Angola and informal land tenure arrangements:
Towards an inclusive land policy

This case study draws on research that investigated the extensive informal land market in Luanda, Angola. It examines how urban land is transacted and the mechanisms by which it is secured and regulated. The case study is based on research undertaken by Development Workshop, Angola. The work was commissioned by the World Bank, with technical support from Urban LandMark. See Sheet 5 for Reference details.

An introduction to the case study is given below. See page 2 for reflection and learning activities. You can do these activities on your own or in groups, as appropriate for your learning session. Look at the activities before you begin so you know what to look out for during your reading.

Sheets 2-4 of this case study present an outline of land markets in Angola, specifically, Luanda. It comments on how most people are unable to participate in the formal land market and as a result, how the informal system has emerged in spite of the best of intentions of government. A summary of the key findings of the study and some of the recommendations arising from it are given on Sheet 5.

Learning outcomes

By the end of this session participants will be able to:

- Describe some of the official policy governing land ownership and land markets in Angola

- Describe and explain why there is an extensive 'off-register' land market, particularly in Luanda

- Articulate strategies that will enhance urban land use planning in ways that more effectively meet the needs of poor people.

Introduction to the case study

The case study is based on findings from research into the urban land market operating in low-income areas in Luanda. It recognises the intense pressure on urban land experienced as a result of urban in-migration during and since the civil war. It shows the inability of the formal market to provide means for poorer people to access land, transact it and secure formal title or legally defensible land tenure.

The research identified four informal settlement areas (*musseques*) as study areas, representative of four of the main informal settlement types. The research in these areas, which was conducted over a nine-month period, included a range of techniques and approaches.

Information collected by using Geographic Information System (GIS) and remote-sensing technology provided population estimates for Luanda, and helped to identify respondents for the semi-structured interviews. Focus group discussions and key informant interviews were conducted with community residents and slum dwellers to capture their motivations for choosing where they lived, their strategies for obtaining land, services and housing, how they viewed the process of 'regularisation' and its costs and benefits, and their perceptions of the largest barriers to achieving their aspirations.

The research provides the foundations for an alternative conceptual framework of land management and proposes a wide variety of means by which land markets could function effectively and also meet the needs of poorer people.

Photo: Development Workshop Angola

Preparing for fieldwork in the Bairro Paraiso Residents Committee office.

Learning activities

Before you start

Before you read the case study, spend a couple of minutes making a note of your answers to this question:

What are your views about uncontrolled or unregulated slum development and how city authorities like those in Luanda should respond?

After reading the case study

Do the following activities on your own, or in groups. Write down your answers to the questions. Be prepared to share your findings with the larger group.

1. There is clearly some kind of 'system failure' happening in this case. What part of the system is failing people and what is causing this failure?

2. You are a planning adviser to the City of Luanda. Develop a series of policy changes to resolve the main urban land issues described in this case study.

Reflection

- Do you have any core beliefs that were challenged in this case study? What were they? Share this with the other participants using this learning material.

- What are the key insights that you have gained from this case study?

Photo: Development Workshop Angola

Bairro Operario showing the successive upgrading of a 'Transitional *Musseque*'

A history of formal land ownership in Angola

Angola, like Mozambique, inherited its legal framework from the Portuguese Civil Code, which was not based on a traditional African concept of community occupation under customary law. With Portuguese settlement, large areas of land were appropriated for and incorporated into the colonial cadastre (the formally surveyed and officially recorded land boundaries of the land concessions granted by the state).

