents to prove the relationship between an individual and the property.

Effective planning requires access to accurate and up-to-date spatial data and this is not possible in the case of informal settlement areas. The emergence and growth of informal settlements have a negative impact on the government's land reform policy. The goals and vision of the South African Land Reform programme as stated by the Department of land Affairs, is to improve the terms and conditions through which people hold, use, occupy and access land and also to contribute towards an equitable redistribution of land.

The government needs to facilitate development initiatives by bringing together all the relevant stakeholders and to deal effectively with the need for land reform to reduce poverty and to contribute to economic growth. Many cities have areas designated as public land. In most cases the city authorities do not have resources and/or strategies to cope with the number of people moving into these areas. These are the poor people who are looking to improve their economic opportunities but on the other hand they cannot afford formal housing. Poor people move to areas closer to the cities in order to improve their chances for job opportunities, because accommodation is another problem these people end up living in the informal settlement areas. People in the informal settlements need services but it is not easy for the service providers to provide services to everybody's satisfaction.

1.3 Objectives of the research

To determine the impact of informal settlements on the government's land reform policy: the South African government has been promoting the vision of shack-free cities; the aim is to eradicate informal settlements and replace them with formal housing. The question of the emergence and growing of informal settlements have received national attention because of land invasions, evictions and tensions.

In pursuance of the above objective, the following were set as sub-objectives:

- To determine the extent of the problems in the process of the land reform programme: The government has been criticised by different people and organisations for slow pace or non-delivery in many development categories. The goals and vision of land reform include: to facilitate development, to reduce poverty, to contribute to economic growth and to deal effectively with security and tenure for all. These goals give hope to the poor people that are living in the informal settlement areas that, the process of land reform would help them to better their lives.
- To determine the comparable value of properties in informal settlements with similar properties in formal settlements: Property Value in the informal settlements is considered to be very low no matter what kind of structure is built. The existence of informal settlement areas is believed to affect the property value of the nearby formal housing areas as well.

1.4 Hypotheses

- a. The existence of informal settlement areas has a significant negative impact on the progress of the land reform programme in South Africa.
- b. The existence of informal settlement areas has a significant negative influence on the property value of the nearby formal housing areas.

2 MATERIALS AND METHODS

Despite the problem of informal settlements being wide spread in South Africa, only three informal settlements were selected to serve as case study areas due to limitations in time and other resources. All three informal settlements are located in the KwaZulu-Natal Province of South Africa; two in the city of Durban and one in Pietermaritzburg. The selected case study areas are Cato Manor and Umlazi section CC both of Durban (EtheKwini Municipality) and Peace Valley 2 in Pietermaritzburg (Msunduzi Municipality).

2.1 Data collection

Data for the study were collected using a variety of techniques inclusive of:

- Documents review
- Interviews with selected officials from the relevant government offices that included Surveyor General, local government, Land Affairs, interviewing identified officials involved in Land Reform.
- Visits and interviews with relevant individuals or groups that included Councillors and members of the communities in informal

settlements areas and the residents living in the formal residential areas close to the informal settlements areas.

2.2 Case Studies

In this section three case studies are described in order to facilitate the study and analysis of the conditions of the informal settlement areas. The historical background of each informal settlement and the particular problems associated with land ownership and management of legal cadastre are discussed. The purpose is to identify the difficulties associated with the process of establishing development plans of each area and to examine the rate of the progress towards land delivery.

2.2.1 Case study 1: Cato Manor

a) Background and Geographic location

The area known as Cato Manor consists of undulating, broken topography to the western area of Durban (figure 2.1). According to the Cato Manor Area Based Management (ABM ND), Greater Cato Manor covers an area of 2000 hectares of which 1000 hectares are suitable for development. It is situated in one of the most accessible parts of the eThekweni Metropolitan Area (EMA). It is only seven kilometers from Durban's central Business district (CBD). The area has a potential to house between 157 000 to 179 000 households.

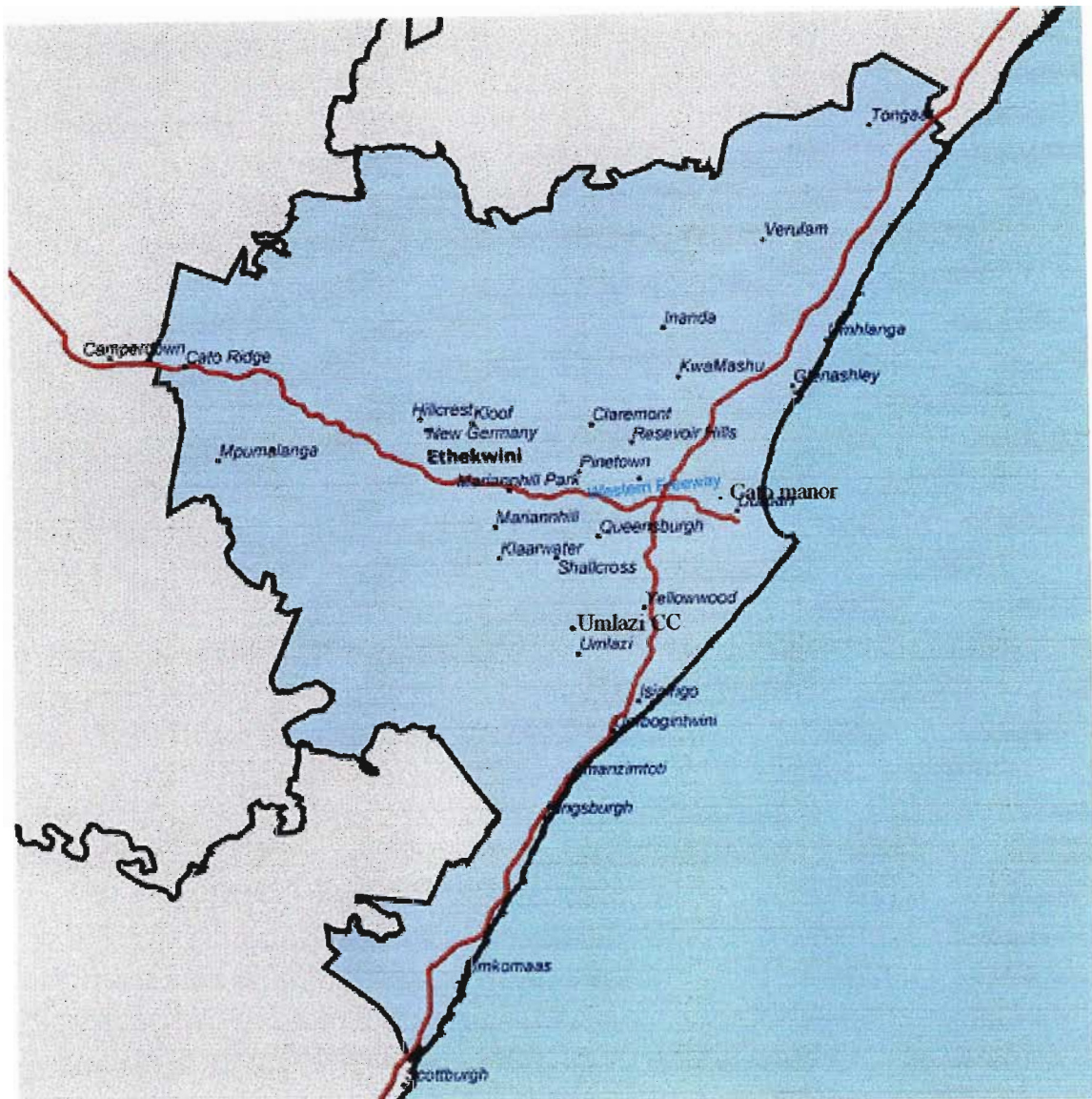


Figure 2.1: Location of Cato manor and Umlazi CC within the eThekweni Municipality (Municipal Demarcation Board, ND)

During the apartheid regime the people of Cato Manor were forcibly removed to areas that were racially exclusive to Africans and Indians. According to Robinson (1994), a small number of residents managed to remain in Cato Manor, some as land owners and others as tenants of the Community Development Board. These remaining residents had formed the Cato Manor Residents Association (CMRA), in 1979 to resist further removal and racial based developments in Cato Manor, and attempt to reclaim the land. With strong support of both existing and former residents, CMRA initiated a process of involving a wider range of role-players and interest groups.

Cato Manor ABM (ND) reports that as the tide turned in South Africa during the years 1989 to 1993, a renewed interest in the development and resettlement of Cato Manor led to the birth of the Cato Manor Development Association (CMDA), which acted as a delivery Vehicle for various development projects. The quest by eThekweni Municipality to better address people's needs at a local level resulted in the birth of Area Based Management (ABM) Programmes. Cato Manor ABM Programme is one of them and has taken over where the CMDA left off. Cato Manor ABM programme has compiled a five year plan which shows expected outcomes and strategies (figure 2.2).

b) Planning and development in Cato Manor

People (informal Settlers) were removed from the area near Edwin Swales Drive (M7), to provide a space for the new hospital (Nkosi Albert Luthuli Hospital). This action triggered the issue of the development for the entire Cato Manor area.

