



# Scoping Study Governance of urban land markets in Zimbabwe

Prepared for Urban LandMark  
by  
Nelson Marongwe, Shame Mukoto and Kudzai Chatiza

August 2011



# Urban LandMark

## Contents

<b>Tables</b> .....	<b>4</b>
<b>Boxes</b> .....	<b>5</b>
<b>Maps</b> .....	<b>5</b>
<b>Images</b> .....	<b>5</b>
<b>Abbreviations and acronyms</b> .....	<b>6</b>
<b>1. Background and context for understanding urban land markets in Zimbabwe</b> .....	<b>7</b>
1.1. Introduction .....	7
1.2. Rationale and objectives.....	7
1.3 Urban land markets in the Zimbabwean context .....	8
1.4 Historical context of urban land markets in Zimbabwe.....	9
1.5 Urban land markets in Zimbabwe: overview of issues .....	11
1.5.1 The legal framework for urban land markets .....	14
1.5.2 The housing sector and urban land markets .....	15
1.5.3 National politics and urban land markets.....	17
1.6 Research methods .....	18
1.6.1 Methodology workshop.....	18
1.6.2 Primary data collection .....	19
1.6.3 Secondary methods of data collection .....	20
1.6.4 Analysis by experts .....	20
1.7 Study area.....	20
1.8 Study limitations.....	20
1.9 Chapter outline.....	21
<b>2. Zimbabwe’s economic performance and its effect on urban land and housing markets</b> .....	<b>23</b>
2.1 Real sector performance .....	23
2.2 Monetary sector performance .....	24
2.3 Income levels, national savings and investments.....	25
2.4 Availability of finance for land acquisition, land development, housing development and purchasing of houses .....	27
2.4.1 Liquidity and funding crisis .....	27
2.4.2 Recent signs of recovery in residential property sales .....	28
2.5 A synopsis of financing opportunities in Zimbabwe’s urban land markets .....	28
2.5.1 Central government funding.....	28
2.5.2 Local authority initiatives.....	29
2.5.3 Self-financing of land purchases and property development.....	29
2.5.4. Availability of mortgage loans to individuals .....	30
2.5.5 Employer-assisted housing .....	30
2.5.6 Infrastructure Development Bank .....	31
2.5.7 The place of building societies.....	31
2.6 Concluding remarks .....	32
<b>3. Institutional actors, mandates and operational challenges</b> .....	<b>33</b>
3.1 Introduction.....	33
3.2 State actors in the urban land market.....	33
3.2.1 Local government actors .....	35
3.2.2 Deeds Registry Offices .....	35

3.3	Private sector actors .....	36
3.3.1	Institutional investors and developers .....	36
3.3.2	Financial institutions .....	37
3.4	Property professionals .....	37
3.5	Civil society organisations .....	38
3.5.1	Dialogue on Shelter .....	39
3.5.3	Housing People of Zimbabwe .....	39
3.5.4	Other housing cooperatives .....	39
3.5.5	Civic Forum on Housing .....	39
3.6	Analysis of institutional gaps .....	40
3.6.1	Unavailability of public information on land transactions .....	40
3.6.2	Collation of land delivery information and management of information .....	40
3.6.3	Centralisation of land administration in Harare and Bulawayo .....	40
3.6.4	Loss of institutional memory .....	41
3.6.5	Research and documentation on urban land markets .....	41
3.6	Concluding remarks .....	41
<b>4.</b>	<b>Interrogating the Planning Framework and its impact on urban land markets.....</b>	<b>42</b>
4.1	Preparation and implementation of Master Plans .....	42
4.2	Town planning schemes .....	43
4.3	Development control and planning standards .....	44
4.4	Subdivision and consolidation of land .....	47
4.5	Importance of reviewing planning legislation .....	48
4.6	Concluding remarks .....	50
<b>5.</b>	<b>Performance, challenges and shortcomings of urban land markets in Zimbabwe ...</b>	<b>51</b>
5.1	Land and housing delivery in Zimbabwe's urban land markets.....	51
5.2	Housing delivery approaches.....	60
5.2.1	Public sector housing construction and land delivery .....	61
5.2.2	National Housing Delivery Programme (Garikai /Hlalani Kuhle).....	62
5.2.3	The Homelink Housing Development initiative .....	62
5.2.3	Civil society interventions.....	63
5.3	Real estate, valuation and property sales in Zimbabwe's urban land markets .....	67
5.3.1	Sources of finance.....	69
5.3.2	Operational challenges faced by the sales and real estate sector.....	71
5.4	Disputes in the urban land market sector .....	73
5.4.1	Tenant and rental-related disputes .....	74
5.4.2	Fraudulent property transactions.....	76
5.4.3	Failed repayment of mortgage loans.....	77
5.4.4	Inefficiency in land administration systems.....	77
5.5	Conclusion .....	78
<b>6.</b>	<b>Informal land markets in Epworth and Hopley settlements in Harare.....</b>	<b>79</b>
6.1	Land access methods in Informal land markets.....	80
6.2	Land and property rights in informal settlements.....	81
6.3	The intersection of informal and formal activities in Epworth .....	83
6.4	Informal settlements: a place for the poor?.....	86
6.5	Discussion .....	88
6.6	Conclusion .....	88

<b>7. Land and property rights registration in Zimbabwe’s urban areas.....</b>	<b>90</b>
7.1 Introduction.....	90
7.2 The history of land registration in Zimbabwe.....	90
7.3 Types of ownership of urban land .....	91
7.4 The process of registering a property.....	95
7.5 The central role of the Deeds Registry Office in the registration of property rights ..	99
7.5 The Deeds Registry office and its operational challenges .....	100
7.6 Summary of major challenges faced in the registration of property.....	101
7.6.1 Recommendations for improving land registration systems.....	102
7.7 Concluding remarks .....	103
<b>8. Proposed programme on urban land markets in Zimbabwe .....</b>	<b>104</b>
8.1 Synopsis of challenges .....	104
8.2 Programme components .....	105
8.2.1 Planning policy and legislative review programme .....	105
8.2.2 Tenure upgrading programme.....	107
8.2.3 Local authorities and local actors programme .....	109
8.2.4 Public information and dialogue programme.....	110
8.2.5 Research programme on urban land markets .....	111
8.3 Risks to programme implementation .....	113
8.4 Concluding remarks .....	115
<b>References .....</b>	<b>116</b>
<b>Annexure 1: List of participants for the methodology workshop on governance of urban land markets in Zimbabwe 19 November 2010, CASS Trust Boardroom, Harare .....</b>	<b>118</b>

## Figures

Figure 1.1: Simplified conceptual framework for urban population and land supply dynamics .....	10
Figure 2.1: Real economic performance (% change year-on-year).....	24
Figure 2.2: Inflation trend.....	25
Figure 2.3: Sustained decline in mortgage lending.....	27
Figure 3.1: Actors in a simplified land development process .....	34
Figure 5.1: Stand production by sector and year.....	52
Figure 5.2: Stand delivery by different income groups.....	55
Figure 5.4: Zimbabwe Homeless People’s Federation.....	66
Figure 5.5: Property transactions for a particular estate agent in 2010 by settlement type	70
Figure 5.6: Sources of financing for house purchases in high-density areas .....	71
Figure 6.1: A continuum of land rights in urban areas .....	86
Figure 7.1 Key steps in the land registration process .....	97

## Tables

Table 2.1: Per capita income, savings and investments .....	26
Table 5.1: Stand production by sector by year .....	52
Table 5.2: Public sector housing production, 1982-2000 .....	61
Table 5.3: Aided Self-help under Garikai/Hlalani Kuhle.....	62

Table 6.1: Intersection of informal and formal land markets in Epworth .....	85
Table 7.1: Types of shares in a block share system .....	92
Table 8.1: Summary of the planning policies and legislative review programme .....	107
Table 8.2: Tenure upgrading programme and servicing of informal settlements .....	108
Table 8.3: Governance programme: strengthening Councils, local actors and property professionals.....	110
Table 8.4: Public information and dialogue programme .....	111
Table 8.5: Summary of the research programme on urban land markets.....	113

## Boxes

Box 1.1 – Direct housing provision by the State in the 1980s: the case of ZviZvobgo.....	13
Box 1.2 – Unprocedural land allocations in Harare: extracts from the Special Investigations Committee of the City of Harare .....	18
Box 3.1 – Functions and duties of the Deeds Registry Office .....	35
Box 4.1 – New national housing standards for urban areas .....	46
Box 6.1 – Land access methods in Epworth.....	81
Box 6.2 – A typical informal settlement in Hopley .....	83
Box 6.3 – Land access and property rights issues in the post-2000 informal settlements in Epworth .....	83
Box 7.1 – Documents required to register property.....	98
Box 7.2 – Costs and payments in property registration.....	99

## Maps

MAP 1A – Settlements by land-use type in Greater Harare .....	22
---	----

## Images

Image 5.1 – Mainway Meadows medium-density housing development in Waterfalls, Harare .....	54
Image 5.2 – Kuwadzana Phase 3 low-income / high density housing development project	56
Image 5.3 – Project in Dzivaresekwa under the Parallel Development Policy.....	58
Image 5.4 – High-density housing development by a Cooperative in Dzivaresekwa Extension Harare that benefited from the Parallel Development Policy .....	59

### **Acknowledgements:**

Cover photos by Sokwanele – Zimbabwe, from [www.flickr.com/photos/sokwanele/3606485561/sizes/o/in/photostream](http://www.flickr.com/photos/sokwanele/3606485561/sizes/o/in/photostream) and [www.flickr.com/photos/sokwanele/3661779781/sizes/l/in/photostream](http://www.flickr.com/photos/sokwanele/3661779781/sizes/l/in/photostream), used here under a creative commons attribution-noncommercial-sharealike licence

## Abbreviations and acronyms

CSO	Civil Society Organisation
CASS Trust	Centre for Applied Social Sciences Trust
CBZ	Commercial Bank of Zimbabwe
GDP	Gross Domestic Product
ELB	Epworth Local Board
GOZ	Government of Zimbabwe
HPZ	Housing People of Zimbabwe
IDBZ	Infrastructure Development Bank of Zimbabwe
IMF	International Monetary Fund
MDC	Movement for Democratic Change
NHDP	National Housing Delivery Programme
NHF	National Housing Fund
NHGF	National Housing Guarantee Fund
NHLF	National Housing Loan Fund
NGO	Non-Governmental Organisation
NSSA	National Social Security Authority
RBZ	Reserve Bank of Zimbabwe
RTCP Act	Regional, Town and Country Planning Act
SAFLII	Southern African Legal Information Institute
UN	United Nations
ZANU P.F.	Zimbabwe African National Union Patriotic Front
ZHPF	Zimbabwe Homeless People's Federation
ZLR	Zimbabwe Law Report
ZIMRA	Zimbabwe Revenue Authority
ZINAHCO	Zimbabwe National Association of Housing Cooperatives

# **1. Background and context for understanding urban land markets in Zimbabwe**

## **1.1. Introduction**

This report follows a scoping study on urban land markets in Zimbabwe. With a focus on Harare, the study interrogates the governance of urban land markets in the country. Key questions for the study included investigating the actors in Zimbabwe's urban land markets, the types of urban land markets that exist and how the poor participate in them, and how the governance of urban land markets has changed in relation to the changing economic, social and political situation in the country. In responding to these key questions, the study interrogated the framework governing planning and land administration Zimbabwe.

In relation to planning, the study investigated the impacts of land delivery processes and development control on the operation of urban land markets. The investigation of the country's land administration system informed the study on the registration of property rights and the challenges this presents to the operation of urban land markets. Examining the extent to which urban land markets were working for the poor was an overarching focus of the study.

Targeting both formal and informal urban land markets, the scoping study focused on the period after independence. Without losing sight of the country's colonial past and the experience of the 1980s, the study focuses on the last 20 years. Overall, the analysis sheds light on institutional challenges that constrain the smooth functioning of urban land markets. The study highlights challenges and opportunities as a basis for possible actions needed to strengthen the performance and general responsiveness of urban land markets, particularly to the needs of the urban poor. The study acknowledges the multiple pressures that influence the functioning of urban land markets, including increasing levels of poverty, particularly over the last decade, which have exerted pressure on the systems inherited from pre-independence and progressively adapted since then.

## **1.2. Rationale and objectives**

In December 2010, Urban LandMark commissioned researchers at the Centre for Applied Social Sciences (CASS) Trust to undertake a scoping study on the governance of urban land markets in Zimbabwe, using Harare as a case study. The study's specific objectives were to:

- Provide a background report on urban land market governance in Zimbabwe that could contribute to the region's body of knowledge on urban land markets.
- Identify opportunities for work to make urban markets work better for the poor in Zimbabwe.
- Investigate and identify opportunities for practical partnership or other engagement by organisations working in this field with Zimbabwean partners or international organisations based in Zimbabwe.
- Identify risks to be taken into account when undertaking work in this area.

- Identify synergies, potential alignment and opportunities for co-funding with other processes.
- Propose a potential five-year programme of work which could contribute to the more effective functioning of Zimbabwe’s urban land markets, with a broad costing of implementation and for each component of the programme.

The first three objectives of the study are addressed in Chapters 1 to 7 of this report while the last three objectives are addressed in Chapter 8.

### **1.3 Urban land markets in the Zimbabwean context**

The interaction of buyers and sellers of land and property and the accompanying processes of registering property is what this study defines as a land market, with rental markets an integral sub-sector of such land markets. Urban land markets encompass an array of functions, from land alienation to regulation, enjoyment and transfer of the rights to such land and completed developments.

Access to and use of urban land is regulated by defined rules and is mediated by multiple organisations. Where such interaction is with formal state and duly registered non-state private or civil society organisations, the market can be defined as a formal one. However, interaction also occurs through individualised or community-based systems without formal accordance of ownership rights to land accessed in this manner. Such interaction is regarded as occurring in informal land markets, and happens mainly in settlements that are established without direct or full involvement of formal state and non-state organisations, or in settlements yet to be fully regularised. In the context of Zimbabwe’s urban areas, formal land markets accord legally binding and enforceable property rights mainly through central and local government administrative structures. Informal land markets accord land rights of which the enforcement or validation is based on social or community systems of kinship and other forms of local knowledge.

In making the distinction between formal and informal land markets, UN-HABITAT observed: “Generally, urban development that comes within the purview of a state land administration system and complies with its legal and regulatory requirements is labelled formal and all development that does not comply with one or another requirement is considered informal” (UN-HABITAT, 2009:47). The best-known informal settlement in Zimbabwe is Epworth. As far back as the 1980s, the state has made significant attempts to formalise the settlement through an upgrading programme where planning and non-title surveys were initiated. Subsequently, the Epworth Local Board (ELB) was created to tackle land administration. Whilst the Board has spearheaded the re-planning process and the development of a register for the residents, such formalisation is only partially complete, with many other transactions being done informally. Moreover, some sections of Epworth qualify to be classified as formal, while others remain informal.

Another new development that surfaced in the post-2000 period is that the state, largely motivated by political considerations but partially to address land supply bottlenecks, has created settlements of marginal formality. In this regard, the presence of the state (i.e. its formal institutions) becomes an inadequate indication that a particular settlement is formal, as not all state land administration systems are being adhered to. For the purposes of this study, settlements that do not comply fully with the requirements of formal land

markets are categorised as informal settlements and thus transactions in those settlements depict informal urban land markets.

#### **1.4 Historical context of urban land markets in Zimbabwe**

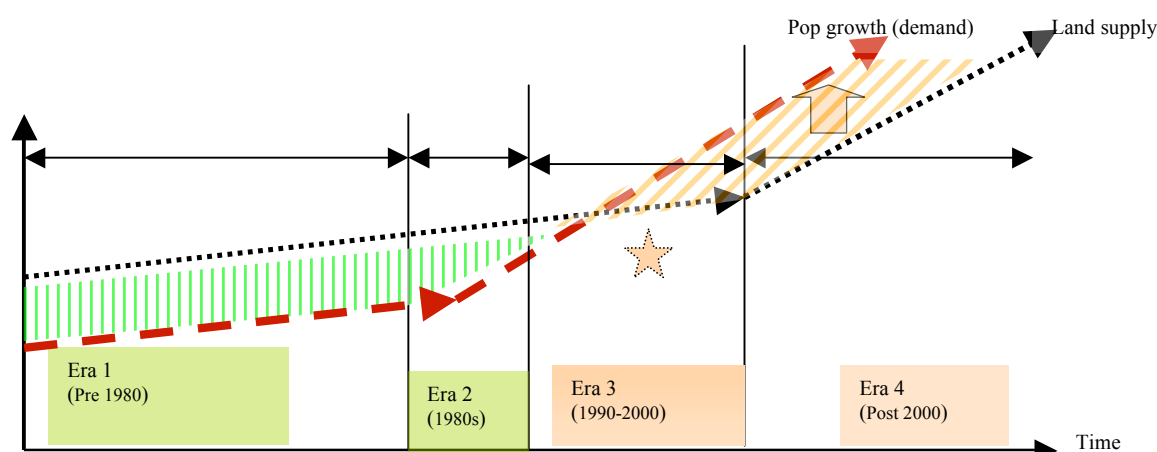
Starting from the colonial period and continuing into the post-independence period, transactions in land and other forms of property in Zimbabwe's urban areas were, in general, undertaken through formal land markets. A common feature of the country's main urban areas is that they were established during the colonial period. By and large and for racial reasons, the cities and towns were located in the midst of privately owned, large-scale commercial farmland. Regulated by the powerful Regional Town and Country Planning (RTCP) Act and the Urban Councils Act, the development of Zimbabwe's urban areas was guided by formal town planning, surveying and land registration processes.

