housing
the **poor**
in African
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3

LAND:
A CRUCIAL ELEMENT IN HOUSING
THE URBAN POOR

Quick Guide 3: Land

housing the poor in African cities

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ACKNOWLEDGEMENTS

CONTENTS

LAND: A CRUCIAL ELEMENT IN HOUSING THE URBAN POOR

QUICK GUIDE FOR POLICY MAKERS NUMBER 3

Without land, there can be no housing. And without looking at the issue of land, there can be no meaningful discussion about how to solve the problems of housing for the poor in our cities. The inaccessibility of decent, secure, affordable land is the major reason why there are so many informal settlements in African cities and is a contributing factor to urban poverty.

This guide looks at the different forms of land tenure which operate in African cities and examines some of the problems and benefits of these different land tenure systems. The guide then looks at how land is supplied, valued, financed and transferred in the formal market, how this formal market is failing to make secure, appropriate land available to their cities' low-income populations, and why the majority of Africa's urban poor are being forced to obtain land for their housing through informal land markets.

It may not be possible to stop the wheels of urbanization or market forces which are driving up the cost of urban land and making it inaccessible to most city-dwellers – and to the poor especially. Although local governments often have limited control over land and land processes, there are still many things that they can do to help make more land available for the poor, both now and in the future. This guide introduces some of the conventional and more innovative strategies being successfully used to do this.

This guide is not aimed at specialists, but aims to help build the capacities of national and local government officials and policy makers who need to quickly enhance their understanding of low-income housing issues.

THE IMPORTANCE OF ACCESSING LAND

For the urban poor there is probably no more fundamental problem than their inability to access decent, secure land for even the most minimum housing needs. Access to land is an inseparable ingredient in a poor household's ability to survive, earn, thrive and lift itself out of poverty. Aside from being a basis for shelter and access to services, secure land rights can act as a safety net in times of hardship, and provide financial security. They are an important transferable asset that may be sold, rented, inherited or loaned. Secure rights to land also encourage people to invest in improved housing and the land itself.

At the same time, there are few urban issues that are more complex or conflict-ridden than land and how it is used. As our cities grow in size, population and prosperity, the demand for land by every sector of society is bringing never-before imagined pressures to bear on scarce urban land and increasing its commercial value.

These days, you hear a lot less about using public assets like land for social purposes. You hear a lot more about maximizing returns on assets. This is because land has become a commodity to be bought and sold to the highest bidder in the market.

The increasing pressures on land are being dealt with in different ways and on several different levels within African cities. National and local governments within Africa have developed laws and policies which govern land use and land tenure to deal with conflicting needs for land for various purposes. At the same time, deep-rooted religious and cultural practices and traditions, and the legacy of colonial administrative systems that governed land allocation and use in the past, dictate how land is used and passed on to individuals and communities.

Land use is political

In many places and in many ways, the urban poor continue to be treated like blocks of colour on a development map, to be lifted up here and pasted down there – not like human beings with real needs, real families and real aspirations, living in real communities.

Development plans which decide what is going to happen where in a city, and land use policies that determine how land is to be used, are often billed as technical documents which only technical people can understand, and whose preparation is a purely technical exercise of arranging roads, zones, drainage and access with the greatest efficiency.

Of course planning a city's growth does have a big technical dimension, but the fact is that development plans and land use policies are highly political, and should be treated as such. They are not engraved in stone, and every aspect of them is negotiable. If cities can find ways to allow poor communities to be part of the planning that affects their lives and settlements, cities can grow in ways that don't cause displacement, misery and impoverishment for such large portions of the urban population.

FEW LAND OPTIONS LEFT FOR THE URBAN POOR

Eviction can be violent or silent: Eviction can happen in different ways. Private landowners and government agencies have their ways of pushing out the poor who have no legal right to the land they occupy. But there are also quieter and more efficient forms of eviction, where the poor are gradually pushed out of the city by market forces, one tiny parcel of land at a time, so hardly anyone notices until one day, all the poor people are gone.

While legislative systems play an important role in the supply of urban land in Africa, the majority of the urban poor access land in African cities through extra-legal (informal) transactions, based on traditional land distribution practices. A study conducted in six cities showed that 50–70% of land for housing in African cities is supplied informally.[2] Illegal subdivisions of public and private land are the most common way in which urban land becomes available for development in many African cities.

At the same time, evidence from cities across the continent shows that urban land is increasingly being sold as a commodity, and this is contributing to a thriving land market in the continent's major cities. In Tanzania, for example, over 70% of land was acquired through allocation by village governments or inheritance in 1994. By 2001, 79% of peri-urban land was acquired through sale on the market. This illustrates the changing nature of land systems. But while the commodification of customary land is opening up the urban land market in Africa, it has the potential to exclude poor urban-dwellers who are unable to pay for land at market prices.

Opportunities for the poor to settle on unused public land and build informal settlements are also declining, as more and more leftover pieces of land in cities get occupied. Many private landowners and government agencies continue to evict poor people from large areas of cities to free up the land they occupy for commercial development or urban infrastructure projects. In some cases people are offered a little cash

compensation or alternative housing in remote settlement sites, but the majority of evictees are offered nothing.

Increased poverty is an almost inevitable result of eviction, and this is a serious problem for governments trying to achieve economic development and reduce poverty. Excluding a significant portion of urban households from legal shelter reduces the prospects of a city's economic development. People living in fear of eviction are less likely to realize their full potential as workers or citizens, and are unlikely to invest in improving their homes and neighbourhoods. Uncertainty about tenure can also hinder external investment and improvement of other services such as water, electricity and sanitation. *(See Quick Guide 4 on Eviction.)*

LAND: THE KEY TO UPGRADING EXISTING SLUMS TODAY AND PREVENTING NEW SLUMS TOMORROW

When talking about land for low-income housing, it is important to think not only about land needs today but also about the needs that will come tomorrow, when populations of existing slums will grow and more poor migrants will come to cities. Improving the land tenure security for all the people living in informal settlements and slums today won't be enough unless we can also find ways to reduce the need for new slums and informal settlements in the future.

Planning for the land needs of future populations is especially important in African cities. Although the global rate of urbanization is slowing, the African urban population is projected to more than double its 2007 level by 2030. *(See Quick Guide 1 on Urbanization.)* This huge growth calls for serious efforts to increase the supply of planned, legal and affordable land to keep up with future needs.

Privately owned land in cities may tend to be used in ways that are more economically efficient than public land, but this efficiency often comes at the cost of excluding the poor and limiting the state's capacity to manage urban land with a greater balance between commercial and social uses. Public land remains one of the most important potential sources of land for housing the poor – now and in the future – but there are still serious problems with public land.

Why can't the poor access public land in cities?

1. **Centralized decision-making** keeps the authority over land and land management programmes with national governments, while the local authorities who have to deal with the problems of landlessness in their cities play an insignificant role in solving these problems locally.

2. **Inefficient use of urban space** means that too often insufficient thought is given to how urban land is planned, developed, serviced and used – for example, where settlements are in relation to employment opportunities, to road and other transport networks, and to where

infrastructure like water and sewerage can be built cost-effectively. This results in wasted land and wasted urban revenues.

3. **Government-driven approaches** rely on the state to make land available for people for housing and to set standards and procedures for developing that land. In many cases, a public monopoly on land ownership has worked against poor people's ability to access urban land and created more barriers than options for them.

4. **Rigid and costly regulatory frameworks** that dictate how land should be made available and developed often fail to meet the needs of the poor, who require much more flexible and affordable frameworks.

5. **Poor land recording systems** and highly centralized land information systems for registering land ownership and user rights can create large barriers that prevent many poor households from accessing land.[3]

WHAT IS TENURE SECURITY?

For all forms of tenure, the two major components of security of tenure are:

• reasonable duration of rights appropriate to the use to which the land is put and to the social needs of the land user;

• effective legal protection against eviction or arbitrary curtailment of land rights, with enforceable guarantees and legal or social remedies against the loss of these rights, and accessible and effective dispute resolution mechanisms.

Other important aspects of security of tenure can include plot users' freedom to bequeath land to heirs, and to lease, lend or grant land to others on a temporary or long-term basis with reasonable guarantees of being able to recover the land.

