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MAKING URBAN LAND MARKETS WORK FOR THE POOR

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Laura Tausky October 2008

From Land Rights to Property Markets

Conference Report

Urban LandMark hosted a conference on August 27th and 28th at the DBSA Vulindlela Academy in Midrand, South Africa. The aim of the conference was to showcase the work of Urban LandMark in pursuit of its mandate to 'make urban land markets work for the poor.' Research highlighted the dimensions of the expansive, dynamic and uneven terrain that constitutes the urban space economy.

Introduction

Mark Napier, Programme Director: Urban LandMark

Sub-Saharan Africa is one of the most rapidly urbanizing regions in the world and municipalities are not well positioned to deal with the unprecedented pace of urban population growth. Cities are shaped through market forces, institutional rules and the activities of urban citizens. In order to produce a sustainable city that allocates space for the poor within its borders, it is necessary to develop higher densities and to engage creatively with market dynamics.

Urban LandMark developed the theme 'From land rights to property markets' to draw attention to the correlations, and the tensions, within the context of securing enforceable rights to urban land and expanding access to the property market. The concept of a right to productive space in the city bridges the gap between fundamental human rights (to access shelter, land, 'the city') and the emerging recognition of a right to participate in the economy.

Understanding the interface between urban land development and poverty reduction requires a multidisciplinary lens, primed to engage with the complexity inherent in constructing an inclusive city. In recognition of this fact, Urban Landmark approached the subject matter from several different angles, which were consolidated into three broad themes:

- 1. The informal land market: It is necessary to recognize the structure of the informal land market and to diversify the bundle of rights that can be dispatched to accommodate a broad-based urban citizenry.
- 2. Urban land market dynamics: The land market economy is predicated on access to space and the fluctuations that allow people to exchange land and

- generate wealth: understanding what drives and distinguishes these forces is integral to leveraging opportunities that exist in the property market.
- 3. Functional land governance: In order to implement meaningful change, land use management systems need to work effectively and efficiently for those who arbitrate urban development and for those who want to access land.

Mark's presentation ended with images of a street vendor who has established a presence outside the Urban LandMark offices in Tshwane/Pretoria. Her enterprise demonstrates the everyday interaction between the formal and informal elements of an urban landscape in South Africa. She is located directly outside the International Labour Organisation; police stop to have lunch at her stand; in digging trenches for a pipeline, the city dug around her, and the workers also approached her for their lunch. However, she has no formal recognition of her right to occupy that area and this explicitly underlines Urban LandMark's area of concern: how can her right to space be articulated and protected? How can her investment in this enterprise be realised over time rather than being limited to her daily takings because of the insecurity of her position?

Informal Land Markets

This presentation series resolved itself around the imperative to recognize the facts on the ground and their implications for urban land development regimes. **Margot Rubin** presented the findings of the 'Urban Land Biographies' project, which adopts a unique perspective that explores urban land uses from the vantage point of the land itself. From this place-based approach, the study uncovers the history of occupation and the interactions that produce different spatial typologies. Thokoza, Doornfontein and Diepkloof were selected as the subjects for the investigation and each location revealed a unique pattern of urban settlement, which generates new insights into the past and present interface between informal and formal land use activities.

In exposing the resource-rich land use systems that operate in these different locations, the 'Urban Land Biographies' study provides detailed insights into the ebb and flow of interaction between official regulation and unofficial practice. Within a defined precinct, land can be shared or used by a number of people for a variety of purposes at the same time. However, this sharing is negotiated and land use practice is governed by local rules of engagement. This system produces hybridized situations where a space moves between layers of formality and informality. There often exists a wide discrepancy between the officially recognized land use management patterns and the actual distribution of activity on the ground. Formal and informal systems co-exist and provide different rights and claims to the residents of each location.

