

**Urban Land Delivery During  
South Africa's Transition to Democracy**

Lauren A. Royston

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**Urban Land Markets in Transition**  
**Edited by Gareth A. Jones**

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Gareth A Jones  
London, March 2003

To Carwyn

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## CONTRIBUTORS

### **David Dowall**

Professor of City and Regional Planning  
University of California at Berkeley  
[dowall@uclink.berkeley.edu](mailto:dowall@uclink.berkeley.edu)

### **Alain Durand-Lasserve**

Senior Researcher  
Centre National de la Recherche Scientifique  
(CNRS)  
Bordeaux, France  
[a.durand-lasserve@wanadoo.fr](mailto:a.durand-lasserve@wanadoo.fr)

### **Edésio Fernandes**

Research Fellow  
Institute of Commonwealth Studies  
University of London  
[edesiofernandes@compuserve.com](mailto:edesiofernandes@compuserve.com)

### **Clarissa Fourie Augustinus**

Chief of Land Tenure Unit  
UNCHS (Habitat)  
Nairobi, Kenya  
[clarissa.augustinus@paulaugustinus.com](mailto:clarissa.augustinus@paulaugustinus.com)

### **Gareth A Jones**

Lecturer in Human Geography  
London School of Economics  
[G.A.Jones@lse.ac.uk](mailto:G.A.Jones@lse.ac.uk)

### **J.M. Lusugga Kironde**

Associate Professor  
Department of Land Management and  
Valuation  
University College of Lands and Architectural  
Studies (UCLAS)  
Dar es Salaam, Tanzania  
[kironde@uclas.ac.tz](mailto:kironde@uclas.ac.tz)

### **Ling Hi Li**

Associate Professor  
Department of Real Estate and Construction  
University of Hong Kong  
[lhli@hkucc.hku.hk](mailto:lhli@hkucc.hku.hk)

### **Patrick McAuslan**

Professor of Law  
Birkbeck College  
University of London  
[p.mcauslan@law.bbk.ac.uk](mailto:p.mcauslan@law.bbk.ac.uk)

### **Geoffrey Payne**

Geoffrey Payne and Associates  
London, United Kingdom  
[gkpayne@gpa.org.uk](mailto:gkpayne@gpa.org.uk)

### **Thomas A. Reiner**

Professor Emeritus of Regional Science  
University of Pennsylvania  
Philadelphia, Pennsylvania  
[tareiner@sas.upenn.edu](mailto:tareiner@sas.upenn.edu)

### **Lauren A. Royston**

Principal  
Development Works  
Johannesburg, South Africa  
[laurenr@global.co.za](mailto:laurenr@global.co.za)

### **Francisco Sabatini**

Assistant Professor  
Catholic University of Chile  
[fsabatin@puc.cl](mailto:fsabatin@puc.cl)

### **J. David Stanfield**

Project Director for the Land Market  
Institutional Development Project in Albania,  
and the Land Use Policy Administration  
Project in Trinidad and Tobago.  
Land Tenure Center  
University of Wisconsin-Madison  
[jdstanfi@facstaff.wisc.edu](mailto:jdstanfi@facstaff.wisc.edu)

### **Peter M. Ward**

Professor of Sociology  
Lyndon B. Johnson School of Public Affairs  
University of Texas at Austin  
[peter.ward@mail.utexas.edu](mailto:peter.ward@mail.utexas.edu)

## **Urban Land Delivery During South Africa's Transition to Democracy**

Lauren A. Royston

South Africa's first national democratic elections in April 1994 heralded a fundamental transformation in the country's society. A uniquely participatory and open process of new policy formulation had preceded the elections, forming the starting point for the first ever shared vision of reconstruction and development to bind the country and its people. The period immediately following elections was marked by a series of white papers embodying principles, programs and delivery targets, discussion papers for public input and comment, consultative conferences and the passage of numerous pieces of legislation. Since 1994, there have also been significant achievements in national and provincial institutional reform and the transformation and partial implementation of urban policy. Nevertheless, the government was aware as the second national democratic elections approached in June 1999 and local government elections in November 2000 of the need to focus on delivery in order for the majority of the populace to feel that its basic needs were being addressed. Delivery became the clarion call of government, with the Thabo Mbeki administration making a motto of "getting down to work."

