



Promoting active citizenship and good governance

Land and Settlement Development Research Study

Report on:

Land Acquisition and Transfer

2013

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1 Introduction and Background

This report provides a brief discussion on the steps to be followed in the acquisition of land. It is structured in sections relating to the different forms of land ownership, whether private or government/ municipal and its purpose is to assist with understanding the land acquisition process specifically for public-funded/co-funded settlement development purposes.

The purpose of this brief report is to outline in a simple manner the basic steps to be taken in acquiring land under different ownership scenarios. Simply put, we attempt to illustrate what needs to be done in order to acquire, for the purposes of development, land that is:

- (i) Privately owned;
- (ii) Owned by the Department of Public Works (National Government);
- (iii) Owned by the state in the person of other state bodies (Provincial or National Government); and
- (iv) Owned (held in trust) by the state but effectively presided over by a Traditional Authority or civic body (communal land).

1.1 Outline of the report

This report is structured as follows: -

SECTION 2 provides a brief overview of the processes available (or utilized) to achieve land acquisition and transfer in South Africa.

SECTION 3 deals with formal land transfer processes of a primary nature, which results in the issuing for the first time of an individual household title deed registered in the relevant Registrar of Deeds office.

SECTION 4 briefly describes secondary land transfers that take place when the first owner of an erf decides to sell their property on (this includes informal land rights transfers).

SECTION 5 deals with common land acquisition challenges and possible solutions to challenges

SECTION 6 sets out a set of short-term and longer term action recommendations on what Civil Society can do to respond to suggested solutions.

1.2 The purpose of acquiring land

Before any acquisition of land for state-funded or community-based settlement development purposes occurs, the feasibility of the land for such development must be assessed and confirmed. Aspects that must be evaluated include inter alia:

- Location of land – land must be easily accessed via public transport, close to work opportunities if possible and be serviceable with infrastructure in a manner that is financially viable.
- Characteristics – land must be physically suitable for development, i.e. not too steep, not located within 1:100-year flood lines or wetlands or environmentally sensitive areas, or on land with geotechnical flaws
- Size – the parcel of land must be large enough to accommodate sufficient numbers of units to justify the costs relating to land purchase and development for low-income settlement.

- Compliance with policies – land must be located in an area indicated for settlement purposes in terms of the relevant municipality’s Spatial Development Framework and IDP and must also be suited to human settlement in terms of the effective and sustainable provision of services and facilities.

A key element of any state-funded settlement development is the need to ensure that land to be developed is properly acquired. That is to say, it is necessary to ensure that when state resources are used for development (e.g. doing planning, putting in services and building houses), that these monies are used on land either held by the state or held in ownership by an Agency acting on behalf of the client community/ies. In prospect, this could include a local government body, a community-based body (such as a Communal Property Association or a Co-Operative etc.) or any other juristic person who is legally empowered to hold land in ownership for the purposes of enabling state-funded settlement development to occur for the benefit of a community of beneficiaries.

2 Simplified Land Acquisition

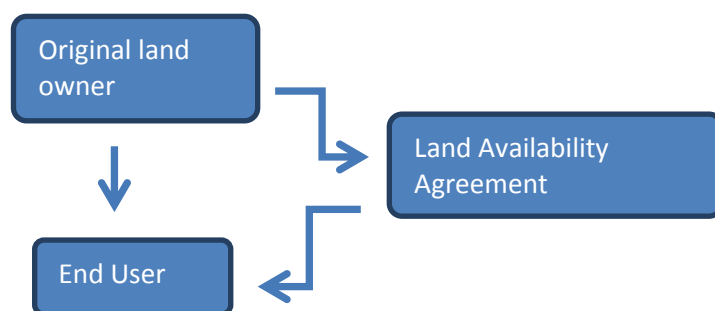
2.1 One step or two step land transfer processes

In simple terms, the acquisition of land for the purposes of land development may be undertaken in terms of a one-step or a two-step process.

Simplified diagrams of the land acquisition process are given below. These processes do not distinguish between types of ownership, but simply set out the process in general terms.

Once land has been transferred to an end user, there is also a possibility that it can be transferred between end users or beneficiaries or even rented.

ONE STEP PROCESS



The one-step process of land transfer making use of a Land Availability Agreement is the most common form of land transfer for the purposes of housing development.

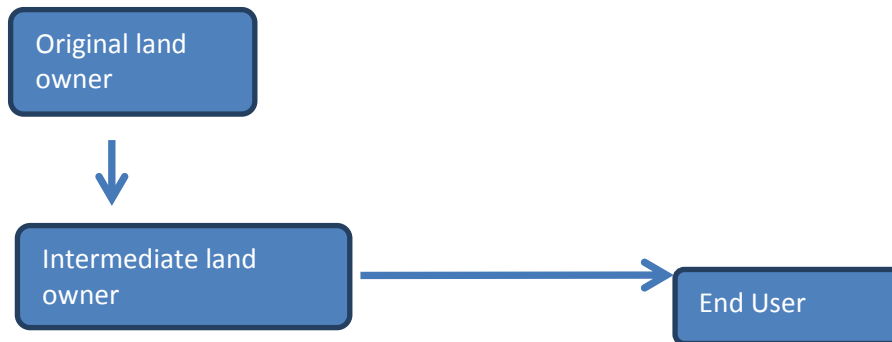
A Land Availability Agreement is a comprehensive agreement or contract entered into between the original land owner and a developer or group of beneficiaries in terms of which a specific land parcel is secured for the benefit of the beneficiaries or developer, while the ownership remains with the original landowner.