Security of tenure can be achieved in many different ways, for example through clear, long-term rental contracts, or formal recognition of customary land rights, with accessible and effective dispute resolution mechanisms. Experiences from around the world show that enhanced tenure security generates many household and community benefits through encouraging investment in housing and neighbourhoods.[4]

A CONTINUUM OF LAND RIGHTS[5]

Informal tenure

Intermediate forms of tenure

Registered leasehold

INFORMAL LAND RIGHTS

FORMAL LAND RIGHTS

Customary tenure

Group tenure

Freehold (private ownership)
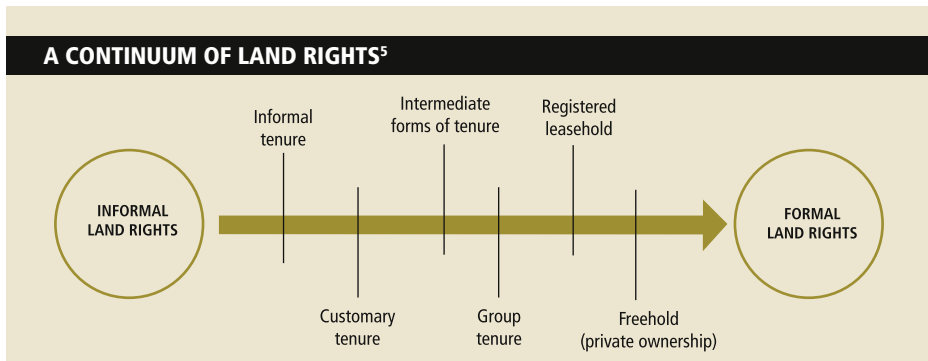
LAND ADMINISTRATION SYSTEMS IN AFRICA

It is important to note that land administration systems differ considerably across Africa. In most countries, there is co-existence of formal/legal, customary and extra-legal/informal systems. The relative importance of these systems can vary from one country to another – for example, in some countries there is a large formal/legal land system with a flourishing formal land market, whereas in other countries the customary land system dominates and there is little or no formal land market activity.

The proportion of state ownership versus individual or communal ownership can also vary. For example, in countries with a legacy of Marxism, such as Mozambique, all land is owned by the state. Most land administration systems are based either on customary practices or on inherited colonial practices, but in some countries an Islamic approach to land administration is applied.

CUSTOMARY AND COMMON LAW TENURE IN AFRICAN CITIES

Legally, land in most African cities is made available through the dual systems of customary tenure and land titling under freehold or leasehold tenure, under customary and common law respectively.

In areas where Sharia law is recognised, for example Northern Nigeria, the Sudan and coastal Kenya, these religious laws influence the supply of urban land as well. Although these systems have evolved since pre-colonial and colonial times, their underlying tenets and principles differ from those of other indigenous and colonial legal systems, and this has contributed to the complex relationships to land that exist in African cities and the sometimes contradictory regulatory systems that have emerged as a result. When communal land is transacted to "outsiders", land is treated like a commodity and is sold for cash at the market price. However, when a clan member is given rights to use it, he or she does not pay a market price, but is expected to present the chief with a gift as a gesture of gratitude. For example, in Kinshasa the Bahumbu traditional chiefs still play an important role in releasing land for urban development.

These legal frameworks for land supply are not static and have evolved over time. In Ghana and Nigeria, for example, family rights have replaced customary tenure which gave group rights to land. Tenure is now taking the form of customary freehold rather than communal use rights. As pressure on urban land increases due to population growth and migration, land in peripheral areas of the city held under communal tenure arrangements is rapidly being sold by family members to "outsiders" on the open market. [6]

TABLE 1: **HOW LAND IS PERCEIVED: KEY DIFFERENCES BETWEEN CUSTOMARY AND COMMON LAW**

CUSTOMARY LAW	COMMON LAW
Land is not considered private property.	Land is considered private property.
Land is not a commodity. It is mostly inherited or granted by a chief or king.	Land is a commodity.
Land has symbolic and spiritual value – it is not just a physical entity.	Land may have symbolic and spiritual value but it is mostly seen as a physical entity.
Access to land is shaped by social and political relationships.	Access to land is shaped by social and political relationships and by economic means – being able to afford to lease or buy it.
Land cannot be sold by the people living on it – communal or family tenure is conferred by a chief or king, as determined by social practices rather than financial practices.	Land titling – alienating land to an individual under freehold or leasehold tenure – is a process governed by access to finance for purchase or lease of the land, and by market pricing of the land.
The occupancy and use of the land are dominated by social practices rooted in tradition.	Occupancy and use of land are dominated by financial practices such as lease, rental or purchase contracts.

UNIQUE CHARACTERISTICS OF LAND

Land tenure is complicated: Sometimes, within the same poor settlement, neighbouring households may live under different tenure terms and degrees of security. Some may have rental contracts, some may own their parcels of land, others may have user rights, still others may be squatters – or tenants of squatters – with no legal tenure rights at all to the land.

Land has a number of unique characteristics that make it particularly complex.

For example, land is more than just an asset. For many people, land is closely linked to individual and community identity, history and culture, as well as being a source of livelihoods and, for many poor people, their only form of social security.

Another unique characteristic of land is that multiple rights to the same parcel of land can be held by different people or groups. The right to use, own and control a piece of land does not necessarily belong to only one person at a given time. In fact, there are many physical dimensions to land rights (including the rights over the soil, water, air and minerals on that land) and social dimensions (including the rights to control how

that land is accessed, used, sold, leased and passed on as an inheritance or gift). In these ways, a number of people and institutions can hold different kinds of rights over the same piece of land. The existence of multiple rights has given rise to the concept of the "bundle of rights", with rights being held by different parties. Some rights may be held by the landowner (who may be a private landowner, a customary political authority such as the stools of Ghana, or the state as in Mozambique), with other rights being held by people who use the land.[7]

LAND RIGHTS: INDIVIDUAL OR COLLECTIVE?

Many international development institutions, governments and funding agencies have in recent years promoted the provision of individual land titles, both in existing informal settlements and in planned resettlement projects. Their intention is to provide poor households with tenure security and land rights which will allow them to access services and lift themselves out of poverty. They also argue that individual land titles allow people to use their land asset as collateral to get bank loans for housing or livelihood purposes.

But regularizing tenure by granting individual titles to informal settlement residents can be time-consuming, costly and prone to corruption. There is also growing evidence that the benefits of individual land titles have been exaggerated. Many households don't want to obtain titles because of the costs involved, and the risk that they may lose their land if they have to pledge their deeds to obtain bank loans which they may have trouble paying back. Individual land titling may even increase uncertainty by undermining pre-existing land rights that might have been established under customary law.

When the poor have a valuable and legally sellable asset like land, it's just a matter of time before some crisis forces them to sell their land and squat somewhere else. Gentrification of poor settlements and low-income housing projects in desirable inner-city areas is a real danger.

Individual land titling is not the only way to ensure that the poor have land tenure security. The alternative is an incremental approach where tenure rights are gradually formalized or upgraded over time.

Thinking long-term: When considering the choice between individual or collective land rights, the first objective of any policy should be to make sure poor households and poor communities are protected against eviction – in the short and long term.

One of the best ways to ensure that low-income settlements are sustained is to make tenure collective, through long-term collective leases or through land titles to community cooperatives, provided that the community is organized. *(See Quick Guide 6 on Community-based Organizations.)*

Collective tenure rights can act as a powerful buffer against market forces, bind communities together and provide a structural reason to remain united, where the collectivity of community life can be an important survival mechanism.

WHAT KINDS OF LAND TENURE OPTIONS DO POOR PEOPLE HAVE?

In any city, different types of land tenure system may exist side-by-side. These may range from formal titles to customary tenure and informal tenure. Each has its advantages and disadvantages. Customary tenure systems, for example, are very good at maintaining social cohesion in a community but may be unable to withstand increasing economic pressures on land, and are often not documented. Land under private land ownership tends to be used more efficiently and profitably, but those uses often push out the poor and limit the state's capacity to develop overall land management strategies in a city. Ownership of land by public agencies or non-profit institutions may offer greater opportunities for lower-income occupants and renters to access land in prime locations, but the administration of such lands is often troubled by bureaucratic inactivity and corruption.

The table below shows the main tenure options that are typically available in African cities.[8] For the poor, the best option is usually to build on tenure systems already in place in a settlement, which allow them to stay in the same place, without any dislocation or disruption of their fragile livelihood and social support systems.

