

Urban Land Markets in Southern African Cities

This case study draws on a regional study of urban land markets in southern Africa. The research was undertaken by Resetselemang Leduka of the Institute of Southern African Studies, National University of Lesotho, and commissioned by Urban LandMark and UN-HABITAT. See Sheet 5 for reference details.

An introduction 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) describes some features of urban land markets in various southern 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 factors that have influenced urban land markets in southern African cities
- Suggest what would help to make urban land markets work better for the poor.

Introduction to the case study

The research that informs this case study drew on a wide range of studies related to how urban land markets operate in the following southern African countries: Botswana, Lesotho, Mozambique, Namibia, South Africa and Zambia, and to a lesser extent, Zimbabwe.

The cities in southern Africa reflect the rapid urbanisation characteristic of sub-Saharan Africa in general. Angola, Botswana and South Africa have the highest levels of urbanisation in the southern African region, with about 60% of their population living in cities in 2010 and this percentage is expected to rise to about 80% by 2050.

The main drivers of urban growth in the region are:

- natural increase (population growth)
- the inclusion within city boundaries of peri-urban rural settlements
- rural to urban migration, both within and between countries, although migration in southern Africa is largely circular and seasonal with people moving between their homes in rural areas and workplaces in industrial, commercial and mining towns.

The majority of urban residents are poor and live and work in insecure, overcrowded conditions that lack adequate services. In some southern African countries, for example Mozambique and Angola, over 80% of the urban population live in informal settlements on the edges of the cities. Such settlements indicate that the formal supply of urban land is not keeping up with the demand for land.

Photo: Sarah Charlton



An informal settlement on the outskirts of Maputo

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 • 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 key elements of an efficient and equitable urban land market.

After reading Sheets 2 to 4 of the case study

1. In small groups, identify some of the factors that have influenced poor people's access to land markets in southern African cities.
2. In your groups, discuss this statement:
'Government should not intervene in urban land markets, but let market forces shape them.'
Do you agree or disagree with the statement? Why/why not?
3. If you were a government policy-maker in a southern African city, what strategy would you propose to facilitate poor people's access to appropriately located land with security of tenure?

Reflection

- How do the examples given in this case study compare with other urban land markets that you know about?
- What new, or surprising, insights have you gained as a result of reading Sheets 2 to 4?
- Reflect on what you have learned so far through your group learning process.

Photo: Rob McGaffin



Morgan's Village, a subsidy and gap housing development in a previously marginalised area, Mitchell's Plain, Cape Town

Market-based land reforms: Zambia

Land tenure and administration

There are two types of land tenure in Zambia:

- customary tenure
- private titled land held on registered state leasehold.

According to **customary tenure**, the right to occupy or use land is governed by members of the local community. The procedures related to the access and use of customary land are understood by the community, but may not conform to the country's statutory procedures. In Zambia, customary tenure is administered by customary chiefs. There are no taxes associated with customary land, and it cannot be bought or sold.

Leasehold tenure is the right to hold or use land for a fixed period of time at a given price, on the basis of a lease contract. Unlike freehold tenure, it does not confer full ownership. Statutory procedures govern the access to leasehold land. In Zambia, the Ministry of Land administers registered land rights (leaseholds). The leased land (i.e. the leasehold) can be bought and sold by lessees and is subject to taxation.

Leasehold land is concentrated in and near Zambia's major cities, mining areas in the Copperbelt, the railway line and productive farming areas.

Land reform

After independence and until 1991, land in Zambia was owned by the state. Only improvements on land (such as buildings or crops) could be bought and sold, as no value was set on the land itself.

In 1991 the government introduced market-based land reforms, at the instigation of donors (such as the World Bank, the IMF (International Monetary Fund) and USAID (the United States Agency for International Development)). The aim of these reforms was to stimulate investment and agricultural productivity. The 1995 Land Act:

- strengthened private rights on state land and conferred value on land with or without improvements
- made it easier for foreigners to acquire land rights
- facilitated the conversion of customary land into private (leasehold) tenure, either by current occupants or outside investors. This was the most controversial part of the Act.

Most Zambian civil society organisations, church groups and traditional leaders opposed the 1995 Land Act.