Indeed, the land and housing crisis inherited from the apartheid era made the speedy delivery of sufficient and well-located land a priority. Inroads into reforming South Africa's planning system to speed up land development procedures have been more limited than anticipated. South Africa's housing debate preceding and during the transition to democracy tended to emphasize the release of new land for development as a strategy to overcome the apartheid housing crisis, to the detriment of informal settlement upgrading and regularization. Opposition to land invasions indicates that a call for orderly allocation needs to be matched with a clearly communicated waiting list policy and that rapid land release at significant scale continues to be required. Through an analysis of two provincial-inspired land delivery programs, especially the contextual factors that gave rise to them, this chapter will argue that a more multidimensional approach to providing adequate shelter for the urban poor is necessary for successful land reform policy. Unfortunately, the current local government, described as the "hands and feet" of post-apartheid reconstruction and development, possesses inadequate capacity and is a primary constraint to land release and to meeting the shelter needs of a growing population.

### **THE APARTHEID LAND AND HOUSING CRISIS IN URBAN SOUTH AFRICA**

The location and quantity of land identified for black South Africans under apartheid were tightly controlled through legislation such as the Black Communities Development Act and the infamous Group Areas Act of 1966. Insufficient quantities of land were identified, leading to an ever-increasing housing backlog. For example, the 1986 Draft Guide Plan for the Central Witwatersrand (a statutory spatial plan representing a regional physical translation of national policy) identified 3,500 hectares (ha) of land for black housing, despite its own predicted land requirements of 14,200 ha (National Housing Forum (NHF) undated). Where new land was identified, it was usually close to established black townships, far from city centers, economic activity and urban amenities, and often on less desirable and less valuable land, thereby reinforcing the divided, fragmented and sprawling nature of South African cities.

The insufficiency and unsuitability of land identification of apartheid led to a land and housing crisis that found spatial expression in the "matchbox" townships initially developed as dormitory public housing areas, sites-and-service schemes and informal settlements (Hindson, Mabin and Watson 1993). Conditions of extreme overcrowding, with high densities in both population and dwelling units,

were widespread. In any given township, sub-tenancy relationships were established for people to occupy outbuildings and garages, and most frequently, erect backyard shacks. Pockets of informal settlements (often in open space zones such as golf courses or parks) were formed through land invasion. Invasions were a result of population movement from overcrowded townships and hostels, rural-urban migratory patterns, and affordability crises. In 1990 and 1991, a spate of new invasions took place as the period of democratic reform began in the country (Urban Foundation 1994), and the number of invasions increased at the time of and just after elections as a result of indecision in the context of local government transition and people's high expectations. For example, during 1994, prior to the establishment of the transitional metropolitan council, 3,900 shacks developed as a result of land invasions, mostly on public land, in the Johannesburg city council area.

Improvements on these situations were few. In the 1980s, provincial administrations developed extensive and mono-functional sites-and-service areas on the periphery of South Africa's urban areas as a response to the crisis. But, being located on the urban periphery with only basic services such as gravel roads, water and toilets, these areas entrenched the racial structure of the "apartheid city." From the early 1990s, the national government introduced a capital subsidy scheme and the Independent Development Trust (IDT) was constituted to take delivery of state funds. Again, the IDT schemes focused on the development of sites-and-service areas on peripheral greenfield sites. Some education and health facilities were created and individually owned plots were provided with basic services (toilet facilities and taps for each site or groups of sites, and perhaps a "wet core") as the primary and non-negotiable form of tenure. The inadequacy of sites-and-service areas played an important part in the history of urban struggle against the apartheid state and was reflected in the new democratic government's intention to end this approach to the housing problem.

Faced with the housing and land crisis of apartheid, the principle of affordable housing for all was taken up in the Reconstruction and Development Programme (RDP) of the African National Congress (ANC).<sup>1</sup> It stated that "...all South Africans have a right to a secure place to live in peace and dignity...Housing...must be affordable, developmental and sustainable" (ANC 1994, 23). The RDP also called for housing land to be suitably located geologically, environmentally and with respect to economic opportunities and social amenities.<sup>2</sup> By 1994, the housing backlog was estimated at 1.5 million units. The subsequent white paper on housing proposed that 150,000 households needed to be housed annually in order for the backlog to be eradicated over a period of 10 years, and a further 150,000 units annually would be needed to prevent new backlogs (Republic of South Africa (RSA) 1994). Following the elections and the ANC's promise to the people, the Government of National Unity set a target of one million new houses in five years. The national housing goal, framed around the estimated backlog, anticipated population growth and the one million houses target, was set to increase housing delivery on a sustainable basis to a peak level of 350,000 units per annum within the first five years of democracy.<sup>3</sup> The new government was intent on the numbers game. Unsurprisingly, it set out to deliver to its constituency.