TABLE 2: **TENURE SYSTEMS AND THEIR CHARACTERISTICS**			
TENURE SYSTEM	**CHARACTERISTICS**	**CHARACTERISTICS**	**CHARACTERISTICS**
Freehold (private ownership)	• Ownership in perpetuity	• High security • Freedom to use, dispose, inherit • Can be used as collateral for loans • Maximizes commercial value and enables holder to capture value increases	• Expensive to access • Requires high technical standards, strong government capacity to administer, clear incentives to register transactions • Risk of gentrification if applied piecemeal"
Registered leasehold	• Ownership of a leasehold estate for a specified period (sometimes up to 999 years) • The landowner has to create the leasehold estate and transfer it to the leaseholder	• Almost as secure as freehold, but for a specific time period • The leaseholder can sell the lease, and the remaining years on the lease will be transferred to the new leaseholder	• Requires legal framework and costs of access are generally high
Rental (public or private)	Two options: • public: occupation of state-owned land or housing • private: rental by a landowner to tenants	• Both options offer good security; however, a legally enforceable contract is more important for private rental • Mobility depends on supply, which is often better in the case of private rentals	• Public rental can be limited in supply and poorly located • Private rental may be open to abuse • Both forms can raise concerns about maintenance Private rental is dependent on the landlord having freehold ownership

TABLE 2: **TENURE SYSTEMS AND THEIR CHARACTERISTICS** (CONTINUED)			
TENURE SYSTEM	CHARACTERISTICS	CHARACTERISTICS	CHARACTERISTICS
Cooperatives and condominiums	• Ownership vested in a cooperative or corporate body of which residents are co-owners	• Good security • Maintains group cohesion • Advantages for group repayment of housing loans	• Legal framework required • Restrictions may reduce incentive to invest • Double registration required – land and association • The corporate bodies may suffer from weak management
Customary tenure	• Ownership vested in family, community, group or tribe • Land is managed by leaders on behalf of community • A variation is religious tenure	• Wide acceptance and practice in certain parts of the world • Simple to administer • Social cohesion maintained	• Under pressure from rising land values and commercialization of land • Accountability of traditional authorities may be weak
Intermediate forms of tenure	• Pragmatic arrangements, often of a short-term nature (e.g. certificates, occupation permits, etc.)	• Provide reasonable security, while protecting long-term public interest and options for change of land use	• Government becomes liable for compensation in event of relocation; this may inhibit redevelopment • Often perceived to be insecure because of their short-term nature
Informal tenure	• Squatting, unauthorized sub-divisions, unofficial rental, etc.	• Often a response to failure of public land allocation • May operate with elements from the "formal" system (e.g. contracts)	• Risk of eviction • Exposure to corrupt practices • Hazardous location • Inadequate shelter

WOMEN AND LAND RIGHTS

More women signing on the dotted line: In increasing numbers of community-managed housing projects, the land titles or lease contracts are being routinely signed by the women in the household.

In most African countries, women's access and rights to land in customary tenure systems are determined by their relationships to a patriarchal figure such as a father, husband, uncle or brother. For as long as these relationships remain clear and undisputed, the women's rights to land and use are often protected. However, in the event of death, divorce or a dispute with the primary patriarch, a woman's right to land is threatened. This insecurity is problematic not only for women, but also for the households that they support.

Even in countries that have up-to-date laws forbidding discrimination, the property rights of women are often ignored in the buying, selling, inheriting, leasing or allotting of land. Women are thus often left dependent on male members of the family or household, and are therefore very vulnerable when there are problems such as abandonment by a wayward or indebted spouse, seizure of the house in a domestic dispute or loss of land and housing after a divorce.[9]

Besides violating women's basic human rights, this kind of discrimination is contrary to good urban management and makes no economic sense. Women are invariably considered to be lower-risk loan defaulters than men, and female-headed households often form a high proportion of a city's low-income population.

Female-headed households can benefit enormously from the security, status and income-earning opportunities that even a small plot of land can provide. There is also a strong connection between women's land rights and poverty reduction, as women's control over land can improve a household's welfare in various ways.

Too often women have very little say in top-down land policies, with no opportunities to raise their concerns and preferences. Participation by local organizations in the design and implementation of programmes is a very good start, but it does not auto-

matically reflect the needs of both women and men. Local organizations are often represented by men, and women often have very little input into the decisions. More effort needs to be made to ensure that women's interests are reflected in all land interventions.

Increasingly, governments, NGOs and community organizations are working together to put women's land rights into practice.

One example is for governments to take a look at how they define land rights (which often assume that the man is the head of the household) and to make the procedures easier for land rights to be in the name of a woman. This also makes it easier to protect women in land disputes. Legal literacy and legal aid are also important to make sure women know their land rights.

HOW LAND MARKETS WORK

Land is increasingly being seen as a commodity and not as a common good whose use must be carefully regulated for the benefit of all citizens. This shift has huge implications for how public and private land is used, and how its use is being regulated by governments.

Any land that is suitable for housing has a value and can be bought or sold, whether it is publicly or privately owned, and whether it exists within the formal or informal market systems. Market forces ultimately determine who uses any parcel of land and how much

that land costs, except when governments deliver public land directly to people, in the form of subsidized housing projects. Yet even public land, after it has been allocated and built up with low-income housing, enters the market, and units are bought or sold either formally or informally. Prices are determined by the demand for housing in that particular location, with certain qualities and amenities.

Market forces, demographic pressures and urban growth keep driving up the demand for land, but the supply in most cities con-

tinues to fall very far short of this demand. Some governments have made efforts to increase the supply of serviced land by regulating urban land markets, while at the same time a variety of informal land supply systems have evolved over time to meet the needs the formal land market can't meet. Any attempts by poor people or by governments to get land for affordable housing have to acknowledge these forces. So it makes sense to understand the basic principles of markets which affect people's access to urban land for housing.

The supply of land

Unless new land can be created by knocking down mountains, filling up water bodies or expanding the city's boundaries into surrounding farmland, the supply of land in a city is more or less fixed. Planning regulations can, however, affect the amount of land available for certain uses. Unused land is not officially part of a market's supply until it is put up for sale or rent, but if squatters occupy it, or if government policies encourage it to be developed or released for social housing, it enters the realm of land supply.

Unlike other things that you can buy or sell, each piece of land is unique. Each piece is fixed in a specific location and it comes with certain advantages and disadvantages of access, terrain and proximity to transport and amenities. Its location and other attributes are what determine its value, its use and its selling price. All these attributes are affected by changing demands in a city. When the land supply diminishes and demand escalates, land prices go up – and they go up fast. Consequently, those with the most money to spend will get access to the best land in cities, not those who most need it.

THE DEMAND FOR LAND

The demand for land A growing population automatically increases demand for land – pieces of land of all sizes and locations, for all income groups and covering the whole spectrum of tenure forms (both formal and informal), and for all kinds of uses: commercial, industrial, recreational and public. When a city's population grows rapidly, and governments and land markets can't provide land fast enough to meet these growing demands, land prices skyrocket. Demand is not so much for the land itself, but for the use that can be made of that land. For certain uses, demand for land will be higher in some places than others. Demand for commercial land near the city centre, for example, may be higher than demand for residential uses. And by the same token, buyers may be prepared to pay more for that land if it is for commercial use rather than residential use. Demand also affects the choices made by landowners. For example, a landowner may decide to sell land for commercial purposes rather than housing, if commercial buyers are ready to pay a higher price for the land. When developers expect to make high profits by developing a piece of land, it can likewise drive up the price they are willing to pay for a piece of land. Landowners can also opt to hold on to their land and wait to sell it later, when the prices may go up or buyers have access to more capital. This type of speculation can contribute to rising land prices. For a speculator who sells land bought six months earlier for three times what he or she paid for it, this situation is very pleasing, but for low-income households looking for a place to live, it makes the search even harder

INFORMAL LAND MARKETS

Urban land markets can be understood as a continuum, from completely legal and regulated practices at the "formal" end of the continuum to completely illegal and unregulated practices at the "informal" end of the continuum. There is no clear distinction between formal and informal land markets, and in many cases there is a mix of formal and informal practices (for example, where formally registered properties are informally sold without going through official land transfer processes). When a city's formal land market can't make enough land available to meet the city's needs, land prices will rise and growing numbers of people will find themselves priced out of any affordable land or housing options. And when poor people can't afford land on the formal markets, they go to informal markets.

Most African cities have vibrant informal land markets which are meeting the land and housing needs of poorer citizens, including squatters and migrants. These informal markets are so effective that a majority of land transactions taking place in many African cities are now informal.

In some cities it is still possible to find private land on the formal market that is affordable to low-income households, though it may have problems or be poorly located. But in most of the bigger cities it is almost impossible to find land the poor can afford to buy formally. In many cities the formal market's delivery systems are so encumbered with bureaucracy, delays and high costs that many are forced into the informal market. In the informal land market, poor households

are able to access land quickly and at prices they can afford, and under payment terms tailored to match their economic realities, even though the land may be unserviced.