After the start of the democratic government of South Africa in 1994, President Mandela chose Cato Manor as one of the presidential led development projects. Cato Manor development project was allocated funds from RDP and other organizations that supported the project. The assistance and support from the president and other organizations helped to fast-track the development process in Cato Manor

Cato Manor ABM programme Five Year Plan

The Cato Manor Area Based Management Programme has compiled a Five Year plan. The key outcomes and strategies are detailed below:

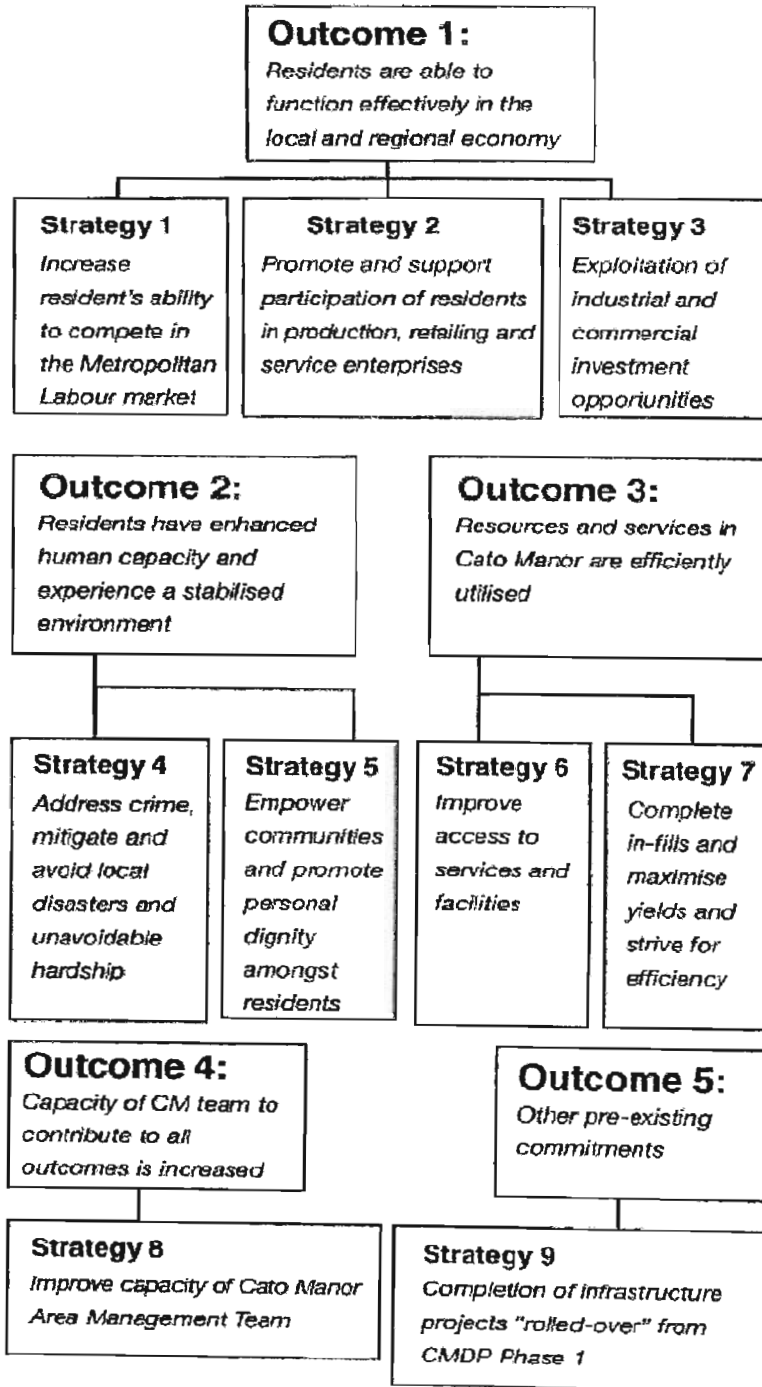


Figure 2.2: Cato Manor ABM programme Five year Plan

Land matters in Cato Manor were dealt with and settlements were reached with relevant stakeholders. In some cases people were claiming land under the Land Act. Where ever possible people were given money as compensation because the land was already settled. Makhathini (1994), points out that the former landowners of Cato Manor initiated a legal campaign for adequate compensation for land and business rights expropriated during the forced removals. These former landowners fear that if development goes ahead before their concerns are addressed it will undermine their case.

Cato manor development project managed to build many houses and many families have been provided with better accommodation (figure2.3).

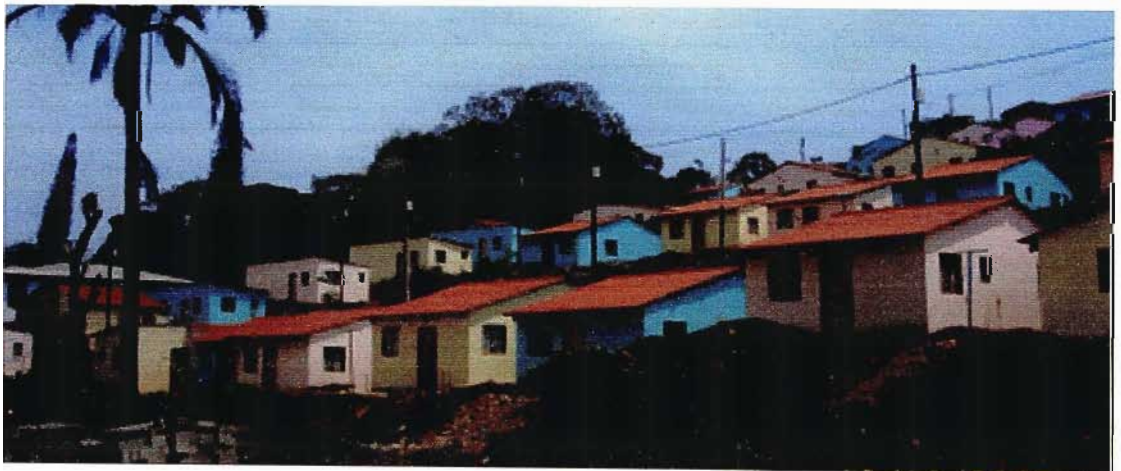


Figure 2.3 New Developed area in Cato Manor

In spite of a visible development progress in terms of housing, a large portion of Cato manor is still made up of informal settlements (slums) see figure 2.4.

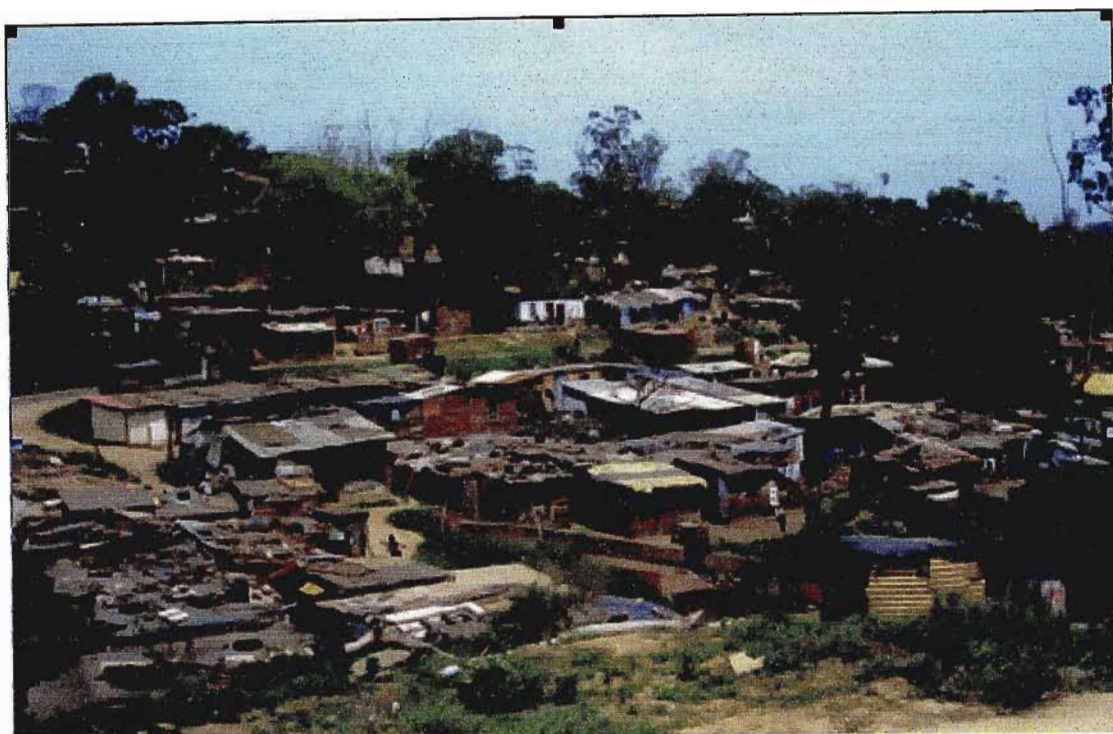


Figure 2.4 Informal Settlements in Cato Manor

The problem that is facing the developers is that there is no more open and free space of land in Cato Manor for more housing developments. The development plan of developing in phases by demolishing shacks in one section and develop that section is not working very well. The reason is that in this plan, the number of houses that could be built in that particular section is always less than the number of demolished shacks. This problem means that the number of families that could be accommodated in the new houses after the development of a section, is always less than the number of families that were living in that particular section. For this reason many families living in Cato Manor would have to be relocated.

2.2.2 Case study 2: Umlazi section CC (Esindweni)

a) Background and Geographic Location

Umlazi section CC is located in the south-western extremity of Umlazi abutting section AA and section BB of Umlazi in the in the east. The settlement area is approximately 25km from the Durban CBD and

10Km from the southern industrial areas the airport and N2 (figure 2.1). The informal settlement of Esindweni abuts Umlazi section CC to the north and west and is situated both within and outside the proclaimed township of Umlazi. According to Khati (2004, pers. Comm.), Esindweni area has over the years been part of the broader area falling under the Vumengazi tribal authority under Inkosi Ndoda Cele. The expansion of Umlazi Township saw parts of Esindweni being declared a section of the fast developing and expanding town.

Section CC of Umlazi was only proclaimed in the mid eighties as forming part of the Umlazi Township. Section CC has over the past been planned and formally excised from the authority of the tribal authority. This picture has been further complicated by the demarcation of municipality boundaries under the new government which has seen the whole of the Vumengazi tribal authority and neighbouring areas being incorporated into the Ethekeweni Municipality. Esindweni unplanned area itself was further divided into two municipal Wards to make Ward 84 and Ward 100 (Khati, 2004, pers. Comm.).

Iyer Rothaug Collaborative (2001), points out that while the previous Metro boundary accommodated the entire Esindweni-CC settlement within the metro, the new Ucity boundary has moved substantially to the west to include the Umbumbulu village, located approximately 15km west of Umlazi. Esindweni-CC is located in Ward 84 but it is not clear whether the entire existing Esindweni-CC settlement is located within ward 84.

Esindweni informal settlement consists of unplanned sites that are not serviced and that stand on a freehold land. Section CC is partly township housing and shacks and other types of temporary shelter on unplanned pieces of ground that has not been serviced.

b) Planning and development

Development Background

The Esidweni-CC settlement has been covered by a variety of planning initiatives, including the Esidweni Development Forum (EDF), Independent development Trust (IDT), Precinct Development Plan etc. The development discussion on the area dated back to 1989 during the days of Kwazulu government and the previous local authority. There was some progress going on towards development on the area for a period of time. The development was affected by violence after 1994. During the violence some of the local leaders who were playing the leading role on the development programs were killed. The community suffered severely during the violence and all forms of development collapsed (Khati, 2004, Pers. Comm.).

