

**Some interesting background for the Working Group on informal sector housing.**

**Kay Muir-Leresche – notes for "Land Administration in Africa: Searching for Land Tenure Security" May 22-25 2006, Pretoria.**

**Introduction**

Most developing countries, including South Africa face very high demand for urban housing and the mushrooming of informal settlements. South Africa is under more severe pressure because of its apartheid history, the expectations of delivery under majority rule and the influx of economic and political refugees from the rest of Africa.

The government has made a concerted effort to address the housing issue as outlined by Richard Thatcher. However, there is still a significant backlog and increasing resentment over non-delivery. Many of the problems relate to inconsistent or inadequate policies and legislation, confusion between the myriad agencies involved over responsibilities and accountability and the lack of capacity of the implementing agencies, rising costs and delays in accessing building materials and the corruption and lack of information and training of both the employees and the housing hopefuls. A major constraint facing the South African government also arises from the stratified nature of the society and the ferocity with which wealthier neighbourhoods resist change.

The Muldersdrift Home Trust Foundation's efforts to obtain land and build houses for its community, highlights the difficulties faced by the poor even when they have saved and want to purchase land and address their own housing needs.

**The Enthembalethu Community and the Muldersdrift Home Trust Foundation (Based on a study carried out by Stephen Berrisford and Michael Kihato in 2005)**

The community is based in the West Rand in Guateng province in an area that used to be primarily agricultural but which is now within the Pretoria/Johannesburg triangle and is prime commercial and residential property. The area still has smallholdings with farm workers and occupants who want to obtain more secure tenure and housing. There was one family in the area who initially had occupancy rights on a farm owned by van Staden (Portion 78, Driefontein) but in 1973 the new owner changed this to an arrangement more similar to that of a labour tenancy. In 1996 the community organized a housing association in order to buy land and secure their tenure. 250 families (predominantly farm workers and farm dwellers in the area) all contributed R50 per year initially and then R100 per month towards the purchase. By the end of 1997 the association was incorporated as a section 21 (not for profit) company, the Muldersdrift Home Trust Foundation. It now has 266 member families.

After several failed attempts to purchase the land as a result of both hostility from wealthy neighbours, lack finance and poor agency co-ordination there were considerable delays. Eventually in 2002, the full price of R650 000 was paid by the national Department of Land Affairs to Mogale City municipality, which then acquired the land in the name of the municipality. There was no contract or agreement on how Mogale City would use the land but the understanding was that it should be used to accommodate the MHTF community. There were further delays in both the EIA process and over control of the land between the Municipality and the MHTF but finally an agreement was signed in mid-2005. The Mogale City Integrated Development plan includes a 'Muldersdrift' housing project of 250 'planned erven' for implementation in 2006/07 but it has to compete with 22 other projects representing 14 350 units, most of which are scheduled to commence earlier.

The future of the housing project remains mired in bureaucracy and ten years after they first initiated the project, the community is still without housing. There are also problems with accessing money for housing from the Trust fund because the money was specifically designated to buy land which has now been bought by the DLA. It is also unclear whether the people will be able to obtain individual title, whether title will rest with the MHTF, or whether it will remain Commonage.

## **Implications for Policy**

### **1. Proactive Policies Required to Access Land for the Poor**

The competition for land in areas such as Muldersdrift is fierce because of its high speculative value with increasing demand by both the commercial and high-income residential sectors. The ability of the poor to compete in this market needs to be deliberately strengthened. Unfair competition and delays arising from the market power of objectors to integration needs to be specifically catered for. At the same time strategies to reduce negative impacts on land values need to be put in place to avoid some of the hostile attitudes of existing home-owners. The land accessed needs to be relatively close to employment and income opportunities for the poor and with adequate services if it is to address the needs of the poor and reduce undesirable spill-over.

### **2. Provide access to land and title without necessarily providing houses**

Legislation and programmes need to be put in place that allow for higher grants for land purchase where the price of land is high, if the more integrated society espoused by the government is to be achieved. As the Enthembalethu community demonstrated many people can generate their own funds to build houses, if they can access land. Title could be granted immediately and so allow the recipients to leverage the property to build a house. However, it does leave this vulnerable to distress sale. Alternatively

title could be provisionally granted and transferred fully once a house, of a bare minimum set of standards, is registered with the municipality for rates. If Government concentrate on allocating serviced land to the majority of urban people looking for houses, they can achieve a much greater spread than if resources are all or predominantly invested in building houses. However not all of the poor will be able to mobilise the resources to build and not all will want to buy their own land or house in the urban areas so there will still be a call for some government housing.

