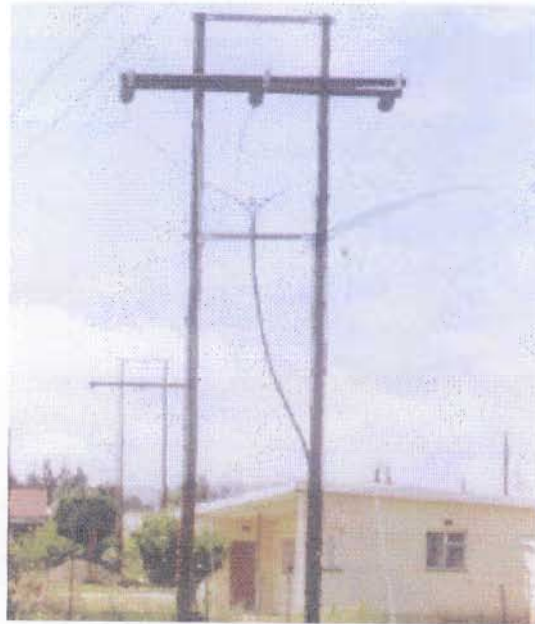# LAND DEVELOPMENT CHALLENGES

# TO UPGRADING: -

# AN EVALUATIVE CASE STUDY IN HA MATALA, MASERU, LESOTHO

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# TABLE OF CONTENTS

LIST OF MAPS

LIST OF PLATES                                                        PAGES

**OTHER INFORMATION:**

APPENDIX A

Compensation Procedures
Attempts by The LHLDC to legalize the informal settlement

APPENDIX B

Specimen of the Land Act 1979

APPENDIX C

Questionnaire Specimens for:
Lesotho Housing and Land Development Corporation (4)
Lands Survey and Physical Planning (3)
Lesotho Electricity Corporation (1)

Water and Sewerage Authority (1)

Lesotho Construction Unit (1)

Maseru City Council (1)

Local Government (1)

Matala Residents (1)

Field Owners (1)

## APPENDIX D

Limitations

## APPENDICES

Appendix A

Appendix B

Appendix C

Appendix D

# DECLARATION

This dissertation is my own original work and has not been submitted in partial, or in whole, to any other University. The research work was carried out at Ha Matala in Maseru (Lesotho). The study has been undertaken under the supervision of Professor Mike Kahn in the Department of Town and Regional Planning, University of Natal Durban, and Annette von Riesen.

# DEDICATION

This document is dedicated to the Lord God, father of all creation without whom I could have never come this far. Thank you father for supplying me with all the strength that ever needed to run this race.

This document is also dedicated to my niece Boitumelo (Tume, Nunus, Booi, Mahlooho, Vanilla, Shining Star) Mokoena who happened to join us just when this research work was only commencing.

# ACKNOWLEGDEMENTS

# SUMMARY

The study looks at the land development problems, which have resulted from the occurrence of informal settlements in the formal Ha Matala study area in Maseru (Lesotho), and offers ways of resolving them. Ha Matala is an area within the Maseru urban, which was identified by the government, for development of high quality neighbourhood with services such as water, roads and electricity. The area was also hoped to accommodate certain economic activities, which would benefit the area and the country as a whole. However, the intentions of this development scheme were hampered by the informal settlement.

The informal settlers have settled with no regard to the physical services such as water mains, access culverts, roads, electrical poles and cables and sites boundaries in the area. They have also ignored a civic and community centre site that was provided for socio-economic services such as a bus-terminal and associated informal and formal activities. The land invasion has caused the developer, the Lesotho Housing and Land Development Corporation (LHLDC), to have second thoughts about providing a school site, open spaces and a cemetery in the study area. This has been proven by the fact that, these sites have been subdivided for more residential use. The controversy of it all is that like formal leaseholders, the informal settlers also hold Titles (Form Cs or leases) to the land. This problem has been the most complex to resolve – it has been dragging for over ten years now, and has even engendered ripple effects across the country.

In order to establish the extent and the nature of the problem that prevails in Ha Matala study area, a considerable number of sites visits were taken, and the original and recent layout plans and orthophotos were used. Pictures that depicted various problems were taken. A qualitative method was used to gather primary data by way of formal and informal interviews, which were administered by structured, open-ended questionnaires. The secondary data was collected through library search and planning documents in Lesotho. The data explains the concept of informal settlements, upgrading and associated concepts, both internationally and in Lesotho's context. It also reveals the historical

background to the problem and explains the extent and nature of the problem, as it exists. Interviews were also set up for evaluation of a set of predetermined strategies by critical stakeholders. The individual stakeholders were to suggest the most workable strategy, based on the social, economical, political and technical challenges of each strategy. The strategies are proposed as thus:

1. Relocate/remove invaders and restore the original scheme.
2. Relocate informal settlement on public space and upgrade areas on residential sites; and return to intentions of the plan.
3. Abandon affected parts, and find sites for public facilities.
4. Temporarily relocate the informal settlement and restore the plan.
5. Redesign the area and accommodate the informal settlement.

The strategies were assessed through a SWOT analysis and then weighted in regard to their relationship with the socio-economic, political and technical aspects of the study, which are in turn measured by certain criteria. Strategies 5 and 1 carried more weight than other strategies, while strategy 3 carried the least weight. This implied that, in order to upgrade the Ha Matala study area in a sustainable manner, either strategy 5 or 1 should be used, and that strategy 3 should not be considered as answer in this particular case study.

The findings indicated that, the land problems to be addressed by these strategies are categorised as thus: -

➢ No access to individual sites;
➢ Limited access for vehicular movement;
➢ Subdivision of open spaces and places to provide for other public facilities such as a school; and,
➢ Affected infrastructure by the building of houses over pipes and roads

The nature of the problem solicits for congruent measures, which are to be largely based on strategies number 1 and 5.

# A LIST OF ACRONYMS

**ISAS:**        Institute of Southern Africa Studies

**LEC:**        Lesotho Electricity Corporation

**LCU:**        Lesotho Construction Unit

**LG:**        The Ministry of Local Government

**LHLDC:**        Lesotho Housing and Land Development Corporation (responsible for direct estate developments and site and services schemes. It is a parastatal and a sister body with MCC above, and UDS below).

**LSPP:**        Department of Lands Survey and Physical Planning (the Chief Planning Authority that is located within Local Government (LG).

**MCC:**        Maseru City Council (responsible for management, maintenance, development control and collection of levy within Maseru Urban Area. It falls under Local Government umbrella though it is a parastatal).

**SDA:**        Selected Development Area is land that a prospective developer (usually the government) acquires and earmark for future developments.

**UDS:**        Urban Development Services (it is at par with LHLDC)

**WASA:**        Water and Sewerage Authority

# DEFINITION OF TERMS

**A finalised layout:** is an approved plan, which has been adopted for development and implemented on the ground. It is a plan whereby a developer has subdivided undeveloped land into lots then surveyed, pegged and serviced them for sale.

**Development:** is the carrying out of any buildings, engineering or other works or operations in, on, over or under land, or the making of any material changes in the use of the land or buildings or subdivision of land.

**Implementation:** a process of transforming a plan into a tangible thing that can be seen on the ground.

**Plan:** refers to a layout plan, normally presented on paper and not on the ground or in the physical form.

**Planning:** in this paper will be restricted to physical planning, to the design and implementation of a plan.

**Pitso (Lipitso plural):** a community meeting, normally called under the jurisdiction Chief to inform his subordinates of current issues that affect their environment. Here, the public's opinions are not valued, and more often than not, the public is expected to act as ordered without challenging the authority.

# CHAPTER 1

## INTRODUCTORY OVERVIEW

### 1.1    INTRODUCTION

Unauthorized occupation of land is a common process and countries worldwide have and still are experiencing it - more especially in the urban areas of developing countries. The process is given various names depending on where it occurs, its nature and its magnitude. Included in the names given such lands occupations are: encroachment or informal settlement, or illegal settlement or squatter settlement, which can be collectively included in the broader category of land invasion. Closely associated with this concept is the idea of upgrading. Upgrading such areas is quite a challenge because of the socio-economic, biophysical and spatial aspects of the area of concern and outlying areas. This study regards unauthorized land occupation as illegal land occupation or informal settlement. Such settlement is informal because it is unapproved by the local authority, and does not abide with the formal development standards. Illegal land occupation is regarded as such because it is unlawful. In other words, an informal settlement can occupy land that was acquired legally. The study sets out to establish workable strategies in upgrading unsanctioned land developments that occurred at Ha Matala study area, which is a formal area (Masinga 1994) (Angel et al. 1983) (Botha. & Kaplinsky, 1989) (Procto, et al. 1998) (Leduka, 2001).

It is obvious, from the numerous terms given to forms of unauthorised land occupation, that people would do anything to access land and possess it. Procto et al. (1998) point out that, "Land is the most valuable asset of any country". It is the most basic need for rural people, and also forms the basis for a nation's wealth. Demand, for land to live on and to carry out other land-related activities, is on the increase, in cities, towns and villages. However, land is a limited resource and there is always great competition to control it. Some of the ways used to gain this control result in injustices such as limiting or excluding the poor from accessing it and, history shows that this has been the trend in a number of countries (Ibid.1998: 14).

It is argued that the market economies of the Third World are rapidly transforming land into a commodity, which can be freely bought and sold. It is this notion that caused destruction within the study area. Generally, transactions in the land market and in the urban land market in particular, increasingly reflect economic relationship between persons and groups rather than

1

social relationships. This continues to lock the poor outside both the formal and informal land markets (Angel, 1983: 7). The study has established that land problems in the study area go beyond planning and implementation levels.

To date, governments, in many developing countries, have failed to meet the ever-increasing land demands adequately. Hence, illegal settlements still pose a development problem and have even taken a more serious turn in some countries such as Lesotho, where they occur on subdivided and serviced lands, which are proposed for housing projects.

The study looks into problems of informal land occupation on parts of a serviced layout that took place in the Ha Matala area within Maseru urban bounds, and suggests ways to resolve them. The occupation has infringed upon sites that were meant for a civic and community centre, a primary school, a cemetery and some residential sites. Located next to the civic and community centre was a bus-terminal, which was going to cater for all public transport that comes to and fro the southern region of Lesotho, and shopping complex. The scheme aimed, amongst other intentions, at relieving congestion in the Maseru central business district centre (CBD), providing alternative route to address traffic congestion and to create appropriate space for the agglomeration of economic activities. Certain infrastructural components of the proposed scheme particularly water mains and roads have been affected by the informal settlement. In the case of electricity, the impact is not so great. It is indisputable that, crucial elements of the layout have been affected, and, that this calls for intervention, which should come in a form of upgrading.

Upgrading can be tailored to suit the nature of the problem and Masinga (1994) cites Karodi as suggesting two types of upgrading, in-situ upgrading and Greenfield development. In-situ upgrading is said to be more costly and complicated than new upgrading because it is done directly within the settlement, while Greenfield upgrading is done, by sometimes, temporarily relocating the settlement while upgrading the original one, or by relocating the settlement on a new, and, well-planned site. Unlike Greenfield developments where there are few problems with servicing sites, in-situ upgrading projects have to approach the introduction of services in and around existing settlements. In some instance structures have to be removed and relocated to enable services to be put in place. Clearly then, upgrading an already serviced area like Ha Matala may be more complex. Worse yet, the people may not appreciate the proposed strategies for the upgrading process Masinga (1994), (Sarin, 1983). This implies that, a pre-requisite for

any successful development or upgrading program, in any given social setting, is community participation.

In view of the literature and attempted local and international strategies on upgrading, this paper proposes a range of strategies that should be employed to resolve problems that are presently facing Ha Matala study area and these are outlined below:

1. To remove or relocate the informal settlement and restore the original plan,
2. To relocate the informal settlement on public space, and upgrade affected areas on residential sites,
3. To abandon the affected area, and find new sites to allocate public facilities
4. To temporarily relocate the informal settlement and restore the plan;
5. To re-design the area and accommodate the informal settlement

Strategy 1:   The first part of this strategy proposes forced removal of informal settlement, with no consideration of its consequences. The second part of it still proposes forced removal, but offers informal settlers a new site, with or without their consent.

Strategy 2:   Recommends that, the developer should relocate some of the informal settlement and upgrade the rest of it in order to restore the plan partially.

Strategy 3:   Advises the developer to disregard parts of the study area that have been affected by the informal settlement.

Strategy 4:   Suggests a temporary site for the informal settlement in order to allow comfortable upgrading on the original site, and then return the informal settlers through formal and more legal procedures.

Strategy 5:   Strategy 6:   Proposes that, the plan should be changed in order to accommodate the informal settlement, but at the same time have an up to standard residential area.

The informal settlement that occurred at Ha Matala can be taken as a malicious or an ignorant act. Probably, landowners knew that the subdivision and selling of land, they made, were illegal. It is also possible that, they were unaware that, they no longer had rights, whatsoever, to the land. The research is yet to unravel the grounds of this informal settlement, and choose, appropriately, from the above strategies, the ones that will address the problem. Upgrading

programmes, state Procto, et al. (1998), have to acknowledge issues that influence such settlements before proposing way out.

The aim of the study is to evaluate, by presenting the proposed strategies above, to different stakeholders, as to how far they (strategies) are applicable to the case of Ha Matala Study Area.

## 1.2   MOTIVATION FOR THE RESEARCH TOPIC

The unauthorised occupation of land wastes resources because it does not give any thought to environmental and economic issues. More so if it takes place on land, which is laid out, subdivided and serviced with basic roads, access culverts, electricity, water and sewerage, for residential and commercial use, as in the case of Ha Matala Study Area. Given that it is a formal layout, which is occupied both formally and informally the challenge is to see how best can this area be upgraded. In this area, there are three categories of people, those who hold the modern titles (leases) to the land, those who hold traditional titles (Form Cs) and those who do not have any titles at all. Map 3 shows all three categories of land occupation, of which the third group attacks the plan from outside. The upgrading of this area is most interesting because of its heterogeneous social and spatial characters, which have resulted from these settlements.

Where illegal land allocation and informal settlements occur, automatically the blame goes to those implicated in the matter. The assumption is that, the aforementioned, go for sites, which are big and seem idly, like open spaces because of their lack of understanding concerning the use of these. However, this study has discovered that some affected sites are the deeds of the developer, Lesotho Housing and Land Development Corporation (LHLDC). It has subdivided a cemetery site, a school site and open spaces, with the aim of recovering the layout costs. True enough the LHLDC might recover the costs in this way, but the area is bound to face spatial and social problems as a result and there is an imperative need for a pragmatic approach to upgrading the area.

There is credible evidence that, the lack of open spaces and subsequently leisure activities drive youth into delinquency. Rape cases, crime, drunkenness amongst the youth as well as adults in areas like Riverlea Extension, South of Johannesburg, and Upper Thamae in Maseru, which are deprived of these, form part of the landscape. To add to this, Lamprecht (2001:13), states that, "with no aftercare or sports facilities, there is little in Riverlea Extension for bored youngsters to

do". It is against this evidence this study considers that the Ha Matala Development Plan is restored and that the open spaces are used as intended.

While the developer has tried to rid the study area of informal settlements since 1991, it has also shown a sign of despair by subdividing these sites. In so doing, it has partially yielded to the informal settlement, which is related to strategy number five mentioned above. However, the strategy is meant for the benefit, and not more ruin of the scheme. If people are given the capacity to realise environments that work in their favour and those that do not, sound strategies to resolve, in a sustainable way, prevailing problems in the study area can be reached.

Historical records and indeed present examples have shown that in informal settlements, there will be lack of basic social facilities such as water, roads, public transport, schools, and proper sanitation and leisure activities. This happens because the informal developers do not consider the adverse impact of such settlements until after they are settled. Hence they encounter problems in the short-run as people cannot survive in an area that has no adequate and proper supply of crucial facilities such as water. The supply of water, in the study area, is likely to be troubled in the short-term because of exertion of pressure, by informal buildings on the mains.

Plot boundaries of such settlements are normally not defined well (Baross, and Mesa 1986). As such, there is always tension amongst neighbours who are likely to accuse each other of encroachment on their self-defined bounds. However, in the study area the existing tension is mainly caused by the double land allocation resulting from legal and illegal processes of land alienation. The informal settlements in the study area, have blocked access to both individual sites and to other ends in some parts, have taken up sites big enough to render at least two standard, residential plots. Since the open spaces have not yet been developed, the area still looks somewhat dynamic and efforts should be made to prevent any non-leisure activities on these sites.

Informal settlements that seem to be taking ground across the country on serviced land need to be stopped. The strategies that will be recommended to resolve the Ha Matala problems will be good enough to be adapted to address similar problems across the country. Ha Matala as a case study provides precedence for similar development in Lesotho. It also encompasses diverse problems that are likely to face any land development problems in Lesotho. Plans are hardly implemented as intended and it is time that planning authorities took a firm stand against this trend, and ensured that all recognised, and appreciated planning.

## 1.3    BACKGROUND TO THE STUDY AREA

The Ha Matala site, which covers an area of roughly 110 hectares (ha), was developed in two phases, viz. Phase 1 and Phase 2. An arterial road that runs through the study area divides the two phases. It connects the CBD of Maseru to the southern region of the country and the only international airport. The area is closely located to the CBD at a distance of 4km. Originally, it was not part of the urban area, but as Maseru expanded, Ha Matala and a few other areas that were within the same radius distance were incorporated into the urban boundaries (See Map 1, overleaf).

The basic purpose of developing this area was to prevent unsightly developments such as the ones that occurred at Ha Abia, a place not far from Ha Matala (Map 1). Ha Abia is also located along the same arterial road as Ha Matala and about the same distance from the CBD. What happened in Ha Abia is that, it was invaded after Mr. Malataliana of Department of Lands Survey and Physical Planning (LSPP) and his crew had surveyed it in 1988, and it now looks like a slum. It lacks services as well as healthy social and environmental conditions. The houses are built haphazardly in relation to each other and there is no good access to individual sites and no storm water disposal.

Thus, the government through the Ministry of Local Government (LG), within which LSPP is located, acquired the Ha Matala site in 1989 and declared it a Selected Development Area (SDA). This meant that the government through LSPP took over land rights and had full control over it. In 1990, the LSPP transferred the land rights to the LHLDC, which carries out direct estate developments and land purchasing.

After the transfer of land rights from the LSPP to the LHLDC, a couple of lipitso (meetings to address the public in a way of informing them) were held by the LHLDC to introduce themselves to the people and inform them of their plans for the area. Then the LHLDC proceeded with plan preparations for the proposed development. Implementation of the plan occurred in 1990/91. The area was developed in a classic two-staged delivery system, meaning that, the LHLDC through relevant bodies, subdivided, surveyed and pegged the lots and then installed the physical infrastructure. Individual households were responsible for financing and the construction of the top structure.

PLANNING AREA
M A S E R U
1 : 10000

(ASSEMBLED SHEETS)

MASERU URBAN AREA BOUNDARY
MASERU DEVELOPMENT PLAN
PLANNING AREA BOUNDARY
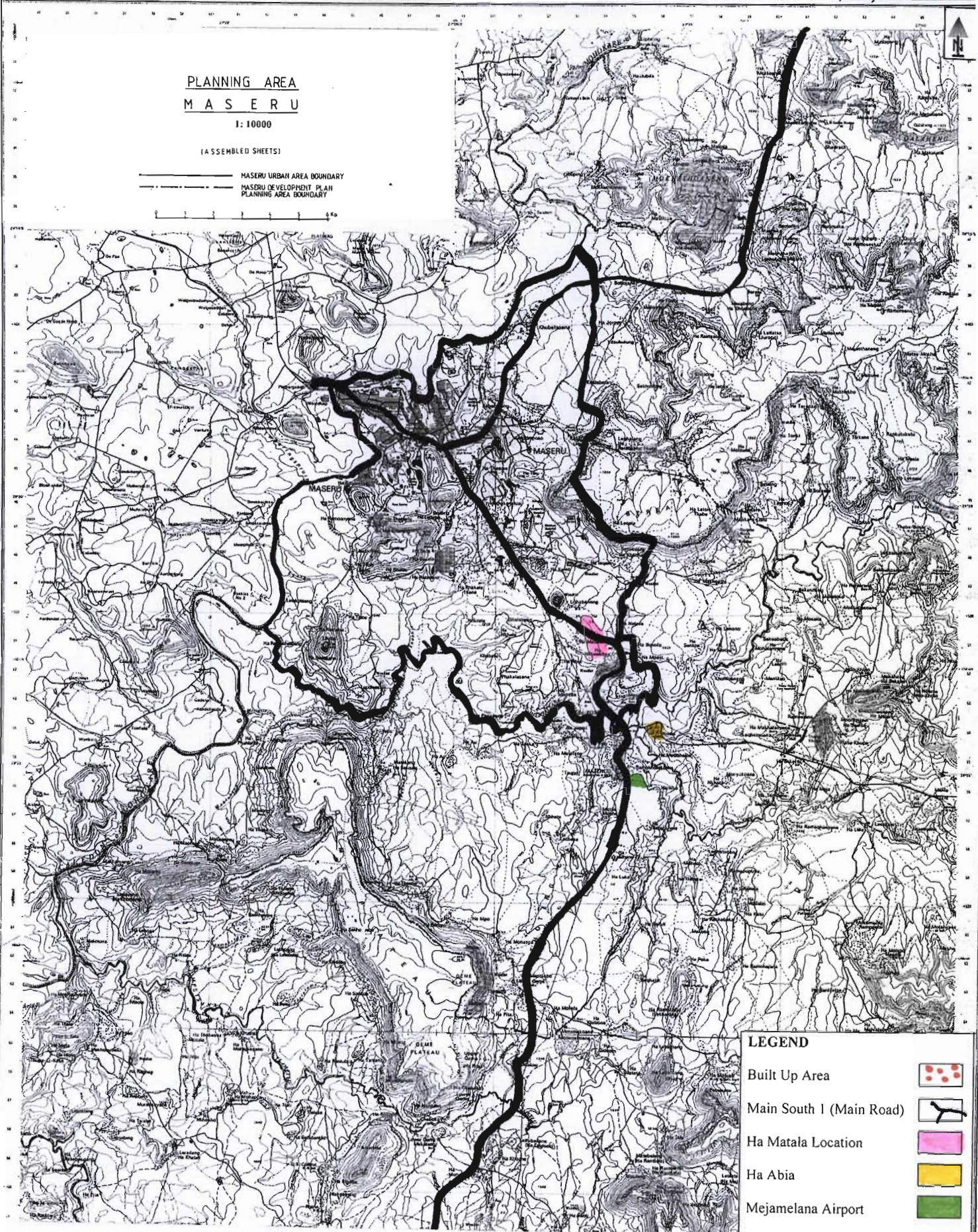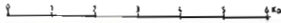
LEGEND

Built Up Area

Main South 1 (Main Road)

Ha Matala Location

Ha Abia

Mejamelana Airport

# Map 1 Ha Matala Location

After the completion of plan implementation, and installation of infrastructure in 1991, some individuals, who destroyed parts of the plan, settled the plan informally. The informal settlement that occurred within the study area has caused considerable damage (see Proposed Land Use Map 2 and the Existing Ha Matala Map 3 on the following two pages).

Although the area is not yet fully developed, both informal and formal residents continue to build in the area. Settlement in Phase 1 is more advanced than Phase 2. Phase 2 still looks quite abandoned because not many structures are coming up and a few that are, are not in accordance to the plan. Problems that face the two sites differ slightly in the sense that, in Phase 1 more problems are felt at the design level, while in Phase 2 the problems are also at the political level. Different strategies to address these problems will therefore be required. The study itself focuses more on spatial problems that are evident in the plan.

## 1.4    THE RESEARCH PROPOSAL

### 1.4.1   The Research Topic

The study looks into the socio-economic, technical and political challenges of upgrading informal settlements within the formal Ha Matala study area.

### 1.4.2   Research Problem

The Ha Matala Development Scheme was intended to render a more balanced and viable development environment within the urban confines of Maseru and was impinged upon by informal settlements and land development problems. As such, the implementation of the scheme as it was first conceptualized was not possible. Moreover, there were and still are challenges and problems experienced at both the political and spatial levels in regard to land development matters and the future course of the project.

Despite a layout plan being finalised and implemented on the ground, and basic infrastructure being put into place, land invasion nevertheless occurred in Ha Matala, nullifying many of the good efforts to produce a controlled and viable living environment. This has resulted in haphazard and disorderly development on some parts of the layout. As a result, the LHLDC has lost a great deal on this scheme and is seeking ways to recover costs.

## Legend

- Ha Matala SDA Boundary
- Main South 1 National Road
- Major Collector Roads
- Local Roads
- Residential Plots
- Business Plots
- Civic and Community
- Cemetery
- C Creche
- P Primary School
- H High School
- Open Space
- Existing Developments
- Town Housing Site

N W E S

Map 2: Propsed Land Use of Ha Matala Study Area

LEGEND

| | |
|---|---|
| Phase 1 Boundary | |
| Phase 2 Boundary | |
| Surveyed Lots | |
| Disputed Land | |
| Fenced Boundaries (Study Area) | |
| Existing Buildings (1997) | |
| New Buildings (2000) | |
| Main South 1 Road | |
| Tarred Road | |
| Gravel/Earth Road | |
| Water Mains | |
| Problem Areas | |

Compiled by: M. Mohapeloa

Scale 1: 14000

MAP 3:  EXISTING LANDUSE OF HA MATALA STUDY AREA

The study area cannot afford to lose these sites because they are quite crucial for Maseru in general, where almost every cemetery is nearing saturation and there is a dire need of schools, jobs and active and passive open spaces.

### 1.4.3 Research Question

Why did the Ha Matala Development scheme fail to create the intended development environment?

### 1.4.4 Subsidiary Questions

> ➤ How did a failure by the field owners to understand government perceptions about land, affect the success of the project?
> ➤ To what extent was the plan interfered with?
> ➤ At what stage of the plan were problems experienced and why?
> ➤ How easy or difficult is it to mitigate these problems?
> ➤ What common land development challenges and elements are evident in the Ha Matala Development Scheme that would inform similar upgrading projects?

### 1.4.5 Hypothesis

A lack of community participation in land development issues is the primary reason why the Ha Matala Development Scheme could not be implemented according to the proposed plan.

### 1.4 THE STUDY OUTLINE

Chapter 2 gives a literature review of international concepts, theories, precedents and procedures that are relevant to the case study. These in turn assist the study to draw similarities and differences and provide lessons for Lesotho.

Chapter 3 is on the research methodology for the study. This section discusses the usefulness of qualitative method and tools (e.g. questionnaire) chosen for collection of data. It also identifies and discusses various sources of data, such as primary (e.g. developers, residents) and secondary sources (e.g. library material, maps etc).

Chapter 4 gives a background to physical planning in Lesotho. This part brings the literary review in chapter 2, into the context of Lesotho.

Chapter 5 gives an account on the background and the prevailing situation of the case study as known by the respondents and as observed by the researcher from maps and from the ground. The information in this chapter is illustrated by way of maps, plates, and specimen of letters from the LHLDC to the invaders. These are shown in the text and in appendix, A, The chapter discusses specific issues that relate to the study area.

Chapter 6 presents the social, economic, political and technical challenges of upgrading the study area as perceived by critical stakeholders. A SWOT Analysis is used to assess the people's views concerning the choice of the most feasible strategies. A weighting system, which concludes the chapter and paves way for recommendations in chapter 7, is then used.

Chapter 7 is the concluding stage of the study; it draws on all the material from the above chapters. It also gives answers to questions that were raised in the introductory chapter, and may prove the hypothesis right or wrong.

# CHAPTER 2

## CONCEPTUAL FRAMEWORK

### 2.1  INTRODUCTION

The persistent growth of unequal access to land, in Third World countries, has led to illegal ways of land acquisition and subsequently informal settlements. These settlements are problematic because, they are not viable and need upgrading. Upgrading itself is faced with various challenges, such as, socio-economic, biophysical and spatial, which are largely dependent on the nature and the extent of problems emanating from such settlements. This chapter, by and large, looks into the concepts of land, land management, land acquisition, land tenure systems and upgrading and how they correlate with informal settlements (Urban Foundation, 1994) and (McCarthy and Smit, 1984).

### 2.2  LAND

Land has always been considered a basic natural resource, man's habitat and living space; a matter of life and death, of survival or starvation. The Islamic law regards land as one of the gifts of nature available for use by those in need. Everyone is involuntarily entitled to the land that he/she puts to use. Land on the one hand is a simple commodity that people can buy and sell. On the other hand, it is an inheritance that its possessor should care for by the stewardship A person has temporary right of use, but no permanent rights of disposal within the area of concern. This study regards unauthorized land occupation as illegal land occupation or informal settlement because it disregards recognized formal development standards and planning procedures. Illegal land occupation is regarded as such because it is unlawful. Land should be re-possessed from any one who misused it, to ensure a sustainable and replicable way of land use and supply (Romaya and Brown, 1999), (Botha and Kaplinsky, 1989).

Land is a crucial resource, which forms the base on which any nation stands. It is therefore, difficult to imagine any life existing without dependence on land. People need land for subsistence, accommodation, agriculture, industry, commerce and social activities. "It is for this reason that the world has seldom enjoyed lasting peace as nations scramble for space encroaching on others in the process" (Land Policy Review Commission, 2000:12). In the same

manner, it was not easy for field owners, in the study area, to believe that the urban area was engulfing their land, hence why they put up a fight.

Land in the past was quite accommodative to all, and there was no cause for informal settlements. However, with an increased rate of urbanisation the concept of land changed to fit into the neo-classical model. Land became a commodity of which, people and uses had to compete for. The privatisation of land in urban areas of the developing countries implied that landowners could dispose land permanently, at free market prices. This has also meant that a vast majority of urban populations in these countries had to fend for themselves because they were poor and could not afford these prices. Thus, the processes of land invasion and informal markets of land disposal began. The introduction of informal markets and land acquisition has caused confusion in some developing countries where stewardship used to feature because people privately sold land that belonged to the state or the community. This is common in Lesotho where both Public and Tribal Authorities are recognised by the community. The selling of land in this fashion has led to great interference of the settlement patterns (Katona, 1995), (McCarthy and Smit, 1984), (Romaya and Brown, 1999).

Land is one of the most valuable sources for developing cities, which should cater for rapid urbanising societies. However, it is a limited commodity, which must be used efficiently, and, unlike other economic goods, the value of land is in principle, completely derived from its use. The use of land as an economic good places a value on it. Land supply is fixed and cannot be created or destroyed. Land is limited to certain uses and must be used in a way that will allow balanced development (Doebele, 1975), (Romaya & Brown, 1999), (Baross, 1983:22). A balanced and compact land development produces viable living environments. This goes to show that, there is a need to ensure that, the study area does not end up with residential development only, by restoring partially or fully, the plan.