Normally the process will allow ownership of land to pass from the original landowner to the end user once certain criteria have been met, e.g. once the formal township establishment process in

terms of the relevant legislation has been completed. In effect, this agreement requires only a single land transfer transaction to take place in the Registrar of Deeds office and does away with the need for an intermediate landowner, which has a number of cost saving implications.

However, if no land availability agreement is used, transfer will take place from the original landowner to an intermediate landowner, before final transfer to an end user. This is the two-step process.

TWO STEP PROCESS



2.2 Primary and secondary land transfer processes

This paper distinguishes between primary and secondary land transfer processes.

Primary land transfer is defined as the transfer of small or large undeveloped portions of land to the first households who will occupy this land. This transfer can follow the one step or two step land transfer process as described above.

This document does not go as far as providing information on the land development process which is required to establish a township and create erven (cadastral entities), as part of the primary land transfer process, which can be transferred to an end user for housing or other purposes. The document simply deals with the process of acquiring land for development as determined by the nature of the initial land ownership.

On completion of a township establishment process, individual erven can be transferred/ leased to end users in accordance with relevant town planning and registration legislation. This is then the end of the primary land transfer process.

Within the primary land transfer process it is very seldom that one finds informal land transfer transactions. The reason for this is that government has strong rules and regulations governing the formal development of new land.

However, the initial occupation and invasion of vacant land and the creation of informal settlements could be seen as one form of informal primary land transfer. In communal areas, the development of a new rural village or expansion of an existing village could also be classified as an informal primary land transfer occurrence.

Most informal land transfer transactions apply in the secondary land transfer market as described below.

Secondary land transfers are then defined as those transfers for each specific residential land plot created through the primary land transfer process from the first residential landowner to the second residential landowner and any subsequent transfers that take place after this.

The paper also does not go into details relating to the process of transferring land as part of the secondary land transfer process.

This secondary land transfer process can be broken into both formal transfer processes (as occurs when a home owner sells an existing plot to another home owner); as well as informal land transfer processes (as when an informal land holder – e.g. a person in an informal shack - ‘sells’ their shack/ space to another person; or where a holder of a formal land right informally ‘sells’ their land right to another person as occurs in some instances when RDP housing is sold within the window where there are restrictions on the sale of RDP houses).

3 Primary Land Transfer: Formal Land Transfer Examples

For the purposes of development of land for state-funded settlement that forms part of the housing programmes of the Department of Human Settlements and a local municipality, the following types of land transfer are possible:

- From private ownership to a local municipality
- From private ownership to a local municipality including suspensive conditions of sale
- From the Department of Public Works to a local municipality
- From the state (Provincial or National Government) to a local municipality
- From the state (communal land) to a local municipality
- From the state to a local municipality making use of a Land Availability Agreement

It is also possible for land to be developed by a private entity with no support from the Department of Human Settlements, but the costs of such development would be prohibitive unless donor/ private funding is available. This type of development is rare unless it is aimed at a market level that is deemed to be economically viable (that is, the returns on the investment made by a private person or company are anticipated to be such that a profit will be generated from the development).

Land can also be acquired from either a private owner or the state for the purposes of extension of the commonage to provide land for commonage usage or settlement. Land for municipal services, such as waste water treatment works, water works and refuse disposal sites is also generally acquired to form part of the commonage.

A land valuer registered in terms of the Valuers’ Act, No. 23 of 1982, does determination of land value. Parliament has recently approved the establishment of a Valuer General, an independent institution whose office will be responsible for assisting in the valuation of land, ensuring proper market-related valuation of the land which is available in the country without relying solely on the private sector, and keeping records of the value of land.

3.1 Buying private land

This section deals with transferring private land to either another private entity or to government.

Options include

- Conventional immediate land purchase
- Purchase with suspensive conditions
- Expropriation

3.1.1 Conventional immediate land purchase

Explanation: Privately owned land is land registered in the name of any juristic person other than the State. It includes private individuals, Companies, Closed Corporations, Trust or Sectional Title Schemes, or even communal property associations

