

LAND MANAGEMENT AND SHELTER DELIVERY ISSUES AND OPTIONS

Paper presented by Geoffrey Payne at the Shelter Afrique annual symposium, "Improving Housing Delivery in Africa in the Next Millennium" held at Cotonou, Benin, 15 June, 1999.

1 Introduction

It is a signal honour to be invited to contribute to this important symposium. The issues that bring us together are of international importance, but nowhere more so than in Africa. Despite large gaps in data, it is clear that urbanisation is proceeding more rapidly here than in any other region of the world (UN 1996) and by 2020, it is expected that over half of Africa's population will be urban (UN 1993). Furthermore, total populations have been increasing rapidly throughout the continent and have trebled in many countries between 1950 and 1990. This is, together with social and economic forces, is the fuel which drives the process of urbanisation.

Of course, urban development is not new in Africa. Cairo is estimated to have had a population of 300,000 and Marrakesh 100,000 in the eleventh century. Regional trade was also well developed, in which Benin was prominent (Onokerhoraye 1975). However, it is in the last three decades, since most countries achieved independence, that urban areas have expanded most rapidly.

At the beginning of the 1960s, less than a fifth of Africa's population lived in urban areas (UN 1993). However, there was considerable regional variation, with 42 percent in southern Africa, 38 percent in Egypt and 32 percent in Senegal, but only 6 percent in Ethiopia, 5 percent in Tanzania and 14 percent in Nigeria. During the late 1960s, urban growth accelerated and many countries experienced rates of more than 8 percent a year, leading to the doubling of urban populations in less than a decade. Most of this growth was due to rural-urban migration, though recent evidence (UN 1996:86) shows that the rates have generally declined and the major element is now natural increase. On this basis, urban growth is likely to continue even if migration declines. The challenge facing central and local governments and all other stakeholders, is therefore how to manage this process of growth and change.

Of course, generalisations are dangerous in a continent as large and diverse as Africa. Any attempt to draw lessons from the experience of other urbanised and urbanising regions must therefore be applied with great caution in order to avoid repeating their mistakes and help build on their achievements.

Perhaps the first and most important factor is the need to recognise the limitations of public sector direct control over the processes of urbanisation. When Britain was undergoing industrialisation and urbanisation in the nineteenth century, the total population was relatively small and we controlled much of the world economy. Yet even with these advantages, it took nearly a hundred years to establish institutionally

appropriate responses and in the middle of the century in Manchester, the original home of the Free Trade movement, life expectancy was only 26! Countries urbanising today generally have larger populations, do not control the world economy and have only been independent for three or four decades. It is therefore no surprise that appropriate responses are still being evolved to meet contemporary processes of urban growth and change.

It is perhaps ironic that urban planning and land management methods imported from Europe are still being applied in Africa, even though they have been abandoned as inappropriate in the UK and other European countries. Master plans and development control have given way to more market sensitive and socially responsive methods of guiding development, yet planning policies, legislation and practice in many African countries still reflect outmoded approaches, often with negative consequences.

Another consideration is the limited financial, technical and human resource base available to governments to manage this process of change. Under such pressures, it is perhaps understandable that some policy makers consider that urban growth should be contained or even stopped. Yet international evidence confirms that levels of urbanisation are directly correlated with levels of social and economic development. Healthy, dynamic towns and cities are therefore essential components in the development process and are vital sources of revenues for rural development programmes. For example, Bombay, or Mumbai as it is now called, contains 1.5 percent of India's total population, yet generates over 30 percent of all central government revenues. Investing in urban areas is therefore a sound basis for generating benefits for a wide range of developmental policy objectives.

This raises the key issue of what forms such investment should take and how government action can stimulate equitable and efficient land and housing markets within dynamic urban centres. Policies and practices relating to land management and housing occupy a central role in addressing this issue.

2 Policies for land tenure and property rights

The issue of urban land tenure has received increasing attention in recent years (Payne 1997) and is listed in the World Bank's latest Housing Policy Paper (1993) as among the most important factors affecting housing demand and the first priority in terms of demand side instruments.