People accept the risks, insecurity and physical disadvantages that come with informal land because they have no choice. The plots available in informal land markets may be small, poorly serviced, badly located and come without legal tenure, but they are affordable and available now. Informal land markets also offer greater simplicity, greater speed and less bureaucracy. Obtaining a plot through the informal land market can take residents one afternoon, whereas obtaining land in a government sites-and-services scheme or a housing project may take years on a waiting list and months of complicated paperwork and fee-paying, not to mention the expense of bribes. In Gabon, for example, registration of title through the legal system takes 6–24 months. In Cameroon it takes 15–18 months to register the easy cases, and the process could take up to seven years.[10]

People who obtain land through the informal market also do so in the hope that over time, the land may be regularized. With luck, persistence, organization and a little help from NGOs or a good government support programme, many informal communities are able to gradually improve their housing, basic services and environmental conditions. And with these improvements may come some form of legal recognition or community land rights.

How do people get land in informal markets?

People buy or rent in the informal market from someone who has real or perceived rights to that land. For example:

- Land occupied without anyone's permission is sold or rented to someone else, or subdivided, sold or rented out as plots, with or without houses on them.

- Land acquired through customary tenure systems is occupied, subdivided, rented out or sold, with or without houses/ rooms on it.

- Land in a government-recognized project (with or without houses/rooms) is bought, sold, rented, sublet or subdivided.

- Land legally owned, but in zones forbidding residential uses, is informally sold or rented.

- Land legally owned is informally subdivided into plots that are smaller than building regulations allow, and these plots are sold or rented out informally with or without houses/rooms.

INFORMAL LAND MARKETS IN AFRICAN CITIES: OPPORTUNITIES AND RISKS

Informal land markets may use a combination of customary and common law practices, as well as norms adapted by communities to keep pace with the needs of a rapidly changing urban environment. The fact that these ways of accessing urban land are not recognized in the laws of a country does not mean that state involvement is absent. There are examples in South Africa and Tanzania which illustrate that state officials often witness informal land sales and keep a register of land transactions. But the state or its agents do not always play the role of arbiter or witness, and in some cases they resist these practices. When this occurs, the process of acquiring land and adjudicating rights through these informal mechanisms is highly insecure and open to abuse.

Procedures for securing land sales in these informal land markets can be sophisticated. In Cotonou, Benin, for example, families selling customary land will issue buyers with a certificat de non litige ("certificate of non-dispute"), a document that reassures the buyers that the land transaction they are entering into protects their rights to the land. While the document is signed by local chiefs or officials, and recognised as a legitimate mode of documenting ownership in a neighbourhood, it remains an "unofficial" document with little protective value from a legal perspective. These "non-legal" practices occur everywhere in African cities, most often in peri-urban areas where land is available for conversion into urban use, and where various urban-dwellers – the poor, migrants or middle class families – are increasingly finding affordable accommodation and land for residential and trade purposes.[11]

CONFLICTS OVER TITLE IN PERI-URBAN MAPUTO

In Zimpeto, in the Infulene Valley in peri-urban Maputo, 50 smallholder farmers who belonged to an association lost the land they had farmed for over 10 years, and to which they had user rights. The area they worked, 100 x 150 m, was "sold" by an intermediary, who claimed to represent the farmers. The present "owner" turned up with a provisional title for the land and claimed that he had paid MZM120 million (about USD5 000) to a committee that represented the peasants who were farming there. Members of the association were evicted and they did not have the resources to take the case to court. Although there are local dispute resolution commissions, these usually involve the same local leaders who are consulted before certificates are granted. Outside the formal legal system, there are fewer ways to challenge corrupt or biased practices in the sale or allocation of land.[12]

HOW CITIES CAN MAKE LAND AVAILABLE FOR HOUSING

Providing land to house the poor is often a matter of political will on the part of governments. Once political will exists, there are a number of land management tools which governments can use to make more urban land available for housing:

- **Land use management processes**, which determine what specific pieces of land in a city can and can't be used for.

- **Land taxation**, which allows cities to charge landowners for holding land, receiving municipal services and using land in certain ways.

- **Land information systems**, which cities use to maintain updated information about land ownership, land use and who has the legal rights to what land.

- **Land tenure regulations**, which determine what kinds of tenure rights various owners, users and occupants may have to a piece of land.

- **Spatial development planning processes**, which determine how specific pieces of land in the city can be used and developed in the future.

- **Development standards**, which set rules and physical specifications for the kinds of infrastructure and services that should be supplied to land and for different kinds of land uses.

Governments invariably complain that there isn't enough land supply in their cities for housing the poor. But when poor people look around and make their own surveys, they find pockets of empty land – public and private – all over the place, much of it ideal for low-income housing. There are a number of tools governments can use to help put this land to use for housing and other social purposes.

If these land management tools are going to be effective in ensuring a sufficient supply of land for low-income housing, a city will need a good land management system to administer them, with an efficient organization, transparent procedures for decision-making and appropriate information technology for collecting, processing, storing and disseminating information about land.

What is land management?

Urban land management is a system of interrelated actors and activities intended to ensure efficient allocation and utilization of urban space, particularly of land. Land management processes include the processes through which land is accessed, held and transferred, and the systems whereby land is developed and land use is regulated.

Good land management happens where city governments have systems to make informed, equitable and effective policies and decisions about the allocation, use and development of the city's land resources.

[extended photo caption:] Governments invariably complain that there isn't enough land supply in their cities for housing the poor. But when poor people look around and make their own surveys, they find pockets of empty land – public and private – all over the place, much of it ideal for low-income housing. There are a number of tools governments can use to help put this land to use for housing and other social purposes.[13]

LAND GOVERNANCE

Land is a political issue: Any problems around land will be made worse if governance is weak. When this is the case, "state capture" is common – where those in power are able to gain control over most of the land and its resources. Corruption also becomes a large problem. And in the end, it is the poorest households in our cities that suffer.

Land tenure issues cannot be separated from the broader issues of how our cities are governed and how well they are able to balance the conflicting needs for urban land, and at the same time meet the basic needs of their poorer citizens. Although there are important technical issues that affect the management of land, it is ultimately a political and governance issue.

There is much competition between social, economic and environmental goals in deciding how limited land in cities should be used. Decision-makers face difficult choices every day about how to resolve competing needs – such as whether to use scarce land for housing, industry, parks, or preserving the cultural heritage of a particular place. The quality of governance determines how this competition is managed, and also how any disputes and conflicts are resolved. It is also governance which decides whether urban citizens can have access to land information (or whether they have to pay bribes), and if decisions about land are transparent. As the poor are the weakest group competing for land in cities, governments need to be actively pro-poor in their land governance policies.

When we think about good land governance, the types of questions to ask are: Who benefits from the laws and policies about land as they are in our cities today? Who makes the decisions, and how are they enforced? How do these decisions relate to traditional institutions? And how do these decisions affect the poorest households in our cities?

What is land governance?

Land governance concerns the rules, processes and structures through which decisions are made about access to land and its use; the ways in which the decisions are implemented and enforced; and the ways that competing interests in land are managed.

Land governance encompasses statutory, customary and religious institutions, as well as informal institutions. It includes state structures such as land agencies, courts, and ministries and municipalities responsible for land. It also includes informal land developers and traditional bodies. It covers the legal and policy framework for land, as well as traditional practices governing land transactions, inheritance and dispute resolution.

As land resources are finite within a jurisdiction, there is often competition between stakeholders over access to and use of the resources. When land governance is weak, the powerful are able to dominate the competition for scarce land resources. With good governance, however, benefits from land and natural resources are responsibly managed and the benefits are equitably distributed. In cities, effective land management reduces social tensions and promotes economic growth and poverty reduction.

The characteristics of good land governance include: ensuring tenure security for all; transparent and participatory decision-making; adherence to the rule of law; sustainability; and effectiveness and efficiency.[14]

10 STRATEGIES TO MAKE LAND MORE ACCESSIBLE TO THE POOR

The best way to solve problems of land and housing is to support a broad range of groups and approaches on many fronts

Governments and development agencies often fall into the trap of believing that there is a single solution to the problems of land. The single solution is a myth for two reasons:

1. **Political contexts, legal frameworks, land ownership, urban histories, employment sources and community organizations all vary dramatically from place to place, and no policy or programme can ever cover them all**. A solution that may work well in one place may completely fail in another. Likewise a solution may work well for 20% of the city's poor, but not for the other 80%.

2. **Single-solution seekers miss many good chances when they look only one way.** A rich field of experimentation and innovation on many fronts, in many styles, and with many groups trying out different strategies is the approach most likely to produce the solutions that work. The solutions that don't work can be forgotten, but those which show promise can be supported, refined, expanded and then replicated or adapted in other places.

Land and all its potentials need to be seen as part of a broader approach to ensuring housing for the urban poor. Issues around land need to be looked at in the context of urban governance, urban planning and infrastructure provision as well as economic and social empowerment of the poor.