Negotiations for the development on the area were revived after the local government elections in 2000 with all stakeholders.

Key planning and development issues and needs

Iyer Rothaug Collaborative (2001), prepared a report on planning and development issues of Esidweni-CC housing project. Key issues and needs for development were identified and listed in the report, and also the social economic survey of Esidweni-CC tabulated as in table 2.1.

- i) Key planning and development Issues:
- The formalization, upgrading and development of the entire Esidweni-CC must be seen as a priority project within Umlazi, while the area includes three distinct settlement areas, any project should cover all areas. Any development should be based on the appropriate integration of the various components of the area.
 - The land ownership of the area may be a complicating factor and would need to be appropriately clarified.

- The reasons for having to abandon the previous attempt of initiating a housing project need to be as fully understood as possible.
- The position of unoccupied formal sites in phase 1 of unit CC needs to be investigated, including the reasons for the present situation and potential implications and remedies.
- While the potential development should be based on an in-situ upgrading approach, this should exclude existing informal developments in unsafe areas such as the flood lines of rivers and tributaries, local seepage areas, major power lines, existing road reserves etc, as well as areas which are required for improved services, facilities etc. Appropriate alternative sites for such existing development would have to be included into the formalization.
- The potential development should facilitate the improved linkage of Umlazi to the west as well as linkage to the northern spinal road.

ii) Local key development needs:

- Establishment of appropriate development structures representing all local residents.
- Provision of secure land tenure
- Provisions of basic services including individual water supply, appropriate sanitation, appropriate vehicular access, electricity supply, storm water management, refuse collection etc.
- Provision of appropriate local facilities such as primary and secondary education facilities, appropriate local health facility, recreation facilities civic amenities, support for local economic development etc.

iii) Development benefits for the wider context

While the upgrading and development of an informal settlement area is primarily intended to benefit the relevant local community, Iyer Rothaug collaborative (2001), identified the following benefits for a wider area:

- The appropriate development of Esidweni-CC is considered as a priority within the Umlazi context, there should ultimately be no informal settlements that exist within the community.
- The development will benefit the adjacent formal development in units AA and BB by establishing a greater level of security.
- It will contribute to bring the tribal community into the Metro, showing inter alia what benefits the involvement in the Metro can bring, and it will contribute to providing better access to the remainder of the tribal areas to the west of Umlazi.

Table 2.1: Socio- economic survey of Umlazi-CC compiled in January 199, (Iyer Rothaug Collaborative, 2001)

Number of households	956
Average number of persons per household	4 persons
Total population	3824 persons
Household head education level	
• No education	11.6%
• standard 1-5	44.7%
• standard 6-8	24.75
• standard 9-10	14.0%
Employment	
• formally employed	42.6%
• informally employed	17.5%
• unemployed	28.6%
Income	
• R 0 – R800 per month	52.8%
• R801 – R1500 per month	29.4%

Land Legal Assessment¹

Land Data Services cc (LDS, 2003) listed the following important factors concerning land ownership in the report for land legal assessment and land assembly in Umlazi CC/Esidweni:

- Within the general plan area the only possible form of ownership available to residents is a Deed of Grant. The different forms of ownership are not well understood by many of the residents of the low-income communities and quite often residents will erroneously refer to their Deed of grant as Full Title or a PTO. There cannot be any beneficiary categories within the general plan area other than Deeds of grant.
- It is the matter of history that Umlazi section CC was affected by political violence in the past and many of the residents who owned their property by means of a Deed of Grant were forced to flee from the area. The houses vacated were subsequently occupied by other families (illegal occupants).
- After scrutinizing the ownership information contained in the socio-economic survey (table 2.2), it is apparent that a considerable number of the residents own their property by means of a Deed of Grant (DoG) which would indicate that whilst many people did indeed flee from the area, a substantial number of the original residents remained.
- The Deed of Grant rights which have been issued throughout Umlazi section CC are inviolate and cannot be ignored under any circumstances.

¹ The information on land assessment is obtained from the land legal assessment and land assembly report prepared for Project Preparation Trust by Land Data Services cc (LDS) on 4 March 2003.

LDS (2003), suggest that because of the conflict between absentee land owner/s and illegal occupants, the only remedy available to regulate the land ownership is to expropriate the properties of the absentee land owners. The expropriation process should follow the route of either a negotiated solution in conjunction with the owners where the price of the land is agreed upon. Alternatively, where the owner cannot be traced or where agreement cannot be reached, under these circumstances the owner will be paid a fair market value, i.e. the price determined by the valuers.

In terms of process, two independent valuations of the property to be expropriated must be obtained and ideally should not be variation of more than 10% in the valuations. Where there is a greater variance in the valuation the two valuers should be asked to consult with each other to try and reduce the variation to within 10%, or alternatively call for a third valuation (Control Valuation). A payment is generally made based upon the average between the two valuations. Once the valuations are complete, the owner is served with a notice of expropriation if his whereabouts are known, or alternatively the notice is advertised in the Gazette and local newspapers. The effective date of expropriation is normally the date on which the notice is served but can be deferred up to 180 days after the date of the notice.

The socio -economic survey data (table 2.2) suggest that there is a possibility that there are various categories or combinations of categories of registered erven within the Umlazi Section CC area. As an example these could include:

The Deed of Grant where the Grand holder

- Resides on the erf

- Has sold his site informally and the transfer has not been recorded in the Deeds Office. The purchaser, who claims ownership but cannot substantiate this, now occupies the erf.
- Lives elsewhere and has a tenant residing in the house.
- Has abandoned his property which is now occupied by current resident.

Table 2.2: Summary of Focus Variables: Esidweni Community Socio-economic Survey (LDS, 2003)

	1. By Residential Area				2. By form of Tenure			
	Sec CC	IDT	Esd.inf	No data	DoG	Full Title	PTO	No data
Number	592	13	34	37	27	43	266	340
Percent	88%	2%	4%	6%	4%	7%	39%	50%
	3. Preference to move or remain			4. Structure Type				
	Move	Remain	No data	Blocks	Shack	Wattle & Daub		
Number	23	385	268	142	232	302		
Percent	3%	57%	40%	21%	34%	45%		
	5. Desired Improvements							
	New Structure	Upgrade	Serviced Site					
Number	486	133	37					
Percent	72%	17%	11%					

With respect to the township establishment process Umlazi section CC should be dealt with and treated as a separate entity from the other phases. Once Council has expropriated the targeted absentee Deed of Grant holders, these Deeds of Grant should be transferred to Council. Once this has been accomplished, this will mean therefore that all sites within Umlazi Section CC are now held by means of a Deed of Grant.

Council would therefore be in a position to transfer any of the sites in its ownership by way of a Deed of grant. At any point after the expropriations have been effected it would be possible, if required, to upgrade the Deeds of Grant to full ownership.

Description of Preliminary Layout

In February 2003 Iyer Rothaug Collaborative prepared another report for Project Preparation Trust (PPT) in relation with the description of preliminary layout of Esidweni-CC development project. The report state that at the regional and sub-regional levels the development concept for Esidweni-CC is informed by the following two main issues:

- Integration of the community into the adjacent urban development, while ensuring that the community is self-sustaining with regard to local amenities and while encouraging a realistic level of local economic development.
- Prevention of unstructured, monotonous and continued urban sprawl through building on and expressing the uniqueness of places and communities and by utilizing existing physical barriers and features.

In connection with the overall structure the report have listed the following structuring elements as the ones that have substantially influenced the preliminary layout:

- Topographic form and conditions including the existence of an east- westerly running ridge, relating to two major river valleys in the north and south, the location of steep and flat slopes within the area, topographic high points along the ridge and in the west in particular.

- The Isipingo and Ezimbokodweni rivers acting as barriers in the north and south, as well as the local series of tributaries providing an internal structuring element.
- Existing and potential substantial transport linkages providing internal and external access.
- The existing development including both the formally laid-out Independent Development Trust (IDT) development and the informal settlement in the remainder of the area.
- The availability of land for development.

Iyer Rothaug Collaborative (2003), in the report points out that the preliminary layout suggests that the area could accommodate a total of 1298 residential sites of varying sizes. This includes the existing 451 residential sites contained within the previous IDT project. The site sizes are suggested to vary in accordance with constraints relating to in-situ upgrading, steep topographic conditions and location within the area. The report summarized overview of the envisaged land use in Umlazi Section CC as tabulated in table 2.3

Table 2.3: Summarized overview of the envisaged land use in Umlazi Section CC, (Iyer Rothaug Collaborative, 2003).

LAND USE	No OF SITES	AREA IN HA	%
Residential	1298	59.3	55.16
Primary School	2	1.9	1.76
Secondary School	1	1.1	1.03
Community Hall	1	0.5	05
Worship	2	0.8	0.8
Crèche	2	0.2	0.2
Sports field	2	3.0	2.79
Community Facilities	3	0.9	0.8
Commercial	3	0.2	0.19
Civic Square	3	1.1	1.03
Agriculture	1	1.4	1.3
Roads		16.3	15.13
Open Space		20.8	19.31
Total		102.5	100

Sites sizes in the in-situ upgrading area north of the spinal road tend to be in the region of 300m² - 400m², in the more westerly areas in the region of 500m² – 600m², and on the further periphery sites sizes are suggested to be larger, in the region of 800m². Existing residential sites in the former IDT project are in general in the region of 300m² – 400m².

2.2.3 Case Study 3: Peace Valley 2

a) Background and Geographic Location

Peace valley 2 is approximately 7km from Pietermaritzburg Central Business District (CBD) towards the South western area of Pietermaritzburg City (figure 2.5). It is part of ward 23 of The Msunduzi Municipality and situated on the easily accessible part of The Municipality area through Edendale Road.

According to Zuma (2005, pers. Comm.), (a councilor of ward 23 and also resident of Peace Valley 2), the informal settlement of Peace Valley 2 came to existence in or around 1994. Previously a white farmer used the area as a grazing area. In January 1994 Mr. M P Zuma and Mr. Dladla took the initiative to negotiate with the Pietermaritzburg city council concerning the use of the area. They requested that the community should be granted permission to use the area for residential purpose. The permission was not granted but, that did not stop desperate people from the nearby areas to move into this area and erect their own structures (shanties or shacks) so that they could have a place to live.