In urban planning discourse, it is often tempting to draw binary distinctions between formal and informal processes but in fact people move in the spaces between the two. Although the tendency is to drive informal systems toward formality, the danger is that this will penalize particular livelihood strategies without recognizing their value. An effective pro-poor strategy should aspire to reconcile the benefits of informality, such as flexibility and inclusion, while providing the legitimacy, clarity and predictability that accompany the gloss of formal recognition. The next step is to determine how we can move towards these coordinates, given the blueprints established by current land use configurations and the existing policy environment.

Discussion

The discussion following the presentation of these findings acknowledged the contribution that the study makes in providing a new device to understand the complexity of urban land use systems. The question then turns to the implications of the study in terms of its impact on governance strategies and the facilitation of market access.

'Urban Land Biographies' underscores the importance of the role of the state in managing the anarchic inclinations of unabated informality. However, government regulation collides at ground level with the actual needs of land users. Owners and occupiers of land will respond to official processes according to their own requirements and legal formalities will not be determinative of their actions. As a result, a directed approach to urban land management should be more flexible and accommodate the diverse elements of local land use. The resource-rich terrain mapped out by the study demonstrates that there is a great deal to build on in terms of existing local practice, and this could be channelled into the beginnings of a normative framework.

Within this context, it is possible to extrapolate from the conclusion that formal/informal frameworks are inapplicable. The investigation points to the concept that there are different land use relationships in operation but an added economic dimension begs the question of what value should be accorded to these separate systems. For example, the spectre of the 2010 World Cup has stimulated land speculation in some areas and this carries a particular market value but could detract from the stock of land available to the poor. Economic conditions can strengthen security of tenure or undermine it and it is important to recognize that the systems put in place to mediate the relationship between land and its users can encourage certain kinds of valuation.

Land use management systems should be directed at enabling both flexibility and predictability so that people can understand how the institutional framework operates and capture the value of their claim to space. There is not necessarily a state/community polarity: there is an enormous interface and this can be highly contested or mutually reinforcing.

Finally, there is another side to the issues exposed by the study. Institutional instability and capacity constraints will potentially impede state competence in dealing with the added complexity that the report reveals.

Warren Smit and Ros Gordon presented the findings of two studies on how the poor access, trade and hold land. The results of qualitative and quantitative survey data serve to disaggregate the informal land market and disclose the structure of the transaction process.

The research question at the centre of **Warren Smit**'s study is: 'are urban land markets working well for the poor?' In applying a M4P (Markets for the Poor) perspective, the report focuses on the nexus between existing market supply and the actual needs of the poor. As a starting point, land markets are conceptualized as a 'compilation of land delivery systems,' which may be public or private, commercial

or non-commercial, and legal or illegal. From the point of view of the end user, a market that works well for the poor may be defined as one in which poor households are able to access a variety of reasonably adequate and affordable land and housing options.

In the poorer segments of South African cities, important land and housing options include: the ownership or rental of a shack in an informal settlement, a rented room within a shack, the rental of space for a backyard shack or of the shack itself in established townships, a rented room in an established township, and the receipt of an RDP house in an upgrading project or in a greenfield development. The qualitative and quantitative analysis of these alternate housing situations focused on their adequacy in relation to certain critical housing needs, such as security of tenure, affordability and the sufficiency of the shelter and services.

The study revealed a functioning land market within the poorer parts of South African cities that oscillates between a financially-driven and socially-driven logic. However, the matrix of housing options exposes serious deficiencies in their ability to satisfy the entire spectrum of minimum requirements for adequate shelter. Major weaknesses in current land delivery systems include the poor location of RDP housing projects, low standards of housing and services in informal settlements, a lack of tenure security, the expense of ongoing service provision and the lack of supply in the lower end of the 'formal' property market. As a result, interventions should attempt to provide a wider range of subsidized housing options for all categories of need, as well as the prioritization of informal settlement upgrading where appropriate.

The findings presented by **Ros Gordon** provide a more complete understanding of the transaction process. The data analysis traces the relationship between settlement types and transactions in order to determine the logic that underlies the informal land market. This information serves as the groundwork for effective intervention strategies that are tailored to the diverse needs of the poor.

