

# Urban Land Markets in East Africa

This case study draws on an analysis of urban land markets in the East African region. The research was undertaken by Paul Syagga, School of the Built Environment, University of Nairobi, and commissioned by Urban LandMark. See Sheet 5 for reference details.

An introduction to the study is given below. On the back of this sheet some learning and reflection activities based on the case study are provided. You can do these activities on your own or in groups, as appropriate for your learning session. Look carefully at these activities before you read the case study so you know what to look for while you are reading.

The next part of the document (Sheets 2, 3 and 4) presents examples of how people access, trade and hold land in various East African cities. The final component of this document (Sheet 5) includes a summary of the key issues covered in the case study and recommendations arising from it.

## Learning outcomes:

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

- Identify some of the challenges faced by poor people accessing land in East African cities
- Identify some interventions that can make urban land markets work better for the poor.

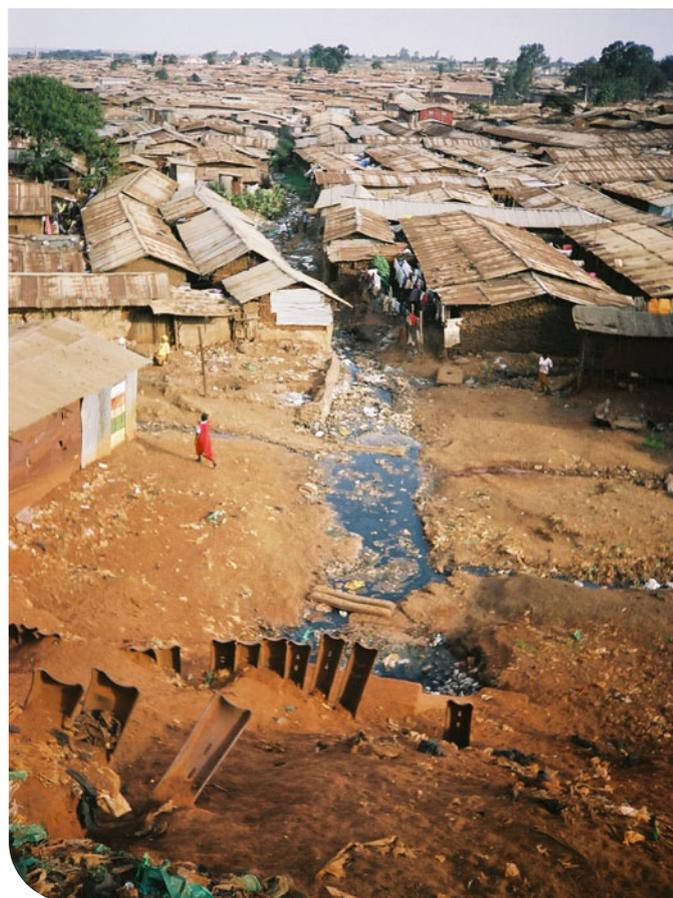
## Introduction to the case study

The research drew on a wide range of studies related to how urban land markets operate in the East African region, specifically the countries that make up the East African Community and the Horn of Africa.

The cities in the East African region are characterised by rapid urbanisation and uncontrolled spatial sprawl, with large informal settlements and inadequate service provision. The research study investigated how urban land markets operate in such a context, and particularly, how effectively poor people can access, trade and hold land.

Whilst each country has its own characteristics, laws and regulations that influence land transactions, some common features were identified. The examples chosen for this case study illustrate this variety as well as some of the elements and challenges that are common to urban land markets in this region.

Photo: Marie Huchzermeyer



Challenges of urbanisation, an example from Nairobi, Kenya

Part of a series of case studies developed as a teaching and learning resource for studies in urban land markets. Urban LandMark Tel: 012 342 7636 Fax: 012 342 7639 email: [info@urbanlandmark.org.za](mailto:info@urbanlandmark.org.za) • [www.urbanlandmark.org.za](http://www.urbanlandmark.org.za)  
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## Learning activities

### Before you start

Before you read the case study, spend a couple of minutes noting what you consider to be features of a city that indicate that a land market is working well for the poor.

### After reading Sheets 2 to 4 of the case study

1. In small groups, identify some of the key features of land markets in East African cities.
2. Discuss the ways in which the land markets help or hinder poor people's access to land and adequate living conditions.
3. Identify some changes to the land market systems that would make it easier for poor people to access affordable, adequately serviced land.