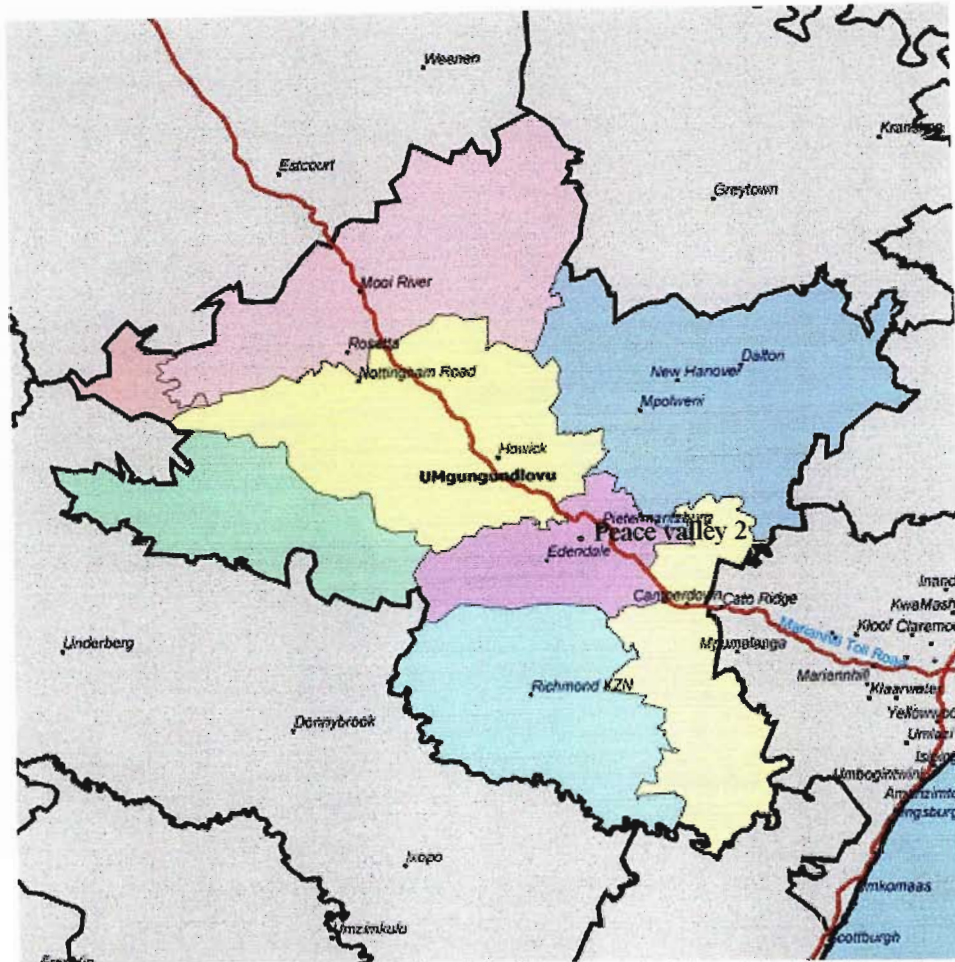


Figure 2.5 Location of Peace Valley 2 in The Msunduzi Municipality, (Municipal Demarcation Board, ND)

The total number of households in Peace Valley 2 is estimated at 500. The types of houses found in the area vary from poorly constructed shacks to well constructed structures. The area has been serviced with water and electricity. The main road through the settlement area is under construction.

b) Developments and Planning

Project description by The Msunduzi Municipality (2004), states that Peace Valley 2 informal settlement was identified as a potential in situ upgrading project, as a result of a scoping study of the greater Ashdown area. The scoping study was undertaken by the Built Environment Support Group (BESG) in May 1998, in association with

the former Pietermaritzburg – Msunduzi Transitional Local Council and project preparation Trust of KwaZulu – Natal. BESG applied for project facilitation funding under the People’s Housing Process (PHP) in October 1998, at the invitation of the former Provincial Housing Board (PHB). A geotechnical study was completed by consulting engineers in September 2000, which supported development of the area for low-income housing.

Proposal call was advertised for the development of Peace Valley 2 and another nearby settlement in June 2001. After adjudication BESG was appointed as the implementation agent in January 2002. Due to the impact of bringing a full internal road network through a fairly dense settlement, with established graded roads and footpaths which did not meet municipal design standards, BESG submitted a motivation for facilitation funding of the project.

BESG motivated that project feasibility require

- A topographic and settlement survey, preliminary planning and engineering design in order to establish a viable yield and infrastructure cost per site, and
- A community income and skills profile, and facilitation programme.

Community profile and facilitation programme were completed in January 2003, and preliminary layout and services design were completed in March 2003. The preliminary design proposals have been further revised to meet municipal design and national norms and standards. Efforts were taken to minimize the impact of demolitions and relocations on existing settlement patterns and top structures which one third were of good durable quality.

Housing and construction skills survey was undertaken as part of the facilitation programme as the resident community had opted for development through the PHP. In the course of services and house

construction, opportunities will be created for local labour. House construction training will be accredited through the Department of Labour and would be providing opportunities for up to 30 domestic labour contractors to continue seeking gainful employment after the project is completed.

c) Land in Peace Valley 2

Peace Valley 2 informal settlement is situated on the former farm Garden Cliff no. 14971, Plessislaer. The bulk part of the land in the area is owned by Department of Land Affairs (DLA). The second small strip of land described as Erf 130 Plessislaer is subject of a deceased estate. It also includes an additional proposed subdivision A (of 12) of Erf 86 Pietermaritzburg is a small triangle of land which forms part of the oil refinery holdings, but is physically outside of the refinery's secured yard and is settled (figure 2.6).

According to The Msunduzi Municipality (2004), The Department of Land Affairs supports the development of the area, and has indicated that it has no objection to the proposed rezoning of the area from industrial to residential use. The surviving heirs of Erf 130 Plessislaer have indicated that they have no objection to selling the site, which is already settled and landlocked. Lawyers are still negotiating for settlement. The oil refinery has agreed to donate their piece of land to the project, subject only to municipality paying for the subdivision and transfer costs.

OUTER FIGURE B1

PLAN SHOWING

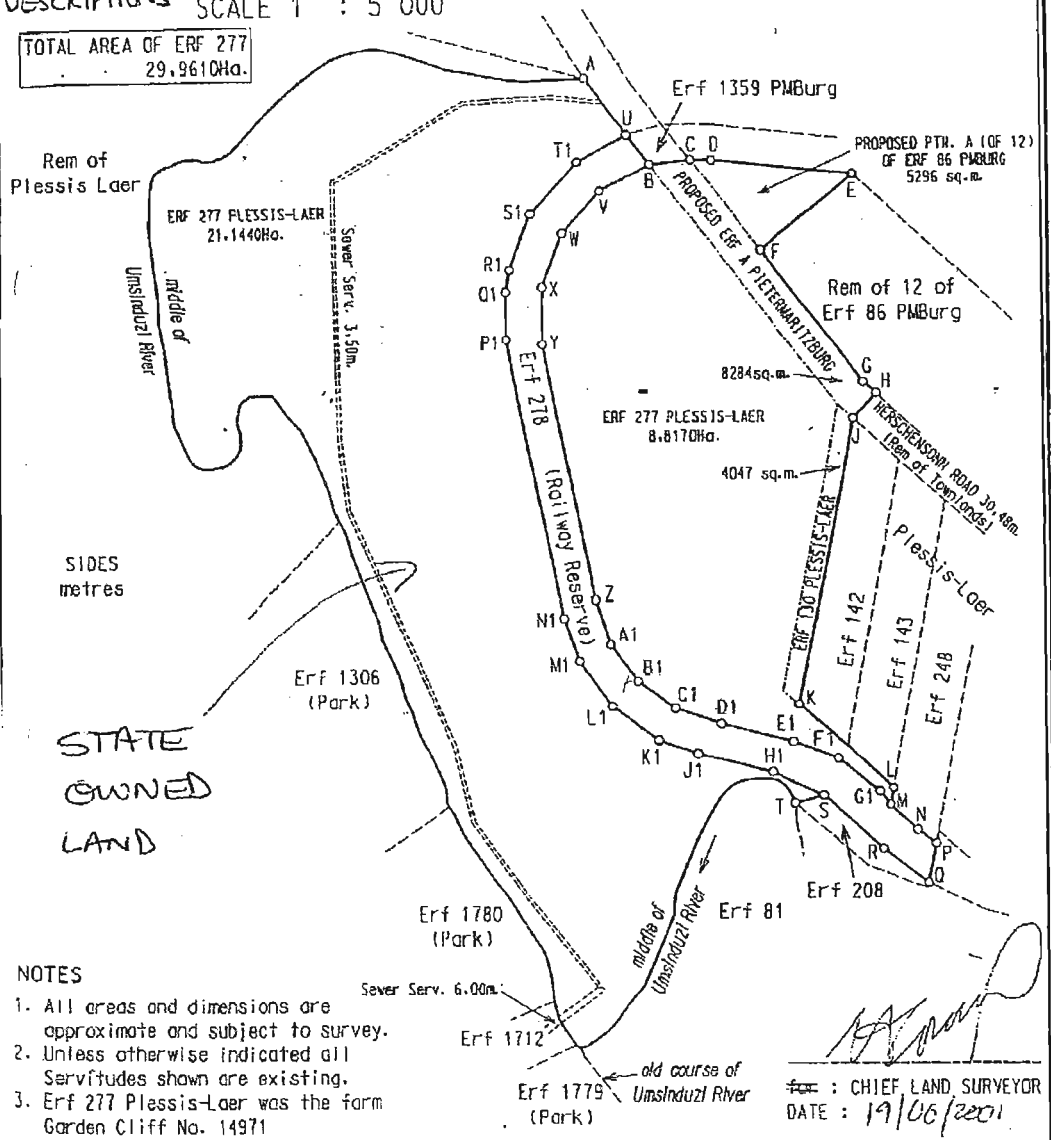
SHEET REF. No. : FTSG-236



PROPOSED PEACE VALLEY II SITUATE ON
 ERF 277 PLESSIS-LAER,
 ERF 130 PLESSIS-LAER
 PTN. A (OF 12) OF ERF 86 PIETERMARITZBURG and
 PROPOSED ERF A PIETERMARITZBURG
 SCALE 1 : 5 000

ANNEX B

TOTAL AREA OF ERF 277
 29.9610Ha.



