



# ACCESS TO URBAN LAND

A handbook  
for community  
organisations



**Urban LandMark**

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# INTRODUCTION

Lack of access to urban land by the poor is one of the biggest challenges facing South African cities. Urban LandMark is a programme intended to contribute towards making urban land markets work better for the poor, and is funded by the United Kingdom Department for International Development (DFID). During 2007, Urban LandMark organised a series of workshops across the country to document the experiences and views of community organisations with regard to urban land issues. At all of the workshops, lack of information on urban land was highlighted as a major concern, and the desire for feedback was also expressed. This booklet consists partly of an overview of the outcomes of these workshops and other research undertaken by Urban LandMark, and partly of information prepared in response to the information gaps identified in the workshops. The draft version of this booklet was presented at a subsequent community workshop during 2008, and the content was then revised in accordance with the feedback from participants.

First of all, the causes of the urban land problem in South Africa are examined. Secondly, the human rights that are of relevance to accessing land are then examined. Practical steps that could potentially be used by community organisations to make these rights real are then discussed. Finally, policy solutions for addressing the urban land problem are suggested. These could potentially be advocated for by community organisations to ensure that the poor will be able to have access to well-located land in our cities and towns.



# THE URBAN LAND PROBLEM

Large numbers of households in South African towns and cities are unable to adequately access land.





## 1. THE URBAN LAND PROBLEM

There is an urban land crisis in South Africa. In 2007, approximately 1.2 million households in South Africa did not have adequate access to urban land and were forced to live in informal settlements without security of tenure (i.e. without adequate protection against forced eviction). Many households in backyard shacks or sharing in houses also do not have security of tenure. The reasons for there being large numbers of people unable to access land in South African cities include the following:

- Poverty and unaffordability, which results in the poor not being able to buy land
- South Africa's colonial and apartheid history (and the resulting inequitable settlement patterns)
- Inefficient urban spatial patterns
- Complex and time-consuming land development procedures
- Insufficient impact of government policies and programmes
- Insufficient participation by communities
- Lack of information (on land availability, processes for accessing land, etc.)
- Weak state of civil society

These issues are discussed below, with comments, where necessary, from the community workshops on urban land held during 2007.

### 1.1 Poverty and unaffordability

There are high levels of poverty in South Africa. Poor people are usually unable to buy or rent property in the formal market because they are unable to afford market prices. Typical comments in the community workshops about the high cost of property included:

- "Market values, especially in urban areas, are

set ridiculously and intentionally high. They are not accessible to the poor and working class" (Cape Town workshop).

- "Buyers are unwilling to sell and when they are approached they want inflated prices for their land... The willing buyer – willing seller principle does not work" (Johannesburg workshop).
- "Speculation in land - people sit on vacant land for years, for example, because they know that something will be happening in the future. This results in increased land values" (Johannesburg workshop).

Poverty and unaffordability can also make it difficult for people to retain property. For example, it was noted at the workshop in Pietermaritzburg that "rates and services are unaffordable even for properties with a very low value – as a result, people are being given finance with the one hand and the government then takes it back with the other hand. For example, in Inanda Newtown people are about to lose their properties due to non-payment."

### 1.2 South Africa's colonial and apartheid history

Indigenous people in South Africa were dispossessed of their land during the colonial and apartheid period, and were subsequently restricted in terms of access to land, and this is one of the key causes of current inequity in access to land. The Group Areas Act increased racial segregation in urban areas. The land restitution programme redressed some wrongs, and there have been changes in some inner city areas, but inequitable patterns of access to land generally still remain.

### 1.3 Inefficient urban spatial patterns

Over and above the inequitable structure of South African cities as a result of colonialism and apartheid, South African cities also have very inefficient spatial patterns. They are very spread out, with poorly

The urban land problem is complex and has many underlying causes.

developed public transport systems and with poor people largely located on the urban periphery and having to spend an enormous amount of money and time on travelling. International experience tends to suggest that a city needs a density of at least 10 000 people per square kilometre to make an effective public transport system possible (and some cities have densities of over 40 000 people per square kilometre), whereas most South African cities generally have average densities of fewer than 4 000 people per square kilometre.

#### 1.4 Complex and time-consuming land development procedures

The procedures for developing land (getting planning approval, rezoning the land, subdividing the land, etc.) are complex and can take many years. There are sometimes also delays as a result of the need for Environmental Impact Assessments (EIAs). The problem lies not only with the procedures themselves but with the capacity of government to administer the procedures.

#### 1.5 Insufficient impact of government policies and programmes

Government policies and programmes are widely perceived as having an insufficient impact on addressing South Africa's urban problems. Although considerable progress has been made, cities have continued to grow in a sprawling and fragmented fashion and large numbers of poor households have continued to be unable to access land. As an indication, the number of households living in informal settlements in the nine largest cities in South Africa increased by 189% (i.e. it almost trebled) between 1996 and 2004.

The perception that some government policies do not support the poor came up in all of the community workshops. Some participants, however, felt that policies are aimed at the poor but the implementation at a local level was inadequate.

Corruption, party politics and the self-interest of councillors were also seen as major obstacles to urban land access by the poor.

#### 1.6 Insufficient participation by communities

Lack of real participation by communities was highlighted as a major obstacle at all of the

community workshops. Although there are *imbizos* and other similar events, it was noted that this is not real participation: "Many summits have been held where people put across their views, yet these are often neglected when decisions are taken/developments embarked upon" (Johannesburg workshop). The National Land Summit in 2005 was mentioned as an example of an event where community organisations had aired their views without any visible effect.

In the Cape Town workshop it was added that there is "a gap between the language of communities and the language of government – communities are often intimidated by 'official' language".

#### 1.7 Lack of information

Lack of information is a major obstacle to urban land access by the poor. Information about the rights that people have and about what vacant land is available, and how it can be accessed, is often unavailable. Typical comments in the community workshops about the lack of information included:

- "There is a "lack of knowledge/awareness of our rights amongst communities" (Cape Town workshop).
- "People have no information about government policies and programmes" (Pietermaritzburg workshop).
- "Information is not freely available on who owns parcels of land so people are unable to contact the land owners to negotiate sales; also on who owns bad buildings, so that tenants don't know who to approach if they want to buy their building" (Johannesburg workshop).

#### 1.8 Weak state of civil society

The weakness of civil society is an obstacle to increased land access by the poor, as community organisations are generally too weak and disorganised to engage effectively with the state. One comment from the community workshops was that: "People living in informal settlements don't work together to fight for access to land. If people worked together government would have to listen. Different associations keep information to themselves, with the different groups working towards different goals" (Johannesburg workshop).



The lack of involvement by civil society has contributed to the urban land problem.





# RIGHTS OF RELEVANCE TO URBAN LAND

A range of human rights are relevant to accessing urban land, such as the right to adequate housing.