### Reflection

- In what ways are the examples from the four East African cities similar to or different from other urban land markets that you have experienced or learned about?
- What new or surprising insights have you gained as a result of this activity?
- To what extent are you motivated to share these with your colleagues and/or to explore the issues further?

Photo: Marie Huchzermeyer



A 'weekend home' being built on the periphery of Dar es Salaam

## Land markets in Dar es Salaam

Photo: Marie Huchzenmeyer



One of the few developments in Dar es Salaam where state serviced land is available formally, on the far periphery of the city

Dar es Salaam accommodates 29% of Tanzania's urban population. Almost 65% of people living in Dar es Salaam live in informal settlements. Most of these settlements have grown in the peri-urban areas where farmland surrounding the city has been incorporated into the city structure without planning.

In 1994 over 70% of peri-urban households in Tanzania accessed land either through inheritance or through allocation by the village government. Only 27% bought land. However, by 2001, 78.9% of households were buying land in peri-urban areas and only a minority were accessing it through inheritance or village government allocation. This change was, in part, influenced by changes in government land policy and the stimulation of urban land markets.

### Land policy

In Tanzania land is state property. Before 1995 land use rights could not be sold, although people could trade improvements on land, such as buildings. The 1995 land policy recognised the value of bare land in addition to improvements. This means that the selling price can reflect the value of the land itself as well as any improvements made on it by the occupant, such as buildings or planting trees. The policy also recognises the dual system of land tenure – comprising customary and statutory rights of occupancy – as equal in law. The policy provides for the registration and exchange of these rights.

### Formal access to land

If a person wants to obtain land formally in Dar es Salaam they need to submit an application for the 'right to occupy' to the District Land Officer. The District Land Officer forwards the application to an allocation committee of the Ministry of Lands or Regional Authority for a decision.

#### Land tenure in Tanzania

There are two types of legal land tenure in Tanzania:

**Statutory** rights of occupancy are granted by the state, on the basis of long-term or short-term leases. An individual obtains statutory tenure through a formal, legal process.

**Customary** tenure, which relates to the right to occupy or use communal or traditional land. Customary tenure is governed by members of the local community. It may require the consensus of clan members or community leaders. The procedures followed when land held under customary tenure is sold or exchanged are well understood by the community.

Customary tenure is most common in rural areas and villages in peri-urban areas. In informal settlements, intermediary forms of tenure are common (see page 4).

A successful applicant will be granted a short-term (5 years) or long-term (33, 66 or 99 years) lease as appropriate. They will receive a letter of offer detailing the conditions of the lease and the transaction costs (survey, stamp duty, land rent, etc.).

If a property has been planned and surveyed, the process of transfer of property with a Certificate of Occupancy takes 19 steps, a minimum of 380 days and includes payment of a high fee.

In the period 1990-2001, out of the 243 273 plot applications received for Dar es Salaam only 8 209 plots (i.e. 3.4% of the demand) were surveyed and allocated. This indicates that the state system cannot keep up with the demand for land.

*Acquiring land through the formal system is cumbersome and expensive for most urban dwellers. Less than 10% of the land demand for housing is provided by this system.*

## Informal access to land

Given the bureaucratic procedures, high costs and long delays involved with the formal system, most people in Dar es Salaam obtain land through informal systems, as described below.

### Land invasion

Some people in Dar es Salaam, especially in informal settlements, acquire a site through illegally occupying it without a permit or other transfer documents.

However, the scale of this 'land invasion' is limited. Initially a person may put up a simple shelter and then later use more permanent materials. 'Ownership' (the right to occupy the place) is claimed on the basis of how long they have lived on the site.

*The informal system of accessing land is characterised by forms of land tenure that do not conform to the statutory procedures:*

*(a) a quasi-customary tenure in which the influence of the clan has diminished and the authority to transfer the right lies with the individual rights-holder, local administrators or leaders*

*(b) informal tenure which does not require authority from others but comes through occupation of the site and social recognition.*

### Informal land transactions

The most common way in which land is accessed in unplanned areas of the city is through informal land transactions. The seller and buyer strike a deal in the presence of witnesses such as friends, relatives or community leaders. The transaction is registered with a local leader or the local branch of a political party.

