USING REGULATION AS A TOOL FOR LAND USE MANAGEMENT IN URBAN RENEWAL PROJECTS: CASE STUDIES

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DEFINING LAND MANAGEMENT

Land management is the “system of legal requirements and regulations that apply to land in order to achieve desirable and harmonious development of the built environment” (City of Johannesburg Website 2007, in HSRC 2007)

Includes processes of

• Acquisition
• Rights
• Trading
• Regulation of land
• Participatory governance
TRENDS AND PRACTICES IN SOUTH AFRICA

Traditional, modernist approach

- Focused on code
- Assumption of state control
- Formalist
- Municipalities expected to govern in the interests of 'citizens' and to regulate space to raise revenue for the municipality
- These revenues spent on meeting citizens' needs
TRENDS AND PRACTICES IN SOUTH AFRICA

Postmodern approach

• Rapid flux
• Constrained capacity to manage
• The policy frameworks and post apartheid legislation move more towards a performance-based approach.
• Recognising need not only to control and direct development but to address growth, poverty alleviation and economic development.
• But – not translated into performance measures in regulatory environment and therefore still rely on codes
A combination of formal and informal practices:
In Diepkloof, land for business is formally accessed, owned and transferred. For housing - ownership, transfer and access are formal and informal. Institutions, individuals and groups opt to maximize benefits.

Government is ambivalent and does different things at different times:
Pro-poor elements lobby for a lassaiz faire approach because absence of intense urban management create gaps for the poor. Others argue for tighter, more modernist urban controls.

A combination of strategic planning guidelines and regulatory codes:
SDFs and spatial policy at strategic level. Town planning schemes at regulatory level. Strategic approach focuses on desirable options for development. But day-to-day control of development is compliance driven and technicist.
Advantages of informality for poor:
• Cheap
• Ease of access
• Culturally sensitive

Disadvantages of informality of poor:
• Poor are locked out of asset creation, servicing networks and the ongoing area management services of the municipality
• Urban platform on which poor rely is undermined in the long-term
Advantages of informality for the city:
  • Poor provide for themselves, albeit in unmanaged ways

Disadvantages for the city:
  • Cannot achieve desirable urban form
  • Cannot plan for or service development
  • Cannot derive revenue
  • Cannot regain power to provide/regulated once initiative has been taken away
New opportunities emanate from a mixed approach to land use management:

By occupying space – sometimes illegally, informally or in other unregulated ways – the urban poor have succeeded in gaining a foothold in places that would otherwise be denied them. It is precisely in the space created by the absence of enforcement, institutional flux and ambivalence of municipalities regarding their responsibilities to the poor, that the poor have managed to access the city.

Problems
Poor living conditions, poor environmental conditions, long-term management compromised.
WHO MANAGES LAND

The state is only one actor within the city

Other urban actors include…

Residents
Traders
Property owners
Slumlords
Drug-dealers
Tenants and subtenants etc…..

Complex lattice of relationships that exist in both the public and private realms and in overlapping spaces between realms.

These relationships exist within a spectrum of more or less formal/informal, legal/illegal practices
Street traders selling fruit and vegetables on Catherine Street
URBAN RENEWAL INTERFACE: WHAT’S DIFFERENT?

- Ring-fenced in terms of geographic area, time frames and budgets.
- Dedicated funding
- Political support
- Pressure for integrated development
- Area-based focus
- Project deadlines for implementation are fixed and are tight
URBAN RENEWAL INTERFACE: WHAT’S DIFFERENT?

Depending on the management model, can bypass some local government procedures and ‘jump’ some land use management queues. But – usually for limited period.

URPs sit within and yet separate from the normal processes of local government – need strategic attitude to land use management. Often professionals are required to make calculated judgments in relation to the bureaucratic procedures and regulations that confront land use management.
Sprawling, low density, predominantly residential development in ‘townships’
CHALLENGES AT DIFFERENT STAGES OF LAND DEVELOPMENT

1. Land transfer
2. Township establishment
3. Layout, urban design, development plan
4. Settlement of site
5. Habitat management
OWNERSHIP AND RIGHTS TO LAND

Highly contested terrain

Case Study: Transfer of housing in Alexandra

Aim

- To transfer title of 6,000 erven of public owned housing stock from the Johannesburg council to qualifying households
- To deliver secure tenure, to regularise the situation, to provide a legal basis for the collection of rates and service charges, whilst protecting tenants
- Implemented alongside a programme to facilitate the upgrading of existing houses and backyards to minimum standards
Uncertain land ownership issues in Alexandra inhibit development
OWNERSHIP AND RIGHTS TO LAND

Case Study: Transfer of housing in Alexandra

1. Audit of permits
2. Mapping & field survey
3. Establish Housing Transfer Bureau
4. Submission of applications
5. Adjudicate applications
6. Transfer stands
OWNERSHIP AND RIGHTS TO LAND

Case Study: Transfer of housing in Alexandra

Housing Bureau Committee established to oversee the transfer of housing process, adjudicate and mediate disputes.