The 10 strategies described next should be considered together with those described in the other Quick Guides in this series, including sites-and-services and other alternatives to eviction *(Quick Guides 2 and 4)*, housing finance *(Quick Guide 5)*, rental housing *(Quick Guide 7)* and the central role of community-based organizations *(Quick Guide 6)*. Policy makers should note that providing land for low-income housing is ultimately a political issue. Each of the 10 strategies can either increase or reduce the access of the poor to land, depending on political will and intentions.

STRATEGY 1: PLANNING MORE EFFICIENTLY

As development, growth and competition and speculation drive land prices in African cities higher and higher, land for everybody's housing – but especially for the poor – becomes less and less affordable. One way to bring land costs down in low-income housing projects is to minimize the amount of land used for each unit through more efficient planning. When laying out a new housing or community redevelopment project, good planning can help reduce per-unit land costs, allow for more efficient and more affordable basic services, and create better living environments which allow the residents to enjoy a better quality of life. There are several ways to do this:

1. Planning with people

Many people believe that all the planning issues are technical matters best left to professionals. But some of the best planners are people who have themselves lived in crowded and badly serviced settlements and know from experience what is acceptable and what isn't. When poor communities and other stakeholders are centrally involved in every stage of the planning process, the end result will be a better project that is more appropriate and more acceptable to those who will live there. The role of sensitive, community-oriented planners who are able

to listen to people, make suggestions and help translate their ideas into drawings and models and proposals, is crucial.

2. Planning for pedestrians and cyclists, not cars

Urban building regulations often require residential roads to be built wide enough for big vehicles. If these higher-income standards are followed in lower-income areas, far too much land gets lost to roads, the number of houses will be greatly reduced and the per-unit land and infrastructure costs will go up sharply. So one of the best ways of planning for efficient, liveable and affordable housing in low-income areas is to reduce road and lane widths to pedestrian proportions. As long as ambulances and fire trucks can get inside the community in an emergency, that's enough. It has also to be understood that housing projects with the best access to cars are the most likely to be gentrified by middle class households.

3. Planning for higher density

Residential developments that consist of single-storey freestanding houses on individual plots are not an efficient use of space. They contribute to the loss of agricultural land and to ever-longer travel times to get to employment opportunities and facilities. It is important that better use of space is made by planning for higher residential densities. The importance of achieving appropriate densities cannot be over-emphasised – viable public transportation and the provision of facilities within walking distance of all residents are only possible if planned residential densities are high enough, and higher densities can also result in a lower per-unit cost for land and infrastructure.

Higher densities can be achieved in many ways. One of the best ways is to design a row-house scheme, with attached side walls and openings at front and back for air

circulation. If the houses are 2 or 3 storeys tall, they can provide a lot of living space for big households. And with a few metres of space in front and at the back, they can leave room for socializing, washing and hanging laundry, cooking, motorcycle storage or setting up small shops.

There are many good examples of low-income housing projects with extremely dense housing layouts and small plot sizes which are still lively, healthy and comfortable for communities to live in. [15]

4. Planning efficiently

Many people assume that the most efficient way to use precious urban land is to lay out the houses in long rows on a rectangular grid of crossing streets, like a refugee camp. But these layouts don't create much sense of neighbourhood or the smaller, more intimate public spaces which encourage activities like playing, vending, open-air markets or tree planting. In fact, housing can be planned in clusters around public spaces

and still make extremely efficient use of land and allow for efficient and cheap installation of infrastructure lines.

Land use regulations

Some cities in Africa have tried to use land use regulations as a strategy to set aside land for low-income housing development, in a planned manner. While the intentions behind these land reservations are good, these controls have not guaranteed that any low-income housing actually is developed in those places. Even when NGOs, community groups or government housing agencies propose using this land for housing, as intended, they often meet resistance from the much stronger market forces of the private sector, which usually determine how a piece of land is actually used, no matter how it is zoned.

When land use regulations set aside urban land for housing, they often stipulate how that land can be subdivided, what densities and building heights are allowed, and what kinds of infrastructure services must be pro-

vided. Such regulations can actually work to make housing even more expensive and less available, by imposing unrealistic standards which effectively limit the amount of formal housing that can be developed – especially at the low end. And this drives more people into substandard living situations in informal settlements.

Land use regulations can be a tool to help the poor get land for housing

Land use and building regulations can be adjusted, to make them more in tune with the real needs of the poor. They can significantly increase the amount of affordable housing available in the formal market. Also, the existence of land use regulations which set aside land for low-income housing can also be a powerful tool for organized communities to use in their search for land and their negotiations to use that land for genuine low-income housing initiatives.

STRATEGY 2: BETTER LAND INFORMATION

Having a well functioning land information system is one of the most important preconditions to providing land for housing the poor. If land records in a city are unclear, it leaves room for land use to be manipulated in different ways by powerful interests, and in these manipulations the poor are almost always the losers. Also, you can't legally give or lease land to the poor (either individually or collectively) if the rights are uncertain, so the threat of eviction remains.

The lack of reliable, updated public records of land rights and land transactions can also be a barrier to developing an effective, transparent land market. Poor land records stimulate the growth of informal land markets, with large numbers of land transac-

No silver bullet: A good land records system is no silver bullet. Even the most sophisticated land records systems and digitized cadastral maps can be manipulated by powerful interest groups and sidelined by market forces, and the poor can still be pushed out of the city. But increased transparency resulting from good land information makes it harder to do this.

tions and allocations going unrecorded, so cities lose out on revenues from property taxes. Poor land records also increase instances of forged land titles and false land sales and make it hard to ensure appropriate compensation in cases of resettlement or land readjustment. These problems can in turn lead to greater tenure insecurity and increased instances of land conflict.

It is therefore essential that local governments maintain a database on land, including an inventory of all publicly owned land. A good land information system is an essential tool for planning how land is managed, so that a city's land resources can be used efficiently and equitably, for the benefit of all its inhabitants, its economy and its environment. Without clear land information, planning for a city's roads, infrastructure networks, social amenities, public facilities and housing becomes extremely difficult. Land information systems are essential for natural resource management, service delivery, valuations, the rating of properties, cost recovery on services, land tax, raising finan-

cial capital, dispute resolution and conflict management.

In people's hands...

When poor communities have access to good information about what land in their city is available, who owns it, how much it has sold for and how much similar land is worth, it can help them to find possible land for housing and strengthen their negotiations for a lower price. The use of aerial photographs, land records and Geographical Information Systems (GIS) is no longer the exclusive privilege of the educated elite in our cities. Organized poor communities and their networks all over Africa are learning to use these high-tech land information systems and finding them to be vital tools in their search for vacant tracts of public or private land and their negotiations to access that land for their housing projects.

Land information systems

In most of the developing world, less than 30% of all urban lands are recorded in public registries. If a city's land information system is to be effective and useful to the general public – and especially to the poor – it must be accessible, transparent and affordable. So, what goes into a good land information system?

The ideal land information system is a cadastre, which provides information about rights, use or values of all land parcels. Full cadastral systems are complex and expensive, however, and only a small proportion of Africa is covered by a cadastre. There is thus often a need to develop more appropriate land information systems. In Somalia, for example, UN-HABITAT has assisted municipalities with quick and cost-effective methods for acquiring and processing geographic information and making it available to different users in the urban land sector. GIS and remote sensing techniques have been combined with field survey methods to make possible the rapid provision of urban land information that is being used for land management purposes such as urban planning and design, and property taxation.

In order to be effective for all types of households, it is important for land information systems to be able to capture the whole range of tenure options discussed in this guide.

THE PROPERTY REGISTRATION PROCESS IN BERBERA, SOMALIA

Until recently, Berbera Local Council in Somalia relied on outdated and incomplete paper-based land records, and only a portion of the properties in the municipality were in the land register and property tax roll. Together with UN-HABITAT, Berbera Local Council has developed a GIS, with the main aim of providing the required information on property location and characteristics to improve the property taxation system, the municipality's urban planning processes and service delivery.

A property survey for the Berbera GIS project was completed in January 2008. The survey consisted of three main steps:

- acquisition of a geo-referenced high-resolution satellite image;
- on-screen digitizing of the image to create a map showing all buildings and other features such as main roads, rivers, the airport, etc.;
- verification of the spatial database in the field, and the collection of data about the characteristics of each property using pre-programmed handheld computers.

The property database combines geo-referenced spatial data and the property's attributes, including the following key data:

- physical characteristics of the property (size and use of plot, sizes and uses of structures, building materials used for structures, access to infrastructure);
- occupants (who can be different to the owners of the property);
- number of residents.