The development of housing is linked to other issues such as land availability, tenure systems, privatisation, individual households having financial responsibility, and sometimes cases political legitimacy e.g. the legacy of apartheid ghettos (apartheid South Africa). If there is more housing demand for urban dwellers, then urban boundaries will have to be adjusted and, sometimes, new urban areas established in order to acquire more land to meet the housing demand. This is one of the reasons the Maseru urban area was expanded in 1989, prior to the Ha Matala Development Scheme (Botha. & Kaplinsky, 1989).

For existing and new urban areas to be well established, they have to be tied with economic development programmes. However, the extent to which, this will be satisfied is dependent a lot on how power is transferred to the democratic majority and on the land policies of contemporary governance (Botha. & Kaplinsky, 1989). This goes to show that economic activities, which were proposed for the study area, are imperative to create a workable environment. In addition all stakeholders that were affected and concerned should have been able to fully understand the development programmes that create sustainable environments. Moreover, they had to be capacitated and empowered in order that, they could make sound contributions to the Ha Matala development scheme.

While the concept of land as a commodity is outlandish to most African inclination, the economic environment and globalization prescribes that the belief should be rebuilt. True enough, informal land transactions, under various forms of customary tenure, have been practiced, but have not been contributing as much as they would have otherwise contributed if they were formalised. This calls for formalisation of these land transactions in order to procure sounder social, economical and physical developments. In formalising the transactions, those who are actively involved in the existing informal transactions, like Chiefs and field owners, need to be consulted and be part of the body that formalises the transactions (Ezigbalike & Selebalo, 2001:11).

Angel, (1983) argues that the issue of land is not technical, but more political and institutional. Land fulfils a host of social functions, and it is closely bound up with the exercise of power and influence in society by a large number of competing interest groups. In Lesotho, as indeed in many other countries, land is a source of power and the one way to express the power is through land allocation. The double allocation of land in the study area and in Lesotho merely shows power struggle between Traditional and Local Authorities in relation to land resources.

## 2.3 LAND MANAGEMENT

Urban management entails the management of land, municipal finance and administration and infrastructure management. The process of urban management of cities derives largely from models of north Europe. It bases itself on the industrial revolution of nineteenth century Europe. Techniques of management invented and used as controlling devices to enable the minority rule and govern in their own interests and to say nothing of the majority. This model of urban management was transferred to Third World countries, in some cases imposed upon existing

urban centres. The then governments were not democratic and they operated in a top down procedure. The management process ignored the needs of urban majority and there was no attempt to accommodate them in management matters. This meant that the community and the developers spoke different languages and could not understand each other and it is this misunderstanding that created muddled land uses in our cities today. It is only through different kinds of upgrading and relevant land management that the mess can be mitigated (McAuslan, 1985).

Land management requires close co-operation between different levels of government and between government departments. There are a number of laws, which govern land use and planning procedures. These do not always work well together and necessitate many changes (Procto, et al, 1998). In the case of Lesotho, the lack of close co-operation within the planning authorities, and between Traditional Authorities and the government has given way to mismanagement of land (Land Policy Review, 2001), (Katona, 1995).

It as been pointed out that, since land maybe the most important building blocks of human habitation, the ways that it is managed and shared are quite imperative for creation and sustainability of harmonious environments (Procto et al, 1998). Land tends to arouse very strong emotions, which are likely to get stronger with increased densities of people on it. "Land and the social contracts regarding the use of land are central to the social and economic stability and well being of any society" (Ibid. 1998:9).

Increased population and poverty, as well as poor land management, hamper socio-economic growth. To avoid this, the land policy, in the case of Lesotho, must address, in both urban and rural areas:

> The need for an equitable distribution of ownership;
> The need for security of tenure for all;
> The need for sustainable use of land;
> The need for rapid release of land for development, particularly in urban areas;
> The need to record and register all rights in property; and,
> The need to administer public land in an effective manner (Procto et al.1998)

Through different Acts, governments control the use of land. The different Acts include agricultural laws, conservation and offer guidance for developments. However, it is not often

that the vast majorities are conversant with these Acts and, this on its own, poses a problem in the development environment. While there is extensive talk about public participatory development, it is very rare that the disadvantaged majorities are involved adequately; and as a result cannot make any sound contributions towards development (Procto et al, 1998), (Romaya and Brown, 1999).

It is imperative to control the use of land through spatial planning because each land use has to be carefully balanced for sustainability purposes. If development takes place without planning, the most productive use of land is often lost. The loss is even greater if after implementing a plan, informal settlements occur as in the case of Ha Matala Study Area. Land must be used in the best way from the start, and where wrong uses have occurred, the bad effects have to be rectified, informal settlements must be improved (Procto at el.1998) These observations are equally applicable in Ha Matala as well.

### 2.3.1 Planning and Procedures

Planning occurs in different ways and at different levels. There is for instance, economic, social, educational, strategic, environmental, and physical planning. Planning takes place at local, metropolitan, regional and national scales. It is essentially an activity concerned with the future and in its strategic form with deciding what course of action to take in respect of a particular urban issue before it happens. For instance, predicting an increase in land demand and developing land supply strategies accordingly. Planning is essentially to the well being of an urban society because the market economy cannot produce a satisfactory environment (Greed, 1996: 6). The Basotho communities therefore, need to be taught about planning and its merits, so that they can recognise and appreciate its benefits and responsibilities.

Rakodi & Devas, (1993) argues that, planners have little understanding about how the poor survive. Consequently, urban plans and policies generally have little relevance to the situation that the poor face and may well make it for worse. All plans aim to improve the lives of people they affect, as well as their living environment. Proponents of planning regard it as one of the progressive forces in modern societies. In this study, planning refers to physical planning that maintains the view that planning results in the right and rational use of land.

A United Nation's publication (1987) points out that "the national planning of a country is a systematic effort undertaken by the government to achieve specific economic and social goals. It involves the establishment of organisations and appropriate processes for planning, including the

formulation, implementation, evaluation and modification of development plans". It is the joint responsibility of many interacting organisations and individual agents including political and operational organisations and other groups comprising experts (planners, architects, surveyors, builders, engineers' etc) from various disciplines (Ibid. 1987: 5). While the Ha Matala Development Scheme comprised all the required actors, to produce a good plan and implement it, the actors were not well coordinated. The idea was to integrate the plan and produce a balanced development but a lack of cooperation resulted in this objective becoming impossible to achieve.

Romaya and Brown (1999) point out that the aim of the government is to anticipate development where possible, and "prepare a proper strategic layout before land is parcelled and plots are distributed." This gives assurance for a relatively efficient layout with basic social and physical infrastructure. After the declaration of an SDA, a plan is prepared, then gazetted and adopted for development. This then leads to subdivision and servicing of land. Land that is developed, in one way or the other, clearly indicates that, the developer is claiming it. However, in the case of the aforementioned development, it is clear that such land somehow belongs to the government, which uses it as a development control device. Apparently the device was not that effective in the case of Ha Matala study area.

Leduka (1993) argues that although the concept of development control is the accepted 'catch word' in Lesotho and in many other developing countries, it is very hard for planners to enforce it because of high demands for land. Demand for land exceeds its supply; hence people are compelled to engage in illegal land allocations. If communities are involved in development control, then illegal allocations can be mitigated as well, and this idea should be considered for future development plans in Lesotho.

Kivell (1993) points out that, private developers, Traditional Authorities/Leaders and public officials, influence land development processes. Land development entails efforts on land directly or indirectly by the landowner or developer, the builder, the financier and the public sector. The landowner initiates development on land, the builder constructs the house, and the financier provides funding, while the public sector regulates development and provides necessary services and infrastructure. This process is however, confined to market governed land development and is not applicable to land under a communal tenure system, which does not sell in the market. Once an applicant acquires land, the land has to be registered and this makes it easier to know the amount of land under development. It also makes it simple to control such

development.

Land developments that are carried out by the LHLDC are market governed, and the above procedure for development control, holds true for Ha Matala. In this case, the landowner or developer is the LHLDC, the builder is the end user, and the financier is the end user, through private (loan) or public sector (loan or subsidiary or grant) - the public sector being Maseru City Council (MCC). However, the developer, the LHLDC, did not initiate the development in this particular case, the project was an initiative of Local Government Ministry. Services were not provided by the public sector, but by the developer, which is usually the case. While the above model is believed to render development control effortless, this was not the experience with Ha Matala study area. The developer expected some assistance, in this matter, from government, which initiated the development scheme. Hence there was no effective surveillance on the area from the outset and some of the informal settlements that occurred on the study area were realised late, while others are not even known to the LHLDC.

In Lesotho, as indeed in other developing countries, land allocation is often not equitable, only those with direct access to the minister, or who are well connected, stand better chances to get land parcels. This leaves the common people with not much of a choice but to engage into informal land allocation arrangements (Leduka, 1993). A successful development plan requires the participation and support of politicians, civil servants, private sector enterprises, the community and its citizens, each of which plays a distinct role (United Nations Publication, 1987: 9).

### 2.3.2 Plan Formulation

In general, the task of preparing a development plan is undertaken by a planning agency with the purpose of gathering information, carrying out the required studies and preparing the draft plan. The preparation of the plan requires interdepartmental consultation, and many, various organisations are required to participate in the preparation and formulation of the national plans. The political authority sets the objectives of the plan and determines priorities. Since at this stage the objective reflects political aspirations, they are inevitably over-ambitious and often contradictory (United Nation Publication, 1987:12).

In the process of plan formulation, the planning agency collaborates closely with the Ministry of Finance and vice versa since the budget determines the resources, which can be, devoted to the plan and thus defines an important set of constraints. Generally speaking, the planning agency is

primarily responsible for the estimation of physical, human and financial requirements of the plan. However, it must co-operate with financial officials to obtain estimates of national budgetary recipients and expenditure as well as the surplus on current accounts expected to be available for public investment. The preparation of the plan is heavily dependent on statistics and close co-operation is needed between those who prepare the plan and those who prepare statistics (United Nation Publication, 1987: 13).

## 2.4    LAND ACQUISITION

Soliman (1987), states that the mechanisms of land acquisition help in understanding the system of land allocation and its consequences at the different stages of settlement development. These mechanisms could be summarised as follows: land invasion, land tenure, land subdivision and land transition.

The acquisition of land is a basic component of any housing development process and is hence an integral part to the delivery strategy, which also includes housing and infrastructure. A prospective landowner can acquire it formally or informally through purchase, expropriation, or the cession of development rights or, as is often the case, direct occupation or invasion. Land identified for development needs to be secured in a strategic manner by the relevant Local Councils as well as the private sector/the developer (Metro Housing, 1999).

There are four aspects to land delivery and these are:

- ➤ The Identification of land for housing developments;
- ➤  The assembling of land so identified;
- ➤ The conversion of land from an undeveloped state into housing products (including serviced sites for informal housing); and,
- ➤ The delivery of tenure through land registration in respect of developed land (The Urban Foundation, 1991).

Such a process requires a set of inter-related activities to ensure that land is identified, acquired and packaged for development, and ultimately transferred in a manner that ensures that development can be initiated and eventually, security of tenure passed to beneficiary households (Metro Housing, 1999).

In Lesotho, the Traditional Authorities or the public sector deliver land, and the standard supply of land is acquired from the public sector, which was also responsible for land delivery in the study area. Land acquisition for immediate developments, such as the Ha Matala study area, is fraught with problems. Where the state proposes a straightforward purchase, the cost is likely to be high. Moreover, the expropriation of land in the public interest for immediate development may provoke hostility from landholder who may, if threatened encourage the invasion or quick sale of plots, particularly where this action may inflate the level of compensation that they may receive (Ward 1983:43).

Once land is acquired in Lesotho, it is developed in either a one-or two-stage system. In the case of a single-staged system, one agency, maybe the government, or a parastatal, or the private sector prepares the land and also delivers a complete shelter as finished good to the end user. One of the aforementioned bodies takes the responsibility of identifying suitable land for development by assessing the situation on the ground through relevant experts. It then assesses the holistic environment by taking into account the socio-economic and political situation surrounding the land so identified. The assessment helps to determine the value of the land and subsequently the appropriate social classes that can be housed there. Land is then subdivided, surveyed and provided with relevant infrastructure, which is followed by the provision of appropriate housing.

In a single staged delivery system, different parties that are hired and paid by the responsible body, normally do the provision of infrastructure and housing. The houses are then advertised for sales or renting. Housing prices depend on the total cost input and the intended profit. This way of delivery does not permit any other kind of participation from the end user except for purchasing.

In a two-staged delivery system, one agency, be it private or public, develops the land insofar as preparing the land for actual buildings it surveys and pegs sites, reticulates water, sewerage, electricity and roads. The subdivided sites are then left for a second agency or individuals to build the top structure and link it to the services. In this case, the end user can actually take part in the construction of his/her prospective dwelling that suits his/her own taste. Alternatively, the end user takes the responsibility of bringing water and electricity into his/her own home.

In both systems, all or some of the agencies can be private or public. However, it is common that in low cost housing, the public sector is involved in the first stage while individuals or the

private sector is responsible for the second stage process. Establishment of public-private partnerships is therefore necessary to facilitate the accomplishment of intended development schemes.

The delivery of infrastructure depends on the use of land and it comes at different levels or standards. While the public sector can provide and subsidise high standard infrastructure it can also offer low or high standard infrastructure to the poor by getting the community to construct it themselves. Alternatively, the private sector can provide infrastructure of high standards, for high-income communities. The infrastructure providers have to fully recover the costs for the purpose of sustainability (Steward, P. ed. 1991).

In developed countries, authorities develop and build units for subsidised rentals. This happened in the "old" South Africa. Umlazi is an example of this kind of approach to development. The current South African approach is of a modified single stage system, whereby land is prepared and developed by one party, often the government or an appointed agent, in consultation with the end user (Metro Housing, 1999).

Fitzwilliam (1991:4) states that the large majority of low - income groups depends on informal land delivery systems, as the formal ones are too expensive for them. To add to this view, The Urban Foundation (1991) show that the unavailability of serviced land is the most fundamental constraint to housing development for low-income communities, in the urban areas of South Africa.

In order for the delivery systems to be workable, developers have to plan and implement on time. The process must not be delayed to avoid invasion, which in turn leads to unnecessary costs. Allocation processes as well, should not be delayed by long procedures, lest people decide to use other faster means that are not formal, but those that interfere with the original plans.

## 2.4.1 Land Invasion

Land invasion is one of the mechanisms to alienate land. According to Leduka (2001), and Ward (1983) land invasion is the informal occupation of land because authorities concerned do not approve of it and is consequently unlawful. The land subdivisions are done without proper permission and adequate service provision and through illegal sale of land to which the vendors have no alienable rights. This description of invasion fits the nature of the informal settlement that happened at Ha Matala study area.

19

Land invasion process, points out Masinga (1994), takes various forms and trends, some invasions begin as individual encroachment, others occur as a collective action, which can be organised or spontaneous. The informal settlement in the study area, started with an individual whose house was demolished. However, the illegal land allocation by field owners, in Ha Matala study area, was more of a collective action.

Soliman, (1987) refers to land invasion as gradual occupation of plots on vacant land. He states that, one or more families can initiate this occupation. The occupation can occur on vast amounts of land, which the occupier can later on, informally subdivide into small plots and sell to new comers. Land occupiers can acquire security in the site because of their connection with the most powerful person, the leader of the community, who is personally connected with the local authority. This then encourages more illegal occupation of land as in the case of Lesotho. Soliman's discussion about land invasion holds true in the case of Ha Matala as well, but the difference lies with the fact that, the land that was informally subdivided, initially belonged to the sub-divider whose land was, by then, expropriated by the government.

Bernstein and The Urban Foundation, (1993), speak in terms of urban invasion, which refers to the occupation of land, for residential purposes, by people who are not specifically authorised to do so by the owners of the property. It is a collective process, which distinguishes it from incremental encroachment by individual squatter households. Like encroachment, invasion can be seen as an informal or irregular process of land delivery. Unlike encroachment, it sometimes also expresses a clear political motive, being used overtly as a form of protest or as a tool to win power or resources.

According to The Urban Foundation (1994), a lack of alternatives for acquiring access to land in rapidly growing cities is the major cause of land invasion. The case of Bogota and Mexico bear witness to this. While these cities are growing rapidly, only less than 1% of the population used to reside in invasion settlements because of the availability of alternative and effective processes of delivering land to the poor. In contrast, in South Africa as well as in Lesotho, the apartheid and colonial laws made no alternative provisions for land acquisition for the urban poor. Thus, invasion occurred at considerably high rates. However, The Urban Foundation (1994) argues that the availability of state land encourages land invasion because people tend to invade cheap land left vacant by the state.

Ward (1983) points out that, agricultural land may with time become obsolete and useless to the owners who are then tempted to subdivide and sell. This is encouraged by the expansion of nearby towns that increase land demand for housing. Landowners then engage in informal land trade, which they do individually or through a chosen representative. According to Ward (1983), the practice is wise because there is cash that is received from the sales, and there is also compensation that comes later with government intervention to expropriate and legalize the occupants' tenure. The practice may be unsound and should include negotiations between landowners, tenants and the government in order to determine the selling price of land.

Land invasion varies considerably in scale, timing, political motive and strategy. The scale can be as small as plus or minus 20 households, or as extensive as approximately 200 000 or more people. Masinga (1994) cites Healy as saying that cities of Latin America have experienced land invasion at a very high level, because it was the major form of acquiring land for the urban poor. Concerning timing, invaders may choose to invade during political campaigns when every politician wants to win the elections and does not want to jeopardise that by removing invaders. They can also decide to invade during big occasions when all authorities are too busy to pay any attention to them. The success or failure of invasion depends on the political motive. Invaders do not use the same strategy everywhere they go (Ward 1983). The informal settlement in Ha Matala study area is based on misunderstanding between the Planning Authorities, Traditional Authorities, and the field owners. This misunderstanding, it seems, comes back a long way. It started with land policies that negated the role of Traditional Authorities in land matters and was complicated by a lack of legal and political support for Physical Planners.

Land invasion can be at relatively low or medium or high densities depending on the number of households per hectare. With low densities, land invasion can lead to scarcity of land because there are fewer occupants. It can also lead to overcrowding with densities that are high and subsequently lead to social tensions and unhealthy environments. Land invasion can occur on refuse sites or environmentally sensitive areas such as marshy lands. It can also occur on good and undeveloped land or on serviced land as in the case of Ha Matala Study Area.

Masinga (1994), points out that, invaders use various materials to build. If they are of the working class, then they use standard building material such as tiled roofing. If they are poor, they use any material at their disposal such as cardboard boxes, tins, plywood and so on. In the case of Lesotho, the poor often use cement blocks or stones mixed with mud and cow dung.

## 2.4.2   Illegal Land Allocation and Informal Settlements

Informal settlements are usually, but not exclusively low-income areas. They may be developed with or without a permission of the landowner, if the former is true, then the people who live there are not regarded as squatters, but if the latter is a fact, then the people are referred to as squatters. Squatters can also be referred to as land invaders if they occupy land in a group, and are not permitted to occupy the land in question (Procto at el. 1998), (Ward 1983). This study proposes to regard a person who accesses land illegally, but with the permission of the original owner, as an informal settler. This is based on the simple understanding that, any structure that has not been built according to formal building standards and, which the authorities do not recognize, is informal and that one who occupies it is also informal.

It is argued that in the recent past, illegal acquisition of land in Third World was common activity amongst disadvantaged urban societies. However, Leduka (1993) says that illegal land acquisition cannot be associated with the poor anymore, because even the affluent class acquires it in the same way. In Lesotho as indeed in many other developing countries in the Third World, informal acquisition of land is faster, cheaper and less hazardous (Angel, 1983). It is for this reason that people are automatically attracted to it. In the study area, the informal settlement consists of both the poor and the affluent class. This aspect differs from other experience elsewhere in the developing world.

In Medellin, Columbia, the various informal settlements are categorised as either 'invasione' or 'pirita' class. In the initial stage of 'invasione', it is unclear where the actual plot boundaries run. There is not a distinguishable plan because new families continue to infiltrate the 'invasione' area. 'Invasione' sites are physically unorganised and all the dwellings have a temporary character (Baross, and Mesa, 1986: 153).

'Pirita' developments are organised by landowner promoters, who subdivide and sell residential plots without installing infrastructure and obtaining the necessary development, permits from the municipal authorities. These settlements have a definite site boundary, planned layout, space set aside for public use and plots clearly marked, often a range of different sizes. 'Pirata' sites have a rudimentary road network and most families start building with permanent materials. Moreover, 'pirata' developers and invaders ensure a substantial supply of land for everyone, low-income or not (Baross, and Mesa, 1986).

The two sets of illegal settlements found in Medellin contain some similarities and differences with the illegal settlements in the study area. With 'invasione' the difference is in terms of plot boundaries and dwelling structure. In the study area plot boundaries, even though irregular, are clearly defined and the dwelling structures are permanent. With the 'pirita' class the only difference is that that individuals haphazardly subdivide and sell residential plots. While in a 'pirita' settlement permits are obtained from the municipal authorities by an organisation, in the study area, individual field owners obtain illegal title deeds from the Traditional Authorities (Leduka, 2001). Most people who settle in informal housing in Lesotho are not necessarily poor they are people who, more often than not, want to avoid expensive and small sites, which require long processes.

Both 'pirata' and 'invasione' settlements are illegal, but one is more illegal than the other is. In the pirata sites, families actually buy land; whilst on 'invasione' land, they occupy it. The latter group not only ignores municipal planning requirements, but also faces the possibility of forced removals as landowners try to reclaim their land (Baross, and Mesa, 1986). On the basis of this, one can infer that, the informal settlement in Ha Matala study area is more legal than 'invasione'. However, the settlement can still encounter forced removals, because it is illegal.

Procto, et al. (1998) say that, an informal structure is a building that has not been built according to formal building standards, and where the plans have not been approved by a local authority. All structures in informal settlements, no matter how well built they are, are regarded as informal structures. An informal settlement can be formalised through application of formal procedures in it, such as in the case of upgrading (Procto at el. 1998:86) (Leduka, 2001).

The Urban Foundation (1991) claims that, informal housing only shows the determination of people who do not enjoy access to formal housing. It says that, there is a great diversity of views on the social and political role of informal housing, which is certainly important in the lives of millions of people throughout the developing world. Since people are eager to have tangible things, they find ways to access formal housing too tedious and highly costly. In contrast, (McCann, 1995) claims that land invasions or informal settlement usually contribute to an increase in the general degradation of the area. Informal settlement generally disrupts the order of development as unplanned development mushrooms in and among planned formal areas as in the case of Ha Matala.

### 2.4.3 Land Subdivision

Land subdivision is another mechanism of alienating land. The subdivision is done on marginal lands for the sale of un-serviced plots. The principal agents involved, range from individual landowners to large real estate companies. It is not often that the sub-divider is willing to urbanise their settlement and this implies that the development disregards the urban planning standard as set by the planning authorities (Ward 1983). Individual landowners, who were opposed to the notion of Ha Matala study area being urbanised, reacted by illegally allocating their land.

The formal subdivisions are the responsibility of the government, in this case, the LHLDC. Subdivisions that are done individually, or by a team of uninformed people, like Ha Matala field owners, in relation to spatial developments, are bound to produce haphazard and unsustainable neighbourhoods, as they are not made in consultation with the required technique (Ward 1983).

The supply of land, for urban housing, depends directly on the transfer of farmland on the periphery of the city, for urban use. A land developer is a social agent who transforms non-urban land into potential urban land and realises a profit of selling it on the urban land market, the LHLDC in this case. Such an operation implies that the land developer must have full control of land ownership, either by purchasing the land or, less frequently, by reaching a notarised agreement with the original landowner. While the LHLDC purchased the Ha Matala land, it did not full control over it, because former owners still claimed rights to the land.

The landowner is supposed to co-ordinate, supervise or carry out operations such as land surveys, land subdivision, and applications for new title deeds and transfers of ownership. He/she also undertakes various tasks such as supply of water and electricity (Alain, 1983: 287). This is exactly what the LHLDC, as the developer did for the study area.

The procedure for subdivision is as follows: the first stage is that of discussion and classification whereby the sub-divider initiates his proposal by sending to the council or planning authority office, a sketch plan and statement or brief reports which convey the intention of his proposal. After consideration, officers will invite the sub-divider to attend a discussion in which, the proposal is considered from both sides' point of view. This discussion will determine the class of subdivision appropriate for the proposal. The requirements of future plans and reports may be discussed and clarified (Guidelines for subdivision: 1977). In the case of Ha Matala, this was not the procedure, the government came up with a plan and the LHLDC subdivided the land

accordingly, but at the end of the day, the LHLDC had to own the plan.

## 2.4.4. Land Tenure and Reform

According to Procto et al. (1998) land tenure refers to the right that a person or a group of persons have over a piece of land. The purchase price of land is normally the price that both an owner and a buyer are prepared to sell and buy the land for. This will involve a process of negotiation, where the seller starts by asking more than the buyer is prepared to pay (Ibid.). There must be a range of tenure options including inter alia, right of occupation and mortgage-able tenure. These options must be available to all participants in the scheme. However, in some cases, tenure options may not be necessary because such options as rental and mortgage-able tenure are not popular (The Urban Foundation, 1994). It seems that in the case of Ha Matala, these negotiations between the government and field owners were not done agreeably, consequently this led to development of informal settlement.

Ezigbalike and Selebalo (2001) state that, one of the most crucial reasons that African States have intervened to change the land tenure system has been to discourage informal or unauthorised land developments, which have become so common. They go on to point out that some of the reforms, which occurred during colonial era, deprived the African communities of their lands. Lesotho is one of the countries that was deprived of tracts of land and forced into a small mountainous area, which lacks natural resources that could be used for the country's economic growth. It still battles to create a favourable environment for agricultural development and economic activities. One way to preserve agricultural land is to prevent encroachments on it and to bring balance within the development environment. If the Ha Matala plan cannot be restored, then economic and social discrepancies are inevitable.

Selebalo (2001) points out that land tenure reform, is a programmed state intervention, designed to change the "human-land-human relationships" in a society. He cites Adams as saying that the basic meaning of land reform is the redistribution of property or rights in land for the benefit of those who are land-less, tenants and farm labourers. Ironically, land programs hardly ever work for the betterment of the disadvantaged communities proclaims Selebalo (2001). In Lesotho, as in many other countries, field owners who also happen to be illiterate and mostly subsistence farmers who cannot even meet the contemporary labour demands, get to lose their only means of survival to urban developments. As such they informally subdivide and sell and resell the land in order to make as much money as they possibly can out of it.

Ezigbalike and Selebalo (2001) state that, while in most East and Southern African countries, where land reform has been motivated by the need to redistribute land that was in the hands of European settlers, Lesotho's land reform had political influence from the Developed World. Initially, the focus was wrest land control from Traditional Leaders and to introduce new types of tenure such as leasehold: and recently the focus is on creating sustainable developments that can alleviate poverty for rural population.

People will always, intentionally or unintentionally, work against any policies that they do not understand. This is to say that, for a policy to be implemented and workable, it needs to be fully understood by those that it effects. It seems that the Ha Matala people lacked this understanding.

Selebalo (2001) says that, governments have a tendency of excluding other stakeholders in land reform matters, and this is wrong. Land reform should be a consultative process, which involves all levels of community, NGOs, donor community and local government. He continues to point out that it should be integrated with the broad strategy for poverty alleviation through rural development. Selebalo (2001) also points out that the role players need to imbue local ownership into the process by taking advisory position rather than imposing their experiences. This will ensure efficiency and sustainability within the development environment. People simply need to understand what impacts their environment and be assured that it is beneficial to them. If they lack the knowledge, they feel threatened and thus act out of panic. All states should adopt what is good for them and at a pace that will not cause any destruction.

Change in land tenure conditions may have a number of adverse effects, which may be quite unpredictable. It is argued that once a satisfactory measure of informal tenure security exists, the willingness to obtain and to pay a price of official legal titles is considerably reduced (Angel, 1983). Leduka, (2001) adds to this by saying that, once the area has been recognised by the authorities as a permanent settlement, further legal assurances are no longer necessary. While Ha Matala has such recognition, the planning authorities still feel that all informal settlements need to be legalised, and that leases should be binding on everyone on site. There is a tendency of those who do not have leases to hide behind those who have subsequently acquired them. This leads to a decline by leaseholders, to continue paying for the lease rates, and, thereby reduce levy collections (Ibid. 2001).

Angel, (1983) points out that, improved tenure may lead to the displacement of the original lower-income population in some cases. In the same manner, if Ha Matala, were to be improved

by employing strategy 2, which suggests relocation of some people, lower-income class would have to be displaced. However, since the provision of legal tenure results in attracting higher-income households, which tend to develop better houses, Ha Matala would likely attract high-quality economic activities such as a shopping mall.

Sarin (1983) states that, land can be used for sharing wealth and savings and for protection against inflation and enhanced security of tenure give rise to property value. The land market can now more completely exclude the poor. The land conversion process in Bangkok and the predominance of the private sector over the public sector makes a good example.

### 2.4.5  Compensation

Leduka (2001), states that, in Lesotho, while there are clear principles employed in the assessment and payment of compensation, they are not legislated. Compensation usually takes long time to be paid and subsequently appears unreasonable when finally received due to market changes. Worst still, the Land Tribunal, to which appeals on matters of compensation are referred, hardly provides any solutions. Selebalo (2001) cites McAuslan (1996) as saying that, the whole process of land acquisition and compensation is thus, deemed very unfair, and, "dispossessed land-owners keep on coming back and like Oliver Twist, ask for more" (Ibid. 2001:3). Delays in compensation induce poverty and this is prevalent in many African countries (Selebalo, 2001). Acts that are driven by distress can frustrate even the one committing them. Such an observation is exactly like that experienced in Ha Matala.

### 2.5  LAND TRANSITION

Once policy makers have approved the plan, the responsibility for converting it into a concrete project, as well as its execution rests with a plan implementation agency. In this paper, the agency is the LHLDC, which supervised and coordinated accordingly, in the course of the project implementation (United Nation Publication, 1987).

The process of preparing a development plan and securing approval is governed by a number of statutory rules designed to ensure that local authorities are consulted, and that landowners and interested persons have the opportunity of objecting and making representations. The final draft of the proposal having been approved by the Local Planning Authority, District Councils or the Central Planning Authority must be consulted. If there are any objections to any feature of the proposal, the planning authority will have to consider whether to adhere to the proposal or

amend it (Telling, 1970). It seems that, because of problems that flooded the Ha Matala Development Scheme from the beginning, there was no time to present the plan to the community for comments.