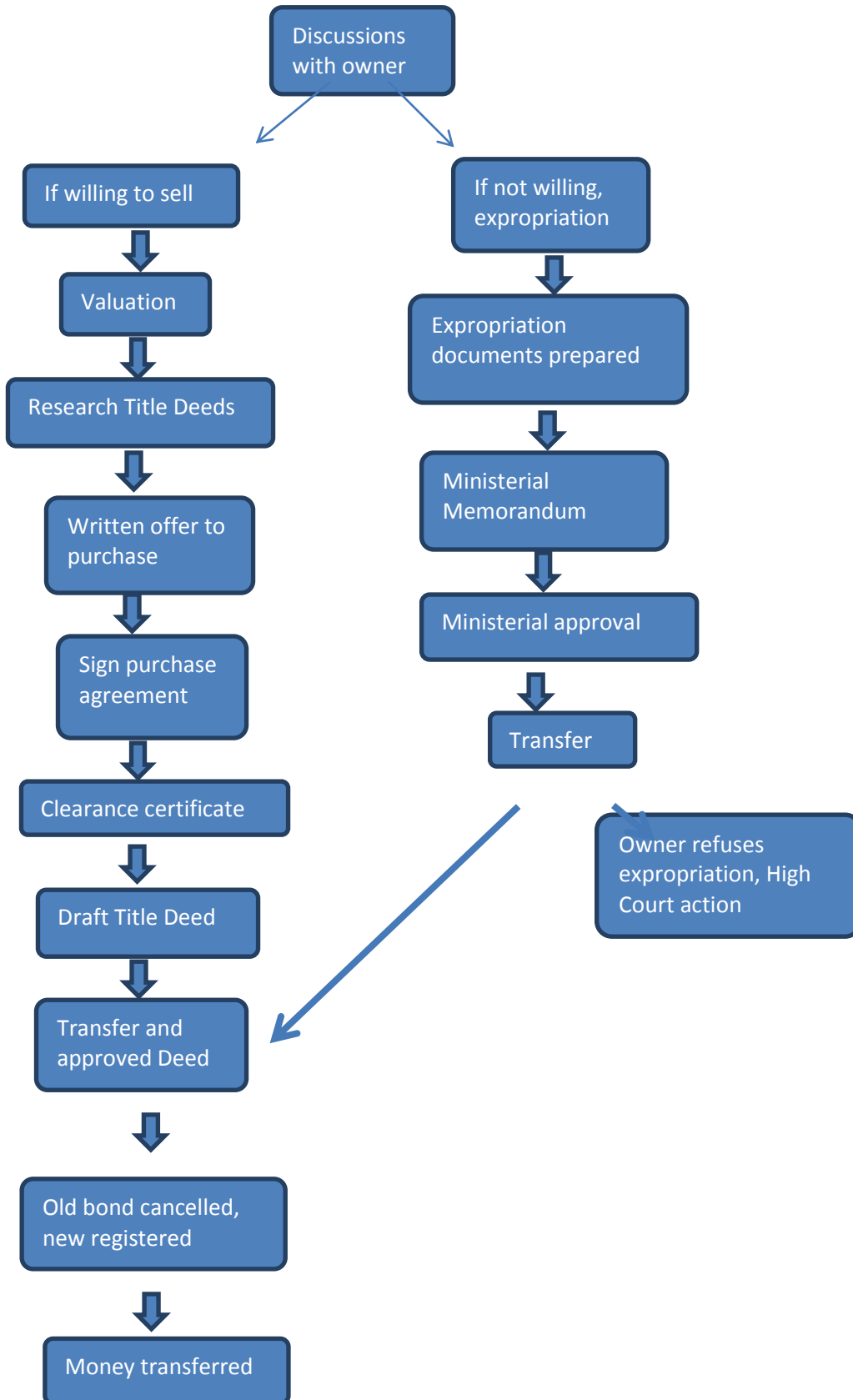
Types:

- Private land sale - an agreement between a private landowner and the purchaser (e.g. municipality or community organization).
- Public auction - a more competitive process open to the public with the highest bidder winning the property.
- Sale in execution - when an owner has defaulted on bond repayments and the financial institution puts the property on public auction to recoup its costs.

Process:

1. Start discussions with owner, either directly or through an agent. If the owner is not willing to sell, or conditions of sale are too onerous, find alternative land, or consider *expropriation*.
2. If owner is willing to sell, get the property valued, or alternatively rely on advice from an estate agent.
3. Research the title deeds to determine restrictions/ interdicts, servitudes etc. These factors must be taken into consideration when applications for rights are prepared.
4. Make a written offer to purchase the property
5. If the offer is accepted, sign a purchase agreement with the owner
6. A clearance certificate must be obtained from the local municipality to confirm that all rates and taxes are paid in full by the original owner
7. A conveyancer prepares the draft Deed of Transfer
8. Transfer in the Deeds Office and Deed of Transfer approved in terms of the Deeds Registry Act, 1937 (Act 47 of 1937)
9. With transfer, existing bonds will be cancelled and a new bond can be registered, if required
10. All moneys are transferred – for sale and bond

BUYING PRIVATE LAND



3.1.2 Using purchase with suspensive conditions

Explanation: As set out above, when a sale is concluded, a Sale Agreement is signed by both the seller and the purchaser. Both the seller and the buyer are able to impose specific conditions in the sale agreement should they so wish. There is an option for a purchaser to request that a suspensive condition be inserted which ensures that transfer is only effected once the development has been completed, so that transfer can take place directly from the seller (original landowner) to the end users. This does away with the requirement for double transfer – first from the seller (original landowner) to the purchaser (intermediate landowner) and then from the purchaser (intermediate landowner) to the end user.

Types:

- As per conventional immediate purchase.

Process:

The process is exactly the same as that set out above, except that the sale agreement includes a suspensive condition that the land will be transferred from original land owner to the end user and not via an intermediary (developer). The suspensive condition can do away with the need for a double transfer.

3.1.3 Using expropriation

Explanation: This section deals with transferring land from a private entity to the state using expropriation legislation. To effect expropriation of private land in terms of the Expropriation Act, 1975 (Act 63 of 1975) good reason must be provided for the need for expropriation of the land.