The database is linked to a digital photograph of each property. These photographs help staff to verify the database and make it easier to communicate with the owners and occupants of the properties.[16]

STRATEGY 3: BETTER LAND TAXATION SYSTEMS

Taxing land is one of the main ways that cities around the world generate public revenue for various public purposes. But charging taxes on land – especially on land left vacant – is also an important fiscal tool city governments can use to discourage land speculation and ensure a steady supply of land for various purposes. A steady supply of land in a city has the effect of keeping overall land prices down, which in turn makes it easier for the poor to access land for housing.

Taxes on land are charged in different ways, according to a variety of tax systems. Three main categories of tax are:

1. **Capital gains taxes**, which are charged on land only when it is sold, according to the principal that the profit a person earns by selling a piece of land should be taxed, like any other income.

2. **Vacant land taxes**, charged to owners of vacant land that is left unused. The object of these taxes is to make owning vacant land unprofitable, discourage land speculation and encourage capital investment on land to utilize it to its full potential.

3. **Land use taxes**, separate taxes charged in some countries on land and on whatever building stands on that land. In terms of these taxes, a person may pay two different rates, or different people may pay tax on the same place: the one who owns the land and the one who owns the building. Some countries use this tax system, which separates land ownership from land use, to generate more revenue to finance the provision of public services in a city.

In many countries, however, these land taxation policies have not won much support from political elites, many of whom are themselves land buyers and land speculators, and implementation of the policies is almost always hampered by under-assessing of property values, bribery and tax evasion. Often, high taxes on land drive land transactions underground and result in informal subdivision of lands and false sale records.

Low growth means less tax income

The activity of the land market is linked to the overall development of the economy of a country. As industrialisation increases, there is more investment in commercial and industrial construction, and thus more buying and selling of urban land by investors. This is an important source of tax revenue for the cities where development takes place. But in many cities in Africa today there is a growth in the urban population without an equivalent growth in commercial or industrial investment by the private sector – and thus in income from land use taxes and capital gains tax. This has a negative impact on the ability of local authorities to raise funds from land taxes to pay for the infrastructure, services and new housing needed by the urban poor.[17]

Why does land taxation make sense?

1. **It generates urban revenue relatively easily**. Land taxes don't distort market mechanisms or burden the local economy the way some taxes do. It's cheap and efficient to tax land because it requires much less work to track land ownership and land value than to track individual incomes or sales transactions. Evading land tax is also more difficult, since land assets can't be hidden, removed to a tax haven or concealed in electronic data systems. Even in very poor countries, the tools are available to implement a land taxation policy, as long as some effort is made to establish an adequate land information system.

2. **It brings more land into the market.** A landowner who has to pay a large tax on a piece of vacant land has little incentive to keep that land vacant or under-utilized. In some countries, local governments apply progressive land tax systems to combat land speculation and fully maximize the use of developed land. When properly managed and implemented, this kind of land tax can bring about positive results in the supply of land in a city and stimulate landowners to either develop their land or negotiate its development with public or private sector agents. And all this makes much needed urban land accessible to more people.

3. **It divides the benefits of development more equitably**. Even without having to do or invest anything, landowners can often accumulate considerable wealth simply by waiting for the value of their land to increase. When a government develops plans which improve roads and accessibility, extend infrastructure and public transport and increase the quality of social amenities in a certain area of the city, the land prices in that area will immediately go up. The wealth of landowners in that area will thus increase, as a direct result of these public investments. The moral question is whether these economic gains should be enjoyed only by individual landowners or should be shared by the society as a whole. In some countries, a system of land value taxation is used as a strategy to recover part of the public investments that go to such area development, through taxes charged on the landowning beneficiaries of that development. Land value taxation discourages landowners from keeping land idle in prime locations.

How does land taxation work?

The taxes to be charged on a piece of land (or on a building on that land) are usually calculated on the basis of several aspects, including its assessed market value, its size, its location, its accessibility to transport and public services and the purpose for which it is being used, as determined by land use regulations and spatial development plans. A process of land valuation is periodically carried out in a city and recorded on a municipal land price gradient map or in the city's land information system. All these calculations require active government participation in order to ensure that the information for determining all these aspects of the land's value are kept up-to-date, and that the taxes are properly assessed, billed and collected. Dispute resolution and taxpayer services must also be considered when establishing land taxation systems.

STRATEGY 4: LAND SHARING

Land sharing is an approach developed in Asian countries to resolve urban land conflicts between poor communities (who need the land they occupy for their housing) and private or government landowners (who want the land back to develop it). It is a strategy that can also be applied in African cities, which face many similar land pressures and housing needs.

How it works: After a period of planning and negotiation, an agreement is reached to "share" the land. The community is given, sold or leased one part of the land for reconstructing their housing (usually the least commercially viable part of the land), and the rest of the land is returned to the landowner to develop. How much land the people get and how much land goes back to the owner is decided during the negotiations. And finally, everybody benefits.

Land sharing is usually a long and complicated process and doesn't work in all situations. But as more and more land sharing projects are being implemented in different countries, the strategy is becoming much better known and understood by communities, governments, housing professionals and landowning agencies, and the negotiation and development times are getting shorter.

Land sharing divides the benefits of urban prosperity a little more equitably

- Landowners can clear some land for immediate development and save time and the costs of long eviction litigation.

- Informal settlement residents stay where they have been living and working, get secure land tenure and keep their communities intact.

- Governments get much needed land and housing delivered to the city's poor communities, without having to pay for it.

[extended photo caption:] It's a compromise: In land sharing, households will ultimately have to squeeze into a smaller piece of land, but the trade-off is that they will no longer be squatters, but will become the legal owners or tenants of their land. And the landowners may have a bit less land to develop commercially, but they will save themselves the loss of face and time and money it will take to evict a group of poor households with nowhere else to go.

STRATEGY 5: LAND POOLING

Land pooling (or land readjustment, as it is also called) is a way of joining several adjacent pieces of land (held by different landowners) and eliminating the property boundaries to create a large site on which to make a new, planned redevelopment project. If the project is large enough, there may also be parks, playgrounds, schools and shops in the master plan.

In exchange for agreeing to join the scheme and giving up their land, landowners usually get one or two plots in the new subdivision, to sell or build a house on, usually with the expectation that the smaller plots in the new project will fetch a high market price.

The land pooling process involves several steps. First, the land has to be valued and a set of preliminary readjustment plans developed. Then, these readjustment options are considered and discussed with the landowners and occupants, who are usually involved in determining the form the final redevelopment plan takes. Then, plots are allocated to landowners in the new scheme, usually according to the values of their former land, rather than the size.

1. **Government-managed land pooling**

There are some places where government agencies have initiated and implemented land pooling schemes in inner-city areas, some with provisions to include low-income occupants. In these cases, the government can reserve a number of plots or a portion of land in the new scheme specifically for low-income housing, as a kind of cross-subsidy process.

2. **Reblocking within existing settlements**

When informal settlement communities are able to negotiate some form of secure tenure (by buying or leasing their land) and redevelop their housing on the same piece of land, the residents could opt for land readjustment, where they demolish what's there and build a brand new community with a much denser, more efficient layout of plots, which can make room for more households to join the project and reduce the per-unit costs of buying the land and rebuilding the community. Some residents may complain that the plot they've ended up with is smaller than what they had originally, but the trade-off is that their smaller plots come with secure tenure.

3. **Land pooling involving several linked settlements**

Land pooling in poor and informal settlements can also take place on a larger scale, where several settlements (on adjoining land or on land that is close by) join together, pool their land resources and redevelop all the settlements under a single project. This kind of scheme allows one settlement which is too crowded to move some households to another settlement where there may be more room, so that similar plot sizes, layout densities, amenities and infrastructure standards can be developed in all the participating settlements.

STRATEGY 6: CROSS-SUBSIDY SCHEMES

Some governments have policies which require that private sector developers reserve a portion of their formal, market-rate housing projects for low-income housing (this is also known as "ínclusionary zoning" or "inclusionary housing"). The idea is simple: if a developer is going to make huge profits constructing high-income housing for wealthy clients, why shouldn't a small portion of those profits (or the sale price of the units) be devoted to subsidizing the housing of the less fortunate households who can't afford market-rate housing? It's a kind of progressive tax on high-end development. These policies can work in different ways, but most of them stipulate that a certain percentage of the total number of units a developer builds, or a certain percentage of the total land the new development is being built on, must be low-income housing. Usually, minimum unit sizes and maximum sale or rental rates are specified in the policy, to ensure that the housing is really affordable by the poor.

This kind of private sector cross-subsidy for housing is a progressive idea. But in practice, the high-income residential development sector in most African countries is relatively small, and the enforcement of inclusionary zoning regulations can be difficult. As a result, these schemes have produced a negligible number of affordable housing units for the poor.