Implementation is about authorised developments. Development cannot and should not occur anywhere and anyhow, because there are socio-economic and biophysical concerns that need consideration. In addition, not just anyone can develop a plan. Development should only take place as and when approved by authorities concerned to avoid any environmental or geo-physical disasters. Implementation comes in three frameworks, the strategic, organisational and legislative framework. A planning process and management strategy determine the success of implementing a plan. If a planning process entails too many procedures that are tedious and hard to follow, some developers may be tempted to seek other simpler and faster processes, which are normally illegal. Thus, they interfere with the implementation process. This is also true with management that ignores the needs of the urban majority (Leduka, 1993). It is imperative to seek ways of simplifying implementation processes immediately in order to mitigate uncontrolled developments in Lesotho.

Greed (1996) says that, "to planners, implementation might mean a process resulting in the successful carrying out of planning policies, and of specific plans, thus achieving certain long-term policy objectives. These objectives are likely to relate to social provision of amenities, good design, environmentally sensitive development and concern with wider issues related to overall urban form and transportation policies; they are likely to be concerned exclusively with development of a specific site." Therefore, planners might measure implementation by what they failed to build and in what they have conserved, protected, altered or improved (Greed, 1996: 2). This stage of implementation is often hard for planners achieve, because it is often distracted by the community, who may settle on an area before or after its plan is implemented or during the process. At times developers who refuse to go where the planner allocates them disturb it.

## 2.6    UPGRADING

Upgrading is a broad category of betterment options for improvement of squatter settlement. It is necessary for restructuring of irregular settlements in urban areas. There are two processes of upgrading, in situ upgrading and upgrading. In situ upgrading refers specifically to the improvement of the existing stock of squatter dwelling (Masinga, 1994). This study is concerned in upgrading parts of a formal settlement, which were settled informally.

According to Procto et al. 1998, in-situ upgrading refers to the provision of secure tenure, infrastructure and services to an existing informal settlement. This means that even while people are living in an informal settlement, the land is surveyed so that each house has its own site and electricity, roads and water pipes are provided. The Ha Matala study area requires this kind of upgrading. All informal plots need leases so that everyone on site is liable to pay ground rent, which in turn will increase revenue collection. There is also a need to re-settle some informal housing that invades the infrastructure, to ensure that all plots are well serviced. It is argued that in situ upgrading costs approximately one-third more than a Greenfield development of similar size. The costs of upgrading infrastructure include an engineering study and constancy fees to establish external services such as storm water, bulk earthworks, including roads, surveying, pegging and road drains (Stewart 1991) and are costly. It is without a doubt that, upgrading Ha Matala will cost even more than the average sine it has been both a Greenfield development and is now in situ upgrading project in progress.

The financial parameters of upgrading must be such that the lowest income groups could afford the services and shelter provided. The financial proposals put forward must make provision for the sharing of the cost of upgrading, between the state and the private sector. The state can provide the cost of the serviced land within the parameters of its subsidy policy and in accordance with its acknowledged prime responsibility in this regard. The private sector including the individual will be responsible for the financing and erection of the dwellings (Urban Foundation, 1994). Stewart (1991) points out that the whole question of how an upgrading scheme is financed is of vital importance in determining the success or failure of the scheme.

According to Saleem, (1983), Upgrading activities are mainly concerned with: -

➢ Regularisation: the provision of security of tenure to the residents through legalisation of occupancy; and,

➢ Improvement: the upgrading of the overall conditions in the settlement through the provision of basic infrastructure.

Upgrading is done through community participation, re-location process and land tenure reform. Since there are socio-economic and biophysical issues to tackle in upgrading schemes, the style and intensity of upgrading will differ from one place to the other.

## 2.6.1 Public Participation

(United Nations Publications, 1987) point out that in a broad sense, community participation involves all the members of a community in the planning; design and operation of a project designed to benefit that community. Public participation, as a pre-requisite for upgrading, must be promoted with the intention of collecting important information from all stakeholders. Citizens must be kept fully abreast of the complete information on the problem before seeking their opinion (Yanagi, unknown). To add to this, Stewart (1991) points out that, community participation is essential for the success of any upgrading project. Individuals should be given a chance to choose options that suit their needs. It is imperative also that, people are always made responsible for the upgrading and must have a clear understanding of priorities and financial limitations.

The Urban Foundation (1987) points out that, upgrading is dependent upon the community's willingness to invest its resources in the entire process. Of equal importance is the community's determination to participate in the improvement of the urban environment for all the families concerned. An assurance of the community's performance should therefore be a prerequisite for upgrading. The desire for upgrading must be generated from within the community and there must be a high degree of unanimity and cohesion about its desirability. Insecurity over legal status is unlikely to stimulate a wide scale internal desire for upgrading.

To ensure effectiveness in upgrading an informal settlement, citizens can participate at each of the following stages: forming a draft and drawing up a Land Use Paper; publishing the paper and collecting public opinion by the third party organisation. An effective incorporation of citizens' opinions obtained by applying these basic approaches must be ensured (Yanagi, unknown).

The preparation and drawing up of draft land policy: at this stage the primary concern is enforcing mutual communication between citizens and implementing bodies. It involves three important factors: collection of information from citizens; recognition of their will on target activity; and provision of required land use information to citizens. Persons who lead and manage informal settlement must be identified and be integrated in the decision-making programs (Ibid. 31-32).

None of these proposals for effective upgrading features in Lesotho, however, what seems to be taking ground is the practice of bottom-up development. A number of workshops and practices

towards this concept have been undertaken, but as for upgrading process, is still very much a top-down procedure. Hence, not many upgrading schemes are successful.

## 2.6.2 Relocation

According to the Oxford Dictionary, (1996), relocation means to move to a new place especially to live or to work. Relocation can be voluntary or required. There are push and pull factors, such as socio-economic activities, that can influence the process of relocation. In the study area, relocation is likely to be required by the government, thus making it forced relocation. The Urban foundation, (1991) points out that, in order for relocation to occur, it must be entirely voluntary or have incentives. This requires that any basis for asking people to move must be determined by the community or negotiated with the community. Only technical considerations should be applied. A relocation exercise must offer a choice of alternative sites otherwise if only one site is offered it may automatically be imbued with a political content.

For voluntary relocation to be successful, it is necessary that people do not stand to lose in terms of their sense of community any more than in terms of costs. The purpose of relocation is to increase the common good; therefore, it is preferable that people relocating should not be cut off from this improved dispensation. Negotiations, which should be finalised before an upgrade programme can physically begin, are essential (Ibid.1991).

## 2.6.3 Psychological Costs of Relocation

Displacing people from what they call home, can be very difficult and complicated because people tend to develop strong and positive attachments to their residential areas. This is what people had to say in relation to their relocation in the study that was carried out in the West End of Boston (Fried, 1983).

People indicated that they felt as if they had lost everything, like their hearts were taken out of them, felt like taking the gas pipe, as if they had lost all friends that they new. They always felt like going home to West End and even felt like crying every time they passed by, felt cheated, some did not even want to think of it" (Ibid.360).

However, some welcomed the change and did not feel any change of loss, while others were indifferent. When asked what they felt when they heard or saw that their previous buildings had been demolished, the same different feelings were uncovered (Ibid.). The reactions of those who

may have to relocate, in the study area, are likely to resemble those of the people in West End. Chapter five will elaborate how different stakeholders perceive challenges, which may result from upgrading through relocation, in the study area.

It has been realised that relocation is a crisis with potential danger to mental health for many people. The effect of relocation and significance of the loss of a residential environment have to be recognised and understood. A deep appreciation of the psychological implication of both physical and social aspects of residential experience is essential to this process (Fried, 1983).

"Any severe loss may represent a disruption in one's relationship to the past, to the present, and to the future. Losses generally bring about fragmentation of routines, of relationships and of expectations and frequently imply an alteration in the world of physically available objects and spatially oriented action" (Ibid.361).

## 2.6.4 The Sense of Spatial Identity

Fried (1983) points out that, there are fundamental issues that build a place and make its inhabitants feel more at home and develop a special attachment. Access to local facilities, interpersonal relationships and social organisations define an area. The spatial patterns have independent significance and represent an additional basis for a feeling of commitment to that larger, local region which is home. While there may be problems at Ha Matala study area, those who already live there, be they formal or informal, must by now be having particular affection to the area. This implies that it might not be easy to upgrade this area if it means relocating or removing people from the project site.

He goes on to argue that, the significance of cultural orientations and social organisation cannot be underestimated in defining the character and importance of spatial dimensions. However, the crisis of loss of residential area bring to the fore the importance of the local spatial region and alerts to the greater generality of spatial conceptions as determinant of behaviour. "A sense of spatial identity is fundamental to human functioning". The feeling of being at home and belonging are, in the working class, integrally tied to a specific place. There is marked relationship between class status and depth grief: the higher the status, the small proportion of severe grief (Fried, 1983:365).

Relocation undermines the established interpersonal relationships and group ties of the people involved and, in effect, destroys the sense of group identity of great many individuals.

"Dislocation from the residential represents a particularly marked disruption in the sense of continuity for the majority of this group". Even so, "most manage to achieve some adaptation to their experiences of loss and grief, and learn to deal with new situations and new experiences on their own terms. It is just like grieving for a lost person" (Ibid.369).

While grieving for a lost home may evidently be a widespread and serious social phenomenon, which is likely to increase social and psychological "pathology" in a limited number of instances, it is also likely to create new opportunities for some, and to increase the rate of social mobility for others. For others relocation is unlikely to have either effect, but does lead to intense personal suffering despite moderately successful adaptation to the total situation of relocation. It is under these circumstances that the effects of relocation on working class residents need to be examined on the basis of knowledge and understanding, that we learn to deal more effectively with the problems engendered" (Ibid. 1983: 376)

Problems of social planning that are associated with the changes induced by physical planning for relocation must be considered. Urban planning cannot be limited to bricks and mortar. Considerations of a non-housing nature are critical. It is very crucial to consider local areas as spatial and social arrangements, which are central to the lives of working class people" (Ibid 377-378).

The use of high skill resources, including opportunities for the education of professional and even lay personnel in largely unfamiliar problems and methods, can minimise some of the more destructive and widespread effects of relocation; and, for some families can offer constructive experiences in dealing with new adaptation possibilities. Planned urban changes need to be accomplished without serious hazard to human welfare. This should be done through maximisation of the opportunities for meaningful adaptation (Ibid: 379).

Any significant change in government policies regarding the distribution and use of urban land is likely to attract considerable attention and cannot, therefore, take place unless the major centers of power support it. The powers, this is, the chiefs and politicians, have to recognized, in order to obtain effective upgrading policies for the study area (Ibid. 1983).

## 2.7    CONCLUSION

Informal settlements and illegal land allocation disregard the formal and legal ways of development and often produce unsustainable environments, depriving people of otherwise, balanced developments. While there are many factors that are attributable to unofficial land acquisition and development, the conclusion focuses on the forthcoming concept because they relate more to the study.

1.    Land: the ways that people perceive land is exactly the way they will access it, if for instance, they see it as a commodity then they will buy it formally or informally. If they see it as a free gift of nature, then they will simply occupy it. The issue of the legality or illegality of accessing land is determined by legislated land policies in a community.

2.    Management of land: land can be mismanaged if there is lack of integration in development. Land management that locks, the vast majorities, out of its system inevitably encourages informal settlements.

3.    Compensation: inadequate and/or delayed compensation can encourage landowners to seek other ways, which are informal and illegal, of land disposal. These means are found to be faster and more satisfactory by them.

4.    Land Tenure and Reform: if this is not done properly, it can have adverse impact on the general development environment. "Land reform should avoid any sweeping changes or a total transportation" lest they scare the very people for which such changes are meant (Selebalo 2000:1).

Informal settlements cannot be ignored they need to be dealt with radically, and proper and adequate public participation can ensure this. Effective planning and upgrading programs can be reached only if communities to be affected, policy makers and developers are at the same wavelength of understanding. So public participation should be a prerequisite in upgrading Ha Matala study area.

# CHAPTER 3

## METHODOLOGY

### 3.1 INTRODUCTION

This section explains how the research was conducted and how the information was solicited. The study draws on both secondary and primary data as well as qualitative method. It evaluates development challenges in upgrading Ha Matala study area. The study analyses data by way of categorising in-depth data.

### 3.2 DATA COLLECTION

#### 3.2.1 Qualitative Method

There are different ways of collecting data through qualitative methods. Here data was collected through in-depth interviews and participation, with the idea of assessing the quality of the information. By participation, the researcher means that she was present in a couple of meetings between the LHLDC and its clients. Also there was a familiarity with the area since the researcher had visited the site and surrounds a number of times.

A qualitative method was employed for interviews, to solicit people's individual perceptions, beliefs, attitudes, feelings and views towards the predetermined strategies in upgrading Ha Matala study area. The method allows intense response when gathering information.

#### 3.2.2 Secondary Sources

Secondary sources are based on library research, the Internet Downloads, newspapers, maps and planning documents on Lesotho. These in turn have assisted the study to formulate a set of alternatives presented below under the sub-subheading, "the strategies", which are meant to assist the study, to employ the most workable strategy, to address the prevailing problem in Ha Matala.

#### 3.2.3 Primary Sources

Using an incremental approach the researcher selected the primary sources namely that one respondent was identified, and the previous respondent chosen the rest by way of reference from the preceding interviewee. Except for one respondent, all of those interviewed were involved, in

one-way or the other, in the Ha Matala development scheme. They played an important role in the research as they had first hand information, which helped the researcher to be open-minded about possible upgrading strategies for the area.

## 3.3    INTERVIEW SELECTION

The primary sources were LSPP, which is responsible for land management and development control in the whole of Lesotho. Here, the Physical Planner M. Makuta, the Principal Surveyor T. Mpeete and the Chief Lands Officer S. Kaka were interviewed. The former Commissioner of Lands who was also the founder and former director of urban development services (UDS), now the Principal Secretary (P.S.) of Local Government, M. Theko was also interviewed. They were asked to select the best possible alternative for solving problems that exist in the study area. Their responses will be viewed and analysed in the forthcoming chapters.

At the LHLDC, Mr. Ntsoele, who is a Senior Technical Officer in the department, and actually works and interacts with the field owners, was interviewed. Also interviewed was M. Tlali, who is the Planning Development and Construction Manager. Both Mr. Ntsoele and Mr. Tlali were to provide the study with the historical background of the area. In the same manner, Mrs. Mpho Molapo, the Managing Director was interviewed. The last interview was reserved for Mrs. T. Matlatsa, the former Project Manager who dealt with the Ha Matala Scheme from its initial stages to its implementation. T. Matlatsa was to clarify information that seemed confusing (see Specimen xiv Appendix C).

Maseru City Council (MCC) - Here the Senior Physical Planner, Mr. Mahlaha, who was, at the time of the development scheme, working for THE LHLDC as a Physical Planner, was consulted.

One member of the committee that represents field owners, Mr. M. Seboka, secretary of the committee, was interviewed. Dr. Moeti, a resident in this area, who acquired his plot illegally, was also interviewed.

Service providers such as the Lesotho Electricity Corporation, (LEC); the Water and Sewerage Authority, (WASA), and the Lesotho Construction Unit, (LCU) were included in the interview stage. Engineers that were responsible for the installation of infrastructure in the area were interviewed. Those spoken to were Mr. Lebenya, Mr. Bota and Mr. Ntoi respectively.

### 3.3.1  Discussions

The collection of data began with informal discussions with the Chief Surveyor, Mr. Selebalo of LSPP. He in turn referred the researcher to the relevant body, the LHLDC, for more information concerning the problem in the study area. At the LHDC she met and had effective discussions with Mr. M. Ntsoele who has since been dealing with this project and Mr. Tlali, who is Mr. M. Ntsoele's senior at work. Another discussion was held with Mr. Malataliana of the LSPP, who was responsible for the surveying and pegging of sites and opening of roads.

At the LHLDC the researcher was shown the study area's maps to see its location, its boundary, its original plan and recent maps to have an idea of what to expect on the ground. Mr. Ntsoele referred the researcher to one of the service providers, Mr. Bota at WASA, who reported on the adverse impact that the informal settlement has on the infrastructure provided in the area.

The researcher also consulted with the Principal Secretary (P.S.), M. Theko of Local Government (LG), and Mrs. S. Kaka of LSPP who helped her with reading material concerning issues arising from land tenure in Lesotho. Other reading material was obtained from LSPP, Institute of Southern Africa Studies (ISAS), which is located at the University of Lesotho, government printing, British and National Libraries in Maseru, the Main and Architecture libraries located at the University of Natal -Durban. Newspapers, unpublished reports, resources found on the Internet Downloads and maps were also made use of in the research.

### 3.3.2  Interviews

An interview survey was chosen as a technique for the research, and the interviews were conducted on a person-to-person basis. This way, the researcher could easily tell if the respondent was interested in the interview or not and could check the value of his/her information. For instance, it was easy for the researcher to notice that a certain interviewee was reluctant to participate, and an alternative interviewee was sought. It was apparent that, not only was the interview going to take too long, but also that the information was valueless. Before the interviews were conducted, appointments were made both telephonically and in person. It took time to get hold of all the target population.

### 3.3.3  Questionnaires

Here structured questionnaires, with open-ended questions, were used. These were informed by literature review, international news on land invasions, information through discussions, maps and observation about the prevailing situation in Ha Matala study area. Questions were altered here and there, depending on the role player to be interviewed. The interviewer was at an advantage of making her own observations concerning the subject, for instance, general reactions to certain questions. This gave the interviewer a sense of the interviewees' feelings, hence, allowed for a more qualitative approach, through getting various views from different people. The most important part of the interviews was the one concerning the proposed strategies in upgrading the informal settlement within a formal area.

## 3.4    SITE VISITS AND MAPS

After the informal discussions and studying of the maps, which provided the researcher with the historical background and the overall picture of the study area - the researcher visited the study area a number of times to familiarise herself with the place. Mr. Ntsoele (THE LHLDC) accompanied and guided her throughout the study area; thereafter the researcher paid the area a visit on her own. The researcher always carried the areas' map as a guiding tool and a device to record current information on the ground. Pictures of some problem areas within Ha Matala were taken. The researcher was then able to design questionnaires for interviews. Site visits gave the researcher confidence to do the research, because she knew what she was talking about.

## 3.5    THE STRATEGIES

In response to the findings, a number of strategies were developed as follows: -

1. Remove or relocate informal settlers in order to restore the original scheme
2. Relocate the informal settlement on public space, and upgrade affected areas on residential plots.
3. Abandon the affected areas and find new sites to allocate public facilities.
4. Temporarily relocate the informal settlement and restore the plan
5. Redesign the area and accommodate the informal settlement

The strategies were presented to key role players, to discover their responses in regard to socio-economic, political and technical implications of each scenario. In addition, each role player was asked certain questions relating to the study in general, which were based on their individual portfolios within the development scheme. Except for the field owner, the same style of questioning was maintained throughout. The researcher had to alter ways of questioning the field owner to ensure that he fully understood the questions. Generally, administering the questionnaires was done with ease.

## 3.6    PLANNING DOCUMENTS

Documents on planning in Lesotho have provided information on the history and current situation of land related issues in Lesotho. This has reflected on such things as, the practicability of development control, land management, implementation of land policies and so on and so forth. This in turn provides the study with the basis of establishing a way forward. However, there was no document about the study area, there were only files, which showed events, procedures, agreements and disputes over land in the area. Most of the information was solicited from the participants.

## 3.7    CONCLUSION

The data collected is based on the use of both primary and secondary sources, which were gathered through qualitative method, through the use of interviews. Structured questionnaires were to administer the interviews. Before the questionnaires could be designed, the researcher went around to verify the existence of the problem and its extent.

After the design of the questionnaires there were some difficulties in finding the target population because of its unavailability. The interviews were conducted with relatively no serious problems. Any problem that threatened to rise above the study was eliminated immediately by looking for alternative interviewees, which helped the researcher to progress and get to the bottom of the matter.

While there was a serious problem in obtaining relevant and clear maps, the researcher kept on improvising with whatever map information she could get her hands on. Eventually, she had to learn to put together and produce map information from the network (see Map 3). The interviews proved to be very helpful as they gave the researcher an advantage of weighing and

analysing the individuals' responses. It was also easy for the researcher to intervene immediately whenever an interviewee seemed to misunderstand the question. While it is true that familiarising oneself with the area was taxing, it is equally true that interviewing people about something that one knows pays handsomely. The forthcoming chapter looks at planning in Lesotho.

# CHAPTER 4

# BACKGROUND TO PLANNING IN LESOTHO

## 4.1   INTRODUCTION

This chapter presents primary and secondary information on planning in Lesotho. Broadly, it discusses the legal and institutional frameworks, land administration and acquisition, and the implications for informal settlements.

The urban areas of Lesotho, particularly Maseru, have always been faced with acute shortages in land supply. This condition is attributable to various factors such as, rapid population growth due to the rate of urban change; lack of political will to support development control and lack of law enforcement in as far as planning is concerned. Governments have been passing legislation in attempts to improve land allocation and land administration since independence (Land Policy Review, 2000).

However, at the dawn of the 20th century, it was apparent that the demand for land was escalating at alarming rates and, the restriction of fields for family's subsistence under the law of Lerotholi or traditional land tenure system (to be detailed later), highlight the land shortage problem. It was evident that there was a need for guidance in land allocation and administration, but the prominent features of traditional land tenure systems, remained unchanged. In effect, they are still predominant despite several land tenure changes. In particular, land allocation and administration remained the responsibility of Chiefs outside urban areas. Land had officially remained a free good, notwithstanding demographic pressures (Ibid.).

## 4.2   LEGAL FRAMEWORK

There is the Town and Country Planning Act of 1984, which established a Town Planning Board (TPB), consisting of members appointed by the minister, and a Planning Authority, with powers vested in the commissioner of LSPP. The Act uses a concept of development borrowed from British planning legislation, and established a requirement to apply for planning permission for development. The Building Act, which supplements the Act, is a well-researched set of planning standards and development control guidelines, detailing plot set backs. (Romaya & Brown 1999)

Under the Act, the LSPP is the Planning Authority in designated urban areas, and advises on land allocation elsewhere in the country. In Maseru, the LSPP has delegated responsibility for land allocation and development control to MCC. Elsewhere, land is allocated by the urban land allocation committee, in which the Town Clerk plays a prime role.

However, the legislation and planning standards were not altered to adapt to the situation of Lesotho. Well researched as they may be, they are not quite workable to the situation of Lesotho. Therefore, there are two administrative systems operating side by side in Lesotho. These are in the form of central government and traditional chieftainship. For administrative purposes, there are two distinct categories of spatial subdivision, and these are: -

> Traditional political subdivisions such as wards, chief's areas etc,
> Government subdivisions such as individual ministries for their administrative convenience, like public works, health services, education circuits and so on However, the boundaries of these subdivisions do not properly co-ordinate and do not coincide, resulting in serious administrative problems (GOL, 1990:30).

## 4.3    INSTITUTIONAL FRAMEWORK

The objectives and inter-relationships, of the institutional framework, are very important in this study, as they are translated physically. The framework is as thus: - the LSPP is the chief Planning Authority, the Maseru City Council (MCC), the LHLDC and Urban Development Services (UDS) are at par, with MCC confined to Maseru urban, and the rest, collectively, deal with other urban areas across the country.

### 4.3.1   The LSPP

This department was established in 1974, and its main responsibility is the administration of land in Lesotho. It prepares and issues leases and titles, mortgage transfers, licenses and keeps records of land transactions. It also safeguards and maintains national mapping, carries out cadastral surveys and does the preparation of overall physical development plans. In addition, it provides advice on development proposals and the creation of layouts of sites for new grants (Land Policy Review Commission, 2000).

The department has failed to fulfill functions due to financial limitations, a shortage of trained staff and poor salaries, which do not attract quality personnel. It is also centralized, thus leading to inevitable delays especially in the issuing of leases. The department's weakness has been amply demonstrated by its failure to move ahead of illegal land allocation or to control it. There is credible evidence that this department is itself guilty of making provision for erection of residential settlements on prime agricultural lands without consultation with other ministries (Ibid. 2000).

## 4.3.2  The LHLDC

It is a profit making institution responsible also for provision of serviced sites and upgrading of unplanned settlements. The LHLDC, like the LSPP, the MCC, and the UDS is answerable to the Ministry of Local Government. Unlike the LSPP, the LHLDC and its counterparts the MCC and the UDS, cannot carry out any work without consulting with LSPP, which is the chief Planning Authority. This goes to show that physical planning in Lesotho is still very much centralized, and the prevailing problems, of illegal land allocation, are a result of institutional constraint.

According to the project manager, the LHLDC is a parastatal body that does not have any extensive rights over development. In Maseru, it consults with the MCC and in other districts outside Maseru; it consults with the Town Clerk. All of its development proposals have to go through the LSPP for scrutiny and approval.

He went on to point out that, whenever the LHLDC faces informal settlement problems, in its development area, it first, approaches the field owner and if it fails to convince him, it consults with the other planning bodies, which are usually of little help. As a consequence, the LHLDC has to get legal advice, which is, admittedly, an expensive, uncertain and time-consuming option. As it is, the LHLDC has spent a great deal of money on court cases concerning informal settlement in Ha Matala area. If anything, the courts have aided to intensify problems by taking too long to deal with the matter.

Land for development, is acquired through the LSPP, which sells it on profit. The LHLDC then develops the land and recovers costs through sales. Generally, it offers services such as water and gravel roads. Land is delivered as either a finished or unfinished good. The former relates to the delivery of housing for rental and/or trade; it is done through a one-stage system. The latter is the delivery of plots, through site and service schemes, by a two-stage system.

Once the site is paid for, a lease is prepared through LSPP. The LHLDC gives up the right to the land in question when the plan is fully implemented. It leaves the scheme in the hands of MCC or the Town Clerk (outside Maseru), for management and maintenance of services. In order for MCC and the Town Clerk to be efficient, they have to own the project, and for them to own it, they need to adequately be involved in it. Otherwise, the roads develop potholes and shacks mushroom and choke the development area right in front of their eyes.

The LHLDC has an obligation to provide all the basic services. Its mission statement reads as thus, "to assist in meeting the shelter needs of the people in Lesotho by providing a variety of housing sites, home ownership and rental accommodation options, to cater for a wide spectrum of income levels in the most cost effective manner available."

The objectives of THE LHLDC are as follows: -

> To achieve an annual profit based on the capital employed and ensuring that a positive cash flow is maintained to enable the Corporation to continue to operate in a financially secure and self-sustaining manner;

> To increase the supply of serviced sites available to help meet the various needs of the people of Lesotho;

> To assist in increasing the supply of shelter and help meet the housing requirements of Lesotho;

> To provide quality products in a cost-effective manner in terms of a responsible, reliable and safe response to the shelter needs of all income groups;

> To maintain a research and development programme, which ensures that the best methods and practices, using current methodology, are employed, this is to ensure a quality product;

> To incorporate into the LHLDC projects, the attributes necessary to form a residential environment that caters for the physical and social well being of the community it serves;

> To encourage as far as possible, the maximum input of local materials and labour;

> To develop and maintain an organisational capability to enable the LHLDC to achieve all of its corporate objectives together with any additional responsibilities agreed to by its Board of Directors;

> To maintain personnel pay and position management process supported by ongoing training and development programmes. In other words to train, develop, motivate and reward the organisation's staff; and,

> To conduct its business in an open manner that ensures that all personnel are informed and encouraged to participate in its operations and management.

## 4.4 LAND ADMINISTRATION

Land management in Lesotho is fragmented into about nine different Ministries, each of which is independent of the other and, as such, not accountable to the other. For instance, land use planning is located in the Ministry of Agriculture, Co-operatives and Land Reclamation, Physical Planning and Lands Survey in the Ministry of Local Government and Chieftainship while the Deeds Registry is located in the Ministry of justice and Human Rights. The other Ministries involved in land related matters are the Ministry of, Trade, Industry and Marketing; Public Works and Transport; Natural Resources, Tourism, Sports and Culture, Environment, Gender and Youth Affairs, Education and Finance (Land Policy Review Commission, 2000).

Land administration systems such as: law enforcement, information flow between Chiefs and Planning Authorities, land tenure records and publicity of development plans, as presently institutionalised, are very poor and cannot cope with the challenges of modern socio-economic development and the demand for high productivity of natural resources. The law enforcement machinery is generally non-existent with chaotic results. Coupled with this, are insufficient human, technical and financial resources necessary for building and sustaining an effective land administration. While leases provide a good security of tenure, there has never been a proper education process to make people aware of it, especially those living in rural areas. In cases where there is close co-operation between Chiefs and Development Councils, there are sound productivity results such as soil erosion measures, donga reclamation and removal of noxious weeds on farmlands (Ibid.2000) (Romaya and Brown, 1999).

It is now over 20 years since the Land Act 1979 was enacted, but a great majority of the population still has no knowledge about this Act. This is despite the fact that the literacy rate in Lesotho is around 72%. Most people still practice and know the laws of Lerotholi, which may no longer be applicable in most cases (Ibid.2000) (Leduka, 1993).

One major problem, in Lesotho is the allocation of the same parcel of land to different individuals. The issue of double allocation of land is the most frequent land dispute in the courts. Most of the cases indicate that these double allocations are not a result of a genuine mistake. They are a result of corruption on the part of the Chiefs as the allocating authority of the land in

their areas of jurisdiction to the extent of issuing false/back-dated allocation documents (Form Cs). In some cases, the double allocation of land is caused by former field owners and non-gazetted Chiefs. These disputes of land also affect individuals who are sometimes allocated land, which is being fought over (Land Policy Review, 2000) (Leduka, 1993).

Presently, there is rapid and uncontrolled urbanisation, which affects all the major centres (i.e. urban and peri-urban centres). The peri-urban settlements are usually not planned, but established in a haphazard manner, and this puts a severe burden on infra-structural services like water, sewerage, electricity and telephones. The difficulty is also placed on the provision of social services like health centers (clinics), schools, graveyards and sport grounds.

### 4.4.1 Responses to Demand

In its endeavour to respond to the growing demands of land for housing, the government has, since independence, aimed to provide planned areas. Most of these areas are site and service plots in schemes supported by international aid, CIDA and the World Bank, with technical assistance that was provided by the LHLDC and later, by UDS as well (Devas, 1989).