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<sup>1</sup> This marks continuity between the RDP and the Freedom Charter.

<sup>2</sup> These principles are echoed in the subsequent Housing White Paper that establishes a vision of viable, socially and economically integrated communities, in which all South Africans have access, on a progressive basis, to a permanent residential structure with secure tenure, ensuring privacy and providing adequate protection against the elements (RSA 1994).

<sup>3</sup> As context, in the 1993–1994 financial year, formal low-cost housing provision (houses costing below R45, 000) had decreased to 20,000 units, from about 45,000 in 1989–1990 (RSA 1994).

## **POST-APARTHEID LEGAL AND POLICY REFORM**

Policy negotiations, such as the National Housing Forum, were explicit acknowledgment that efficient assembly and release of land for development would be critical to achieving the desired housing rate.<sup>4</sup> Such acknowledgment also found expression in the new national housing policy and strategy. The Development Facilitation Act No. 67 of 1995 (DFA) was a key intervention in this regard. Designed as a short-term measure pending the outcome of more thorough processes to transform the country's chaotic system of planning law, the DFA was intended to facilitate the speedy delivery of land for development purposes.<sup>5</sup>

The DFA set out to deal with the perceived legislative and procedural obstacles to the desired rate of land development by introducing new measures to facilitate and expedite projects and to bypass bottlenecks in existing regulations (RSA, 1995b). The system of land development introduced by the DFA provided for an alternative route for land development applications. Provincially created tribunals could override laws from the apartheid era that impeded positive land development and speed up decision-making processes, especially in relation to so-called "reconstruction and development" projects (NDPC and DLA 1999). The DFA introduced a legal requirement for local authorities to produce municipal plans, called land development objectives (LDOs) and a set of nationally binding principles to guide land development. In addition, it provided for the establishment of a National Development and Planning Commission to advise the ministers of land affairs and housing on policy and laws on "planning development generally, including land development."

The success of the DFA, however, has been less than predicted. The National Development and Planning Commission, appointed in September 1997, produced a "Green Paper on Planning and Development," approved for release by the then Minister of Land Affairs in May 1999, in which proposals are made about the DFA in particular and planning law reform in general. The paper argues that the DFA introduces a new planning paradigm and goes further to endorse its central precepts (NDPC and DLA 1999). However, it makes a series of proposals for change, based on a diagnosis of shortcomings with the DFA.

With respect to the new route for development applications introduced by the DFA, a study undertaken for the National Development and Planning Commission (NDPC) reports that, although the operation of the tribunals has been largely successful, technical problems have caused delays, and fewer projects than anticipated have been dealt with through the DFA (Oakenfull 1998a). The study highlighted problems of how the normative approach of the DFA, that formulated general principles against which future developments should be considered, met with the practical experience of officials who had to understand and interpret their meaning (Oakenfull 1998b). The principles leave such scope for interpretation as to mean almost anything to anyone. Instead of the rules and regulation of the control-oriented planning system of the past, decision makers are now faced with an unfamiliar system

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<sup>4</sup> The National Housing Forum was established to advise on policy formation during the transition. It consisted of 19 members drawn from the major political groups, parastatal agencies, and representatives of the financial services, construction and insurance sectors, and NGOs.

<sup>5</sup> The housing policy ascribed the failure to identify sufficient, suitable land for low-income housing to a range of factors, such as racial zoning practices, reluctance on the part of certain authorities to accept responsibility for low-income housing, resistance of communities and various legislative constraints (RSA 1994).

that requires them to apply their minds to the principles and to use discretion in arriving at decisions. In addition, the principles require that members of communities affected by land development should participate in the decision-making process. But both officials and private sector participants routinely raise community participation as causing undue delays and imposing excessive costs. The NDPC proposed in the green paper that compromise needs to be forged on a case by case basis to overcome this conflict (NDPC 1998). To assist practitioners with understanding the meaning of the DFA principles, the commission produced a resource document.

The study also identified the complex administrative requirements and limitations of technical and administrative capacity in government as serious constraints (Oakenfull 1998a). Many local authorities do not have the capacity to deal expeditiously with the applications that they receive. This capacity problem is aggravated by the existence of different approval routes that different national laws require. For example, when a new land development or land use is proposed, it has to be assessed in terms of its impacts on the natural environment, transportation systems, infrastructure provision and more, and requires permission to be granted by a number of different agencies and/or spheres of government. In response, the green paper proposes replacing the system of multiple permissions and diverse procedural routes with a single approval route.