The effects of land reform

The conversion of customary to leasehold tenure has mostly taken place in peri-urban areas and where there is potential for productive agriculture and tourism. Foreign investors and Zambian elites have benefited from the process, rather than Zambians resident on communal land.

The process has also increased land speculation. To obtain customary land, investors pay only registration and survey fees and 'facilitation payments' to customary chiefs. These costs are small compared to the value of the registered land. Therefore people make a profit by obtaining unregistered land at low cost and selling registered land for a high price.

As a result of the land reforms, customary landholders have been displaced, and open access to rivers, lakes, fishing and grazing areas has been obstructed. This has fuelled conflict within local communities and between communities and foreign investors.

Photo: © Hans Lenherr / PictureNet Africa



Lusaka, Zambia

Commoditisation of customary land has resulted in:

- land transactions dominated by the elite
- speculation driving up land prices
- the marginalisation of customary landholders.

Gaborone, the capital of Botswana, is mainly surrounded by freehold commercial farms except on the eastern side, where there is customary land (*masimo*).

As a result of relatively efficient formal land delivery processes and state intolerance, few informal settlements have developed within the Gaborone city boundary. Informal settlements that have occurred outside the city boundary have been systematically demolished by the Gaborone City Council.

The main source of residential land within the urban boundary of Gaborone is through the allocation of public land by the government. However, the way in which public land is acquired and allocated has caused tension between the state and customary landowners. It has led to residential land in some areas on the outskirts of the city being supplied through the subdivision of customary land in an informal land market.

Photo: © Suzy Bernstein



A housing development in Gaborone

The public land allocation system

In Gaborone the government has made available a significant amount of public land for residential development. It has done this through buying large enough areas of farmland from private landowners, on a willing seller/willing buyer basis.

Plots of public land are allocated with security of tenure, on the basis of fixed-term state grants or formal leasehold. However, the process of land allocation is long, cumbersome and open to favouritism. The bureaucratic system of public land supply is often not transparent and is not understood by most people, especially the urban poor.

Since the late 1980s an accelerated land servicing programme has been in place, but supply is not keeping up with demand. For example, in 2001 the backlog for plots registered in Gaborone had reached about 23 500 applications. However, it appears that the demand for urban plots is inflated, as some plots are either not paid for or not developed.

Reasons for the inflated demand include land speculation. The law allows people to apply for plots of land in as many towns as they wish. Many people (notably public servants) have applied for several plots in a number of towns and in several housing schemes. In addition, some people, especially the poorer members of society, acquire land for resale to wealthier Batswana or non-citizens who have the resources to develop the land.

Despite the availability of land that government can afford to buy, the formal system excludes the poor and does not meet the demand for land.

Informal market for customary land

When it acquires freehold land the government pays suitable compensation to the landowner. However, when the state acquires customary land it only pays compensation for improvements made to the land, such as crops, boreholes or buildings. This is one reason why, in a peri-urban area known as Mogoditshane, *masimo* owners have privately sub-divided their land into residential plots for sale, without the required authorisation from the Kweneng Land Board (the state agency responsible for customary land administration).

Adequate compensation for *masimo* land is not paid because the Land Board claims it holds the legal land rights to the land. However, the *masimo* owners also claim that they have the legal rights. This conflicting interpretation of the rules has led to cases being taken to the Land Tribunals. The courts have repeatedly decided in favour of the *masimo* owners, thereby conferring a degree of legality on the informal market for customary land.

Unequal treatment by the state of customary and private landowners created tension that has led to court rulings in favour of the informal sale of customary land.

Informal land markets and the state: Lesotho

Photo: Resetselemang Leduka



The urban edge of Maseru

In Maseru, as in most other southern African cities, an effective way to acquire land for people of all income groups is to buy customary land. Such land transactions are strictly illegal according to the 1979 Land Act, which effectively nationalised all land and makes provision for land rights to be leased from the state. Despite this, it is estimated that about 70% to 80% of the demand for urban land in Maseru is met through informal land transactions involving customary land.

Government interventions to control informal development

Extending the city's boundaries

Since 1980 the peri-urban traditional villages have been systematically incorporated into the urban boundaries of the city. The government had hoped that extending the town's boundaries would stop the informal subdivision of *masimo* land into residential plots for sale. However, local customary chiefs and *masimo* owners continue to subdivide and sell *masimo* land as if no Land Act exists.