After winning independence from Portugal in 1975 the new Angolan government, influenced by socialist principles, affirmed the constitutional role of the state as the owner of all land. The post-independence constitution thus declared the state to be the owner and manager of land. Laws published in 1991 and 2004 adopted the colonial cadastre as the basis of land titling.
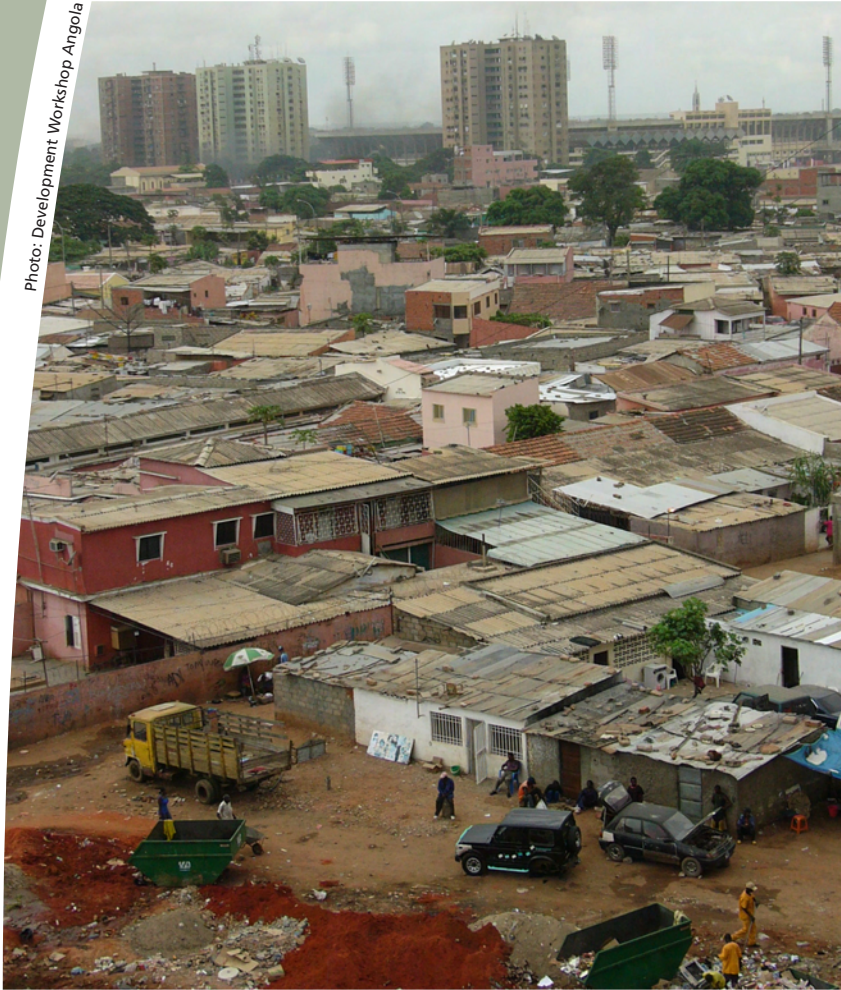
The state is the owner and manager of land in Angola. Private ownership of land is illegal, and informal settlements are considered to be illegal land occupation.

The concept of customary tenure was reintroduced as part of the 2004 Land Law (Law 9/04). In particular, Article 34 stipulates that the state can grant, inter alia, (a) private property rights to urban land and (b) useful customary domain to rural communities. These are important steps towards assisting poor people to secure tenure, and in relation to this case, in urban areas in particular.

The 2004 Land Law stipulates that concessions of urban land up to 1,000 m² may be authorised by the Municipal Administration, while the Provincial Governor must approve concessions of land areas of up to 50,000 m². Concessions of areas larger than 50,000 m² may only be authorised by the Minister of Urbanism and Construction.

In December 2010, an Executive Programme for the Good Governance of Luanda was launched. With regard to land occupation and use, the Programme introduced a number of institutional changes at the level of the municipalities to improve urban management. The Programme affirmed the principle that informal settlements would be considered by the State as illegal land occupation. In this way government sought to "strengthen the idea of the State's authority", since illegal occupations were seen to result in high social, political and economic costs to the State in its efforts to improve urban management or install social services in the city. To address the problem of illegal occupations, the Angolan government had earlier adopted an ambitious policy of building one million homes country-wide before the 2012 elections. It linked to this its intention to eliminate much of the *musseques* (informal slum settlements) in the process.

In 2012 the government also announced the opening of a 'one-stop shop' for property registration, similar to the already existing office for company registration. This kind of entity is intended to concentrate diverse services and facilitate the rapid acquisition of title deeds, with a view to simplifying procedures and reducing the transaction costs for users.

Photo: Development Workshop Angola

This introductory section has provided a brief account of land ownership and management in the formal sector and some of the steps taken to regulate informal or even illegal occupation and use of urban land. The next section examines this informal land sector and, in particular, how poor people access, hold and trade urban land in Luanda.