Types:

- Private owner to municipality
- Private owner to Department of Rural Development & Land Reform

Process:

1. An attorney/ conveyancer can assist with preparation of expropriation documents required in terms of the Act. These include a Notice of Expropriation, a Declaration in terms of Expropriation Act, a Certificate in terms of Deeds Registry Act, 1937 (Act 47 of 1937), letters to owner, the bondholder and the municipality.
2. Preparation of a Ministerial Memorandum for Expropriation.
3. Once the Minister approves the expropriation, transfer can take place and bonds be cancelled/ registered.
4. If the owner refuses to accept the expropriation, the Act provides for extensions of time, whereafter the expropriation is effected.
5. An owner can approach the High Court if aggrieved by the expropriation.

The process is diagrammatically displayed above with Buying Private Land.

3.2 Buying municipal land

Explanation: This section deals with transferring land from a municipality to a (for profit or not for profit) developer. In low-income housing context, this is not very common and the one step process of a Land Availability Agreement is often used instead.

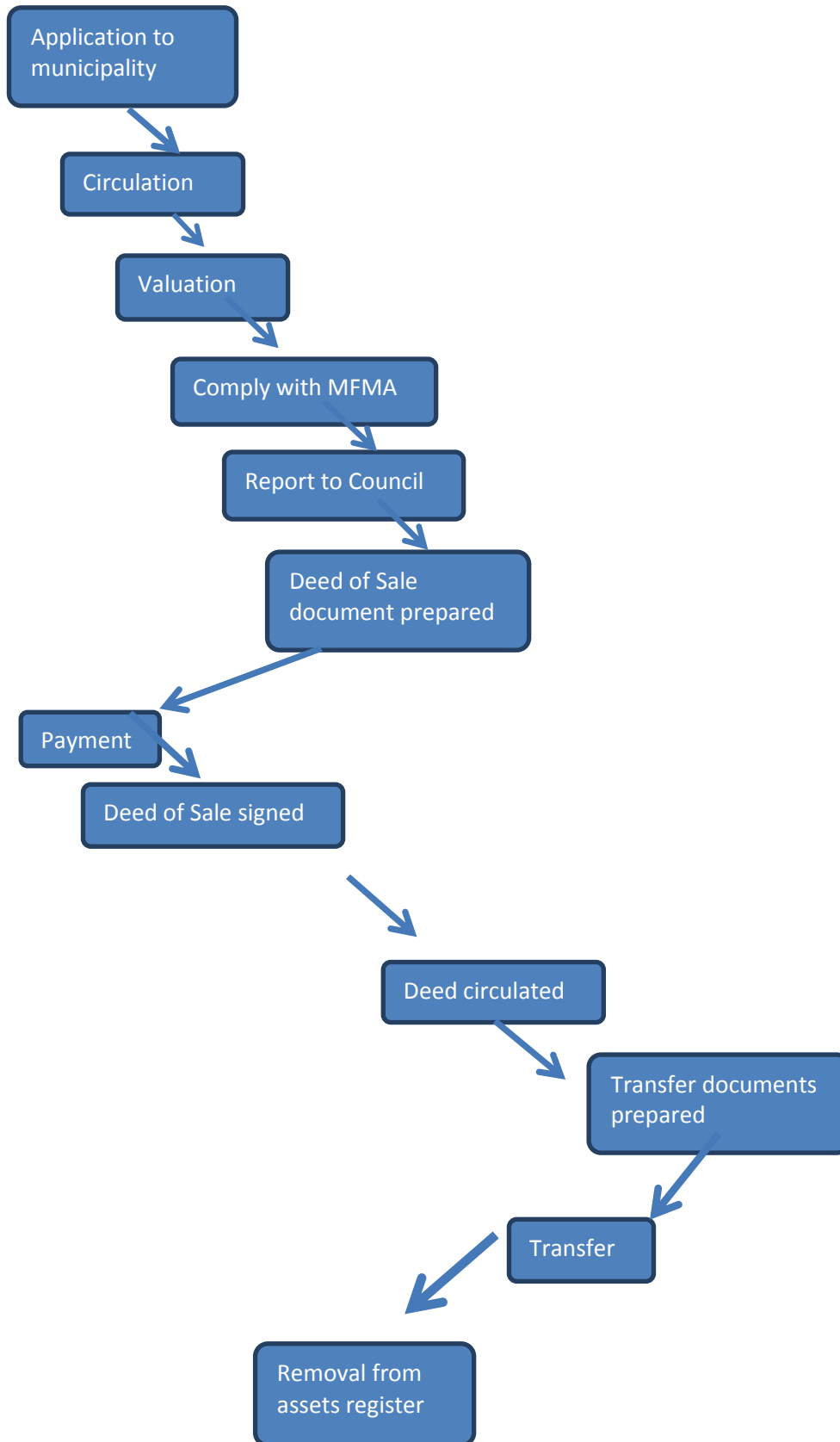
Types:

- Private treaty – in terms of Section 14(2) of the Municipal Finance Management Act No. 56 of 2003, offers are made and negotiations between parties conducted based on various identified terms and conditions.
- Private Auction – property placed on auction with highest bidder acquiring the property.
- Public tender – property offered for sale to the public subject to Supply Chain Management rules and regulations
- Proposal call – request for proposals for purchase of municipal land
- Exchange - The process of exchange means that a disposal and an acquisition is taking place simultaneously and therefore the rules of both must apply and usually occurs where one party approaches another to purchase an immovable asset and instead of a purchase price being agreed, the parties exchange ownership of their respective immovable assets.
- Public Private Partnership – transaction between municipality and private party subject to section 120 of MFMA.