Guided by the same town planning and development standards, the post-independence government did not permit the development of slums or informal settlements in various parts of towns and cities (Zinyama, 1995). Essentially, the new government strongly opposed the development of unauthorised/informal settlements within urban areas. Consequently, squatter settlements were generally destroyed wherever they appeared (Zinyama, 1995).

The system for establishing and governing Zimbabwe's urban areas has generally been fraught with bottlenecks, as it was originally initiated to meet the needs of a small population (see Figure 1.1, Era 1). With independence and the growing permanency of urban settlement amongst indigenous Zimbabweans, more demand than it could cope with was placed on the restrictive system. The adherence to high planning standards and formality created land supply bottlenecks and came at a cost, as both government and the private sector failed to meet, in particular, the housing needs and space requirements for undertaking economic activities in a rapidly expanding population and informal sector (see Figure 1.1, Eras 2 and 3).

Evidence of such failure was seen in a growing informal sector and the development of illegal extensions in the country's low-income residential areas (commonly referred to as high-density areas), a condition that the central government condoned until 2005 when, overnight, government launched the Cleanup Campaign (or Operation Murambatsvina) (UN-HABITAT, 2005). The costs of land acquisition were prohibitive and ultimately presented the greatest constraint to land supply.

**Figure 1.1: Simplified conceptual framework for urban population and land supply dynamics**



Urban development in Zimbabwe through the pre-1980 period exhibited a false efficiency in terms of land delivery, since demand by black Zimbabweans was suppressed through legal instruments (e.g. the Pass Laws) and in terms of the development model that was applied. However, the removal of such restrictions to black land ownership and permanent urban residency after independence saw a surge in demand that outstripped land supply by the early 1990s (Era 3). Land supply responses remained guided by pre-independence growth projections anchored in similarly pre-independence legislation and practice. Thus, the inherited framework governed land acquisition for urban development, planning and development control until the radical land reforms of the post-2000 period, commonly known as Fast Track land reform<sup>1</sup>. Although land supply has improved, demand remains higher, creating a significant supply gap. This simplified representation of the dynamic interaction between urban population growth and urban land supply informs the discussion in this report, particularly as this has shaped the structure and performance of the urban land market in Harare and elsewhere.

In response to the changing political climate and the new development dictates which saw the emergence of a strong opposition political party, the post-2000 period saw government promoting the development of informal settlements. With the centre of power still located in the liberation war-based ZANU P.F. and allied structures, even the newly created Government of National Unity has increasingly moved to formalise activities in such informal settlements. Whilst such an approach can be viewed as progressive and within the realms of creating inclusive cities (see UN-HABITAT, 2009), the thinking and political imperatives motivating such action were beyond the scope of this study. However, what is evident is that the ingredients of informality have increasingly penetrated the operation of formal urban land markets. Notably, and unlike the experience of East and West Africa, the State and its regulatory framework have remained both present and visible in Zimbabwe's informal settlements.

<sup>1</sup> Fast Track land reform was launched by the Government of Zimbabwe in the year 2000. Initially, the land occupations-driven process targeted the acquisition of large-scale commercial farms for settlement for agricultural purposes. Over time, the scope of the programme was broadened to include the acquisition of land in urban and peri-urban areas for urban development purposes.

Notwithstanding the above, the state and form of urban land markets are largely determined by the operation of formal systems. Thus most of the parameters that govern the operation of urban land markets are prescribed in policy and legislation. Shaped by history, the type of actors involved and the type of land and property rights applicable in urban land are clearly defined.

As has been the case with all other sectors of the economy, the functioning of urban land markets has been affected by the economic decline that started from the late 1990s and intensified in the post-2000 period (see the discussion in Chapter 2). The economic crisis was characterised by steep levels of inflation which peaked at 11.2-million per cent in 2008 (UNDP, 2008). A sharp depreciation of the Zimbabwe dollar against major trading currencies forced repeated redenomination cycles to lop off ‘accumulating zeros.’ Following the adoption of the Fast Track land reform, questions were raised in Zimbabwe and abroad over the country’s commitment to the ‘rule of law’. Compounded by economic decline, arrears with international financial institutions and often violent land reforms, the loss of rule of law led to Zimbabwe’s regional and international isolation. Consequently, the country became isolated from mainly the western countries and their allied institutions, especially the World Bank and the International Monetary Fund (IMF). This created funding bottlenecks, which in turn affected the performance of urban land markets. As the economic meltdown continued, the multiple pressures associated with this ultimately affected the functioning of urban land markets. With the weakening of institutions (UNDP, 2008), less emphasis was placed on adherence to policy and legislative prescriptions. In response to the world-record hyper-inflation levels, new forms of business transactions have emerged, as well as new forms of interaction between formal and informal land markets in urban areas.

### **1.5 Urban land markets in Zimbabwe: overview of issues**

The legacy of colonial legislation and urban development policy shaped the character and form of Zimbabwe’s cities and towns in the post-independence period. Thus the inherited urban structure and the functioning of urban development and urban management systems originated from racially based, urban settlement policies. The practice then was to create separate residential areas for the black majority, with African townships being created far away from the city centre and the European areas (Chikowore, 1993). Restrictive labour laws meant that the native population could not move freely into the urban areas, curtailing their participation in urban land markets (Zinyama and Whitlow 1986, Patel, 1988). Planning standards were high in the European areas, with plot sizes pegged at not less than one acre in residential areas where sewerage disposal was by septic tank (ibid). Most of the operational town planning tools, especially legislation and zoning instruments like town planning schemes in Zimbabwe’s major cities and towns were established during the colonial period. The inherited town planning framework and associated planning standards have created numerous bottlenecks associated with the land delivery process to date.

With the former European areas and African townships evolving into low-density and high-density residential areas, respectively, the contrasting space demands for the two types of settlements continued into post-independence Zimbabwe. The segmented nature of urban land markets is an important determinant of land prices, with income levels being the deciding factor on who participates (as buyers) in urban land markets in the respective

localities. Planning and land delivery for residential areas has continued to follow the pattern of separate areas for high-density (low-income), medium-density (middle-income) and low-density (high-income) residential areas. In this regard, the place of the poor in Zimbabwe's urban land markets – in terms of land availability for residential and small-scale economic activities – is understood to be located in the high-density areas.

Following the attainment of political independence in 1980, the demand for housing units, particularly for the low-income groups, mounted. For a long time, planning and development standards remained pitched at a level that was beyond the reach of the poor. All the same, a significant proportion of the emerging nation was less enthusiastic towards lowering planning and housing standards, preferring to abide by the same living standards introduced by the colonial government (see Box 1.1). With limited funding available, the government increasingly provided for fewer housing units for the poor. Zinyama (1995) reports that low-income groups responded to the shortage of housing and their inability to construct informal housing in two major ways. First, they took advantage of the 1980s' homeownership schemes to extend their 'new' properties to accommodate more people as rent-paying lodgers. This however, required planning permission from the local authority. Secondly, and related to the above difficulties associated with getting planning permission homeowners started to build illegal structures that were then rented out to lodgers. This became the main cause of severe overcrowding in the high-density areas, a situation that gave rise to the conditions that the Cleanup Campaign sought to eliminate (UN-HABITAT, 2005).

In addition to the escalating demand for residential properties in the post-1980 period, there was a shortage of office accommodation as a result of the increased demand for space by diplomats, other international agencies and private companies. The construction industry expanded as new properties were constructed for commercial, industrial and residential use purposes. For the housing sector, blocks of flats, town houses for rental and stand-alone houses on a rent-to-buy basis were constructed by institutional investors, government and aid agencies, especially USAID (Kuipa, 2006). In essence, the country's urban land markets were set to expand and become more active. An important feature of the early 1980s was the critical shortage of residential accommodation, a situation which was then abused by landlords who charged exorbitant rents and evicted tenants at will (Kuipa, 2006). In essence, this formed the basis for the enactment of the Rent Control Regulations of 1982, an instrument that would in the end drive investors away from investing in the housing sector (ibid).

### Box 1.1 – Direct housing provision by the State in the 1980s: the case of ZviZvobgo

At independence in 1980, urban areas in Zimbabwe, particularly Harare, were confronted with population influx into their peri-urban areas. The influx had begun at the height of the liberation struggle as rural areas became increasingly unsafe. Two major settlements, Epworth and Chirambahuyo (St Mary's area in Chitungwiza) that had sprung up in the 1960s, illustrate this trend quite vividly. While for Epworth in-situ upgrading was the major state response to the overcrowded and haphazard settlement, in the case of Chirambahuyo the state razed the settlement and relocated its residents to parts of Chitungwiza.

An insignificant proportion of the original settlers benefited from in-situ upgrading. Those relocated to Chitungwiza were allocated state-provided ultra-low-cost housing units in Units N, O and P, in the Seke section of the Chitungwiza Municipal area. Chirambahuyo was bulldozed in 1981 and the first area where ultra-low-cost units were established was Unit N, where 1 661 units were built. The units were two-roomed houses on 200 m<sup>2</sup> stands with a toilet and a kitchen sink in-between the rooms (Schlyter, 2003). The houses were allocated to people on a rent-to-buy basis, managed by the Ministry of Local Government and Housing.

Because of the small size of the units, the materials used to construct the structures<sup>2</sup> and the stands on which they were built, the houses were derided as 'match-boxes'. They informally became known as 'zviZvobgo' after Zimbabwe's first Local Government and Housing Minister. Such unfavourable evaluation by beneficiaries and other stakeholders was largely a reflection of high post-independence expectations where Zimbabweans were looking forward to 'suburbia.' The criticisms of the 'zviZvobgo' forced a policy rethink in terms of minimum stand sizes (reviewed to 300 m<sup>2</sup>) and gave impetus to site-and-services schemes so that individual households would build homes of their choice. As such, this saw a partial abandonment of large-scale direct state provision of housing until the advent of Garikai/Hlalani Kuhle after 2005. Because most beneficiaries of the 'zviZvobgo' were former squatters with little income, payments were slow and erratic. This resulted in an increasing 'crowding out' of the poor as the units were being sold.

*Source: Summarised from various documents; authors*

In general, Zimbabwe has well-developed urban land markets, with transactions covering all forms of property, especially residential, industrial and commercial property. Given the dominance of formal land markets, the key actors involved include planning institutions, land and property registration institutions, property professionals (conveyancers and estate agents), financial institutions and the general public (as buyers and lessees of property) (see the more detailed discussion of actors in urban land markets in Zimbabwe in Chapter 3 of this report).

Generally, a common feature of the property market is the extent to which governments interfere with "market mechanisms and the allocation of property interests between different users" (Balchin and Kiere, 1977:76). In Zimbabwe, the housing sector as a form of investment is prone to government control and the trend is for institutional investors to prefer less involvement in that sector (Kuipa, 2006). Through Rent Regulations and other forms of government directives, intervention by the Zimbabwean government has had a more intense effect on the supply of rented accommodation than any other type of property (Kuipa, 2006). As discussed in other sections of this report, there has been a steep decline in institutional investment in the sector as a result of such government control (ibid).

---

<sup>2</sup> Prefabricated materials (cement reinforced by wire mesh)

### *1.5.1 The legal framework for urban land markets*

The legal framework governing the operation of urban land markets includes Acts of Parliament, statutory instruments, government policy documents and Ministerial directives. The principal legislation relevant to the operation of urban land markets includes the Regional Town and Country Planning Act (RTCP Act) and the Urban Councils Act (for land delivery), the Land Survey Act (for title survey), and the Deeds Registry Act and the Derelict Lands Act (for the registration of property rights). In terms of government policies and directives, the land policy, the national housing policy, the policy on incremental and parallel development and other Ministerial directives affecting access to land by different actors are key instruments that govern urban land markets. The significance of the Regional Town and Country Planning Act is discussed in Chapter 4 of this report. The Deeds Registry Act is discussed in Chapter 7, which deals with the registration of property rights in Zimbabwe's urban areas.

#### *Land Survey Act*

The Land Survey Act provides legislation relating to the survey of land in Zimbabwe. It is an important piece of legislation because it applies to any survey used for the purpose of effecting the registration of any land in the Deeds Registry and it is binding on the State in respect of unalienated State land. Chapter 7 gives an elaborate discussion of the Land Survey Act and the processes involved in the preparation of diagrams and general plans that are critical documents in the land registration process.

#### *Derelict Lands Act*

This piece of legislation provides for instances where the former owner of immovable property cannot be found to sign the power of attorney despite a diligent search. He or she may have migrated or left the jurisdiction after completion of the sale but before transfer was effected and registered. The remedy in terms of the Derelict Lands Act is to make an application showing that the applicant complied with all his obligations in terms of the agreement of sale and requesting the court to order registration of transfer to the applicant. The application is made on the basis that the applicant cannot obtain registration in his/her name because of the death, mental incapacity, insolvency and/or alternatively absence in the jurisdiction of Zimbabwe of the person in whose name the property is registered. Apart from attaching affidavit(s), the agreement of sale and any other documentary evidence may be attached. If the court is satisfied, the application may be granted. The order granted should then be lodged with the Deeds Registry together with proof of payment of all taxes and duties. In this transfer there is no appearer and the Registrar's office prepares the documents.

#### *Consumers Contract Act*

In Zimbabwe, in terms of Section 1 of the Consumer Contracts Act, all sale of land must be in writing in the form of a memorandum of agreement of sale. Further discussion on how this legal provision affects property sales and the registration of property rights is presented in Chapter 7.

#### *Urban Councils Act*

The Urban Councils Act is relevant in the operation of urban land markets through provisions relating to planning, registration of property rights, the sale of public land and

the change of land-use reservation. Further, it is necessary to lodge a rates clearance certificate when transferring immovable property on which rates are levied (also refer to the discussion in Chapter 7). Section 152 of the Urban Councils Act is particularly important when selling public land and changing the land-use reservation of planned land. In the post-2000 period with its slackening of professional standards<sup>3</sup>, unprocedural means have been used to dispose of public land (see the discussion in the latter sections of this chapter). Thus, non-observance of the provisions of Section 152 is one test-case of how the governance of urban land markets has been interfered with.

### Capital Gains Tax Act

With effect from August 1981, in terms of the Capital Gains Tax Act, tax is chargeable on the capital gain made on the disposal of immovable property. Capital gains tax is a percentage of the residual value after making deductions from the gross selling price of certain allowances and inflationary adjustments. It is necessary to understand the roll-over provisions of the Capital Gains Tax Act (also refer to the discussion in Chapter 7). For instance, when an individual sells what is described as the Principal Private Residence in order to buy another, tax is deferred – there is no capital gain. Deceased estate transfers do not attract capital gains tax. Where the property is being transferred between spouses, tax can be deferred. However, donations attract capital gains tax. It is important to note that sales by a land developer attract income tax, not capital gains tax. In all suspensive sales or sale of property in instalments, the capital gains tax is calculated and payable by monthly instalments. There are other instances where property is transferred but not pursuant to a sale. Such transactions are referred to as deemed sales, for example, donations, expropriations, sales in execution of a court order, etc. Capital Gains Tax is still payable on these transactions.

#### *1.5.2 The housing sector and urban land markets*

In general, the housing sector dominates the volume of transactions in Zimbabwe's urban land markets. The place of the poor in Zimbabwe's urban land markets is often discussed in relation to the housing needs of this vulnerable section of the population. In addition, the poor need land and shelter for supporting their economical activities. Zimbabwe's urban population is estimated at 4.456 million people (Ministry of National Housing and Social Amenities, 2010), growing at a rate of 5% to 7% per annum. This has placed tremendous pressure on the housing sector, which has been under-performing for a long period. Thus, by 2003, there had been a decline in housing provision in urban areas, from an annual average of between 15 000 and 20 000 units during the period 1985 to 1995 to a meagre 5 000 units in 2000 (Ministry of Local Government, Public Works and Urban Development, 2006:2). Against an urban housing backlog of over one million stands, the household occupancy rate for high- to medium-density residential areas increased to 12 people per 200 m<sup>2</sup> stand, up from a standard of six people (ibid).

The major debate on factors influencing housing delivery is centred on the role of the state and the type of models used to deliver housing. In the colonial period, Zimbabwean urban

---

<sup>3</sup> The slackening of professional standards occurs in different forms. For instance, the weakened state institutions are understaffed and under-resourced, eroding the capacity of such actors to enforce standards as dictated by law and policy. In other instances, 'the new culture' of the post-2000 period has seen property professionals flout standing procedures that regulate the operation of urban land markets.

areas provided housing to employed people mainly in singles quarters (Auret, 1995). Based on a blue-print approach, the state (central and local) directly constructed and administered housing. Beneficiaries paid monthly rentals and did not own the properties they resided in. In Harare, old sections of low-income (high-density) neighbourhoods like Mbare, Mabvuku, Tafara, Dzivarasekwa and Mufakose were established based on this approach.

With global trends increasingly recognising housing as a key social and economic right, housing delivery approaches based on state-supported self-help programmes with full ownership on completion of a superstructure became prominent. The state provided land and housing subsidies (as opposed to direct housing construction and allocation to citizens), upgraded slums or squatter settlements and generally recognised the informal sector. Beneficiaries could not only expect to be allocated a completed house but also a semi-developed plot on which they would put up their own superstructure using their own or borrowed resources. Examples of the application of this delivery model in Harare include Kuwadzana, Warren Park, Budiro, Glen Norah and Glen View (before independence) and Glen Norah C (post-independence).