The green paper, however, continues to acknowledge that extraordinary powers are necessary to bring about substantial improvements to the structure and form of South Africa's settlements. First, it proposes that provincial legislation should establish criteria that qualify applications for the DFA special tribunal route. Such projects should hold the promise of a substantial impact on housing need, be particularly complex or be characterized as "reconstruction and development" in nature. Second, it recommends that a legal time limit on decision making should be set, with automatic approval granted in instances where deadlines are passed. Third, the green paper suggests that a sequential system of approvals will save developers both time and money. Currently, the onus is on the developer to provide the full range of backup documentation before an application can be lodged. The granting of approval "in principle" could assure developers that investing time and money into a project is worthwhile and that progress is being made.

The DFA's land development objectives (LDOs) are an instrument through which local governments set development targets, including for land assembly and release in order to provide housing for the homeless. The intention is that local-level strategic planning could become an important instrument for planning the identification, release and assembly of suitable land at an appropriate rate and at scale. Indeed, both the DFA and an amendment to the Local Government Transition Act (LGTA) require local authorities to undertake municipal planning (RSA 1996), and local authorities are required to undertake water and transport planning.

Each of these requirements originates from a different national line department, with its own particular interests and points of emphasis. For instance, the Department of Land Affairs (responsible for the DFA) sees LDOs as an opportunity to plan land reform and is particularly concerned that poor, under-resourced and mainly rural municipalities are supported in formulating LDOs. By contrast, the Department of Constitutional Development (responsible for the LGTA) is more concerned about municipal infrastructure planning and municipal management, including financial planning and budgeting. The local governments themselves are faced with both internal pressures to deliver to constituencies, including the landless, as well as external obligations to meet the requirements of a range of national departments. While the principle of cooperative governance that was established in the new constitution is a step forward, it has not yet found its way into political and administrative reality. In the absence of horizontal national coordination, it is currently up to local authorities to find ways of undertaking a single, simple planning process that satisfies the range of requirements—an



odious task! In the light of such complexity, it is important to monitor to what extent an integrated strategic planning process does materialize, and in those places where it does, whether it enables local governments to respond proactively to land demands.

The DFA has ushered in a new planning system in South Africa. The act will in all likelihood be amended or repealed in the very near future, in order to address its shortcomings. Always intended as a piece of transitional legislation, its repeal or amendment should make way for a more thorough overhaul of the planning system. Improved land development procedures and more proactive municipal strategies and targets for land and housing development could lead to land delivery at a rate and scale more appropriate to demand.

## **POST-APARTHEID LAND DELIVERY PROGRAMS IN URBAN SOUTH AFRICA**

### **The National Housing Subsidy Program**

The White Paper on Housing estimated that 45 to 55 percent of households in need of housing are unlikely to be able to afford or gain access to credit, and are entirely dependent on their own limited resources and government subsidies to satisfy their basic housing needs (RSA 1994). The housing subsidy program was intended to provide secure tenure and access to basic services “as well as possibly a rudimentary starter formal structure to the poorest of the poor” (RSA 1994, 45). The program provides a limited contribution towards the cost of a house, due to pressure to meet the annual delivery rate, the relatively high proportion of poor households and budgetary constraints. The capital subsidy includes both project based and individual subsidy allocations for ownership. In addition, the policy proposes subsidies for collective social and rental housing, and supplementary grants to approved projects for the consolidation of serviced sites that were previously provided by the government or with government grants.

A recent investigation into the state of human settlements in South Africa, conducted for the Department of Housing, argues that the government housing subsidy program has had a larger impact on human settlements than any other initiative (Centre for Scientific and Industrial Research (CSIR) 1999). By March 1999, just over one million subsidies had been approved, and 745,717 housing units had either been completed or were under construction. The annual average rate of delivery was 200,000 units. Nevertheless, while the housing strategy has succeeded in delivering a large number of fairly small starter houses (average house stands are 33–35 m<sup>2</sup>), unless residents are able to extend the basic core, there is a strong likelihood that serious overcrowding could result (CSIR 1999).

The housing policy, within which the subsidy program is an important part, endorses supporting a wide variety of delivery approaches. In 1994, the white paper stated that “... A process of consolidation and upgrading must form an integral part of subsidizing housing projects in order to ensure that the housing situation of all but especially the poor, continuously improves” (RSA, 1994, 28). While this, and other policy positions, acknowledges the existence of informal settlements and the need to upgrade them, policy implementation has tended to be biased toward the development of new housing and vacant land. For example, in Greater Johannesburg, greenfield projects tend to be the drivers of land development processes. This is not because of highly planned, programmed and proactive public sector approaches, but because pressures from existing informal settlements tend to demand a reactive response from local government—one that generally results in the inception of new vacant land projects.