## 2. RIGHTS OF RELEVANCE TO URBAN LAND

The various rights that are relevant to accessing urban land include the following:

- The right to not be arbitrarily evicted
- The right to secure tenure and the other components of adequate housing, as part of the progressive realisation of the right to adequate housing
- The right to participate in the affairs of government
- The right of access to information

### 2.1 Protection against arbitrary eviction

Section 26(3) of the Constitution states that: “No one may be evicted from their home, or have their home demolished, without an order of court made after considering the relevant circumstances”. General Comment No. 7 of the United Nations Committee on Economic, Social and Cultural Rights (CESCR) goes into detail about what the state needs to do with regard to evictions:

- “Whereas some evictions may be justifiable, such as in the case of persistent non-payment of rent or of damage to rented property without any reasonable cause, it is incumbent upon the relevant authorities to ensure that they are carried out in a manner warranted by a law which is compatible with the Covenant and that all the legal recourses and remedies are available to those affected” (Article 11).
- “The procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable,

on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts” (Article 15).

- “Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the state party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available” (Article 16).

South African Court rulings have largely followed these principles. For example, judicial remedies have incorporated the need to provide alternative accommodation and the principle of evictions being a last resort. Court rulings have also helped clarify the situations in which evictions may be allowed. For example, in the Sheffield Road judgment, it was noted that evictions may be necessary in the following four types of situation:

- A land invasion for the purposes of forcing a state structure into providing housing
- A situation where an inevitable choice must be made between two groups of people
- Where the occupation of the land causes a real threat to safety
- Where the landowner urgently requires the land, particularly for social developmental purposes.

There are three main pieces of legislation which protect the rights of unlawful occupiers

People can only be legally evicted if certain procedures are followed.

and tenants as required by Section 26(3) of the Constitution:

- The Prevention of Illegal Eviction From and Unlawful Occupation of Land Act of 1998
- The Extension of Security of Tenure Act of 1997
- Rental Housing Act of 1999

## The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act of 1998

The Prevention of Illegal Eviction From and Unlawful Occupation of Land Act (PIE) prescribes the procedures to be followed in evicting unlawful occupiers of land in urban areas. The Act says that the court needs to take the rights and needs of the elderly, children, disabled people and women-headed households into account. In addition, where the unlawful occupiers have occupied the land for more than 6 months, the court needs to consider whether land has been made available (or can reasonably be made available) by the municipality, another government body or another landowner for the relocation of the unlawful occupiers. Although originally intended to apply to all unlawful occupiers, the Act was subsequently amended to exclude former tenants.

## The Extension of Security of Tenure Act of 1997

The Extension of Security of Tenure Act (ESTA) applies in rural areas and agricultural areas within urban areas. In terms of this Act, people who are occupying a piece of land with the consent of the owner or person in charge (plus people who have “continuously and openly” occupied private land for 3 years) have certain tenure rights. This means that the occupiers have the right to continue living on and using this land. The land owner cannot cancel or change the occupiers’ rights without their consent, unless there is good reason and the occupiers have had a chance to answer complaints against them. ESTA gives special protection to occupiers who have lived on the land for 10 years, and who are 60 or older, or who are living with a disability.

ESTA sets out the process a landowner must follow before evicting an occupier. Amongst other things, two months’ notice must be given to the occupier, the municipality and the Department of Land Affairs.

## Rental Housing Act of 1999

In terms of the Rental Housing Act, Rental Housing Tribunals\* have been set up in each province to deal with illegal or unfair practice relating to the landlord/tenant relationship. The Tribunals are courts, with powers similar to those of magistrates’ courts. The impact of the Act and the tribunals is unclear; evidence suggests that tenants are frequently still exploited by landlords.

## 2.2 The progressive realisation of the right to adequate housing

Section 26(1) of the Constitution says that “Everyone has the right to have access to adequate housing”. Section 26(2) goes on to say that “The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.”

Access to land is an integral part of access to housing, and the issue of access to land is also separately referred to in the Constitution. For example, Section 25(5) of the Constitution places a duty on the state to: “Take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.” This means that the state must take steps to create conditions that make it possible for disadvantaged individuals and groups to gain access to land. In addition, according to the terms of Sections 25(6) and 25(9) of the Constitution, Parliament must make laws that promote security of tenure, or provide some form of redress for people or communities whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices.

Below, we look at what “adequate housing” is, and what the “progressive realisation” of the right to adequate housing means.

### What is adequate housing?

There are a number of international treaties and recommendations by international bodies which explain in detail what the right to adequate housing means.

The Habitat II Agenda, which South Africa is a signatory to, defines adequate housing/shelter as “more than a roof over one’s head. It also means adequate privacy; adequate space; physical accessibility; adequate security; security of tenure; structural stability and durability; adequate lighting, heating and ventilation; adequate basic infrastructure, such as water-supply, sanitation and waste-management facilities; suitable environmental quality and health-related factors; and adequate and accessible location with regard to work and basic facilities: all of which should be available at an affordable cost.” It also says that people should be involved in determining the adequacy of their houses, and that adequacy may vary from country to country, depending on specific circumstances.”

General Comment No. 4 of CESCR defines adequate housing as consisting of the following seven components:

- Legal security of tenure: All people should have some form of security of tenure that guarantees legal protection against forced evictions, harassment and other threats. The different types of tenure include rental

Adequate housing is a broad concept that includes a number of components, such as suitable location and security of tenure.



\* Each province has a Rental Housing Tribunal. For example, the Gauteng Rental Housing Tribunal is in Johannesburg (Tel: 011 630 5035), the KwaZulu-Natal Rental Housing Tribunal is in Durban (Tel: 031 336 5300) and the Western Cape Rental Housing Tribunal is in Cape Town (Tel: 086 010 6166). Examples of the types of complaints they deal with (e.g. unlawful notices to vacate and exorbitant increases in rental), and the forms used for filing complaints, can be found at [www.capegateway.gov.za/directories/public\\_entities/4200/10906](http://www.capegateway.gov.za/directories/public_entities/4200/10906)



accommodation (private or public), owner-occupation, co-operative housing, long-term leasehold, rental, etc. Governments must take steps aimed at ensuring security of tenure for people and households that do not have security of tenure.

- **Availability of infrastructure/services:**

Housing must have access to services essential for health, security, comfort and nutrition, such as drinkable water, sanitation, washing facilities, energy for cooking, heating and lighting, food storage, refuse disposal, drainage and emergency services.

- **Affordable housing:** People must be able to afford housing, i.e. they should not be deprived of other basic needs in order to pay for their housing. Governments must make housing subsidies and finance available, and protect people from unreasonably high or sudden rent increases.

- **Habitable housing:** For housing to be adequate, it must provide adequate space for family life, be physically safe, offer protection from cold, damp, rain, heat, wind or other threats to health for all occupants, and guarantee the physical safety of occupants.