Process:

1. Application is made to the municipality for sale, lease, land availability agreement, donation or land swop depending on what the applicant intends to use the land for
2. The application is circulated to various departments for comment
3. Land valuation so that land can be sold at market value - except in the case where land is to be used in the public interest or for the poor
4. Provisions of Municipal Finance Management Act, 2003 (Act 56 of 2003) to be complied with in relation to managing income and expenditure
5. Officials prepare a report to Council/ Committee for a decision
6. If approved, the Deed of Sale document is finalised, incorporating conditions of approval
7. The purchaser is required to pay all fees and purchase price and then sign the Deed of Sale
8. The Deed of Sale is signed by Municipal Manager
9. A copy of the signed Deed of Sale is provided to all departments, the purchaser and transferring attorney/ conveyancer
10. Transfer documents are signed and issued – including the clearance certificate, power of attorney and tax/ VAT documents
11. Transfer takes place in the Deeds Office
12. Property is removed from the municipal assets register

MUNICIPAL LAND ACQUISITION



3.3 State land acquisition

This section deals with transferring land from the state to another state entity or a public entity like a municipality or a private (for profit or not for profit) developer.

State land is all land registered in the name of or under control of RSA or any Government Department, including all un-surveyed and/or unregistered state land (un-alienated state land). State land excludes municipal land. This can be held by either National or Provincial Departments and excludes Municipal owned land. It is also known as public land.

Options:

- State land under control of Department of Public Works
- State land under control of Department of Rural Development & Land Reform and/or Tribal Authorities
- Quitrent land

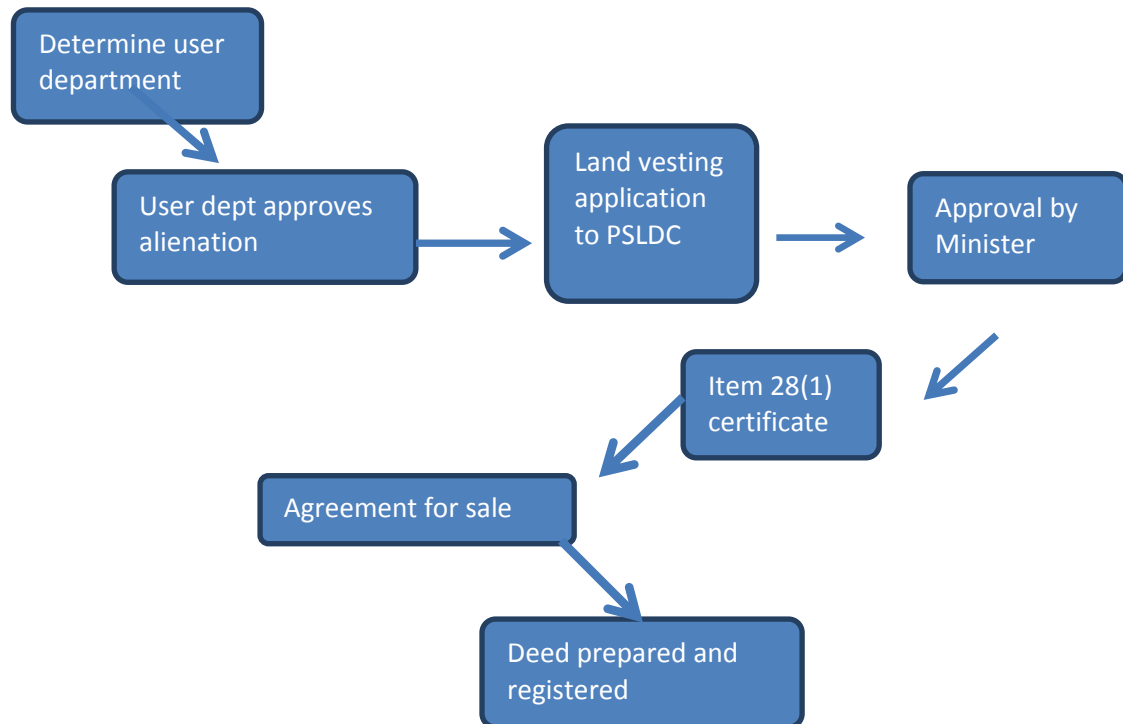
3.3.1 State land under control of Department of Public Works

Explanation: The Department of Public Works is the custodian of all state assets and developed state land is held by this Department

Process:

1. The Department must first determine who the user department of the land is (e.g. for a site set aside for a school, it would be Department of Education).
2. The user department must approve the proposed alienation of land
3. Land must be vested in a specific department or organ of state before it can be alienated.
4. Application must be made to the Provincial State Land Disposal Committee in terms of provisions of State Land Disposal Act, 1961 (Act 48 of 1961).
5. On approval by the Committee, the application is sent to Minister of DRDLR for approval.
6. On the Minister's approval, an Item 28(1) certificate in terms of the Constitution of RSA, 1996 (Act 108 of 1996) is issued by Department of Rural Development and Land Reform.
7. Department of Public Works or user department signs an agreement for sale of land
8. A Deed of Grant or Deed of Transfer is prepared and registered in the Deeds of Office.

PUBLIC WORKS STATE LAND



3.3.2 State land under control of DRDLR and/or Tribal Authorities/Councils

Explanation: Tribal Authority areas with Chieftainship boundaries – Permission to Occupy (PTO) system currently has no legal foundation and thus property rights are either regarded as “Old Order Rights” or informal land rights.