Informal settlement located close to the centre of Luanda.

Urban LandMark

Transitional *musseque* on the outskirts of the city centre.

The wider reality

In 2012, Luanda was home to about six million people, and its population continues to grow. In the years of conflict during the civil war, millions of people sought refuge in the safety of the capital region and settled in the *musseques* (informal slum settlements) on the periphery of the city. This continued after the war ended in 2002 as families and individuals sought better economic opportunities and access to essential services such as health and education.

As the capital city, Luanda has experienced the strongest trend in urbanisation and it is now estimated that three-quarters of its population live in peri-urban areas or informal settlement areas. Thus, the *musseques* have continued to expand, and the city of Luanda is now confronted by the significant challenge of managing land assets essential for housing and for economic development. There are two major constraints identified in the research that prevent appropriate formal management of land in Luanda.

Major constraints

At independence, the flight of many colonial civil servants meant that the formal colonial land cadastre ceased to be managed and updated. A major constraint to urban land management in Angola is thus the absence of up-to-date municipal land cadastres and a registry of housing and real estate. Amongst other factors, this limits access to land, inhibits the transfer of land, and forces people into making informal arrangements. It also inhibits access to credit for housing and the development of a mortgage market.

At independence, the flight of many colonial civil servants meant that the formal colonial land cadastre ceased to be managed and updated. Many records were destroyed by departing Portuguese administrators.

A second major constraint to effective urban land management in Angola is weak administration of land resources and correspondingly weak tenure rights for most urban residents. While many laws and regulations related to land, urban development and housing have been published since the 2004 Land Law, these are not consistently applied in practice. For example, the city of Luanda still lacks a master plan to direct its development. The problem is compounded by land market distortions caused by poor land development and management policies, including the slow provision of infrastructure and services, poor land information systems, and cumbersome, slow and complicated land transaction procedures. As a result a large and active 'parallel' land management system has emerged and in many areas of Luanda has become the dominant land market.

The extent and importance of the parallel land system

The research used for this case study highlighted the complexity of the actual situation concerning urban land, due to the already complex situation inherited from the colonial period, the limited attention urban land has received from the state in the post-independence period, and the effect of major social and economic changes that have taken place in the last 35 years. A central finding of the research is that there are parallel systems of land management operating in the urban areas studied:

> *In spite of legislation a flourishing parallel land system exists.*

- The state land allocation system (with considerable overlap and lack of clarity about distribution of authority).

- The parallel system, largely operating on (informal) market principles, but incorporating local administrators and other 'social land actors' such as families or local leaders to legitimise transfers.

Of these two, the parallel system is by far the most widespread and dominant, with more than 75% of peri-urban households in Luanda relying on it in one form or another. The research findings made it possible to define the main characteristics of the informal land market operating in these settlements and allowed an extrapolation of general findings to the city-scale. The empirical findings and analysis show that the following six points characterise land markets in the *musseques*:

- They are financial in nature, which means the majority (61%) constitute cash sales

- They are generally well recorded because of the dominance of documented evidence that buyers use to back up their claims (60%), but remain 'off-register'

- They are perceived as secure by an overwhelming majority (85%) of buyers

- They enjoy a strong local legitimacy due to this perception as well as the widely used documented evidence

- They are based on rights that are legally uncertain, as only 6.8% of transfers can be backed up by legally defensible documents to secure people's tenure

> *Musseques rarely represent spontaneous occupations or attempts to legitimise squatting on vacant land (6% of cases).*

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Photo: Development Workshop Angola

Posters advertising the availability of land and houses for sale or rent in different neighbourhoods

Demographics of urban land buyers

The massive conflict-motivated migration from the provinces has abated since the end of the war in 2002. However, Luanda continues to grow at a rapid rate. Today, most buyers of urban land in peri-urban Luanda are from other parts of the city. Few are new in-migrants. Indeed, the research indicates that only 18% of buyers in the four study areas were from other provinces of Angola, down from about 30% in 2004.

75% of land buyers are from older *bairros* of Luanda itself, demonstrating large inner-city mobility. There is also a movement of people out of the over-crowded *musseques* in the old central city toward the growing peri-urban areas. A component of this migration can be attributed to the removal of families due to civil works and upgrading projects in these old *bairros*, but many families move opportunistically, taking advantage of rising real estate values in the city centre to cash in their housing assets and purchase lower-cost land on the periphery.