NOTES

1. All areas and dimensions are approximate and subject to survey.
2. Unless otherwise indicated all Servitudes shown are existing.
3. Erf 277 Plessis-Laer was the farm Garden Cliff No. 14971
4. Erf 130 Plessis-Laer was Ptn. 7 (of 1) of Lot 26 Plessies Leger No. 1458.
5. Data adopted from SG No. 1477/1995, SG No. 3430/1995 and SR 517/1995.

CHIEF LAND SURVEYOR
 DATE : 19/06/2001

CITY ENGINEER'S DEPARTMENT :
 LAND SURVEY SECTION
 SURVEY REFERENCE No. MS/36/2001

Figure 2.6 Proposed Peace Valley 2 plan

Municipality as a developer would be responsible for land assembly and consolidation of the land parcels in the area.

d) Housing in Peace Valley 2

Peace Valley 2 consists of large numbers of informal structures and few of formal structures. Informal structures differ from poor quality wattle and daub dwelling to good quality wattle and daub dwelling. Formal structures are made of good quality bricks or blocks. Table 2.4 shows housing profile in Peace Valley 2 as tabulated by The Msunduzi Municipality (2004)

Table 2.4 Housing Profile in Peace Valley 2 (Msunduzi Municipality, 2004)

Type of Dwelling (Structure Count):	548	As %
Concrete block/ face brick	73	13%
Improved Wattle and daub	108	20%
Wattle and Daub	367	67%
Average number of rooms (range 1-9)	3.5	
Method of construction (Households):	338	AS %
Self Build	171	51%
Local Labour	142	42%
Local Contractor	9	3%
Other(mutual help/purchased existing property)	16	4%
Have formal construction skills	59	17%
Need building help	331	98%

According to The Msunduzi Municipality (2004), The Department of Housing has granted conditional approval for Peace Valley 2 Housing Project. The project is an in-situ upgrading project that seeks to

develop low-cost housing for the community, through the Project Linked Subsidy (PLS) mechanism. The layout of the area has been planned to retain existing dwellings as far as practically possible. Minimum site size of 200 square meters has been employed in the layout. Existing site boundaries would be retained as far as possible to minimize relocation costs. In some cases boundaries would be amended in order to create new sites for people who would be relocated.

e) Development Progress

Peace valley 2 project seems to have problems that are causing delays in the processes of the development project. The community in the area supports the development project and they expect support and assistance from the authorities. The delays in the process of the project cause deep frustration on the local development committee. They found it difficult to keep the community well informed because they depend on the municipality and provincial officials to make progress. In some cases the community accuses the Implementing Agent for the lack of progress in the development project.

Land assembly is one of the greatest sources of avoidable delay. The major portion of the project is state land. The other two occupied portions are private lands that need to be acquired. One portion is owned by an adjoining oil refinery while the other portion is subject of a deceased estate.

Service Levels is the other source of delay. This has to comply with the norms and standards of the Department of Housing and the council's sanitation policy for low-cost housing development. The major delays seem to be caused by a number of changes that were requested by officials on service design.

The delays in the processes of the development projects create a sense of no hope and frustration within the community. They spoil all the good initial efforts made towards the developments. The author believes that if all the relevant stake holders could work together towards the same goal, the delays could be avoided.

2.3 Land and Housing Delivery in Informal Settlements

In the previous section three informal settlement areas were studied and information about the development matters was analyzed. This section looks at the housing delivery process to informal settlers by Municipalities and the selected government departments that take part in the development of informal settlements. The purpose is to find out what types of development plans are available that are related to the upgrading of the informal settlement areas.

Comparison of property value has been looked at in order to analyze the impact of the existence of the informal settlement areas on property value.

2.3.1 Development Procedures (Municipalities)².

The democratic government of South Africa developed a housing code for low cost housing which came to effect in 1994. The main aim of this housing code was to help the majority of the poor people to gain access to property. Spearman and Ntombela of the Msunduzi Municipality in Pietermaritzburg (2005, pers. Comm.), explained the Procedures and the criteria to qualify for low income house under this housing code are set by a National Department of Housing as follows:

- For the family to qualify there must be a head of household that would be accepted as a beneficiary.

² The discussion presented here is based on the interview held with Mrs. Val Spearman and Mr. Thanda Ntombela of Msunduzi Municipality in Pietermaritzburg.

- Beneficiary must be a South African citizen and be over 21years.
- Beneficiary must not be the owner of a house any where in South Africa.
- Household monthly income must be less than R3500. 00
- Beneficiary should have dependents

The City Council compiles documents for each informal settlement project and sends them to the regional office for housing in Durban. The regional office sends the documents to head office in Pretoria for confirmation that each and every applicant does not own another property somewhere in South Africa. The approved applicant becomes the owner of a property in terms of being issued a title deed

Land ownership in the informal settlements project has to be clarified before development could take place. City council would have to identify whether the land in the area is owned by state or private individuals. In case of state land Municipality could enter into land availability agreement with the province directly. The province would then hand over responsibility to the council as a developer, so that the council can proceed with the development. As a standard procedure the province would like to know whether the development project has been prioritized in terms of the integrated development plan (IDP).

Municipalities in the whole country are required to prepare integrated development plans. In IDP there must be a component to do with housing delivery, housing strategy and prioritizations program. The development project must be included in IDP in order to be supported by the province.

In the case of private ownership of the land, the council would determine whether this private land is where it wants the low-cost housing to be built. The council as the developer would negotiate with the landowner to acquire the land. The council would negotiate to

acquire the land for the development on the basis that the land is at a nominal value. During the negotiations the council would have an independent valuer to value the land.

The City Council cannot negotiate with the landowner for the land at market prices because the land is to be used for low-cost housing. In the situation where there is informal settlement, it shows that the landowner failed to protect his/her land, or he/she allowed people to settle on his/her land for a long period, which make them to have rights. The people cannot be removed from the land without finding them an alternative accommodation. The council would negotiate to acquire the land so that it can start packaging the project for low-cost housing purpose.

The Municipality would have to develop the whole informal settlement area as one project. An application is forwarded to the Department of Housing for subsidies of all the people in the project. Money for the project would be spent under two categories (see appendix 1 and appendix 2), in terms of the housing code as follows:

- Infrastructures and surveying
- Top structure with the minimum size of 30 square meters.

Surveying and town planning of the area have to take into account the existing positions of the houses in the area. The council prefers the minimum site to be 200 square meters. The challenge for surveying and town planning is to fit sites of 200 square meters around the sites of the people who have already developed their houses. Efforts should be taken to create boundaries around the houses that have been already developed to avoid demolishing those houses. The aim of informal settlements upgrading is to remove slums. Most of the informal dwellings are considered as part of slum clearance because they do not conform to national building regulations.

2.3.2 EThekwini Municipality

The eThekwini Municipality is facing a huge challenge concerning informal settlements. According to Seedat (2005, pers. Comm.), there are about two hundred thousand families living in informal settlements. If this figure is translated to population assuming four people per family it is approximately eight hundred thousand people living in the informal settlements areas. This is about 27% of the population of the eThekwini municipality.

There are about five hundred and thirty informal settlements areas within the boundaries of eThekwini municipality. The areas range in sizes from the smallest with just few dwellings to the largest which is about fourteen thousand families (figure 2.7). The average size of informal settlements in the municipality area is about three hundred and sixty families.



Figure 2.7 Informal Settlements (Slums) in Ethekwini Municipality

The eThekweni Municipality embarked on developing informal settlements programme in the year 2000. The aim of developing this programme was to have a systematic way in dealing with the challenges of upgrading the informal settlements areas. It provides a better way of managing the informal settlements. The programme also helps in terms of budgeting.

The ethekweni informal settlements programme is composed of the following three components

- Audit, Assessment and Evaluation component
- Prioritization component and
- Project programming component

In audit component all the informal settlements are captured in a data base. They are given attributes where the relevant information (location, number of households, land ownership, services etc.) is captured. This information would help in making decision whether to upgrade the informal settlement or to relocate.

The council uses technical criteria to separate those informal settlements areas that would be upgraded and that to be relocated. The informal settlements are prioritized considering the environmental factors in the areas. A number of departments are involved in prioritizing.

After prioritizing, the informal settlements are now entered in the project programming component. They are listed in short term and medium term plans. Short term would list the number of informal settlements that would be attended to within the next five years. There is a special intervention programme for the informal settlements that are earmarked for a long-term programme. Special intervention programme is used to provide them with basic community needs while they are in a waiting list for upgrading development.

Seedat (2005, pers. Comm.), explained that the Municipality uses the informal settlements programme as a resource base. When there is a query from public or any other source that want to know what is happening concerning the particular informal settlement area, they are able to get information from the programme that the particular informal settlement area is earmarked for which intervention and when would its upgrading development start. Because of this programme the city council initiated the slums clearance project in partnership with the provincial housing department. In phase one of the slums clearance project 10500 houses were provided and about 7000 families were relocated. In phase two and three the council is planning to involve 80000 units over the next six years (2005 to 2010). It would affect 120 settlements which would be upgraded and about 70 informal settlements would be relocated. In terms of value this is estimated to R2.8billion in housing subsidies.

2.3.3 Department of Land Affairs (DLA)

The Department of Land affairs (DLA) has the mandate to acquire the land for the landless people. It is the responsibility of the government through DLA to help all the people of South Africa irrespective whether people have legal rights or not on the piece of land that they are occupying. DLA is approached by various organizations for land related matters. When DLA is approached they assess each case and make a decision about action and programme that need to be followed.

Molefe (2005, pers. Comm.), explained how DLA is taking part towards the upgrading of informal settlement areas as follows: DLA has the goal of improving tenure reform for the poor populations living in the Informal Settlements areas. They help the community to acquire land so that people could have registered land rights in the deeds office. In some cases DLA releases the state land to the Department of Housing (DoH) because DLA does not need the particular piece of land for agricultural purpose. Where there is a housing need, DLA would vest

the state land provincially to DOH. After vesting land for housing, DLA would have no say on that particular piece of land.

The municipalities drive housing projects in the urban areas. If there is a housing project on the state land, the municipality would have to check the status of the particular land. If the land is vested, then municipality would negotiate with DoH to acquire the land. If the land is not vested then negotiations would be held with DLA to vest the land to DOH for housing.