- **Accessible housing:** Housing must be accessible to all. Legislation and policy must especially cover the housing needs of the homeless, the poor, the elderly, single mothers, people living with disabilities, people who are mentally ill, people living with HIV/AIDS (including children orphaned by HIV/AIDS), and other vulnerable groups.

- **Location:** Housing must be in areas that allow easy access to places of work and potential economic opportunities, schooling, child care centres, health care services and recreational facilities. Housing should also be in a safe and healthy environment.

- **Culturally adequate housing:** The way housing is built and the type of materials used must enable people living there to express their cultural identity.

## Progressive realisation

The Grootboom Judgment general order explains what the “progressive realisation” of the right to adequate housing means in practice, saying that “Section 26(2) of the Constitution requires the state to devise and implement within its available resources a comprehensive and co-ordinated programme progressively to realise the right of access to adequate housing.” Other important principles arising from the Grootboom Judgment are:<sup>(1)</sup>

- The state must establish comprehensive and coherent programmes capable of facilitating the realisation of the right to adequate housing.

- The measures (legislation, policies, programmes) adopted by the state must be “reasonable” within their social, economic and historical context and within the scope of available resources.

- The state must examine legal, administrative, operational and financial barriers to accessing socio-economic rights and, where possible, take steps to lower them over time so as to ensure the progressive realisation of the right to adequate housing, e.g. so that a larger number and wider range of people can gain access to adequate housing over time.

The concept of progressive realisation has a number of implications. For example, General Comment No. 4 recommends the adoption of “a national housing strategy which... defines the objectives for the development of shelter conditions, identifies the resources available to meet these goals and the most cost-effective way of using them and sets out the responsibilities and time-frame for the implementation of the necessary measures” (Article 12). “In essence, the obligation is to demonstrate that, in aggregate, the measures being taken are sufficient to realise the right for every individual in the shortest possible time in accordance with the maximum of available resources” (General Comment No. 4, Article 14).

Essential components of a coherent housing

The right to adequate housing needs to be progressively achieved over time.

programme include:<sup>(2)</sup>

- Housing subsidies for those unable to obtain affordable land and housing through the land/housing market.
- Programmes that provide poor households with secure access to land (either newly developed sites or through providing security of tenure to residents of informal settlements).
- Upgrading of informal settlements: Informal settlements need to be recognised and upgraded wherever possible. This is reflected in the United Nations Millennium Development Declaration (2000), which established a series of development goals and targets. Target 11 is to “Achieve significant improvements in the lives of at least 100 million slum dwellers by 2020.”
- The prioritisation of vulnerable groups. From various international agreements, it can be said that the vulnerable groups that need to be targeted by special programmes include: people in crisis or desperate situations (e.g. people displaced by natural disasters or evictions); disabled people; people living with HIV/AIDS; women; children; refugees; and homeless people (street people).
- The state needs to create sufficient space within processes and procedures for the poor to be able to acquire land and deliver their own housing through self-help processes.

The broad objectives of adequate progress with regards to the progressive realisation of the right to adequate housing are, essentially, that increasing numbers of people should live in adequate housing conditions and that fewer people should live in inadequate housing conditions. It is therefore important to be able to measure what adequate housing is. One proposed practical definition of adequate housing suggested the following minimum standards:<sup>(3)</sup>

- Water supply: Household connection or access to public stand pipe or rain water collection with at least 20 litres per person available within an acceptable collection distance.
- Sanitation: Public sewer, septic tank, pour flush latrine, ventilated improved pit (VIP) latrine; either private or shared by a maximum of two households.
- Structural quality of housing: Permanent structures that comply with building codes, standards and by-laws.
- Occupancy: Maximum of 2 people per

habitable room or minimum of 5 m<sup>2</sup> of floor area per person.

- Security of tenure: Through formal title deed to land and/or residence, enforceable agreement or any document as proof of a tenure arrangement.

## 2.3 The right to participation

The South African Constitution encourages transparency and participation in policy-making and the affairs of government, and many policy documents also talk about the importance of community participation (for example, in integrated development planning and in the provision of subsidised housing). One of the basic points of departure for housing policy, as set out in Section 2.3 (Framework for a National Housing Policy: Basic Points of Departure) of the National Housing Code is: “Housing policy and strategy must be structured so that South Africa’s housing process... Maximises the involvement of the community and leads to transfer of skills to and empowerment of the community to ensure higher levels of appropriateness and acceptability of such projects as well as the development of skills and capacities within these communities to pursue other development objectives.”

## 2.4 The right to information

Having access to information is important for claiming and enforcing rights. Section 32(1) of the Constitution says that “Everyone has the right of access to: (a) any information held by the state; and (b) any information that is held by another person and that is required for the exercise or protection of any rights.” The Promotion of Access to Information Act of 2000 (PAIA) was passed to give effect to this right of access to information. The Act describes in more detail the information you are allowed to receive and how you can go about getting it. PAIA says public and private bodies must make certain information available without being requested (for example, municipalities are required to release annual reports with certain information). Public institutions have to publish a guide in each official language setting out information you can reasonably request when exercising any right in the Constitution’s Bill of Rights (Section 10 of PAIA). Public and private bodies must appoint information officers to facilitate requests for information, including the duty to refer requests to other appropriate bodies.

The rights to information and participation are essential preconditions for being able to realise other rights.





# PRACTICAL STEPS FOR REALISING RIGHTS

Community organisations need to take proactive steps to access well-located urban land.







## 3. PRACTICAL STEPS FOR REALISING RIGHTS

In order to take any action about accessing land, it is essential that a community is organised, with a democratically elected committee that regularly reports back to the membership.

The first step in a successful strategy to access land is to clearly identify what the problem is, and then to develop a plan of action to solve the problem. For example, a typical problem would be that an informal settlement community is on land that is unsuitable for development (or intended for another purpose or another target group), and is facing relocation to an area that is not suited to the needs of the community. The strategy to address this problem would typically involve:

- Accessing information about relevant pieces of vacant land, both the land the community is currently occupying and any nearby vacant land.
- Assessing the suitability of these pieces of land for development.
- Engaging with the state around access to land and housing.

At the same time as the above steps, community organisations need to strengthen their ability to negotiate and mobilise and have a real impact by:

- Getting support from relevant organisations.
- Networking with other community-based organisations in order to attempt to change government policies and programmes.

The steps are discussed below.

### 3.1 Accessing information on land

In order to be able to negotiate or mobilise around access to land, it is essential that information about the relevant pieces of land is obtained, so that there is an informed basis for negotiation or mobilisation.

Municipalities usually have land audit information available for pieces of vacant land, including their development rights (zoning, which

means what purposes a specific piece of land can be used for) and their suitability for development. This information should be publicly available. Additional information on land ownership can be obtained from the Registrar of Deeds if necessary.