Under the site-and-service programmes, international development organisations like the World Bank and USAID participated in leveraging trunk infrastructure development and mortgage financing. At the same time, community and work-place cooperatives started participating in housing delivery, a typical example being the cooperatives supported by Housing People of Zimbabwe that started in 1992. The post-independence period also witnessed government's adoption of the home ownership policy where most of the pre-independence rental housing stock was sold to sitting tenants. The policy gave a new impetus to homeownership, which before independence was limited to a few Zimbabweans and was tied to municipal governance, as those without urban property could not vote.

Another major housing delivery model currently being institutionalised in Zimbabwe is the enabling approach, which gained prominence globally in the late 1980s. The approach emphasises private sector participation in housing development without necessarily excluding public sector provisions and assisted self-help. The approach seeks to steer multi-actor approaches guided by sound urban management where the state reduces participation in direct provision to avoid market distortion, and offers a suitable institutional macro-economic framework within which other actors seek and pursue strategic opportunities.

The dominant tool used in the allocation of housing and stands by central government and local authorities is the waiting list. The waiting list is a record of homeseekers registered with the appropriate authority. An important requirement for one to be admitted to the waiting list is proof of employment or income. So, effectively, the very poor do not qualify to be on the waiting list based on this criterion. Applicants on the waiting list are prioritised based on their date of employment and date of application. An important policy provision is that (in Harare, for instance) 1% of residential stands available should be allocated to people with disabilities or their parents.

In general, the usefulness of the waiting list as a resource allocation tool is increasingly being questioned (Chatiza and Mlalazi, 2009). For instance, the lists are dependent on voluntary entries, with authorities rarely (if at all) involved in the mobilisation of people to register. The waiting list does not reflect the demand for housing, making it less useful as a

planning tool. Further, the mere fact that one must be employed or show proof of income in order to be registered on the waiting list is enough reason to argue that the tool is not pro-poor. In the absence of independent evaluations, it is not possible to confirm that allocations by central and local government authorities were drawn from the waiting list. Indeed, mechanisms for ensuring transparency in the allocation of such critical resources are missing in Zimbabwe's policy implementation strategies.

### *1.5.3 National politics and urban land markets*

Zimbabwe is currently governed through a Global Political Agreement (GPA) put in place in 2009. Under this arrangement, the three political parties in the country – ZANU P.F., MDC-T and MDC-M share power, with ministerial positions allocated based on some 'agreed formula.' There are three main ministries involved in the functioning of urban land markets. The Ministry of Justice and Parliamentary Affairs, controlled by ZANU P.F., is key to the functioning of the courts, the Deeds Registry Office and the Deputy Sheriff's office. The Ministry of Local Government and Urban Development, headed by a ZANU P.F. minister, controls local authorities and the Department of Physical Planning. On the other hand, MDC-T controls the Ministry of National Housing and Social Amenities. This political setup is a critical determinant of how certain components of the urban land market work, and do not work.

Urban local authorities in Zimbabwe are governed through elected councillors, mostly belonging to MDC-T. However, these are presided over by a ZANU P.F. minister. Tension between the two actors has often destabilised the full and competent functioning of urban local authorities. In a very significant way, the tension has affected the functioning of urban land markets. For instance, the Special Investigations Committee's report of the City of Harare Land Sales, Leases and Exchanges has exposed allegations relating to the gross manipulation of the operation of urban land markets. The report makes reference to cases relating to land swaps between the City of Harare and some political elites, unprocedural sale of public land which violated section 152 of the Urban Councils Act, unprocedural change of reservation of land, unprocedural disposal of council houses and the non-adherence to council policy on the allocation of stands.

Section 152 (2) prescribes that "Before selling, exchanging, leasing, donating or otherwise disposing of or permitting the use of any land owned by council; council shall, by notice published in two issues of a newspaper and posted at the office of council, give notice: a) of its intention to do so, describing the land concerned and stating the object, terms and conditions of the proposed sale, exchange, lease, donation, disposition or grant of permission; and b) that a copy of the proposal is open for inspection ...at the office of the council ... and c) that any person who objects to the proposal may lodge this objection with the town clerk..." (Government of Zimbabwe, 1996:558).

It is this particular legal provision that seems to have been breached. Up to the time of writing this report, there is no public information on the status of the report and the likely course of action to be taken by the relevant authorities on the allegations revealed in the report. Indeed, the Minister of Local Government and Development is at the centre of the allegations (see Box 1.2).

**Box 1.2 – Unprocedural land allocations in Harare: extracts from the Special Investigations Committee of the City of Harare**

Contrary to Council Policy that an individual must not get more than one residential property from the Council, the Minister acquired vast tracts of land within Greater Harare and registered them in companies associated with him. It remains disturbing to note that the Minister would identify pieces of land in the city, influence Council officials to apply to him for change of land use, and then, sit over the same applications and approve the changes. He would then write to Council officials asking to buy the same stands and obviously gets them. Land reserved for recreational activities would end up having title deeds in his company's name. A case in point is Stand 61 Hellensvale, Harare, measuring almost 20 hectares. According to the advice of payment, the Minister paid US\$2 300 for this stand...

The Committee discovered with concern that 'Mr. Other' (a political elite) was given preference ahead of several applications received earlier. The Committee also noted that the land was exchanged for salaries and vehicles (two Land Rovers). The Committee also noted with concern that the price of US\$5 per square meter charged to 'Mr. Other' was well below the market selling price of land in similar zones which were selling at between US\$10 and US\$15 per square metre...The Director of Urban Planning Services let the Council down by processing transfers before full compliance with section 152 of the Urban Councils Act.

*Source: Extracted from the City of Harare 2010: Special Investigations Committee Report on City of Harare's Land Sales, Leases and Exchanges from the period October 2004 to December 2009, pp. 8, 14*

The preceding sections have provided an overview of issues affecting the functioning of urban land markets. It has been argued that, by and large, the legal and policy context governing the functions of urban land markets originated from the colonial period and continued into post-independence Zimbabwe. As will be argued in detail in later sections of this report, the town planning bottlenecks that negatively affect land delivery are a result of limited progress by the post-independence government to adjust legislation to suit the new socio-economic order of the post-independence period. That the Deeds Registry office, the key institution involved in property registration remains highly centralised in Harare and Bulawayo as a result of colonial-based legislation, is clear evidence of limited creativity on the part of the state. The section has also delved into the national political issues that have affected the governance of urban land markets in Zimbabwe. The next section presents the research methods that were used in undertaking this scoping study.

## **1.6 Research methods**

A combination of primary and secondary methods of data collection was used in undertaking the study. A methodology workshop was held prior to the data collection process. Primary data was collected using mainly key informant interviews with officials working in the urban land markets sector and residents of informal settlements. Secondary data was collected from key stakeholders working in the urban land markets environment. The study was undertaken during the period December 2010 to February 2011.

### **1.6.1 Methodology workshop**

A methodology workshop for the study was held on 19 January 2011 in the CASS Trust Boardroom. The half-day meeting was attended by 15 participants (see Annex 1.1 for the list of participants) drawn from selected actors in the urban land market sector. Represented at the workshop were the the University of Zimbabwe's Department of Rural

and Urban Planning, the City of Harare, civil society organisations working in the housing sector, conveyancing practitioners, estate agencies, independent economists, research assistants involved in data collection and all three members of the research team. The main focus of the methodology workshop was to present the research proposal to key stakeholders and obtain feedback on the character of the research and appropriate methods of collecting data. The specific objectives of the workshop included:

- Soliciting the views and comments of participants on the clarity and perceived usefulness of the research.
- Identifying the broad issues affecting the governance of urban land markets in the country.
- Identifying existing literature on urban land markets and how the study could access such information.
- Sourcing suggestions on what data needed to be collected and possible methods for collecting it.
- Obtaining insights on existing and potential partnerships in the urban land market sector.

The methodology workshop was a success. There was a rich discussion on all issues outlined in the workshop objectives. Useful contacts were established at this stage, facilitating the collection of information when the data collection process commenced.

### *1.6.2 Primary data collection*

Primary data collection targeted officials working in the urban land markets sector and residents of informal settlements. Interview checklists were developed and used to gather data from the identified officials. The key institutions targeted by the key informant interviews were local authorities, property professionals, international development partners and civil society organisations. Local authorities were the key source of information on land delivery, the impact of planning frameworks on land delivery and information on how planning standards have responded to the need to making housing affordable to the poor. Key informant interviews with officials from Epworth Local Board provided data on the interface between formal and informal land markets. In this regard, issues covered related to the history of informal settlements, re-planning of informal settlements, land transactions in informal settlements and property rights in such types of settlements. Property professionals were useful in gathering information on types and causes of property disputes, and specific issues relating to the governance of urban land markets. Development partners and civil society organisations provided data on partnerships in the urban land markets sector. Further, civil society organisations also provided information on their role in improving access to housing by the poor. Key informant interviews and focus group discussions with residents of informal settlements were centred on land access methods, property rights issues and land transactions in informal settlements. Specific case studies were developed on the experiences of informal residents.

### *1.6.3 Secondary methods of data collection*

The methodology workshop was useful in identifying existing literature on urban land markets. Secondary data was collected from key stakeholders in the urban land markets sector. Given that literature on specific urban land markets themes is scarce, most of the literature collected was in the form of unpublished papers presented in the past on some of the key themes on urban land markets. The Zimbabwean courts, especially the High Court of Zimbabwe, provided the bulk of the information on property disputes that have been handled by the courts. In addition, many of the legal cases decided by the courts were downloaded from the Southern African Legal Information Institute (SAFLII) website. The data on legal cases informed the study on the type and causes of property disputes in Zimbabwe's urban land markets. Specific examples were also developed on the different types of disputes.

### *1.6.4 Analysis by experts*

In light of the fact that data on property transactions are largely in the hands of the private sector and hence not readily available to the public, the study identified three experts to provide an analysis of the urban land markets sector from their respective areas of expertise. This was extremely useful in accessing some of the information on private sector transactions in the land markets. The three experts selected were an economist, a conveyancer, and an estate agent and property valuer. Sections of this report that deal with the economy and its impacts on urban land markets, property rights registration and the estate agents' sector performance were developed largely through materials collected from the inputs of such experts.

## **1.7 Study area**

Primary data were collected from Epworth and Hopley settlements. Epworth emerged largely as an informal settlement. Located 15 km to the east of Harare, Epworth was selected because it represents the best example of the intersection of formal and informal land markets. Primary data collection was also done in the Hopley settlement, a post-2000 scheme initiated by the Municipality of Harare. Hopley also has elements of both formal and informal land markets. Whereas the collection of secondary data was national in character, for practical reasons most data accessed were collected from institutions based in Harare. In general, most of the data on land delivery were based on the experience of Harare (see Map 1.1).

## **1.8 Study limitations**

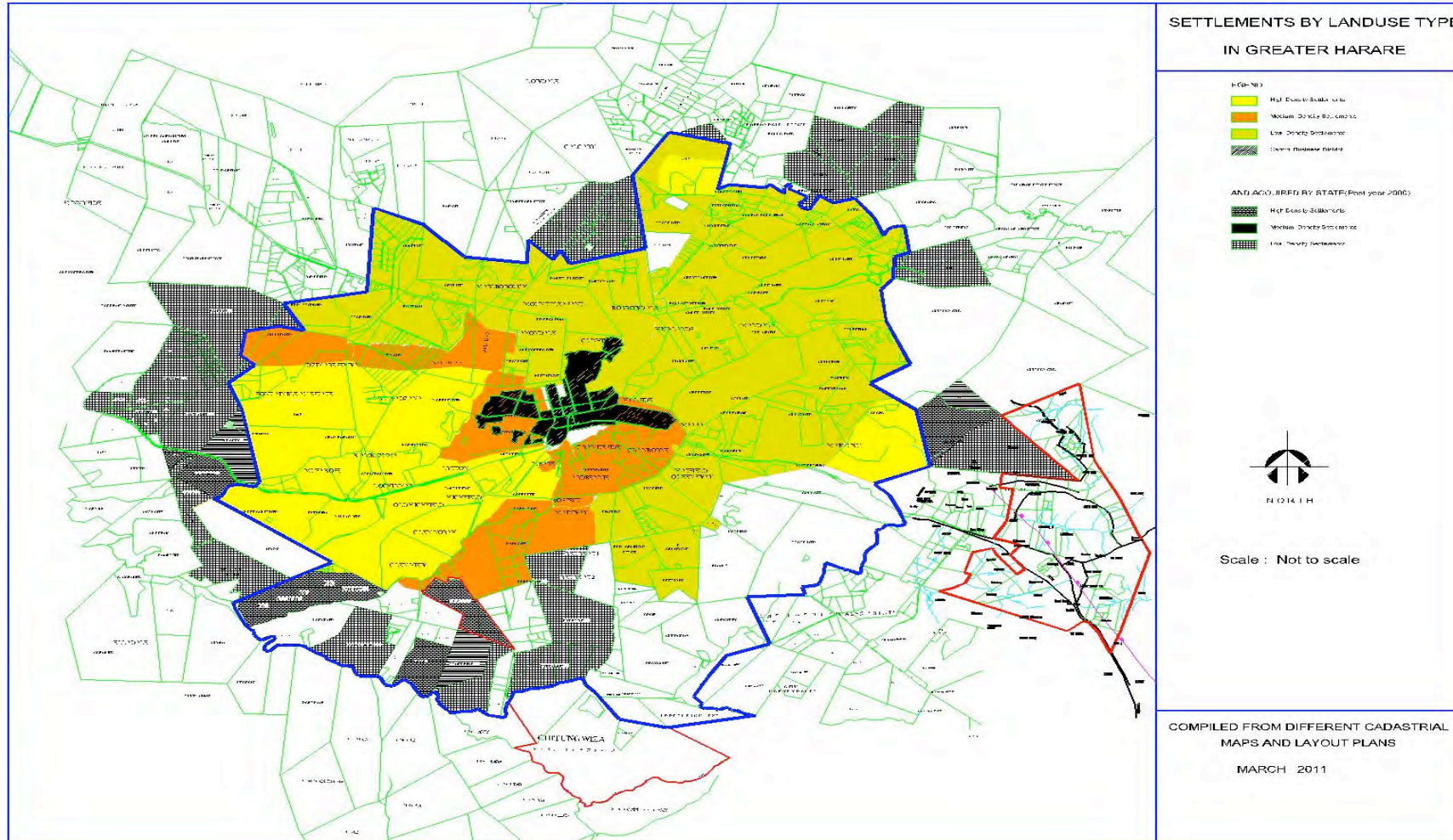
In general, the study can be seen as a case study of Harare, the capital city. It was not possible to get deeper insights into the operation of urban land markets based on the experiences of other key urban areas like Bulawayo, Mutare, Masvingo and Gweru. The experiences of residents of informal settlements in other cities could not be captured. Further, a comparative analysis of land delivery across Zimbabwe's main cities and towns was not possible. Given the limited time frame for the study, it was not possible to negotiate the direct participation of state institutions in the study itself. To alleviate the burden created by some of these constraints, the study made an attempt to collect secondary data that captured the experiences of urban land markets in other cities. In this

regard, the data on property disputes captured incidences occurring outside of Harare. Further, data from the Municipality of Mutare's Master Plan strengthened the section on planning frameworks. An extension of the project, through funding from UN-HABITAT, is being negotiated. If successful, the study will be expanded to become a national study in all respects.

### **1.9 Chapter outline**

The preceding chapter has provided the background and context of the study. Chapter 2 presents a discussion on how the state of the national economy has affected the functioning of urban land markets. Chapter 3 presents findings on the main actors involved in the governance of urban land markets. Chapter 4 interrogates the role of planning frameworks and their impact on land delivery. Chapter 5 presents data on land delivery, the performance of the real estate sector and property disputes. Chapter 6 elaborates on the activities of formal and informal markets, while Chapter 7 discusses property rights registration in Zimbabwe's urban areas. Chapter 8 presents a proposed five-year programme of work emanating from this scoping study.

**MAP 1A – Settlements by land-use type in Greater Harare**



## **2. Zimbabwe's economic performance and its effect on urban land and housing markets**

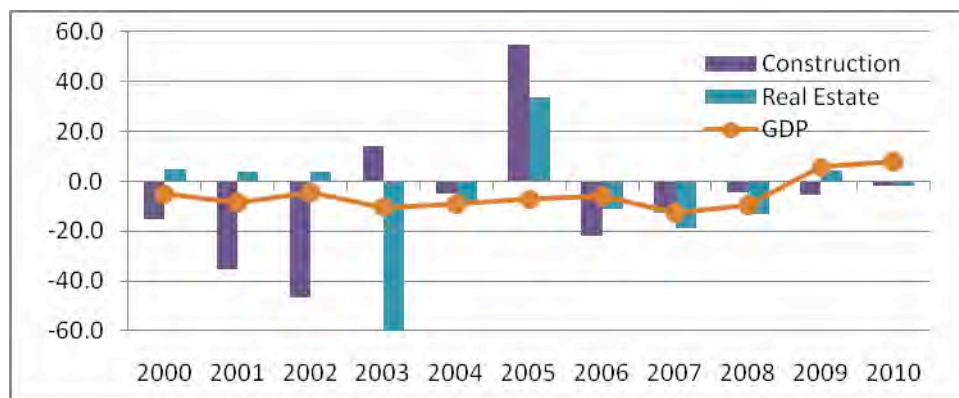
The state of the Zimbabwean economy is a major determinant of the performance of urban land markets. Thus, the performance of the construction and real estate sectors, both of which are integral components of urban land markets, is largely determined by the performance of the national economy. The rate of national employment, income levels of people and their savings all play an important role as a source of finance by individuals to do business in urban land markets. Financial institutions, especially commercial banks and building societies, are traditionally the critical source of revenue for financing property transactions in Zimbabwe's urban land markets. Given this background, it is important for this study to present an analysis of the performance of the Zimbabwean economy and its implications for the alleviation of poverty and the effective functioning of urban land markets.