In general, there is evidence that people are motivated by both financial and social considerations in their bid to access and trade land. The surveyed households were able to access land through one of three processes: allocation, occupation or purchase. In understanding the nuances of the transaction process, it is possible to deflate certain myths about the informal sector. People who live in informal settlements have a sense of the roles and responsibilities of local authorities and have tapped into local market dynamics. The recognition that there are local institutions that govern the trading process, and that certain factors drive people to particular settlements (for example, location or personal connections), will have critical policy implications in terms of how to handle both informal settlement upgrading and the allocation of RDP housing.

Finally, **Lauren Royston** articulated the Urban Landmark perspective on these issues. Informal land markets serve a critical function in that they offer an elastic supply mechanism for those who cannot afford to access the formal property market. The evidence of social relationships supports the inference that social networks are an important driver of the informal land market, which should factor into advocacy approaches to making urban land markets work better for the poor.

Formal and informal systems are not diametrically opposed. Instead, they constitute co-existing systems that require new conceptual categories. A holistic view of land markets is necessary in order to improve the distributional benefits that flow from market transactions. It is also important to disaggregate 'the poor.' There is an enormous category of 'poor' households (79% earn less than R3500 per month) and this creates the need for an incisive investigation of how the poor build livelihoods within the urban land market.

In order to move the M4P concept forward, the challenge is to tap into local practice as a means to increase points of entry into the urban land market and multiply the channels of supply. The starting point is the recognition of informal markets: because they are informal or non-financial in nature, these markets often remain unseen in the eyes of the law, policy and implementation. However, recognition needs to be accompanied by an enhancement of informal market operations. Although these markets can function well in the short term at providing access to land, there are limitations to how they can function to increase economic opportunity.

There are several distinct benefits of property access and driving toward a particular outcome could require a shift in the conceptual approach. The traditional point of departure views property ownership as an asset in the production of capital gains: people become wealthier by moving up the property ladder. However, it is also possible to conceive of property as a livelihood asset, which recognizes the value of land as a source of income generation, a secure base for access to the city and a productive resource for non-residential uses.

In building upon the current reality, the focus centres on recognizing the value of land as a base for livelihood development and, accordingly, to securing tenure as a precondition for supplying access to urban economic opportunities. Future courses of action under this theme should, first, develop an advocacy strategy that raises awareness of informal land markets and that shores up a position on informal settlement eradication policies. As well, an emphasis should be placed on informal settlement upgrading, with particular attention given to the incremental securing of tenure and the development of an alternative registration system that responds to local contexts.

Discussion

As moderator Monty Narsoo stated, many issues coalesce around informal settlements. There is a lot of value in recognizing the complexity of the rationalities and circumstances of people who engage in informal transactions. However, it is also important to build on this recognition and question the implications of policy interventions and how these could be disruptive of the quasi-rights and land use systems that currently exist. Still, an appreciation of the informal space economy could mitigate the negative effects of land use regulation that currently ignores the de facto occupation status of informal residents.

Another concern is the availability of reasonably priced land in an urban context. Land values in Gauteng bar the allocation of adequate space to accommodate the poor. Although it is difficult to siphon off highly valued privately owned land for affordable housing developments, a more efficient use of space and the effective application of land use management tools could produce a much more optimal return

on the spatial distribution of urban land resources. As well, the issue of movement and migration has a significant impact on what strategies are adopted, given that the high incidence of mobility could undermine projects that attempt to freeze the occupation status of residents.

In terms of disaggregating the poor, it is important to recognize that households have a huge variety of financial capacities. People take into account a wide range of factors when they are attempting to access land, such as whether the land can serve as an investment for the future, its capacity to sustain livelihoods, or whether there are restraints on its secession to future generations. The underlying values that motivate people to move to a certain location could carry important implications for any attempt to model the function of informal markets.

Urban Land Market Dynamics

In order to engage effectively and creatively with the urban land market, it is necessary to understand the dynamics that shape it and the forces that propel it. Francois Viruly and Timothy Hobden respectively outlined the economists' perspective on the theoretical and factual operation of urban land markets in South African cities.