The following information is ideally required for pieces of vacant land as the basis for determining suitability for development and for negotiating with the relevant authorities:

- Erf number and location
- Size
- Ground conditions (type of soil, steepness, depth of water table, etc.)
- Whether within 1:50 year flood line
- Existing infrastructure/availability of bulk infrastructure
- Current use
- Zoning
- Future intentions in terms of Spatial Development Framework

- Land ownership

Information on municipal strategies relating to land and housing may be harder to acquire, but some information may be publicly available (for example, in the Integrated Development Plans).

As a last resort, the Promotion of Access to Information Act (PAIA) may be used to obtain information from government bodies that is not easily accessible. In terms of PAIA, when requesting information, you should:

- Obtain a form from the government department you wish to get information from.
- Submit the completed form to the information officer at their fax, telephone number or email address.
- Give sufficient details to enable the official to identify the requested information or record.
- Specify the language you wish the information to be given in.
- If the request is made on behalf of a person, submit proof of the capacity in which you are making the request.
- If you are unable to make a written request because of illiteracy or disability, make a request for assistance personally to the government department.

Obtaining information on relevant pieces of vacant land is essential for being able to engage with the state about access to land.

### Box 1: Guidelines for residential development on dolomite land

Dolomite is a form of sedimentary rock that is easily eroded by water, and this can result in the formation of "sinkholes." About 25% of Gauteng's surface area consists of dolomite land. Dolomite land is risky for development, but the areas of low risk can be developed for housing if special raft foundations are used and if there

is a risk management plan in place. The Council for Geoscience identifies different risk categories for dolomite land:

- Low risk categories are generally suitable for residential development (densities of 30 to 60 dwelling units per hectare).

- Medium risk categories are

generally suitable for low density residential development (densities of up to 10 dwelling units per hectare for some categories, and up to 18 dwelling units per hectare for some categories).

- High risk categories are not suitable for residential development (but may be suitable for other activities).

- Keep records of all the communication between you and the information officer that helped you - for example, notes of telephone conversations.

### 3.2 Assessing suitability of land for development

Getting information about a piece of land is not enough on its own. The information needs to be analysed to see if the land is suitable for development.

Many factors determine the degree of suitability of a particular piece of land for development, such as buildability, location, and size.

In-depth further investigation may often be required. Many vacant sites are affected by things such as undeclared rubbish dumps and incorrect information on the location of underground services.

#### Buildability

The most basic requirement of land for residential development is that it should provide a safe and healthy living environment. The detailed requirements of land in terms of “buildability” are:

- Should not have an unstable soil or subsurface condition (levels of risk vary, however, and sites with difficult ground conditions can sometimes be built on with appropriate foundations and densities; for example, see Box 1 on dolomite).
- Should not be within 1:50 year flood line (this is the maximum limit of flooding during a 50 year period).
- Should not be steeper than 1:4 (for every 4 metres horizontally, the ground should not go up more than 1 metre vertically).
- Should not have any other natural or man-made hazard, e.g. landfill site (although sites can sometimes be “rehabilitated” to be made suitable for development).
- Should ideally not be in an environmentally sensitive area, e.g. wetlands.

#### Location

A piece of vacant urban land can be considered well-located if it is within the activity nodes or

corridors identified in the municipality’s Spatial Development Framework (which is a plan showing where future development in the municipal area should go). If not in an activity node or corridor, it should ideally be within 10 minutes walk (about 500 metres) of an existing public transport route, within 15 minutes walk (about 750 metres) of a primary school, and within 30 minutes walk (about 1.5 kilometres) of a high school, clinic and library.<sup>(4)</sup>

The Spatial Development Framework should play a large role in determining the suitability of land for development but it should not be regarded as cast in stone. For example, the competing demands of environmental conservation and the need to provide land for housing may have to be reviewed for certain pieces of vacant land.

#### Size

Land is measured in square metres (m<sup>2</sup>) or hectares (ha; 1 ha = 10 000 m<sup>2</sup>). The piece of land needs to be large enough to accommodate the required number of dwelling units.

In order to work this out, bear in mind that typically between 40% and 50% of the site would need to consist of roads/pathways and non-residential land uses (such as sports fields and community halls). One-house-on-a-plot developments typically range in density from 20 dwelling units per hectare (freestanding houses on 250m<sup>2</sup> plots) to 75 dwelling units per hectare (double-storey row housing on 80m<sup>2</sup> plots). Densities of up to 120 dwelling units per hectare can be achieved with 3 and 4 storey blocks of flats (“walk-ups”).

It is essential that residential densities are increased where possible, in order to make the best possible use of scarce vacant urban land. Higher densities can also help make a settlement function more effectively; residential densities of at least 50 dwelling units per hectare are regarded as being necessary to support a range of economic activities and an effective public transport system.<sup>(5)</sup> Pilot projects in South Africa have shown that higher densities (for example, double-storey row housing) can provide a better living environment than conventional low density suburbs and can be afforded

Vacant land needs to be assessed in terms of its suitability for development.





within the subsidy amount. Examples of higher density projects using subsidies are Missionvale in Port Elizabeth and Shayamoya in Durban. Missionvale used project-linked subsidies and consists of double storey semi-detached and row housing on individual plots. Shayamoya used institutional subsidies and consists of three to four storey walk-up blocks of flats with one to three bedroom units.<sup>(6)</sup> Through higher densities, both projects were able to provide much larger units than conventional RDP housing projects.

### 3.3 Engaging with the state

In order to access and develop land, it is essential that there is engagement with the state. In most cases this would mean engaging with the municipality but in some cases it may be useful to engage with bodies such as the Provincial Housing Department or the proposed Housing Development Agency.\*

Organised communities could try engaging with the state directly by setting up meetings with relevant officials or councillors to discuss problems and potential solutions. There are various routes to try:

- Meeting with ward councillor/ward committee
- Meeting with other relevant councillors, members of the provincial legislature or members of parliament (e.g. councillors on the housing or planning committees)
- Meeting with relevant officials (e.g. of the municipal housing or planning departments)
- Engaging in formal participation processes (e.g. for Integrated Development Plans) through oral and/or written submissions

Having a brief written report that documents your community's problems and proposed solutions could assist in the negotiating process.

#### Purpose of engaging with the state

The purpose of engaging with the state should always be kept in mind: to access suitable land for development.