The alternative of regularization is seldom pursued for reasons that vary from technical difficulties (unsuitable layout, too high densities) to political/administrative preferences (preferred nonresidential land use for the site) and legal issues (private landowners unwilling to negotiate in order to legalize an

occupation). Even informal settlements without such pressures tend to be left unattended, with the possible exception of emergency services provision. Priority demands in these areas include internal integration, greater complexity and intensity of use, integration through improved transportation and communication, upgrade of housing and infrastructure, creating activity spines and corridors, and application of alternative forms of tenure provision and layout (Hindson, Mabin and Watson 1993). Some of these interventions should be the subject of a longer-term metropolitan planning framework, while others demand priority, short-term responses. The relative weighting attached to “greenfields versus upgrade” needs more intense debate. Clearly an appropriate strategy is not either/or, but one that facilitates a number of options, including a clear policy on upgrading. This will require, however, an understanding of informal settlement dynamics, the creation and sustaining of appropriate expertise and the establishment of an unambiguous set of national policy guidelines.

### **Early Provincial Programs for Rapid Land Release**

Democratization has given rise to high expectations after years of apartheid discrimination and neglect. In the absence of delivery to meet these expectations, some households have decided not to wait patiently but to organize land invasions as a de facto allocation process. While many of the politicians in power after 1994 had themselves once organized invasions in opposition to the apartheid state, now invasions are promoted by adversaries to the new ANC- led metropolitan councils. The land invasions pose a challenge to the design and implementation of land release initiatives, as well as a threat to the enduring support of the newly elected politicians. Furthermore, in the post-election period, there are indications of racketeering in the illegal sale of land by people posing as landowners and encouraging others to “acquire” land for a fee.

The unfavorable light in which land invasions are viewed is demonstrated clearly by evidence from the Greater Johannesburg metropolitan area and Gauteng province. Opposition to land invasions on technical grounds is based on the tenet that invaded and informally settled areas are much more difficult and costly to plan and service, and although it is seldom recognized, there are extensive costs entailed in surveillance, security and legal procedures. Opposition also stems from the sense that invaders are queue jumpers in the process of housing allocation, and that invasion hampers planned, programmatic responses of the new government to address the land and housing question within a just and equitable framework for resource allocation. While there can be no argument with the integrity of this position, it has not been accompanied by general indications of what the waiting list for housing and land involves, who is in on it, or where people are in the queue. Despite such vagueness, in addition to the post-apartheid national policy framework, legal reform and national programs, some provincial governments have responded to the land question by putting in place programs for local authority implementation. Evidence from Gauteng Province, in which Johannesburg is situated, provides insight into a provincial interpretation of the land crisis in the period following elections and demonstrates how perceived shortcomings in the national framework were overcome.

A sequence of events in Johannesburg in the period after the first democratic national and provincial elections but prior to local government elections demonstrates the mounting land invasion problem and official provincial and municipal responses to it. Following a land invasion on a site called Liefde and Vrede on June 3, 1994, the new provincial government and the erstwhile Johannesburg city council reached an agreement on a moratorium on land invasions and evictions. The council undertook to cease evicting people, provided that land invasions were brought to a halt. The provincial government undertook to ensure that invasions did not take place! Initially, the moratorium did slow the growth of new settlements, although existing invasion areas were encroached upon, and in the six months following the declaration, at least 2,300 new shacks were erected. Once the moratorium was declared, it proved impossible to prevent the erection of shacks in inner-city areas (on small, open pieces of land and public parks in previously white suburbs), and many evictions took place. In most

cases, alternatives were not provided (some settlers were temporarily housed in vacant buildings in the inner city), leading to the invasion of new sites and expenditure on security to prevent further invasion.