The question underpinning the market analysis, in **Francois Viruly**'s words, is 'how do we use land in a manner that optimizes local economic development at the end of the day?' Land markets lead to specific development and economic outcomes that should take account of social priorities. The economy is growing both formally and informally: we might have to start thinking of land economics in a new way and turn the traditional paradigm, which assumes occupation and land use are the final stages in the development process, on its head.

Land markets have to be seen in a more holistic way. The urban space economy consists of four markets: the capital market, the user market, the development market and the land market. Every market has an institutional framework and urban land market outcomes are a function of the interaction between the four markets and the rules that structure them.

This analysis translates into a recalibrated conception of how markets can work for the poor. In order to build inclusive cities, infrastructure investment has to anticipate the transportation requirements of every piece of land. Urban land is inflected with varying degrees of functional capacity and in order to ensure that land does not become functionally or economically obsolete, local government should focus on accelerated infrastructure delivery that bolsters mobility between urban nodes.

In the urban land market, different sectors bid for land and space in the city. In order for low-income residential land uses to compete against commercial interests for well-located land, we have to develop a new high-density housing typology. This would also create a new asset class that appeals to investors, thereby generating capital for development. Filtering provides another source of affordable housing, as investment at the higher end of the residential land market produces vacancies in lower property

brackets. The injection of residential developments at multiple points along the property ladder will increase housing opportunities throughout the urban land market.

Timothy Hobden described the results of an analysis of the formal urban land market in South Africa. The urban land market is strong and it follows a particular logic that needs to be understood in order to harness its potential. Interventions that do not account for the pull of the market could result in suboptimal land uses and distorted social consequences.

Research shows that the formerly prohibitive price cliffs that separated township areas and formal city suburbs are declining. However, there is no indication of the amount of churn within a given property bracket and the markets are thin, inhibited by a limited amount of stock. As well, regulatory and planning constraints remain at the core of the market's inability to meet low-end demand, while the lack of local capacity raises costs and uncertainty. Market players do not like the risk matrix that these elements create: developers are less likely to operate in the lower end of the market and smaller developers cannot cope with the financial stress that it takes to hold onto land.

The presentation outlined three recommendations to ensure market and policy compatibility. First, an approach to expand access to urban land needs to work with the logic of the market and not against it: "policies and interventions which enable, catalyse and incentivise market forces to achieve social outcomes are likely to realize additional leverage and enhance 'bang for buck.'" Secondly, structured incentives are more powerful than legislative prescriptions. There is a lot of potential to use innovative incentive mechanisms – for example, pro-poor densification strategies could generate a lot more stock and churn and potential for movement. Finally, there remains a critical need for legislative simplicity, coherence and certainty.

Discussion

The discussion following these presentations focused on concerns about how a market-based approach could practically achieve pro-poor outcomes: how does one understand relative access and pro-poor initiatives in the current environment; how can a functioning market be altered in composition so that it does not exclude the poor; what is the relationship between high density and optimal density land use.

Francois argued that the conceptual thread that ties the questions together is that property markets work within an institutional environment. There is a general acceptance that changing the rules of the game will lead to changing results in the market. However, policy decisions can produce unintended consequences, such as exclusion where the supply of land is deliberately limited, that subsequently demand new terms of engagement. It is imperative to put people in an urban environment that promotes local economic growth and the legal institutional framework should be structured so as to advance this goal. It might be that the rules of the game do change in a high-density environment: the social infrastructure needs to be installed to sustain the 'deliverability' of cities. A debate transpires around the fact that the highest and best use gravitates toward the highest bidding developer. However, the government is still sitting on a lot of well-located public land and it could be used to release some of the pressure on the land availability issue.

As Timothy noted, market currents are strong and they need to be taken into account when designing a policy that could potentially stifle their velocity. It is true that the property market can be exclusionary to the poor and this reinforces the need to work with developers and municipalities in order to make it easier and more economical to build houses in the lower end of the market.