### **2.1 Real sector performance**

The period 2000 to 2008 saw government policy shifting back and forth between attempts to implement economic reforms and the imposition of overarching economic controls. Economic blueprints such as the Millennium Economic Recovery Programme (MERP) during 2000-2002 and the National Economic Revival Programme (NERP) of 2003-2004 all contained some hybrid application of economic liberalisation. During the period 2000-2008, Zimbabwe experienced a sustained contraction of its economy. It is estimated that the economy shrunk by a cumulative 51% during the period under review. The underperformance of the economy led to increased loss of employment, the informalisation of the economy and increased poverty levels. By 2007, it was estimated that over 75% of Zimbabweans were living in extreme poverty, on less than US\$1 per day.

The performance of the construction sector, which is critical to urban land markets, also plummeted due to the high cost of building materials and the rising cost of construction. Notwithstanding the limited availability of statistics, the building materials price index shows that the cost of building materials increased by 305.3% for the period December 2002 to December 2003. This trend worsened as hyperinflation got out of control.

**Figure 2.1: Real economic performance (% change year-on-year)**



Source: Reserve Bank of Zimbabwe data, 2010

The construction and real estate sectors recovered momentarily and exhibited huge growth during 2005, owing to the improved foreign currency situation in the country, as well as the effect of concessional financing facilities provided by the Reserve Bank. This recovery and the success of the foreign exchange auction system were short-lived due to the continued depression of the main productive sectors of agriculture, manufacturing and mining. The decline in construction activity directly affected the supply of housing in the country and this manifested in the increased urban housing backlog, estimated at 1 055 000 by 2005, with 83% of this backlog in Harare.

## **2.2 Monetary sector performance**

One of the main features of the economic instability of the past decade was hyperinflation, which severely eroded incomes and national savings. Annual inflation reached 231 000 000% by June 2008. This situation eroded the purchasing power of disposable incomes, which inevitably rendered the prospects of accessing housing untenable. The low-income society was the hardest hit in this crisis as it lacked the means to cushion itself from the scourge of inflation. Yet this same population segment does not have adequate shelter and is currently living in overcrowded conditions in high-density suburbs.

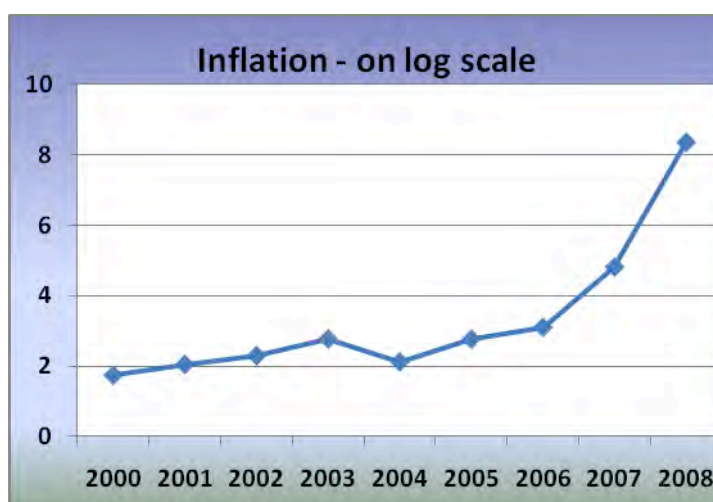
During the period 2000-2008, the government policy framework, among other strategies, was encouraging self-financing of housing projects at the household level by providing subsidised serviced land with basic amenities such as water and sewer reticulation. The household would then be expected to self-finance the actual construction of the dwelling at its own determined pace. Inflation wrecked havoc on this scheme through the following:

- Local authorities' budgets shrunk rapidly during the hyperinflationary period, rendering these institutions incapable of delivering serviced land to people on the housing waiting list.
- Dwindling fiscal grants to local authorities, which became inadequate to safeguard the policy direction desired by government.

The hyper-inflation caused new ways of doing business to emerge. As is reported in other sections, property transactions were then done in multiple forms, including payment in kind, especially through land; conducting payments in foreign currency (which was illegal at that point in time), negotiation of rentals on the date of payment, etc. Some of these characteristics have continued into the new era, which is characterised by the use of multiple currencies. In particular, payment in kind is dominating business for some of the property transactions, including those undertaken by the state. Indeed, press reports (for example, *Herald*, 22 February 2011) have quoted a senior government official calling for supplementing civil servants salaries with stands.

**Figure 2.2: Inflation trend**

Inflation	
Year	YoY (%)
2000	55.2
2001	112.1
2002	198.9
2003	598.0
2004	132.7
2005	585.8
2006	1 281.5
2007	66 212.3
2008	231 000 000
2009	-7.7
2010	4.5



Source: Zim Stats 2010

### 2.3 Income levels, national savings and investments

On a macroeconomic scale, hyperinflation decimated *per capita* incomes, destroyed the savings culture and severely stalled capital accumulation, which is vital for financing land development and construction activities. During the period 2000-2008, per capita incomes declined by 59%, from US\$658 to US\$268. Hyperinflation also discouraged financial institutions from giving loans to customers for property investments because the purchasing power of repayments was being wiped out in the process and their balance sheets were shrinking. This was apparent given that mortgage rates for housing development and purchases were regulated at levels well below inflation throughout the period under review. Mortgage rates chargeable on residential property loans were regulated by government, in the form of periodic minimum and maximum caps imposed by the Ministry of Finance. The interest rate caps on building societies loans and deposits on the one hand, and the much higher interest rates in the money market throughout the year on the other, posed major mismatch problems for them.

The fixing of mortgage rates occurred when money market rates were allowed to move in line with inflation. Investors responded to prevailing high interest rates by switching their savings into money market instruments, a development that left building societies with acute funding problems. Secondly, due to the lower interest rates that could be charged on mortgage loans, mortgage lending yielded significantly lower returns, compared to the money market. Building societies responded by shifting from their core business of providing low-cost mortgage lending to concentrating on investments in the money market. National savings fell from 10% in 2000 to -5% by 2007. Investment levels remained above the savings rate because of the increased foreign direct investment (FDI) inflows mainly associated with platinum development projects. This notwithstanding, the level of savings and investment has been far below the 30% of gross domestic product (GDP) mark recommended for ensuring sustainable development in developing countries.

The funding of building societies is mainly composed of savings and fixed deposits. As inflation decimated savings and fixed deposits, the very foundation of mortgage financing was severely weakened. In addition to the effect of the regulatory restriction on interest rates, mortgage lending was also acutely affected by the decline in term deposits.

**Table 2.1: Per capita income, savings and investments**

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
<b>Per capita income (US\$)</b>	658	736	579	431	390	381	368	302	268	291	336
<b>Savings (as % of GDP)</b>	10	8	5	3	3	2	0	-5	-5	2	2
<b>Investment (% of GDP)</b>	13	10	8	8	10	10	5	5	0	4	4
<b>Mortgage rates (%):</b>											
<b>residential</b>	14-35	14-37.5	16.5-37.5	30-55	30-85	35-85	35-85	35-85	-	14-25	14-25
<b>commercial</b>	30-45	32.7-49.5	32.7-49.5	40-60	40-130	110-135	110-135	110-135	-	20-30	20-30
<b>industrial</b>	30-45	32.7-49.5	32.7-49.5	40-60	40-130	110-135	110-135	110-135	-	20-30	20-30

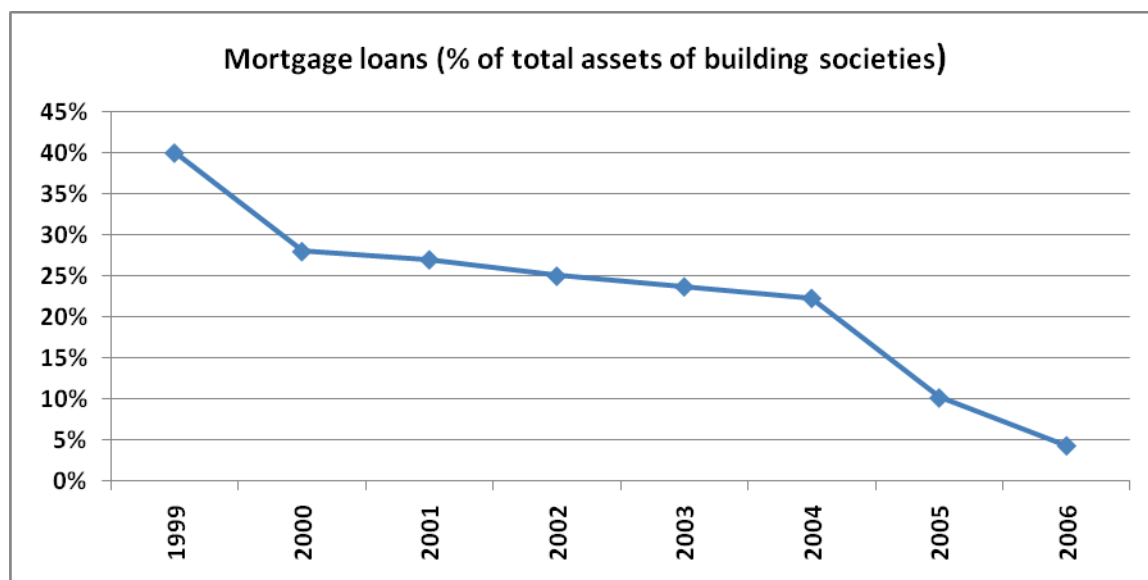
*Source: RBZ, Ministry of Finance, Investment saving due to FDI in platinum projects*

Total assets for building societies during the period 2000-2008 became skewed towards investments in the money market, CPI Indexed bonds and fixed assets (see also the discussion in Chapter 5). The proportion of mortgage loans to total assets declined from 40% in 1999 to 4.33% by December 2006, reflecting a marked shift from the core business of mortgage lending to securities and investments.

By the end of 2006, fixed assets accounted for 59% of total assets. This trend is confirmed by examining the income statements of the building societies over the same period. More than 95% of the income of building societies at this point is derived from interest income. During the period 2000 to 2006, the percentage share of interest income from borrowers (mortgage lending) declined from about 26% to less than 8%. On the other hand, the share of income from investments and securities increased significantly, from 74% to more than 92%.

As the economic meltdown progressed during the period 2000-2008, the income flows from properties were inadequate and did not provide a fair return (all things being equal) to justify property as an investment. This development also stalled capital expenditure in the properties market. The state of buildings also started to deteriorate, with very limited capacity to finance repair and maintenance.

Figure 2.3: Sustained decline in mortgage lending



Source: RBZ Supervision reports (various)

## 2.4 Availability of finance for land acquisition, land development, housing development and purchasing of houses

### 2.4.1 Liquidity and funding crisis

The introduction of multiple currencies for trade and the suspension of the local currency for trade virtually placed all economic agents in the country in a start-up mode. This meant that at inception, banking sector deposits were too low to support meaningful economic activity, let alone capital development projects including land acquisition and development, and housing development and purchasing. The scarcity of capital resulted in very high interest rates for short-term facilities.

Another challenge was that banking sector deposits were in demand because of the limited capacity of the economy to mobilise long-term deposits and fixed savings, which are the driver of mortgage financing. However, banking sector loans and advances have an average tenure of 6-12 months, whereas development projects have funding requirements of a medium- to long-term nature. This structural mismatch between the tenor of available deposits and that of real estate development has limited progress in this sector. During 2009 there were very few buyers on the market, mainly due to the liquidity crisis. With the economy running on a cash basis, building societies, like other financial institutions, were failing to finance the purchase of properties.

#### *2.4.2 Recent signs of recovery in residential property sales*

The monetary transition to the US dollar in 2009 was a big shift for the people of Zimbabwe. Residential and business property sales increased by 30% and 25% respectively in 2009 and were estimated to rise by 20% in 2010 (also see the discussion in Chapter 5). While Zimbabwe's property market has begun to experience increased activity in terms of trading, affordability is still a big challenge due to low disposable incomes. The issue of limited affordability is also attributed to the high cost of mortgage financing. Building societies have resumed offering limited funding through two-year mortgages at interest rates of up to 22% per annum.

The residential property market has been active, especially in areas below US\$50 000. Most houses in this bracket are said to be 'below standard and unworthy of the asking price' but, according to real estate agents, buyers are prepared to make renovations at their own pace when they buy. Rental yields have also recovered since the inception of multiple currencies in 2009. Rental yields, which were around 0.5% in 2007-2008 improved to between 6% and 7% by 2010. Investors who purchase real estate or land for construction of rented properties consider this to be an important variable.

### **2.5 A synopsis of financing opportunities in Zimbabwe's urban land markets**

#### *2.5.1 Central government funding*

The Zimbabwean government has traditionally provided resources to support land and housing development since independence through budgetary allocations. Due to budget limitations, allocations by government towards housing projects have been ranging between 2% and 5% of total budget since 2000. The main instruments have been the National Housing Fund (NHF) and the National Housing Guarantee Fund (NHGF). In the last decade, allocations and therefore the functionality of these instruments have declined in line with the economic challenges in the country. The 2010 and 2011 budgets, however, have seen injection of funds through three main instruments of the NHF (US\$2.3-million allocated in 2011), the National Housing Loan Facility (NHLF) (US\$25-million in 2010) and the Civil Service Housing Loan Facility (US\$5-million in 2010 and US\$10-million in 2011). The NHLF is being managed through the Infrastructure Development Bank of Zimbabwe (IDBZ) and makes use of funding available under the IMF-provided Special Drawing Rights (SDR) to leverage partnerships between central government on one hand and local authorities and private land developers on the other. To date, 11 projects have been initiated nationally<sup>4</sup> with three of these in Harare (Willowvale Flats, Dzivarasekwa Extension off-site infrastructure and Sunway City). At the time of the study, the host Ministry (National Housing and Social Amenities) indicated that this was leveraging land supply in Harare and other cities.

---

<sup>4</sup> Kwekwe (Mbizo 22), Marondera (Paradise Park), Bulawayo (Parklands and Emganwini), Masvingo (Runyararo West), Chipinge (Checheche), Chiredzi (Tsovani), Mutare (Chikanga) and Gwanda housing projects, some of which have already been completed.

The Civil Service Housing Loan Facility is meant to assist public servants to buy land, purchase and renovate existing housing. This has injected liquidity into the market, which is further complemented by the NHF, which mainly supports addition to the public sector housing stock (houses used by public servants). Both facilities cover rural and urban housing, but due to the sheer size, Harare exerts much of the demand on these facilities.

In 2009 and 2010, the government also disbursed over US\$30-million (sourced mainly from UNICEF and the South African government) to local authorities for water and sanitation rehabilitation and expansion works. The Zimbabwean government is planning to complete housing projects under the Garikai/Hlalani Kuhle scheme amounting to US\$70-million by 2015. A total number of 160 projects, with 30% of these at a 60% completion level, are earmarked.

### *2.5.2 Local authority initiatives*

Local authority budgets have remained underfunded since the inception of a multiple currency regime. These budgets are unable to address the land and housing delivery shortfalls. For example, in June 2010, the City of Harare's Housing Department indicated that it had a housing backlog of 500 000 residents but did not have an adequate budget for servicing land, particularly provision of off-site infrastructure. Although the government had deregulated tariffs charged by local authorities, the actual collections were still very low due to a high default rate because of depressed disposable incomes. During the 14 months to March 2010, the City of Harare was reportedly owed a cumulative US\$60-million by ratepayers. Under the present circumstances and the constraints bedevilling the local authorities, there is scope for increased private sector participation in the provision of serviced land. This calls for an appropriate policy framework to support private sector land development.

### *2.5.3 Self-financing of land purchases and property development*

Developed and developing countries alike are using self-financing schemes for urban land and housing markets. The following options could be pursued:

#### *Rent-to-own scheme*

In view of the stabilised macroeconomic environment, the rent-to-own scheme is capable of providing a tenant with a rental lease with an option to purchase the property at a fixed price at a specified point of time in the future. The option to purchase the property usually states the price at which the property is to be bought and the time period during which the tenant is able to exercise the option. The seller may attract the tenant by having a specified portion of the rent applied as a credit toward a down payment on the house, or may receive a bulk sum of money for the option of giving the tenant time to rebuild their credit if necessary. This option could involve financial institutions supporting private investors who meet the required collateral and loan disbursement criteria. The private investors would invest in property on subsidised land allocated by local authorities.

### *Use of individuals' own savings for property development*

In this scheme, urban dwellers desiring to acquire land for purposes of constructing their homes would register with their respective local authorities for land allocation purposes and be placed on the housing waiting list. The advantage of this scheme was that beneficiaries obtained serviced and subsidised land for development through the local authority. However, the situation has since changed. For instance, the City of Harare is no longer the main actor in the servicing of land, while cities like Mutare and Bulawayo are still continuing with the practice.

#### *2.5.4. Availability of mortgage loans to individuals*

Financial institutions involved in housing finance include building societies, the Infrastructure Bank of Zimbabwe and pension funds, e.g. Old Mutual and the National Social Security Authority (NSSA). During the period 2000 to 2010, the Zimbabwe economy had very few strong institutions to support robust and sustainable housing finance, efficient land delivery and building materials production (UN-HABITAT 2009). Notable was the acute shortage of mortgage finance, as hyperinflation dislocated building societies from their core business of providing housing finance, as detailed earlier in this report.

Low-income groups were hardest hit by this state of affairs, as they could not access the little financing that was available due to high interest costs and the inability to meet the requirements of collateral that came with the loans. Government funding towards housing development also suffered from the effect of inflation erosion. Although the National Housing Fund provided facilities at interest rates of 15%, the scope of coverage was severely limited by reduced fiscal space. When the national fiscus was constrained, areas that suffered included capital expenditure projects, as resource utilisation became skewed towards recurrent expenditure.