Formal ownership of unregistered state owned land can be registered in terms of Certificates of Registered State Title (CRST) – the purpose of these titles is to facilitate parceling or subdivision of land, or facilitate land management and/or spatial information management of the land. No new rights or existing rights are registered or altered through issuing of CRST’s. Full cadastral survey is however done as well as formal registration by the State Attorney in the Registrar of Deeds.

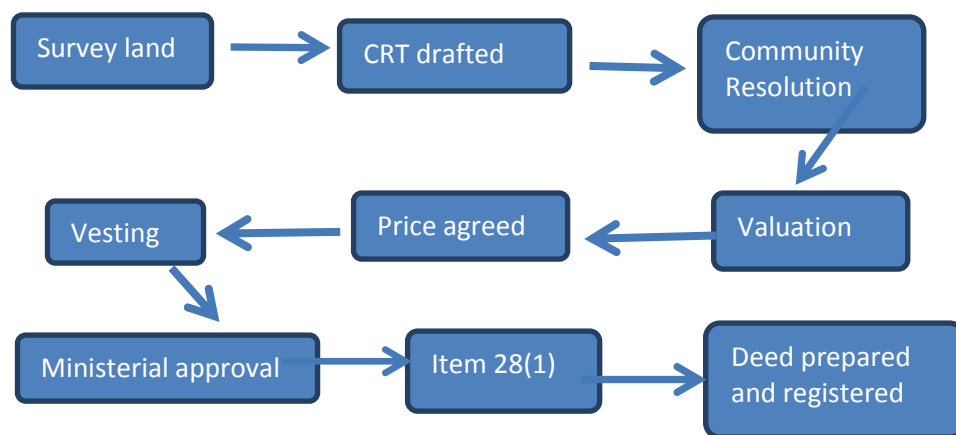
This applies to un-alienated state land as well as land previously under the control of former homeland governments and/or the former South African Development Trust (SADT) land now under control of DRDLR.

Process:

1. If land is un-surveyed, the outer boundary must be surveyed
2. A Certificate of Registered Title (CRT) must be drafted.
3. The community must pass a resolution in terms of the provisions of the Interim Protection of Informal Land Rights Act (IPILRA), 1996 (Act 31 of 1996) for alienation and use of the land.
4. The community may establish a Communal Property Association (CPA) in terms of the Communal Property Associations Act, 1996 (Act 28 of 1996) to manage their land
5. The land must be valued

6. A purchase price is agreed/ or donation agreed to.
7. An application for vesting of the land must be submitted to the Provincial State Land Disposal Committee (PSLDC)
8. On approval by the Committee, the application is forwarded to the Minister of DRDLR for a decision.
9. On the Minister's approval, an Item 28(1) certificate in terms of the Constitution of RSA, 1996 (Act 108 of 1996) is issued by Department of Rural Development and Land Reform.
10. A Deed of Grant or Deed of Transfer/ Donation is prepared and registered in the Deeds Office.

DRDLR AND/OR TRIBAL AUTHORITY LAND



3.3.3 Quitrent title

Explanation: Quitrent title is a form of title granted to an individual and is closely comparable to freehold title. Land was surveyed into small plots allocated to individuals under quitrent title, requiring the payment of an annual quitrent fee. If conditions under which the title was granted were not complied with, the land reverted to the state. All rights held under Quitrent Titles were upgraded to full ownership in terms of the Upgrading of Land Tenure Rights Act, 1991 (Act 112 of 1991).

Process:

- With upgraded quitrent title, the process as for privately owned land will apply
- For land that has reverted to the state due to non-compliance, the process for state land under the control of DRDLR land will apply.

4 Secondary Land Transfers

4.1 Formal land transfers

Formal secondary land transfers – those from an existing residential plot owner to a second and subsequent landowners – occurs in a manner that follows the well understood and regulated property market, involving estate agents, conveyancers and the deeds office.

This document does not go into detail on the procedures that need to be followed in this process.

4.2 Informal land transfers

Informal secondary land transfers occurs where the first occupant of a residential plot transfers the ownership of this plot to a second occupant and all subsequent transfers after this, without going through the Deeds Office.

This paper does not go into detail with regard to these secondary and informal land transfer processes.

The informal land transfer process, in the secondary land transfer market, does not result in formal registration in a Registrar of Deeds Office and often there is no written record of the agreement reached between the two parties involved in the informal transfer. These informal transfers relate to informal land rights or off-register transfers.

The Department of Human Settlements has legislated a provision in the Housing Amendment Act No 4 of 2001 that restricts the voluntary sale of state funded housing for a period of eight years from the date on which the property was acquired by that person unless the dwelling or site has first been offered to the relevant Provincial Department of Human Settlements (Section 7). No purchase price will be paid, but the beneficiary will have his/her name taken off the housing database and thus be eligible to qualify for another housing subsidy.

In addition, successors-in-title or creditors must also first offer the house to the Provincial Department, but in this case, a purchase price is agreed between the parties or with input of a registered valuer, and paid before transfer in the Registrar of Deeds Office.

It appears as if there is an active informal market in the sale of these properties off the Registrar of Deeds records, in spite of the provisions of the Amendment Act. In most cases, sale of houses would be by verbal agreement between the parties.

Other forms of informal land transfers occur in contexts like informal settlements, where existing shack owners transfer their shacks or spaces they occupy to another person.