Informal as it may be, this process is guided by norms and procedures agreed upon by the community. For example:

- A new owner can only sell an undeveloped plot after three years. This is a way of preventing prices escalating too fast and may also encourage an owner to 'add value' to the land, for example by adding infrastructure to it.
- The Ward offices (local council offices) or offices of the ruling political party maintain a land transfer register. This is used to verify that the seller is the rightful owner of the land before the transaction is registered in the name of the buyer (the new owner).
- Most land disputes are settled at the grassroots level by community leaders, who may include local government or political party officials.

Commonly agreed and respected, the grassroots institutions and procedures of the informal market allow for highly decentralised access to urban land in a manner that not only offers a significant degree of security of tenure, but also allows for redress and arbitration in the case of disputes.

*Despite being outside the strictly legal system, informal systems of acquiring land are socially recognised and have a legitimacy within the community. There are also some similarities with the formal system.*

Photo: Marie Huchzermeyer



**Houses on the edge of an informal settlement in Dar es Salaam**

## Land markets in Kampala

Photo: Salim Adatia



Post-independence housing developments on one of Kampala's hills, with residences for the elite on the upper slopes and higher density housing lower down

Almost 40% of Uganda's urban population lives in Kampala. Informal settlements, most of which are in peri-urban areas surrounding the city, accommodate almost half of Kampala's population (49.3%).

### Land tenure

There are four categories of land tenure in Kampala. The two that include most of the land are:

- *mailo* tenure which is a customary system of land ownership and covers 52% of the land in Kampala
- public land tenure on land that is owned by the Uganda Land Commission and administered by the Land Board of the Kampala City Council (KCC), covering about 30% of the city's land.

Of the remaining land, some is freehold land owned by institutions and some is owned by the Kabakaship (the king or chiefs of Buganda).

Under the Land Act of 1998, the land owned under any of the tenure systems may be leased to another party for up to 99 years, subject to conditions related to the development of the land. In addition, public land that is leased may be converted to freehold provided that there are no customary tenants on the land at the time of the original lease or that such tenants are compensated. Every land transaction must be approved by a District Land Board or the Land Board of the KCC.

### Formal access to land

The various tenure systems complicate the process of formally obtaining land in Kampala. For example, if a person wants to buy *mailo* land they have to:

- Negotiate with the people currently occupying the land and pay them the appropriate compensation.
- Negotiate a price for the land with the *mailo* land owner and sign a contract.
- Register the sale with the Land Registry and pay the high fee. Registration is a time-consuming process, involving many steps. The registration of title converts the occupant's customary tenure into a leasehold.

Acquiring public land from the KCC is also a cumbersome process and may take as long as five years, largely on account of political interference, the bureaucratic procedures of the KCC, and bribery to 'grease the skids' in order to keep an application moving through the system.

There is currently no easily accessible source of land and property information outside of the Land Registry that is kept by the national government. Although estate agents keep their own databases, these are not readily shared with others. Therefore, a prospective land purchaser often needs the services of a broker who understands the potential complications that await a developer.

*Obtaining land through the formal system is complex, bureaucratic and not transparent.*

## Informal land transactions

Most people obtain land in Kampala through the informal system, which generally involves the following steps:

1. Obtaining information on an available plot and/or potential buyer through friends, relatives or neighbours. Sometimes a land broker may be involved.
2. Negotiating the price and mode of payment with the seller. The price will be influenced by factors such as plot size, location, access to water and whether or not it has a registered certificate of title. Kampala is built on hills and has 'wet' (swampy valleys) and 'dry' (hilly) areas. The cheapest plots are untitled and in 'wet' areas.
3. Verifying the ownership and clarifying the plot's boundaries, which may involve the original land holder, a professional land surveyor or a member of the local council. If the buyer wants to protect their children against future dispute and dispossession, they may apply for a formally registered land title, in which case a surveyor will have to mark the boundaries for the cadastre. (The cadastre is a public record, survey or map of the value, dimensions, extent, location and ownership of individual parcels of land.)
4. Obtain a letter of agreement, or a certificate of title, as proof of the transaction. This may be endorsed by the local council chairman in the presence of witnesses. A sketch map of the plot forms the informal cadastral deed plan, supplemented with measurements and a physical description of the plot.