Of the two agencies, UDS, which initially, fell under the private sector, but now under the public sector, was failing, partly due to informal settlement problems, which it could not control effectively, and, partly due to mismanagement of funds (Devas, 1989).

Practically, the lease of serviced plots cannot match a housing demand, and site and services schemes provide mainly for middle - income class people because of the need to recover costs. Hence, the poorer societies are hardly ever catered for they have to fend for themselves. This has consequently given rise to informal settlements. Illegal allocations persist and it is estimated that the Chiefs issue about half of all the plots as backdated titles. Attention therefore turned to upgrading, and in the mid 1980's, a major upgrading scheme was undertaken in areas of Maseru South. This is where Ha Matala is located, and where the density was more than five plots per hectare, and the average plot size was 1 260 square meters (Devas, 1989).

There is extremely high proportion of households renting property in the Maseru urban area. The 1986 census showed that almost half (48%) of the households were renting and one of the LHLDC's policies is to provide renting units. However, the planning administration is faced with the difficulties of keeping pace with the city's uncontrolled growth. Land identified for residential development tends to be settled before it can be properly laid out (Ibid.).

## 4.5    LAND ACQUISITION

The Land Act of 1979 (see Appendix B) has introduced special provisions by which the Minister can, in the public interest, declare certain areas as SDAs or Selected Agricultural Areas (SAA). The intention of the legislation was to facilitate development in the form of providing urban services, particularly in under-serviced, peri-urban areas or for the improvement of agricultural production. The Land Act 1979 provides security of tenure through the issuing of a lease, that can in turn be used to secure loans from the banks, valuation of property and payments for urban services by beneficiaries (The Land Act 1979:54)

However, Franklin (1995) has criticised the creation of SDAs along the following points: -

- ➢ Not making requirements for consultations with local authorities and local communities before an area is declared an SDA.
- ➢ The time taken to collect technical data and make the valuation assessment, which is far too long.
- ➢ The delays that are due to shortage of staff and the fact that information gathering is dependent upon an adjudication survey and tracing owners, many of who are either out at work or absentee landlords.
- ➢ Lack of speedy information gathering for SDA, which promotes and gives opportunity for illegal allocation of land.

### 4.5.1   Land Subdivision and Illegal allocation

There is a serious inability of the government where illegal land allocation is concerned, as it cannot take appropriate action against it. Currently, there is no national land policy in Lesotho and no formal land market, because very few people have registered their land titles and leases. It is a well-known fact that informal land markets are operating all over the country. In most peri-urban areas, people illegally sell their agricultural land (fields) to other people for residential development (Land Policy Review Commission, 2000).

Reporting on his study on illegal land subdivisions, Leduka (2001) says that, a majority of respondents showed that in peri-urban areas, individual field owners are encouraged by their Chiefs to subdivide and sell their agricultural land holdings, or face state appropriation without compensation. The government then, started paying compensation in 1985, in order to discourage illegal land subdivision. However, the attempt was not successful because field-

owners found the indemnity too low for the loss. Therefore, private land sub-divisions could not be stopped, and to make matters worse, chiefs issued certificates of allocation to plot buyers, the form Cs, backdated to periods prior to June 1980. This service is, however, not rendered free, as traditionally should have been the case.

In the initial stage of the subdivision, the field-owners would approach the Chief in question and request him/her to allocate land to his/her children and relatives, who in the true sense would be prospective clients disguised as dependants. The rest of the field, sometimes a generous area, would then go to the Chief, as a reward for approving and endorsing the sub-divisions. However, this arrangement was short-lived, people soon acknowledged plainly that they were selling land, which both the Chief and the field owner each took fifty per cent of the proceeds. This practice changed, and the Chief would be allocated a plot from every field, under his/her jurisdiction, that was subdivided, and the balance remained with the field owner. Nowadays the Chief does not get any share of subdivided land instead, his dues come exclusively from the sale of Form C documents, which are arranged separately from actual land sales. However, the field owner gets full payment for the plot only when he/she is through with assisting the buyer to purchase a certificate from a local chief or a chief's official stamp. This means that plot buyers pay two separate fees; one for a plot of land from a field owner and the other for a certificate from the chief (Leduka, 2001).

Legal and formal land subdivisions in urban areas are carried out in the following manner: before land can be subdivided, the development area has to fall under SDA boundary. The SDA is supposedly determined through the participation of all stakeholders, drawn and gazetted. However, in actual fact, the government determines the boundary and informs the public. After the SDA has been gazetted, land reverts to the government, which then evaluates it and compensates the former owner (usually field owners) accordingly. A layout plan is then prepared and presented to the community for comments and suggestions. It is then forwarded to the Chief Physical Planner (CPP), LSPP, who in turn forwards it to the Commissioner of Lands (LSPP) and the Minister of Local Government, to sign for it, after he has approved it. This is before survey instructions can be issued by the CPP, and if all three are conversant with layout plans. Otherwise the CPP approves and signs for a plan on behalf of the other two parties. After the issuance of survey instructions, the land in question is then surveyed, subdivided and pegged for development.

Plots are then advertised and members of the public lodge applications with the urban land committee (ULCs), which determines the allocations. Leases entitled a person to exclusive possession and may, subject to the consent of the Minister, undertake normal commercial transactions.

## 4.5.2    Land Tenure System and Allocation

Lesotho's land tenure system has always been flexible, molding itself continuously to changing circumstances and needs as felt by the people. Lesotho's law draws a distinction between urban and rural land and, changes in tenurial concepts, have been most pronounced with respect to urban land. Occupancy rights have in the past also been granted to foreigners, mainly to missions for the churches, schools, and clinics and traders for their shops and stores. Leduka (2001) states that, in rural areas, the Chiefs allocate to heads of families, arable land according to the families' subsistence needs. He cites William (1972) as saying that, land tenure system of any country fill the entire economic and social fabric of a society. The unusual feature of Basotho land tenure law is that land is subject to the rights of different farmers, who by become stumble blocks of land development, as in the case of Ha Matala study area.

The land Act 1979, attempted to rectify a number of obvious faults in land allocation, but the law neglected the primary problem of land use activities and provided only partial systematic relief of allocation and deprivation complaints (Land Review Policy, 2000). This left loopholes in the Act; as a result, illegal land allocation is the order of the day.

Lease applications take a too long to process. For instance, between 1990/1 and 1998/99 the LSPP managed to process about 50 percent of the total lease applications. The end result is that many people do not register their land holdings (Ibid.). Delays in formal land acquisition have been identified as one of the attributes of illegal land allocation and subsequently informal settlements (Leduka, 2001).

At this juncture, the paper outlines traditional and statutory issues that arise from the two land tenure systems, respectively.

### 4.5.2.1 Traditional/Customary Land Tenure System and Land Act 1973

The traditional land tenure system maintains the view that all land in Lesotho belongs to the Basotho Nation and is held in trust by the king as head of state. The King's powers of allocation

and administration are delegated to the village Chiefs. In this way, land tenure was oriented towards stewardship, and no one had a right to sell or buy it. Therefore, the concept of individual ownership of land or freehold title as is known in the Western World, is still new or relatively unknown in this country (Land Policy Review Commission, 2000; Mabugunje, 1992; Romaya & Brown 1999; Franklin, 1995; Selebalo, 2001).

Lesotho, like most post British colonial countries, has a dual legal system, comprising customary laws on the one hand, and Roman Dutch law on the other hand. The legislation provides that on the death of an allottee of land, for growing of vegetables or tobacco or for the purpose of planting fruit or other trees or for residential purposes, the heir (namely the first born son) inherits it. In the absence of an heir, the dependants of such a deceased allottee shall be entitled to the use of such land, so long as he or they continue to stay there (Land Policy Review Commission, 2000).

In principle every Mosotho (which strictly speaking meant every married male) was entitled to allocation of arable land sufficient to provide for his subsistence and that of his family. The size of the land was ideally three fields, but the sizes were not standard. Land allocation for agricultural purposes could not be enclosed, since such land reverted to communal use for grazing after every harvest. Land for residential purposes was also subject to allocation and, unlike arable land; sites could be enclosed and fenced (Land Policy Review Commission, 2000).

An increase in land demand came to prove that, the practice of customary land tenure system described above, relating to the question of inheritance, had negative repercussion on land. The system enabled heirs to accumulate large tracts of land, while the majority of Basotho nation were without land. Moreover, these heirs hardly make any productive use of the land they hold, because they, lack the knowledge of farming methods or lack interest, and so forth. Thus, for example, it is common to see dongas developing in their arable lands (see Plate 1, next page). Some of them resort to selling the lands illegally, as in the case of Ha Matala, converting them into residential settlements (Romaya & Brown 1999; Land Policy Review Commission, 2000).



Plate 1 shows donga developments in the study area that have resulted from negligence of land. This aggravates the problem of shortage in developable land.

There was obviously a need to improve land administration, to control without ceasing, land allocation and to provide security of tenure. Hence, in 1973, the government enacted two land laws, the Land Act 1973 and the Administration of Lands 1973, which introduced the system of leasehold. It also repealed the land procedure Act 1967, which prescribed the traditional land allocation system and introduced the idea of written titles to land (Ibid.2000).

The Administration of Land Act 1973 was never implemented due to strong opposition from Chiefs, since the Act gave Central Government exclusive powers of land administration within designated areas. The problem with customary land tenure has been principally poor land administration (Ibid.2000).

Failure to implement the Act meant that the problem mentioned above continued unabated. This eventually led to the enactment of the Land Act 1979, which came into operation in June 1980 and thereby repealed the two 1973 Acts (Ibid. 2000).

### 4.5.2.2 Statutory /Leasehold Tenure - The Land Act 1979

The principle that all land belongs to the Basotho nation and held in trust by the King, as head of the state, was maintained. However, the terms and conditions of such tenure have been significantly altered and new tenure options have been introduced in respect to land uses. The king's powers of land allocation and revocation were delegated to the Minister of the Local Government on his behalf and to Land Committees in rural areas and Urban Land Committees in urban areas. Chiefs were now regarded as ex-officio chairman of these committees (GOL, 1990).

Briefly, the Land Act 1979 was enacted with a view to achieving the following: -

> To provide a uniform law relating to land in the country;
> To provide security through leasehold rights, which could be transferred, sub-let or mortgaged;
> To control the allocation of land by chiefs and vest upgrading of existing development areas and the planning and development of new residential, commercial and industrial areas through the declaration of certain areas as "Selected Development Areas (SDA). Under the provision of Land Act 1979, the government can declare an area of land as an SDA for the development or construction of new residential, commercial or industrial

areas for the purpose of town planning. The main objective to extinguish titles to land in the SDA is to facilitate the implementation of construction of projects. The existing titleholders are entitled to substitute rights within the project boundaries or adequate compensation (Land Policy Review Commission, 2000);

➢ To facilitate the designation of areas required for public purposes and compensation for loss of title as a result thereof; and,

➢ To provide for the collection of land revenue in the form of assessed ground rent, license fees (now repealed) and development charges.

The implementation of the Act has largely concentrated on title conversion, new grants and SDA declarations, with varying degree of success. Overall land administration under the Land Act has made a remarkable improvement and the government's land revenue collection has increased considerably, in spite of the administrative constraints involved in the preparation of leases. There, are, however, some bottlenecks, which will be elaborated on, in the forthcoming subheading, in the operation of the Land Act 1979 (Land Policy Review Commission, 2000).

### 4.5.2.3 Bottlenecks in Operation of the Land Act 1979

All land allocation made by the Chiefs within SDA's, are considered illegal, since their powers to allocate land have been removed by the Land Act 1979. These allocations are effected by backdating title documents, Form C's, to land, by local Chiefs to the 16th of June 1980, the date of commencement of the operation of the Land Act 1979. This further shows that major contributing factors to illegal allocations in Lesotho are as follows (Franklin, 1995):

### 1) Opposition by Chiefs to the Land Act 1979

Land is a source of power for Chiefs because it allows them to have dominion over their subjects as they have to come to them for land allocation. Land empowers the Chiefs; hence they opposed the 1979 Land Act. It was viewed as weakening the Chiefs' powers over their subjects by removing the very corner stone of that power: land allocation.

### 2) Land Required for Public Purposes

There has been an underlying fear on the part of landholders (especially field owners) that if and when their agricultural lands were taken for public purposes, there would be little or no

compensation paid. Hence they deemed it better to sell their land informally. That fear presumably came out of misunderstanding by agricultural landholders or deliberate misinformation by a third party. This is a consequence of poor community participation.

## 3) *Inadequate Security of Title to Agricultural Land*

Agricultural land in urban areas is deemed transient, and its users do not hold any form of a title except for licenses, which grant them permission to use the land temporarily. Therefore landholders of this type of land do not have security of tenure, and this tempts them to sell the land whilst in their possession, for non-agricultural uses. Thus encouraging illegal settlements.

These settlements become very costly with time because they need upgrading in order to be sustainable. Upgrading maybe faced with difficulties for a couple of reasons. Firstly, it is quite expensive to upgrade informal settlements. Secondly, landholders are hardly willing to co-operate during the alignment and staking of roads on the ground. Furthermore, it becomes impossible to acquire land for public purposes, such as schools, cemeteries, public halls, etc. because almost all areas are subdivided and developed.

### 4.5.3 Site and Service Schemes

Here land is identified and bought by a developer like the LHLDC, which then develops it in a one or two staged system. In a two-staged system, the end-user can build either formal or informal house on the bought site, depending on the rules of the project (Procto, et al. 1998). It is understood that while land may be acquired formally, the settlement may not abide by the rules of a formal settlement, and therefore qualify to be an informal settlement. However, in the study area, all land that has been settled informally, happen to have been acquired illegally.

### 4.5.4 Compensation

Before 1986, acquisition of agricultural land, by the government, was not compensation for, and this proved to be problematic in the long run, because field owners were resisting any developments done on their lands. Even when compensation was payable, people still had their doubts especially because it came long after the landowners were dispossessed of land. The people would, on the one hand, agree to trade their land rights to the government, while on the other hand; they would be busy seeking individual clients who would buy the land at price stipulated by themselves (Leduka, 2001; Land Policy Review Commission, 2000).

The issue of compensation was not given much thought by the authorities. As it is, there are no standard rates of compensation. For instance, the Lesotho Highlands Development Authority (LHDA) uses different compensation rates as compared to those used by the LHLDC. In recent years, people have indicated that they want LHDA compensation rates to be standardized, as they are high. The government offers compensation without any knowledge of the rates used in the informal market. This goes to show that, field owners were not consulted when the issue of compensation was discussed, so the authorities were unaware of the field owners' views and concerns. Land acquisition by the government, and subsequently plan implementation has come to encounter severe problems, which are highly costly.

## 4.6    CONCLUSION

The discussion on Lesotho's land tenure system, land management and the general planning authority, clearly shows that informal settlements in the fast growing urban areas of Lesotho are inevitable. The lack of effective participation and the sudden exclusion of the Chiefs in land allocation and development matters have aggravated the situation. The processes that lead to the declaration of SDA's is not clear enough for everyone and the hasty manner that is handled, makes it difficult for the people at the 'grassroots level' to understand and support it. Issues like compensation have proven to be yet another factor of informal settlements. The fact that initially people were never compensated for the loss of property, and when they were, it was on the government's terms, also posed a development problem. Hence, any strategy for upgrading Ha Matala study area will have to take all these issues into consideration.

## THE CASE STUDY: HA MATALA

### 5.1    INTRODUCTION

This chapter is based on primary data, and, the first part of it dwells on the institutional roles, their interrelationships and the general political issues, which are expressed physically in the Ha Matala study area. The chapter begins with a summary of events that affected the study area, as identified and interpreted by individual stakeholders. It then proceeds to provide more detailed analysis on the background of the study area, land acquisition processes and land transition and how these encouraged illegal land allocation and subsequently informal settlement.

Broadly, the respondents consist of, the Planning Authorities, service providers, field owners and an informal resident. The planning authorities are the Ministry of Local Government, the LSPP, the LHLDC and the MCC. The service providers are, the Water and Sewerage Authority (WASA), the Lesotho Electricity Corporation (LEC) and the Lesotho Construction Unit (LCU). These bodies will sometimes be referred to, as either "he or she" depending on who is in the lead, at other times they will be regarded as "it". M. Seboka (secretary of field owners' representative committee) will be referred to as field owners while Dr. Moeti, who acquired his plot illegally, will be referred to, as an informal resident.

The planning authorities, field owners and the informal resident had an extensive knowledge about the Ha Matala development scheme, while service providers had limited information. The implication is that there was no effective integration between service providers and the planning authorities. However, everyone who works with a project should own it, so that there can be combined efforts to prevent any distractions that might threaten.

### 5.2    A GLOSARY OF EVENTS THAT LED TO INFORMAL SETTLEMENTS IN THE STUDY AREA

The Ha Matala Development Scheme was an initiative of the Ministry of Interior, which is now called the Local Government Ministry. The intention of the project was to create a picturesque neighborhood with balanced development. An assumption was that, the plan would attract both investors and tourists and consequently boost the local economy. This was going to be achieved by developing the study area into middle to high-income area, through provision of adequate and relatively high standard social and physical infrastructure. However, this plan was interfered

with, by illegal land allocation and informal settlements that are now seen across the study area (Map 3).

Until 1989, Ha Matala was located in the outskirts of the Maseru Urban Area, with farming as the main land-use activity - individual farmers owned the area. In 1989, the study area was incorporated into the urban boundary. This action scared field owners so much that they began to subdivide and sell land to their preferred clients. In 1990, Ha Matala was declared a Selected Development Area (SDA), to legally halt the land subdivision and allocation by field owners, and to legitimately dispossess them of their land rights.

During the same year, the government transferred land rights to the LHLDC, which was empowered by SDA, to start developing the area. Investigations concerning the value of land were made by LSPP, which also advised the LHLDC on compensation rates to be used. Prior to the development, the LHLDC attended to the issue of compensation. However, a problem already existed, most fields were subdivided and allocated. There were no substantial developments except for fences, which clearly showed the undesired development trends (see Map 3). This meant that the LHLDC could not have total control over the land, because field owners' clients also laid a claim on it.

Worse still, field owners were demanding more compensation so that they could reimburse their clients, and also have some left for themselves, before they could release the land to the LHLDC. This clearly shows that field owners were either in denial or they did not understand what an SDA meant. Field owners' demand was hard for the LHLDC to comply with, more especially when it believed that payment rates, which were stipulated by LSPP, were done in agreement with the field owners. The LHLDC believed that, field owners wanted to cheat it, seeing that LSPP had already disappeared from the picture. So it was not ready to listen to them.

When field owners realised that the LHLDC was not ready to address their plea, they continued with the subdivision and allocation of land. This did not stop the LHLDC either, from continuing with the plan, which was completed and ready for implementation by the end of 1990, beginning of 1991. However, field owners would not budge, in fact they were ready to prevent the transition of land from farming to housing activity. The LHLDC had to seek assistance in order to be able to implement the plan smoothly. So with the police backup, they managed to remove all the fences, destroy all informal plots and put in roads, access culverts and water mains, along surveyed and subdivided sites. Field owners were compelled to seek legal

action against the LHLDC, which according to them, could not stand up for its actions, as it never attended the court hearings. The court had no choice but to let field owners do as they saw fit with their land.

This then encouraged field owners' old and new clients to go beyond just fencing of the illegal plots, and build. The first informal house was seen in 1991 and immediate steps against it were taken by the LHLDC. However, the court requested that the owner of the demolished structure should be compensated, because, the LHLDC did not follow legal procedures. Thereafter, more informal settlements were seen across the study area.

The fact that, field owner's clients were skeptical about making concrete developments teaches one that they were aware of their illegality in the area. Even after the court had somewhat encouraged them to continue with their informal developments, they were still not confident enough to do so. As a result, some of them even pulled out. It seems that the informal settlers only gained confidence after the court had ordered the LHLDC to reimburse the owner of the demolished house.

Problems worsened in 1993, after the inauguration of the new democratic government. Field owners started to complain afresh, about compensation. They even went to the extent of politicizing the matter, claiming that, the previous governments mistreated them since they did not affiliate to their parties. In its quest to establish itself, claims the LHLDC, the new government was a bit too lenient with field owners, and this encouraged more informal settlements. There was therefore, double land allocation, which was made formally, by the LHLDC and informally by field owners.

## 5.3    BACKGROUND TO THE STUDY AREA

When the Ha Matala development scheme started, Banks were ready and prepared to lend money, to prospective end-users, to build sound structures (see Plate 2 below). A house or land that has a good value can be used as collateral that could permit its owner to borrow money from the bank and establish a viable business elsewhere in the country. This dispensation of loans would have been one way to boost the local economy and trigger viable spill over effects across the country, because of increased monetary circulation (the LHLDC).

Pate 2 shows the standard of housing that was expected across the study area

Moreover, it would have been one way to empower the Basotho Nation through establishment of small, micro and medium enterprises (SMME's). This chain reaction has been interfered with because the crucial parts of the scheme have been invaded and substandard buildings have been erected across the area and there are also other unguided activities taking place. The former have prevented the development of regulated commercial (Plate 3, and 4 below) and (Map 3). A great tension exists in the study area, particularly in Phase 2. This tension has resulted in a couple of incidents, where a couple of buildings, in Phase 2, were brought down; one by fire and the other by bulldozing. In some cases, people have threatened each other with removal from buildings. The sense of instability has made banks skeptical about lending money to people who wish to build in this area (the LHLDC).



Plate 3 showing uncontrolled development of low cost housing, which have depreciated the value of the study area



Plate 4 shows a lack of a different kind of development control, an informal operation of motor mechanics

Land in the study area was acquired through a number of mechanisms namely, the SDA declaration, land subdivision, land allocation, informal settlements and compensation. For land to revert back to the government was very difficult because field owners were resistant. Since the status of the Chieftainship is still highly regarded by Basotho Nation, field owners' chief was requested to address them and convince them to let go of the land.

Field owners claim that, the Chief told them that, the land was temporarily being taken out of their control, just so that it could be well planned. They quote the Chief as saying that the compensation was only for the time when they could not use their land. On hearing this, more field owners, made deals with the LHLDC.

Not everyone believed the chief, some like Taumane who is occupying the biggest lot in Phase 1, Plate 4 below, and Khabisi who has developed a stock and poultry farm on his lot, could still not budge (see Map2). It soon dawned on field owners that the chief's information was deceptive. So they continued with the informal land subdivision, thus disregarding the powers of the SDA. At the same time, LHDC felt compelled to take the land by force, because they assumed that they were on the right and the field owners on the wrong.



Plate 5, is the biggest, non-residential site, which extends from beyond the building, on the left, to beyond the white cylinder, on the far right. Not only is too big, but it also depreciates the value of the area, along with the lines that are adjacent it.

The LHLDC was not aware that, for field owners to be more cooperative, the Chief had to say such things. In fact, it did not believe the field owners about this aspect. It believed that field owners were aware of the discord that existed between the planning authorities and were taking an advantage of it. The LHLDC says the Chief was speaking on behalf of the government, so it is impossible that he could say such things. This is quite debatable, given that the Chiefs are not pleased about being stripped of their land allocation powers.

The informal resident argues that Planning Authorities do not give much consideration to field owners when they acquire fields thus; informal trade of land is inevitable. Field owners depend on these fields. Governments do not consider this when they acquire fields, and leave most field owners in a state of poverty.

Field owners say that, the coming of the new democratically elected government, under the leadership of the Basotholand Congress Party (BCP), into power, in 1993, was a blessing because field owners particularly those who had agreed with their property, reconsidered voicing their grievances and concerns. They lodged their complaints to the then Permanent Secretary, of

Local Government. He, in turn, investigated the matter and also created an environment that was conducive for negotiations between all parties. However, some field owners, such as the ones causing the LHLDC this headache, refused to come to the negotiation table and went ahead with illegal land allocations (Planning Authorities).

For the first time, says field owners, the developer and field owners could sit at one table and voice their grievances and concerns. It is through these negotiations that field owners discovered that compensation rates were even inconsistent. When field owners inquired about the inconsistency, in compensation rates the LHLDC pointed fingers at the LSPP, which could not even justify the rates. He says that the LHLDC was also denying ever destroying their property, and this reaction taught them that the LHLDC was uncertain of what it was doing. The LHLDC argues that it never denied anything, in fact it stuck to its part of the deal, that is why there was a compensation procedure of the nature illustrated in Appendix A pp. i.

## 5.4    LAND ACQUISITION

### 5.4.1    The SDA

According to field owners there was not enough consultation with the affected and concerned communities concerning the declaration of an SDA. As such, the development scheme did not mean much to the Ha Matala community. In fact, to them, the scheme was a device that the government was using to deprive people of their property without a good course.

### 5.4.2    Land Sub-division

At the time that the area was incorporated into the urban boundary in 1989, the initial land subdivision, was made by individual field owners was informal. Plots were large and irregular in nature. The area was spatially unorganized, as indicated by the fences around these plots. When land was transferred to the LHLDC in 1990, it also made its own land subdivisions. The subdivisions were made formally with technical and professional advice, to meet planning standards. Plots were of standard size and regularly laid out. The latter subdivisions disregarded the informal subdivision and all that existed on site.

The informal resident and the field owners point out that, subdivision by the LHLDC, had flaws because it even disregarded plots whose owners were not part of the development scheme. This is to say that, sites whose owners refused, totally, with. In response to this, the LHLDC refers to

Taumane's site, that it was subdivided based on an agreement between him and the LHLDC, which he would move if there were an alternative site. Unfortunately, the site was unavailable. Even so, THE LHLDC does not say anything about Khabisi's site, which it also subdivided without his consent (see Maps 2 and 3). Once again, in 1990, field owners made Informal subdivision, which disregarded the formal one.

### 5.4.3 Land Allocation and Tenure

Both the LHLDC and the field owners, who issued different titles, were allocating Land. The former, issued leases and the latter issued backdated Form C's. The Form C's had to be backdated because their use was naturally terminated by the enactment of the Land Act 1979, on the 30th of June 1980 (see Appendix B).

By the time, the LHLDC made formal land allocation (1991), field owners had already started to distort the plan with their informal land allocation. It seems that field owners never really stopped subdividing and allocating the land. The land allocation was doubled, in the sense that, both parties were allocating land in parallel. The situation got quite tense, with formal and informal allottees claiming the same piece of land. This meant that, for anyone of the allottees to win a disputed plot, they would have to disprove the other claimant in any way possible.

The LSPP claims that, the delay in the allocation of sites by the LHLDC is also attributable to illegal land allocation that occurred in Ha Matala. The LHLDC argues that, it does not delay to sell sites, because it is totally dependent on their sales. Earlier on, the LHLDC indicated that before the sites could be advertised, field owners were given a chance to buy, and this shows that there was a bit of a delay in this case.

Local Government argues that illegal land allocation in Lesotho and in the study area is encouraged by the land allocation system, which is quite complex as compared to the informal way of land allocation. The informal system simply requires one to have money to buy a site regardless of their gender, age or social status, and people prefer it as against the formal way, which involves long and uncertain procedures and discriminate against women (The Land Act 1979, Appendix B). The LHLDC points out that LSPP has also encouraged illegal land allocation by issuing illegal survey instructions and subsequently illegal leases (See disputed land highlighted red on Map 3).

An informal resident in this area, argues that there is nothing illegal about their plots because people like himself, who had acquired land through traditional means (by Form C's), showed interest to follow the modern and legal procedure, but were ignored by the concerned authorities. So they were not left with much of a choice, but to also ignore the requirements of the scheme. He goes on to point out that, the original plan of Phase 1 was not invaded, but was altered by the LHLDC itself, after realising that it had blundered by imposing its plan on people's fields. The informal resident says that, what emerges is the fact that planning authorities do not want to acknowledge their mistakes, and until they do, nothing will ever go right.

### 5.4.4  Informal Settlements

After the implementation of the plan, it was apparent that people were not ready to stop illegal land subdivision and allocation. The first informal house (1991) was demolished by the LDLHC in collaboration with the other three planning authorities, with an attempt to discourage more informal structures. However, the attempt was done in vain because the court ordered the LHLDC to compensate the owner, indicating that the procedure followed to demolish the house was improper. Thereafter, more informal settlements took place (field owners).

One respondent at LSPP commented that, the four offices had something to hide because none of them wanted to take the blame. It appears that this was supposed to be a secret, but later it was revealed that, the bulldozing machinery was borrowed from MCC, while the Ministry of Interior, through the LSPP, issued demolition instructions and the LHLDC carried out the process. The fact that these offices did not want to openly admit their role in the demolition process has also played part in development of informal settlement.

The MCC claims that, it was difficult to control the development effectively as informal buildings were made over night. Seeing that it was not getting adequate support from other planning bodies, the LHLDC opted to sue the informal settlers. However, the matters are still pending, and problems in the study area still stand. A major problem, which has always been there concerning full implementation of plans in Lesotho is lack of legal support, which planners cannot do anything about, as they does not have control over the legal system (Planning Authorities). The ineffective legal system has played a major part in hindering development control. However, LSPP says that, the LHLDC is guilty of not inspecting and supervising its scheme. To add to this, the MCC points out that the LHLDC was unaware of any illegal settlement because it did not expect any. However by the time it was aware of it, it was too late.

The land had already been double allocated, and informal structures were being constructed at a fast rate.

It was however, pointed out by the LHLDC that, it could not afford to provide public spaces, such as cemeteries and open spaces, as this is the responsibility of MCC. Besides, the LHLDC could not do otherwise, but subdivide these sites, so that it could recover some of the costs incurred in the plan. The informal resident argues that, if the LHLDC owned the scheme, then it should have monitored and regulated its development. It should have seen to it that the provision of services was done properly and did not pose any threats to the residents. As it is, there are electrical poles and lines that are imposed on his dwelling site. Integrated work with service providers is required to correct this problem. However, the LEC points out that it cannot work with Physical Planners because they take too long to deliver and the LEC would run at a loss if it were to keep the same pace.

The informal resident went on to point out that the government fails to exercise authority, and this also causes problems within the development environment. For instance, he says Taumanes' site is too big to be in an urban area and it needs to be subdivided into smaller and acceptable plot sizes as recommended by planning standards of Lesotho. Apart from this site, there are many other offensive activities, such as the farm and motor clinic, which the residents are opposed to.

According to LSPP, in 1993, the Ministry of Local Government was too lenient with field owners, when tackling the informal land subdivision matter. As such, it missed its focus by concentrating more on the compensation issue than to deal with the problem as a whole. It was during this time that informal settlement was made at an increased rate. It appears that, by 1997, there was more damage done on the study area (see Map .3).