A report from council officials to the newly appointed political authority in Greater Johannesburg in 1994, and after the Liefde and Vrede invasions, advised that land invasions were a manifestation of the serious housing shortage and impatience with the formal housing system represented by the Provincial Housing Board subsidy scheme. Meanwhile, the Gauteng Ministry of Local Government and Housing and the Ministry of Development Planning hosted a consultative conference on the urban land crisis in December 1994. Following the conference, the Gauteng Province government developed a strategy for the rapid development of land for low-income residential purposes, coupled with a strategy for managing land invasions. The Rapid Land Development Programme (RLDP) was born in January 1995 (Gauteng 1995). The policy position originated in an understanding of supply and demand problems. On the one hand, it was an acknowledgment that existing housing strategies, financial constraints, delivery blockages and the absence of an effective implementing agency were unable to keep pace with demand of the homeless for land. On the other hand, a lack of security, poor living conditions and years of exclusion and deprivation were presented as the factors leading to large-scale land and building invasions throughout Gauteng, since the national elections. The new strategy aimed to deliver land quickly in order to preclude land invasions in a preemptive manner. However, the strategy was underlain by a very clear sentiment that land invasions are an unacceptable strategy that must be dealt with firmly and that homeless and landless people must be patient and disciplined. Politically, the strategy was intended to demonstrate the government's commitment to dealing with landlessness in a developmental and positive way. It was supported by the Johannesburg City Council that assisted Gauteng with seeking solutions to relieve the pressure, while not rewarding queue jumping. At this stage, the council adopted a position on the regularization of existing, not new, informal settlements. A framework planning process was established within which decisions could be made as to which informal settlements might be upgraded and granted tenure security. Alternatives would have to be found for people living in settlements not viable for upgrading for geotechnical and other reasons.

In the early stages of the RLDP, a series of procedural problems were encountered, including the reluctance of the provincial approval authority (the Gauteng Provincial Housing Board) to approve the Johannesburg projects that were situated on land adjacent to existing, middle-income residential areas. In response to increasing land invasions and the threat that these were posing to development initiated by government and the private sector, in November 1994, the Johannesburg Council launched the Mayibuye Programme. The RLDP had envisaged permanent, organized settlement, including essential services (sanitation and potable water) at the time of occupation, in recognition of the delays encountered in the RLDP. On the other hand, the Mayibuye Programme proposed block planning and the provision of emergency services at the time of occupation (i.e., portable toilets and water tankers). Moreover, the RLDP proposed a tenure certificate for an identified plot to be upgraded to full tenure once the housing subsidy had been utilized. But the Mayibuye Programme proposed a tenure certificate to reflect the right to remain in occupation of an undefined portion of the area/block that would be upgraded once individual sites had been allocated.

The RLDP initiative showed how land release was not attendant on the opposition to land invasion and the queue-jumping hypothesis. It attempted to couple a firm hand on land invasions with a demonstration of government commitment to dealing with the problem of landlessness and homelessness through the rapid delivery of sites. While the RLDP and the subsequent Mayibuye Programme are arguably the most progressive and innovative attempts at dealing constructively with the urban crisis, neither delivered land as quickly as had been anticipated. Without evidence of

delivery, there remains little rationale for some to sit and wait patiently for their name or community to come up in an opaque allocation process.

Land invasions, therefore, continued in the Gauteng area encouraging the sophism of land invasion management. Although invasions are a phenomenon that is informal and unregulated, policy makers and officials continue to talk of managing the problem. The Reception Areas Programme in Gauteng Province is an attempt to provide alternative land for those who are evicted from strategic, government-owned land. Two such projects have been established in Greater Johannesburg— one in the far north at Diepsloot and the other in the far south at Weiler's Farm. In the absence of such programs, adequate communication (to inform potential invaders of why they must wait patiently, for what and for how long), and delivery mechanisms that release land fast (to demonstrate to people that they are not waiting in vain), land invasion management is a formula for evictions without alternatives.

While dealing with an inherited and inadequate system of land release, it may be that an alternative approach to land management provides some solutions. In particular, while a move away from ad hoc decisions is justifiable, too long a time lag between policy and program design and implementation will only exacerbate the situation. What is needed, therefore, is a more flexible and incremental approach to settlement planning and servicing—arguably a paradigm shift in the practice and teaching of development planning.

### **Land Delivery and Urban Integration**

The General Principles of the Development Facilitation Act are intended to guide decision-makers with respect to land development. The new principles of the post-apartheid planning polemic stress integration, compaction, efficiency and equity, and they represent the new conventional wisdom of an alternative (to apartheid) vision of how South Africa's towns and cities should be structured spatially. The notion of a *compact city* is widely promoted to redress the sprawling characteristic of South Africa's cities and towns. Racial planning contributed significantly to urban sprawl (Hindson, Mabin and Watson 1993). It aimed to remove black people from inner-city and racially mixed residential areas, to new townships located on the urban periphery, far from white residential areas. But, with the collapse of apartheid influx controls, the movement of people out of overcrowded townships, and the exclusionary cost factors of well-located land, informal settlement tended to take place on the urban fringes, reinforcing the pattern of planned lateral urban growth. Urban sprawl has been further exacerbated by low building densities and the dominant one house per plot model of suburban development (Hindson, Mabin and Watson 1993). The DFA explicitly discourages the phenomenon of urban sprawl and requires that policy, practice and legislation contribute to the development of more compact towns and cities (RSA 1995b). Specifically, opportunities for *compaction* are the densification of existing areas and developing large tracts of vacant land left open by apartheid planning (buffer strips between racially segregated residential areas) and removals (Central Witwatersrand Metropolitan Chamber (CWMC) 1993).