The Infrastructure Development Bank of Zimbabwe has not been able to make a significant contribution to housing development due to severe undercapitalisation. However, pension funds such as Old Mutual and the NSSA have capacity to provide significant assistance to low-cost housing initiatives due to their sheer size. This option can be pursued to ensure greater coverage of housing loan finance schemes.

#### *2.5.5 Employer-assisted housing*

In Zimbabwe, institutions that have played a significant role in providing housing for their employees include state-owned public enterprises and private corporations such as mining houses (e.g. ZIMPLATS) and banks. The housing initiatives have been in the following forms:

1. Employer housing which is either-rent free or subsidised.
2. Company loans, either to buy a house or to finance a down payment or a deposit. Banks played a significant role in providing housing loans to employees during the hyperinflationary era as a strategy of retaining key talent.
3. Company guarantees to assist an employee to obtain a building society loan.

4. Monthly housing allowances in the form of company housing to enable employees to buy or rent a house.

While government can encourage increased participation of employers in these housing development initiatives, this strategy bears greater fruit in a highly formalised economy.

#### *2.5.6 Infrastructure Development Bank*

The Infrastructure Development Bank of Zimbabwe was launched by the Zimbabwean government in 2005 as a vehicle for the mobilisation of infrastructure development in Zimbabwe, with finance from both domestic and international sources. The Bank's mandate is to mobilise financial and technical resources of appropriate duration and cost for public and private institutions involved in infrastructure development, including the facilitation of investment in affordable and decent housing.

However, since its inception in 2005, the Bank has been faced by funding constraints, hence it was not in a position to undertake any significant infrastructural development projects. With the advent of the multiple currency system in 2009, the Bank has managed to construct an estimated 4 000 new housing units at about US\$1-million across the country's urban areas, using seed funds from government and a development partner in China. Its major target clientele are the low- to medium-income earners. Plans for the near future are to build capacity to provide at least 2 500 new houses per year. The Infrastructure Development Bank of Zimbabwe is capable to undertake this as it has had vast tracts of land allocated to it by the government and has managed to mobilise external funding from external partners in China. The housing units being developed by the Bank cost between US\$15 000 and US\$20 000.

#### *2.5.7 The place of building societies*

The pre-requisite for any investment in housing is the accumulation of sufficient savings for purchasing land and developing the infrastructure and the superstructure, and granting mortgage loans for construction or purchasing existing properties for new home seekers. Government initiatives to encourage building societies to mobilise financing for loans to housing include the measure where the societies are allowed to issue 'Class C' tax-free, paid-up permanent shares. Government would then require that about 25% of the issued shares be used to finance low-income housing. Traditionally, building societies have provided up to 65% of housing finance. Building societies also provide capacity for onward lending of housing grants received by government from donor organisations.

The Building Societies Act (1996) specifically requires that candidates for loans should have an adequate income and collateral. Unfortunately, these requirements are difficult to prove, let alone meet, in the low-income segment of the population. Given the level of informal sector activity in Zimbabwe, these conditions mean that a significant portion of the low-income population is left out.

## **2.6 Concluding remarks**

The low market activity in Zimbabwe's urban land markets is a reflection of the country's economic performance currently (also see Chapter 5 for further discussion). In fact, land market activity is a proxy indicator of economic health, and it is therefore not surprising that the range of activity sustained by the economy is low at present. A broad range of measures are under way to revive the economy. The inclusive government has prioritised this since its formation. Government will continue to play a significant role in providing policy direction and an appropriate environment for investment to stimulate urban land markets. However, the funding role of government is not anticipated to remain significant as austerity measures are instituted to ensure macroeconomic stability. Employer-assisted housing initiatives are seen as having limited impact due to the current high level of informalisation of the economy and thus the low level of formal employment. The role of private financial institutions, private investors and initiatives for self-help or financing provide greater scope for development of housing infrastructure in Zimbabwe going forward. Funding will continue to be a critical component of the land and housing development markets, hence the need for initiatives to promote savings at all levels. Partnership with international development institutions is another avenue for augmenting local financing mechanisms.

### **3. Institutional actors, mandates and operational challenges**

#### **3.1 Introduction**

Zimbabwe has a set of institutions that operate in the urban land markets sector. These include state institutions (central and local government), private sector actors and civil society organisations (CSOs). Many of the CSOs work directly with the urban poor. For state actors, relevant founding legislation defines both their specific roles and operational structures. The operations of non-state actors are guided by legislation under which they are licensed or registered. Beyond such founding legislation or registration frameworks, it is important to acknowledge that the urban land market itself is governed by general rules to which the different actors have to adhere.

State institutions include Ministries and government departments, the Courts of Law, local authorities like the City of Harare and public enterprises. The main public agencies involved in urban land markets include the National Railways of Zimbabwe, the Urban Development Corporation, the Infrastructure Development Bank of Zimbabwe and the National Social Security Authority. Ministries and Departments are primarily responsible for regulating physical planning, surveying and the registration of property rights. The courts play an important function in the settling of disputes that occur in the urban land market sector.

Private sector actors occur in a variety of forms, and their functions in urban land markets include financing, developing land, conveyancing, property valuation and property management. As noted by UN-HABITAT and Urban LandMark (2010), such private sector actors include developers, investors, landlords, formal and micro-financiers, property professionals, private individuals and tenants.

For their part, civil society organisations range from community-based organisations to national non-governmental organisations that principally work with the poor to access land and develop residential and other spaces. This chapter discusses these different organisations' roles and relationships, and presents the kind of institutional overlaps, gaps and opportunities. The thrust of this scoping study was to interrogate how the actors in the urban land market are operating, focusing on their roles, capacities and constraints/opportunities. Further, the analysis examined institutional gaps that exist in the urban land market while also identifying sector partnerships, both existing and potential.

#### **3.2 State actors in the urban land market**

The key government departments in the urban land sector are the Department of Physical Planning (Ministry of Local Government, Rural and Urban Development), the Surveyor General's Department (Ministry of Lands) and the Deeds Registry Office (Ministry of Justice). Each of these institutions is responsible for implementing specific pieces of legislation as discussed elsewhere in this report. Worth noting is that these key departments are located in three different ministries, which in itself creates bureaucratic challenges in land administration.

In addition, there are local authorities whose functions are regulated by the Urban Councils Act. Further to the regulatory functions of the state, other functions include planning, surveying and pegging, property development and property registration. In essence, actors in Zimbabwe’s urban land market can be understood in terms of the roles of different institutions in the land development process. Such actors participate in the land development process as developers and investors, financiers (the banking sector), property professionals and private individuals (as landlords and tenants). The state completes the circuit with roles spread across the key functions of developer and regulator. Figure 3.1 summaries the framework for understanding actors in Zimbabwe’s urban land markets and the main functions they perform. Regulatory functions are principally state functions but there are private and civil society actors that perform regulatory functions, for instance to ensure that their members adhere to basic ethics. This is the case with the Estate Agents Council, the Valuers’ Council and the Lawyers’ Association of Zimbabwe for Estate Agents, Valuers and Lawyers.

**Figure 3.1: Actors in a simplified land development process**

ACTORS	FUNCTIONS						
	Land identification and acquisition	Land-use planning and demarcation	Land survey and pegging	Land servicing	Land transaction facilitation	Land rights registration	Superstructure designs, approval and construction
Central and local government	▪	▪	▪	▪	▪	▪	▪
Private land surveyors			▪				
Private land developers	▪	▪	▪	▪	▪		▪
Financiers/Investors	▪			▪			▪
Property professionals	▪			▪	▪	▪	
Civil society organisations	▪	▪	▪	▪			▪
Private individuals							▪

Source: Summarised from various documents

Not all actors perform the whole array of functions. The participation of actors in different stages of the land access and development cycle is a function of the national development framework, economic factors and specific sector approaches. For instance, constrained financial sector performance due to economic decline resulted in financial institutions not being active in the land markets for sustained periods in the last decade. The functions that individual actors perform result in specific outputs. In terms of land market performance, the critical outputs are:

- Land for urban development
- Master and local plans
- Layout designs
- Surveyed stands and plots (non-title surveys)
- Serviced stands/plots
- Building plans

- Actual buildings/superstructures
- Property registration documents (agreements of sale, lease agreements, etc).

### 3.2.1 *Local government actors*

Urban councils are key institutions with important functions in Zimbabwe’s urban land markets. The core functions of local authorities include land acquisition, planning, land development and actual construction. Urban councils are planning authorities in terms of the Regional Town and Country Planning Act. Their planning functions are centred on the preparation of master and local plans, development control and the subdivision and consolidation of land. Part IV of the Regional Town and Country Planning Act defines the powers of local authorities to prepare master and local plans. The Department of Physical Planning and Urban Councils have regulatory functions. This is particularly evident when executing development control functions and the subdivision and consolidation of land. A more elaborate discussion of these functions is provided in Chapter 4 of this report. Urban councils are also responsible for issuing rates clearance certificates, a key document required in the registration of property rights (see Chapter 7). The operational challenges faced by urban councils and the implications thereof for the performance of urban land markets are presented elsewhere in this report.

### 3.2.2 *Deeds Registry Offices*

Located in the Ministry of Justice, the Deeds Registry office has the exclusive authority to register rights in land. The Deeds Registries Act and the Deeds Registries Regulations (Rhodesia Government Notice No.249 of 1977) regulate the registration of rights in land through a system that requires the services of a Registrar as well as a Conveyancer in professional practice.

#### **Box 3.1 – Functions and duties of the Deeds Registry Office**

Broadly, the functions of the Deeds Registry Office involve registration of title in land, registration of mortgage and notarial bonds as well as relevant consents, waivers of preferences and any other documents pertaining to such bonds, cancellations of mortgage bonds and transfer of title, rights and interest in land.

Specifically, duties of the Registrar are outlined in Section 5 of the Deeds Registries Act. The Registrar of Deeds is mandated to, inter alia,

- Take charge of all records in the Deeds Registry.
- Examine deeds and documents submitted for execution or registration.
- Reject documents which do not comply with the law.
- Register notarial documents such as leases, trusts, notarial bonds, etc.
- Register mortgage bonds, cessions of mortgage bonds, waivers of preference, cancellations of mortgage bonds and all consents relating to mortgage bonds.
- Register titles deeds to land, as well as all grants or leases of land issued by the State, and register amendments, renewals and cancellations of such leases and releases of part of the land leased.

*Source: Government of Zimbabwe, Deeds Registry Act, 1996*

Section 3(1) of the Deeds Registry Act establishes Deeds Registries in two of the country's biggest cities, Harare and Bulawayo, each to serve its respective areas as outlined in the Schedule. In terms of the Schedule, any filing or registration of deeds or documents relating to a particular property is effected in the Deeds Registry of the particular area in which the property is situated. In essence, there is a highly centralised system of registering rights in land in Zimbabwe compared to the systems existing in neighbouring countries like South Africa, Namibia and Botswana.

### **3.3 Private sector actors**

The private sector is active in Zimbabwe's urban land markets as investors and developers of property, financiers of property development and property professionals. There are multiple legislative and policy frameworks that regulate these sub-sectors.

#### *3.3.1 Institutional investors and developers*

Zimbabwe's property investment sector is dominated by the activities of pension funds, life assurance companies and unit trusts. It is estimated that this group of institutional investors controls in excess of 85% of all property investments in the country (Kuipa, 2006). Among other forms of investment, the Pension Fund industry is expected to invest in property markets. The National Social Security Authority, a state body, is the biggest of all pension funds.

Institutional investors and land developers are generally expected to leverage off-site infrastructure development to ensure that more land becomes developable. A key constraint to the availability of developable land in Zimbabwe today is a shortage of bulk infrastructure (sewer and water) and trunk services like roads. A second function they are expected to play is to leverage resource availability, particularly for building societies, through participation in the secondary mortgage market.

However, economic and regulatory bottlenecks have seen institutional investors participating in stages of land development other than leveraging large-scale infrastructure development, not participating in the secondary mortgage market and basically not leveraging land availability. In some cases, big institutional investors like the NSSA have been directly involved in housing construction. Insurance companies and pensions funds handle large sums of money on behalf of policy holders. Unfortunately their participation in housing has been limited. A few of these, in particular Old Mutual, have handled housing schemes such as Westgate (Bluffhill) and Prospect Park in Harare. However, such schemes arose principally to support shopping centre developments that were initiated by the company.

In Zimbabwe, the roles of developers and investors are blurred. For instance, major property developers such as Old Mutual and the Mining Industry Pension Fund are also investors or owners of properties. This increases the risk of investing in the property market. Elsewhere in Southern Africa (e.g. South Africa), developers largely function as profit-takers who are in business of building and then selling almost immediately to investors, thus spreading the risk.

### *3.3.2 Financial institutions*

Financial institutions include banks and building societies which play a more direct and significant role in urban land markets. There are four building societies in Zimbabwe, and their functions include offering mortgage loans for the purchase of all types of properties. Other banking services offered (though of a limited nature) include savings, and fixed and share deposits. Further, building societies participate directly in the servicing of land and construction of properties which they hold as their own investments. The activities of these key investors in the property market have also suffered in the past decade. For instance, Kuipa (2006) has noted a sharp decline in investments in mortgage loans by building societies, compared to their non-core business activities. Thus, the banks and the Bank Survey 2005 Supplement (as quoted in Kuipa, 2006:5) reported that "...conditions [prevailing] at year end in 2004, where Building Societies' industry had only 19% of their asset base in mortgage, with the remaining 81% in non-core business, [are] unacceptable."

The broad range of private sector financial institutions involved in urban land markets include building societies, the Infrastructure Development Bank of Zimbabwe and some commercial banks. The IDBZ was created by government to finance housing and infrastructure development. In addition to direct participation in the development of housing schemes, the IDBZ also lends funds to developers and local authorities. The participation of financial institutions in the housing sector in particular has been limited due to perceived low returns.

### **3.4 Property professionals**

Property professionals, especially those involved in conveyancing, real estate and valuation are an integral component of urban land markets in Zimbabwe. Simply put, an urban land market is a forum where buyers and sellers of real estate 'meet' to transact. The meeting point of these parties may not be a physical place (like for instance, the Zimbabwe Stock Exchange), but can be used to describe the business transactions wherever and in whatever form it may take place. Estate and valuation agents are central in bringing together the different parties. The roles of estate and valuation agencies include finding buyers and sellers for properties, representing the interests of either or both parties, determining the value of properties for rental, sale or other purpose, managing properties on behalf of clients, negotiating transactions on behalf of clients (buyers or sellers), identifying property investment opportunities for clients (e.g. investment in existing or new properties) and organising land resources for property development projects. The role of estate agencies is therefore to bring parties together in the disposal of real estate and for valuation agencies to determine worth through the valuation of real estate interests.

The operations of estate agencies fall under the Estate Agents Council, while those of valuation agencies fall under the Valuers Council. Both bodies are statutory organisations created by Acts of Parliament – the Estate Agents Act and the Valuers Act, respectively. The preamble to the Estate Agents Act summarises the intentions of the legislation as, "To provide for the functions and powers of the Estate Agents Council; to provide for the registration of estate agents in Zimbabwe; to provide for the operation of the Estate Agents Compensation Fund; to regulate the keeping of

money held by estate agents on behalf of other persons; and to provide for matters connected with or incidental to the foregoing". The Estate Agents Council is the body that regulates the activities of the estate agents. It enforces the rules of conduct for the profession and ensures that estate agents have the necessary documentation that enables them to practice. To do so, estate agents need a Compensation Fund Certificate and a Certificate of Registration. At the time of undertaking the study, there were some 260 individuals and 130 companies registered as estate agents/agencies (from an interview conducted with the Estate Agents Council, February 2011). Professionals obtain a Certificate of Registration when they are able to meet two main conditions. The first is that they should write and pass the examinations set by the institution in one sitting. The second is that professionals should have a minimum of 3 years' work experience. All companies operating as estate agents are required to open a trust account. Audited accounts form the basis for the renewal of the Compensation Fund Certificate. In general, the Estate Agents Council works through its Secretariat, supported by different committees that cover areas such as finance, disciplinary issues, examinations and accounts review.

The Valuers Council, operating under the Ministry of Public Construction, was established in 1996 but only became operational in 2010.

In general, professionals in the estate and valuation sector admit that there are governance-related problems emanating from the misconduct of some professionals. Bogus estate agents continue to be a major cause of fraudulent property transactions. Such bogus organisations are in most cases not registered, and are known to charge lower property prices in order to lure clients (from an interview conducted with the Estate Agents Council, February 2011). With the offices of the Estate Agents Council located only in Harare, the organisation encourages members of the transacting public to check on the authenticity of particular estate agents by either contacting them telephonically or visiting their offices. In an effort to eliminate bogus estate agents, the Estate Agents Council on an annual basis partners with the police to inspect estate agents throughout the country. Some police officers are trained on what to look for when checking the authenticity of such practicing estate agents. Disciplinary measures taken against offenders include closure of companies operating illegally and banning guilty professionals from practicing. In 2009, four companies were closed for operating without being registered, while nine were closed in 2010 for the same reason (from an interview conducted with the Estate Agents Council, February 2011). The owner of one estate agency was deregistered in 2010 for faking title deeds to a property (ibid).