### **3. The EIA and Planning Processes need to be co-ordinated and simplified**

If development is to proceed it needs to be sustainable both environmentally and socially. However, if the process is too difficult then it will break down and the resultant extra-legal (informal) settlements will predominate. Until South Africa achieves much higher average income levels it cannot continue with planning and environmental prescriptions that are premised on a high-income, 'gentleman's estate' vision of desirable land uses.

Furthermore transaction costs and opportunities for rents must be minimised when drawing up the processes for accessing land, applying for grants and housing. In order to achieve this, restrictions need to be limited to only those most critical for sustainability and the responsible authority for each clearly demarcated and overlap between authorities reduced. While often the requirements are reasonable when assessed individually, they become unwieldy when all the different agency requirements are assessed together. They need to be simplified and co-ordinated. The regulations need to be widely understood and accepted and rigorously enforced. South Africa needs to co-ordinate its programmes, streamline its regulations and make them simple, clear and widely understood. In undertaking this exercise the "less is more" philosophy needs to underpin the regulations and process to be followed. If there were clearly demarcated responsibilities in the land and housing application process between the Department of Land, the Planning Authorities and the Ministry of Environment and Tourism, so that a consistent rather than concurrent process could be followed, this would have reduced some of the uncertainties, the delays and the high cost in both time and human resources which were faced by the MHTF.

### **4. Municipal Development Plans and Spatial Development Frameworks need to make specific provision for land access and housing**

It may be necessary to lay out specific targets and evaluation criteria to be incorporated in the municipal plans throughout the country with respect to providing access to serviced land for the poor. Many municipalities are at best only making statements on the urgency of the need for subsidized housing. No specific policies or programmes are in place to identify land, to service that land and to provide people with a choice in accessing land. Very few have given clear targets and outlined programmes for the provision of

land or houses. In many instances Municipalities act in an *ad hoc* manner reacting to the most vociferous or in a way to maximise particular political or economic benefits. Where possible the SDF and IDP of each Municipality should identify land in various locations to be made available to the poor both for housing as well as for small-scale industrial and commercial projects and urban agriculture. The identified land needs to be in different areas within the municipality and should take into account accessibility to jobs, markets and services. The poor need to have options to access land and build their own houses in a range of locations as well as opportunities to rent or own houses provided by the state.

Peri-urban development also needs to be given close attention. Land outside the hard urban edge must be able to adapt its land use to more intensive systems and the poor need to be given access to peri-urban land. The speculative value of land in such areas is very high. Innovative tax systems need to be developed so that society reaps the benefits of the increasing value which is primarily the result of state infrastructural development in the area. The speculative rewards can then be used through the tax system to redress some of the social justice issues and contribute to increasing the wealth of the broader community.

## **5. Capacity**

Building capacity underlies every aspect of South African aspirations but while stating its importance may be redundant, identifying the areas that need to be most urgently addressed, is useful.

The MHTF case study highlights the importance of a committed and confident leadership within poor communities so that it is able to withstand the pressures of hostile neighbours, court cases, bureaucrats, consultants and procedures which undermine their efforts.

Some of the delays could have been reduced if the technocrats were better informed on the delineation of responsibility, legal requirements and how to negotiate between the various authorities involved and how to interact with specialized professionals and make informed decisions. A simplified process would contribute significantly. A better educated and informed bureaucracy would reduce the transaction costs involved for those trying to access land and houses. The state needs to invest in developing a streamlined and simplified process and it also needs to invest in codifying it and making it widely understood and available as well as in training its agents to take the required decisions and interact with the public and colleagues. The existing guidelines and manuals appear to be too complex to allow for effective delivery of access to land and housing to the poor.

Capacity at the political level, nationally, provincially and within municipalities is required so that there is a better understanding of what is needed. There

needs to be a better understanding of what people want and then a better capacity to draft measures and targets to address these needs and the enthusiasm and willingness to see them achieved.

## **Conclusion**

In order to reverse the alienation of the poor and the widely held perception that government is unable to deliver on promises, active measures need to be put in place that simplify procedures and that will provide the poor with access to land, even where access to subsidized housing may be delayed by shortages of capacity, materials or resources.

If this land is given with clear title to people, they will be in a better position to borrow funds and to invest in their properties. If title is only given once the house is built then the opportunity to leverage the land to finance the house, will be limited.

Housing the rapidly increasing urban population can be achieved without undermining the environment and ensuring sustainability of the process if only the core principles are protected at each stage and provided that procedures are streamlined between agencies and between national, provincial and municipal levels.

The fact that the Ethembaletu community are still uncertain of accessing land they identified and paid for a decade ago is the result of the apartheid legacy of negative social attitudes and a highly complex system of accessing land and applying for development permits.