The transfer of plots within communal land ownership areas could also be categorised as an informal land transfer process as no records are kept in the Deeds Office of any land transfers.

5 Common Land Acquisition Challenges & Possible Solutions

The following challenges have been identified in the land acquisition process, and some suggested solutions are proposed for how to deal with these challenges:

Challenge	Possible solution
A. Uncertainty on who is responsible for land transfer in given contexts	
There are multiple authorities responsible for state and public land administration, which creates confusion.	Create one form of state/public land ownership. (Speed up existing initiatives underway)
It is often not clear who the responsible agency is to take lead in transferring land for settlement purposes.	Allocate responsibility for state/public land ownership to a single entity/ department
There is often poor coordination between departments and government agencies when it comes to transferring land.	Review and improve interdepartmental coordination systems in relation to land transfer.
Lack of accountability within the Department of Rural Development and Land Reform for the vesting procedures and time delays for finalising applications for vesting.	Co-operation from the DRDLR for proactive processes and procedures to vest state land with Municipalities or Provincial Departments responsible for Human Settlements
B. Poor planning in determining feasibility of land development	
<p>Land is often identified for low-income settlement purposes before an adequate feasibility assessment has been conducted.</p> <p>A feasibility study would confirm that the land falls within an area demarcated for such development within the municipal IDP and SDF.</p> <p>The feasibility would also address issues such as environmental sensitivities, slopes and other restrictions, which would determine whether the land could be developed for the intended purposes.</p>	<p>Implement land acquisition as part of a planned land development process</p> <p>Proactive land identification and assessment should be undertaken long before the need becomes overwhelming.</p> <p>Proper feasibility studies for potential land must be undertaken.</p> <p>Only allocate housing subsidy funding to situations where proper feasibilities have been undertaken</p>

Challenge	Possible solution
C. Awareness of land transfer processes and the capacity to manage these is weak	
Record keeping and tracking systems for land transfer are weak.	Build capacity to establish and maintain appropriate record keeping systems. Create and maintain a centralised project cycle checklist system that includes checklist components in relation to the steps involved in the transfer of land.
Formal land transfer processes are not universally understood by those tasked to manage land transfer processes. Capacity in departments is often weak and there is high turnover of staff.	Build the capacity of those involved in land transfer procedures. Recruit appropriate staff to be involved in land administration offices.
The use of Land Availability Agreements and other similar methods to facilitate the transfer of land for low cost housing is not a well-understood process for many communities and other people who do not deal with these matters on a regular basis.	Develop a procedures manual to guide developers, communities and others on how to use Land Availability Agreements and other one step land transfer processes.
Communities/the general public are not fully aware of the procedures required for land transfer and, as a result, put unnecessary pressure on those tasked with managing the land transfer process	Develop simplified pamphlets, posters and other awareness raising tools to inform the public on what is required in the transfer of various types of land; and develop a strategy to share this information at appropriate times to appropriate people.
Communities are unaware of procedures for land access procedures and as a result are unable to hold government to account for what it is supposed to be doing. Officials are able to confuse the public as to the true state of affairs.	Raise awareness within communities of what is involved in land transfer procedures. Develop information pamphlets and use other media to raise awareness of what is involved in land transfer.
D. Land identified for development is often hard to access	
Unresolved land claims affect availability of land for development, as claims first have to be settled before any agreement on the development of the land can be reached.	Allocate additional resources to speed up the process of addressing unresolved land claims
Formal land transfer processes are generally too expensive for existing housing beneficiaries, with high costs associated with subdivision, conveyancing, etc.	Review the land transfer process with intention of identifying how it can be streamlined and made more affordable in general but also, possibly, in specific circumstances where certain exemptions may

Challenge	Possible solution
	be possible.
Private land is often of higher value and thus could result in land prices that are too high to be affordable.	<p>Review the land tax system in the country and consider allowing for taxing land without improvements as a way for the public to benefit from land value increases that result from state investment in the area.</p> <p>Build on the Land Value Capture work of Urban Landmark, DAG and others. Income from this value capture to then be used to purchase well located land for low-income housing.</p>
Alternatively, although land value may not be high, private owners may inflate the price to unrealistically high levels to try and exploit a situation where land is required for public purposes (including housing).	Consider expropriation in those instances where it is felt that landowners are inflating land prices.
If the only option for land acquisition is expropriation, this process is time-consuming and carries the risk of litigation.	Make sure that sufficient preparations and planning is undertaken before embarking on land expropriation so that a clear motivation for expropriation can be given.
<p>There is general resistance from local communities and/or chiefs to alienation and/or development of communal land.</p> <p>There could be conflicting agendas and political issues which are not directly related to the development of a settlement.</p>	Establish a well-resourced programme to review, develop and pilot land change and transfer processes in communal areas, which works closely with traditional leaders and other role-players.
There have been historic examples of where there has been corruption in the sale of state/ public land making government reluctant to now transfer such land.	Review the extent to which the challenge of corruption in sale of state and other land is persisting and if the existing mechanisms to address it are effective.