Accessing and developing land involves the following steps:

- Acquiring the land (for example, by purchase or expropriation)
  - Formulating a project proposal with proposed site layout, infrastructure and house designs, and cost information (which is important in terms of getting the necessary approvals from government bodies, and also for accessing housing subsidies to pay for the cost of the land, infrastructure and houses)
  - An Environmental Impact Assessment (EIA) might be required if the proposed development could have a negative impact on the environment
  - Rezoning might be required (for example, if the land was zoned for agricultural use, certain processes will need to be followed to change the zoning to allow for housing)
  - Subdivision: the piece of land will need to be divided into plots and roads (a town planner will draw the plan and a land surveyor will need to do the "pegging" of the plots on the ground)
  - Installation of infrastructure (e.g. roads, water supply, toilets, electricity, storm water drainage)
  - Building of houses or flats
- The main options for acquiring and developing land are:
- To get the municipality (or relevant government body such as the Housing Development Agency) to acquire the land (if it is not already the owner of the relevant piece of land) and develop the land. There are many advantages to this arrangement: for example, the municipality is able to expropriate the land if necessary, and it would facilitate the installation of infrastructure by the municipality (as the municipality would be the land owner while the land is being developed). It is essential, however, that there is real community participation in the development process: for example, in the layout design, choice of level of services, house design and allocation process.
  - For the community organisation to enter into a partnership with the municipality: for example, for a People's Housing Process (PHP)

Engagement with the state is necessary for accessing and developing land.

\* The Housing Development Agency is being set up by the National Department of Housing to assist provincial and local government in identifying, acquiring, holding, developing and releasing state and privately owned land for residential and community purposes.

project. This would enable the community to play a much bigger role in the project and help ensure that community needs are met.

- For the community to form a legal entity, such as a co-operative, that would then purchase and develop the land. This would enable the community to have the greatest degree of control but the financial implications would first need to be carefully investigated.

### Getting reasons from officials

It is important to remember that you have the right to ask for written reasons why a government body made a particular decision that may have negatively affected your rights, such as your right to adequate housing/secure tenure. Section 33 of the Constitution says that: "Everyone whose rights have been negatively affected by administrative action has the right to be given written reasons." The Promotion of Administrative Justice Act of 2000 (PAJA) gives effect to this right. PAJA allows any person whose rights have been significantly and negatively affected by administrative action by a government body to ask for written reasons for the action. This request can be refused if it is reasonable and justifiable in the circumstances but the reasons for the refusal will need to be explained by the government body.

### 3.4 Getting support from relevant organisations

Although there are many things that community organisations can do on their own, sometimes the support of another organisation, such as a non-governmental organisation (NGO), may be useful.

Different organisations can offer different types of support. There are various NGOs which can potentially offer support to community organisations with regards to capacity development, land and housing issues and engagement with local government. Examples include:

- Afesis-Corplan (East London)
- Built Environment Support Group (BESG) (Pietermaritzburg)
- Development Action Group (DAG) (Cape Town)
- Planact (Johannesburg)
- Urban Services Group (USG) (Port Elizabeth).

There are also a number of independent organisations that provide legal and paralegal assistance to communities and individuals whose rights have been violated or threatened, for example, the Legal Resources Centre (LRC) and law clinics at universities. There are also statutory bodies such as the South African Human Rights Commission, which can assist in resolving situations where people's rights are being violated.\*

### 3.5 Networking with other community organisations

Community networking and mobilisation are potentially important ways for getting decision-makers to take concerns around access to urban land more seriously and for getting policies and programmes changed or implemented. Typical comments from the community workshops included:

- "CBOs must be strengthened in order to be able to engage government and in order to build their structures and their capacity to mobilise."
- "There should be more networking between CBOs – CBOs must speak with one voice."
- "There should be mobilisation of communities around evictions of informal settlements and inner city areas."
- "Some policies, like IDPs, need greater monitoring and action by civil society to ensure implementation."

A first step for successful advocacy is to undertake stakeholder analysis (i.e. to identify the individuals/organisations that have the power to change or implement policies/programmes/projects and to identify the best way to engage with each individual/organisation)<sup>#</sup>. An advocacy and lobbying strategy needs to include clear policy solutions, as described in the next section.

Advocacy and lobbying does not necessarily need to involve mobilisation (as meetings and negotiations can often be successful), but almost all participants in the workshops felt that mass action may sometimes be necessary. As a participant in the Johannesburg workshop said, "toyi-toyi is the only language the government understands." However, some participants cautioned against politicising the process due to the fear of being victimised and being seen as "radicals" or "the ultra-left", and suggested that negotiation should be tried first, with protest action as a last resort.



In order to achieve their objectives, community organisations need to work together with other CBOs and NGOs.

\* The South African Human Rights Commission's head office is in Johannesburg (tel: 011 484 8300) and there is a regional office in each province. Full details can be found at [www.sahrc.org.za](http://www.sahrc.org.za)  
<sup>#</sup> There are a wide variety of resources available for developing capacity for advocacy and lobbying, and a number of organisations offer training on advocacy and lobbying. Various advocacy and lobbying toolkits, including the *Advocacy Handbook for CBOs*, are available on the Idasa website (under the topic of "active citizenship") at [www.idasa.org.za/Outputs.asp?TID=4&OTID=7](http://www.idasa.org.za/Outputs.asp?TID=4&OTID=7)



# POLICY SOLUTIONS

Civil society needs to advocate and lobby for changes in policy and practice to ensure that poor households can access well-located urban land.





## 4. POLICY SOLUTIONS

Potential solutions for addressing the urban land problem that could be advocated and lobbied for by community organisations include:

- Changing the formal land system to make it work better for the poor
- Improving and expanding the Housing Subsidy Scheme (increasing the rate of delivery, improving the quality of housing and providing a wider range of housing options for all categories of need)
- Developing pro-poor municipal land strategies that identify, acquire and release land for the poor and which create conditions in which it is easier for poor households to access land
- Incrementally upgrading informal settlements where appropriate, rather than relocating them (although in some cases relocation may be necessary)
- Greater participation by communities
- Promotion of community-based development

### 4.1 Reforming the formal land system

The formal land system (through which rights to land are registered and transferred) must be reformed to be more widely applicable and useful for the poor. Currently, many people avoid formal land processes because they are expensive, complicated and take a long time. Selling land through the formal system requires going through a conveyancer (a special type of lawyer that deals with land) and the office of the Registrar of Deeds. One of the reasons

the formal land system is often avoided by the poor (as in the informal sale of RDP houses) is because "Land registration is generally seen as centralised and costly to the user, as the systems are designed for use by the middle classes."<sup>(7)</sup>

The current formal system of regulations relating to land and tenure needs to be adapted so that it can become more widely applicable and more useful for the poor, so that the poor can have a greater chance to share in the benefits of legally-recognised tenure (i.e. rights to land that are documented and would be recognised in court). Although informal practices for the accessing and holding of land can provide an adequate degree of security of tenure, they have limitations, especially in terms of the value of properties. The benefits of legally-recognised tenure can include, amongst other things, greater security of tenure for tenants and increased property values for owners. For example, a study of property markets in South America found that the granting of legal security of tenure resulted, on average, in a 23.5% increase in the value of properties.<sup>(8)</sup>