Families make a careful cost and benefit analysis when they move of their own free will, considering locational advantages of employment and educational facilities for their children, which are often inferior in areas where land is cheaper. However, those who are forcibly moved are usually not compensated for their loss with the true commercial value of the land they relinquish and have to contend with the lack of urban services on the periphery.

Ownership status

One of the most important findings of the research dispels the myth that residents in informal settlements are synonymous with 'squatters'.

A total of 61.3% of the sample surveyed bought their land on the informal market and can demonstrate declaration of purchase or sale contracts. Only 14.4% of householders surveyed had no documentary proof of occupation and could conceivably be regarded as squatters.

Others had been assigned the plots of land where they built their houses by local authorities, and a full 85% of the population surveyed considers their tenure secure and their occupation legitimate, even though these claims are not currently defensible in law. The poor are at risk of losing their principal assets (land and housing), particularly as a result of planned urban renewal schemes that involve demolitions and relocations. Only 6.8% of the households studied actually had documents that the state considers to be proof of legal occupation.

Photo: Tim Hetherington

Maria says, "Mr. Kito had lived in the area for over 20 years, many people I know bought their plots from him, and so I felt safe doing same, and plus we signed a purchased declaration ... I wrote my name and he wrote his, and I have the paper to prove it".
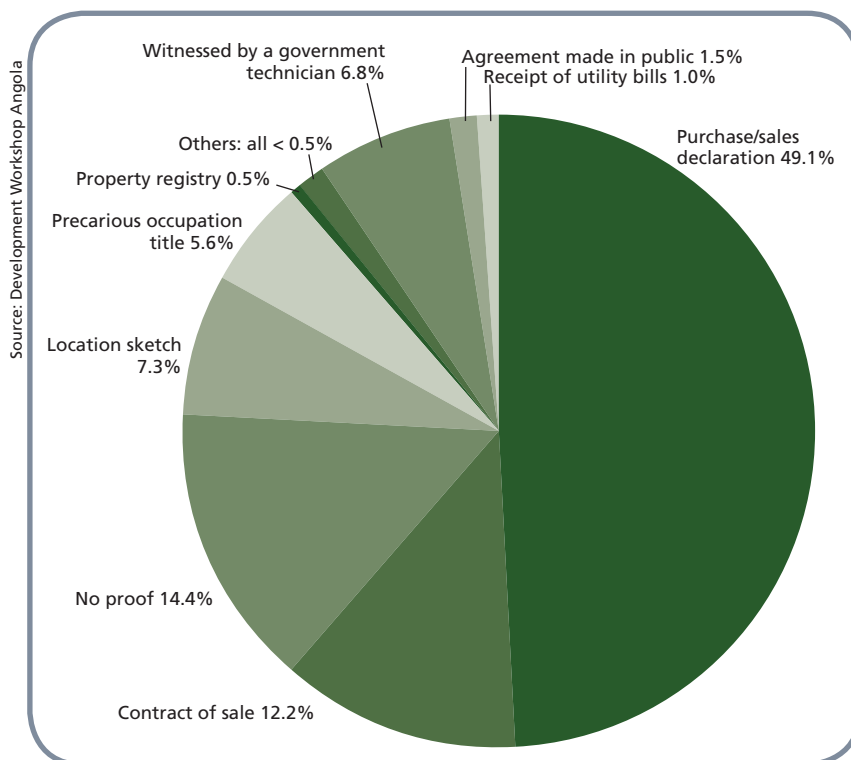
Source: Development Workshop Angola

Witnessed by a government technician 6.8%

Agreement made in public 1.5%
Receipt of utility bills 1.0%

Others: all < 0.5%

Property registry 0.5%

Precarious occupation title 5.6%

Location sketch 7.3%

Purchase/sales declaration 49.1%

No proof 14.4%

Contract of sale 12.2%

Figure 1. Documents that prove the right of occupancy (2010)

Land transactions in the informal sector

Baptista moved to Luanda in 1998. He says, "I would leave my aunt's house at 5am to walk the 8km to town and wash cars in the streets. It took me 5 years before I finished paying my 100m² plot of land which cost me $1800 (USD). Saving was not easy. Bread, butter and tea were the priority in a house with 10 people. But I was lucky, my aunt knew the neighbourhood coordinator of Valsaroca, so he held the plot for me".