*The informal system for accessing land is simple, well-understood, low cost and suitable for trading relatively small plots of land. However, it lacks the security of tenure that comes with a formal leasehold.*

In the informal land market the buyer relies on social recognition of the procedure and the supporting documents as proof of ownership. These may be more important than a land title because many titled land transactions are not reflected in the land registry, which indicates inefficiencies in the formal system. In addition, many plots are below the legislated minimum size and accessibility standards which would complicate their formal registration.

However, without formal registration or recognition of their right to the land a person's hold on it is vulnerable. In many disputed cases of customary tenure the wealthy can register at the expense of others who may have better claims to the land but cannot afford the registration costs.

## Constraints on effective planning for low-income housing

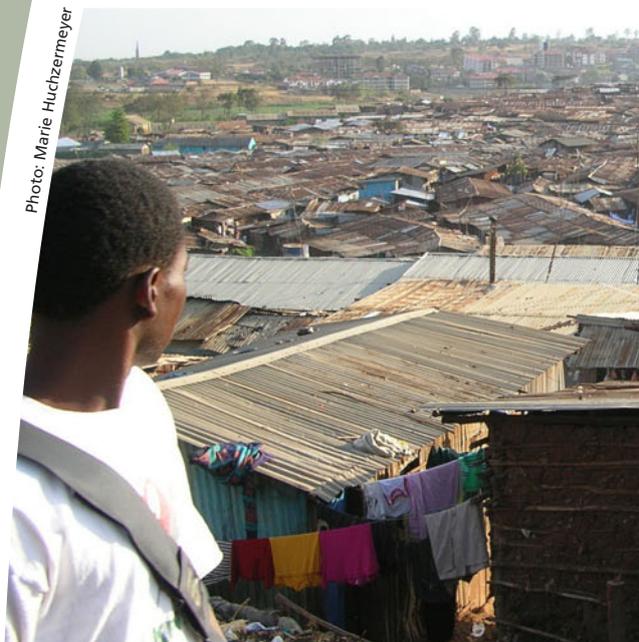
Given that 85% of the population lives in slums and informal settlements it seems that the government's system for making land available for adequate housing for low- and middle-income groups is not working well. It also suggests the absence of a coherent land policy and the lack of enforcement of urban planning standards and regulations.

The *mailo* land is largely unregulated, occupied haphazardly by migrants to the area and poorly serviced. Central areas and higher-end residential neighbourhoods, which are leased to private interests by the KCC, have better infrastructure and services.

The cumbersome system of purchasing *mailo* or public land in Kampala and the fact that land is not available in large parcels make it extremely difficult to construct new housing at affordable prices for low- and middle-income groups. The unavailability of reasonably priced and well-located serviced land is the single greatest constraint to providing housing opportunities for people with low and moderate incomes.

## Land markets in Nairobi

Photo: Marie Huchzermeyer



**The informal settlement of Kibera, Nairobi**

Urbanisation in Kenya has resulted in Nairobi attracting 37.7% of the country's urban population. Nairobi requires 150 000 housing units annually but only 30 000 get formally built. As a result of inadequate formal sector housing provision, informal settlements have developed within the city's boundaries as well as in peri-urban areas. More than half of Nairobi's residents are crowded into unplanned or inadequately serviced settlements, living and working in unhealthy environmental conditions. Informal settlements accommodate 38.5% of the city's population.

The irregular and illegal allocation of land in Kenya's urban areas has led to many areas of public utility land, including public parking, public toilets, public playgrounds and road reserves, being lost to private landowners. It has also contributed to the spread of informal settlements, as suitable land for low-income housing development becomes scarce.

Informal land markets operate in Nairobi in a similar way to those in Dar es Salaam and Kampala.

This page focuses on the development of the formal land market in Nairobi. Unlike the formal systems in Dar es Salaam and Kampala, in Nairobi the supply of land into the market is through private landowners, in the absence of government land delivery.

### Formal access to land

From the colonial days through to the 1980s the usual way to access public land in Kenya was for the government to advertise the plots and invite applications made to the Commissioner of Lands. The plots were allocated on lease terms that were very favourable to the developer, with the land rent calculated on the basis of actual cost to the government rather than market value of the land. The prospect of obtaining cheap land from the government resulted in competition for the plots and irregularities that have since led to the 'land grabbing' phenomenon.