Surveyor General Office is the section of DLA that handles land survey related matters. Marais (2005, pers. Comm.), explained that Surveyor General Office would help by providing identification and the description of the land in question. After all relevant parties agreed on land development, the surveyor would be appointed to do all the necessary survey work on the particular land. Surveyor General Office would provide the surveyor with relevant survey data for the survey work of that piece of land.

Surveyor would carry out the survey of the land as requested and then submit the relevant survey documents to the Surveyor General Office. The documents would be examined and approved. After approval of the survey work, the surveyor would be given copies to give to the developer. The developer would give the documents to the conveyancer who would ensure that the title registers are opened in the Deeds Office.

2.3.4 Department of Housing (DoH)

The Department of Housing (DoH) provides subsidies so that the informal settlement areas should be removed or upgraded. The goal is that people living in informal settlements should receive certainty as well as access to proper services, security, choice and formal top structures and provide greater possibilities of employment and creation of skills.

DoH (ND) lists and explains the types of subsidies that are offered to qualifying beneficiaries as follows:

a) Consolidation Subsidy

This housing subsidy mechanism has been designed to afford previous beneficiaries of serviced stands, financed by the previous housing dispensation (including the Independent Development Trust's site and service schemes), the opportunity to acquire houses. Consolidation subsidy is granted to beneficiaries with a household income not exceeding R1 500 per month.

b) Individual Subsidy

Individual subsidy provides qualifying beneficiaries with access to housing subsidies to acquire ownership of serviced stands and it allows the beneficiary to enter into house building contracts, or to purchase existing improved residential properties which are not part of approved housing subsidy projects. This subsidy also helps qualifying beneficiaries, who wish to increase their subsidies by accessing credit, as well as beneficiaries who do not qualify for credit.

c) Project Linked Subsidy

Project linked subsidy mechanism enables a qualifying household to access a complete residential unit, which is developed with an approved project linked housing subsidy project for ownership by the beneficiary.

d) Institutional subsidy

The Institutional Subsidy is available to qualifying institutions to enable them to create affordable housing stock for persons who qualify for housing subsidies. At present this housing subsidy mechanism provides R23 100 to qualifying beneficiaries with monthly income of R2500 to R3500. The subsidy is paid to the approved institutions to provide subsidized housing on deed of sale, rental or rent to buy

options, on condition that the beneficiaries may not be compelled to pay the full purchase price and take transfer within the first four years of receipt of the subsidy. Institutions are also required to invest capital from its own resources into the development housing projects

e) Relocation Assistance

Relocation assistance provides an alternative option to defaulting borrowers who were three months in arrears on 31 August 1997, and where the option of rehabilitating these mortgage loans is not affordable. This alternative provides an opportunity to obtain affordable housing with the assistance of the housing subsidy. A person who is eligible for relocation assistance is required to enter into a relocation agreement, so as to relocate to affordable housing.

f) Discount benefit Scheme

The Discount Benefit Scheme promotes home ownership among tenants of State-financed rental stock, including formal housing and serviced sites. In terms of this Scheme, tenants receive a maximum discount of up to R7 500 on the selling price of the property. Where the discount amount equals or exceeds the purchase price or loan balance, the property is transferred free of any further capital charges.

g) Rural subsidies

This housing subsidy is available to beneficiaries who only enjoy functional tenure rights to the land they occupy. The subsidies are only available on a project basis and beneficiaries are supported by implementing agents. Beneficiaries also have the right to decide on how to use their subsidies either for service provision, on building of houses or a combination thereof.

h) People's Housing Process

The People's Housing Process aims to support households who wish to enhance their housing subsidies by building or organizing the

building of their own homes themselves. This process is a method of accessing the Projects Linked, Project Linked Consolidation, Institutional, or Rural Subsidies as well as technical and other forms of assistance in the house building process.

2.3.5 DOH stipulations for Housing Development process

Housing Subsidy beneficiaries would be required to pay a financial contribution of R2 479, 00 upfront to achieve access to the Housing Subsidy Programme (see appendix 3). Alternatively beneficiaries will be required to participate in the building of their houses through an approved People's Housing Process Project.

Duval (2005, pers. Comm.), explained that the housing development project has three stages in which the developer would have to go through with DoH. The first stage is to make an application for project preparation funding. This is the fund that would be used for risks assessment to check whether the project is feasible or not. Secondly, if the project is found to be feasible the developer would come to the housing advisory committee for conditional approval of the project. The third stage is the final approval of the project. This is done after the final packaging of the project has been finalized with the relevant stakeholders. The period to complete these three processes should take approximately eighteen months if there are no social issues. If the developer starts picking up problems, which normally is around the social issues, that could extend the period to be beyond eighteen months.

2.3.6 Department of Local Government and Traditional Affairs (DLGTA)

When the developer decides to develop the informal settlement area into a township the application for the development is forwarded to the Department of Local Government and Traditional Affairs (DLGTA) for approval. DLGTA would then assess the application and circulate for comments to various role players. When DLGTA is satisfied that the

development project meet the requirements, then DLGTA would approve the application (Susor and Shabane, 2005, pers. comm.)

2.3.7 Comparison of property Value

Property value in the informal settlements areas is believed to be very low. Comparing the value of the properly built top structures in the informal settlements area with the same type of top structures in the formal housing area, the values would differ to a significant degree. Although comprehensive data on land values is not available, many people that were interviewed believe that land value in the informal settlement areas is very low and that is affecting the total value of the property.

Estate agents that were consulted explained the following about the selling of the properties:

- Properties in formal settlements areas that are close to the informal settlements areas take long to sell.
- People believe that the crime rate is higher at the formal settlements areas that are closer to the informal settlements areas.
- People would cancel the offer to purchase the property if they find out that there is an informal settlement area or low cost houses area in the neighborhoods.
- Properties closer to the informal settlement areas sell at a lower selling price.

Information for some properties that are sold in New Germany area and Malvern/Escombe area are tabulated in the price indicator report table 2.5 and table 2.6 respectively.

Price Indicator Report																				
Table 2.5																				
November 2004 To January 2005																				
Road/Flat Name																				
NEW GERMANY	Street No	Ref No	Type	Selling Price	List Price	List Day	Sale date	Surface Area	Age	cond	Bed	Bath	Recp	Gar	Serv acc	court	pool	Wall	Granny Flat	Remarks
HOUSE																				
BERKSHIRE DR	37	7914	H	300000	335000	42	11/2004	1382	60	G	3	1	1	1	Y	N	Y	Y	N	Near inf set
BOHMER RD	52	28325	H	480000	505000	5	11/2004	1913		G	3	1	2	2	Y	N	N	Y	N	
BOSSE ST	18	28659	H	880000	720000	10	01/2005	1047	20	G	4	2	2	2	Y	N	Y	Y	N	
CHAIT PL	5	28922	H	414000	420000	4	01/2005	940	20	A	3	2	2	1	N	N	N	Y	N	
CUMNOR GDNS RD	12	28286	H	300000	300000	10	11/2004			A	6	4	2	0	N	N	Y	Y	Y	Near inf set
DEEP VALE RD	8	28770	H	680000	680000	10	01/2005	2874	12	G	3	2	2	1	N	N	Y	Y	Y	
GLAMIS AVE	15	28703	H	265000	265000	1	01/2005	960		G	3	1	1	0	N	N	N	Y	N	
LEADING AVE	32	28386	H	240000	250000	1	11/2004		40	A	3	1	1	0	N	N	N	Y	N	Near inf set
LOUISA PL	2	28324	H	590000	610000	4	11/2004	1031		G	3	2	2	2	Y	N	Y	Y	N	
NEWBURY DR	49	28527	H	310000	320000	30	12/2004	1069		G	3	2	1	1	N	N	N	Y	N	Near inf set
SANDER RD	78	28702	H	640000	860000	3	01/2005	1858		G	3	2	1	0	N	N	Y	Y	Y	
SHORT PL	3	8808	H	620000	675000	21	01/2005	2140	40	G	4	2	2	2	N	N	Y	Y	N	
ST ROSE CRES	5	28806	H	670000	690000	98	01/2005	1076	40	G	3	2	3	2	N	N	Y	Y	N	
VALLEY RD	8	28483	H	550000	595000	60	12/2004	944	25	G	3	2	2	1	N	N	N	Y	N	

Mini Analysis (Table 2.5)			
Gross Rand Sales	No of Units	Average Selling Price	Average Days Listed
6718992	14	479928	21

Price Indicator Report																			
Table 2.6																			
Road/Flat Name																			
Malvern/Escombe	Street No Ref No	Type	Selling Price	List Price	List Day	List date	Sale date	Surface Area	Age	cond	Bed	Bath	Recp	Gar	Staff acc	pool	Wall	Granny Flat	Remarks
		H	499000	573000		15/052004	30/08/2004	1338		G	3	Y	2	1	N	Y	Y	Y	Near inf set
		H	350000	400000		25/11/2003	31/01/2004			G	3	Y	2	1	Y	Y	Y	N	Near inf set
		H	250000	250000		30/09/2003	31/10/2003	2130		G	3	Y	2	1	N	Y	Y	N	Near inf set
		H	610000	650000		28/05/2005	28/08/2005	1350		G	3	Y	2	2	N	Y	Y	N	
		H	590000	625000		03/03/2005	30/03/2005	1050		G	3	Y	1	N	N	N	Y	N	
		H	540000	735000		01/02/2005	30/04/2005	981		P	3	Y	2	1	N	Y	Y	Y	Need renovation
		H	550000	550000		18/11/2004	01/03/2005			P	3	1	1	1	Y	N	Y	N	Need renovation
			484143																

Legend: Type: - H = House Condition: - G = Good, A = Average, P = Poor Remarks:- Near inf set = Near Informal Settlement Area

The highlighted information represents the properties that are near the informal settlement areas or/and low-cost houses (stated in the remarks column). Comparatively the selling prices of the highlighted properties are low. These low prices are a proof that, the existence of informal settlement areas has a negative impact on the property value of the formal housing in the neighbourhood. It is also important to take note that, in table 2.5 the selling price of all the highlighted properties is less than the average selling price. In table 2.6 the last two properties were in poor condition but they still managed to sell at a better selling price than all the highlighted properties which were all in good condition

2.3.8 Summary

In summary the government and the Municipalities have the development plans to upgrade the informal settlement areas. The success of the development plans depend largely on its implementations which should include the targeted communities. In the case of those informal settlement areas that are near the formal housing areas, residents of the formal housing areas should be included in the developments processes of the informal settlements. In relation to the informal settlements in the case studies, the development projects have been well accepted within the community, even if there are some concerns because of slow progress in the development processes.