There may always be something to hamper the full implementation of development schemes if there is no common understanding between the developer and the end-user. This is currently a serious problem, which calls for self-introspection within the planning body. Planning is at present, more theoretical than practical, because people do not understand it. Planners need to adapt a more workable approach lest more land disorders occur. Many places will have to be re-planned in the long run, as they will most certainly pose environmental hazards to the informal residents.

The government has made an attempt to settle the illegal land allocation problem in the study area by granting the people more compensation. However, there is credible evidence that compensation per se is not a viable solution for the unceasing problems that prevail on the ground in the study area. No matter how much compensation the government offers, it does not address the problem adequately, nor rescue the water mains trapped under some of the illegal buildings, nor create more access nor restore the public sites.

### 5.4.5 Compensation (1990 - 1991)

The issues that had adverse impact on the compensation process and subsequently on the development scheme have been identified and summarized as follows: -

1. The discrepancy that existed in compensation rates. This has been a result of two planning authorities working with one issue, but not really harmonizing. Here, the tenurial investigations were made by the LSPP in the absence of the LHLDC, which was supposed to pay the compensation according to rates stipulated by the LSPP. The rates ranged from 70c/square meter to R1.70c/square meter (see compensation process, Appendix B.1). The LHLDC made the payments, without the knowledge and understanding of how the LSPP determined the rates. As such, when field owners showed their dissatisfaction, it was hard for the LHLDC to deal with the matter appropriately.
2. The fact that the LSPP determined compensation rates without investigating prices in the black market was also problematic because field owners were unprepared to settle for less, regardless of the implications of an SDA.
3. The distorted information given by the Chief about compensation, as a temporary arrangement, confused field owner and their ideas and expectations about the development scheme were different from those of the LHLDC.
4. The better compensation of R8.00 per square meter, which was offered by Lesotho Highlands Development Authority (LHDA), has also contributed to the spatial disorganization that occurred in Ha Matala study area because field owners were demanding the same amount, which the government could not afford.
5. The inauguration of the new, democratically elected government in 1993, aggravated the issue of compensation and consequently the informal settlement.

### 5.4.6 Land Transition

Field owners say that a few months after the declaration of the SDA there were some disagreements between the LHLDC and field owners. However, the LHLDC in collaboration with the police and military confiscated all the fences across the study area in order to make way for installation of infrastructure. The LHLDC says that this was the only way facilities could be put in place, because some field owners were furious and there was likelihood of violent confrontation.

LSPP was invited by the LHLDC to survey and peg the sites and opened roads, service providers were then invited to deliver individual services in the study area. Lesotho Construction Unit (LCU) through the co-ordination of Mr. Ntoi (engineer) was requested to construct earth and gravel roads, which were then laid in the two phases, Phases 1 and 2 respectively.

Mr. Bota of WASA and his team were responsible for installing water in the study area in 1990/91, and people in the surrounding areas were free to connect to the water mains provided for Ha Matala. Water mains were put in place in such a manner that water pipes did not connect directly to individual lots, but just along the lots to allow easy future connections by the end-user (see Map 3).

Unlike the LCU and WASA above, the LEC was invited by the Ministry of Natural Resources to provide electrical services in the area as part of the Maseru Southern Scheme. This scheme aimed to bring electrical services closer to the people so that they could easily connect whenever they needed to. The total connection fee per household was R 2 700, with an initial payment of R 500. Mr. Lebenya, who was one of the engineers responsible for installing electricity in the area, points out that land problems prevailing, were more evident after services were put in place.

After this, field owners sued the LHLDC for destroying and acquiring their property without compensating them adequately. The court was compelled to rule in favour of field owners, as the LHLDC had gone into hiding (claim field owners).

Field owners, unconvinced that the compensation was worth the value of the land, hired a private land evaluator to examine the matter. The LHLDC and field owners had agreed that, if the evaluator proved the field owners' suspicion right, then the LHLDC would incur the evaluation expenses. If the opposite were true, then field owners would foot the bill. Field

owners were proven right and so the LHLDC paid the evaluator. The LHLDC states that to field owners, the payment seemed to have been made by the LHLDC, when in actual fact, was made by Local Government and there was no way the LHLDC could have made the payment, as it was not at all responsible for this. However, the problem of compensation was still there (field owners).

Field owners, then hired a private surveyor who was previously working at the LSPP, and responsible for surveying the Ha Matala fields during the land acquisition process, to cross check the measurements of the fields. He came up with measurements that contradicted the previous ones. Once again the LHLDC had to incur the expense. In the same manner, Local Government did the payment. The fact that that a surveyor could speak differently when put in a different setting is quite controversial. One explanation is that he was bribed by one of the two parties. Alternatively, he could be incompetent and not conversant with his work.

Moreover, the new information concerning the value and measurements of the land, and the fact that the LHLDC was not ready to entertain the field owners' plea, aggravated matters. Field owners started to reallocate different people from the ones they had allocated before the plan was implemented. This was done not in accordance with the existing plan. There was more than one body allocating land, the LHLDC (formal allocation) and field owners (informal allocation).

WASA points out that the degree of informal settlement was mitigated by the fact that the LHLDC started allocating land to people who carry guns, and could protect themselves against the field owners and the allotted. The LHLDC argues that if the area is full of people who carry guns, and then it is just a coincidence because applicants were not being selected on the basis of being in possession of guns. Like every Mosotho, who qualifies for a site, police and soldiers have rights to property they cannot be discriminated against, according to Section 4 of the Constitution of Lesotho.

## 5.5 ANALYSIS OF THE HA-MATALA DEVELOPMENT

A more substantial analysis of the study area comes under this subheading and subsequent sub-subheadings. Invasion that occurred in Phase 1 differs slightly from the one that occurred in Phase 2 in the sense that, in Phase 2 field owners destroyed the plan completely by ploughing the land after it had been subdivided and serviced. They then re-subdivided and allocated it to preferred individuals. Despite this, the LHLDC could still allocate its clients according to the

plan in some places (see Map 2, Phase 3). While both phases have similar problems at the design level, Phase 2 is also clouded with political problems, which this study will not address.

### 5.5.1 The Original Layout

#### 5.5.1.1 Introduction

According to the original layout plan, the study area has a total number of 821 sites, 396 in Phase 1 and 425 in Phase 2. In addition, there are 7 spaces provided for public facilities such as civic and community centres, schools and cemeteries. It has 5 open spaces, a space for town housing and 20 plots for business. The area is also provided with water, electricity and road services. It is served by the national road (Main South 1), which divides the two phases, and connects the airport to the CBD and Lesotho to South Africa. Refer to Maps 1.

Currently, there are roughly 43 plots including sites the informal resident's plot is allocated and public spaces that have been affected by invasion in Phase 1. In Phase 2, the affected plots are about 65, these include public spaces and the total number of the affected plots is 108, which constitutes 13% of the layout. The study area is not fully developed as yet, and both informal and formal allottees continue to be built within it.

#### 5.5.1.2 Phase 1

Phase 1 is the dome shaped part of the study area, which is bounded by a deep purple line. While there are low-cost buildings, Phase 1 is dominated by high-cost buildings (Plate 2 pp. 64).

- **Roads**

Three major collector roads link it to the national road (Main South 1). The 2-collector roads that are seen on either end are 20m wide and form a loop. From the western side is the first collector that runs for a distance of 560m, north - east. The second one, which is on the eastern side stretches 340m long and divides the school and cemetery located south - east of the area. The third road is located a bit towards the centre, but more to the western part of the area, it is 10m wide and forms a skewed "Y" junction as one proceeds upwards to the centre of the area. From the original point, it is 550m long (south - east) and 280m long (south - west) where it joins the first connector road. In addition there are local roads and cul-de-sacs that are not longer than 200m long and are between 5m and 10m wide (see Map 2)

- **Natural Features**

A large part of the area is relatively flat particularly the southern and central parts, but moving further north, west and east, it rises with gentle and then relatively steep slopes. A donga that emerges from the eastern side and goes into the area, runs below the school and the cemetery, thence westward along the residential sites, into the proposed civic and community centre site. It is about 1000m long, 10m -50m plus, wide and it is considered an environmental threat that needs to be stopped by way of growing trees and grass, which can also serve as the area's lungs. At the top, are woodlands that get more concentrated south - east, they provide a soft aesthetic look and generate fresh air for the area. A river, which is found at Khabisi's stock and poultry farming, north of the Main South 1 Road and south of the donga, south east of the area, is the only man-made feature (see Map 2).

- **Residential and Public Spaces**

With the exception of Taumane's site, which is (100m by 180m) and Khabisi's farming site, residential sites are generally of the same size (20m by 30m). Sites that have been located on the woodlands and on slopes are (50m by 100m); see the largest three residential sites south - east of the area. Moving away from these sites in an east - west direction, the size drops (20m by 50m), which is still relatively big. After 11 lots of this size, the size becomes normal again (20m by 30m). There are lots, at the bottom centre of the area, along the Main South 1, that also measure (20m by 50m). It could be that these lots are allocated informally, like the informal resident's one, which is also located here. Originally, these were subdivided into 30 lots and now there are only 14, this implies that people have ignored the site boundaries and that there are 16 lots short on this part of the area where the most costly housing is located.

Above these sites are 2 open spaces, which are almost surrounded by residential lots. One is facing westward and the other south - eastward, they both measure (50m by 100m) and are served by cul-de-sacs. The civic and community centre, which adjoins Taumane's site (north), is the biggest site on this part of the study area with a size of 4.2 ha (hectares). Other bigger sites include the primary school (2.6 ha) and the cemetery (1.5 ha) (See Map 2).

### 5.5.1.3 Phase 2

Phase 2 is bounded by a light purple line and is presently dominated by low cost housing. There is an extensive dispute over land rights and this is even marked by illegal land surveys (see disputed land on Map 3).

- **Roads**

There is just one major collector road (20m wide), which is also tarred, the rest are local and cul-de-sacs that measure the same as the Phase 1 ones (see Map 3). Phase 2 is generally flat, but slopes down to the south. There are no major dongas within the area, but it lacks aesthetic value because it lacks trees.

- **Social Facilities**

The area has been provided with three open spaces, two of which are of the same size with the ones in Phase 1 and one that measures 60m by 120m. The two open spaces are located near the school site and are facing south. They are also surrounded by residential areas and are served by local roads. The school site is served by the tarred collector road, which also connects it to a civic and community centre on the eastern side. There is also a crèche (the triangular shaped site) that adjoins the civic and community centre. At the far right, bottom of the area, is a cemetery site and as one throws an eye (from the cemetery) top right, is a site for town housing. On average, residential sites measure (20m by 30m) and only a few measures (20m by 20m). There are also 20 business plots of size (10m by 30m).

### 5.5.2 The Current Situation

The plan described above has been interfered with and this is felt more in Phase 1 where there are relatively more developments than in Phase 2 where alterations can easily be done. Map 3 clearly reveals that, there are problem areas across the study area. There are two types of informal settlers in the study area. There are those who do not hold any title to the land in question, and those who do (backdated Form Cs and illegal leases). Not all of the informal settlers are located haphazardly; there are some like the informal resident who was interviewed, who are settled in accordance to the plan. As can be observed from the maps, the invading structures are impeding on different parts of the area in various ways and are thus having

different impact on the plan. In some cases the impact is greater than in other cases. The effects of invasion are categorised as follows:

> No access to individual lots;
> Limited access to vehicular movement;
> Subdivision of open spaces, a school site and a cemetery; and,
> Affected infrastructure by informal buildings.

On Map3, problem areas in the study area are marked with black circles and rectangles. Some of these problems are shown on plates below.



Plate 6 shows blocked access to a residential Lot. Here one has to go through another's property in order to gain access to his property



Plate 7 shows limited access to vehicular movement



Plate 8 shows an informal house in the middle of an earth road. The poles indicate a line beyond which, on the right, no structure should have been erected

Plate 9 shows an informal house, which is imposing on electrical poles and cables

## 5.6  CONCLUSION

What emerges is that while the project involved all stakeholders, this involvement was not done in an integrated manner. Moreover, there was no co-ordination within the Planning Authorities. It is also notable that this lack of co-ordination and integration is one of the causes of problems prevailing in the study area today. Data indicates that there has been a communication breakdown, especially between the Land Acquirer, the LSPP, the Developer, the LHLDC and the field owners.

The WASA representative points out that the LHLDC was wrong to continue with the development when people were still grumbling about the compensation. He goes on to state that, as much as informal settlement is a bad thing that should be defied, but people should not be punished, and be denied access to water services, as it is the suggestion of the LHLDC. People can easily establish alternative ways of getting water for free, and cause WASA to lose. Therefore, the LHLDC should either incorporate the informal settlers into the scheme or get rid of them.

Based on the responses, which were sometimes stated with emotion and other times with indifference particularly by service providers, the researcher speculates that the government and the developer have something to hide. It is not clear why the LHLDC denies that it demolished a house, when it is clear that it did. It is also not clear as to why LSPP could not involve the LHLDC in land acquisition matters and failed to settle disputes, concerning land acquisition,

between field owners and the LHLDC. The information has proven to be quite controversial and unfortunately neither the magistrate court nor Local Government Ministry, which have been dealing with this matter, could offer any assistance.

Based on this information, one can infer that, the informal settlement in the study area was encouraged by: -

- ➢ A lack of community participation;
- ➢ The new democratic government into power (1993);
- ➢ The issuing of illegal land titles by both the local chief and the Chief Physical Planner in collaboration with certain individuals;
- ➢ A lack of co-ordination among planning bodies;
- ➢ The better compensation offer that was made by LHDA (Lesotho Highlands Water Authority);
- ➢ A lack of legal support for planners;
- ➢ The lack of political will;
- ➢ The urban area extension and subsequently the declaration of the SDA were done in such haste that people lost track of what was happening;
- ➢ The fact that LSPP determined compensation rates, which were also inconsistent, was contentious; and,
- ➢ Not well researched compensation rates

# CHAPTER 6

## RESPONSES TO STRATEGIES

### 6.1 INTRODUCTION TO STRATEGIES

This chapter presents a synthesis of arguments by various stakeholders, for or against, the five problem solution strategies. This chapter also serves as a response to the aim of the study, which is, "to evaluate, by presenting predetermined strategies, to different stakeholders, as to how far the strategies are applicable to the case of Ha Matala Study Area". As with the previous chapter, subheadings are formed by research questions (section 2 of Specimens i-xiii, Appendix C). Only one respondent, the informal resident, did not respond to this section because he feels that the planners were wrong and they need a thorough introspection.

The strategies are policies, which the study intends to recommend in resolving the existing Ha Matala land development problems. These policies are weighted against the social, economic, political and technical aspects of the study, which are defined by at least one criterion, see below.

- Social aspect: psychological effects, access to social amenities, and living standards.
- Economic aspect: costs likely to be incurred by the developer or informal settler or field owners or the government.
- Political aspect: political feasibility, law enforcement, land administration and public affairs.
- Technical aspect: plan making (layouts) and implementation (land subdivision, surveying and pegging, and, provision of infrastructure) and balanced land use.

### 6.2 STRATEGY 1: RELOCATE/REMOVE INFORMAL SETTLEMENT AND RESTORE THE ORIGINAL SCHEME

#### 6.2.1 Social Challenges

The LSPP pointed out that, the strategy would depend on whether people were allocated sites lawfully (by legal Form Cs) or not (by backdated Form Cs). If it were established that the latter were true, it would be appropriate to remove the informal settlement. It is unlikely that the informal settlers were ignorant about the Ha Matala development scheme, more so when sites were already reticulated by water lines and roads, and, people had been warned against informal structures that are seen across the study area today.

A similar case was faced at a place called Lepereng, in Maseru. Here, land that was earmarked for a sports arena was invaded, and to restore it, the government removed the invaders and demolished their houses. There is no reason then, why the Ha Matala case should be treated any different (LSPP, LHLDC and LEC).

If people were to be removed, it would create a serious tension between the government and the people, and might even result in bloodshed. Restoring the plan in this manner might even fail in this country, because most people are related to each other and this makes it difficult to exercise the law when it comes to certain individuals. For planning authorities to use this strategy, they need legal support, which they happen to lack, and this might make it worse for them. Removal may cause people to act irrationally as was the case with Ha Foso development area in Maseru, where people cut service lines and completely destroyed the plan. The developer lost a great deal, which is something that could have been avoided if people had full understanding of the development scheme and were also actively involved (Planning authorities).

Some respondents from LSPP, Local Government and MCC, think that, it would be inhuman and unfair to remove people, more especially the poor. This would depress and impoverish people, spiritually and economically. Removal would cause overcrowding in areas of destination and this would that even innocent people are dragged into this mess. Overcrowding itself has serious health implications. While removal implies upholding law and order, this would be a long and uncertain process, especially in Lesotho where court cases delay considerably On the contrary, an LHLDC respondent points out that, a drastic measure to put things right is needed within the planning environment and that removal would be an appropriate strategy to use.

LSPP and MCC go on to argue that, displacing people may shatter the existing social settings, through which people ensure their oneness and support for each other. This is to say that the existing survival strategies would be disrupted and this would have some psychological repercussions.

In terms of relocation, the argument was that, it could be participative or forced, either ways; it would be the developer or government's responsibility. Participative relocation would offer options of where they would like to go, and the opposite happens to be true about forced relocation. Either ways, relocation may bring inconvenience, as people may be located far away from urban services and basic social amenities such as, the work place, public transport, parks, schools, halls and so forth (MCC and LSPP). Local Government argues that, relocation would imply that, the government concedes defeat, and this would encourage more informal

settlements on planned areas. However, Relocation is faster and more certain than removal is, as it does not involve court cases.

Field owners claim that, moving people, by either relocation or removal, might prove to be ineffectual because of the attachment that people tend to place on their individual homes and the general neighbourhood environment. This strategy would most certainly lead to a physical war between the government and field owners.

### 6.2.2 Economic Challenges

While relocation would be quite an expensive strategy for LHLDC to employ, because of required compensation packages, but removal would impoverish most families. Relocation or removal bears serious economic implications on both parties. For instance, it would not be easy for LHLDC to relocate a structure like the one shown on Plate 10 below (All).



Plate 10 the informal resident's house. from the top, the first one on the right. This house and the cement blockhouses were never part of the development scheme, but are now there because of inadequate development control

### 6.2.3 Political Challenges

Politicians would make it difficult to implement this strategy lest they jeopardized their votes and since the country's politics are not stable this would cause upheavals and riots. Worse yet, planners do not have any legal support, as such; it is not easy for them to be heard or to take appropriate steps against people who negate their work (LHLDC, MCC and WASA). The implementation of this strategy would cause field owners to lose confidence in the government, claimed field owners.

### 6.2.4 Technical Challenges

Concerning this aspect, the overall view was that, the strategy would not require much work on the study area; as it would be a matter of demolition of informal settlement and rehabilitation of

the site. However, in terms of relocation, the scope of technical work would increase. Firstly, the new site would have to be identified; secondly, investigated in relation to its capacity to develop; thirdly, evaluated; fourthly, acquired; fifthly, planned; and sixthly, developed

## 6.3 STRATEGY 2: RELOCATE THOSE ON PUBLIC SPACE, UPGRADE AREAS ON SITES; AND RETURN TO INTENTIONS OF THE PLAN.

For most respondents, the first part of this scenario would very much carry the same implications as in strategy 1 above. Therefore, only the second part was entertained.

### 6.3.1 Social Challenges

Most respondents argued that, it would not be fair to treat people, who have done the same wrong differently. It was further argued that this strategy would not bring any good to the society or the government; instead, it would cause friction. People may refuse to move at all, because of the lopsided treatment. The prevailing situation clearly shows that, relatively poor people would be the ones affected by the relocation, as it is they who are settled on the public sites. This would carry other social and political implications. LSPP argues that upgrading should only be concerned with legal sites.

### 6.3.2 Economic Challenges

The general feeling was that although it would be desirable to partially upgrade the area, and raise the value of the site by restoring public spaces, the cost of relocation and upgrading would still be relatively high. Still, it would be better than to relocate/remove the whole informal settlement.

### 6.3.3 Political Challenges

It was stated that, havoc within the political environment would be inevitable. It would seem that; the law is only operational when it comes to the poor class and not the affluent class. The former would probably hate the government and would do things to spite it even those formal settlers may find the strategy unfair and may assist the poor in everyway, to ensure a uniform treatment to all informal settlement (WASA, LHLDC and LSPP).

### 6.3.4 Technical Challenges

The general feeling was that, upgrading would be costly in terms of time and energy and would be quite a tedious task to undertake. The task includes to pull down structures, re-lay infrastructure, re-draw new site boundaries and re-peg them.

## 6.4 STRATEGY 3: ABANDON THE INVADED AREA AND FIND SITES FOR PUBLIC FACILITIES.

### 6.4.1 Social Challenges

Some respondents argued that, there might be a problem with social facilities being located too far from the end-user. Pupils may have to walk long distances even during bad weather days and this would affect their attendance at school.

Others were of the idea that, the strategy would certainly encourage more informal settlements and make matters worse as was the case with a development area in the town of Mohale's Hoek District. In this case, when the development area was clouded with problems of informal settlements, LHLDC abandoned it, and this aggravated problems in the area, and consequently the outlying areas. This was because there was no one to control the site anymore; it neither belonged to the traditional nor the local authority. There were haphazardly located lines (single rooms that are built in a row to provide rental accommodation), across the study area, which damaged the image of the town. In the case of Ha Matala, the affected water mains would surely burst and cause environmental hazards that may render the area inhabitable in the long run.

### 6.4.2 Economic Challenges

The respondents feel that, LHLDC, MCC, the residents and the country as a whole would lose economic benefits that would otherwise accrue from this development scheme, if this strategy were employed. More over, this would devalue the land and the area would be too expensive to maintain.

### 6.4.3 Political Challenges

All feel that the government would gain favour from the invaders, but it might not be the case with LHLDC' s client. Either way, politicians may not be affected that much in the immediate future but would, with time because people look up to the government for jobs and sound socio-

economic environments. This might lead to political instability. The strategy would also be contradictory to what planning stands for, if planners were to walk away from obvious, land and development problems.

### 6.4.4 Technical Challenges

Most respondents speculate that plans would hardly be considered valid and this would dishearten planners in the long run. This would mean that, settlements would be lacking coherence and balance and they would be hard to maintain. The study area would be highly dependent on other areas for provision of the most basic social facilities. Worse yet, claim service providers, special equipment may be required for any further developments or upgrading.

## 6.5    STRATEGY 4: TEMPORARILY RELOCATE INFORMAL SETTLEMENT AND RESTORE THE PLAN

### 6.5.1    Social Challenges

This would be the most disconcerting and uncertain strategy on the part of the informal settlers, it would frustrate even children. Temporary may take forever, which would discourage people from improving on their environment while still waiting to be moved back to the original site. The temporary building material might be of such poor quality, that they would depress the users thereof. More especially when the imposing structures are built with permanent material. The extent of the problem would probably increase because there are high chances of having more informal settlements both on the study area and on the temporary site during roving (All).

LSPP went on to point out that, effective ways to control the temporary site from being infiltrated by uninvited people would have to be sought. Otherwise, the uninvited people would cause problems when it is time to move back to the original site as they would have no where to go. This would be the second instance; the first one was experienced with the case of a temporary bus stop (Ha Manthabiseng). Here, a site, which was already earmarked for a convention center, was lent out for use of a provisional bus stop. However, it attracted unexpected activities, such as squatter settlements, which were also used as brothels and this was causing a great harm to the town's image. There was a call for immediate intervention. The task of moving the bus stop back to its original place was the responsibility of MCC.

It was tough for MCC to execute this task, as the invaders were so resistant that, at the end of the day, military intervention was required. This had turned into a political issue, because those involved in the scandal were a considerable number. One member of the parliament (MP) sided with the invaders, claiming that they fell within his constitutional boundary, and this matter had to be settled legally in court. The invaders, together with the MP lost the case, still they would not let go of the site. Ultimately, MCC, through legal and military assistance, managed to get rid of the invaders. A considerable number of lives were lost as a result. The strategy failed before, and it might fail again in this case.

## 6.5.2 Economic Challenges

There were concerns that, the strategy would be more costly than the previous ones, especially in the short term, but would pay in the long run, because it put the plan to its purpose. MCC could benefit considerably, through collection of sound levy. The land value and consequently, the property value would rise.

Other concerns relate to ways of implementing the strategy, whether people would be given money to build the temporary and/or permanent housing; and how would the government ensure that the money is used as intended.

## 6.5.3 Political Challenges

The respondents think that, the strategy would not be quite workable, that it would create tension between LHLDC and its clients and field owners and their clients. It would also interfere with the social relations of people affected.

## 6.5.4 Technical Challenges

This would be time consuming and wasteful in terms of resources. Firstly, the temporary site would have to be identified. Secondly, temporary housing be put up. Thirdly, the imposing structures on the original site would have to be demolished and the area rehabilitated before rebuilding and returning the informal settlers to the site. Lastly, the temporary site would also need rehabilitation. Effective development control would have to be made on both sites (LSPP, WASA and field owner).

## 6.6 STRATEGY NO. 5: RE-DESIGN THE INVADED AREA AND ACCOMMODATE THE INFORMAL SETTLEMENT.

### 6.6.1 Social Challenges

Field owners think that, this could be a viable strategy for all parties, for it would boost the people's morale, On the contrary, Local Government pointed out that, since this is not an isolated project, the strategy would certainly encourage more people to disregard planned areas. LEC pointed out that it would be inappropriate to alter plans, to accommodate those who spoil them. To re-design the plan may imply that people who acquired land through the right channels should have not bothered, that in future they could choose whichever they deem workable, be it formal or informal.

### 6.6.2 Economic Challenges

LSPP stated that re-designing the area would cost LHLDC a great deal in terms of time, efforts, material and funding.

### 6.6.3 Political Challenges

A couple of individuals within the planning authority argued that, the political impact would likely be felt in the long run, when people's demands go beyond the issue of accommodation. It would be up to the politicians and the government to be committed to offer other social facilities that associate with housing. They also claimed that, the strategy would render ineffective development control in urban areas. Other views were that, some people, especially those whom have currently bought sites in the study area, would lose confidence in LHLDC. Local government commented that, planners would keep on running away from informal settlements, instead of taking appropriate action against them.

### 6.6.4 Technical Challenges

Service providers and planning authorities state that, the strategy implies that, a different plan from the original one needs to be considered. Meaning that, LHLDC would not only have to go back to the drawing board, but would also have to make all the necessary consultations with relevant planning bodies, as with the original plan. This would also mean a need to re-survey and re-peg the plots and re-route the entire infrastructure and determine a new drainage system across the study area. This, said field owners, would result in a good and coherent place, even though with lack of social services.