The manner in which land is transacted demonstrates the informal nature of the real estate market. A huge 90% of transactions are made directly between the buyer and the former owners. Only 2% of the cases studied involved payments through an agent or intermediary. Only 8% of land transactions were concluded through local government administrations or the coordinators of recognised neighbourhood commissions. These transactions are considered formal only if appropriate legal documents or titles are subsequently issued by the designated municipal or provincial authorities. In other words, even if transactions may be recognised as socially legitimate, backed by paperwork and witnesses, the status of land ownership is technically illegal and in most cases remains so.

What this illustrates is that even within the informal land sector, land has commercial value and transactions are concluded at market value. This is despite the fact that the land is officially owned by the state. What this shows is that both formal and informal land markets exist in Luanda. Formal markets deal in land that is legally titled or land that falls within one of the government-designated housing reserves, while informal markets prevail in the remaining untitled land, as described above.
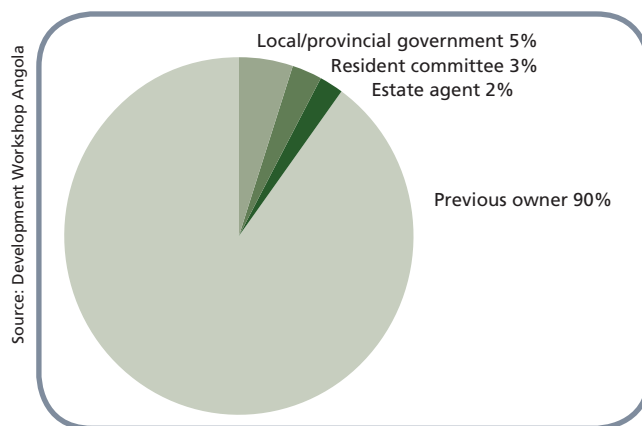
Source: Development Workshop Angola

Local/provincial government 5%
Resident committee 3%
Estate agent 2%

Previous owner 90%

Figure 2. Beneficiaries of land payments

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Land values within the informal system in Luanda

Land values in the informal sector are determined by a set of conditions, the most important being the location of the land in relation to the central business district, new investment opportunities, or employment opportunities. Land values are also influenced by the population density, the presence of infrastructure and basic services, the legal status of the land, evidence of ownership, access to social services (schools, health), access roads and public transport, and the level of environmental risk such as flooding. For these reasons, land has a value across the entire city and does not cease to have value at the outer limits of the formal cadastre. In fact, land values span the entire city in an almost seamless manner.

This point is important because it demonstrates that there is order and that market rules of a sort play a significant role across the entire city, including the elite areas, the inner-city *musseques* and the outlying *musseques*. Figure 3 provides an illustration of this continuum of land values.
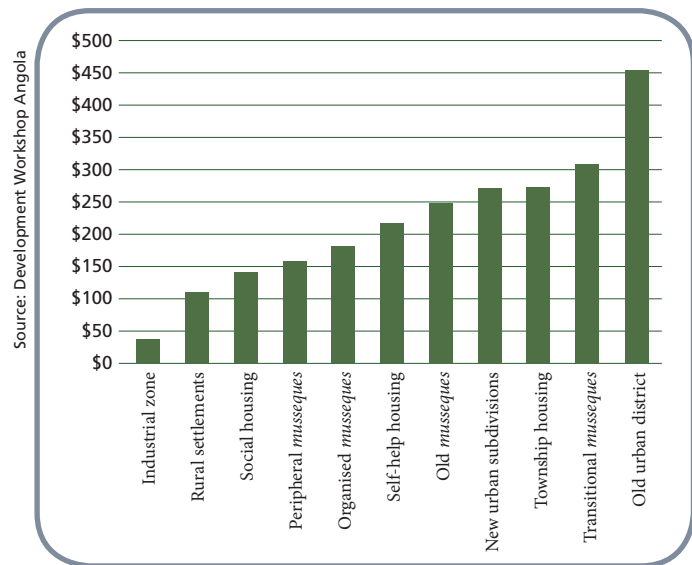
Source: Development Workshop Angola

Figure 3. Land values per square metre in different settlement types

Sources of financing for informal sector land transactions

End-user financing for families who want to purchase land and build housing in the informal areas is also largely acquired from informal sources. While commercial banks have provided financing for high-end luxury housing projects and condominiums, they have been reluctant to provide end-user financing for families in the form of mortgages to purchase or build new housing. The formal banking sector has been afraid to enter into the informal real estate market. Most funding for purchasing of land and building a home comes from family (59%) and friends (25%).