Finally, the issue of mixed-use developments came up, which represents a concept that prototypically demonstrates the highest and best use phenomenon. It begs the question: how do you maximize the portfolio of uses/rights in order to produce the best outcome from a market perspective?

Kecia Rust, Philip North and Jacques du Toit focused on specific ways to improve market efficiency and effectiveness. **Kecia Rust** and **Philip North** showcased their work on extending the reach of the formal property market. In recognition of the fact that an efficient property market requires good information, coupled with an understanding of the wealth that can be realized through the transaction process, Rust and North are in the process of designing a property price monitor that caters to the 80% of people who cannot afford to access the formal land market. This initiative stems from the impetus to ensure that property can be accessed by a broader segment of the population as an asset for capital creation and social empowerment.

However, the process of building such a property monitor has uncovered gross inaccuracies in the data contained in the deeds registry. Essentially, the total market amounts to less than the sum of its parts: RDP houses are being valued arbitrarily; misleading categorizations gloss over sub-market variation; transactions are valued at 'zero' where data is unknown. The goal is to recognize the reasons behind variation in property value from one neighbourhood to the next and the relationships between housing types in order to extrapolate certain conditions for policy purposes. However, the prerequisite for this project, and for an efficient market, is good information and in its current state, the deeds registry remains littered with statistical errors.

Jacques du Toit looked at another side of property market transactions by focusing on the relationships between its constituents. University of Pretoria research revealed the points of contention and compromise that characterize interactions between municipal officials and local developers. Land development takes place in an institutional setting and the administrative process structures the terms of engagement and the built environment outcomes. Research revealed that developers are primarily motivated by profit, reputational concerns and corporate branding. Meanwhile, the 'social good' that emerges from a development deal is a function of the capacity and influence of a municipality in negotiations. The case study of Cosmo City illustrates how a land deal can balance the interests of developers and municipalities.

In the final analysis, key concerns included a lack of clarity and consistency in the institutional environment and the steep barriers of entry into the land development sector, which prohibit local entrepreneurs from pursuing projects that extend land access to the poor. Creative responses are required to make land development more inclusive, equitable and sustainable, with a particular focus on the interdependent relationships, roles and responsibilities between different actors in the property development field.

Caroline Kihato summed up the challenge that results from trying to reconcile urban land economics with social outcomes. There are two discursive framing devices that have been applied in relation to this issue: one adopts the position that markets have failed the poor and government intervention is required to redistribute resources while the other argues that markets are self-regulating and government intervention results in value distortions. The question is whether it is possible to bridge these conceptual divides and create a more inclusive market for the poor, which calls for government intervention in ways that expand access to the economy. This approach collapses the perceived dichotomy between markets and human rights by recognizing that markets contain unique opportunities for wealth creation.

The guiding vision for this spatial transformation involves an effective, accessible and equitable market that uses government intervention to buoy market dynamics at the lower end of the property spectrum and provides people with leverage to extract themselves from poverty. This will involve moving beyond market efficiency, substantively addressing the barriers of entry to people in the lower end of the market and mitigating asymmetries by providing diversified property options to all income groups. It is necessary to change the spatial nature of cities and inaugurate new tradeable rights to urban space for productive and reproductive uses.

Discussion

The discussion at the end of the first day anticipated the topics to be addressed in the second day. As Monty Narsoo observed, efficiency and effectiveness need to be balanced. It does not necessarily come down to a choice between government intervention and a self-regulating market: it is important to understand the quality of state intervention and the tipping points within the urban property market. In the end, a lot comes down to the ability within the state to deal with these issues.

Day Two Keynote Speech

Ahmedi Vawda

In his keynote address, Ahmedi Vawda elaborated on the contextual coordinates that ground an inquiry into the urban space economy and supplied a directive for driving the concept of equitable land markets forward.