Challenge	Possible solution
<p>In some cases, there are moratoria on the sale of state and public land (often as a result of attempts to address corruption as explained above)</p>	<p>Seriously consider lifting the moratoria on sale of state/ public land, taking into account the original motivations for placing the moratorium in the first instance.</p> <p>Put in place mechanisms to review the impact of lifting of a moratorium so as to be able to respond to unintended negative consequences as they are identified.</p>
<p>There appears to be hesitancy on the part of government to use expropriation for the acquisition of land for settlement purposes.</p>	<p>Identify and initiate a series of test case examples in each province where expropriation has been or could be used to acquire land for settlement purposes.</p>
<p>Parastatals like Transnet, Propnet, Telkom, Eskom, etc. are mandated to obtain market-related values for land their land when selling it, making it expensive when needed for low income settlement development</p>	<p>Change policy and enter into agreements with parastatals making it possible for them to donate/ discount appropriate land for low income settlement development in those instances where proper planning has been done and there are safeguards that the land will be used for intended purpose.</p>
<p>E. "Off register" land transfer procedures are not accommodated</p>	
<p>It is not clear in many cases how transfer happens in communal rural areas.</p> <p>Often such land transactions are undertaken in terms of locally applicable "community rules", which may be specific to a particular local area</p>	<p>Conduct case studies to identify how land transfer happens in rural areas with the co-operation from local communities and chiefs.</p> <p>Link these studies to the review and piloting of state land in communal areas mentioned above.</p>
<p>There is no commonly used/ understood formal off-register land transfer option</p>	<p>Establish a programme within government to support the development, piloting and review of off-register land transfer processes.</p> <p>Incorporate in this programme lessons from international practice like the Flexible Land Tenure System in Namibia, and the Social Tenure Domain Model.</p>

Challenge	Possible solution
Subsidised units are often informally sold/traded, with no corresponding record being kept of the change in ownership. The initial beneficiaries can then not access a further subsidy, as they are already registered on the National Housing Subsidy Database as a beneficiary.	Review policy with intention of addressing issues in the secondary housing market for subsidised units.

6 Recommendations: Potential Civil Society Actions

Drawing from the proposed solutions above, the following are suggested priority recommendations for civil society (or organized representatives thereof) to take forward. These are ranked in terms of timeframe for action, as follows: -

6.1 Short-term actions (immediate)

1. Develop **awareness raising material relating to the procedures involved in land transfer** and develop and implement a strategy to make this information available to appropriate people at appropriate times. Include in this material information of potential bottlenecks in the process and suggestions as to what communities and the public can do to overcome these bottlenecks. In this way communities will be more informed as to how they can hold government to account in the land transfer process. Information from this document can form the basis of this material.
2. **Compile a database of all projects and developments which have become blocked** due to land issues, with a record of all the procedures followed, and an explanation of why the projects or land transfers are blocked, in order to demonstrate the need for more drastic intervention to address these bottlenecks.
3. Lobby for and support government to create and manage a **centralised project/ programme checklist system** that is able to track the planning for the development of and transfer of land. Ensure that such systems are open to the public so the public is able to monitor progress in implementing land transfer and settlement development processes. (See report on housing delivery cycle for more on this recommendation.)
4. Lobby for a policy review to make comprehensive **feasibility assessments a requirement prior to land development**. As part of this review, prioritise at a municipal level the development of long, medium and short term spatial plans to identify what land is needed for settlement development and link this to a pro-active land acquisition strategy (see report on municipal planning, spatial development planning, and housing delivery process).
5. Lobby government to conduct a **skills audit of all personnel involved in land transfer and development processes**, and review how this corresponds to the skills required to perform the task. Lobby for appropriately skilled personnel to be appointed to land administration positions and for the implementation of a re-skilling programme to capacitate staff to be able to perform their functions effectively.

6. Initiate and/or conduct a **policy review of off-register sales within the subsidized housing market** with intention of making recommendations for how this secondary market can be more appropriately managed and supported.

6.2 Longer-term actions (1-5 years)

1. Encourage and support government in its attempts to create a **single state/ public land category** that is maintained by single central authority. Get involved in and support initiatives by the Housing Development Agency and others that are looking into this issue.
2. Lobby and support government to create and manage a **centralized database for all land**, including state, public, private and communal land. Link this to and build on the concept of the proposed national spatial observatory mentioned in the National Development Plan.
3. Undertake a specialist investigation into what causes **communal land release blockages** and make recommendations for how this can be improved.
4. Identify a set of high profile projects that involve land transfer and **monitor and evaluate the challenges experienced and processes that have been followed in this land transfer**, and then use the media and other methods to publicise this process, highlighting the urgency of finding more streamlined solutions to land transfer.
5. Identify potential case study examples and support communities and government to **pilot the use of expropriation legislation** as a tool to make appropriate land available for low-income housing. (See report on expropriation for more on this)
6. Lobby for, research and **pilot the use of land value capture mechanisms as a way to make well-located land more affordable** for low-income households. This includes for example land value tax, vacant land tax, development charges, land pooling and readjustments, land banking, incremental settlement zoning, etc.
7. Lobby for, research and **pilot alternative tenure forms that help keep well located land more affordable**. This includes for example, limited equity cooperative ownership and rent control mechanisms.
8. Lobby for and participate in a set of alternative pilot projects that review, implement and **explore alternative methods for the transfer of communal land in appropriate development contexts**.
9. Research, develop, pilot, review and **promote alternative procedures for acquiring and transferring land** for low-income households. This includes for example more incremental tenure arrangements as being developed by Afesis-corporation, Urban LandMark and others. In this way more channels of supply for land for low-income households can be created, that do not all rely on following the land survey and deeds registrar approach that ends in individual title being transferred and provided.