Identifying specific areas for development

The 1979 Land Act was implemented to limit informal development and to facilitate state access to land in peri-urban areas for formal housing. It made provision for land to be set aside for special development as Selected Development Areas (SDAs).

In 1980 Khubetsoana, on the periphery of the city, was declared an SDA for a low-income housing project financed by the World Bank. The state appropriated the land without compensation to the *masimo* owners.

In 1984 an area near Khubetsoana was declared an SDA for a mixed-income site-and-service project. However, the *masimo* owners, remembering that the government would give them no compensation for their land, sub-divided and sold their plots. The state tried to evict the 'illegal' occupants by force but this failed as one of the local customary chiefs had the support of the army. The chief had sold plots of land at reduced prices to members of the army. As a result, the state's strategy changed from eviction to accommodation and the state recognised existing (albeit illegal) occupations when implementing the project.

Government interventions to control informal land markets did not consider the needs of customary landowners.

Allowing registration of land acquired informally

Contrary to the usual insecurity of tenure in informal settlements, in Maseru customary allocations are routinely recognised in law. Those who access land through informal channels may be able to register their land formally and acquire formal leaseholds. This has encouraged some buyers to invest more in developing their land than would normally be expected in an area of informal settlement.

However, the result of these various interventions has meant that most post-1980 land acquisitions in informal settlements are almost entirely commercialised. This has made land less accessible to the very poorest households.

Commercialisation of informal land markets can exclude the very poor.

Land registration: Mozambique

In Maputo, the capital of Mozambique, a formal land market operates in the more developed part of the city (known as the 'cement city'). This market is for the exchange of registered land and property. However, the formal market system is bureaucratic and complicated, as shown by the land registration process described below.

Photo: Sarah Charlton



High-density living in Maputo's cement city

The land registration process in Maputo

Only land that has been marked for urban expansion can be registered. A complete registration of land, and any improvements on it, is a long, cumbersome process that involves three phases:

- the registration of land – a process that requires the completion of at least 27 steps and the production of at least 9 different documents
- the request for a topographic plan, which involves 9 steps
- the registration of the building (improvements made to the land) or a request for a building licence, which is a 28-step process.

Compiling the application requires the services of a notary. The applicant must then deliver the application to the relevant municipal office, which can be hard to find and may involve transport costs. The following processes of opening a file and gathering the information required for the registration are constrained by slow and inefficient office procedures, a shortage of skilled staff and a lack of established procedures to guide the process.

In the absence of written rules of procedure, those who handle the registration process often misuse their discretionary power. In addition to the costs of the registration itself, applicants have to pay for the material used to demarcate the land, as well as the travel expenses of the municipality's survey staff.

Given this cumbersome and complex land registration process, it is not surprising that relatively few people manage to register their land in Maputo. Those who do are mostly upper- and middle-class individuals, private investors and small farmers who are organised into associations.

An inadequate land registration system excludes the urban poor from the formal land market.

Maputo's informal land market

Most people in Maputo do not have registered land use rights. They access land through an informal land market. This market in unregistered land caters principally for the urban poor or those excluded from state allocation processes.

The informal market operates in three types of land:

- in rural land that is newly being incorporated into the city
- existing plots of land that are being subdivided further
- areas of land that are unsuitable or inappropriate for housing development, such as land designated for roads or adjacent to drainage channels.

Informal land markets operate on marginalised land and on land at the edges of the city.

Land markets and divided cities: South Africa

Photo: Annemarie Loots



Cape Town's central business district

Within the southern African region, South Africa has the most highly developed and sophisticated property market. In South Africa, about 76% of land is under private ownership, which includes land owned by municipalities. About 58% of households have secure tenure in the form of ownership, leasehold or formal rental contracts. However, as shown by the examples below, challenges remain, with the formal market tending to perpetuate the historical legacy of segregated cities, whilst poor people often access land through an informal land market.

Cape Town

Cape Town has a population of about 3.7 million people. It is an example of a polarised 'apartheid-designed' city with affluent suburbs near to centres of work, shopping and leisure facilities, and overcrowded, impoverished townships on the periphery of the city.

The fragmented structure of the city results in the poorest residents travelling long distances every day. This is costly not only in travel time, but also in terms of the health and environmental impacts related to congestion and pollution from motorised transport vehicles.