In the words of the United Nations High Level Commission for the Legal Empowerment of the Poor, there needs to be "a variety of substantive reforms, including changes in commercial or property law, the recognition of customary or religious laws, and improvements in the mechanisms to enforce rights and adjudicate disputes. It must be based on empirical evidence of practices in the informal economy and developed with a clear understanding of local environments, systems and needs... Addressing informality is a multifaceted proposition which requires a thorough understanding of the factors that create and drive informality... Reform initiatives may also require that the formal sector

The formal land system needs to be reformed to make it more relevant to the needs of poor households.

be re-defined to accommodate many of the principles and values tolerated in the informal sector.”<sup>(9)</sup>

In practice, what does reforming the formal land system to accommodate some of the principles and values of informal practices mean? Some of the key issues are:

- Ensuring that the formal system provides forms of tenure (rights to land) that are appropriate for, and affordable by, the urban poor. Providing formal individual land ownership for all is not realistic, and greater use should be made of more flexible forms of formal tenure which are more appropriate to the tenure needs of the urban poor (and can be upgraded where necessary). A range of innovative ways of providing greater legal security of tenure in flexible and appropriate ways have been successfully used internationally, ranging from moratoriums on relocations and evictions, to temporary occupation licences, communal or individual leases and community land trusts.<sup>(10)</sup>
- Ensuring security of tenure for all members of the household. Whatever the form of tenure, the tenure rights given need to ensure that all members of the household have security of tenure (i.e. the concept of “family ownership”). Registering tenure rights in the name of the (usually male) head of household often ignores complex household dynamics, and can result in little real security of tenure for other members of the household. Properties ideally need to be registered in the name of more than one member of the household (for example, in the name of both the husband and wife).
- Ensuring that land registration and transfer processes are accessible by the poor (both in terms of cost and location). Having a decentralised land administration system that can be more easily accessed by the urban poor is important. For example, the registration and transfer of certain types of land rights could happen at a municipal office where people could pay a fee and transfer the rights. Such a decentralised office could potentially be more convenient and cheaper than having to transfer property through a conveyancer and the Deeds Office. There would need to be some community confirmation (for example, from a street committee) that it is a voluntary sale and that everyone in the household has been consulted, so that vulnerable members of the household are not disadvantaged. An even greater level of decentralisation, to community-based land registers, is also possible. A successful local example is the property register established in the informal settlement of New Rest, in Cape Town, in 1998. The municipality owned the land and the Resident’s Committee kept a community property register, resolved disputes and managed the vacant space.<sup>(11)</sup>

## 4.2 Improving and expanding the Housing Subsidy Scheme

Improving and expanding the Housing Subsidy Scheme (increasing the rate of delivery, improving the quality of housing and providing a wider range of housing options for all categories of need) is essential.

Although the community workshops revealed great unhappiness about the scarcity and quality of subsidised housing, it also emphasised the importance of the Housing Subsidy Scheme. For many people, it is their only hope of ever getting formal access to land and housing. Ways in which the Housing Subsidy Scheme can be improved include the following:

- There should be greater recognition of the linkages between urban land and livelihoods: for example, in terms of identifying suitably-located land for housing that is close to economic opportunities and through ensuring sufficient land for non-residential land uses (such as urban agriculture).
- There needs to be a wider range of formal land/housing options to meet all categories of housing need. The range of choices in the options provided by the subsidised housing programme should ideally include the following: choice of location (from inner city to urban periphery), choice of type of accommodation (from flats to houses with yards) and choice of tenure (including rental, communal ownership and individual ownership).
- The target group for subsidised housing needs to be broadened. Currently, the housing subsidy programme focuses on residents of informal settlements, and on a typical family consisting of a couple and a few children (as opposed to individuals and extended families). It is important that all categories of need are targeted to ensure that there are also options for poor households other than those in informal settlements (e.g. people in backyard shacks and domestic workers). In addition, it is

The Housing Subsidy Scheme is important for assisting poor households to gain access to land and housing, and needs to be improved and expanded.





important that there are also suitable options available for individuals and extended families.

- High-density inner city housing for the poor needs to be promoted. It was noted in the Johannesburg workshop that poor people are starting to be excluded from the inner city and that the current social housing policy does not accommodate the poor. Some participants felt that it was essential that the poor not be excluded from the inner city. The government's new Community Residential Units (CRU) programme aims to facilitate the provision of rental housing for people and households with incomes of less than R3500 per month but it appears that it will be on a relatively small scale.

- Promoting the provision of good quality backyard rental accommodation. Research by Urban LandMark shows that the rental of rooms can provide an adequate standard of housing in good locations at an affordable cost. Potential ways of encouraging the provision of adequate and affordable rental housing by small-scale landlords include:<sup>(12)</sup> ensuring that landlords and tenants understand their rights and responsibilities, that standard rent contracts are easily available and that all rent contracts are put in writing; ensuring access to rental tribunals; providing micro-credit for existing and potential landlords; and relaxing building and planning regulations (although there do need to be certain minimum standards to ensure health and safety). In new subsidised housing projects, the design and layout of houses and plots could also be used to facilitate the construction of backyard rental accommodation and rental rooms could even be provided as an integral addition to subsidised housing, as in the Alexandra Urban Renewal Project.<sup>(13)</sup>

In order to increase the quantity and quality of housing, it is important that expenditure on housing is prioritised (expenditure on housing has only averaged about 1.5% of total government expenditure over the past few years, compared to the goal of increasing this figure to 5%, as set out in the White Paper on Housing and in the Housing Act).

#### 4.3 Development and implementation of pro-poor municipal land strategies

Although the proposed Housing Development Agency will potentially play an important role in contributing to the availability of land for housing, there also needs to be comprehensive pro-poor municipal land strategies which identify, acquire and release land for the poor (within the context of the future planned growth of that specific city or town).

As part of their Integrated Development Plans (IDPs), all municipalities need to have strategies to ensure that sufficient vacant land for low-



income households is identified, acquired and released and that informal settlements are upgraded wherever possible.

Undertaking a participatory land audit, and regularly updating it, is an essential precondition for the development of a pro-poor municipal land strategy. For example, at the Cape Town workshop it was proposed that "an audit should be conducted of all unused and excessive land holdings." Undertaking a land audit was generally seen as the responsibility of the municipality but communities should be involved in this process. It was noted in the Cape Town workshop that community organisations in Hout Bay, with the support of a NGO, had undertaken their own land audit.

As part of pro-poor municipal land strategies, there needs to be greater use of state land for the poor. At the community workshops, there were calls for the state to set aside land and housing for the poor, for example, to ensure that when state-owned land or buildings are sold or when rental housing units are allocated, a certain percentage (30% was suggested in the Pietermaritzburg workshop) be set aside for the poor. The new Inclusionary Housing Policy (for setting aside a proportion of some private residential developments for "low-income" units) is also important, but on its own it will have a relatively small impact in terms of numbers.