### **3.5 Civil society organisations**

Whereas central and local government institutions have worked to improve access to land by the urban poor, limited success has been achieved because of high planning and building standards, which have the effect of pushing the price of land beyond the reach of the intended beneficiaries. On their own, some sections of the poor have organised into cooperatives to facilitate access to land. The past decade has witnessed the formation of civil society organisations with the thrust of promoting access to land and other housing development resources by the poor. The principal initiatives identified in the context of this study include Dialogue on Shelter

for the Homeless People in Zimbabwe Trust, the Zimbabwe Homeless People's Federation, Housing People of Zimbabwe (HPZ), the Zimbabwe National Association of Housing Cooperatives and the Civic Forum on Housing.

### *3.5.1 Dialogue on Shelter*

Dialogue on Shelter is a registered Trust which was established over 10 years ago and works in alliance with the Zimbabwe Homeless People's Federation. It offers technical assistance to the Federation (which has at least 40 000 members nationwide) on matters of savings mobilisation, land negotiation processes with central and local government authorities, managing land development processes, the design and construction of houses, as well as supporting broader management of settlements and the social movement. Within and outside of Harare, the organisation has facilitated access to tracts of land and has supported construction processes, with a number of Federation members having graduated to become homeowners. Initially, Dialogue on Shelter was allocated land by the City of Harare in Crowborough and by central government in Dzivarasekwa. At the time of concluding this study, Dialogue and the Zimbabwe Homeless People's Federation, working in partnership with the City of Harare, were steering a city-wide slum upgrading programme funded by the Bill and Melinda Gates Foundation.

### *3.5.3 Housing People of Zimbabwe*

The organisation was established in the early 1990s to provide technical support to housing cooperatives. Its principal partner/client is the 100-member Zimbabwe National Association of Housing Cooperatives (ZINAHCO). Like Dialogue on Shelter, Housing People of Zimbabwe has transformed how both central and local government perceives housing cooperatives. In the process, members of the Cooperative have accessed land and developed housing estates in Harare and other local authority areas in Zimbabwe. The formation, registration and management of cooperatives is regulated under a Cooperative Societies Act. However, some cooperatives have been formed in recent years that do not comply with the rigorous pre-registration processes but still participate in the urban land market and undertake activities that influence both policy and practice in Harare and other urban areas.

### *3.5.4 Other housing cooperatives*

In addition to cooperatives that are affiliated to ZINAHCO and work with Housing People of Zimbabwe, there is a host of other housing cooperatives, formal and informal, in Zimbabwe that have successfully accessed urban land and developed housing. Most are community-based while some are work-place-based.

### *3.5.5 Civic Forum on Housing*

The Civic Forum on Housing is a coalition of local and international development organisations active in the housing sector. The Forum has a Secretariat and convenes meetings to deliberate on issues in housing.

### **3.6 Analysis of institutional gaps**

The above section has shown that actors in Zimbabwe's urban land markets are largely formal. Based on the overall assessment, there are limitations to the operation of the sector as a whole. First, the study reveals that there is no publicly available information on property transactions. Secondly, and related to the above, there is no readily available information on land delivery that can be obtained. This limits the understanding of land supply functions of urban land markets. Thirdly, the centralisation of property registration information is not only an inconvenience to the transacting public, but a major cause of fraudulent property transactions. The fourth limitation is that research on land markets is almost non-existent, limiting the level of understanding of problems and conceptualisation of solutions.

#### **3.6.1 Unavailability of public information on land transactions**

A major limitation of estate and valuation agencies is that they are private entities whose operations fall outside of the domain of public companies which are required to publish performance results. Thus the real estate sector is characterised by the unavailability of information that should be publically available. It is not possible to obtain information such as volumes of trade, value of transactions, trends in property transactions, etc. from these firms. Although some of the information can be sourced from the Deeds Registries office, it is very difficult collating such information. A private firm which in the past compiled monthly information on all properties transferred by the Registrar of Deeds, covering details such as property description, land size and selling prices, does not do so anymore. Such information was of immense value to property industry practitioners, as it enabled them to compare selling prices. Further, the comparison method of valuation which is commonly used relies heavily on having access to information on similar properties that would have been sold on the market. The absence of such critical information acts as an obstruction to the smooth functioning of urban land markets.

#### **3.6.2 Collation of land delivery information and management of information**

Based on challenges faced by the authors of this study, in particular around the content of Chapter 5, it is evident that information on land delivery remains scattered and largely unusable for policy formulation and academic discussion. This particular study experienced great difficulty around sourcing such information, and had to obtain individual layout plans from the appropriate local authorities in order to collect information on land delivery. Thus, land supply can only be estimated from information collected on a layout-by-layout basis, methods which are by definition less accurate and labour intensive. Such information is also crude in form and difficult to analyse. In this regard, there is a gap in terms of how local authorities operate. Thus, the compilation and collation of land delivery information from approved layouts is a missing component in Zimbabwe's urban land markets.

#### **3.6.3 Centralisation of land administration in Harare and Bulawayo**

As discussed elsewhere in this report, the Deeds Registry has offices only in Harare and Bulawayo. This makes land registry information generally inaccessible to all users outside of the biggest cities in the country. The cost of doing business also

increases for those living outside of these two cities as a result of the costs associated with having to travel to either of the two registry offices to check on key documentation before transacting. Some experts believe that failure of the Deeds Registry office to decentralise is aiding the escalation of fraudulent property transactions, as transacting professionals may choose not to travel to either Harare or Bulawayo to check on the authenticity of property documents before transacting.

#### *3.6.4 Loss of institutional memory*

A common feature of state institutions in Zimbabwe is that they have been functioning at sub-optimal levels for a long time. In addition to losing experienced personnel, many such institutions no longer maintain efficient systems of record-keeping, leading to a loss of institutional memory on a large scale. During the course of this study, it became evident that some key policy information was no longer available at the offices of such institutions. A typical example is the policy on parallel development, where the policy instrument had to be retrieved from the home of one of the officers working for the City of Harare as there was no copy available at the office. Property professionals interviewed during the course of this study also made reference to the misfiling of records at the Deeds Registry office.

#### *3.6.5 Research and documentation on urban land markets*

As indicated earlier, this study has established that the topic of Zimbabwe's urban land markets is greatly under-researched. Literature on urban land markets is scarce and no publications on such issues could be identified. Given the decline of service delivery in state institutions, no annual reports from government departments could be found. As such, there is a severe lack of information on key aspects of the performance of urban land markets.

### **3.6 Concluding remarks**

This chapter has shown that a wide range of institutional actors exists in Zimbabwe's urban land markets. In general, each group of institutional actors operates under a specific legal framework. There is no active forum that brings these groups of actors together to discuss common issues that affect the functioning of urban land markets. As already discussed, institutional gaps exist as well, with nobody bearing responsibility for some important functions.

## **4. Interrogating the Planning Framework and its impact on urban land markets**

Cities in the developing world are faced by pressures linked to rapid demographic changes, rapid urbanisation and increasing informality, climate change, the failure of market-based approaches to various aspects of urban development and challenges related to governance at the local level (UN-HABITAT, 2010). At the same time, planning and development standards operational in most of the developing world are based on the experience of developed countries, and hence are generally not affordable to the majority of residents (ibid). Zimbabwean cities and towns are no exception. In addition, most of the country's urban areas face acute problems of ageing infrastructure. Planning interventions are best placed to assist cities and towns respond to such pressures in a manner that is sensitive to the needs of the poor.

Within the context of urban development and city management practices in Zimbabwe, the planning framework determines the performance of urban land markets. In particular, land delivery is largely an outcome of the planning process. The key actors in the planning process are urban councils (local authorities) and the Department of Physical Planning (central government), which fall under the Ministry of Local Government. The ability of these key institutions to make sound plans impacts on land provision and hence affects urban land markets. The major planning functions include the preparation of Master and Local Plans as defined in the Regional Town and Country Planning Act, undertaking development control functions as prescribed by Part V of the Act and the regulation of subdivision and consolidation of land. The impact of this planning framework on urban land markets is expressed through land-use planning/zoning and the implementation of planning standards.

### **4.1 Preparation and implementation of Master Plans**

In terms of Part IV of the RTCP Act, urban local authorities have the power to prepare Master and Local Plans. If for some reason (e.g. lack of capacity) they fail to discharge this function, the Minister of Local Government, through the Department of Physical Planning, is empowered to prepare such plans on their behalf. This is provided for under the Default Powers of the Minister as stipulated in section 70(1), Part XI of the RTCP Act. Zimbabwean urban areas with Master Plans include Bulawayo, Harare, Gweru, Mutare, Kwekwe, Chegutu, Redcliff, Kadoma, Masvingo and Marondera. In essence, Master and Local Plans map the general direction of development through land-use zoning. In addition, such plans identify the critical infrastructure required to support development and possible sources of funding. Local Plans are more detailed in nature, providing specific development parameters like stand coverage, building heights, floor area factors, building lines and the range of stand sizes. When properly articulated, proposals in Master and Local Plans can facilitate innovative solutions to, for instance, affordable housing backlogs through the demarcation of smaller stand sizes and the development of cluster houses. Intensification and densification of settlements are other avenues that can be used

as a solution to affordable housing problems. A case in point is Harare's Waterfalls-Hatfield Local Development Plan, which promotes such initiatives, and the Harare Combination Master Plan policy on housing and land delivery, which emphasises intensification / densification and the use of septic tanks and soak-aways.

However, there are challenges to the implementation of Master and Local Plans. A major drawback is that there are always delays in their preparation and final approval, which slow down the release of land onto the market. For example, Harare's Southern Incorporated Areas Local Plan took many years to be approved, compromising its potential to release housing stands at scale. More importantly, once in place, Master Plans take long to be reviewed, a situation that often results in such plans being outdated and proposals being overtaken by events. For example, the Mutare Master Plan took more than five years to prepare, and was meant to be operational for up to 10 years, with its critical assumptions and major projections based on the premise that they would be in force up to the year 2000. Yet the Mutare Master Plan remains operational more than 10 years later, and the process towards reviewing it has only just started. Meanwhile, some of the Master Plan's provisions have been overtaken by other events and processes, and in particular policy changes by both central government and the Municipality of Mutare. In this regard, policy changes in housing and planning standards and development financing are no longer in sync with some of the Master Plan's provisions. Such challenges are common in all cities with Master Plans.

The successful implementation of Master and Local Plans is premised on certain assumptions. If such key conditions are absent, the significance of Master Plans in influencing land delivery processes is diminished. The Harare Combination Master Plan is a case in point. The plan identified land for development through densification and southward expansion towards Chitungwiza. It also identified critical infrastructure needed to support such development. In particular the upgrading of Furle and Crowborough (Sewerage) Treatment Works and Selby Treatment Works were a critical requirement that would enable more land to be serviced and delivered onto the market. However, the lack of a coordinated framework between planning and implementation created bottlenecks for housing land provision. Ultimately, Council and central government did not have the funds to upgrade treatment facilities or construct new treatment infrastructure. Thus land identified for new development (e.g. in the Southern Areas Local Development Plan and parts of the Waterfalls-Hatfield Local Plan) remained undeveloped for some time due to lack of infrastructure.

#### **4.2 *Town planning schemes***

Criticism has also been levelled against operative Town Planning Schemes, with many housing/property developers and practitioners stating that their rigidity is a hindrance to the quick release of land onto the market. In general, such criticism has merit, especially in relation to three main aspects – land temporarily restricted from development, generous stand size provisions and the lack of provision for the development of cluster houses. Even though the existing Town Planning Schemes control development only in certain parts of the City of Harare, especially the affluent northern suburbs and some of the eastern and western sections of the city;

where the town planning schemes do operate, there is restricted supply of land, prices are high and the poor are excluded.

During the 1950s when most Town Planning Schemes in Harare were prepared, prime land for development was in abundance and a lot of land that now is viewed as developable was classified as 'Land Temporarily Restricted against Development'. The critical assumption was that such land would be developed in the future with the appropriate technology and under the right circumstances. The schemes do not clearly provide the conditions and procedures for releasing such land and in practice this might entail preparation of Local Development Plans or lodging a Special Consent application, processes which are lengthy and often lead to delays in releasing land onto the market.

In general, most Town Planning Schemes are generous in the stand sizes provided for, with some land now within the City boundary still being zoned as 'Rural Agriculture' (for example, some land north of Vainona and Borrowdale is currently zoned 'Rural Agriculture', with stand sizes ranging from 1 acre to 1.6 hectares). This contradicts the Densification Policy advocated in the Harare Combination Master Plan which was approved in 1994. Further, international debates are promoting urban planning approaches that produce compact cities (UN-HABITAT, 2010). For such land to be released onto the market, Local Plans have to be prepared (as is the case at the moment for the Avondale, Marlborough, Mount Pleasant, Greendale, Borrowdale and Vainona areas). On average, such plans take five years to prepare, causing costly delays in property development. It is clear from the above observation that Town Planning Schemes are not responsive enough to development imperatives on the ground.

In Harare, cluster housing development has been undertaken in recent years targeting the middle class in areas like Greendale, Hatfield, Mount Pleasant and Borrowdale. Existing Town Planning Schemes do not provide for cluster housing as a use; however, Special Consent procedures are often applied when processing applications for cluster housing developments. As already argued, the process is a lengthy and costly exercise, and it also limits the number of units that can be constructed and released into the land and housing market.

### **4.3 Development control and planning standards**

Development control and the enforcement of planning standards determine, amongst other things, the use of land and the cost of developing the land. In the end, the price of land and any improvements on it reflects the cost associated with compliance with development conditions and the enforcement of planning standards. Part V of the Regional Town and Country Planning Act empowers local authorities to monitor and control development in their areas of jurisdiction. Development control is based on the various statutory plans (e.g. Master and Local Plans, and Town Planning Schemes) controlling development in an area. As indicated above, Master and Local Plans define planning policies and proposals in relation to zoning, development density and use mix (from 'freely permitted' through those permitted by 'special consent' to those that are 'prohibited'). Further, such policies

and proposals relate to bulk infrastructure provision (water, sewer and roads), financing mechanisms, and phasing and implementation of the various proposals.

Based on appropriate land use zoning, some development is freely permitted, requiring only development permits to be issued before development takes place (i.e. after approval of building plans). However, there are also provisions for undertaking development that is not ordinarily permitted in a zone, subject to certain conditions being met. In this context, section 26(3) of the Regional Town and Country Planning Act provides for special consent procedures, whereby such development proposals are lodged with the authorities and then advertised in the press, with adjacent property owners being directly notified. When the consultations are conducted, a final decision is made by council for either approval or refusal.

There is an increase in cases where development takes place in Zimbabwe's cities without the necessary planning approvals being obtained. Indeed, the conditions that the Cleanup Campaign of 2005 sought to eliminate was characterised by illegal settlements and structures. In dealing with such illegal developments, there are two options provided by the Regional Town and Country Planning Act. The first relates to regularisation of illegal developments as provided for under section 27, while the second option is to implement sections 33-35 of the Act that sanctions the issuing of enforcement and prohibition orders, and up to demolition of property, as was the case under the Cleanup Campaign.

Planning standards, either as stated in Master and Local Plans or in Policy instructions, are an integral part of development control. Planning standards cover a wide range of issues, with the key areas being building heights, stand coverage, building lines, area factors, stand sizes and minimum subdivisions permitted in each zone. In some cases specific building materials must be used, while the type of road finishes can also be defined. As a general rule, high planning standards increase the cost of servicing and building of infrastructure. Thus for instance, the requirements that every road should be surfaced, every stand accessed from an access road and connected to a water supply, and that either a septic tank or connection to a reticulated sewer system must be available inevitably push up the cost of developing the land. Effectively, this reduces the participation of the poor in urban land markets.

In general, there has been widespread criticism of Zimbabwe's planning standards. The Regional Town and Country Planning Act and the Housing Standards Act have been criticised for setting unrealistically high standards of servicing and infrastructure development (UN, 2005). "The norms and standards contained in these Acts, which were applied by the colonial regime as instruments of apartheid, include individual connection to water supply and water-borne sewerage for high-density, low-income neighbourhoods. Water-borne sewer systems, which are particularly costly to build and maintain, are... unrealistic in the present economic circumstances ...similarly, the prevailing building codes and standards are also unrealistic and exceed standards currently used in several developed countries" (UN, 2005:25).

In the light of such criticism, government took measures to lower some of the standards over time. Circular No 70 of 2004 from the Ministry of Local Government, Public Works and National Housing provided a new set of planning, housing and

infrastructure servicing standards. The overall thrust was to reduce the cost of building and thereby improving on affordability. It is in this context that stand sizes for low-cost/high-density housing were reduced from between 150 m<sup>2</sup> and 300 m<sup>2</sup> to between 70 m<sup>2</sup> and 200 m<sup>2</sup>. The new stand sizes for middle-income/medium-density housing now range between 300 m<sup>2</sup> and 500 m<sup>2</sup>. For high-income/low-density housing, stand sizes now range between 800 m<sup>2</sup> and 2 000 m<sup>2</sup>, with the larger of these stands being reserved for areas with on-site sewage disposal. The thrust with the reduced stand sizes was to promote densification, an important policy provision in the operative Master and Local Plans. A summary of the new set of standards is outlined in Box 4.1

**Box 4.1 – New national housing standards for urban areas**

PARAMETER	PERMITTED STANDARDS
Stand sizes	70 m <sup>2</sup> - 200 m <sup>2</sup> for high-density housing
	300 m <sup>2</sup> – 500 m <sup>2</sup> for medium-density housing
	800 m <sup>2</sup> – 2 000 m <sup>2</sup> for low-density housing
Building lines	For high-density housing, one metre from the side boundary, 3 metres from the front boundary and 2 metres from the rear boundary. For medium-density housing, 5 metres from the front boundary, 2 metres from the side boundary and 3 metres from the rear boundary. For low-density housing, 5 metres from the front boundary and 3 metres from all other boundaries.
Road width	District distributors (main internal traffic routes) to be 20-25 meters. Primary distributors (major regional through roads) to be 25-30 meters All stands shall have direct access. Access roads to be 8 meters in high-density areas, 10 meters in medium-density areas and 12 meters in low-density areas.
Infrastructure, roads and storm water drainage Infrastructure, water supply	Access roads in high-density areas must be appropriately gravelled, all roads shall be surfaced in medium- and high-density areas. In high-density areas, all stands shall be connected to a reticulated water supply network, with communal stand pipes allowed as temporary measures.
Infrastructure, sewerage	In high- and medium-density areas, all stands to be connected to reticulated sewer. In low-density areas, subject to soil suitability, stand sizes above 1 200 m <sup>2</sup> shall have on-site sewage treatment, while stands on active soils and those below 1 200 m <sup>2</sup> shall be on reticulation sewer.
Housing construction in high-density areas	The minimum room size is 6 m <sup>2</sup> , down from 7 m <sup>2</sup> . Walls shall be constructed of burnt clay bricks/blocks, cement bricks and stabilised soil bricks. Burnt from bricks or other approved material can be used for building single storey buildings. Floors shall have a grano finish. Roofs shall be made of asbestos sheets, clay tiles, zinc. The thickness of external walls is to be a minimum of 115 metres.