Land tenure in Africa is complicated by the co-existence of different legal systems, together with several extra-legal forms. In many countries, customary practices predominate; in others, Islamic systems are used and in many, imported European statutory systems apply. In some countries, several systems operate side by side, creating legal pluralism, in which people move between one system and another. Statutory systems are found mainly in urban centres where they were introduced by colonial administrations. This survived independence but, as Rakodi (1997:38) has noted, the speed of urban growth far outpaced its capacity to cope and led to a proliferation of unauthorised residential development.

As the urban areas expanded into rural areas held under other tenure systems, so land management has become a legal, as well as a social and cultural minefield (Payne 1997). Traditional chiefs retain the respect of many communities who see them as embodying social values and customs concerning land and local administration. At the same time, government agencies charged with implementing official policies may consider customary practices outdated or even illegal and seek to minimise them. Antwi (1995:4) has noted that in Ghana “the central cause of the urban land market problem has been the need of the state to intervene and effect a transformation of the unwritten traditional systems of property rights to a system based on written titles. This has meant the need to marry two completely different systems of property law - the English law and the customary law. It is a difficult marriage that requires nurturing and compromises”. He continues, “legislation and policies guaranteeing documented titles without the recognition of the existence of other forms of title would be, at best, difficult to implement, at worst impossible to operate”.

The continued growth of urban areas commonly brings with it increased demand for individual tenure into indigenous or customary tenure systems and threatens the traditional criteria for allocating and managing land, rendering policy outcomes unpredictable. In addressing this issue, McAuslan (1989) concluded that the approach most likely to succeed is one which builds on existing laws and practices, rather than one which seeks to replace them entirely. Such a pragmatic approach enables land-owners to transfer parcels from one system to another, as in Zambia, where the benefits of statutory title registration were extended on a simplified basis to households in unauthorised settlements.

Whilst both customary and statutory tenure systems have a legal basis, an increasing form of tenure throughout Africa consists of various informal development processes. These range from squatting, as in the straightforward illegal occupation of public or private lands, through to the unauthorised commercial subdivision of land and its development without official approval.

In most cities, a continuum of customary, statutory and informal tenure categories therefore exists, each of which provides different perceived and statutory degrees of security and commands a price within the overall land and housing market (see fig 1). Changes to any one therefore have both direct and indirect impacts on all the others. In formulating and implementing land tenure policies under conditions of increasing competition for land, governments are therefore under considerable pressure to formulate policies which encourage efficient land use and improve accessibility to all those in need.

Among the diverse approaches towards land tenure, national land ownership has proved particularly popular in Africa. Mabogunje (1990) observed that 20 out of 40 countries in sub-Saharan Africa had nationalised all lands and extinguished private freehold, though some have reversed this approach since.

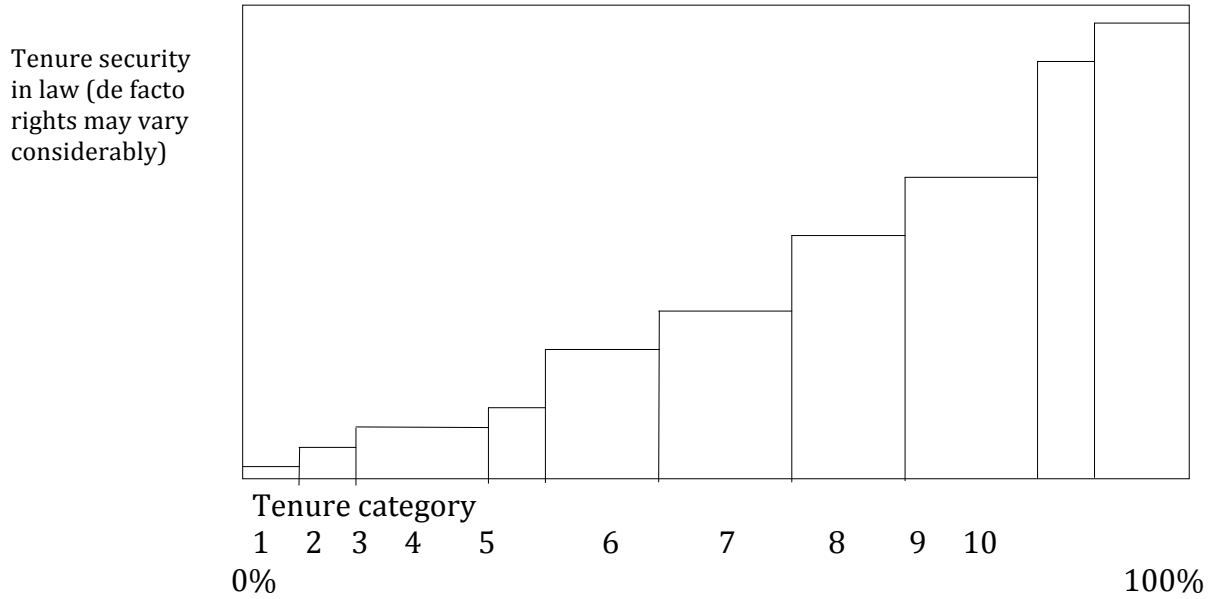
As more and more countries adopt market driven development strategies, so the tendency towards the commercialisation of urban land is intensified. This has concentrated benefits