The logic of property markets

The spatial fragmentation of Cape Town is a result of its topography and environment, as well as the historical segregation of its population, initially by race and more recently by income. However, post-1994 plans to develop a more integrated city, with commercial and other opportunities and facilities nearer to former township areas, have been constrained by the operation of property markets.

Private sector investors in non-residential development continue to invest significantly in the high-income northern and southern suburbs and the old central business district. Limited private sector development has taken place elsewhere in the city, except for the most populated south-east sector of the townships. In addition, private development tends to by-pass township areas in favour of small towns outside the city. These investment patterns follow an investment logic based on competitive bidding.

The economic power of the private sector perpetuates fragmented, inequitable city structures.

Perpetuating the status quo – the logic of competitive bidding

Different sectors of the property market (residential, office and retail) bid for urban land in competition with one another. Given the assumptions that the sectors bid for a limited supply of land, and that they compete freely, the land will go to the bidder that can afford to pay the highest price for it – the bidder that can extract the greatest value from the land. Therefore, land that is in a good location has a high price. Market actors are more willing to pay higher prices for parcels of land that are closer to relevant opportunities, such as a conventional central business district or a new development node.

Low bidding power of the state

Some consider that efforts to transform the apartheid city (for example the implementation of the Cape Metropolitan Spatial Development Framework) have failed because of the process of competitive bidding. Low-cost public housing is still being confined to the city peripheries on land that the state can afford to buy cheaply in the absence of competing buyers, such as developers of private sector housing, office and retail areas.

New developments rarely follow the logic of planning frameworks that aspire to create more integrated cities.

Some government regulations and conditions also work against progressive planning measures. For example, the Development Facilitation Act permits the perpetuation of the NIMBY (Not In My Back Yard) syndrome, in which vested property interests are able to speak against the location of low-income housing projects close to them. Individuals and communities with limited buying power also do not usually get a chance to buy land parcels for living, retail or small-scale production.

Alternative land market for the poor

Since 1994 the number of people in South Africa living in informal settlements and backyard shacks has increased. This indicates that the government's housing subsidy policy is not meeting the demand for housing. Those accessing land outside the formal market grew by 26% in South Africa, from 1.45 million in 1996 to 1.84 million in 2006.

The poor access land through a variety of means, including illegal occupation of vacant land, unofficial subdivision of existing plots, allocation of land by local committees and a variety of rental practices. Out of necessity, an informal land market exists in South Africa. To some extent, this market also exists as a result of the barriers to people entering the formal property market (see below).

The informal system includes transactions relating to government subsidised housing. For example, in a study of 40 housing projects, 19 reported the sale of the subsidy houses, 13 reported rental of backyard shacks and 13 reported the letting of rooms within the subsidy house. In one project 75% of residents were not the original subsidy recipients. The evaluation report assumed that all sales were informal, due to the eight-year moratorium on the sale of state-subsidised houses. Virtually all houses were reported to have been sold at far below their subsidy value.

The informal market is shaped by a logic that is different from the formal system, one in which social relationships tend to play a more important role than price.

Barriers to the formal property market

In the former 'white' areas of South African cities there is a thriving formal property market, with regulations, deeds registration processes and so on. However, for people in townships there are barriers to entering the formal housing market. The barriers include:

- the absence of legal titles due to the lack of township registers
- delays in transferring first-generation titles to deemed owners, mainly as a result of delays in valuing township properties and opening municipal accounts
- lack of service providers in townships, including estate agents and conveyancers
- transaction costs, such as registration fees, that are not affordable for low-income households.

In addition, the lending practices of banks and government subsidy programmes have created a gap in the formal property market for people who are too wealthy for subsidised housing schemes yet too poor for formal bank credit.

Photo: Kevin James



Backyard shacks in Johannesburg

Summary sheet

Urban Land Markets in Southern African Cities

The study indicates that in southern African cities, the formal sector is unable to meet the demand for urban land amongst the majority of residents – the urban poor. The bulk of the demand for land is met through the informal market, which is open to all income groups. However, neither the formal nor the informal system is working well for the poor. For example, in Maseru the commercialisation of the informal market excludes the poorest households. Understanding the factors that affect how land markets work can help us to identify interventions that may help poor people to access suitable land and adequate accommodation in cities.