There have been two significant contextual shifts under the rubrics of planning and finance. From a planning perspective, rapid urbanization has outpaced urban infrastructure development. Governance regimes are not equipped to deal with the rate of urbanisation and population growth, and are struggling to set up a functioning rates base. Given that a precondition for good markets is good infrastructure investment, there is a pressing need for institutional reform of the urban terrain. As it currently stands, the institutional framework is not robust enough to contain the inertia of the private sector. Public investment is hemmed in by private investment and infrastructure provision gravitates toward upmarket developments. This trend serves to reproduce inequality and exclusion. Planning reform should incorporate new institutional arrangements that strengthen the planning ability of the local authority.

The city is structured both from above and from below, and the restructuring of the administrative environment should strive to merge planning agendas with the vitality that shapes the urban landscape.

In terms of financial viability, the current urban economy produces affordable shelter that is inadequate and adequate shelter that is unaffordable. In order to recalibrate these outcomes, it is necessary, among other priorities, to improve housing finance systems, enhance brokerage information systems, diversify markets through the subsidy scheme, develop an efficient titling programme, and design new housing products, which could be linked to informal settlement upgrading. It is important to recognize that in accessing property, the value added for the poor might not be about housing finance for the purpose of trade but, instead, could be for the more immediate purpose of wealth creation through having access to credit.

Breaking New Ground called for a new architecture that would elicit fundamental changes in how cities are structured. However, the scaffolds are stalled in the construction phase: supply-side instruments are not being targeted to the changing nature of demand and we do not have enough definition of a product in relation to the establishment of 'sustainable human settlements.'

Functional Land Governance

The presentations under the heading of functional land governance revealed concerns that underlie all other elements of the urban space economy. At the nexus between policy and product, institutional frameworks and capacity constraints hinder the implementation process. In their work on developing integrated towns, **Felicity Kitchin** and **Wendy Ovens** cited specific case studies that highlight the impediments to effective land use management. Land use management affects the availability and value of land, as well as the financial sustenance of the municipality. Effective land use management mechanisms are needed for the poor to access land.

At the local level, the connection between strategic planning and land use management needs to be strengthened. Municipal sustainability depends on the ability of local authorities to manage the parameters of development, provide adequate services, and to capture the value from its expanding rates base. Concerns emerge from the lack of municipal control over land due to competing development interests, corruption or usurpation by provincial development legislation. As well, municipal capacity constraints impair the efficient exercise and enforcement of planning protocols. A reconstituted land use management regime should account for changing housing needs (where supply is not meeting demand) and factor in sustainability concerns about municipal growth (for example, where urban sprawl stretches the financial resources of a municipality beyond its limits).

It is also important to understand the operation of both the informal and the formal land market. The local economy is affected by the dominance of the formal or informal sector and, where towns adopt the position that they should ignore informality, they lose control over development. A large number of transactions are not recognized by authorities and this translates into a loss of rates income to municipalities.

Local consequences of provincial and national policies and practices need to be understood by all spheres of government. The way forward involves the recognition of differential needs and asymmetrical approaches. Spaces do exist where land use policies and practices have enabled the poor to access well located land in a sustainable manner, but the land use system has not received the fundamental restructuring that the post-apartheid state requires.

Discussion

One prominent issue raised during this discussion concerned the appropriate level of government to handle urban land management. In response to the question of whether pro-poor strategic planning should be local or district, Wendy and Felicity noted that municipalities are serving huge populations, and have to manage both urban development and an entirely different set of complex issues that relate to rural areas. Planners in some areas are working in appalling conditions and this needs to be addressed if building local capacity is to be given serious credence. For example, planners in Lusikisiki were intelligent and well qualified but they did not have basic facilities.

Ahmedi commented on the relationship between constituencies and officials. There are two drivers of space economies: one set of agents that see returns on investment and those who move into the slums. The literature claims that two-thirds of the world will live in slum conditions in the next 20 years and this is blamed on the structure of accumulation and distribution. Urban strategists need to plan against both ends of the market. As Jane Jacobs demonstrated, there is vitality in poorer parts of town. The question is how to capture that energy and produce an urban landscape that will reflect its worth. The discrepancy between strategic planning and development control does a disservice both to investors and the poor. The limitations that sew the market into a certain economic disposition do not arise from Integrated Development Plans but rather from our current institutional instruments, which are too weak in structuring the space economy. This gives rise to conditions that reproduce poverty and exclusion, and municipalities are unable to contain unbridled development and unsustainable land use patterns.