Source: Summarised from Circular No. 70 of 2004, Ministry of Local Government, Public Works and National Housing

In addition to the above-mentioned guidelines, the Ministry of Local Government, Rural and Urban Development in 2006 recommended that local authorities adopt the policy of "Parallel Development", which allows housing construction to proceed simultaneously with the servicing of stands. It is against this background that the Environmental Management Committee of the City of Harare, then led by the unelected Harare Commission, allowed parallel development for major estate development by cooperatives. It was not possible, within the context of this study, to establish the extent to which other local authorities have reacted to the recommendations.

The review of planning standards is generally perceived as a positive step by government. However, fears in some circles remain that some of the described actions were motivated more by political than technical imperatives. For instance, some of the beneficiaries of the post-2000 period were allocated large-sized stands of 2 000 m<sup>2</sup> which are expected to be serviced by septic tanks and soak-aways, effectively flouting the new, revised standards. Moreover, most of the beneficiaries are poor residents who cannot finance the servicing of such stands. In Harare, the specific housing schemes affected are Stoneridge, Eyecourt and large parts of the southern incorporated areas. The long-term status of such schemes remains unclear. The uncertainty is further fuelled by a widespread perception that beneficiaries were encouraged not to erect permanent structures (from key informant interviews conducted with beneficiaries, January 2011).

In general, the adjustments to planning standards are still considered inadequate. Even the state-organised Second National Housing Convention of 2009 criticised the planning framework as not being responsive to the current housing requirements in the country. The process of preparing Master, Local and layout plans is seen as being cumbersome and time-consuming (GOZ, 2009), while Development Control processes are described as very rigid, with the approval of building plans taking too long. In addition, infrastructure standards that dictate that residential areas must have roads, sewers, reticulated water and storm water drainage before construction are considered inappropriate in the current situation and stalling the delivery of land for low-cost and low-income housing.

#### **4.4 Subdivision and consolidation of land**

New land becomes available on land markets as stands or plots for development following the subdivision of original parcels of land. Part VI of the Regional Town and Country Planning Act provides for the subdivision and consolidation of both private and public sector land. The subdivision of such land is through the preparation of layout plans by either by the Department of Physical Planning, urban local authorities or private town planning professionals. The subdivision of privately owned land is governed by section 40 of the Regional Town and Country Planning Act for either development that is freely permitted or that which is permitted through special consent (Section 40(3)). An important provision in the subdivision of private land is the setting aside of land for public use and the payment of endowment fees to the relevant local authority. Section 43 of the Act provides for the subdivision of state land, a process that is done by the Director of Physical Planning.

In terms of the Regional Town and Country Planning Act, for one to lodge an application for a subdivision, one has to either be the owner of the property, an agent of the owner or have the owner's consent in writing. Once the relevant subdivision forms have been completed and the application fees paid, the processes of consultations (with Council departments and other statutory bodies like ZESA, PTC, etc.) begins. If it is a subdivision that requires Special Consent, then the necessary advertisements are lodged and notifications of adjacent property owners done. Normally a subdivision application should be determined within four months unless an extension of time has been sought and granted by the Local Planning Authority. In practice, this is seldom the case.

A unique challenge was faced with the planning of land that was acquired for urban development in the post-2000 period. This land was once privately owned but has been acquired by the state through the Fast Track Land Reform Programme, as the private owners were unable to submit the required title deeds of the properties they had acquired. In the initial phases, Local Planning Authorities were hesitant to approve layouts prepared by the new beneficiaries in terms of Section 40 and such layouts had to be referred to the Department of Physical Planning for determination in terms of Section 43 of the Act. This put the department under immense pressure, both in terms of lack of capacity to approve such plans as well as lack of clarity on how to deal with such layouts in the first phases of the land acquisition. For example, layouts that were approved in terms of Section 40 (Council) for the Eyercourt Housing Development were later sent for approval in terms of Section 43 (to the Department of Physical Planning). This created delays in land delivery as well as additional costs in engaging consultants to prepare such plans.

In general, the whole process of layout approval is cumbersome and bureaucratic (there is no 'one-stop-shop' facility for layout determination). For instance, a single layout has to be commented upon by no less than eight departments in the City of Harare. If the layout is bigger than 250 stands, the Department of Physical Planning has to be consulted. This adds to further delays in approval. This is even worse when the application involves Special Consent processes where some land owners can object and stall the process.

The process of layout preparation and approval assumes that the planning authorities have the necessary capacity to assess and approve such plans. In the current circumstances this is not the case, as the Councils or Department of Physical Planning have lost experienced personnel. This leads to delays in the processing of the applications. For instance, an application in Chitungwiza with more than 15 000 stands was lodged with the Department of Physical Planning in 2009. It is nearing approval now in 2011. This puts pressure on the local authority which has a long housing waiting list. However, given the large-sized nature of this particular layout plan, it can be argued that the time taken was, in fact, relatively short.

#### ***4.5 Importance of reviewing planning legislation***

As discussed in preceding sections, the planning framework has incrementally responded to some of the challenges faced by Zimbabwe's cities and towns. However, it seems as if more still needs to be done to make planning more effective

in addressing the challenges associated with rapid urbanisation, climate change-related challenges, informality of settlements, urban poverty and improving the governance of cities.

In many respects, the planning framework has remained static. A case in point is the requirement for public participation in connection with the preparation of Master and Local Plans. Sections 15 and 18 of the Regional Town and Country Planning Act require that Master and Local Plans be put on a public exhibition for a period of two months at designated places. During the exhibition period, members of the public are expected to make physical visits to places where the plans are on display and make their representations, if any. In general, this method of promoting public participation is not convenient to the public, as one has to make a physical visit and representations after a 'short' browsing of the document.

The poorer sections of society barely get the opportunity to make representations. In the new world order where technological advancements have improved the public's access to information, it remains long-overdue to review the planning legislation to allow public participation through multiple fora that include internet and email. UN-HABITAT (2010) made a strong case for improved participation in the planning process. It advocates "putting in a legal basis for local politics and planning that specifies how the outcomes of participatory processes will influence plan preparation and decision making, ensuring that local governments have significant responsibilities, resources and autonomy to support participatory processes, ensuring commitment of government and funding agents to resource distribution in order to support implementation of decisions arising from participatory planning processes, making sure that participation has concrete outcomes and enhancing the capacity of professionals in terms of their commitment and skills to facilitate participation, provide necessary technical advice and incorporate the outcomes of participating into planning and decision making" (UN-HABITAT, 2010:ix).

In addition, other sections of the Act such as Section 1 that deals with regional planning have remained dormant for several decades. In this regard, a review of the planning legislation with a view to improving, inter alia, efficiency in implementation and the significance of public participation in the planning process is now required. More importantly, space needs to be created to enable the participation of the urban poor in planning processes. These issues are also addressed in Chapter 8 that proposes a five-year programme on urban land markets in Zimbabwe.

Climate change-related challenges are practical problems faced by cities and towns world-wide. Planning provides some of the greatest opportunities for making cities and towns adapt to climate change through the establishment of green infrastructure, expanding on small-scale energy and water systems and the promotion of local economic development (ibid). It is important for Zimbabwe's planning tools, especially planning legislation and tools like Master and Local Plans, to incorporate appropriate measures to mitigate climate change-related impacts. As discussed elsewhere in this report, informal settlements in Zimbabwe are at different stages of re-planning and thus it is the opportune time to incorporate measures that mitigate climate change-related challenges. Through the lowering of planning standards and permitting the construction of gravel roads, the state has moved in the right direction in reducing the carbon footprint associated with tarring

of roads. What remains missing is the adoption of development methodologies that benefit the poor. A typical example is the adoption of labour-intensive methods for constructing gravel roads to allow local economic development that benefits the poor in informal and upcoming planned settlements.

#### **4.6 Concluding remarks**

This chapter has argued that Zimbabwe's planning framework plays an important function in delivery of urban land for development. Through planning for high-density areas, the planning framework makes an attempt to plan for the poor. Significant steps have been made to reduce planning standards to allow the poor the opportunity to develop affordable housing. However, there is still a need for more proactive initiatives that benefit the poor. The current end-result is that the planning framework inhibits access to land by the poor because of high standards, delays in approvals and implementation, and outdated planning theories. More positive policy interventions are still required. Further, there is a need for more creative ways of making land markets work better for the poor. For instance, the use of land donated through endowment can be reserved for the ultimate benefit of the poor. The development accounts operated by the local authorities can also target the poor for infrastructure development. A major weakness is that the planning framework does not exclusively define who the poor are, and neither are there any elaborate procedures that guide the selection of the poor.

## **5. Performance, challenges and shortcomings of urban land markets in Zimbabwe**

This chapter presents findings on the performance of Zimbabwe's urban land markets. It presents data, albeit sometimes limited, on land and housing delivery in Harare. As indicated earlier, it was not possible, within the context of this study, to provide a national picture on the status of land and housing delivery in Zimbabwe's urban centres. The chapter shows that within a restrictive planning framework and a depressed economy, land and housing delivery have continued to under-perform, missing policy targets and failing to meet demand. On the surface, the situation seems to have improved, however, with land acquisition under the Fast Track Land Reform Programme. The state is emerging as the dominant player in the delivery of land. Admittedly, the data presented on land delivery are biased towards the housing sector; however, this should not be a cause of concern, since the sector constitutes the dominant land-use in Zimbabwe's urban centres. The chapter addresses issues relating to formal land markets. A discussion on the performance of the real estate sector is included, focusing on both land and property sales and the rental market. Further, this chapter presents findings on the nature and causes of disputes in Zimbabwe's urban land markets.

### **5.1 *Land and housing delivery in Zimbabwe's urban land markets***

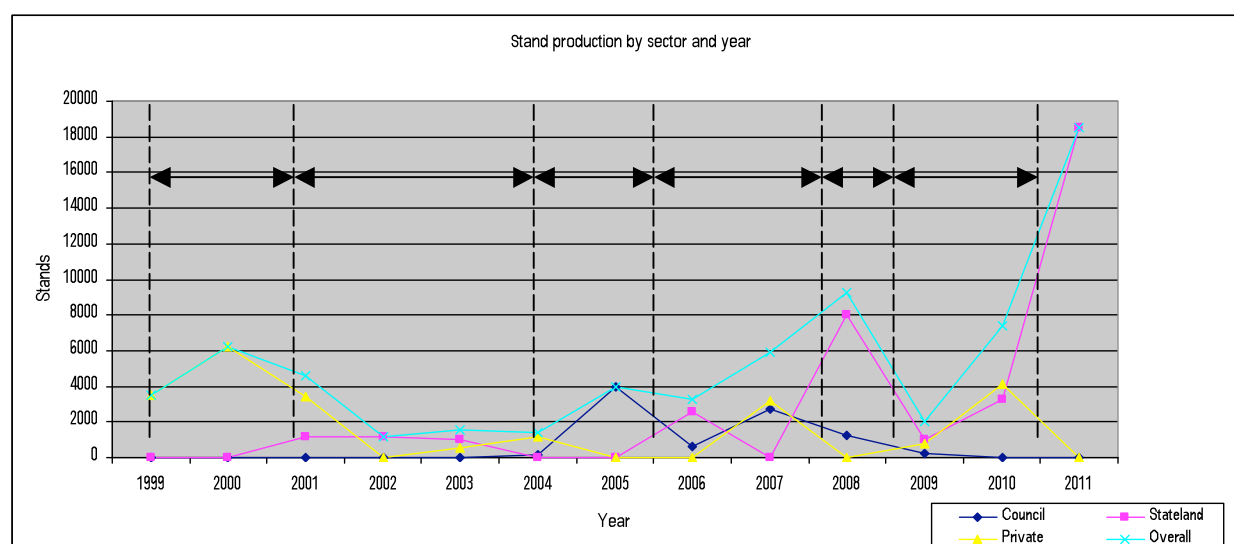
Data on land delivery are based on information collected on the major layout plans implemented in the City of Harare for the period 1994 to 2011, and direct observations on the ground. Small layout plans, especially infill developments and Special Consent Permits (for cluster housing and other smaller subdivisions) by individuals are not represented in the figures discussed in this section. Table 5.1 shows the trends in the production of residential stands in the City of Harare, with the graphic trends presented in Figure 5.1. The study discusses the performance of land delivery in Harare according to defined periods and attempts to give possible explanations for the patterns shown in Figure 5.1.

**Table 5.1: Stand production by sector by year**

Year	Council	State land	Private	Overall
1999	0	0	3 500	<b>3 500</b>
2000	0	0	6 250	<b>6 250</b>
2001	0	1 200	3 400	<b>4 600</b>
2002	0	1 200	0	<b>1 200</b>
2003	0	1 000	550	<b>1 550</b>
2004	172	0	1 200	<b>1 372</b>
2005	3 963	0	0	<b>3 963</b>
2006	639	2 600	0	<b>3 239</b>
2007	2 731	0	3 200	<b>5 931</b>
2008	1 238	8 000	0	<b>9 238</b>
2009	197	1 000	800	<b>1 997</b>
2010	0	3 300	4 100	<b>7 400</b>
2011	0	18 500	0	<b>18 500</b>
<b>Total</b>	<b>8 940</b>	<b>36 800</b>	<b>23 000</b>	<b>68 740</b>

Source: Compiled from City of Harare Layout Plans

**Figure 5.1: Stand production by sector and year**



Source: Compiled from City of Harare Layout Plans

Residential stand production experienced four peak periods, namely around 2000, around 2005, around 2008 and in 2011. The peak periods were dominated by different actors, with the private sector being more active around 2000, Council being more active around 2005 and the state being the dominant actor after 2005. Performance was lowest in 2002, 2003, 2004 and 2009. Whilst there are no clear explanations for such trends, the following reasons could possibly explain the above phenomena. During the 1990s and around 2000, Council and the state did not own much land in the City, since most of the land earmarked for urban expansion was privately owned and indications are that there were protracted negotiations with land owners over selling prices (City of Harare, 2002). Added to this, there was no money for servicing what Council and state land was available, and thus it could not be sold for development. Given this background, the private sector was the

dominant player in the supply of land. The land available during this time was meant largely for the high- and middle-income groups who had the means to participate in land transactions, thereby elbowing out the low-income group (see image 5.1 for typical projects financed by the private sector targeting the middle-income group). Stand production was low during the period 2001 to 2004, which was the time when the land occupations of the post-2000 period were at their peak. This possibly affected land delivery, as key actors were still adjusting to the realities of the new economic circumstances.

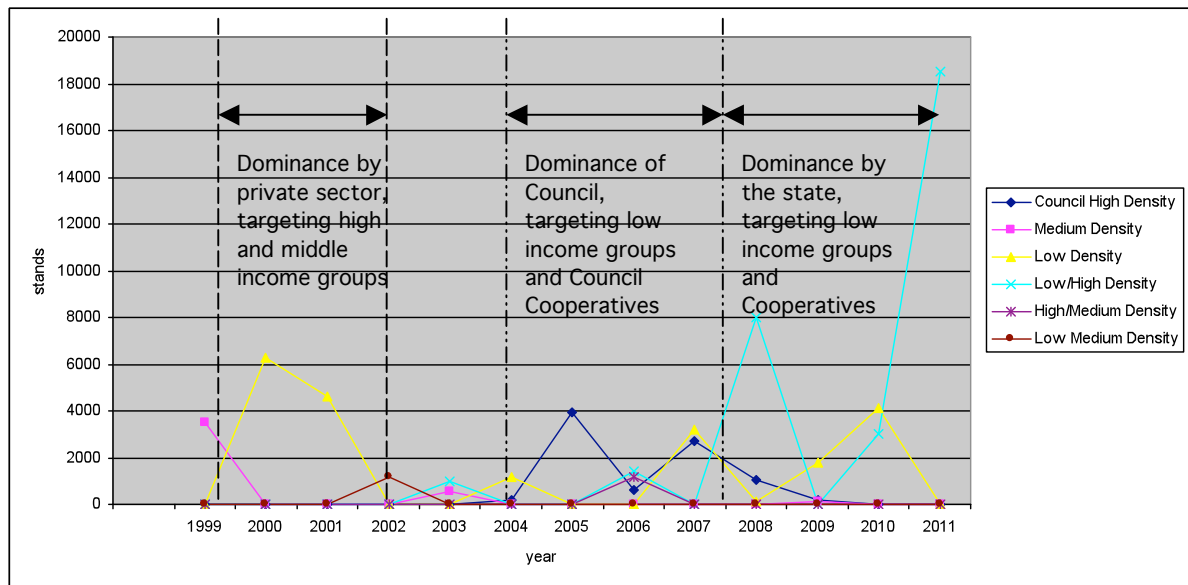
Reacting to the demand by low-income groups, Council embarked on several infill housing projects, mostly in high-density areas like Kuwadzana and Mufakose, Warren Park and Budiro suburbs from 2004 to 2006, which were especially earmarked for low-income housing cooperatives (see image 5.2 for a typical low-income Council housing cooperative in Kuwadzana Phase 3). Still, the supply of land was low, and given the economic hardships in the periods around 2006 to 2008, private sector participation in stand production declined significantly. From 2006 onwards, the state became the dominant actor in the supply of land. Two factors contributed to this – the ‘conclusion’ of the land acquisition process and the relaxation of the stringent planning and building standards as evidenced by the 2004 reform of planning standards and the 2006 Parallel Development Policy (see also the discussion in Chapter 4, section 4.3). However, it is not clear if land allocation by the state targeted the poor. Figure 5.2 summarises the performance of stand delivery by income group during the study period.