Some factors that shape urban land markets in southern Africa

Urban land markets in southern African cities are influenced by the dynamics related to two different tenure systems:

- customary tenure of communal land that is not formally registered
- statutory tenure of land that is registered, with land rights being held through a freehold or a leasehold.

In addition, two different but related types of markets operate in the cities – a formal market subject to legal procedures and regulations, and an informal market which operates according to a hybrid system of rules derived from customary norms as well as formal state legal procedures and regulations.

Efficient and equitable land markets are necessary for well-functioning cities. However, examples in this case study show how, in an effort to meet the increased demand for land in peri-urban areas, government interventions and a lack of capacity to adequately administer and manage land have distorted the operation of urban land markets (for example through not paying compensation for customary land). This has increased the gap between rich and poor in terms of access to land. Examples further suggest that unlimited market forces also exclude the poor – in both formal and informal markets (for example, the action of speculators driving up prices).

Outlined below are some of the other influences on urban land markets in southern African cities that the case study reveals.

Donor-led market-based land reform

International donor pressure on southern African governments to implement market-based land reforms, driven by neo-liberal ideology, has led to inequitable land markets. For example, in Zambia, the commoditisation of land through the conversion of land held under customary tenure into private leaseholds has fuelled a land market that has increased land speculation. The market-based reforms are resulting in the poor not only being excluded from the formal market system, but also losing access to natural resources needed to sustain their livelihoods.

Photo: Rachel Adatia



Harsh trade-offs in the informal market – easier access to the city attracts people to this site, despite it being on degraded land next to a mine dump

Inefficient government systems and procedures

Inefficient, cumbersome formal procedures that are open to corruption are also barriers to poor people accessing the formal market. Examples include the complex land registration system in Maputo and the unclear public land allocation system in Gaborone.

Sometimes the rules of the formal system also distort the market, or are open to abuse. For example, in Botswana the law tends to encourage the acquisition of land by the wealthy through allowing people to apply for public land in as many towns as they wish, and the tendency for some people to apply for land with the primary purpose of reselling it to wealthier people for development.

In Botswana and Lesotho, government policy of paying no or minimal compensation for customary land has led to the development of informal land markets that have some recognition from the formal system.

Land speculation and rules of competitive bidding

Land speculation has the effect of increasing market prices, further excluding the poor from the formal system, for example in Zambia and Botswana.

Due to historical legacies, the form and structure of many southern African cities is divided, with the wealthy living in better serviced areas and nearer to social amenities than the poor. The Cape Town example shows that unlimited market forces tend to perpetuate this segregated structure, as property developers tend to follow rules of competitive bidding that make prime locations for residential developments unaffordable for government and low-income housing projects.

Recommendations

In order to make land markets work better for poor people, this study suggests that interventions in the land market need to focus on narrowing the divide between formal and informal markets by bringing poor urban households into the formal market, so increasing their security of tenure and prospects of investing in the property. Features of informal markets that work well for poor people need to be identified and used to inform aspects of the formal market that create barriers for the poor.

Individual, private land ownership or leasehold may not necessarily be the only or preferred option of land tenure in urban areas. Given the limitations of market forces to protect the poor, it is also worth learning from communal landownership and refining such systems in certain areas, for example where access to shared resources such as rivers and grazing areas is important for households' livelihoods. Planning for healthier, more sustainable cities, for example with urban agriculture and more efficient public transport systems, may require more creative approaches to land tenure.

Recommendations for a transitional approach from informal to formal urban land markets identified in the research study include:

- Create institutional structures that will facilitate the gradual transition from informal to formal markets.
- Devolve certain municipal functions to these transitional institutional structures, such as the registration of occupancy, enforcement of basic land use regulations, dispute settlement and simple title registers by local chiefs or their equivalents.
- Make sure that the transitional institutional structures permit access to property development finance and are supported to initially undertake land management and planning at the sub-municipal level, with the ultimate aim of incorporating the structures into the wider municipality.
- Develop land supply and administrative systems that reinforce emerging market relations whilst also ensuring that such markets work for the common good.

Reading

Primary source documents for this case study:

Leduka RC (2010) *Urban Land Markets in southern African Cities*, prepared for Urban LandMark and UN-HABITAT, Pretoria.

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