Monty summed up the discussion by stating that there is a stark imbalance within the traditional demand-defined and supply-negotiated market paradigm: 'the problem is that we are asking people to understand the demand but supply instruments are broad and blunt.' Governability used to be the ability to apply municipal by-laws but the sheer scope of the urban land problem and the lack of administrative resources circumscribe the effectiveness of these planning tools.

The research that **Riana du Plessis** conducted into land management in the Metsweding District confronts the institutional constraints that dampen local development in a peri-urban municipality. In relation to capacity, local authorities were lacking in terms of their institutional memory (the transfer of local knowledge) and qualified staff members. From a policy perspective, local practice did not necessarily align itself with higher-order plans and legislation. As well, the processing of development applications was uncoordinated, while spatial information systems were inefficient or non-existent. Given the close relationship between local land management and pro-poor development, the strengthening of municipal capacity is a critical ingredient in producing an effective land governance regime.

The City of Johannesburg is developing innovative policy tools to deal with informal settlements. **Gemey Abrahams** discussed the governance issues surrounding the recognition of informal settlements and the regularization of tenure. The project focuses on two consecutive strategies for bringing informal settlements within the ambit of governance. The first involves an urban planning mechanism that identifies 'special zones' within the city that would secure a right to occupation within 'transitional residential settlements.' Following this rezoning, the tenure status of occupiers can be secured through various legal instruments that currently exist in the Development Facilitation Act. Specifically, the DFA contains provisions that recognize 'initial ownership' in informal circumstances, which facilitates the incremental upgrading of tenure, and that confirm the status of beneficial occupiers, thereby providing an ownership claim to those who have been in possession of a piece of property for a certain amount of time. The research was infused by concurrent experience in Brazil, where similar challenges have required innovative solutions that reshape the governance framework.

Stephen Berrisford outlined the Urban Landmark perspective on functional land governance and underlined the importance of structuring rules that will abate the tensions between the forces of the market and the powers of a regulator. The question is "how to push the redistribution envelope within a market that is politically sensitive but that also responds to the needs of all South Africans." Local government needs to be able to consciously manage land use and development in a way that produces equitable and sustainable outcomes while maintaining the vitality of the urban space economy. There are various tools that can be alternately deployed to maximize the efficacy of the governance regime.

- *Planning regulation* is capable of the most direct impact on the land market and serves to protect vulnerable groups within society. Regulations provide both the certainty that stabilizes the investment climate and the parameters for specific built environment outcomes. Regulations can confirm or change market trends and the challenge remains, within a country that has undergone dramatic transformations, to engage with the legislative edifice in ways that will produce substantive changes in the spatial status quo.
- Land taxation provides a wide range of opportunities, and a massive scope of underutilized potential, to develop a rates framework that is in line with strategic city planning. Rules create value, which is captured by taxes, which raises public funds. As Stephen stated, it is about 'how carrots and sticks talk to each other in terms of structuring incentives.'
- Land acquisition and disposal plays a large role in creating opportunities for the poor to access well located land. The state (national, provincial, local) is a significant player in the urban land market and the release of state land could be tied to the generation of pro-poor land market outcomes.

Functional land governance serves as the adhesive that connects policy goals with their tangible impact. It is necessary for the current rules to change, work and be implemented confidently so that the urban landscape of South Africa can reflect its social values.

Discussion

Focusing first on informal settlement upgrading, it was noted that the initiatives of the City of Johannesburg have significant implications for the recognition of informal tenure rights. This is a planning intervention, not a housing intervention, which conveys tenure security and as a result, it involves a shift in mindset from the full township establishment approach. Gemey observed that the alignment of priorities in this context would be affected by the status of land and the question of how the city can roll out tenure regularization where there are different forms of underlying ownership.