The Committee made up of representatives from provincial government and City of Johannesburg. Office would be established in Alexandra. Bureau financed by the ARP.

A project manager and adjudication administrator would
- Undertake a documentation audit and a property survey
- Ensure that the Precinct Plan and Block Plans are developed timeously
- Undertake the communication programme
- Establish the Transfer Bureau
- Revise Block Plan once title had been transferred.
OWNERSHIP AND RIGHTS TO LAND

Case Study: Transfer of housing in Alexandra

Lessons

• Normalisation of title was crucial to gaining buy-in from the residents.
• Once expectations have been raised in the complicated area of land title transfer there must be follow-through and clarity on the stages achieved in the process.
• Detailed processes were drawn up to cover this complicated and politically charged area.
• Administrative processes and structures (such as the Transfer Bureau) need to be in place timeously.
OWNERSHIP AND RIGHTS TO LAND

Case Study: Township establishment in Alexandra

• Many areas set up in terms of the BCDA and “no one ever bothered to establish the township properly”.
• In other areas LEFTEA was used, and full township establishment was not pursued. This means no title can be granted in these areas.
• Now, no house can be occupied without title being handed over. This means that full township establishment has to take place before handover.
• Long time delays in township applications.
OWNERSHIP AND RIGHTS TO LAND

Case Study: Township establishment in Alexandra

Lessons

• For URPs to successful, then special measures have to be designed to streamline the land use management application procedures on these projects.
• Partnerships within the City are important
• Officials must act professionally but also take calculated risks in manipulating the regulatory system. Once interim approval is granted, officials proceed with development on the ground so that construction and town planning regulation take place simultaneously.
CASE STUDY: INNOVATIVE BUILDING CONTROL IN WIGGINS

Aim
- Rethink stringent building control measures to enable fast-track delivery
- Bringing development control closer to people

Process
- Building control moves onto site
- Advises people on strategic minimum for legal and safe construction within cadastre and by-laws
  - House on the correct plot
  - House within boundaries
  - Adequate foundations
  - Roof at correct height
- Mentors small contractors and facilitates access to materials
SETTLEMENT OF SITE

Case Study: Building control in Wiggins, Cato Manor

Lessons

• The lessons from this project may not be replicable
• Expensive system to roll out across the city and that the project
• Succeeded largely on the basis of the charismatic personality of the building control officer.
• Inspired eThekwini (previously Durban) Metro to start revising their development control procedures.
HABITAT MANAGEMENT

Case Study: City negotiates with Alex goat traders

Aim
• To devise culturally and environmentally appropriate ways of accommodating goats in urban areas

Process
• City has developed a strategy – in consultation with livestock keepers, the Departments of Agriculture, Land Affairs, the SPCA, the JMPD, veterinary services, municipal housing, environment, and health divisions – to balance the needs of livestock keepers and the CoJ
• The phases of the plan include:
  Identifying the livestock keepers
  Health promotion
  Farmer support programmes
In the last resort, if people do not buy into the plan, there will be vigorous enforcement of the law.
Goat trader with his small-holding near Alexandra
Case Study: Accommodating informal trade in Durban’s inner city

Aim
- Devise innovative ways to provide street-traders - “drum ladies” with appropriate facilities

Process
- Careful analysis of how traders combine trade and housing
- Accommodation for 44 relocated "drum ladies" each with a shop and living quarters in one unit
- Units based on measurements of the original drum shelters
- A special gully for washing drums ensures that the effluent goes into the sewers rather than the storm-water drains.
Mansel Road: Accommodating informal trade in the inner city
HABITAT MANAGEMENT

Case Study: Landlord-tenant relations in Diepkloof

Aim

• Manage disputes between landlords and tenants
• Acknowledge and upgrade backyard shacks

Process

• Tribunal Officers monitor complaints. If these cannot be resolved locally then referred to the Provincial Tribunal.
• Complains are lodged telephonically and a Tribunal Officer, listens to both sides of the story
• Street and Ward Committees as well as councillors monitor the charging of rent of backyard shacks and rooms in terms of the services and quality of the structure.
• The municipality has initiated a programmes to rehabilitate and upgrade backyard shacks because these have “potential to offer affordable housing accommodation in context of poverty and migrancy
Backyard rental has potential to offer affordable housing