Transfer of development rights

Transfer of development rights (TDR) is a land management tool that enables governments to generate financial resources by allowing landowners or developers to build more than they are allowed to by the land

use plan (for example more levels, making the building taller). With the land use taxes generated by this development, governments can finance upgrading or other housing for the urban poor. The TDR strategy only works in situations where land is particularly valuable, and the taxes paid by the developer are therefore high enough to fund significant low-cost housing by government.

STRATEGY 7: REGULARIZING EXISTING SLUMS

Recognizing and granting legal tenure to informal settlement residents is the best way of ensuring poor urban-dwellers' sustained access to land and housing. (See Quick Guide 2 on Low-income Housing.)

Regularizing informal settlements on private land usually involves negotiating with landowners to sell or lease the land (or part of it) to community members, community cooperatives or some intermediary government organization, which then manages the repayment by individual households for their land plots. Informal settlements on government land are usually regularized by granting long-term lease contracts or user rights to individual households or community cooperatives – for free, for a nominal fee or sometimes for full cost recovery.

Regularizing the tenure rights of people living in a city's already established informal settlements is good for the poor and good for the city as a whole:

1. **It is the most economical way to preserve investments** which people have already put into their housing, and protecting the city's main stock of much needed affordable housing.

2. **It unleashes a wave of investment** in improving the housing, infrastructure and environments in the settlement, by residents themselves or with help from assisting agencies.

3. **It entitles people to get basic services** at the legal, metred rates, and legal registration of their houses, which is often a key to getting their children enrolled in local schools and accessing voting rights, government hospitals and other social entitlements.

4. **It enables governments to extend basic services** and infrastructure to populations they had no funding or legal incentive to serve before, and to collect the proper fees for providing those services. It also potentially allows governments to tax people who had been outside the system before.

BAIRRO FATIMA LAND REGULARIZATION PROJECT IN HUAMBO, ANGOLA

Angola's four decades of near-continuous conflict have led to the displacement of over one-third of the population, with an estimated 60% of Angolans now living in cities, three-quarters of them in informal peri-urban musseque settlements. Residents of these areas have no clear legal title to the land they occupy and suffer increasing social and economic exclusion that inhibits their full participation in a post-war recovery.

In late 2005, the Bairro Fatima Participatory Land Management Project, Angola's first land regularization project, was initiated in the peri-urban area of Bairro Fatima, on the outskirts of the city of Huambo. The project was undertaken by the provincial government of Huambo, the National Institute for Physical Planning (INOTU) and the National Cadastral Institute (IGCA), with support from Development Workshop, a NGO, and the Centre for Environment and Human Settlements in Edinburgh (CEHS).

Initial project activities focused on mobilizing community leadership and securing their support. This step included the creation of an elected local commission to provide the link between the project and the local population and to introduce democratic accountability and participation by women. With the help of local traditional leaders (sobas), the project team carried out a survey of existing land occupation patterns using GPS and satellite imagery and created a registry of landowners in the project area.

The project's most innovative contribution was the initiation of a land regularization process to provide intermediary land titles in the existing housing areas based on plots mapped out in the land survey. In the as yet unbuilt area, the management group developed a physical plan for residential use in consultation with the local administration and local residents. This was followed by the demarcation of plots, and space for road access was cleared. Compensation for the existing occupiers of agricultural land was guaranteed through a land pooling process. Each previous land occupier was compensated with an urbanized plot equal to 35% of the previously occupied land area. Another 30% of the overall area was reserved for infrastructure and social services (transport, water and sanitation, education and health). The remaining 35% of land was available for the project to develop for new residents (approximately 600 plots).

The final phase of the project focused on land allocation, the legal process and cost recovery. The legal process is based on an intermediate form of land tenure which provides the household with secure land rights and acts as the basis for a full land title to be applied for in a three-year period. Costs for the urban development process were covered by a one-off charge of USD500 based on current informal sector land prices. This amount was paid into an account controlled by the project management group. The intention is for the pilot project to be replicated elsewhere in Huambo and for the policy lessons be fed into the national policy debate.[18]

STRATEGY 8: USING PUBLIC LAND FOR HOUSING

One of the best ways to reduce land costs for low-income housing is to use public land. Houses can be planned and built on this land using a variety of strategies and through a variety of partnerships.

In theory, public land is an asset which belongs to a city's population and which is to be used for the common good of that population. There is an unfortunate trend these days, however, to see publicly owned land as a marketable commodity rather than as a public good, and to sell it or rent it out to the highest bidder for high-income housing, shopping malls and luxury hotels, instead of using it for the public parks, schools, playgrounds, public markets and low-income housing our cities so desperately need.

But in some African cities pockets of public land are being made available here and there to use for providing low-income housing, and in most cases it is easier for the communities living on that land to negotiate affordable lease rates and secure tenure terms than it would be on private land.

When poor communities negotiate with public land-owning agencies and are able to build housing projects or upgrade some existing settlements, it is a powerful way of showing public agencies that commercial exploitation is not the only reasonable use for public land assets, but that decent housing for the poor, which allows them to develop themselves and improve their lives in every way, is a reasonable and socially equitable way to use public land resources.

STRATEGY 9: LEARNING FROM INFORMAL LAND DEVELOPERS

One of the reasons why the poor find informal land markets so much easier to access is that their systems of delivering land are fast, simple and easy for everyone to understand. Everyone knows the risks involved in informal land occupation, but everyone also knows the rules for how to access land through informal processes.

Due to lack of efficient options, the poor often have no choice but to resort to these informal markets. Formal sector land and housing projects organized by governments are invariably poor at delivery. The centralized systems which plan and implement these projects create their own bureaucracies, involve too many steps and too many fees and procedures, take too much time, are too prone to corruption and too costly for most potential recipients. But most importantly, when these systems don't reach their target group they end up supplying subsidized land and housing to groups who are not so poor after all.

It's no wonder that many poor households have little faith in these top-down solutions, and don't even bother applying for the land and housing schemes that governments implement. It doesn't have to be like this. There are many examples of governments providing public land for housing in ways that are transparent, simple, fast and effective in reaching the target group. The secret is partnership.

Borrowing informal strategies to deliver land cheaply and simply

It is possible to adapt informal strategies for making land available to urban residents to the formal land market, if governments are willing to depart from the conventional administrative and regulatory frameworks they use for land distribution. An approach to this could involve the following steps:

- Officials go to the people and set up reception camps on available land. All allotment is done on the spot, with the help of community members. Providing adequate security of tenure (e.g. an occupation permit) is important.

- Application, leasing and allotment steps are reduced to a minimum, to keep procedures simple.

- Those who are allotted land must start building houses as soon as they take possession, to keep out speculators. Ideally, occupation rights should lapse if an allottee does not occupy the plot they have been allotted.

- Only the layout of plots is fixed. All the house building is left to the people receiving the plots (although appropriate support such as advice and access to materials should ideally be provided).

- Initially only basic services (e.g. water and sanitation) are provided. The upgrading of services and facilities will then occur over time.

STRATEGY 10: SUPPORTING COMMUNITY INITIATIVES

Given the high cost of land and the powerful market forces which make it hard for developers and governments to build housing that is affordable to the poor, it's no surprise that most of the poor in African cities are left to provide their own housing – in informal settlements, on informal land, using informal building systems and financed by informal earnings and informal loans.

One of the best ways to enhance the supply of affordable land and housing in African cities is to find ways to support the poor themselves. While the housing they produce may not be ideal, the informal systems they have developed to produce and deliver it are still the most effective, large-scale and far-reaching housing delivery systems we have in African cities. These systems – often incremental – are tailor-made to the harsh realities of the poor urban-dwellers' lives and conditions, and the even harsher economic realities and land markets of the cities they live in.

Poor communities can be much more resourceful than governments or developers when it comes to finding land for housing. When well organized communities have access to cheap, flexible loans, they can search for and negotiate to buy suitable land on their own.

There are many ways in which governments, NGOs and support institutions can support what poor communities and their networks and federations are already doing from the bottom up. In places where more progressive government agencies and support institutions have been able to look, listen and learn from the poor, they have been able to find creative ways to support and add value to what poor people are already doing to

house themselves, instead of undermining those efforts. Some strategies developed in partnership with poor communities have produced some of Africa's most exciting breakthroughs in land and housing for the poor.

(See Quick Guide 6 on Community-Based Organizations for more ways of partnering and supporting communities.)