## 6.7    SWOT ANALYSIS

### 6.7.1   Introduction

The SWOT analysis highlights the strengths, weaknesses, opportunities and threats of each scenario as perceived by critical stakeholders. The researcher then gives short summaries for each scenario, under the conclusion column. The best scenario is identified on the basis of its strengths and opportunities and the opposite happens to be true about the worst scenario. Table: 6.7.1, which is presented on the following page, shows an analysis of strategies as perceived by different respondents

**Table: 6.7.1    Showing an Analysis of Strategies as Perceived by the Different Respondents**

**STRATEGY 1: RELOCATE/ REMOVE INVADERS IN ORDER TO RESTORE THE ORIGINAL SCHEME**

| STRENGTHS | WEAKNESSES | OPPORTUNITIES | THREATS | CONCLUSION |
|---|---|---|---|---|
| **Removal:**<br>➢ Predictable in the sense that it does not await the court's outcome. It can happen in a matter of hours.<br>➢ Less stressful for the LHLDC because it would not have to incur any costs.<br>➢ Educational to the invaders, they would stop the invasion.<br>➢ It would restore uniform and coherent development in the study area.<br>**Relocation:**<br>➢ Peaceful and can encourage harmony between the developer and the people. | **Removal:**<br>➢ Destroy people emotionally<br><br>**Relocation:**<br>➢ Wasteful in terms of resources that the LHLDC would have to use.<br>➢ Not certain because the new site might also be invaded.<br>➢ Shortsighted, because it is based on short-term results while it has repercussions in the long term. | **Removal:**<br>➢ No more impingement on future plans<br>➢ Less misuse of resources<br>More and viable planned areas across the country.<br>**Removal/Relocation:**<br>➢ The original scheme would be reverted to.<br>➢ | **Removal:**<br>➢ Impoverish the invaders.<br>➢ Negative impact on the general economy.<br>➢ Loss of accommodation.<br>➢ Overcrowding & unhealthy conditions<br>➢ Loss of confidence in the government<br>**Relocation:**<br>➢ Plays down the importance of planning.<br>➢ An expensive strategy for THE LHLDC to implement<br>➢ Uncertain because | While removal can be a viable and a certain strategy for the LHLDC and planning as a whole, it can be quite unworkable for the invaders. However, unless it is done, people will always work against plans. In the long run there will not be any land to plan and any viable settlements. |

| STRATEGY 2: RELOCATE THOSE ON PUBLIC SPACE, UPGRADE AREAS ON SITES, AND RETURN TO THE INTENTIONS OF THE PLAN | | | | |
|---|---|---|---|---|
| **STRENGTHS** | **WEAKNESSES** | **OPPORTUNITIES** | **THREATS** | **CONCLUSION** |
| .**Upgrade:** <br> ➢ It is human because it is considerate and accommodative <br> ➢ It is politically good <br><br> **Relocation:** <br> Would bear the same consequences throughout. | **Upgrading/Relocation** <br> ➢ Very costly for THE LHLDC and it can be difficult to recover costs. <br> ➢ Politically unsustainable as most invaders who may have to be removed are relatively poor. <br> ➢ Jeopardises physical planning in that more invasions may occur <br> ➢ Misuses resources in that there would be a need to re-plan, re-survey and re-align infrastructure. | **Upgrading and/or Relocation:** <br> ➢ The end results would render a sustainable development in the area <br> ➢ Allows participation in that people would have to be involved in order to achieve effective upgrading or relocation. <br> ➢ Relatively cheaper than scenario 1. <br> ➢ Educational because participation would have to come with relevant education. | **Upgrading and/or Relocation:** <br> ➢ The unequal treatment would create political chaos due to tensions between society and developers and within society itself. <br> ➢ This is likely to spoil chances of regaining the original scheme because people may try to resist this strategy. | Much as this strategy would be a good and workable option for most, it has an element of unfairness, and what is worse is that the people that may need to be removed are mostly poor. |

| STRATEGY 3: ABANDON INVADED AREAS AND REDESIGN THE BALANCE TO FIND SITES FOR PUBLIC FACILITIES | | | | |
|---|---|---|---|---|
| **STRENGTHS** | **WEAKNESSES** | **OPPORTUNITIES** | **THREATS** | **CONCLUSION** |
| ➤ Inexpensive for all parties in the short run<br>➤ Less stressful for all parties | ➤ Encourage more invasions | ➤ It would save the LHLDC the time and money for suing invaders. | ➤ A development scheme was abandoned in Mohale's Hoek, but aggravated the problem, as the area answerable to no one.<br>➤ Unclear land tenure<br>     ➤ It might be a recurring problem when people realise that no legal action is taken against them. | This scenario could be bad for development and could render unsustainable environments within settlement areas<br>. If land does not have any development control, people do with it as they please. Besides, the government cannot afford to run away from invaders |

## STRATEGY 4: TEMPORARILY RELOCATE INVADERS IN ORDER TO RESTORE THE PLAN

| STRENGTHS | WEAKNESSES | OPPORTUNITIES | THREATS | CONCLUSION |
|---|---|---|---|---|
| ➤ . Allows community participation.<br><br>➤ Educational in that people would never want to invade again because of the inconveniences that might come with this strategy | ➤ Too expensive for the LHLDC to undertake.<br><br>➤ It brings social instability because people would be uncertain about the time period that the temporary relocation might take. They would not be sure if they could improve on the site or not. | ➤ Gives opportunity to rehabilitate the area. | ➤ This scenario was once implemented but proved to be unworkable because of lack of control over the temporary site<br><br>The temporary site may end up being permanent with substandard structures that may not be healthy<br><br>➤ Uninvited people on the temporary site tend to cause chaos when it is time to move the people back to the original site.<br><br>Different people might invade the original site knowing that<br><br>➤ | While there would be participation, which would also educate people about planned settlements, the strategy would be too expensive. It might need external financial assistance in a form of a grant, otherwise it is not easy to recover the costs The original site would be rehabilitated, and people would live in a uniform and sustainable settlement. However, there might be more problems of invasions that may occur on both the temporary site and the permanent one |

| STRATEGY 4: TEMPORARILY RELOCATE INVADERS IN ORDER TO RESTORE THE PLAN | | | | |
|---|---|---|---|---|
| **STRENGTHS** | **WEAKNESSES** | **OPPORTUNITIES** | **THREATS** | **CONCLUSION** |
| | ➢ Inconvenient in that the people would be moving up and down and probably the temporary site would be located far away from social facilities. This would mean that there would be more transport costs | | ➢ | Worse still, the society will not have a peace of mind until the shifting is over. Children may have identity problems during the process. Temporary may take forever because of financial constraints. It might turn into a political riot. |

| STRATEGY 5: REDESIGN INVADED AREAS AROUND INFORMAL DEVELOPMENT AND ACCOMMODATE THE INFORMAL SETTLEMENT. | | | | |
|---|---|---|---|---|
| **STRENGTHS** | **WEAKNESSES** | **OPPORTUNITIES** | **THREATS** | **CONCLUSION** |
| ➢ Equal treatment for all<br>➢ Peaceful<br>➢ Politically, it would be the best strategy.<br>➢ It can be less expensive to upgrade in some areas than to demolish.<br>➢ It is socially workable because people do not have to be tossed and turned around. | ➢ Costs to be incurred in order to obtain these facilities<br>➢ It would play down the legal procedures of land acquisition.<br>➢ It would also make the government appear ridiculous by letting people act against the plan.<br>➢ It is technically expensive because infrastructure would have to be shifted and re-aligned. In addition there would be a need to re-survey the sites, which quite costly.<br>➢ The provision public sites may require more land acquisition. | ➢ It would allow participation.<br>➢ Informal developments would be formalised and more levies would be collected for MCC<br>➢ Infrastructure would be placed in a way that would not bring any environmental threats to the area. | ➢ The invading houses, especially on public sites, devalue the area in the sense the plan would never work as intended.<br>➢ Some people may refuse to co-operate, as is the case right now.<br>➢ It might be difficult to find alternative sites for public uses, because there would probably be more invasions.<br>➢ The area's lack of social facilities may render it unsustainable in the long term in due to lack of social facilities within easy reach. | The strategy would be peaceful because of the equal treatment to all. However, it would encourage more land invasions in future and there would not be any proper settlements. |

### 6.7.2 Overview of SWOT Table

The findings indicate that very few opted for removal of people and a large number opted for upgrading and re-designing of the study area. All stakeholders have dismissed Scenario 4 as being too costly and downright unworkable. They argue that, its social, economic and political implications are beyond imagination. However, the researcher feels that temporary relocation would not be such a bad strategy to implement and it would in fact be quite workable if there were more co-ordination, control and law enforcement over development. Also if the invaders were not taken back to the original site, but to a new and well-planned area where they could acquire land formally. This of cause as with Scenarios 1 and 5 would need some financial assistance from the government, but unlike Scenarios 1 and 5, Scenario 4 would need more than financial assistance; it would need planning another area from scratch. This would also make up for the loss that the LHLDC incurred for in this scheme.

Some respondents indicated that Scenario 2 would not be fair, as it would be treating people who have committed the same offence differently, but the fact of the matter is that the invaders are not impacting on the plan in the same way. For instance, the informal house on plate 10, and others, whom the LHLDC does not know of, is allocated in a manner that does not reveal its illegality. The only suspicious thing about it and the others is that their lots are too big, given their location, which is quite developable. It would not be reasonable to treat these informal settlements the same with those that are located in the middle of the road.

It appears that Scenario 3 could easily be implemented, but could result in unworkable places. Based on the analysis, this scenario could be the worst if the whole area were to be abandoned. However, abandoning certain parts of the study area may turn out to be the best solution for all.

While only three respondents adamantly opt for Scenario 1, and most opt for Scenario 5, the researcher feels that Scenario 1 could be a better option in cases whereby the plan cannot work if this strategy were not implemented. For instance, in a case where access is blocked completely (Plate 6, pp.70) the invader would have to be removed.

The removal however would be appropriate if it were to be taken into account that the development scheme itself had problems. In the first place there was lack of co-ordination within the planning authorities and this on its own was clearly a developmental problem. Secondly, the manner at which the SDA was declared was too hasty for people to understand and hence created confusion amongst field owners. Thirdly, the field owners did not want to be co-operative because from the on set the scheme was not handled properly in that there was lack of participation. Lastly, the field owners were not fair to the LHLDC by accepting compensation and continuing to subdivide and allocate land as though they had not made any agreements with the LHLDC.

The best scenarios would therefore be Scenarios 1 and 5 because they are likely to work out for best, given that all parties involved in the Ha Matala Development Scheme seem guilty of one thing or the other. The choice is based on the people's responses.

## 6.8    CONCLUSION

From the above findings, it is clear that there is a conflict of views and concerns from individuals, who sometimes come from the same organizations. On the basis of this, it can be inferred that the responses are influenced by the individuals' interpretation of the problem. Furthermore, the findings indicate that very few opted for strategy one, and showed that, while the first part of strategy two, is sound, but the strategy proves to be unfair and cannot be a viable solution. As for strategy three and four, have been dismissed as too costly and downright unworkable. A majority of respondents would go for strategy five because, as they say, it addresses the land development problems currently facing the study area. In addition, through this strategy, all are treated justly, given that everyone involved in the scheme has made mistakes in the past that need addressing.

It was the feeling of the researcher that while it is apparent that most respondents are opposed to the ideas of strategies, one through to four, and imply that a single strategy can resolve the problem, all the strategies are quite imperative in this particular case, because of the varied nature of the problem. To decide on the feasible and replicable strategies, a weighting system is used on table 6.8.1 (forthcoming). Here, the socio-economic, political and technical aspects of the study are weighted in accordance to the criteria defining them (paragraph two of the introduction, above), and strategies are given scores as per the researcher's judgment.

As will be seen on table 6.8.1, the weights range from 1.5 to 4, with the social aspect allocated the highest weight followed by the political and technical aspects respectively (3.5 and 3) and the economic aspect being weighted the lowest.

The social aspect is highly valued (weight 4) in this study because it considers the most crucial part of development, which more often than not, is given inadequate attention. The researcher believes that, if this part can be examined closely, with regard to the criteria set above, in upgrading Ha Matala, then the existing problems will be resolved easily, fruitfully and viably.

The second important aspect in upgrading the study area is the political environment, which looks at, amongst others law enforcement. Incompetent practice in this regard has been identified as the prime cause of illegal land allocation and informal settlements in Lesotho. It needs to be dealt with appropriately in order to address the problems facing the study area.

The technical aspects then follow and this looks at settlements and living environments and the administration and maintenance of these issues. This aspect tends to integrate a wide range of planning bodies and issues. However, it comes third because planning is not done for planners' sake, but in the public interest.

The last aspect, but certainly not the least, is the economic aspect, which is weighted 1.5. While any kind of action would cost money, but in this particular case study, the three aspects discussed above, are considered more imperative to address the problem at hand.

The scores are rated as follows: -

1 = Poor

2 = Fair

3 = Good

4 = Very Good

5 = Excellent

Any strategy that scores the lowest point of 1, means that the relationship between it and the aspect being considered is poor and would not be considered as a viable solution. A score of 5 shows an excellent relationship between the strategy and the aspect in question, and would on the basis of this, be highly recommended. However, the impact of each strategy is considered in holistic, hence the individual weighted scores are added up to give the total weighted score for each strategy. The strategy that gets more points would be the one considered for upgrading the Ha Matala study area productively.

**Table 6.8.1 Showing an Assessment of the Strategies Through The Weighting System**

| ASPECTS | WEIGHT | STRATEGIES | | | | | | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| | | 1 Remove/Relocate | | 2 Relocate & Upgrade | | 3 Abondon | | 4 Temp. Relocate | | 5 Re-design | |
| Social | 4 | 1 | 4 | 3 | 12 | 1 | 4 | 1 | 4 | 5 | 20 |
| Economic | 1.5 | 2 | 3 | 2 | 3 | 1 | 1.5 | 1 | 1.5 | 3 | 4.5 |
| Political | 3.5 | 4 | 14 | 1 | 3.5 | 2 | 7 | 4 | 14 | 5 | 17.5 |
| Technical | 3 | 5 | 15 | 4 | 12 | 1 | 3 | 2 | 6 | 3 | 9 |
| TOTAL | | | 36 | | 30.5 | | 15.5 | | 25.5 | | 51 |

The above table shows two columns of figures that are highlighted yellow and lime, under each strategy (second row on the table). The former shows the scores and the latter shows the scores as weighted (scores by weights) to show the practicability of each strategy in resolving land development problems facing the Ha Matala study area.

According to the table, strategy 5, which suggests that, the area should be re-designed in order to accommodate the informal settlement, scores the highest points (51). It is followed by strategy 1, with 36 points, which proposes that, the informal settlement should be displaced by way of removal or relocation, in order to restore the original plan. This is to say that, if the plan cannot be re-designed, then it must be restored completely. Another possible strategy to tackle the issue of Ha Matala is strategy 2, with 30.5 points. Strategies 4 and 3, that score the lowest points of 25.5 and 15.5 respectively, cannot be deemed as feasible solutions for the case of Ha Matala. In the forthcoming paragraphs, the study reviews issues that justify the position of each strategy in regard to the aspects.

First, the table shows the relationship between individual strategies and the social aspect. Starting with strategy 5, one sees an excellent correlation between the two. A good bond, which is built up by strategy 2 and the aspect, follows this. The rest of the strategies show a poor link. The excellent relationship of strategy 5 is influenced by the fact that, people will not have to move, as such, there will not be any adverse psychological effects suffered. In addition, the strategy requires community participation, so at the end of the day, everyone, the developer and the end user, will own the development scheme and in this manner, sustainability is assured. The people living in the informal settlement will not be impoverished by the implementation of this strategy. Better still, the area will be put back to acceptable planning standards, and will be to everyone's advantage. With this strategy space, for provision of social facilities, may be found within the study area, and this would bring convenience.

The good linkage that is evident between strategy 2 and this aspect is based on the fact that, while people may have to relocate, but it will not be all of them as in the case of strategy 1, this, in a way, mitigates social problems that may be encountered. Like strategy 5, it requires community participation. Unlike strategy 3, strategy 5 and 2, ensure safe living environments for the inhabitants, and they are more certain than strategy 4. Yet, it is discredited for being unfair on other people, who incidentally, happen to be the low-income class (their status is based on the their housing standards, see plates 2.and.3). For this, the strategy may not gain favour with anybody, even the formal settlers, because of its discriminative element. The other strategies happen to lack the social concern; hence they are considered unworkable in this regard.

Second, the table shows how the strategies relate with the economic aspect. Commencing, once again, with strategy 5, which has a good relationship, because it still dominates in this aspect too. While the strategy tend to be costly in the short-run, but it has great long-term economic benefits for all. The re-designing costs can be recovered in due course, through sound levy collections. Strategies 1 and 2 came in second, each with a fair relationship with this aspect. While it may bring forth some long-term economic benefits, in terms of levy collection, strategy 1 hardly benefits anyone. If removal is chosen, then it means that people get impoverished, and cannot be entitled to benefits that may accrue from the study area. In addition, for removal to be successful, it has to be approved legally, which may imply that, by the time the LHLDC executes this policy, it will have

lost a great deal through endless court cases. If it is relocation LHLDC is still in a catch 22 situation, because, it may lose more than it may gain. A similar situation may be faced with strategy 2. However with this strategy, the loss is felt more at the maintenance stage. Strategies, 3 and 4 indicate a poor correlation because they are likely to do a great economic harm on people, the developer as well as the study area.

Third, is the political aspect, which shows, an excellent relationship with strategy 5 and a good connection with strategies 1 and 4. It then shows fair to poor links with strategies 3 and 2 respectively. In this aspect, a relationship is regarded excellent if it recognizes the legal part and does not intimidate the political stability or public relations. The opposite happens to be true with the strategy that is having a poor link with this aspect.

Fourth is the technical aspect. Here the table shows that, strategy 1 takes the lead in this aspect, as it is having an excellent connection. A very good relation existing between the aspect and strategy 2 follows this connection. Strategy 5 appears third, indicating a good link with the aspect. Strategy 4 shows a fair connection while strategy 3 shows a poor one. The first two strategies are technically sound because, with strategy 1, the area stays the same and with strategy 2 the area stays close to the original plan. Strategy 5 alters the plan, such that the area ends up with a new plan, which may prove to be difficult to maintain. All the same, the plan will be up to the planning standards. Strategy 4 may prove to be very difficult to accomplish, but once done, its maintenance goes smoothly. Strategy 3 is poor in relation with this aspect, because, it neglects planning standards, and thus render incoherent and imbalance settlements.

While strategy 1 shows a poor link with the social aspect, which according to the study is the most important part, it has to be considered for upgrading Ha Matala because it appears a certain and sustainable strategy, after strategy 5. The table indicates that, there are only three strategies that should be considered to address the land development problems in the study area and these are, in order of importance, strategies, 5, 1 and 2. The other two are now dismissed. The next chapter is the conclusion and recommendation part of the study. It is here that the two chosen strategies will be recommended with some alterations, after having reviewed all the issues and concerns of the study.

93

# CHAPTER 7

# CONCLUSION

## 7.1    INTRODUCTION

The study has established that the land development problems, within the planning environment in Lesotho, go beyond planning and implementation levels. It is also an issue of corruption and lack of legal support for planners. It has been discovered by the study that, the Chief Physical Planner of the LSPP has had a hand in establishment of illegal settlements in the study area, by issuing illegal survey instructions. This, WASA argues, has led to a number of confrontations between THE LHLDC and WASA because of water services that would have been provided by WASA on the basis of the illegal leases.

The poor legal system has also contributed considerably to illegal settlements, both across the country and in the study area. This is because not only does the law drag in dealing with these matters, but it also judges planners unfairly. Hence, more land destructions have been encouraged, and unfortunately the planning authorities cannot do anything about this matter.

While there has been a comprehensive national land policy in Lesotho, evidence indicates that there is no clear direction in relation to the control and management of land related issues. Each ministry of Government does as it pleases without any consultation with the others. This in turn has led to bottlenecks that have given rise to a chaotic situation within planning. Opportunists have grasped the chaotic situation to occupy vast tracts of land illegally with devastating consequences. Informal settlements are now the order of the day on any land, planned, serviced or agricultural. No one takes responsibility for tackling these illegal settlements as for example the Ministry of Agriculture perceives its role as being merely advisory (Land Policy Review Commission, 2000: 3)

There have been worse cases than Ha Matala, cases such as the Mafeteng Development Scheme, which was abandoned; Mohales' Hoek, which was partially abandoned; Ha Foso; Teyateyaneng; and Ha Thetsane and Ha Mabote in Maseru. However, Ha Matala has been chosen for the study because, not only has it set a bad precedence across the country, but it is also clouded with diverse

land problems, which would occur on any development area. In addition, the government has realised that it is time that plans were implemented without any compromise, so this study is going to assist in achieving this aim peacefully and successfully.

It is clear that abandoning projects is not a sound solution; it is in fact a socio-economic, political and environmental destruction. Planned and serviced settlements are essential for a country's sound economic growth and for a good social welfare. The government has therefore, started to upgrade some of the planned areas, which were affected by informal settlements. In Maseru, the focus is at Lepereng, Ha Matala and Ha Thetsane. Recommendations to be given for Ha Matala should be applicable to these other areas as well.

Key role players that the researcher managed to interview represent the interests of the various bodies that were involved directly and/or indirectly in the Ha Matala development scheme. These included planning bodies such as: the LSPP, the LHLDC, the MCC; the service providers included, LEC, WASA and LCU. Also interviewed was a member of the committee that represents field owners and an informal resident. Unfortunately three key role players, the local chief, Chief Matala, his senior, Chief K. Theko and Chief Physical Planner, Mr. Frank, refused the interview. However, the field owner represented both Chiefs, while Mrs. Makuta, stood in the gap for Mr. Frank.

## 7.2    RECOMENDATIONS

The recommendations below build on the analysis and discussions in the previous chapters. They start off with the ones that address the existing problem and end with the more general ones, which are aimed at avoiding and/ or preventing invasion to occur again in future. Recommendations that are specific to the study area are based on the conclusion drawn from the assessment made through the weighting system The solutions are based on what is feasible and viable in terms of the social, economic, political and technical aspects.

### 7.2.1   Recommendations for Existing Problems

The recommendations to be given are based on the fact that the existing problems go beyond the design level, and require more than effective community participation. While the issue of backdated Form C's is an open secret; but at the moment, there is no way of proving its illegality. As such the informal settlers that the study investigates, do not consider themselves as so. The fact that they have bought the land makes it difficult to blame them, but at the same time it is not easy to blame field owners as their interference on the plan is indirect. Even so, the fact that land has been bought informally does not give one the right to build a house in the middle of a road. The upgrading is imperative in this area and the two strategies, which have been identified, in the previous chapter, as the most appropriate in resolving the existing land development problems in the Ha Matala study area will be recommended variably depending on the most feasible to addressing a particular problem.

In view of the socio-economic, political and technical challenges that allude to these strategies, the study recommends that the strategies should be implemented with some adjustments, such as the financial assistance from the government. This should come in the form of soft loans, subsidies and to a lesser extent, grants, and not in a liquid form. Loans should go to the affluent class, subsidies, to the middle class and grants to the poor. A major part in upgrading this area successfully should be undertaken by the informal settlers. As with the problems identified, the recommendations are also categorised.

•   **Access**

In terms of Plates 6, 7, and 8 (pp. 70), there are 2 solutions. The structures (i.e. the house and fences) that are blocking access (Plates 6 and 7) should be displaced. Plate 8, requires redesigning.

- **Subdivision of Open Spaces**

Since the LHLDC has made it clear that it is a profit making institution, and that it derives salaries to pay its employees from the development schemes, the government should buy the open spaces, and rescue them from being turned into residential lots.

- **Affected Infrastructure**

Where water mains and roads are affected, displacement should only take place if the socio-economic, political and technical costs of redesigning these may prove to be high, either in the short or long term. In the case of electricity, the imposing structures such as the one seen on Plate 9 (pp. 71) should be displaced. However, in the case where it is quite apparent that the fault comes from the providers' side, the provider should redesign the alignment of the poles and cables.

### 7.2.2 Recommendations for Future Problems

Land must be managed and controlled by agricultural professionals and people capable of making the best productive use of it. Even where there are good laws, there is no implementation and/or law enforcement and nobody takes the responsibility in Lesotho at the moment. In a nutshell the government and land institutions have, as pointed out earlier, completely lost control of land administration, and land management as well as development of land and its resources. Predictions are that by the year 2020, the whole country will be left with nothing but sand and rocks (Land Policy Review Commission, 2000).

The people obviously needed a full understanding of the urban life, rules and regulations. They needed to know what would be expected of them as new urbanites. So in future there should be educational programmes that will enlighten the people appropriately. People need to be taught about planning and the importance of planned areas. They need to be equipped in such a manner that they are able to make sound contributions in planning matters. The people should be in a position to control developments within their own living environments. They need to know and

understand why it is necessary to go through certain procedures to acquire land and to also know and understand planning processes.

The 1979 Land Act repealed the law of Lerotholi, which stated that all land in Lesotho belonged to the Basotho Nation. And was held in trust by the King, as head of state, whose powers of land allocation and administration were delegated to the village chiefs; the land could still be reclaimed for other uses that the chief deemed more beneficial for the society or nation as a whole. This could be accomplished without leaving affected parties in despair. In practice then, land belonged to the state and the state could reclaim it any time. Therefore, no one had a right to either buy or sell it. Land tenure was oriented toward stewardship.

However, as the government has changed hands, new policies that guided the deliverance and use of land simultaneously changed people's attitudes towards land. The Basotho nation started to view land as a commodity as against a public property. Hence, they started to subdivide and sell it privately, which was and still is an illegal Act (Romaya & Brown 1999, Leduka 1993, Franklin, 1995).

Chieftainship and consultative planning should be part of the due solution, and in this way, the chief and the community can protect the markings, because they will automatically feel responsible.

## 7.3    A REVIEW OF THE STUDY

To check if the concerns and assumption raised in the introductory chapter have been addressed, a review and responses of these is presented below.

### 7.3.1   The Research Question

**Question:** Why did the Ha Matala Development scheme fail to create the intended development environment?

**Response:** There was evidently lack of coordination and cooperation within the planning authority and between the planners and service providers and other stake holders. In addition, there was lack of community participation, as such the scheme was not well coordinated and it failed to realize and consider the community's concerns and views.

### 7.3.2 Subsidiary Questions

**Question:** How did a failure by the field owners to understand government perceptions about land, affect the success of the project?

**Response:** It affected it in the sense that, at the end of the day, there was double land allocation, which was both formal and informal. Field owners still believed that, they had rights on the land and that they could still subdivided and sell it as they pleased. At the same time, LHLDC believed it had rights to the land, and it could get rid of the field owners whichever way.

**Question:** To what extent was the plan interfered with?

**Response:** The plan was interfered with to the extent where the service infrastructure, which was already provided for, was impacted upon by the informal settlement. The settlement has also affected space that was provided for socio-economic activities, and as it is the case now, the area is deprived of a primary level school, a cemetery, and a civic and community center. As for open spaces that are already subdivided for residential use, they can easily be restored, as they are not settled as yet.

**Question:** At what stage of the plan were problems experienced and why?

**Response:** Problems in the study area were felt after the implementation stage, during land allocation, because, during implementation, the LHLDC, with the assistance of the police, managed to keep the field owners quiet and somehow suppressed their feelings.

**Question:** How easy or difficult is it to mitigate these problems?

**Response:** It is more difficult than easy to mitigate these problems as most of the informal settlers hold titles, even though they are backdated. However, through effective community participation, the plan can be restored either fully or partially.

**Question:** What common land development challenges and elements are evident in the Ha Matala Development Scheme that would inform similar upgrading projects?

**Response:** he socio-economic, political and technical challenges in any upgrading scheme should be viewed in holistic so that feasible strategies can be used to resolve the various informal settlement problems that may prevail in different areas. Secure land tenure in upgrading is quite imperative. Upgrading has to be done through effective community participation in order to collect important information from all stake holders and so that all feel as part and parcel of the upgrading program being undertaken. Upgrading must not impact adversely on the community, but strive to increase the common good for all. Every irregular settlement in urban areas needs upgrading. Since people tend to develop a strong and positive attachment to what they deem home, this may make it difficult for upgrading in terms of relocation. However, Angel (1983) states, "As long as the granting of tenure improves the economic well-being of the poor, and as long as their displacement is voluntary, these are reasons for proceeding with tenure granting programs regardless of whether they do not displace poorer residents" (Ibid: 135).

### 7.3.3 Hypothesis

A lack of community participation in land development issues is the primary reason why the Ha Matala Development Scheme could not be implemented according to the proposed plan.

**Response:** The fact that workshops and meetings were never held with the field owners, prior to the development scheme, shows that there was lack of community participation; hence the field owners did not consider it their responsibility to protect the area. They felt as if they were being dispossessed of their property, so they derived pleasure from selling it informally. This made them feel as if they were still in control.

The fact that infrastructure could only be put in place with the assistance of the police, clearly indicates that there was no community participation.

Issues that were raised in Sections 4 and 5, especially concerning the declaration of the SDA have proven the hypothesis right. Also the letter by Mr. Lehana (Appendix A ii), Director of Operations, the LHLDC shows that there is lack of community participation.

Procto et al. (1998) says that, a land policy must consider all these land issues and basic needs must be accommodated. Access must be fair and rights to ownership or use of land must be protected. A land management system, which will support sustainable land-use patterns and rapid release of land for development, need to be devised.

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# APPENDIX

# A

Overleaf, are copies obtained from LHLDC, which show the manner at which the compensation process was handled in order to mitigate land and development problems, prevailing in the study area. While LHLDC claims that this strategy was employed from day 1 of the compensation process, the researcher is inclined to believe that, it was only adapted because the problems in the study area were getting worse. Otherwise there would not be a need for more compensation, which was done in 1997, seven years after the project was well into operation.

The copies indicate that on the 10th of March 1997, these people whose names are highlighted pink were compensated according to individual claims. The sum of the money that each individual claimed is highlighted green. The claims were to make up for property that was destroyed when LHLDC assumed land ownership in 1990. Field owners were to provide names of people they had sub-divided and allocated sites to before LHLDC came into the area, they were also to indicate whether they had fenced the fields or not and whether they were sown or not (see particularly the fourth and fifth pages). The names of the field owner's allottees are bounded black. The other information describes the sizes and the location of the fields and this is bounded red.

NTŜETSO PELE EA LITABA TSA HA MATALA

Batho bana ke bao ba ileng ba eletsoa ho tlisa litletlebo tsa bona mabapi le litŝenyehelo tseo ba li supang masimong kapa litŝeng tsa bona.

1. **Lejako Lejako**

   U bontŝa hore tŝimo eohle ea hae ene e teratetsoe ka terata 'me ele li-roll tse tharo

   (a) 2 x 50 kg barbed wire    = M260 x 3   = M 780.00
   (b) 2.4 x 23.82 T poles      = M23.82     = M 619.32

2. U bontŝa terata e ile ea khaoloa le hore u ne a lemme habore hare ho tŝimo peo e ne ele half ea mokotla e jeleng M18.75 'me a lebeletse hore e mofe M56.20 ha a se a kotutse, 'me a entse thekiso.

3. U bontŝa hore mahlakore a tŝimo a ne a eme ka mokhoa o joanan:

   1. Bochabela    =   72m  x  123 =  8,856   /
   2. Bophirimela  =   87m  x  123 = 10,701m
   3. Boroa        = 123m              1845 papang
   4. Leboea       = 123m              8,856m

   Kakaretso ea matŝeliso ao a akopang

   1. M    56.20
          780.00
          619.32
       M1,455.52

   Hape le ho kopa matŝeliso holima mobu o jeleng
   8,856m

   Bana ba 'm'e **'Maseboka Matala**
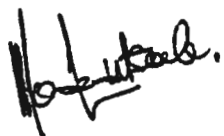
   1. Mohlalefi Matala
   2. Seboka Matala
   3. Kelebone Matala
   4. Mosioa Matala
   5. Ntsoaki Matala

Litŝenyehelo tsa 'Masechaba Matala

1. 50 x 2.4 x 075 T poles x 20.00 x 50 = 1,000.00^
   5 x  50kg cement x 23.00           = 115.00 ^

2. Peo ea erekisi e le kanang sekotlolo sa sheleng, le
   ha a sa bontŝa hore na se jele bokae? mokotla oa bo
   ntŝa mekotle e 'meli.

Sepane se lemmeng e bile         = M   40.00
Motho ea ileng a fasa terata     = 1,000.00^
Ho lengoa hoa erekisi e jeleng ?
Hape a sebelisa mekotla e 'meli ea menotŝa, mona a fumana
sepane se lemang 'me a sepatala  = M   40.00
motho ea fasitŝeng terate a lefshoa = 1,000.00
setŝa ka seng u ile a lirekisa   = 200.00.

M  NTSOELE
SENIOR TECHNICAL OFFICER

**Ntate Motaung Matala** u bonts'a hore ts'imo ea hae e bolelele
bo ngotsoeng ka mokhoa oona.

$$43 \times 32.7 = 1,406.1 \text{ m}^2$$
$$43 \times 28m \ = 1,204m^2$$
$$43 \times 43m \ = 1\ 849m^2$$
$$43 \times 14.2 = \ 610m^2$$
$$53 \times 8 \ \ = \ 424m^2$$
$$43 \times 33.8 = 1\ 453m^2$$
$$32 \times 6 \ \ = \ \underline{192m^2}$$
$$7,139m^2$$

**'Me 'Maseboka Matala** u bonts'a lits'enyehelo tse bileng
teng ts'imong ea hae ka nako eo li le ka mokhoa o tjena.

```
Fertilizer 8 bags x M7.00  = M   56.00
Mabele 12 bags x M100.00   = M1 200.00
Poone 5 bags x M80.00      = M   400.00
Linaoa 10 bags x M43.00    = M   430.00
                   Total     M2,030.00
```

**Ntate Richwel Mahakoe** o re eena thepa ea hae e sentsoeng e
jele chelete e kana.

```
Terata 3 x 50kg                 = M600.00
Terata 2 x 25kg                 = M120.00
Y Stantard 33 x 1.85 x 12.31    = M406.23
Split poles 12 x 1.8 x 23.00    = M276.00
Split poles 12 x 2.4 14.90      = M178.80
Cement 5 x 50kg                 = M100.15
              Total               M1,680.00
```

Makhetha Tsolo ore ha a fumana mats'eliso a ts'imo ea hae ho hang.