Access to land in the formal sector is associated with access to power. Those who are allocated land by the state have, or are perceived to have, gained it through the influence of their socio-economic and political networks. Such a system excludes the majority of Kenyans from accessing land. In addition, many of those who are allocated land go on to sell their lease titles to buyers at the prevailing market price. This also excludes poorer people.

### Lack of adequate land regulation

In the colonial period the allocation of government land to individuals or corporations for development was regulated. Gradually, after independence in 1963, the substantive and procedural safeguards in the allocation of land were disregarded. For example, regulations limiting the amount of land one individual could acquire were disregarded, and land was allocated by people without the authority to do so, such as provincial administrators and politicians.

Land was no longer viewed as belonging to Kenyan people, but as vacant space to be dished out to politically 'correct' people for personal enrichment. This has created not only inequalities in land ownership, but has also interfered with protected lands that have ecological integrity, cultural relevance or strategic location. Such lands include forests, wetlands, riparian reserves, historical sites and monuments.

In the 1990s speculation became rife and all manner of scandal in the allocation of public land became the norm rather than the exception. Due to this reality, there is hardly any vacant public land left in most urban areas in Kenya.

*Conflicts of interests and abuse of power have created a formal land market that is based on buying land from private individuals, rather than government allocation, and is expensive and bureaucratic.*

## Land markets in Addis Ababa

Addis Ababa is home to 22.5% of Ethiopia's urban population. Almost 70% of the city's population lives in informal settlements. The area covered by the city has increased from 224 km<sup>2</sup> in 1984 to about 540 km<sup>2</sup> in 2010, encroaching on farmlands and other open spaces.

Addis Ababa, known for its social and economic homogeneity with different social groups living near one another, is becoming increasingly fragmented. The rich are starting to isolate themselves from the poorest city dwellers, for example in gated communities closed off from surrounding neighbourhoods.

### Land tenure and administration

In Ethiopia all land is owned by the state. Land administration is divided between municipalities (for urban land) and regional governments (for rural land). In urban areas there is a system of leasehold tenure; in rural and peri-urban areas a permit system (based on use rights) applies.

In urban areas individuals 'own' land through leasing it from the government for up to 99 years. The lease may be transferred between private individuals. However, this can be done only on the basis of the lease being used as surety or collateral; the lease cannot be traded to a third party. The government has the right to take the land back, on payment of compensation for improvements made on the land, such as buildings. Compensation is not paid for the value of the land itself, unlike the situation in Tanzania. It is government policy to convert the permits to leases when a land transfer transaction is being carried out.

*The expropriation law, arguably, may be the single piece of legislation working against the emergence of a free, transparent and efficient urban land market in Ethiopia.*

### Formal access to land

In urban areas, formal land delivery is through planning and public auction by the city government. New parcels of land are leased on an annual lease rent, with a fixed lease period and conditions according to a land use plan. Purchasers must be older than 18 years, not own any other plot in the city and should deposit a significant amount of money into a blocked bank account as surety, to be released when the house foundation is complete.

Alongside this land delivery system a cash land market operates in which people exchange leases or permits through sales agreements. The buyers pay property transfer taxes and commissions to middlemen.

*Government polices and delays and inefficiencies with the formal land delivery process drive many people to access land through an informal system.*

### Informal access to land

Within the city boundary, new parcels of land come onto the market through an informal system without any planning or documentation. The exchange is usually among personal connections, and a simple sales agreement confirms the transaction. About 90% of these parcels are subdivisions of land with 'permission to occupy' rather than titles.

At the fringe areas of Addis Ababa, an estimated 2 000 hectares of land are occupied by 300 000 people. Many speculative buyers operate in the informal land market here. Sales agreements are endorsed by the local administration officials, community associations, or by power of attorney. In addition to a group of low-income residents, there is also a larger group of rich individuals and middle-income earners. The latter may be buying land in these areas in the hope that their illegal developments will be regularised in the future.