The problems indicated by officials include land acquisition, budget constraints and the continuing growth of the existing informal settlement areas. To acquire suitable land for housing development is a long process that is not easy to cut short. The process involves obtaining technical reports about the particular piece of land and to negotiate with land owners for acquisition of that particular piece of land. It has been noted that land owners are in most cases not keen to release their land for low-cost housing developments. Land owners use

property clause in the constitution that states that “No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property” to try to hold on to their land.

3 RESULTS

Based on the study the following results can be drawn:

- a) Problems in the implementation of land reform programmes in a satisfactory manner are persistent

The land issue is associated with other factors like environmental degradation, high population growth, land administration, etc. Since the democratic government came in power in 1994, new policies have been developed to improve delivery in the processes of land reform. The Department of Land Affairs stated in its annual report of 1997 that the most severe constraint on delivery is lack of government capacity. The available policies and legislation are not enough, because without adequate systems and procedures for implementation, projects flounder.

In the case study section of this document land assembly is noted as one of the greatest sources of avoidable delays. Another problem that is mentioned in chapter two is that developers are picking up problems, which normally are around the social issues. Further problems include lack of experience, intolerance and the mostly mentioned problem of corruption within the personnel that are involved in the development projects. These problems impact on the progress of the development projects negatively.

- b) Property clause in South African constitution is used by land owners to block land reform processes.

Property clause speaks of protection of private property and this is sometimes used by land owners to block the process of land reform. Land reform process should take into consideration the rights of the existing land owners and land users because their rights are protected in the constitution.

Government policy of acquiring land for the landless entails acquiring the land through the willing seller and willing buyer approach. This approach has been severely criticized by many organizations that represent the landless people. It is stated in chapter one that the problem of pricing the land through the willing seller and willing buyer approach is that, many land owners see an offer by the government to buy their land as an opportunity to make a lot of money. Where ever possible land owners use the property clause to hold on to their piece of land. This has retarded the pace of delivery on land reform processes because in many cases negotiations take long period of time. Where landowners perceive a land reform to be confiscatory in nature of depriving them of a major portion of their capital, their income, and their economic security, they are likely to oppose it with every means at their disposal (Prosterman and Riedinger, 1987).

- c) Housing backlog is enormous

Democratic government of South Africa has built more than 1.6 million houses with in a period of approximately 10 years; nevertheless the housing backlog is still enormous. In the case of Cato Manor as stated in case studies section, there is physical evidence of RDP houses that are built in the area, but there is still enormous housing backlog in this area. In the case of Umlazi Section CC and Peace Valley 2 where the idea is to

work with the community through the process of project link subsidy mechanism, there are some delays (avoidable and unavoidable) in the different stages of the process. These delays exacerbate the problem of housing backlog, and also cause frustration within the community. Looking at the other provinces in South Africa, there has been news reports of demonstrations in almost all the provinces, where people voice their dissatisfactions or anger against the slow pace or non-delivery of housing.

- d) The numbers of informal settlement areas and families living in the existing informal settlement areas are growing.

Human movement is continuing and it is a difficult action to avoid. This is a critical issue that should be understood and be analyzed because it is also perpetuating the growth of informal settlements areas. There are many factors that could influence people to move from one place to the other. There are cases where beneficiaries of low cost housing are found to have moved to other places. In some cases these people are found living again in the informal settlement areas.

There is a belief within the authorities that there are some land lords that are perpetuating the growth of the informal settlement areas. These land lords receive rent from people who rent shacks in the land that these land lords claim to own. After the removal of the existing rent payers to formal housing, the land lords find a way to bring other people to rent shacks in the same area. The authorities seem to have great difficulties in dealing with this problem.

- e) The existence of the informal settlements areas affects the property value of the neighboring formal settlements areas.

Data for price indicator report is tabulated in table 2.5 and table 2.6. Analyzing data on the tables and taking the selling price as the property value, there is a clear evidence that the value of the properties that are close to the informal settlement areas is relatively low. Conclusion could be drawn from the data in the table that properties that are near the informal settlement areas sell below the average selling price. This proves the hypotheses listed in 1.4 that the existence of informal settlement areas has a negative influence on the property value of the nearby formal housing areas.

From the foregoing results the author attests to the set hypotheses as being true. In all the three informal settlements discussed as case studies, there are problems that are defeating the aims of the land reform programme stated in chapter one under land redistribution and land tenure reform. The author therefore concludes that the existence of informal settlement areas has a negative impact on the progress of the land reform programme in South Africa. An analysis of property values of formal housing units situated both close and further away from the informal settlements also confirms the set hypothesis to be true as properties in the vicinity of informal settlements were found to be of a lower selling price even where the concerned properties were bigger in size and newer in comparison to the those situated further away from informal settlements.

4 DISCUSSION AND CONCLUSION

4.1 Land reform and informal settlements

Land reform remains an issue that needs national attention. The pace of delivery on land reform related projects is slow. Looking at the three case studies it shows that thousands of poor families are still living in shacks and they urgently need help. In general poor people living in the informal settlement areas are filled with a sense of fear and uncertainty when they consider their unknown future. They believe that there is very little room for improvement, and that things are only to become worse.

Existence of the informal settlements areas around the cities is a problem that needs to be tackled nationally and internationally. The democratic government of South Africa set a target to phase out all the informal settlement areas in South Africa by the year 2014. The government has developed policies to deal with the problem of informal settlements. In some cases these policies are revisited to review and make some necessary amendments. The aim of the policies is to improve the lives of the poor populations. Amendments are made in order to facilitate the implementation processes of the policies, so that the targeted dates could be met.

It is a good practice for the government to have plans with time frames. In the case of informal settlements, the author believes that to achieve the 2014 target, it would require some drastic measures that might not be acceptable nationally and internationally. Many people that were interviewed do not believe that it is possible to entirely eradicate informal settlement areas. The author suggested that the government should rather say that, they targeted the year 2014 to have the number of informal settlements areas to be drastically reduced.

Informal settlements would always exist. Literature proves that even in the well developed countries informal settlements do exist. The existence of informal settlements areas have a negative impact on the goals of the land reform, that are about provision of secure tenure and eradication of poverty. Marcus et al (1996), state that it is likely that settlements on the outskirts of towns and cities will continue for some years. They point out that independent of efforts by DLA and local authorities to regulate settlements within designated areas, high potential agricultural land and environmentally sensitive areas are particularly vulnerable.

Government regards land reform as one of the key process in achieving and maintaining long term political and economic stability. Urban populations that are living in informal settlement areas are targeted mostly by plans of providing housing subsidies that would help them to gain access to secure tenure. Housing subsidies that are disused in chapter 2 are used as pillars for the government plan to phase out informal settlements areas. The aim is to move people out of shack buildings to proper or better housing facilities. This author believes that for this plan to be successful, movement of the people from and to different places should be studied and analyzed so that necessary provisions could be made.

People would like to move to places where they think they would have better opportunities to get employment or better chance to improve their financial conditions. The issue of slums clearance has to go with employment creation, food security and many other issues. This author concludes that in the country like South Africa it is impossible to meet all the requirements that are necessary to completely eradicate informal settlement areas.

The concept of land reform in South Africa is strongly concentrating on the people who want to acquire land for production purpose. Land reform is mostly rural based and mostly encourage people to acquire

land for agricultural purpose. This concept is not advantageous to the poor people who are living in urban informal settlement areas because most of them moved to urban areas for the purpose of job opportunities in the cities. These poor populations that are living in informal settlement areas that are within or close to the urban boundaries, need to acquire land that is close to the city for residential purpose.

People seek to acquire property in the form of land and resources motivated first by survival, to be able to seek shelter from the elements and to grow the food that is necessary to live or acquire resources to produce goods or services to trade for food or other necessities (Flanagan 1999).

Government acknowledges that the willing seller willing buyer approach has a negative influence on the pace of land reform delivery. There is a need to review this approach and to develop a mechanism that would be able to speed up the land reform processes. Land owners are reluctant to release their land for low cost housing development projects even if the land has already being settled.

Land reform is an idea that is widely accepted by a majority of South African people. However, there are differences of opinions on how the land reform programme should be designed and be implemented. Some of the African organizations and political parties believe in the aggressive and vigorous manner of land reform. On the other hand some white organizations and political parties believe that the government should be more considerate when applying the land reform processes. The government has to consider all the necessary factors when finalizing or reviewing the implementation processes of the land reform programme. To ensure success of the land reform and productive use of the land, land reform needs to be combined with other programs at the government's disposal (Deininger, 2003).

The expectations of the poor people living informal settlement areas is that land reform should provide them with opportunities to access

proper housing and more necessities for a healthy living environment. The strategy of the government for upgrading of the informal settlement areas is a housing code that provides different types of housing subsidies as explained in chapter 2. The housing code also makes provision to acquire land for low-cost housing developments. The general concepts of the housing code are good and it provides hope to the poor people living in informal settlements, that there is opportunity for better living conditions.

4.2 Development Problems and Challenges

Challenges facing the city councils are that number of the informal settlements and families living in the informal settlements in urban areas seem to be growing. This may be the result of population growth and also immigration. In some cases people from other areas may realize that a particular Municipality is delivering in terms of houses and they may be attracted and decide to move to the areas of that particular municipality for housing opportunity. This action may exacerbate the problem of land invasion in the municipality area. Land invasion is threat to the planned developments and should be prevented. One of the mechanisms that the local authorities could use to prevent land invasions is to involve the community in the planning and development processes.

The Problem encountered when upgrading the informal settlement areas is that, in many cases like in Cato Manor (Case study 1), many families would have to be relocated. The other big challenge is that the city council cannot keep on relocating for ever. If the council continue with the present system of the conventional housing, that is single dwelling on a single site, that could require a lot of relocations. The fact that many of the informal settlement areas are densely built, that would mean that in conventional layout planning, some of the families would have to be relocated.