Most of the requests for loans for housing mortgages in the informal sector are in fact turned down. Banks interviewed had an 86% refusal rate in these areas. The reasons given by banks to justify their reluctance to finance land for housing were:

● The lack of clear legislation on land, including the lack of a cadastre for these areas, which inhibits the use of property as collateral

● Long repayment periods

● The lack of a government policy on bank credit

● The lack of ownership documents by borrowers

● The lack of a culture of timely repayment of loans by borrowers.

Source: Development Workshop Angola

Figure 4. Sources of financing for the purchase of land and building a house

This case study has raised some serious issues. It shows, for example, that urban development in Angola is constrained by significant urban land management challenges.

However, there is an organised informal land market that operates according to widely recognised 'rules'. The important point here is that this system can form the basis for a new way of thinking about land markets that resolves current urban land management contradictions.
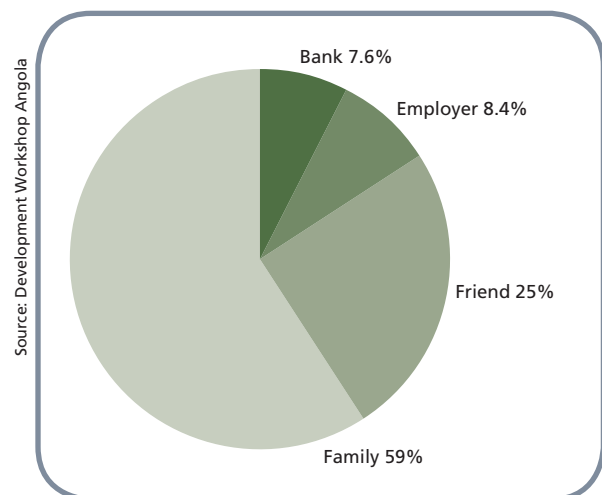
Summary sheet
Summary and guiding principles for recommendations

The complexity of the urban land situation in Luanda requires a diversity of responses, not simplistic solutions. Above all, there is a need to move from the current practices to improved forms of land management, counting on popular support and engagement – otherwise any new system will be doomed to fail.

The recommendations that follow are guided by two overarching principles:

(i) that existing practices should be integrated into an inclusive land policy. The study demonstrates that the existing informal mechanisms to access land are well established and have a strong legitimacy among the peri-urban population. It is evident from the findings that transfers of land are commonly sealed by declarations and contracts of sale. These mechanisms are a coherent system by which the large low-income population in peri-urban areas gains access to a vital resource – land.

(ii) that more functional and inclusive land markets are required and should be promoted. The wide impact of urban development emphasises the need to maximise the socio-economic benefit for the majority of people, and not only in the formal private sector. To focus urban development and its benefits on a small elite or limited middle-income group at the expense of the much larger lower-income groups of the city will lead to greater social and economic exclusion from development opportunities, and greater levels of inequality and urban dysfunction.

Efficient and equitable land markets are a prerequisite for well-functioning cities. Dysfunctional land markets caused by poor land development and management (including poor urban planning, slow provision of infrastructure and services, poor land information systems, and cumbersome and slow land transaction procedures, as well as under-regulation of private land development) lead to unplanned development of land in the urban periphery.

> *Efficient and equitable land markets are a prerequisite for well-functioning cities.*

The Angolan government has articulated the need for the banks and private sector developers to invest in low-cost housing and is aware that they themselves must take a role in stimulating housing finance markets if they are to interest these potential private sector partners. However, real estate developers largely shy away from providing low-income housing, despite having a large market and a huge demand for this type of product. The general housing shortage across the board and in all economic sectors has resulted in real estate developers being drawn to the supposedly lucrative, high-end of the market. The inevitable saturation of the luxury-end offerings, when the current construction boom subsides, will likely encourage some developers to look at down-market opportunities lower down the pyramid. But banks still consider mortgage lending a highly risky venture in a market where they have more lucrative investment opportunities.