Municipal land strategies also need to make more use of land expropriation. Section 25(2) of the Constitution says that expropriation of land can only be done for a public purpose or in the public interest. Funds must be set aside to provide compensation to the landowner. The amount, the time and the manner of compensation can

Municipalities need to develop and implement integrated strategies that enable poor households to access well-located land.

either be agreed to by those affected, or decided and confirmed by a court order. Section 25(3) of the Constitution says that compensation for someone whose land has been expropriated must be “just and equitable, reflecting a fair balance between the public interest and the interests of those affected.” In deciding on the amount of compensation, a court must consider all relevant circumstances, including: the current use of the property, the history of ownership and use of the property, the market value of the property, the amount of state investment in the land and the purpose of the expropriation.

In the community workshops, there were also calls for greater state intervention and control with regard to the granting of land rights. For example, one comment in the Pietermaritzburg workshop was: “Land markets must be regulated so that land is affordable to all.” Two international examples were noted in the Johannesburg workshop: “In the United Kingdom, planning rights have a time limit, and if you do not build in time you can lose those rights; in many countries, leasehold rather than freehold is more common in city centres - i.e. the state leases out land rather than selling it (this makes it easier to monitor the use of land).”

#### 4.4 Incremental upgrading of informal settlements and managed land settlement

Research by Urban LandMark shows that people in informal settlements usually make conscious choices about where to live. The reasons why respondents chose to live in specific informal settlements were often linked to livelihoods (for example, proximity to jobs, cost of transport and costs of living). Many informal settlement residents said that it was through moving to those particular settlements that they were able to get jobs or earn incomes. The cheaper

cost of living in one’s own shack in an informal settlement (i.e. not having to pay rent, and usually not having to pay for water) is also extremely important, and this is often one of the reasons why people who previously lived in backyard shacks have moved to informal settlements. Similarly, in the community workshops, community representatives overwhelmingly saw the importance of the link between urban land and livelihoods, and repeatedly emphasised the importance of closeness to jobs and facilities (such as schools). In numerous cases, informal settlement communities were fighting for their right to stay close to jobs and facilities and were resisting relocation by the state to peripheral locations where there are few jobs or facilities.<sup>(14)</sup>

Informal settlements therefore need to be upgraded where appropriate (for example, where the settlement is well-located), rather than being relocated. While relocation may be quicker and easier, it often makes people worse off, as their social and economic networks are disrupted and transport can become an enormous financial and time burden. It should be noted, though, that in some cases relocation may be unavoidable (for example, if the settlement is on a hazardous site).

What is also apparent from the research undertaken by Urban LandMark is that many residents of informal settlements have been living for long periods of time (often more than ten years) in leaky shacks and with inadequate access to basic water and sanitation, and many residents will continue to live in these conditions for many more years while waiting for RDP houses. This is a serious health hazard and does not create a safe and dignified living environment for children to grow up in.

It is therefore essential that a more incremental approach be taken to informal settlement upgrading, with immediate steps to

Informal settlements should be incrementally upgraded where appropriate.

### Box 2: Example of the Hyderabad Incremental Development Scheme<sup>(16)</sup>

The Hyderabad Incremental Development Scheme in Pakistan is a successful example of a government project that was able to provide access to land for poor households almost as quickly and cheaply as an informal settlement. The key to the project’s success was that administration and allocation procedures were very simple and rapid: households applied for a plot by submitting a photocopy of their ID card, and they were allocated a plot within 12 days. A reception area was set up in the scheme where households could put up a temporary shelter or rent a room while they waited for their application for a plot to be processed.

Beneficiaries were required to complete construction of a house immediately (no building standards were applied in the project). This was a major difference from previous projects, where there had been periods of up to a year for beneficiaries to build a house on their plots, which had often resulted in plots being allocated to people who never occupied them. The legal transfer of tenure did not take place immediately (there were instalment sale agreements, which involved people having to pay a certain number of low monthly instalments before becoming the owner of the plot). In this way, the Hyderabad Development Authority had a way of

cancelling the allocation to beneficiaries who left the project (beneficiaries leaving the project could be refunded for a proportion of the money they had paid for the plot). The Hyderabad Incremental Development Scheme was successful in a number of ways: it was able to reach the poorest 10% of the population; the usual long delay in implementing projects was eliminated because households were immediately allocated plots (which were then subsequently upgraded while the household was living there) and the continuous supply of plots ensured that there was never a shortage of land in the area.

improve living conditions in the short term. The first step should be the official recognition that the residents of a specific informal settlement have some rights to stay the area (in some cases this has already happened). The provision of better basic services (more communal taps, more toilets, better waste water disposal) and the provision of advice and support for the construction of better quality dwellings (perhaps including the supply of subsidised materials) should be the second step. The site should also be laid out to reduce fire risks and facilitate future incremental upgrading (without the need for mass temporary relocations).

While local community-based organisations need to continue to play a key role in controlling access to these informal settlements, ultimately the overcrowding of existing informal settlements and the unplanned growth of new informal settlements can only be prevented by a “twin track” approach in which urban upgrading initiatives to provide security of tenure and infrastructure in existing settlements are accompanied by a programme to ensure that new informal settlements do not form.<sup>(15)</sup> The only way to prevent the growth of informal settlements (which usually results from new household formation and rural-urban migration) is through the rapid provision of serviced land for settlement, or “managed land settlement.” These areas can be laid out and basic services provided so that health and safety can be considerably better than in informal settlements, and they are also considerably easier to upgrade than spontaneous, unplanned settlements. The key elements of such a strategy are that it must be simple and quick and it must replicate the key benefits of informal settlements as far as possible (see Box 2 on page 25).

#### 4.5 Greater participation by communities

One of the biggest obstacles in the ability of the poor to access well-located urban land is the divide between communities and decision-makers. It is essential that there is increased participation by, and consultation with, communities, so that decision-making about urban land issues takes communities’ real needs into account (for example, in the relocation of informal settlements). Typical comments in the community workshops included: “We need government to come closer to the people, not through *indabas* but through sharing the daily challenges and problems that communities are suffering from” and “For any development there should be consultation... Government officials rather than consultants should consult with the community.”

While the most meaningful participation will probably need to occur at a local project-specific scale, participation at a municipality-wide scale is also important. Integrated Development Plans (IDPs) are a potential opportunity for participation at a municipality-wide scale, as these plans are meant to address a range of issues relating to land, housing and development (although IDP processes have often not worked well in practice).