in the hands of those who possess individual freehold titles and therefore increased demands for full titles by residents in informal settlements. The provision of full titles to squatters has, however, only served to distort urban land markets as higher income households buy up cheap newly legalised properties and integrate them into the formal market (see fig 2).

An alternative approach is to apply a 'rights based' approach, in which the rights of residents in all informal and customary tenure categories is improved gradually, as shown in fig 3. This has the benefit of increasing de facto and de jure tenure security and also reducing existing land market distortions at virtually no cost.

One example of this approach can be found in Egypt, where a modest ground rent or '*hekr*' is charged to informal settlers on government or unclaimed desert land. This does not grant title, but ensures that households have to be transferred, they will receive compensation for the buildings they have erected on their plots. Community land trusts in Kenya and other countries and the Certificates of Use and Occupancy adopted in Botswana and Zambia are other notable examples.

Fig 1: Typical distribution of urban tenure categories by legal status

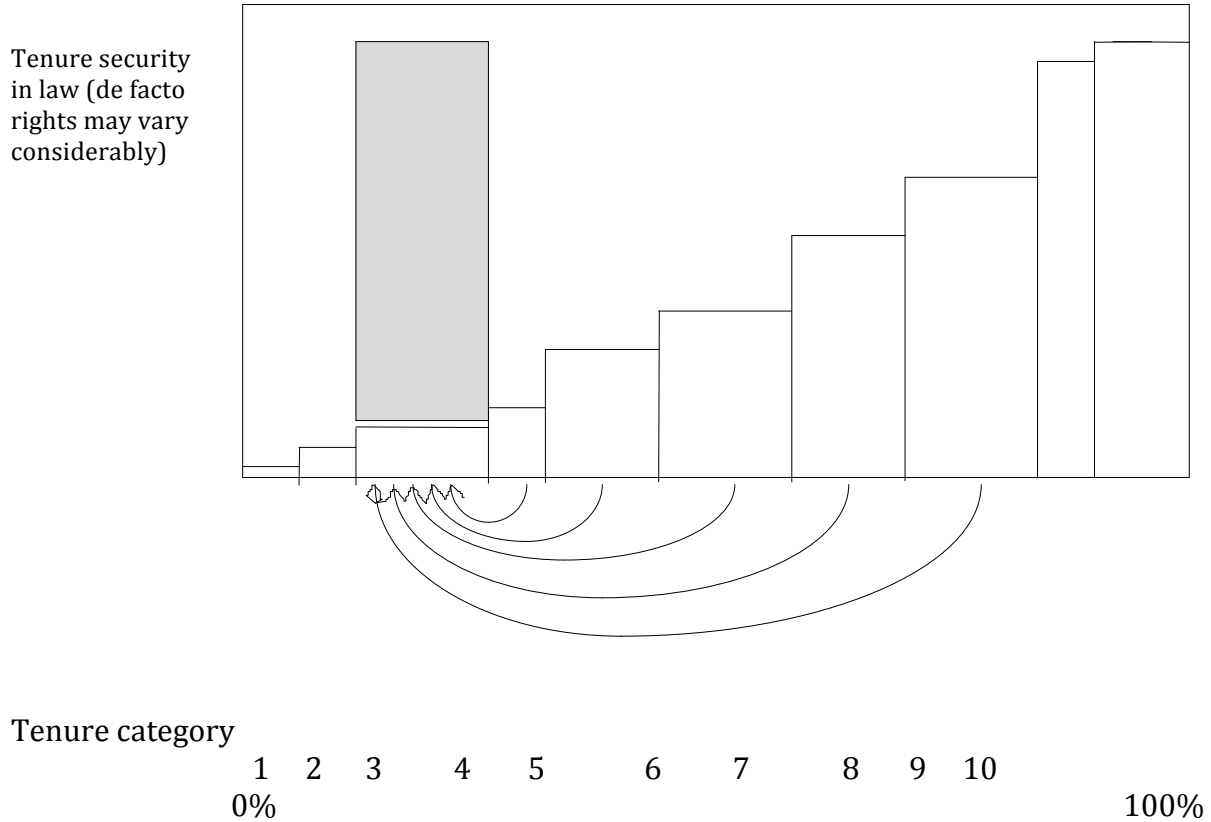


Tenure categories:

- 1 Pavement dweller
- 2 Squatter tenant
- 3 Squatter 'owner' - un-regularised
- 4 Tenant in unauthorised subdivision
- 5 Squatter 'owner' - regularised
- 6 Owner - unauthorised subdivision
- 7 Legal owner - unauthorised construction
- 8 Tenant with contract
- 9 Lease-holder
- 10 Free-holder

NB: For simplicity, this illustration deletes customary and Islamic tenure categories

Fig 2: Likely consequences of providing titles to `owners' of squatter houses



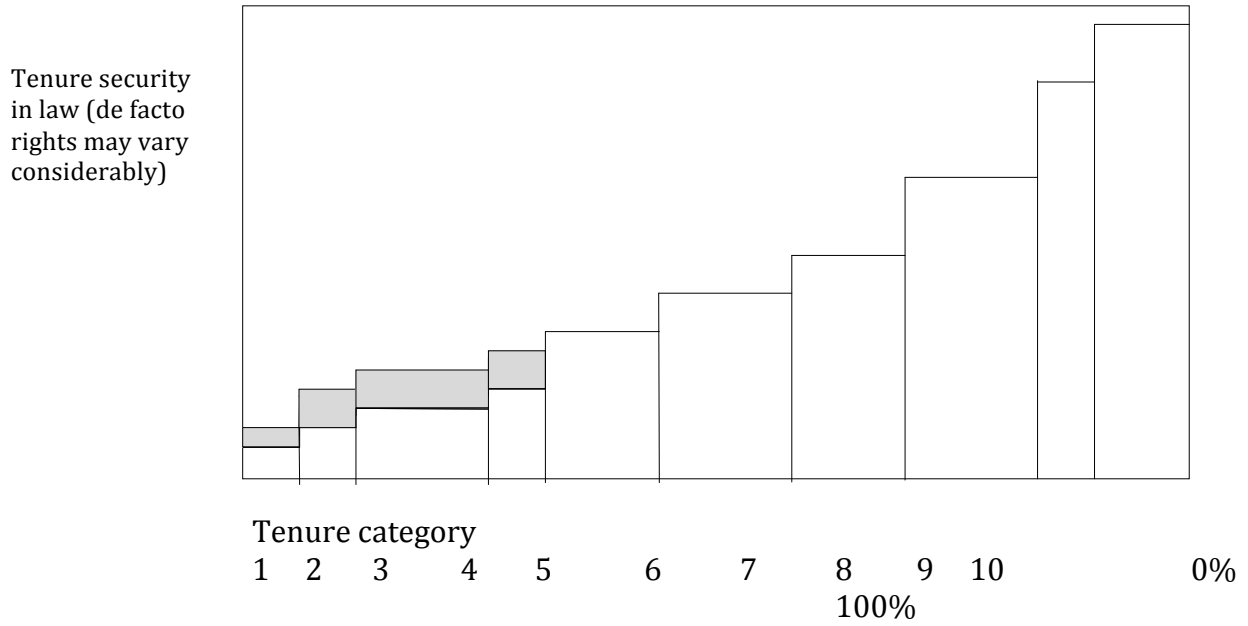
Tenure categories found in many cities:

- 1 Pavement dweller
- 2 Squatter tenant
- 3 Newly legalised freeholder of squatter house or plot
- 4 Tenant in unauthorised subdivision
- 5 Squatter `owner' - regularised
- 6 Owner - unauthorised subdivision
- 7 Legal owner - unauthorised construction
- 8 Tenant with contract
- 9 Lease-holder
- 10 Free-holder

NB: For simplicity, this illustration deletes customary and Islamic tenure categories

This figure demonstrates that the provision of full, formal tenure status to informal settlements raises their commercial value and can therefore actually reduce tenure security for the most vulnerable social groups, such as squatter tenants. It also creates new, or intensifies existing, land and property market distortions because households in tenure categories with more existing security suddenly find that squatters have received full titles. This encourages “downward raiding” as shown by the arrows.

Fig 3: Likely consequences of improving tenure rights in unauthorised settlements



Tenure categories found in many cities:

- 1 Pavement dweller with approval to remain
- 2 Squatter tenant with protection
- 3 Squatter 'owner' - regularised
- 4 Tenant in unauthorised subdivision - with protection
- 5 Squatter 'owner' - regularised
- 6 Owner - unauthorised subdivision
- 7 Legal owner - unauthorised construction
- 8 Tenant with contract
- 9 Lease-holder
- 10 Free-holder

NB: For simplicity, this illustration deletes customary and Islamic tenure categories

The figure suggests that a rights base approach increases tenure security for the most vulnerable social groups. It also increases social equity without distorting land or property markets.

3 Land management policies

It is now widely acknowledged that conventional master planning and large government controlled urban development projects have failed to control the extent or nature of urban development. Attempts to plan the physical form of towns and cities twenty or more years ahead cannot succeed when implementation depends upon social and economic factors which are not known, or can change through exogenous pressures.

However, government action can make a significant contribution to the creation of efficient, dynamic and equitable urban land and housing markets. This can be achieved most effectively by creating pluralistic land and housing markets which can respond to variations in demand and needs. In 'closed' or restricted land and housing markets, the options available for households to obtain land, finance, services and materials, will be limited either by state controls or market forces (see fig 4). The role of the public sector in this context is to create and maintain a 'level playing field' in which a wide range of supply options can operate on equal terms (see fig 5). For this to evolve, it will be essential to remove, or at least reduce, existing distortions caused by direct and indirect subsidies.

For such approaches to succeed, it will therefore be necessary for public sector agencies to become more market sensitive and for private sector interests to become more socially responsive. Such pragmatic approaches are central to the 'Third Way' being adopted in many European countries attempting to achieve economic growth with social equity. Using planning skills to create 'added value' can generate a surplus which can then be re-deployed to reduce unit costs for lower income groups. To minimise market distortion, such cross-subsidies can be used to support the provision of infrastructure or social facilities, since these benefit all sections of society.

Public-private partnerships are increasingly seen as an effective means of realising these objectives. A recent review of examples from countries in all parts of the world (Payne 1999) found that these are proving capable of addressing the primary needs of both public, private and other stakeholders and creating developments which respect local traditions and needs. Among the most effective of these are Land Pooling and Readjustment (LP/R) and Requests for Proposals (RFPs).