The uncertainty regarding property rights creates major constraints from a market perspective. If the markets are to work for poor and middle class Angolans, then property transfers need to be backed up by claims that can be legally defended. Housing financiers require certainty – even if the evidence falls short of full land titles, there must be more official recognition than is currently the case. Better access to information will also support more functional markets – such information includes property records, wider awareness of purchase opportunities and public access to information concerning development projects. Compensation, accommodated in the letter of the law, should be linked to market valuations. This should work to protect the assets of the poor, which in financial terms often represent a family's accumulated lifetime savings. At present the demolitions and relocations to the periphery constitute a loss of assets and the corresponding foothold in the property market for the most vulnerable segment of the population.

To function well, land markets require a broader definition of property rights and the means for the regularisation of transactions (for example, by public notaries). The roles of brokers and other agents or intermediaries who are currently involved in both formal and informal transactions need to be professionalised, and documentation and acceptable procedures to verify occupancy and term of residency need to be formalised.

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Priority recommendations and next steps

The findings and the recommendations show that <u>the two most important next steps are (i) a focus on recognising the right of occupation in 'good faith', and (ii) applying the principle of incremental tenure, or taking steps progressively towards more secure ownership over time.</u>

These two recommendations will have the largest impact on achieving regularisation of the *musseques* at any meaningful scale. Because of the primacy of these recommendations we place them first in the summary table. These recommendations include 'next steps', which are presented here almost as written in the research summary report. As such they refer specifically to certain agencies or ministries and are also intentionally action-oriented in fairly concrete ways.

Recommendation	Next steps
Recommendation 1: Recognise the right of occupation in 'good faith'	The Ministry of Urbanism and Housing (MINUH) should draft enabling legislation and implement regulations for 'good faith occupation' and 'incremental tenure'.
Recommendation 2: Introduce the principle of incremental tenure into current regulations and practice	Review the draft regulations that the MINUH and Development Workshop developed on incremental tenure and incorporate them into legislation. Work with partner agencies to put the regulations into practice in a pilot municipality.
Recommendation 3: Incorporate the right to information into effective practice	MINUH should develop by-laws or regulations to the current Land Law and Physical Planning Law that specify detailed procedures and obligations for public consultation, hearings and the publication of physical plans and changes in land use.
Recommendation 4: Strengthen municipal land management institutions	The Institute for Formation of Local Authorities (IFAL) should host training courses for municipal-level staff in land registration and cadastre management.
Recommendation 6: Promote urban spatial and transportation planning	The Provincial Government of Luanda should develop municipal-level physical and transport plans based on a metropolitan-level structure plan.
Recommendation 7: Build municipal land information systems (cadastres)	Selected municipalities should develop a pilot geographic information system (GIS) for 'good faith occupation' and 'incremental tenure' in selected *bairros*, and initially populate it with information already collected in the research for this study. Such a pilot is being developed in Huambo Municipality with the assistance of Development Workshop.
Recommendation 8: Secure the land rights of women	The Ministry of Family and Women (MINFAMU) should work with gender-focused civil society organisations to start a public information and media campaign to raise awareness of women's land and inheritance rights.
Recommendation 9: Advocate 'learning by doing' through pilot projects	MINUH and provincial governments should evaluate current and past pilot projects and incorporate the successes into good practice principles for implementation and replication on a national scale.
Recommendation 10: Implement the principle of just compensation	MINUH should publish a by-law regulation on just compensation linked to Article 12 of Law 09/04 that will give the affected party the right to receive payment in cash or in kind, calculated in line with the market value of the land and/or housing affected.

Reading

Development Workshop (2011) *The case of Angola: Strengthening citizenship through upgrading informal settlements*. Final synthesis report, Cross-Country Initiative (TF0901110). The World Bank, Luanda and Washington.

Cain, A. (2013) *Luanda's post-war land markets: Reducing poverty by promoting inclusion*. Urban Forum 24(1) 11-31. Published online by Springer: http://link.springer.com/content/pdf/10.1007%2Fs12132-012-9173-x.