## 'MAPABALLO MOKETE

Lits'enyhelo tsa lipalo, terata tse ling tse tharo.

1. 114 x M23.82      (M2 715.48) height 2.4m
2. 30 x M14.90        M447.00   height 1.8m
3. 30 x M12.31        M369.30   height 1.85m
4.  3 x 50kg x M200.00  M600.00 — cement·
5.  5 x 3kg x M5.97    M 17.91 — leo
6.  1 x 5kg roll       M 32.00 — terata ·
                       M1 465.91

Ho latela eena palo tsa hae ke tsena tse latelang.
            M1 465.91
            M2 715.48
            M4 181.39

Bana  ba latelang ke bao a reng o ne a ba abetse lits'a.

1. Paballo Mokete
2. Seboka Mokete
3. Lekanyane Mokete
4. Sets's sa 'Mapaballo sa boiphiliso lebitsong la Moalosi Mokete. U re u fuoe mats'eliso a sa khotsofatseng ho latela boholo ba sets'a.

## MAFHALE SEBOKA

Terata roll tse peli - 2 x 50kg x M260.00 = M520.00
1 x 2.4 pole x M23.82 x 11              = M262.02
                                          M782.02

```
┌─────────────────────────────────────────────┐
│ Bana bao a neng a se a ba abetse lits'a.      │
│ 1. Mpharoane M. Seboka                        │
│ 2. Sebele M. Seboka                           │
│ 3. Keketso M. seboka                          │
│ 4. Thabo M. Seboka                            │
│ 5. Monts'eng M. Seboka                        │
└─────────────────────────────────────────────┘
```

Ntate Maphale Seboka u re u batla sets'a sa khoebo. Masimo u
re a boholo ba 142 x 152m, North is 146m.

**MOTSAMAI RAMONGAE**

Lits'enyehelo tseo a lisupang ho tlosoeng hoa terata le
lisamente.

Terata e hlobang

```
2 x 50kg - 50kg x M200.00 x 2   = M400.00
1 x 25kg ? -M120.00             = M120.00
16 x 2.4 T. Poles x M23.00 x 16 = M368.00
16 x 1.8 T. Poles x M14.90 x 16 = M238.40
 5 x 50kg x M20.30              = M101.50
                       Total    = M707.90
                                + M520.00
                                M1 227.90
```

Batho bana ke bao ba bang ba bona ba ileng ba ithlahisa
mabapi le masimo, lipalo, literata le lisamente.
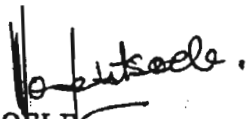
**MORENA MOKETE**

Une a file bana ba hae ba babeli e leng:

```
┌─────────────────┐
│ 1. Bophara      │
│ 2. Morena       │
└─────────────────┘
```

Joale mona u bonts'a lits'enyehelo tseo a keneng ho tsona ka
ho teratela lits'a tseo.

```
1.2 x 50kg x M200.00      = M400.00
1.2 x 5 kg x M120.00      = M120.00
16 x 2.4 Y poles x M23.00 = M368.00
16 x 1.8 Y poles x M14.90 = M238.40
5 x 50kg x M20.03         =  M100.15
                          M1 226.55
```

**M. NTSOELE**
**SENIOR TECHNICAL OFFICER**

The information overleaf shows the attempts LHLDC is trying to make in order to re-settle the invaders in accordance with the plan. However, the letter that comes with this proposal sounds more of a threat and the researcher speculates that this has made people more stubborn because more often than not, people do not react well to threats. The sample shows part of Phase 2 of the study area.

Our Ref:

Your Ref:

LHLDC/ADM/17/4
SHL/nm

10th JUNE, 2000

MR. ALFRED SELLO KHOELE
HA MATALA II
MASERU 100

Dear Sir,

## REQUEST FOR WATER SUPPLY CONNECTION FROM THE PROJECT

Please note that the Corporation will not be able to accommodate you within the project area unless your site is legalized, that is you will have to apply for a lease. In order to do this your site must be surveyed.

In order to initiate a survey, we will issue a request for survey instructions according to the plan of your site as approved by ourselves please remember that you will have to produce a proof of ownership.

Once the above has been done, WASA will then be authorized to connect you to the project water supply but we repeat that this can be facilitated once your site has been legalized.

Below are the estimates of the planning fees and water connection costs:

1. Water Connection = M2.30m²
2. Planning Fees = M0.50m²
3. Water Connection = M2.30m²x736m² = M1,692.80
4. Planning Fees = M0.50m²x736m² = M 368.00
   Total = M2,060.80

Yours Faithfully,


_____
S.H. LEHANA
DIRECTOR OF OPERATIONS

PROPOSED INITIAL PLOT BOUNDARIES.

PROPOSED PLOT FOR INCORPORATION.
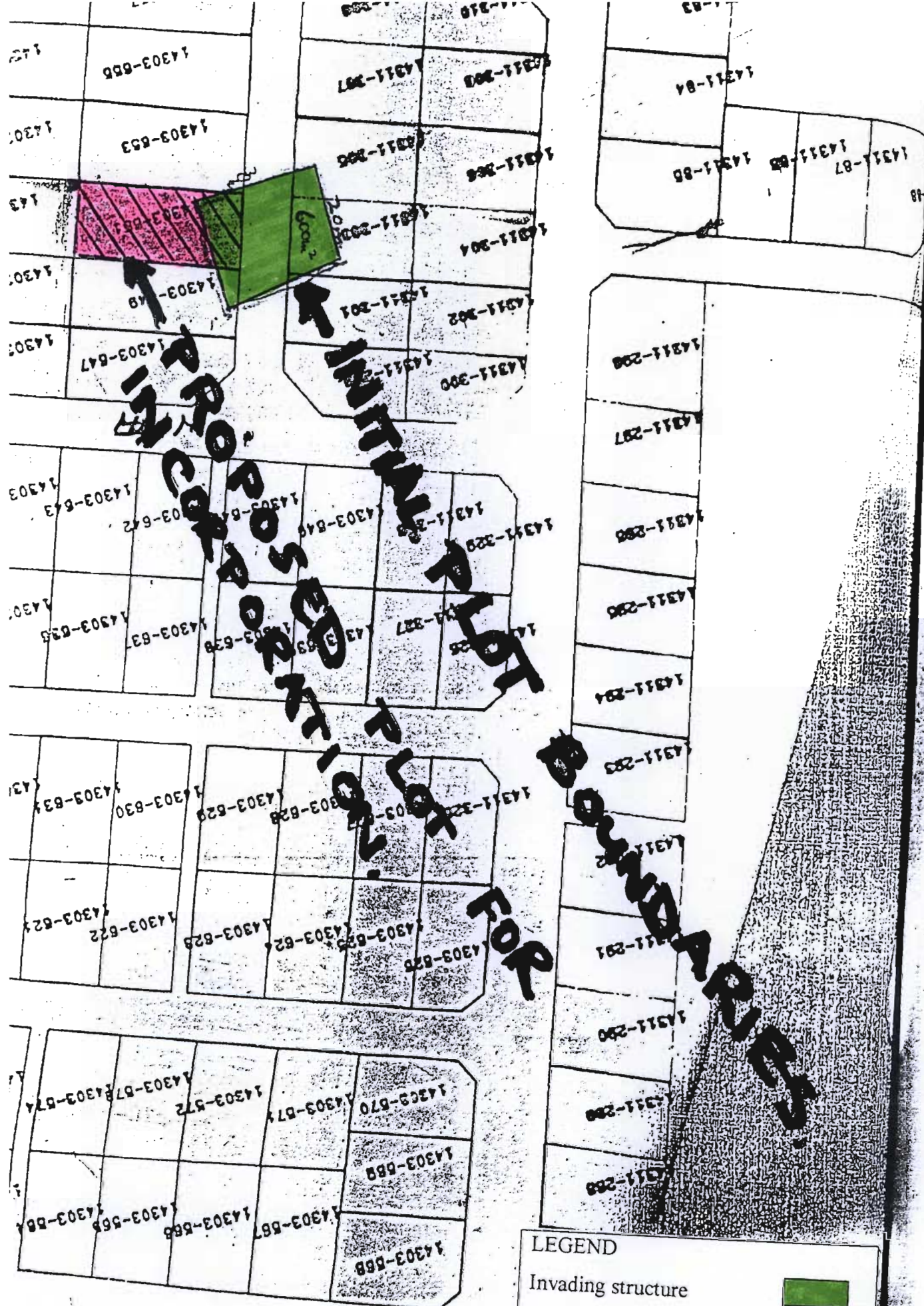
LEGEND

| | |
|---|---|
| Invading structure | |
| Proposed re-settlement | |
| Plot boundaries | 14311-651 |

MR Mokhele Motseto
MATALA II

Not to Scale

Initial Plot boundaries.
Proposed Plot for incorporate

LEGEND

Invading structure

Proposed re-settlement

Plot boundaries
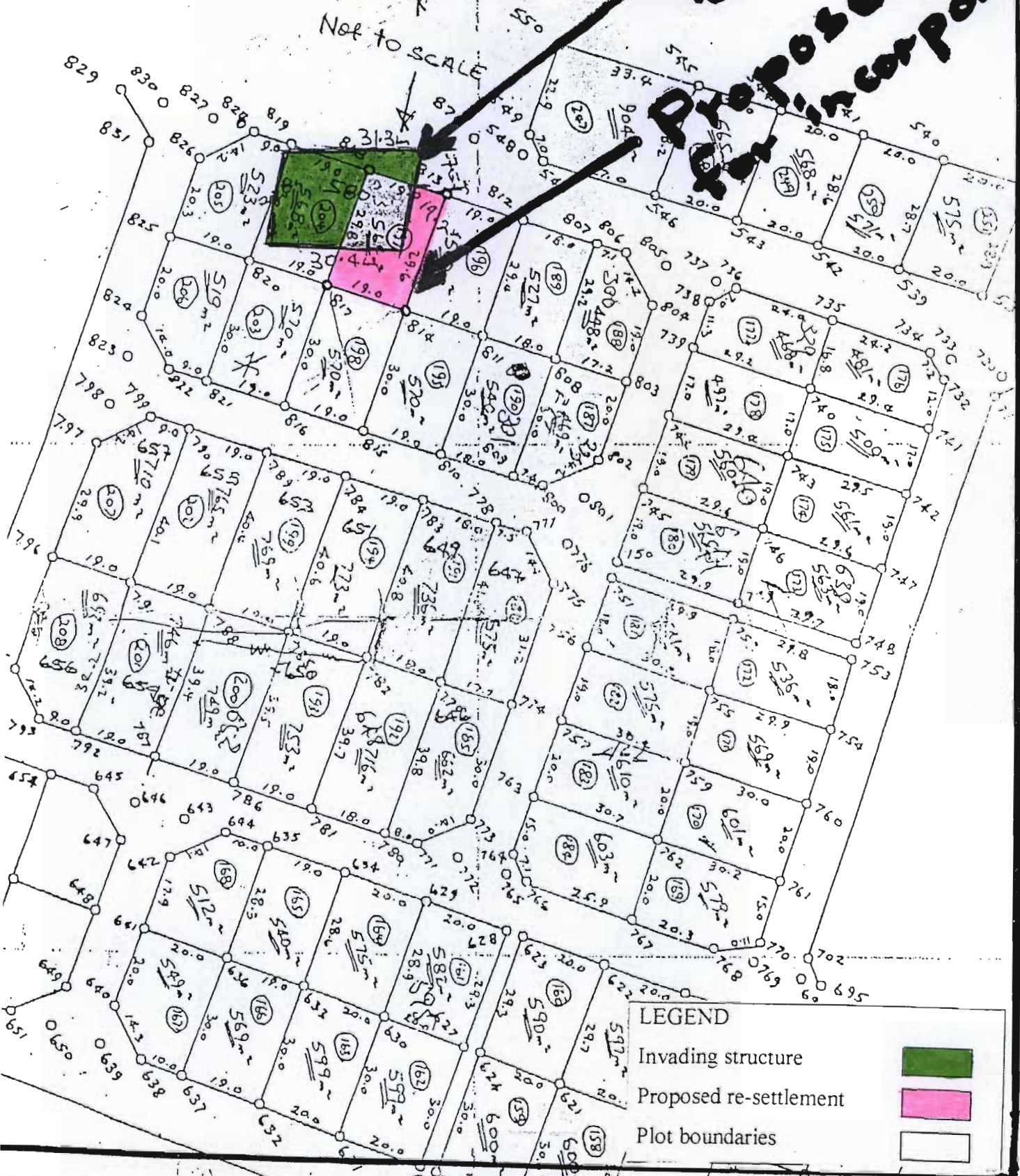
# APPENDIX

# B

THIRD SCHEDULE

(Section 17 (2) )

PART I OF CHAIRMAN'S REGISTER OF RURAL LAND ALLOCATION

| Entry No. | Date of Grant | Name of Allottee | Cert. of Alloc. No. | Descrip. of Land use | Date of entry | Sig. of Chair- man | Date of Revoc. | Date of Derog. | Descrip of Derogat and cross ref. | Date of death of Allott or expiry Alloc. | is deceased spouse in oc- cup of land | Date of death of spouse | Date of Re-Alloc. and cross ref. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | |

PART II OF CHAIRMAN'S REGISTER OF RURAL LAND ALLOCATIONS

PART II comprises signed copies of all the Certificates of Allocations which are granted by the Land Committee together with signed copies of written statements regarding revocations or derogations made by it. Written evidence of each revocation or derogation of title should be filed behind the copy of the Certificate of Allocation to which it refers.

| | |
|---|---|
| Address of grantee | of ................................................................................................................ ................................................................................................................ |

has been granted *a **lease/a licence** and evidence of this title will be issued by the Commissioner of Lands in the near future.

2 * This lease/licence will be of land known as

| | |
|---|---|
| Entry plot No. and other details | plot No. ................................................. situated in the Registration District of ...................................................... in the Town or Urban Area ................................................ .......................................... |

*3 (1) The lease will be subject to the Statutory Conditions provided in the Land Act 1979 as well as the other conditions specified in either the Notice advertising the plot or the Notice of Invitation to tender and before execution of the lease document the intended lessee will be required to pay the Commissioner of Lands the first year's ground rent (if any), any premium assessed, stamp duty and registration fees.

(2) The purpose of the lease will be ................................

.............................................................................................................

and the term of the lease will be ........................................ years.

OR

*3 The licence will be subject to the undermentioned conditions and is determinable on three months' written notice.

(i) ..................................................................................................

(ii) ..................................................................................................

(iii) ..................................................................................................

4 A copy of this certificate has been sent to the grantee.

Date stamp

............................................................................
Signature of Urban Land Committee

THIRD SCHEDULE

(Section 16)

FORM "D"

**Notice of appeal against a decision by land Committee**

(* delete where applicable)

TO:— The Chairman of the Land Committee

I ................................................................................................................

.............................................................................................................

.............................................................................................................

do HEREBY APPEAL in terms of section 16 of the Land Act 1979 against the decision of the Land Committee —

THE LAND ACT 1979

ACT NO. 17 OF 1979

Arrangement of Sections

1. Short title and commencement

2. Interpretation

Part I

**Inalienability of land and power to grant titles to land**

3. Land vested in Basotho Nation

4. Power to grant titles to land vested in the King

5. Application for grants under parts II and III

6. Persons capable of holding title to land

Part II

**Land held under allocation**

7. Application of Part II

8. Certain titles-non-registrable

9. Certain titles-registrable

10. Conversion of allocations

11. Other rural land held under a lease or licence

12. Allocating authority

13. Revocation of allocation

14. Revocation on grounds of public interest

15. Compensation in case of revocation under section 14

16. Appeals

17. Certificate of allocation and register

18. Regulations

Part III

**1. Grant of title in urban areas**

19. Application of Part III

20. Lease or licence

21. Advertising of plots

22. Invitation to tender

23. Adverse claims

24. Authority to grant title

Address of allottee | of .................................................................
has been granted **an allocation of land** which allows the allottee with effect from the date of this certificate to use or to

Enter period of years if applicable | use and occupy for ........................... years. The land known as

Describe the land
Enter situation of land | and situated at ...............................................

Approximate area | with an area of about ...........................................

Enter purpose i.e. the approved use | for the purpose of ...............................................

2 A sketch plan or map of the boundaries of this * land is/is not attached and the land's dimensions measure as follows:— .....

Attempt to measure the boundaries | 3 This allocation of land cannot be transferred, sold, given away or leased to any other person and on the death of the allottee, * his/her lawful spouse may continue to use and occupy this land until * his/her own death.

Date Stamp

Signature of Chairman

Insert name of witness | Witnessed by ................................ **Signature of member of Land Committee**
...............................................

THIRD SCHEDULE
(Sections 5(4) & 17(1) )

FORM "C2"

Certificate of allocation

(Registrable title-Rural Area)

* delete where appropriate

Name of allottee | 1 This is to certify that ...............................................

Address of allottee | of ...............................................

has been granted **an allocation of land** which allows the allottee for a period only of six months from the date of this certificate to use and to use and occupy the land known as

...............................................

and situated at ...............................................
with an area of about ...............................................

power of attorney if the company's officers are not Lesotho citizens or do not hold permits of indefinite sojourn in Lesotho —

............................................................................

............................................................................

............................................................................

5 If the applicant is a Commonwealth or Foreign Government, or is an international Organisation empowered to hold land, kindly supply the name, address and title or office of the person or representative empowered to execute deeds or documents:—

............................................................................

............................................................................

6 Purpose for which land is required and give a description of the plot as advertised with reference to the Advertisement Notice:—

(i) Land use proposed: ....................................................

(ii) Plot No: ....................................... Town of: ..................

(iii) Advertisement Notice No: ........................................

(iv) Lease or licence required: ........................................

7 Whether the applicant already holds rights to other urban land in Lesotho providing details to identify the land and the land use purposes already granted:

............................................................................

............................................................................

............................................................................

8 (i) Banker's reference is to be provided if the proposed development of the land is for commercial, industrial or housing estate purposes and the names of the applicant's bankers both in and outside Lesotho are to be given:

............................................................................

............................................................................

............................................................................

(ii) Particulars of any recommendation which may have been obtained from any Government Ministry if the land required is for commercial or industrial purposes: .................

............................................................................

............................................................................

## The Land Act 1979

[*Date of Assent :* ].

[*Date of Commencement : See Sec. 1*].

### ACT

To consolidate and amend the law relating to land thus providing for—

(a) the grant of title to land;

(b) the conversion of titles to land;

(c) the declaration of selected development areas and selected agricultural areas and titles to land therein;

(d) the setting aside of land for use for public purposes;

(e) the establishment of a Land Tribunal;

(f) the grant of public servitudes,

and for connected purposes.

Enacted by the Assembly —

1. This Act may be cited as the Land Act 1979 and shall come into operation on a date to be appointed by the Minister by notice in the Gazette. *Short title and commencement*

2. In this Act —  *Interpretation*

"agriculture" means the use of land exclusively or mainly for agriculture, whether as arable, pasture, grazing, orchard or seed growing, or for fish farming, forestry (including afforestation), or for the breeding or keeping of livestock including any creature kept for the production of food, wool, silk, skins or fur;

"allottee" means a person other than the holder of a lease or licence to whom an allocation of land is made under this Act;

"Chief" has the meaning assigned to it in the Chieftainship Act 1968; *A. 22 of 1968*

"Commissioner" means the Commissioner of Lands;

"Jurisdiction" means jurisdiction over the area in which the land, the subject of a grant of title made under this Act, is situated;

"Land Committee" means a land committee in a rural area established by regulations under section 18 and until such regulations are made means a Development Committee established for a Chief or Principal Chief under the Land Regulations 1974; *L.N. 9 of 1974*

5  I further understand I cannot transfer or sell this allocation to any person and that the Land Committee who granted this allocation retains the traditional right to revoke all or part of this allocation including the right to derogate or lessen my rights of use and occupation.

Date .............................................................

.............................................................
Signature of applicant or
Thumb print of applicant

Note:— If the applicant cannot write his name or fill in this form, some other person may do so  making sure that the applicant's right or left thumb print is affixed to this application.

6                    Certificate

I hereby certify that the applicant appears to
* understand the contents of Form A and he/she as named on this
* application has affixed his/her left/right thumb print as required.

Date: .............................................................

.............................................................
Signature of person who witnessed the
affixing of the thumb print.

THIRD SCHEDULE

(Section 5)

FORM "B"

**Application for a grant of a lease or licence**

(Delete any part of this form which does not apply)

Note:— If this application refers to land in:—

(i)  **an urban area**, it should be addressed to the Secretary, Urban Land  Committee, c/o — The  Town Clerk/The District Administrator of  the urban area of town concerned;

(ii)  **a selected development area**, it should be addressed to the Commissioner of Lands, P.O. Box 876, Maseru 100.

(iii)  **a selected agricultural area**, it should  be addressed to the Minister of Interior, P.O. Box 174 Maseru 100.

"Registrar" means the Registrar of Deeds and

"registration" means registration in the Deeds Registry;

"revocation" means the revocation of, or derogation from, an allocation made under Part II;

"rural area" means an area which is not an urban area, a selected development area  or a selected agricultural area;

"selected agricultural area" means an area set aside under section 50 for the development of agriculture by modern farming techniques;

"selected development area" means an area set aside under section 44 for —

(a)  development or reconstruction of existing built-up areas;

(b)  construction or  development of  new residential, commercial or industrial areas;

(c)  readjustment of boundaries  for the purposes of town planning;

"servitude" means a right attached to a parcel of land which is the subject of a lease either to use other land in a particular manner or to restrict its use to a particular extent;

"statutory conditions" in relation to a lease means the statutory conditions listed in the First Schedule;  First Schedule

"title" means an allocation of land under this Act or, where a lease or licence is granted or issued under this Act, such lease or licence, and in relation to rights in land existing at the commencement of this Act, means an allocation made by the proper authority or the transfer of an allocation consented to by the proper authority;

"Tribunal" means the Land Tribunal established under section 64;

"urban area" means an area specified in the Second Schedule as defined by the Minister under section 19;  Second Schedule

"Urban Land Committee" in relation to land in an urban area means the committee established for that urban area in accordance with section 24.

## PART I

### Inalienability of land and power to grant titles to land

3.  (1)  Land in Lesotho is vested absolutely and irrevocably in the Basotho Nation and is held by the State, as representative of the Nation.  Land vested in Basotho Nation

(2)  As a corollary to the principle stated in subsection (1) no person, other than the State, shall hold any title to land except as provided for under customary law or under this Act.

| | | |
|---|---|---|
| Nuisance | 12 | No act, matter or thing, whatever, shall be done or permitted to be done upon the land or any part of such land which may cause or lead to pollution of the environment or result in the creation of any hazard to the health of other persons, or become a nuisance or annoyance to or damage or in any way interfere with the peace and comfort of adjoining lessees or the occupiers of adjoining or other lands in the neighbourhood. |
| Subdivide | 13 | The lessee shall not subdivide, sublease or otherwise part with the possession of the land comprised in the lease or any part thereof without the written approval of the Minister first had and obtained. |
| Rent | 14 | A lessee shall unless exempted therefrom under section 69(2), pay a prescribed annual ground rent in advance not later than the thirty first day of March in each year provided that on execution of the lease, the lessee shall pay any ground rent due for the period ending thirty first day of March which shall be calculated as follows — |

    (i) where the lease begins to subsist on any day in the month of April in any calender year, one whole year's rent;

    (ii) in any other case, one whole year's rent less one-twelfth thereof for each complete month of that rental year that has elapsed prior to the date of the grant.

| | | |
|---|---|---|
| Rent revision | 15 | Annual ground rent reserved in the lease shall be subject to revision every ten years of the term of the lease and consequent upon any revision, the amount shall be fair and reasonable having regard to general values and no account shall be taken of any improvements made by the lessee to or on the land subsequent to the date of such revision. |
| Renewal | 16 | Upon application by the lessee made not later than six months before expiry of the term of the lease, the lessee shall be entitled to the grant of a new lease of the land on terms set by the Minister provided the land or part thereof is not required for any public purpose. |

### SECOND SCHEDULE
#### (Section 2)

The urban areas of —

1 Maseru
2 Maseru International Airport
3 Butha-Buthe
4 Leribe (Hlotse)
5 Maputsoe
6 Peka
7 Teyateyaneng
8 Roma
9 Morija
10 Mafeteng

Lesotho of which a majority share holding is held by non-citizens of Lesotho, but only in relation to land held by such company at the commencement of this Act;

    (e) a corporation established under Lesotho law;

    (f) a partnership of which the majority of the partners are citizens of Lesotho;

    (g) cooperative societies, friendly societies and any society or body of persons, other than a company or partnership, registered under the Societies Act 1966;   A. 20 of 1966

    (h) subject to the approval of the Minister, commonwealth or foreign governments or public international organisations for purposes relevant to activities approved by the Government of Lesotho or to their missions in Lesotho.

(2) Subsection (1) shall not be construed as prohibiting any person disqualified under it from holding any right subsidiary to a lease, including a sub-lease or mortgage, subject to the consent of the Minister being obtained where so required under this Act.

### PART II

#### Land held under allocation

7. This Part applies only to land in rural areas.   Application Part II

8. (1) Subject to subsection (2) and section 11, a grant of title under this Part, if made in respect of land which is not the subject of a registrable title, shall not be transferable and shall, subject to the conditions laid down in the allocation and to the power of revocation, entitle the allottee to use or to use and occupy the land for the purpose stated in the allocation for a period which —   Certain titles non-registrable

    (a) in the case of a body corporate or unincorporate may be a limited or indefinite period;

    (b) in the case of an individual, may be a limited period or his lifetime but shall not endure beyond his lifetime.

(2) Notwithstanding subsection (1) where an allottee of land referred therein dies, the chairman of the Land Committee having jurisdiction shall record in his register the passing of the intrest in the land of the deceased allottee to —

    (a) the first male issue of the deceased allottee (who shall share with his junior brothers in accordance with the advice of the family) unless the deceased allottee had designated otherwise;

    (b) where paragraph (a) does not apply, the person nominated as the heir of the deceased allottee by the surviving members of the deceased allottee's family; or

(d) deleting in subsection (6) the word "any and substituting therefor the words "Save as is otherwise provided in the Land Act 1979 or any other law, every";

**Amendment of section 2 of Proclamation 51 of 1957**

95. Section 2 of the Insolvency Proclamation 1957 is hereby amended by deleting the definition of "immovable property" and substituting the following therefor —

"immovable property" shall have the meaning ascribed thereto in the Deeds Registry Act 1967.

**Amendment of section 2 of Proclamation 19 of 1935**

96. Section 2 of the Administration of Estates Proclamation 1935 is hereby amended by deleting the definition of "immovable property" and substituting the following therefor —

"immovable property" shall have the meaning ascribed thereto in the Deeds Registry Act 1967.

**Construal of Existing By-Laws and Regulations**

97. Any existing regulation or by-law shall, from the coming into operation of this Act, be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the provisions of this Act and any regulation made hereunder.

**Repeals A. 20 of 1973 A. 16 of 1973**

98. The Land Act 1973 and the Administration of Lands Act 1973 are repealed.

**Savings**

99. (1) The Land Regulations 1974, excepting regulation 4 which is repealed, shall continue to have effect until revoked or superseded by regulations under this Act.

**L. N. 9 of 74**

(2) Development Committees established under the Land Regulations 1974 shall, notwithstanding that the period for which the members thereof have been appointed may have expired, continue to function until such time as the Minister revokes the members' appointments.

## FIRST SCHEDULE

### (SECTION 2)

### Statutory Conditions for Leases other than

### Agricultural Leases

**Fencing**

1 Unless the Minister directs otherwise, the lessee shall, within six months of the date of the grant, fence the boundaries of the land and the lessee shall maintain the fence to the satisfaction of the Minister.

**Site plan**

2 Until enactment of a town and country planning law and its application to the land under lease, the lessee prior to the development of the land, shall submit to the Minister for his approval a site plan together with the plans of any proposed buildings, structures and other forms of land development.

cordance with the directions.

(3) A Land Committee shall not exercise its power of granting title to land for commercial or industrial purposes unless it shall have first referred the application to the Minister who shall forthwith seek the advice of the Minister for Commerce and Industry.

(4) The Minister for Commerce and Industry shall forward his advice to the Minister with the minimum delay and, in any case, not later than six weeks after the date on which his advice was sought by the Minister.

(5) A grant made in contravention of subsection (2) or (3) shall be of no effect.

13. (1) The power to revoke an allocation shall apply only **Revocation** in respect of land which is not the subject of a registrable title **of** and shall be exercised by the Land Committee for the area of **allocation** jurisdiction, under the chairmanship of the Chief having jurisdiction or such other Land Committee as the Minister may establish under section 18.

(2) Before exercising its power under subsection (1) the Committee shall, through its chairman, give at least 30 days' written notice to the person affected thereby of its intention to do so.

(3) The notice referred to under subsection (2) shall set out clearly the grounds upon which the allocation is to be revoked.

(4) The notice shall be deemed to have been given if served in accordance with section 86.

14. (1) Where it is necessary in the public interest to set **Revocation** aside for public purposes allocated land which is not the subject **on grounds** of a registrable title, the Minister, after consultation with the **of public** Principal Chief having jurisdiction and upon obtaining the King's **interest** assent, shall by notice in the Gazette, declare the land to be so required.

(2) The Commissioner shall, upon publication of a declaration notice issued under subsection (1), forthwith send a copy thereof to the chairman of the Land Committee having jurisdiction, and the chairman shall thereupon cancel the allocation made in respect of the land subject to the notice and shall serve a revocation notice upon the allottee in the manner prescribed in section 86 requesting him to vacate the land by a date not later than six months from the date of publication of the declaration notice.

(3) Notwithstanding any default on the part of the chairman in complying with subsection (2) or any irregularity in the service of the revocation notice any allocation made in respect of the land subject to the declaration notice issued under subsection (1) shall be deemed to have been revoked as from the date of the declaration notice, and the allottee shall vacate the land by a date not later than six months from the date of publication of the declaration notice.

by this Act is guilty of an offence and liable to the penalties prescribed under subsection (1)

89. The Minister may make regulations for any one or more of the following purposes —

(a) prescribing the manner in which leases and licences are to be executed by or on behalf of the State;

(b) providing for the conditions under which agricultural leases may be granted;

(c) prescribing the size of plots which may be held by any person or for any specific purpose, the number of plots which may be held by any one person;

(d) prescribing the circumstances and conditions under which the Minister may withhold consent to transactions requiring his consent under section 36;

(e) providing for the conditions under which the Minister for Commerce and Industry shall make recommendations when so required under this Act;

(f) prescribing the conditions and circumstances under which the disqualifications imposed upon companies and partnerships under section 6 may be waived;

(g) defining the use purposes of land;

(h) providing for the procedure and quorum at meetings of Urban Land Committees and expenses and allowances payable to its members;

(i) in respect of ground rents and licence fees and the calculation thereof, and the circumstances under which personal levies may be attached to ground rents payable by particular lessees;

(j) the terms and conditions under which rent-free leases under section 69(2) shall be enjoyed;

(k) prescribing the method of assessing the value of improvements made for purposes of payment of compensation;

(l) laying down the considerations which would justify waiving the tender procedure in the case of multiple applications;

(m) laying down the circumstances and conditions under which tenders, whether the highest or otherwise, may be rejected;

(n) the prevention of speculative dealings in land;

(o) generally for the better carrying into effect of this Act.