LP/R projects have been adopted in many parts of Asia where land is held in a large number of small holdings and integrated development is therefore difficult to achieve. It is a technique for managing and financing the subdivision of selected urban fringe areas for their urban development (Archer 1999). In each LP/R project, a group of separate land parcels are consolidated for their unified design, servicing and subdivision into a layout of roads, utilities, open spaces and building plots, with the sale of some plots for project cost recovery and the distribution of the remainder back to the land-owners in exchange for their land. There is an important difference between land pooling and readjustment regarding the transfer of ownership of the project land. In the former, the land is legally consolidated by the transfer of ownership of the separate land parcels to the project agency with the later transfer of ownership of most of the new building plots back to the land-owners. In the latter project, the land parcels are only notionally consolidated with the

agency having the right to design, service and subdivide them on a unified basis, after which the land-owners exchange their parcel documents for those of their new building plots.

RFPs are intended to: announce and encourage an open, fair competition between developers; elicit proposals that provide a complete and detailed description of a developer's plan, allowing for the judgment of an proposer's capability to carry out the proposed project; and protect the municipality's financial and legal interests. In general, an RFP should include at least the following:

- Mandatory performance standards.
- General and special conditions or terms under which the developer will operate.
- A time frame for construction.
- A recommended format and specific procedures for preparing and submitting proposals.
- Criteria by which competing proposals will be evaluated.
- A schedule and process for reviewing the proposals and selecting a "winning" developer.

There are several steps in the Request for Proposals process. These include:

- Establishing specific development objectives
- Identifying municipal sites for development
- Preparing the RFP
- Preparing a model Development and Disposition Agreement
- Reviewing development proposals and selecting developers.

The essential feature of these, and other partnership approaches, is that they embody a recognition that successful urban development depends upon the active participation of all key stakeholders, including local communities, land-owners, customary chiefs, NGOs, private developers and government agencies. They are central to the Habitat Agenda approved at the United Nations City Summit in Istanbul in 1996 and provide a sound basis for application throughout Africa. A demonstration project which embodies these principles is currently being developed in Lesotho.

It cannot be over-emphasised that municipalities must have a solid understanding of local real estate markets before attempting to structure public-private partnerships such as these. On the demand side of the equation, consideration needs to be directed toward such factors as population growth, employment trends, the distribution of incomes, vacancy rates, sales activity, and so on. On the supply side, construction activity and absorption rates, differentiated by product type, size, and location, should be considered. Last but not least, information about private developers themselves is very important. A comprehensive assessment of the financial health, experience, and reputation of private developers provides invaluable information about potential "business" partners.

3 Standards and regulations

No matter how well intentioned, all standards are, ultimately, arbitrary. Official planning and building standards in most African countries are based on those imported from Europe

during the colonial period. These may have served the needs and interests of an elite minority, but were not conceived in response to the needs of the majority, let alone under conditions of rapid urban growth and competition for land. A strong case can therefore be made for reviewing them in terms of contemporary conditions.

Official standards and regulations impose costs. Where these standards and costs do not reflect social needs or economic realities, they force people into extra-legal settlements, thereby negating their intentions. In addition, they frequently create environments which lack social cohesion or opportunities for economic activity and income generation; waste land and other scarce resources; and discourage private developers from attempting to provide shelter for lower income groups. They also limit the number of units which public sector projects can provide and absorb substantial resources in the form of subsidies which further distort urban land and housing markets.

International comparisons between official requirements and settlements in which residents have been instrumental in determining the layout, use and management of land show that the latter invariably create more acceptable and efficient developments, even if they do not conform to official perceptions of acceptability. A key factor for low income groups is to minimise entry costs to land and housing. Most locally determined developments satisfy this need by enabling residents to develop a plot to basic initial standards which are improved and extended as needs and resources permit. Official norms frequently frustrate such incremental processes.

The critical elements of land and housing development include:

- Requirements for land subdivision and physical layout
- Plot size and shape
- Levels of infrastructure provision, and
- Building design and construction standards.

Low densities may reflect historical patterns and cultural values, but reduce opportunities for commercial activity, inhibit public transport, substantially increase infrastructure costs. Reducing road widths, even by a small amount, can dramatically reduce capital and maintenance costs and increase the number of plots in a typical development at no extra cost. Planning local nodes and permitting mixed land uses can also dramatically increase local economic activity and social amenities.