*Integration* is a mechanism to redress the fragmentation and division arising from mono-functional land uses and separation based on racial groupings and income, and the absence of economic and fiscal bases and inadequate service delivery (Hindson, Mabin and Watson 1993). Redressing the legacy of apartheid requires prioritizing the needs of those who have been historically disadvantaged on the basis of race and, increasingly, the material economic dynamics of class and income that define and separate insiders and outsiders.<sup>6</sup> The relatively better-off, low-income groups have tended to

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<sup>6</sup>. Crime, violence, the breakdown of services and physical isolation make townships an important focus for integration and reconstruction.

consolidate in the formal, serviced townships, most of which are better located. The very poor have been displaced into lower-quality accommodation in existing townships (hostels and backyard shacks) or to informal settlements on the periphery of the city. The DFA requires that policy, administrative practice and laws promote sectorally integrated land development, residential and employment opportunities in close proximity with one another and the correction of historically distorted patterns of spatial development (RSA 1995b). Integration opportunities can be maximized by utilizing well-located vacant land for low income settlement, promoting a mix of land uses and improving transportation and communication linkages between areas (CWMC 1993; Hindson, Mabin and Watson 1993).

The physical structure of the apartheid city has affected two further principles, urban efficiency and equity. The necessary threshold of support for public transport and higher-order commercial and service facilities is absent. A compact and integrated city concentrates purchasing power, facilitates more spatially efficient markets for consumer activities and reduces transport costs; the provision of services is more expensive in low-density developments and in new peripheral development. In addition to increasing capital costs, the operating costs of urban management are higher, for instance the operation of road-based public services, the maintenance of public open spaces and the subsidization of public transport to move workers from dormitory to industrial and commercial areas (Hindson, Mabin and Watson 1993). A sprawling and fragmented city structure also imposes a tremendous cost burden on the urban poor. Low-density sprawl increases the costs and time spent on daily travel to access employment opportunities and urban amenities concentrated at the center.

A key dilemma is the question of how much weight is attached to upgrading and improving the quality of life in existing peripheral areas. The new policy positions critique the earlier urban strategies of the apartheid state, creating an uneasy balance between infill, densification and renewing core city areas, servicing and de-densifying poorly located townships, and upgrading and regularizing squatter areas at the periphery. While compaction and integration are essential for improving the efficiency of the city, the middle class and relatively privileged sections of the black community are likely to be favored. The mass of the urban poor may not be served. Indeed, South Africa's draft State of Human Settlements Report informs that many low-income, subsidized housing projects have continued to be developed in peripheral locations, perpetuating and reinforcing the dysfunctional settlement patterns of the apartheid city (CSIR 1999). The RLDP experience in Johannesburg further demonstrates the difficulty of rapidly releasing well-located land for low-income settlement (Royston 1996). By comparison, those local councils that elected to go a route of less resistance, by locating RLDP sites in more peripheral places, have had a much faster land release process but have left the "spatial quo" more or less unchallenged.<sup>7</sup> The significance of this issue is far-reaching as a range of pervasive development planning principles come under fire (Royston 1996).

#### **CONCLUSION: LOCAL GOVERNMENT CAPACITY AND URBAN LAND MANAGEMENT**

A lack of local government capacity is arguably one of the most significant constraints to the delivery of land for housing. As was evident from Johannesburg's experience with land invasions, much depended on the ability of the local authority to act decisively in the identification of new land. In one case the newly appointed Johannesburg Metropolitan Council acted swiftly, expropriated land, designated transit areas and installed temporary emergency services. In others, temporary

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<sup>7</sup> A further dimension to this tension is that the identification of well located vacant land for low-income settlement will incur the wrath of existing property owners adjacent to these areas, as the RLDP demonstrates. Trying to get the agreement of all interested and affected parties is time-consuming and frequently has results that do little to overcome the NIMBY (Not In My Backyard) syndrome, and probably enforces it.

arrangements have been made for invaders in unoccupied buildings.