90. The Minister may, by order, amend the Schedules.

(a) prescribing the allocation which may be made and the persons to whom they may be made, the grounds on which and the circumstances in which they may or shall be made or revoked and generally regulating the principles according to which and the manner in which the Land Committee shall exercise its powers under this Part;

(b) specifying the grounds on which and the circumstances in which the Minister shall give direction under section 12 (2);

(c) establishing Land Committees and providing for their composition, seniority, meetings, procedure and quorum;

(d) regulating the conduct of meetings in the event of a chief as chairman ex officio failing, for no good cause, to attend a properly convened meeting of a Land Committee;

(e) generally carrying into effect the purposes of this Part.

## PART III

### 1. Grant of title to land in urban areas

19. (1) This Part applies to the grant of title to land in an urban area.

(2) The Minister shall, by notice in the Gazette, define the boundaries of each of the urban areas listed in the Second Schedule.

20. A grant of title to land under this Part shall entitle the grantee to hold a lease or licence.

21. (1) Subject to section 22, where land is available for a grant of title, the Commissioner shall publicize the fact by notice in the Gazette and in a national newspaper.

(2) The advertisement notice shall —

(a) state whether the land is available for lease or licence;

(b) contain a sufficient description of the land to enable its identification;

(c) give particulars of the permitted land use, the ground rent or fee payable, where appropriate, and of the amount to be paid for the improvements (if any) made to the land;

(d) invite members of the public to lodge applications with the secretary of the Urban Land Committee by a specified date.

22. (1) Notwithstanding section 21, where the land available for grant of title is to be used for commercial or industrial

## PART XII

### Miscellaneous Provisions

Application of other laws

80. Notwithstanding the provisions of any other law and for the avoidance of doubt sections 14 and 15 and Parts VI and IX shall apply to the exclusion of any other law.

No registration except at instance of Commissioner

81. Notwithstanding any other law the Registrar shall not register any title granted under this Act except upon the application of the Commissioner.

Priority of dual allocations

82. Where at the commencement of this Act any land or part thereof has, whether by error or otherwise, been the subject of two or more allocations, the allottee who has used the land and made improvements thereon shall hold title to the land in preference to any allottee who left the land unused and undeveloped.

Subsidiary rights in State land

83. (1) Where, at the commencement of this Act, a person holds the right to use or occupy State land in any area and this right is derived from the State otherwise than by title, such right may be converted into a lease or licence at the discretion of the Minister.

(2) In exercising his discretion under subsection (1) the Minister shall have regard to the remaining duration of the person's right, the predominant use of the land and the nature of that use.

Transitional provisions for disqualified holders' land rights

84. (1) Any person who:—

(a) at the commencement of this Act held a title to land but is by reason of section 6 disqualified from so doing;

(b) by reason of loss of citizenship or otherwise ceases to be qualified to hold title to land,

shall continue to hold the same for a period of 12 months, and may during that period and with the consent of Minister cede his rights to a person qualified under section 6.

(2) A person who fails to become qualified or to cede his rights within the period of 12 months mentioned in subsection (1) shall, unless his title has been earlier terminated, be entitled to receive the value of all improvements lawfully made on the land upon the expiry of the 12 months' period and the then consequent reversion of his interest in the land to the State.

Old titles

85. (1) Any grant of title of land under Part II made contrary to the provisions of that Part shall be of no effect.

(2) Any disposal of property contrary to the provisions of this Act shall be of no effect.

(3) Any transaction requiring the consent of the Minister shall, where such consent has been given contrary to the provisions of this Act, be of no effect.

Land for commercial or industrial purposes

25. (1) Where in response to an advertisement notice issued under section 21(1) an application is lodged for a grant of title to land for commercial or industrial purposes, the Urban Land Committee shall not exercise its powers under section 24(1) unless it first refers the application to the Minister who shall forthwith seek the advice of the Minister responsible for Commerce and Industry.

(2) The Minister for Commerce and Industry shall forward his advice to the Minister with the minimum delay and, in any case, not later than six weeks after the date on which his advice was sought by the Minister.

(3) Where the Minister objects to the application, the tender procedure laid down in section 26 shall be followed.

Competition between applicants

26. (1) Where, in response to an advertisement notice issued under section 21, there is more than one application in respect of any available land and there are no grounds or considerations for deciding in favour of any one applicant, the Urban Land Committee shall call for tenders.

(2) The secretary of the Committee shall cause tender notices to be published in the Gazette and in a national newspaper inviting tenders to be lodged with him.

(3) As soon as practicable after the specified date referred to in an invitation to tender notice, the Urban Land Committee shall consider the tenders.

(4) Where tenders relate to the grant of title to land for commercial or industrial purposes no decision shall be taken except after referral of the application to the Minister in accordance with section 25.

(5) Subject to any regulation relating thereto the Urban Land Committee shall not be bound to accept the highest or any tender.

Notice of decisions

Form "C3" Third Schedule

27. (1) Whenever a decision to grant title to land under this Part has been taken, the secretary of the Urban Land Committee shall forward to the Commissioner a certificate to that effect in Form "C3" in the Third Schedule and shall at the same time issue a copy of the certificate to the applicant.

(2) The Commissioner shall cause notice of all grants made by an Urban Land Committee to be published in the Gazette and in a national newspaper, and such notice shall, whether by reference to the advertisement notice issued under section 21 or to the invitation to tender notice issued under section 22 or otherwise, contain a description of the land in respect of which the grants were made.

(3) The Commissioner shall upon receiving the certificate referred to in subsection (1) cause a document of lease or licence, as the case may be, to be prepared for execution.

(3)  Where the exercise of a public servitude over land subject to a lease interferes substantially with the enjoyment of the land, the lessee shall have the right, in lieu of any compensation which he may claim under subsection (1), to request the Minister that the whole of the land leased be set aside for public purposes pursuant to section 54.

## PART X

### Duties of Commissioner of Lands

Application of Part X

74.  Save as otherwise provided, this Part applies to land under Part II which is the subject of a registrable title and to all land within urban area, selected development areas and selected agricultural areas.

Duties of Commissioner

75.  (1) The Commissioner shall keep comprehensive records of all land to which this Part applies.

(2)  The Commissioner shall cause to be prepared —

(a)  all leases and licences;

(b)  written consents required of the Minister under section 36;

(c)  deeds of transmission where a sub-lessee or mortgagee succeeds to a lease in accordance with section 42;

(d)  annexures or deeds of variation of leases pursuant to section 41;

(e)  public servitudes,

and shall retain in his custody copies of the documents listed in paragraphs (a) to (e) and of servitudes executed by him under section 37(4).

(3)  All documents prepared by the Commissioner under subsection (2) shall, unless otherwise prescribed, be executed by him.

(4)  The Commissioner shall cause all documents referred to in paragraphs (a) to (e) of subsection (2) and requiring registration to be registered.

(5)  Upon execution of any document referred to in paragraphs (a) to (e) of subsection (2) the Commissioner shall collect from the grantee or transferee all duties which may be payable

5. OF 1972
7 of 1966

under the Stamp Duties Order 1972, the Transfer Duty Act 1966 (in the case of a deed of transmission referred to in subsection (1) (c) ), and any registration fees.

12 of 1967

(6)  Notwithstanding sections 13 and 48 of the Deeds Registry Act 1967, all documents prepared by the Commissioner and in respect of which all duties and fees have been collected by him pursuant to subsection (5) shall, upon being submitted by the Commissioner for registration, be registered by the Registrar.

(7)  All dealings in interests in land by or on behalf of the State shall be transacted through the Commissioner, and all documents relating to such dealings shall, subject to any directions from the Minister, be executed by him.

(3)  Leases issued under this section shall take effect from the date of issue except as regard the period of duration of the lease which shall be deemed to have commenced on the commencement of this Act.

Issue of a lease document in a given urban area

30.  (1) Whenever facilities exist in any area for the issue of leases or licences created under section 28, the Commissioner shall cause a notice to that effect to be published in the Gazette and thereupon every person in that area to whom section 28 applies shall, within six months from the date of publication of the notice, apply for the issue of a lease or licence.

(2)  The Commissioner may, of his own motion, or for good cause shown by an applicant, extend the period of time during which an application is to be made under subsection (1).

Issue of lease document in particular cases

31.  The Commissioner may, by notice in writing, invite any person to whom section 28 applies to apply for the issue of a lease or licence within a time specified in the notice.

Consequence of failure to apply

32.  (1) Where a person to whom sections 30 or 31 applies, fails without reasonable cause to comply with the section within the time allowed therein, he shall forfeit his title to the land.

(2)  For the purposes of subsection (1) absence from Lesotho during the period of time allowed for an application shall be deemed to be reasonable cause.

(3)  A person to whom section 28(1) applies whose title is forfeited pursuant to subsection (1) shall be entitled to receive the value, as assessed by a Government valuer, of improvements lawfully made by him on the land subject to forfeiture.

Publication of applications and adverse claims

33.  (1) The Commissioner shall cause to be published in a national newspaper notice of applications for leases and licences under sections 29, 30 and 31 which notice shall give the names of the applicants and an adequate description of the land to which the applications relate.

(2)  Section 23 shall apply to an adverse claim of title to land affected by notice under subsection (1).

## PART IV

### Leases and licences

Application

34.  Save as otherwise provided, this Part applies to all leases and licences.

Rights of lessee

35.  (1) A lessee shall be entitled —

(a)  subject to any statutory conditions or other conditions attaching to the lease, to the exclusive possession of the land leased;

(b)  subject to obtaining the consent of the Minister —

(i)  to dispose of his interest;

(ii)  to encumber the land leased by mortgage;

(iii)  to sub-let the land leased.

(2) The Minister shall by notice in the **Gazette** appoint —

(a) after consultation with the Chief Justice, a chairman who shall be a judge of the High Court or a resident magistrate;

(b) an assessor, who shall be a Principal Chief or an alternate Principal Chief nominated by the Minister so that when the Principal Chief has an interest in the matter before the Tribunal, the alternate shall act in his place;

(c) an assessor who shall be a person holding a degree or professional qualification in law or land economics.

**Clerk of Tribunal**

65. There shall be a clerk of the Tribunal who shall be the Registrar, or Assistant Registrar, of the High Court who ordinarily assists the judge appointed as chairman, or where the chairman is a resident magistrate the clerk to that magistrate.

**Procedure of Tribunal**

66. The Chief Justice may make rules governing the procedure of the Tribunal.

**Appeals**

67. (1) Except where otherwise expressly provided any party aggrieved by a decision of the Tribunal may appeal to the High Court.

(2) The rules governing appeals to the High Court from a Subordinate Court apply to appeals from the Tribunal.

(3) Nothing in subsection (1) shall preclude a party from applying to the High Court for relief where a decision of the Tribunal, though expressed as final, has been reached in breach of the principles of natural justice.

**High Court retain jurisdiction**

68. Nothing in this Act shall be construed as ousting the jurisdiction of the High Court with regard to any matter or dispute which does not fall within the competence of the Tribunal.

## PART VIII

### Land revenue

**Ground rent and development charges**

69. (1) There shall be payable in respect of leases, unless the lessee is exempted under subsection (2), such ground rent as the Minister may prescribe.

(2) A citizen of Lesotho who is a Mosotho (and the decision on racial qualification shall, subject to any regulations under section 89, rest with the Minister) and who has attained the age of majority, shall be entitled to the lease free of ground rent of the land which he leases and occupies for his own residential use.

(3) The Minister, in consultation with the Minister responsible for Works, may prescribe development charges (being charges for the construction and the provision of services including roads, foot-paths, main drainage, street lighting and any other charges which are not prescribed under any other law) which shall be calculated in relation to the area of land held by the lessee.

(4) The instrument creating the servitude shall be prepared at the instance of the lessee in whose favour the servitude is created but shall be executed by the Commissioner on behalf of the Minister and a copy thereof shall be retained by the Commissioner.

**Rights of licensee**

38. (1) A licence shall entitle the licensee to use or to use and occupy land for the purpose and under conditions specified in the licence and shall be subject to termination on three months' notice.

(2) A licensee shall not be entitled to —

(a) dispose of his interest;

(b) create lesser interests in or over, or burden, the land subject to the licence;

(c) make alterations and improvements on the land subject to the licence except where otherwise expressly specified in the licence;

(d) claim any compensation for any alterations and improvements made or for any expenses incurred by him on the land.

**A. 12. 1967**

(3) Licences shall not require registration under the Deeds Registry Act 1967.

**Terms of leases**

39. (1) A lease shall not be granted for a term exceeding—

(a) 90 years, where the lease is —

(i) for residential purposes;

(ii) for purposes of exercising a profession or calling;

(iii) for any devotional, religious, benevolent, educational, recreational, charitable and medical purposes;

(b) 60 years, where the lease is —

(i) for heavy industrial purposes;

(ii) for commercial or light industrial purposes (other than the sale of petroleum by retail);

(iii) for hotel purposes;

(c) 30 years, where the lease is

(i) for purposes of sales of petroleum or oil;

(ii) for purposes of wholesale storage of petroleum or oil;

(2) No lease shall be granted for a term of less than 10 years.

**Statutory conditions First Schedule**

40. (1) Subject to subsection (2) every lease other than an agricultural lease and a lease issued under section 61(1) shall be deemed to include the statutory conditions laid down in the First Schedule

(d) the date on which the land shall be surrendered by the person in occupation;

(e) an assessment of the amount of compensation offered and the method used for assessing such amount,

and shall invite any person having any claim in the land to submit his claim to the Minister.

(3) On publication in the **Gazette** of the declaration notice, interests in or affecting the land to which the notice relates shall cease to subsist, the lessee's interest in the land shall revert to the State, and the Registrar shall cancel the registration of all deeds evidencing those interests.

(4) Notwithstanding subsection (3) the lessee, or lawful occupier, of the land subject to a declaration notice may remain in occupation of the land for a period not exceeding six months from the date of publication in the **Gazette** of the declaration notice.

55. Prior to the publication in the **Gazette** of the declaration notice the Minister shall cause a copy of the notice to be served upon any person known to be in occupation of, or to have an interest in, the land, in the manner indicated in section 86.

56. (1) Any person who claims to have an interest which, by reason of section 54(3) ceases to subsist may, within three months from the date of publication of the declaration notice, claim compensation from the Minister.

(2) In assessing compensation, regard shall be had only —

(a) to the value which the property might have been expected to realise if it had been sold on the open market by a willing seller at the time of publication of the declaration notice;

(b) to the expenses incidental to any necessary change of residence or of place of business.

(3) Where the Minister and the claimant fail to agree on the amount of compensation, or where the Minister has failed to make any award within six months after the submission of the claim, the claimant may pursue his claim before the Tribunal.

(4) The Minister may extend the time within which a claim is to be made under subsection (1).

57. Where upon submission of a claim under section 56(1). the Minister has made an offer, and no appeal is made by the claimant to the Tribunal within three months from the date of the offer, the offer shall be deemed to have been accepted.

58. Where conflicting claims are submitted to the Minister pursuant to section 56(1) the Minister shall, within one month from the last day of the period prescribed in section 56(1) refer the case to the Tribunal.

shall cause the same to be registered and the original lease to be endorsed as "transmitted by operation of law" by the Registrar.

(6) Where no purchaser or sublessee succeeds to the lease and the lease is accordingly terminated, the lessee's interest in the land shall revert to the State.

(7) Subject to any claim by a mortgagee, the lessee whose lease is terminated under this section shall be entitled to receive the value, as assessed by a Government valuer, of improvements lawfully made by him on the land leased.

(8) Where there is a dispute regarding the value of improvements made, such dispute shall be determined by the Tribunal whose decision shall be final.

43. A licence may be terminated by the Commissioner serving upon the licensee at least three month's notice of termination.

## PART V

### Selected development and selected agricultural areas

44. Where it appears to the Minister in the public interest so to do for purposes of selected development, the Minister may, by notice in the **Gazette** declare any area of land to be a selected development area and, thereupon, all titles to land within the area shall be extinguished but substitute rights may be granted as provided under this Part.

45. (1) Where the selected development area consists wholly or partly of agricultural land other than land within a selected agricultural area, licensees or allottees of such agricultural land shall be deemed to have received three months' notice of termination of their licences or of revocation of their allocations, as the case may be, beginning from the date of publication in the **Gazette** of the notice referred to in section 44.

(2) Where the selected development area consists wholly or partly of agricultural land within a selected agricultural area, lessees of such land shall be deemed to have received three months' notice of termination of their leases as in subsection (1) and shall be entitled to compensation for any loss incurred through being deprived of their land.

46. (1) Subject to subsection (2) and to section 47, where the selected development area consists wholly or partly of land used for purposes other than agriculture, lessees and allottees of such land shall be entitled to be offered in exchange by the Minister leases within the selected development area, for the same purposes as those for which they previously held the land, of the same plot with or without amendment of the original boundaries thereof, if this is consistent with the development scheme, or of any other plot.

(2) Where the development scheme is such as not to permit the grant of a lease for the purpose for which the lessee or allottee formerly held the land, the lessee or allottee shall have the option either of accepting a plot for any one of purposes of the develop-

# APPENDIX

# C

Title: Partial Land Invasion on Serviced Land

## For Mr. M. Ntsoele, Senior Technical Officer at LHLDC

I am doing a research on partial land invasion that took place in Ha Matala area, on a completed and serviced layout plan that was prepared and implemented by LHLDC. I would like you to assist me by answering questions prepared for this study. The questionnaire is divided into 2 sections and I will start with section 1.

## Section 1

Firstly, could I question you about your views on this matter and your role in the development scheme?

1. Why do you think there was land invasion in Ha Matala?

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2. When it occurred, what steps did the Corporation take?

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3. Why is it that the invasion never ceased?

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4. What was your role in the Ha Matala development scheme?

## Section 2

We are on section 2

5. Here are five different scenarios of action, each one has a series of social, economical, political and technical implications, could you go through each one with me and identify different implications.

   i.     Relocate/remove invaders completely in order to restore the original scheme.
   ii.    Relocate those on public space, upgrade areas on site; and return to intentions of the plan.
   iii.   Abandon invaded areas, and redesign the balance to find sites for public facilities.
   iv.    Temporarily relocate invaders in orders in order restore the plan.
   v.     Redesign affected areas and accommodate the informal settlement

**Section 3**

I would now like to ask more general questions concerning LHLDC

1. How do you relate with other planning bodies?
2. What is your procedure of land acquisition, plan preparation and implementation and land allocation?
3. What delivery system do you prefer and why?

| Alternative | Social implications | Economic implications | Political implications | Technical implications |
|---|---|---|---|---|
| i. | | | | |
| ii. | | | | |
| iii. | | | | |
| vi. | | | | |
| v. | | | | |

3. Of the five scenarios, which one would you support and why?

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4. Do you have any other suggestions or combination?

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Title: Partial Land Invasion on Serviced Land

**For Mr. M. Tlali, Planning Development and Construction Manager at LHLDC**

I am doing a research on partial land invasion that took place in Ha Matala area, on a completed and serviced layout plan that was prepared and implemented by LHLDC. I would like you to assist me by answering questions prepared for this study. The questionnaire is divided into 3 sections and I will start with section 1.

**Section 1**

Firstly, could I question you about your views on this matter and your role in the development scheme?

1. Why do you think there was land invasion in Ha Matala?
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2. When it occurred, what did the Corporation do?
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3. Why is it that the invasion never ceased?
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4. What was the intention of Ha Matala Development Scheme?
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5. What and whatnot did you achieve in this scheme?
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6. What was your role in the Ha Matala development scheme?

**Section 2**

Now lets move into section 2

**Section 2**

Here are five solution strategies, each one has a series of social, economical, political and technical challenges, could you go through each one with me and identify the implications of implementing these strategies.

    i.      Relocate/remove invaders completely in order to restore the original scheme.

    ii.     Relocate those on public space, upgrade areas on site; and return to intentions of the plan.

    iii.    Abandon invaded areas, and find sites for public facilities.

    iv.    Temporarily relocate invaders in orders in order restore the plan.

    v.     Redesign the area and accommodate the informal settlement

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3. Of the five scenarios, which one would you support and why?
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4. Do you have any other suggestions or combination?
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Title: Partial Land Invasion on Serviced Land

**For Mrs. M. Molapo, The Managing Director at LHLDC**

I am doing a research on partial land invasion that took place in Ha Matala area, on a completed and serviced layout plan that was prepared and implemented by LHLDC. I would like you to assist me by answering questions prepared for this study. The questionnaire is divided into 3 sections and I will start with section 1.

**Section 1**

Firstly, could I question you about your views on this matter and your role in the development scheme?

1. Why was there land invasion in Ha Matala?
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2. When invasion occurred, what steps did the Corporation take?
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    iii.    Abandon invaded areas, and find sites for public facilities.

    iv.    Temporarily relocate invaders in orders in order restore the plan.

     v.    Redesign the area and accommodate the informal settlement

**Section 3**

I would now like to ask more general questions concerning LHLDC

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4. Do you have any other suggestions or combination?
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Title: Partial Land Invasion on Serviced Land

**For Mrs. S. Kaka, The Chief Lands Officer at LSPP**

I am doing a research on partial land invasion that took place in Ha Matala area, on a completed and serviced layout plan that was prepared and implemented by LHLDC. I would like you to assist me by answering questions prepared for this study. The questionnaire is divided into 3 sections and I will start with section 1.

**Section 1**

Firstly, could I question you about your views on this matter and your role in the development scheme?

1. How familiar are you with the 1990 Ha Matala Development Scheme?
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2. What do you know about land invasion that occurred there?
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3. What was role in the scheme?

**Section 2**

Now lets move into section 2

Here are five different scenarios of action, each one has a series of social, economical, political and technical implications, could you go through each one with me and identify different implications.

   i.   Relocate/remove invaders completely in order to restore the original scheme.
   ii.   Relocate those on public space, upgrade areas on site; and return to intentions of the plan.
   iii.   Abandon invaded areas, and redesign the balance to find sites for public facilities.
   iv.   Temporarily relocate invaders in orders in order restore the plan.
   v.   Redesign affected areas and accommodate the informal settlement

**Section 2**

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     i.       Relocate/remove invaders completely in order to restore the original scheme.

    ii.       Relocate those on public space, upgrade areas on site; and return to intentions of the plan.

   iii.       Abandon invaded areas, and find sites for public facilities.

   iv.       Temporarily relocate invaders in orders in order restore the plan.

    v.       Redesign the area and accommodate the informal settlement

**Section 3**

I would now like to ask more general questions concerning LHLDC

1. How do you relate with other planning bodies?
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Title: Partial Land Invasion on Serviced Land

**For Mr. Mpete, Principal Surveyor at LSPP**

I am doing a research on partial land invasion that took place in Ha Matala area, on a completed and serviced layout plan that was prepared and implemented by LHLDC. I would like you to assist me by answering questions prepared for this study. The questionnaire is divided into 3 sections and I will start with section 1.

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3. What was role in the scheme?

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    i.       Relocate/remove invaders completely in order to restore the original scheme.
    ii.      Upgrade areas on site, relocate those on public space and return to intentions of the plan.
    iii.     Abandon invaded areas, and redesign the balance to find sites for public facilities.
    iv.     Temporarily relocate invaders in orders in order restore the plan.
    v.      Upgrade / redesign invaded area around development and find new sites for public uses.

**Section 3**

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Title: Partial Land Invasion on Serviced Land

**For Mr. F. Mdee Chief Physical Planner at LSPP**

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Title: Partial Land Invasion on Serviced Land

**For Mr. Lebenya, Engineer at LEC**

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i. Relocate/remove invaders completely in order to restore the original scheme.
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Title: Partial Land Invasion on Serviced Land

**For Mr. Bota, Engineer WASA**

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**Section 1**

Firstly, could I question you about your views on this matter and your role in the development scheme?

3.  How familiar are you with the 1990 Ha Matala Development Scheme?
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Title: Partial Land Invasion on Serviced Land

**For Mr. L. Mahlaha, Senior Physical Planner MCC**

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**For Mr. M. Theko, Permanent Secretary, Local Government Ministry**

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    iv.    Temporarily relocate invaders in orders in order restore the plan.
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Title: Partial Land Invasion on Serviced Land

**For Dr. Moeti, Informal Resident**

I am doing a research on partial land invasion that took place in Ha Matala area, on a completed and serviced layout plan that was prepared and implemented by LHLDC. I would like you to assist me by answering questions prepared for this study. The questionnaire is divided into 3 sections and I will start with section 1.

**Section 1**

Firstly, could I question you about your views on this matter and your role in the development scheme?

1. How familiar are you with the 1990 Ha Matala Development Scheme?

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2. What do you know about land invasion that occurred there?

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3. What was role in the scheme?

**Section 2**

Now lets move into section 2

Here are five different scenarios of action, each one has a series of social, economical, political and technical implications, could you go through each one with me and identify different implications.

    i.   Relocate/remove invaders completely in order to restore the original scheme.
    ii.   Relocate those on public space, upgrade areas on site; and return to intentions of the plan.
    iii.   Abandon invaded areas, and redesign the balance to find sites for public facilities.
    vi.   Temporarily relocate invaders in orders in order restore the plan.
    v.   Redesign affected areas and accommodate the informal settlement

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**For Mr. M. Seboka, Field Owner**

I am doing a research on partial land invasion that took place in Ha Matala area, on a completed and serviced layout plan that was prepared and implemented by LHLDC. I would like you to assist me by answering questions prepared for this study. The questionnaire is divided into 3 sections and I will start with section 1.

## Section 1

Firstly, could I question you about your views on this matter and your role in the development scheme?

1   How familiar are you with the 1990 Ha Matala Development Scheme?
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3.  What do you know about land invasion that occurred there?
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3. What was role in the scheme?

## Section 2

Now lets move into section 2

Here are five different scenarios of action, each one has a series of social, economical, political and technical implications, could you go through each one with me and identify different implications.

     i.      Relocate/remove invaders completely in order to restore the original scheme.
     ii.     Relocate those on public space, upgrade areas on site; and return to intentions of the plan.
     iii.    Abandon invaded areas, and redesign the balance to find sites for public facilities.
     iv.    Temporarily relocate invaders in orders in order restore the plan.
     v.     Redesign the affected areas and accommodate the informal settlement.

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**For Mrs. T. Matlatsa at LHLDC**

I have been doing a research on partial land invasion that took place at Ha Matala Study Area, on a completed and serviced layout plan that was prepared and implemented by LHLDC. I find some of the issues that were tackled during interviews somewhat confusing. I therefore, would like you to clarify on these issues if you can.

1. I was informed by one of the respondents that, when the project started, your Corporation was offered a sum of R200, 000 by the government to facilitate compensation process. Through which Ministry was this done?
2. On the same matter, a different respondent informed me that the Corporation bought the government through LSPP, and was on profit basis. Do you mind telling me what really happened, did the government grant you money to buy land from it?
3. I was informed at one point that LHLDC was taken to court by the field owners and another point that it was in fact LHLDC who sued the field owners, who sued who, and why?
4. It was alleged by one of the field owners LHLDC, did not show up for a number of court cases, is it a fact? If so, why?
5. Has the Corporation ever won any of the court cases, if not why?
6. It was claimed that the first house that invaded in the project area was demolished how come that invasion continued regardless of this?
7. Who demolished the house?
8. How come you did not want to be associated with the demolition?
9. Why was there a delay in advertising of the sites?
10. When exactly was infrastructure installed?
11. If you were to resolve this matter, what strategy would you employ?
12. What do you think would be the socio-economic, political and technical implications of this strategy?

# APPENDIX
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# LIMITATIONS

INTERVIEWS

The researcher was unable to interview the Chief Physical Planner and Chief Khoabane Theko who both, were involved in the Ha Matala Development Scheme because they refused to participate. The researcher also failed to get hold of Advocate Motsie who was assisting and representing the field owners in the courts of law. The researcher was advised to see Judge Ramolibeli, but he was not conversant with the Ha Matala case per se, he only had general information about the place as with any other places in the country, which are faced with similar problem. There was no other person to assist the researcher; as such the report lacks the legal aspect of the development scheme. Having failed to interview the legal section, the researcher tried the former Permanent Secretary of Local Government, S. Sekatle who could not give assistance because he was preoccupied. R. Khatleli who is the former surveyor of LSPP and who was involved in the surveying of the fields, both while he was in government and in private practice has retired and is living in the mountains, therefore the researcher could not reach him either.

MAPS

Maps were accessed with such difficulty; more often than not the researcher had to improvise in order that she could submit understandable drafts to her supervisor. It would take the researcher the whole day to work on these maps with the intention to make them more readable. When the Researcher eventually found proper maps that needed to be reduced to A4 or A3 size, the reductions were not satisfactory because of the nature of the maps, which had a blue background and were abnormal in size. After all the trials and errors, a colleague (Lesole Ramahlele) at work offered to help with the maps and this was towards the end of April 01. It took us 2 weeks to compile and produce the Maps exactly the way the researcher preferred them. However, The researcher could not get information on electrical facilities in the study area because it has not been mapped yet.

Land use Maps for the study area were prepared twice, in the first instance the plan did not consider any of the brown fields that already existed. In the second instance, some of these areas were excluded. The researcher has tried to merge this information because there was a problem of obtaining all the Maps.

REPORT COMPILATION

The compilation took more than two weeks because the print work was quite problematic. Page numbering was especially the most difficult part, because at first the pages would not show and when they finally did, they were incoherent. The numbers would start from page 1 and stop at page 8 then start to number page 10 as page 2. At times the numbering would follow a sequence and towards the end of the document, the pages would all be numbered page 8. When the problem of page numbering was over, there was a problem with Map 3, which had some information missing the problem was prolonged by the fact that there was some defect about the plotter and it took 2 days to get fixed. The overlays, which would take the whole day long, were also very problematic.