Plot sizes in many parts of Africa are among the largest in the world. This also reflects cultural factors in land use and commonly expressed views that people need space to grow crops or keep livestock. However, observation suggests that as households become integrated into the urban economy, they rarely use such large plots fully and live on much smaller areas in informal settlements. This suggests that the real cost of land is not being recognised sufficiently in new formal developments, or in property taxes and ground rents.

Careful planning of infrastructure provision can help to identify the level of initial development and facilitate subsequent upgrading as resources become available. The key requirement is that households be able to inhabit their plots permanently and at a level

equal to, or slightly better than, other options available to them. The largest single costs are incurred when individual water connections are provided, since this significantly increases consumption and, therefore, wastes. Providing communal stand-pipes initially may therefore represent a sensible option in developments targeted at low-income groups, especially if the networks are designed for easy extension to higher standards later.

High building design and construction standards do not ensure that people build well. The key factor is the cost of building in relation to incomes and savings. Standards which provide guidance and advice rather than mandatory minimum requirements will therefore facilitate development from basic initial construction to full consolidation. In many cases, this process takes one or even two decades and any attempt to reduce this is likely to exclude low-income groups from participation in a project.

An effective means of testing alternative standards is to use projects as experiments and provide households with a choice at any given level of cost. This could include large plots with basic services or smaller plots with full services. Such experiments have the advantage of enabling alternative options to be tested thoroughly and the results used to revise national standards and regulations on a regular basis.

4 Administrative procedures

A further, and often overlooked, aspect of land and housing markets concerns administrative procedures for formulating, assessing and approving proposed developments. As any private developer will confirm, time is money, and this can be extremely expensive, especially when interest rates are high. If it takes a year to obtain approval to implement a project when interest rates are 20 percent, this additional cost will eventually be passed on to the residents. The longer that procedures take to complete and the higher the level of inflation, the more serious this factor becomes. In his celebrated analysis of the relationship between formal and informal processes in Peru, de Soto (1989) identified 159 steps that residents must complete in order to regularise their settlements, receive titles to their plots and incorporate their neighbourhoods into the city, a process which took on average twenty years. Whilst this situation may not be so serious in other countries, it is not uncommon to wait over a year to complete title preparations and even longer to approve urban development projects. Under such conditions, it is conceivable that administrative procedures represent the largest single cost element in many urban developments. It is therefore hardly surprising that so much development takes place outside formal channels.

Any initiative which can simplify and shorten the time required to process development proposals can therefore improve the efficiency of land and housing markets and reduce costs of entry to housing for the poor. One solution to this problem is to introduce 'one stop shops' in which all the relevant procedures are carried out for proposed developments within a specified area. This is easier to introduce as part of decentralisation programmes. Opposition from staff concerned at a possible loss of control can be reduced by increases from the number of applicants willing to submit proposals through official channels.

5 Conclusions

This paper has sought to identify some of the key issues and options facing professionals involved in urban development and shelter delivery in Africa today. It does not claim to be exhaustive, but seeks to stimulate discussion on ways in which public sector initiatives can improve market performance and access by the poor.

Priorities will need to be revised regularly in the light of changing needs and supply constraints - in other words, it will be necessary to strengthen a process of market management. In one year, for example, it may be that the main constraint to land and housing supply is the limited range of credit options. This could stimulate efforts to introduce savings and credit unions, or other micro-credit institutions. Once this issue is addressed, attention can then focus on the next priority until the land and housing markets are able to respond to the needs of all sections of the population.

Such changes will require a major change of culture and working practices within public sector agencies and will not take place overnight. A start can be made however through pilot, or demonstration projects to introduce new approaches and build confidence. An example of this is the Millennium Park/Tikoe project on the edge of Maseru in Lesotho. It will be important for these projects to be socially acceptable, economically viable and environmentally sustainable. In practice, this means that proposals should be based on market costs and make minimum demands on external subsidies.

Finally, it has to be accepted that no single professional or other stakeholder in the public, private or community sectors has a monopoly of wisdom, power or resources. Success will therefore depend on a willingness to collaborate and recognise the legitimate interests of all stakeholders. These principles are already enshrined in the United Nations Habitat Agenda. Now is the time to put them into practice.

Thank you.

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