The interim nature of the local government arrangement presented unique difficulties. Appointed councilors were highly risk averse in taking courageous and potentially unpopular decisions, while new and inexperienced councilors were dependent for information and expertise on senior officials who, in some cases, saw their positions as precarious and had more to lose in taking decisive action. Much of the human resource capacity residing in the bureaucracy required redirection to new priorities, but redeployment of staff was slow, and the skills and resources of existing professionals had to be refocused. The demarcation of new boundaries meant that new geographic areas were included in some municipal jurisdictions for the first time. This had implications for the database and knowledge of local conditions, and the clear definition of roles and responsibilities that represented a further barrier to headway. The Local Government Transition Act, in which powers and functions of local government found expression, left much room open for debate, especially in the metropolitan areas, where powers and functions had to be allocated between metropolitan and local councils. The creation of a single, unified metropolitan council in Johannesburg out of disparate, apartheid based and separate administrations impeded progress on day-to-day operational issues. Whatever the underlying rationale, the effect was a hiatus in decision making in many instances, rather than the much awaited political direction and clarity.

While much of this appears at first glance to be particularly a phenomenon of the period prior to local government elections, the process of administrative reorganization has taken some time to sort out. Local governments have been challenged to deliver to their constituencies on the promises of the Reconstruction and Development Programme and in the context of high expectations. In addition, they have faced a set of transformation priorities, including the integration of councils and the concomitant amalgamation of infrastructure and staff; directing resources to urban poor communities without provoking a backlash from middle-class residents regardless of race; promoting a culture of payment under conditions of mounting council debts; generating their own revenues, requiring building administrative capacity in townships to bill accurately and regularly, collect payments and process defaulters. While the election of local councils bodes well for security and decisiveness in the future, the process of change management has impeded service delivery.

The new political dispensation, under the leadership of Thabo Mbeki, promises that the next phase of South Africa's democracy will be one in which government gets down to the work of delivery. The effects of the new, integrated development planning requirements, amendments to the DFA, attitudes to land invasions, evictions and land release, and, possibly most importantly, the ability of local government to become both more developmental and more efficient, are important processes to watch.

## REFERENCES

African National Congress (ANC). 1994. *The reconstruction and development programme: A policy framework*. Johannesburg, South Africa: Umanyano Publications.

Central Witwatersrand Metropolitan Chamber (CWMC). 1993. *An interim strategic framework for the central Witwatersrand. Document 2: Policy approaches*. Johannesburg, South Africa: GAPS.

Centre for Scientific and Industrial Research (CSIR). 1999. *The state of human settlements: South Africa 1994–1998*. Pretoria, South Africa: Draft report prepared for the Department of Housing.

Gauteng Province. 1995. *Gauteng rapid land delivery programme: Policy and implementation manual*. Johannesburg, South Africa: Departments of Development Planning, of Environment and Works and of Housing and Local Government.

Hindson, D., A. Mabin, and V. Watson. 1993. *Status report to working group 5: Restructuring the built environment*. Johannesburg, South Africa: National Housing Forum.

National Development and Planning Commission (NDPC). 1998. *General principles for land development: A resource document on the chapter 1 principles of the development facilitation act*. Pretoria, South Africa: Department of Land Affairs.

NDPC and Department of Land Affairs (DLA). 1999. *Green Paper on Development and Planning*. Pretoria, South Africa: NDPC and DLA.

National Housing Forum (NHF). Undated. *Working group 1 status report: Existing constraints, of whatever nature, that currently hamper the identification, assembly, and release of appropriate land*. Johannesburg, South Africa: NHF.

Oakenfull, L.J. 1998a. *An investigation and evaluation of the development tribunals*. Pretoria, South Africa: Report prepared for the Development and Planning Commission and the Department of Land Affairs.

———. 1998b. *The chapter 1 principles: Practical experiences*. Pretoria, South Africa: Report prepared for the Development and Planning Commission.

Republic of South Africa (RSA). 1994. White paper: A new housing policy and strategy for South Africa. *Government gazette*. Pretoria.

———. 1995a. *The urban development strategy of the government of national unit: A discussion document*. Pretoria, South Africa: Ministry in the Office of the President.

———. 1995b. *Development facilitation act (Act 67 of 1995)*. Pretoria.

———. 1996. *The local government transition second amendment act (Act 97 of 1996)*. Pretoria.

———. 1997. *White paper on South African land policy*. Pretoria, South Africa: Department of Land Affairs.

Royston, L. 1996. *Review of the rapid land development programme*. Johannesburg, South Africa: Report prepared for the Gauteng Department of Development Planning, Environment and Works.

Urban Foundation. 1994. *Urban land invasion: The international experience*. Johannesburg, South Africa: Urban Foundation Research.