The capacity-building of community organisations is necessary for effective community participation and involvement. In addition to increasing opportunities for participation and involvement, it is essential that the ability of community organisations to make effective use of these opportunities is developed through government-funded support programmes. The key forms of support required by community organisations include:

- Access to information about urban land issues (for example, information on land

Involvement by communities in urban land decision-making that affects their everyday life is essential.



availability, on municipal land strategies and on relevant government programmes)

- Capacity-building to be able to engage with government and other relevant institutions (i.e. leadership development, and advocacy and lobbying training)
- Assistance with the creation of platforms for networking and for engagement with government
- Access to resources; for example, support for fundraising

#### 4.6 Promotion of community-based development

There appears to be a strong trend towards communities taking responsibility for addressing their own needs. As one participant in the Pietermaritzburg workshop said, “Poor people must come together and start businesses and development projects.” More specific suggestions included starting savings schemes, establishing co-operatives to communally own urban land and initiating self-help housing projects (the Pietermaritzburg workshop was attended by a number of members of co-operatives from Durban who are active in starting to address their own development needs). There were also some suggestions for increased ownership of land by community organisations (e.g. communal land trusts) and non-profit housing organisations in the community workshops. For example, a recommendation in the Johannesburg workshop was: “Government should support CBOs and NGOs in acquiring land.”

The People’s Housing Process (PHP) programme, soon to be replaced by an “enhanced PHP” programme (also known as the Community-Driven Housing Initiatives programme), is one government support programme for assisting



organised communities to address their own development needs (see Box 3). In some cases, organised communities have acquired land after negotiation with the state and have implemented their own development projects to provide security of tenure, services and housing for themselves. For example, in the Freedom Park PHP project in Cape Town, an informal settlement community was able to be centrally involved in decision-making about the upgrading of their settlement, including involvement in the layout of streets and public spaces and in the allocation of plots to specific households.

Community organisations need to advocate and lobby in order to ensure that there continue to be government programmes that support community organisations to acquire and develop land.

Opportunities for communities to undertake their own development projects should be promoted.

### Box 3: Overview of the new “enhanced PHP” programme

The enhanced People’s Housing Process (ePHP) programme is intended to support community-driven housing initiatives as an alternative to developer-driven development. The key characteristic of community-driven housing initiatives is that beneficiaries are empowered individually and collectively so that the community ultimately takes control of the development process themselves. This includes identifying the land, planning the settlement, getting approvals and resources to begin the development, contracting out or building the houses and providing the services, living in and upgrading their homes, and undertaking other development initiatives to continually improve the community.

Through the ePHP programme, communities who want to implement their own development projects are able to access government funding for land, services and housing, as well as for community capacity building. The community needs a support/resource organisation such as a NGO in order to provide technical support and manage the funding. Community members can contribute to the development project in various ways: for example, through participation in community meetings and on a project steering committee, through the provision of labour for construction or the manufacturing of materials, through adding household savings to the subsidy amount and through involvement in

broader community development initiatives (such as community food gardens, community-based maintenance of infrastructure, or refuse collection).

The benefits of community-driven development initiatives include:

- Citizenship is built, with beneficiaries being more aware of their rights and responsibilities
- Community members are more directly involved in the process, thus benefitting from the transfer of skills
- The resulting human settlements are more sustainable because they are more inclusive and more responsive to the needs of the community and because communities have invested directly in the process.

## REFERENCES

1. Liebenberg, S. (2002): "South Africa's evolving jurisprudence on socio-economic rights", *Law, Democracy and Development* 6.
2. National Department of Housing (2004): *Expanding Socio-economic Rights and Access to Housing*. Element 5 of the Policy and Research Agenda. Report prepared by the Urban Sector Network. Pretoria: National Department of Housing.
3. UN-Habitat (2003): *Facing the Slum Challenge: Global Report on Human Settlements* (draft). Nairobi: UN-Habitat. p.17.
4. Built Environment Support Group (1999): *Towards the Right to Adequate Housing*. Durban: BESSG.
5. Behrens, R. and Watson, V. (1996): *Making Urban Places: Principles and Guidelines for Layout Planning*. Cape Town: UCT Press.
6. Delta Foundation (2000): *Missionvale, Port Elizabeth: High Residential Densities in New Low Income Development*. Port Elizabeth: Delta Foundation.
- Built Environment Support Group (2000): *Shayamoya: Higher Density Social Housing in Cato Manor*. Durban: BESSG.
7. Fourie, C. (2001): "Land and property registration at the crossroads", *Habitat Debate* 7(3). p. 16.
8. Lanjouw, J.O. and Levy, P.I. (1998): *A Study of Formal and Informal Property Rights in Urban Ecuador*, Discussion Paper No. 788. New Haven, CT: Economic Growth Center, Yale University.
9. High Level Commission on Legal Empowerment of the Poor (2006): *Overview Paper*. New York: United Nations Development Programme. pp. 4-5
10. Payne, G. (2003): *Getting Ahead of the Game: A Twin Track Approach to Improving Existing Slums and Reducing the Need for Future Slums*, paper presented at Urban Research Symposium 2003: "Urban Development for Economic Growth and Poverty Reduction", World Bank, Washington, D.C., 15-17 December 2003.
- UN-Habitat (2004): *Dialogue on the Urban Poor: Improving the Lives of Slum-Dwellers*, paper prepared for the World Urban Forum, Barcelona, 13-17 September 2004.
11. Walker, N. (2004): *Towards a More Appropriate Approach to Tenure – the New Rest Case Study*, presentation at the University of the Witwatersrand Workshop on "The perpetuating challenge of informal settlements", Johannesburg, 8-10 November 2004.
12. UN-Habitat (2003): *Rental Housing: An Essential Option for the Urban Poor in Developing Countries*. Nairobi: UN-Habitat.
13. Watson, V., Behrens, R., Hennessy, K. & Smit, W. (1994): *Subletting: Towards an Appropriate Policy Response*, Working Paper No. 52 (Occasional Paper No. 39). Cape Town: Urban Problems Research Unit.
14. Urban Landmark (2007): *Voices of the Poor: Community Perspectives on Access to Urban Land*. Pretoria: Urban LandMark.
15. Payne, 2003
16. United Nations Centre for Human Settlements (1991): *The Incremental Development Scheme: A Case Study of Khuda-Ki-Basti in Hyderabad, Pakistan*. Nairobi: UNCHS.
- Walker, N. et al. (1993): *Overview of Housing Delivery Systems in South Africa and Selected International Case Studies*. Johannesburg: National Housing Forum.

### Suggestions for further information

The full synthesis report for the Voices of the Poor community workshops, on which this booklet is partially based, can be found on the Urban LandMark website ([www.urbanlandmark.org.za](http://www.urbanlandmark.org.za)). Other relevant research on urban land issues can also be found at the Urban LandMark website. Afesis-Corplan's *Land Access Manual* has detailed information on accessing land, and can also be obtained at [www.urbanlandmark.org](http://www.urbanlandmark.org). For detailed information on government programmes for funding land, infrastructure and housing, the *National Housing Code* is available on the National Department of Housing website ([www.housing.gov.za](http://www.housing.gov.za)). For general information on making rights real, the *Socio-Economic Rights in South Africa Resource Book* can be found at the Community Law Centre website ([www.communitylawcentre.org.za](http://www.communitylawcentre.org.za)).



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