The planning strategy represents a way to rapidly recognize settlements and bring them into the city, but it then imports legal mechanisms to incrementally upgrade ownership rights. Johannesburg might run into difficulty because the city is trying to superimpose a legal framework onto informal, spontaneous settlements. The principle is to try and do as much in situ as possible, but the reality is that there are people living within floodlines and on dolomite lands. Gemey also acknowledged that the DFA suffers from its heritage: the wrong level of government is making local decisions. Still, that should not detract from what it can actually accomplish – it is a powerful legal instrument that contains robust provisions for dealing with informal settlements. It was initially designed to improve the living situation of the poor and to work around the problems that exist on the ground.

The discussion also brought out some concerns about the application of differential standards through the planning approach to informal settlement upgrading. As Monty observed, this has a political edge to it because it is reminiscent of apartheid. However, Gemey explained that the town planning instrument applies across the whole city and that could be seen as one way of avoiding discrimination.

Riana commented on the potential conflict between pro-poor planning and environmental legislation. Often the true source of the problem lies in the lack of capacity to properly implement the legislation and the inconsistency that stems from the fact that government agencies do not communicate with one another. In response to a question about whether there should be stronger forward planning and development control in order to have a bigger impact on the spatial restructuring of cities, Riana reiterated the point that the governance tools are in place but the process stagnates due to a lack of political will to take decisive stands on the enforcement of policies and frameworks.

Stephen concluded the discussion by elaborating on the need for stronger consistency between the spatial framework and what occurs in day-to-day operations and land management. Where other legislative bodies become involved, integrated development strategies can be undermined by the lack of coordination between agencies. The uncertainty inherent in a development project doubles when there are multiple avenues of appeal and several opportunities for obstruction and delay. Monty picked up on this point and the importance of a coherent integrated development regime. The tension between tenure, services and houses is going to build up as we develop new channels of land access and housing delivery. This raises a whole new set of concerns, such as physical security and health standards.

Urban LandMark Position

Mark Napier

The accumulation of research on different aspects of the mandate to make urban land markets work for the poor places Urban LandMark at the brink of a new phase, where the focal point shifts away from research and toward the question of how to induce positive change and tangible impacts. Urban LandMark has developed seven priority positions that will guide its activities as it pursues this new direction.

- 1. Access frontiers for urban land must be extended within a better functioning market that provides greater choice, better information and increased affordability.
- 2. Informal and off-register trade in land must be recognized as being an integral part of the urban land market. Government intervention has the potential to disrupt livelihoods or to provide leverage for greater access to economic opportunity. Recognition will inject a new measure of vitality into urban land markets, which will improve residential mobility, facilitate the productive use of space and allow people to realize the capital benefits of trade.
- 3. A large number of transactions are driven underground and this depreciates their value for both parties to the exchange and municipalities that lose out on a source of income.
- 4. There needs to be a balance between protecting land rights and land value. Property owners will protect their own property interests but the burden is on the state to protect lower property values and the poor.
- 5. People use land in diverse ways and a market approach to providing secure access to land should protect this broad spectrum of productive land use activities. It is not just about land on plots but also about access to space on pavements.
- 6. Partnerships between the private sector and the poor are important. Private sector involvement in this field includes the structuring of incentives that encourage innovation in property development at the low end of the market and corporate social responsibility practices that increase access to land and housing. However, it is also necessary to nurture long-term partnerships that produce a synergy between corporate profitability and community benefit.
- 7. The key to improving access to urban land markets is to improve the bidding power of the poor. There are multiple strategies that feed into this plan: infrastructure development can create value in its wake and promote property investment; spatial efficiencies should be optimized so that higher residential densities can compete with other land uses; partnerships can be developed to allow the poor to access underutilized space in the city.

Access to the land market is important for poverty reduction because land provides a foothold in the city from which livelihoods are secured, assets created and socioeconomic rights realized. Urban landscapes contain pockets bursting with potential for creative engagement with market dynamics. It is within these spaces that the priorities encompassed by the three themes of informal recognition, market efficacy, and functional governance converge. And it is by applying these principles that the right to adequate housing and access to land can be meaningfully addressed.