Relocation of families from informal settlement may be the other factor that exacerbates the problem of urban sprawl. Lack of suitable and well located Greenfield land within the boundaries of the municipality to accommodate families that would be relocated is a big problem. The challenge to the city councils is to increase the density of the areas that they are to develop so that they could minimize relocation. People from informal settlement areas do not like the idea of being moved to the place which would be far from the city. Financially it would cost the city council more to service a new piece of land than developing the existing area which has been already serviced. In the areas close to the city the council should think of planning development that includes sites with double level dwellings and/or semidetached houses. These developments would have to be accepted within the community and politically.

Cross et al (1994) conclude that the design of development interventions which can effectively promote community institution formation is a delicate task. It needs to be grounded on transparency and participation, in order to establish both credibility for planning process in the eyes of target communities, and the groundwork for effective partnership between communities and developers.

Reducing poverty and providing improved standards of living for the poorest in society is advanced as one of the objectives of most land settlement programmes (Oberai, 1988). Government housing policy is to provide housing subsidies that would provide possibilities for the poorest families to gain access to what is termed the starter house.(figure 4.1) the main purpose of a starter house is to accommodate a single-family of three to four members.

STARTER HOUSE

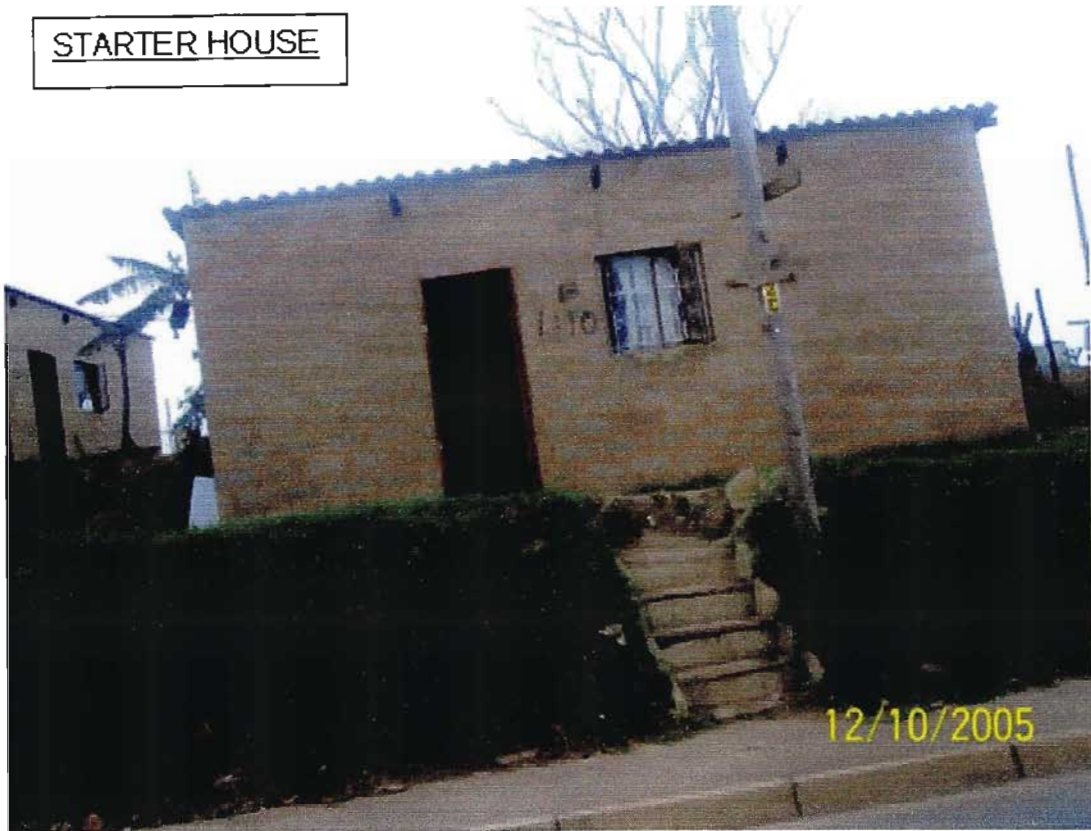


Figure 4.1 Starter House

Improvements could be made on the starter house in future when the family's financial conditions improve. Since the beneficiaries gained ownership of the starter houses they have the right to decide what improvements they would like to do on their starter houses (figure 4.2). A dwelling built as a single-family house may be converted into, or simply used as a multi-family dwelling (Kemeny, 1981).

STARTER HOUSE WITH IMPROVEMENT



Figure 4.2 Improvements to Starter House

Advantages of the development with single houses are that it is easier to provide room for future improvements and it is widely accepted by the communities. The disadvantage is that these developments would require large piece of land to accommodate targeted populations. Availability of suitable land for development is a problem for most of local authorities. Densely developments which are well planned could provide the advantage of using the available land to a large extent. Authorities would have to educate the communities about these types of developments. In most cases, when people think of a house they think of a free standing top structure with a yard. The idea of sharing property in the form of double story property is not settling well on the minds of the people. If the authorities decide to introduce a new development concept in terms of design, they should also be mindful of the social orientation of the society that they are targeting.

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APPENDICES

Appendix 1: Housing subsidies 2004 (breakdown for spending of Funds)

The new housing subsidy based on the approval by Housing MINMEC on 12 March 2004		
Detail cost breakdown:	Item Description	Amount
1. The Serviced Stand	Land Cost	
	Land acquisition	R 425,28
	Opening of township register	R 7,78
	Attorneys fees: Land purchase & Establishment	R 15,56
	Sub Total: Land Cost	R 448,61
	Indirect Costs:	
	Professional Fees:	
	Project management	R 388,78
	Geo-technical investigation	R 48,66
	Contour Survey	R 31,11
	Land surveying and site pegging	R 158,62
	Land survey examination fee (Gen Plan)	R 48,21
	Town Planning	R 209,94
	Civil Engineer: Services	R 488,54
	Site supervision: Clerk of Works- civils	R 118,18
	Social facilitation	R 155,52
	Legal Fees- Agreement	R 10,64
	sub Total: Indirect Costs	R 1 631,09
	Direct Cost:	
	Water reticulation (incl. Meter)	R 2 384,88
	Sanitation reticulation	R 2 783,66
	Roads	R 1 788,38
	Storm Water	R 2 689,26
	Street lighting	R 62,20
Sub Total: Direct Cost	R 9 618	
Total cost of a serviced stand:		
Sub Total: Land Cost	R 448,61	
Sub Total: Indirect Costs	R 1 631,09	
Sub Total: Direct Cost	R 9 618,37	
Total	R 11 698,07	
Total cost (rounded off)	R 11 698	
2. Construction cost of 30 eq houses	Earthworks (provisional)	R 989,73
	Concrete, Formwork and Reinforcement	R 1 332,04
	Brickwork	R 3 525,43
	Roof structure	R 2 840,50
	Windows	R 1 204,19
	Doors and frames	R 783,03
	Finishing and Paintwork	R 496,60
	Plumbing and Toilet	R 744,16
	Material	R 11 625,98
	Labour	R 2 933,79
	Sub Total	R 14 797,76
	P&G	R 594,39
	Overheads	R 668,69
	Profit	R 520,09
	Total	R 16 580,93
	Grand Total	R 28 279,00
	Rounded off New product cost	R 28 279

G.P. fee.

life cycle analysis

Appendix 2: Housing subsidies 2005 (breakdown for spending of Funds)

The 2005/2006 housing subsidy based on the BER index		
	Item Description	2005/2006 amount
1. The Serviced Stand Cost	Indirect Costs:	
	Professional Fees:	
	Beneficiary Administration	R 150.00
	Safety inspector (DoL)	R 40.00
	Environmental Control Officer	R 32.00
	Pre-planning studies	R 214.00
	Project management	R 438.98
	Geo-technical Investigation	R 52.68
	Contour Survey	R 35.12
	Land surveying and site pegging	R 175.59
	Land survey examination fee	R 54.43
	Town Planning	R 237.04
	Civil Engineer: Services	R 526.77
	Site supervision: Clerk of Works- civils	R 133.44
	Social facilitation	R 175.59
	Legal Fees- Agreement	R 12.02
	Sub Total: Indirect Costs	R 2,277.67
	Direct Cost:	
	Water reticulation (incl. Meter)	R 2,704.07
	Sanitation reticulation	R 3,143.03
	Roads	R 2,019.27
	Storm Water	R 2,923.55
	Street lighting	R 70.23
	Sub Total: Direct Cost	R 10,860.15
Total cost of a serviced stand:		
Sub Total: Indirect Costs	R 2,277.67	
Sub Total: Direct Cost	R 10,860.15	
Total	R 13,137.82	
Total cost (rounded off)	R 13,138	
2. Construction cost of 30m2 House	Earthworks (provisional)	R 1,117.51
	Concrete, Formwork and Reinforcement	R 1,504.01
	Brickwork	R 3,980.59
	Roofstructure	R 3,207.23
	Windows	R 1,359.66
	Doors and frames	R 895.76
	Finishing and Paintwork	R 560.71
	Plumbing and Toilet	R 840.23
	Material	R 13,465.69
	Labour	R 3,312.56
	Sub Total	R 16,778.26
	P&G	R 671.13
	Overheads	R 755.02
	Profit	R 587.24
	Total	R 18,791.64
Total cost (rounded off)	R 18,792	

Grand total : R 31 929

Appendix 3 : Outlines the housing subsidy amounts for the various housing subsidy mechanisms that qualifying beneficiaries in the different income categories can apply for:

Income Category	Subsidy Amount	Contribution	Product Price
R0 to R1 500	R23 100,00	R2 479,00	R25 580,00
R1 501 to R2 500	R14 200,00	R2 479,00 + shortfall	R25 580,00
R2 501 to R3 500	R7 800,00	R2 479,00 + shortfall	R25 580,00
Indigent: Aged, disabled & health stricken R0 to R800	R25 580,00	None	R25 580,00
Institutional subsidy R0 to R3 500	R23 100,00	Indirect -Institution must add capital	At least R25 580,00
Consolidation Sub: R0 to R1 500	R12 521,00	R2 479,00	R15 000,00
Consolidation Sub: for Indigent groups R0 to R800	R15 000,00	None	R15 000,00
Rural subsidies & PHP R0 to R1 500	R23 100,00	None	R23 100,00
R1 501 to R2 500	R14 200,00	Short fall	R23 100,00
R2 501 to R3 500	R 7 800,00	Short fall	R23 100,00