BENEFITS AND LIMITATIONS OF DIFFERENT TENURE POLICIES

Before making any policy decisions about land tenure, it is important for governments to review the existing land situation in their cities, as well as resources and institutional capacity, and to understand the implications of various tenure policy options. A good way to do this is to bring together all the key stakeholders involved in land and housing, and facilitate a discussion about the range of land tenure categories in the city and the types of land rights available to people occupying land. It will be easy to discuss formal tenure categories, but more difficult to assess the unauthorized or non-formal land tenure systems in the city. Levels of tenure security may vary widely and legal rights may not match how households perceive their own tenure rights. So it may be best to identify the different tenure categories directly with informal community members, landowners and informal land developers. This will make it easier to get a better understanding of the real situation and to make better policy decisions. When doing the assessment, it is also important to clearly differentiate between those who claim to own property and those who are renting, as policies will affect them differently.

Evicting unauthorized settlers

- **Benefits:** Releases land for other uses.

- **Limitations:** Forced evictions are human rights violations and are counterproductive. They disrupt and impoverish poor communities already living in difficult situations, reduce the stock of affordable housing and only move the problem to a new location.

(See Quick Guide 4 on Eviction.)

Granting secure forms of tenure

- **Benefits and limitations**: See Table 2 of this Guide for the advantages and limitations of granting various tenure forms, such as intermediate forms of tenure (e.g. occupation permits), rental, registered leasehold, collective ownership (e.g. cooperatives and condominiums) and individual freehold ownership.

Integrating land, housing, infrastructure and development policies

- **Benefits**: Integrated urban development plans can create diverse and dynamic urban societies in which the poor can play a full part. This improves the level of security and quality of life for low-income groups, and minimizes the need for subsidies.

- **Limitations**: This approach requires an administrative structure open to active participation. It can be time-intensive, and requires effective coordination between relevant agencies and between these agencies and other stakeholders.[19]

8 POLICY MEASURES THAT CAN HELP MAKE LAND MORE AVAILABLE TO THE POOR

1. Utilize a holistic "best use" framework for making decisions about the use of public land

The management of public land can be a lever for promoting development if land is seen as a resource that has social and economic value as well as financial value. Some cities have adopted a "best use" approach to public land, in which all publicly owned land is analyzed in terms of financial, social and economic value, and decisions are then made on how best to utilize the land. By considering the variety of values that may be derived from a piece of land, the "best use" approach gives the city the opportunity to implement its sustainability objectives through how its land is used.

LOCATION OF SITE: LOOK AT AREA SURROUNDING THE PROPERTY IN QUESTION:
☑ What social opportunities do you see? Does the land present the opportunity to integrate previously dislocated communities? Are there any social services lacking that might be accommodated on the property?
☑ What economic opportunities do you see? Does the land provide a platform for largescale economic activities and investments? Or might there be an opportunity for stimulating the local economy through a particular kind of development?
☑ What are the topographical and environmental opportunities and challenges of the site?
☑ All land offers opportunities for greening, but there may also be opportunities for urban agriculture or pocket parks.
☑ What are the property values of the neighbouring private properties? Are they depressed?
☑ How can your investment in the public land parcel influence the course of property values?
☑ What challenges does this create for you? And what are the opportunities?

SIZE OF SITE:
☑ Development of large sites requires a particular process that is determined by the regional significance of the site, the cost of servicing it, and the scale of opportunity it presents.
☑ Do you have the capacity to manage this, or should you maybe split the site up into smaller portions? What kinds of land uses would you like to promote on those smaller portions?
☑ Smaller sites offer more opportunity to add to the existing local area, but do depend on existing infrastructure capacity.
☑ Smaller sites also offer the opportunity for integration into the local development frame work and to be used as leverage to stimulate private sector investment.

OPERATIONAL AND SPATIAL LINKAGES:

☑ There are many instances where the land is well located but the lack of linkages undermines local development. Important development opportunities are created by linking local, home-based or small-scale enterprises with larger businesses.

☑ Think about the available transport systems and networks: can residents and businesses easily access this particular land parcel from other settlements in the city? How might you improve access? Could the land itself become a transport route or linkage?

☑ Transport linkages also mean that not all social services need to be in all settlements local settlements can access social services in other settlements if linkages are well established. This enables the city to save on the capital and operational demands involved in providing social services such as health clinics, libraries, swimming pools, offices and so on.

TYPOLOGY OF DEVELOPMENT:

☑ A single-sector approach is limited and will lead to an inability to address the diversity of demand in the longer term. Multi-sectoral approaches are more robust and sustainable – but offer greater challenges in implementation in the short term.

☑ You can choose to develop the land entirely as a public sector initiative, or to package the land in a particular way and sell or lease this land to the private sector, thereby reducing the impact on the municipality's capital budget.

DEMAND:

☑ Understanding the demand is quite different from understanding the opportunities presented by the particular land portion. Understanding the demand expressed by residents (both individual and corporate) allows for more effective public sector investment.[20]

2. Provide basic short-term security for all households in existing informal settlements

Some kind of provisional tenure can be granted to existing informal settlements and slum residents in a city through policy changes, or through proclamations by the relevant housing or land department or by a minister. This kind of proclamation is often enough to reduce at least some tenure uncertainty for poor households, while other options are explored.

3. Determine whether all informal settlements in a city can stay or not

Identify all the slums and informal settlements in a city and work with the communities to determine if their settlements are vulnerable to environmental hazards (such as floods or landslides) or required for legitimate public purposes. For this assessment to be legitimate, it should be carried out openly and with the involvement of all the stakeholders – particularly the poor communities.

4. Offer priority for relocation to residents in settlements that can't stay

Once a list has been drawn up of settlements which absolutely cannot stay in the same place, the residents in those settlements should be offered priority for relocation to sites that offer close access to existing job opportunities and social support structures. Temporary occupation licences or permits can be provided to these residents for a limited time – as long as it takes to agree with the local community on a suitable relocation site.

5. Grant all other slums and informal settlements secure tenure

The settlements which are not in the way of public infrastructure projects and not unsafe should be granted increased tenure rights. Wherever possible, the forms of tenure should be based on tenure options already known to and understood by the communities. It is important that the tenure arrangements allow communities to legally receive services and environmental improvements. The tenure terms should also provide residents with security, but without stimulating rapid increases in land prices which would push out the very poor households who are the beneficiaries of the newly secure tenure. For settlements on privately owned land, tenure options include land sharing, long-term cooperative leases or a negotiated sale of the land to the community cooperative.

6. Revise rules and procedures to increase the supply of land and housing

One good way to make more land available to the poor is to revise planning regulations, building standards and administrative procedures to reduce entry costs, ease restrictions and accelerate the supply of serviced land and new legal housing in a city. Options include reducing the required proportions of land to be allocated to roads and open space, relaxing restrictions on minimum plot sizes, plot use and development, and simplifying administrative procedures. (See Quick Guide 2 on Low-income Housing.)

7. Introduce and collect taxes on all developed and undeveloped land

Charging taxes on all land – especially on land left idle – is one of the most important fiscal tools a city government can use to discourage land speculation and to ensure a steady supply of much needed land for housing all sectors of society. A steady supply of land in a city has the effect of keeping overall land prices down, which in turn makes it easier for greater numbers of the urban poor to access affordable land and housing.

8. Allow incremental development of buildings and services

One way to make land and housing more affordable and more flexible is to allow it to be developed in phases, starting with plots of land and infrastructure that can be improved over time. As long as the minimal infrastructure and facilities provided initially are sufficient to ensure people's health, safety and wellbeing, other services can be improved upon or expanded gradually. This incremental approach is especially useful in projects targeting vulnerable migrants new to the city.[21]

Creating a supportive environment

Both existing and new settlements will need to be developed in ways which increase access to jobs, services and community facilities, at prices poor households can afford. It is important to adapt a number of related policy measures to support the policy options described above, including:

- decentralizing resources and responsibilities to the lowest administrative level;

- strengthening community participation;

- encouraging mixed land use developments;

- encouraging financial institutions to provide forms of housing credit other than mortgage loans (i.e. credit that does not require a title as collateral) (*see Quick Guide 5 on Housing Finance*);

- strengthening the capacity of land administration and land record agencies;

- improving transportation links between residential, commercial and industrial areas.

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WEBSITES

Geoffrey Payne & Associates, *www.gpa.org.uk/*

Global Land Tool Network (GLTN), *www.gltn.net*

ID21 Communicating Development Research, Safe as Houses? Securing urban land tenure and property rights, *http://www.id21.org/id21ext/insights48art1.html*

Le Gret, une association professionnelle de solidarité et de coopération internationale, *www.gret.org/activites/foncier.htm*

United Nations Human Settlements Programme, *www.unhabitat.org*

For an **annotated list of websites** that offer more information about the key issues discussed in this Quick Guides series, please visit the Housing the Urban Poor website **www.housing-the-urban-poor. net** and follow the links to 'Organizations database'.