*The market for unregistered land is unarticulated and underground, as the process is discouraged by the city authorities.*

*At the fringes of the city land is bought and sold without any planning, and speculative buyers further exclude the poor from the system.*

## Summary sheet

### Land markets in East African cities

The land markets that operate in East African cities share some similar features which include:

- Two systems of land tenure: statutory and customary. As illustrated by the *mailo* system in Uganda, customary systems can help to protect the rights of people to land and prevent unfair evictions. However, they can also inhibit the supply of land through complex selling processes.
- Two types of land markets:
  - a formal system, administered by government departments, that is bureaucratic, cumbersome and costly (e.g. in Kampala and Dar es Salaam), but it gives security of tenure through ownership of a registered title
  - an informal system that is a simpler, cheaper process, and is socially regulated; however, it provides weak security of tenure, particularly for the poor. It is the most dominant land market, used by both rich and poor (e.g. in Dar es Salaam).
- Some overlap between the two types of markets. For example, in the informal system in Kampala surveyors may be used to identify plot boundaries.

### How well are urban land markets working for poor people?

Urban land markets may be considered to work well if, for example, people are able to access adequate shelter with basic services, in suitable locations with reasonable security of tenure. The examples in the case study show that urban land markets pose challenges to people seeking to meet such needs, for example:

- Governments seem unable to deliver affordable land to poor people through the formal system.
- Informal systems allow the poor to access affordable land near the city. However, this land is often unplanned and unregulated, without adequate services (e.g. *mailo* land in Kampala).
- Informal systems are open to abuse by the wealthy or more politically connected, which put poor people at risk of exploitation (e.g. Nairobi and Addis Ababa).
- Formal legal systems are difficult to understand and follow (e.g. Dar es Salaam). An outdated legal system may be inappropriate for a fast-growing city with a large population of low-income households.

Photo: genvessel Source: <http://www.flickr.com/photos/genvessel/1534690920/inset-72157600319125946/>



**New tenements being built, but will the rent be affordable for most residents of the surrounding informal settlement? (Kibera, Nairobi)**

## What could be done to make urban land markets work better for the poor?

For example:

- Acknowledge that informal systems have a role to play (especially given the capacity constraints of local government) and learn how some elements could be enhanced.
- Improve those aspects of the formal/informal systems that are needed for effective planning and delivery of infrastructure services and adequate housing for low-income groups. An example is administration – record keeping and gathering information relating to plots of land to facilitate planning and infrastructure provision; encouraging registration of titles in informal systems by subsidising the costs; and generating revenue to invest in infrastructure or public goods.
- Increase the security of those that hold land in the informal sector. Recognise local systems of registration.
- Develop the capacity of local government and reduce inefficiency and corruption.

### Selected recommendations

#### Planning

- Plan with a vision – to create better living environments for all citizens with efficient and affordable basic services, more compact city structures to reduce residents' travel times and costs, and to reduce urban areas encroaching on peri-urban land with high agricultural potential that could be better used to grow food for city dwellers.
- Address the needs of the poor, particularly regarding infrastructure, shelter and service delivery.
- Identify ways to integrate newcomers to the city into the formal land delivery system, for example make it easier and less expensive for land to be sub-divided into smaller plots, particularly in rapidly growing peri-urban areas.

#### Land administration

- Develop the capacity of public authorities to plan, allocate, administer and manage land efficiently and effectively.
- Develop land information systems to inform land-use planning and urban land markets and guard against well-connected individuals abusing the system to the disadvantage of the urban majority.

#### Land policy and tenure systems

- Recognise that customary or informal systems are not merely 'survival' tenure systems. Both systems have their advantages and shortcomings.
- Take account of the local or national context when considering whether it is desirable or feasible to phase out a customary system over time. Where both systems are maintained, clarify the interface between them and make it workable.
- Nurture and accommodate innovative land allocation approaches to enhance land accessibility for all urban citizens.

Dual legal systems of land ownership:

common law system (Anglophone countries) or Civil Code system – a colonial legacy of land legislation under which a person can own land by buying a freehold or leasehold. The land is alienable, which means that the owner can transact, sell or transfer the land to others.

customary law – under which land is owned collectively by a community, clan or family. It is not alienable and cannot be sold or transacted in an open market. Traditional practices or principles regulate access and rights to use land held under customary tenure. These are understood by members of the local community but they may not conform to a country's legal procedures.

#### Reading

Primary source documents for this case study:

Syagga P (2010), *A Study of the East African Urban Land Market*, School of the Built Environment, University of Nairobi, prepared for Urban LandMark, Pretoria.

Urban LandMark and UN HABITAT (2010), *Africa's Urban Land Markets: Piecing Together an Economic Puzzle*, Urban LandMark and UN HABITAT, Pretoria.