Image 5.1: Mainway Meadows medium-density housing development in Waterfalls, Harare



Source: Google Images

**Figure 5.2: Stand delivery by different income groups**

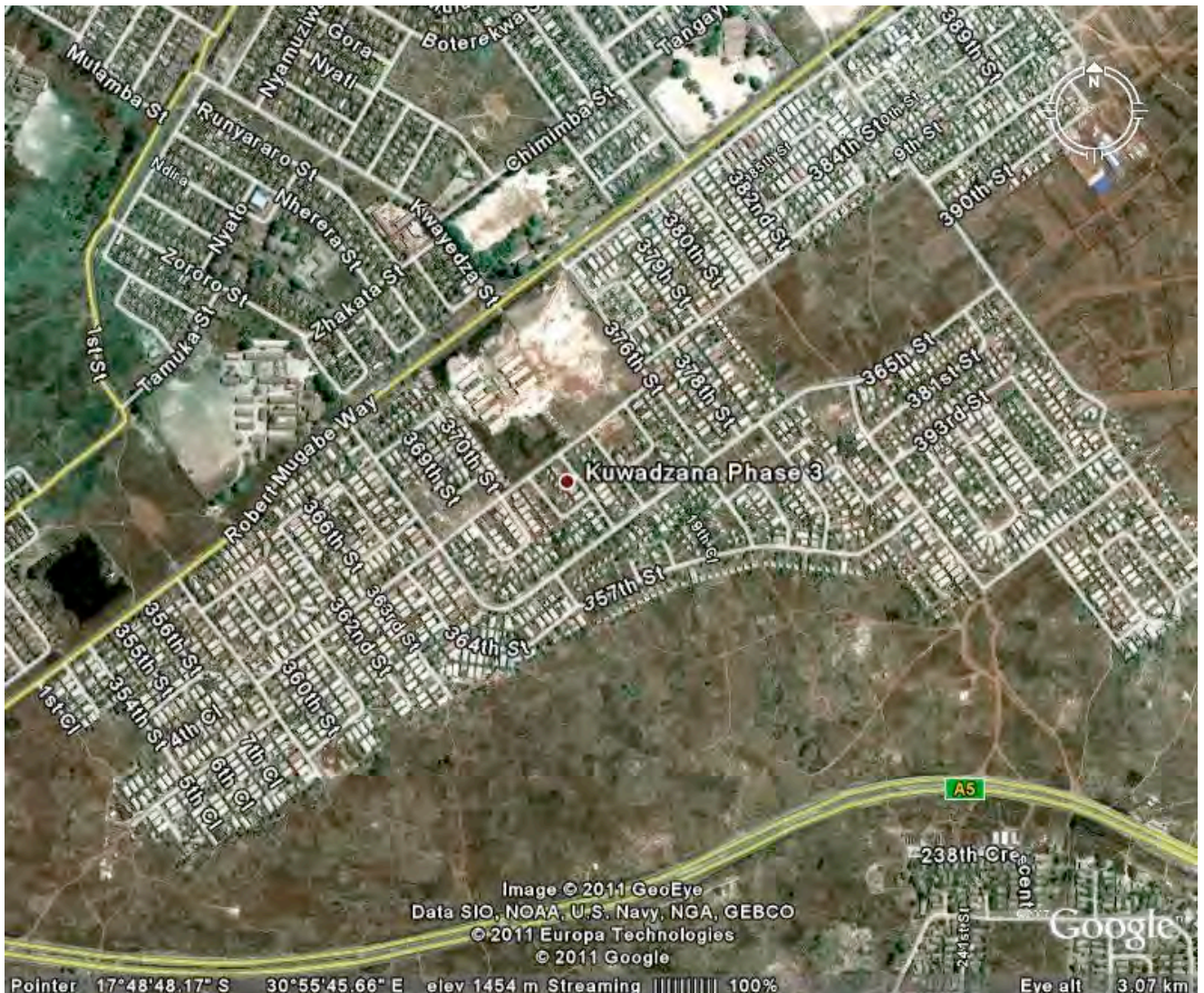


Source: Compiled from different layouts (Harare City Council)

In summary, the key actors involved in land delivery during the period discussed were central government, the Harare City Council and private developers. Table 5.1 shows that a total of 68 740 residential stands were released onto the market. Central government released 36 800 stands onto the market, which constituted 53% of the total land delivered, while the Harare City Council contributed only 13% and the private sector produced 33%.

From the available statistics, it seems as if the state is increasingly becoming the major source of land supply to Zimbabwe’s land markets, while the role of the Harare City Council has diminished in importance. By and large, the situation is explained by central government’s acquisition of peri-urban farms under the Fast Track Land rReform Programme, many of which were located in the urban and peri-urban areas. These farms were planned, demarcated and allocated by the state, hence the significant role of central government in land delivery.

Image 5.2: Kuwadzana Phase 3 low-income / high-density housing development project



Source: Google Images

The discussion on land delivery (the supply side) and its impact on land markets needs to be placed in the context of demand for land. In general, the demand for land and housing is poorly conceptualised in policy debates. Elsewhere in this report, the significance of the housing waiting lists and their limitations has been alluded to. In the absence of accurate data, quantifying the demand for land and housing in Zimbabwe's urban land markets remains merely speculative. As such, the relationship between demand and supply of urban land is better understood by comparing land delivery statistics and set policy targets. Thus, Auret (1995) noted that annual supply in the 1990s was less than 10% of targets, at 12 000 to 14 000 units per year, against a target of 162 500 units. A USAID report on housing in Zimbabwe noted that the country needed to build at least 84 000 units a year to meet the housing demand (USAID, 1996). In Chapter one of this report it has been noted that by 2003, housing provision in urban areas had decreased from an annual average of between 15 000 and 20 000 units in the 1985 to 1995 era to only 5 000

units in 2000 (Ministry of Local Government, Public Works and Urban Development, 2006). Based on this, it is evident that the supply side of land delivery is far below the demand side. Effectively, this has the impact of pushing up the price for land and housing on the market and excluding the poor in participating in formal sector housing development.

In addition, the statistics on land delivery must be understood in terms of whether the stands have been serviced or not. For instance, the policy on parallel development was put in place as a response to a lack of funds to finance the servicing of stands before they were allocated. Government records show that under Operation Garikai / the Hlalani Kuhle Housing Programme, un-serviced stands were allocated to housing cooperatives, developers and employers to facilitate the building of houses (see images 5.4 and 5.5 for some projects that benefited from the Parallel Development Policy). As such, land delivery by central government must be viewed as a package that is not complete compared to the policy and legal requirements on the servicing of land. However, it is generally agreed that this is a more realistic approach to land access by the urban poor who will develop structures at their own pace. In any case, other actors like the private sector and local authorities are still required to service stands before releasing them on the market. Whilst the policy on parallel development could be seen as pro-poor and leading to the immediate release of land, it has the potential to distort land prices. More importantly, the effect of such a policy on the quality of settlements and the extent to which the model is assisting the poor are yet to be evaluated.

**Image 5.3: Project in Dzivaresekwa under the Parallel Development Policy**



Source: Google Images

Image 5.3 illustrates the basic tenets of the Parallel Development Policy (development with relaxed planning standards to enable the poor to have accommodation). Part A (bottom left) shows some houses at foundation level, whilst part B shows structures above ground level and part C shows completed structures. Note that such development has been carried out with minimum infrastructure installation (with no direct stand access to roads as required by the Harare bylaws). The roads provided are gravel distributor roads only. The assumption is that some of the infrastructure will be provided progressively once the basic shelter requirements have been provided. Image 5.4 shows the same development in a larger context with building sites at different stages of construction, as well as different levels of infrastructure provision. It is clear that priority is being placed on the provision of accommodation, with only the basic infrastructure being provided.

**Image 5.4: High-density housing development by a Cooperative in Dzivaresekwa Extension Harare that benefited from the Parallel Development Policy**



Source: Google Images

Chapter one dwelt at length on the politics affecting the governance of key state institutions. A common feature of national politics is the polarisation of the country based on affiliation to the main political parties – ZANU P.F. and the two MDC parties. It is common knowledge that the land occupations legitimised by the Fast Track Land Reform Programme were driven by ZANU P.F. party structures (Marongwe 2003, 2009). Accordingly, the question of who benefited from land allocation, even in the towns and cities, cannot be unrelated to one’s political affiliation to ZANU P.F.

Elsewhere in this report it is mentioned that residents of informal settlements in Epworth confirmed that the tenure security to their allocated residential stands derives from ZANU P.F., the political party that gave them the land in the first place. With central government emerging as the major source of supply of land to urban markets in Harare, it is inevitable that the land allocation process in certain cases might have been politically driven. With the City of Harare relegated as a source of land supply, it is not clear whether the waiting list has been adhered to as a land allocation tool. Thus the place of central government as the main actor involved in

land delivery raises questions of fairness, transparency and good governance around the land allocation process in urban areas.

As already argued, the state owns significant tracts of land in cities such as Harare following the acquisition of land for urban development through the Fast Track Land Reform Programme. Such land was allocated through arrangements that were never made public. In general, the state does not have the finance to develop such land, and hence has gone into partnership with companies and individuals to develop the land. In return for investment on the land through servicing of infrastructure, investors are paid in kind, that is, through land. For instance, in the Hatcliffe Extension area, a developer was given 20 ha under such a type of partnership (from interviews conducted with town planning experts, February 2011). Other examples of private developers which entered into different kinds of partnerships are Alpha Developers and Divine Homes (from interviews conducted with town planning experts, February 2011). It seems as if such state-private sector partnerships are informed by ongoing debates on the indigenisation of the economy<sup>5</sup>.

In many cases, the allocation of state land and its development through the above-mentioned partnerships have raised concerns with the public. Various press reports have made reference to allegations of shady land deals. In one such case, the Anti-Corruption Commission of Zimbabwe has reportedly started investigations into how a private company was given state land to develop housing stands in the Borrowdale residential area of Harare. Press reports claimed that the Minister of Local Government and Urban Development facilitated the transaction and authorised the private developer to develop residential stands in August 2009, and yet the notice to change the use of the land was only instituted a year later (*The Standard*, 20-26 February 2011). In a related case, the same Minister was also allocated prime land in the City of Harare. "Documents in our possession show that during 63 days that the caretaker council was in office,... [the Minister] acquired stands numbers 61 Helensvale and 293 Avondale in Harare. The matter was reported to the police and the Anti-Corruption Commission last year but no action has been taken as yet. In light of the police's inaction, councillors have argued that Prime Minister Morgan Tsvangirai should petition President Robert Mugabe and Deputy Prime Minister Aurthur Mutambara to seek an explanation from Police Commissioner General Augustine Chihuri" (ibid). Such incidences have only served to fuel speculation that governance of key national institutions appears to have been compromised.

## **5.2 Housing delivery approaches**

Whilst the above discussion provided the general trends of land delivery, specific vehicles have been put in place to facilitate the delivery of land and housing to urban land markets. Such delivery vehicles include Garikai/Hlalani Kuhle Housing Cooperatives and the Homelink Housing Development Initiative.

---

<sup>5</sup> The Regulations on Economic Empowerment and Indigenisation state that private companies worth over US\$1-million should have a minimum of 51% ownership by the locals.

### 5.2.1 Public sector housing construction and land delivery

From independence through to 1985, government complemented the homeownership scheme through direct provision. However, from 1986 through to 2000, the emphasis was on making land (stands) available through a site-and-services scheme. Table 5.2 shows the visible shift from construction of complete units to delivery of land. This shift was in keeping with global trends in terms of housing approaches.

**Table 5.2: Public sector housing production, 1982-2000**

By end of Year	Completed houses	Stands delivered
1983	12 089	14 000
1984	9 385	15 000
1985	5 031	6 000
1986	6 124	14 845
1987	5 230	11 223
1988	4 862	16 500
1989	1 000	4 292
1990	600	6 951
1991	-	-
1992	-	-
1993	1 200	26 667
1994	950	27 000
1995	3 000	53 333
1996	1 600	7 400
1997	2 500	2 000
1998	3 000	6 200
1999	3 500	44 848
2000	2000	54 020

Source: Government of Zimbabwe, 2005:11

Direct provision was revisited following the 2005 Cleanup Campaign, through the Garikai/Hlalani Kuhle<sup>6</sup> Project, with government targeting the production of 7 478 units in its first phase in 2005 (Government of Zimbabwe, 2005). Of the total planned units, 2 950 or 39.4% were earmarked for Harare Metropolitan Province. Phase two of Garikai/Hlalani Kuhle saw a return to land delivery of mostly unserviced land, with government emphasising that it would “continue to acquire peri-urban land to augment its land bank to meet future urban expansion” (Government of Zimbabwe, 2005:26).

<sup>6</sup> Shona and Ndebele for ‘decent accommodation’

**Table 5.3: Aided self-help under Garikai/Hlalani Kuhle**

Province	Planned units by December 2005	Allocations as of 31 October 2006
Harare	6 000	35 637
Bulawayo	3 000	15 500
Mash. Central	600	896
Mash. East	800	2 014
Mash. West	700	13 624
Mat. North	700	1 095
Mat. South	800	-
Midlands	900	15 599
Manicaland	900	5 801
Masvingo	600	3 240
<b>Total</b>	<b>15 000</b>	<b>93 405</b>

### 5.2.2 National Housing Delivery Programme (Garikai /Hlalani Kuhle)

In November 2003, government adopted a five-year National Housing Delivery Programme (NHDP) for 2004 to 2008. This programme focused on delivering housing in a framework that responded to the Habitat Agenda, particularly investment promotion to boost annual production, which had dropped to 5 000 units from a range of 15 000 to 20 000. The NHDP was based on an inclusive approach, a review of policies and standards, the introduction of alternative building technology and informal sector participation in housing. Implementation of the programme started slowly because of resource and other structural constraints. The NHDP gained momentum after the 2005 Cleanup Campaign, as government sought to respond to local and international criticism by expediting direct delivery of housing through Garikai/Hlalani Kuhle. Garikai thus became the flagship of the NHDP and had two major phases. The first involved direct construction of houses by government while the second was about land delivery. Table 5.3 shows the programme's achievements.

### 5.2.3 The Homelink Housing Development initiative

The Homelink Housing Development Initiative is a product developed from the need to tap into the foreign currency holdings of Zimbabweans living and working abroad. Through this initiative, Zimbabweans living abroad can obtain cheap mortgage loans to purchase or build houses back home. The initial objective of the Homelink Private Limited company was to mobilise inflows of foreign currency from such Zimbabweans by providing products that would meet the needs of Zimbabweans in the Diaspora and at the same time ensure a steady flow of foreign currency from the Diaspora to Zimbabwe to help meet the country's import requirements. Its mandate was then broadened to cover the facilitation of these Zimbabweans' investment in domestic real estate, driven by the premise that in the course of facilitating investment into domestic real estate, and money and capital markets, the Reserve Bank of Zimbabwe would be able to improve inflows of foreign currency into Zimbabwe. The challenge is however, that the product can only benefit Zimbabweans living and working abroad, and most probably only the top income tier of society. Data on progress made to date by the initiative are not readily available.

### 5.2.3 *Civil society interventions*

As discussed in Chapter 1 and further elaborated in other sections of this report, urban land markets in Zimbabwe have traditionally been a formal market. Formality has manifested in many ways, particularly through use of written law, and state administration of processes of land access, planning and development control. It has also meant securing finance from banks to acquire land and to develop it. Formality has also meant queuing or getting wait-listed by central and local authorities to access land and housing. The alternative to waiting lists has been accessing land and housing from the private sector (open market).

Behind this facade of formal urbanisation were cases of squatting and overcrowding. Evidence of burgeoning informal settlements before independence includes Epworth and Chirambahuyo in the Harare region (see also Box 1.1 in Chapter 1). After independence, the Cleanup Campaign of 2005 was a peak in a series of struggles by the state to constrain 'illegal' responses to homelessness. There had been some localised 'clean-up' campaigns and relocations, for instance, in 1991 in readiness for hosting the Commonwealth Heads of Governments Meeting (CHOGM) and in 1993 (Churu Farm outside of Harare). These evictions resulted in the creation of Porta Farm holding camp and informal settlement, which was later destroyed with some of the residents being moved to Dzivarasekwa (south-west of the city), Hatcliffe holding camp (north of the city) and Hopley (south of the city). The growth in informal settlements reflected, in part, a formal urban land market unable to accommodate the needs of the urban poor. As such, it can be argued that the formal system, dominated by the public and private sectors, was failing to deliver adequate, appropriately located and affordable urban land to the poor. In view of the vicious responses to 'illegality and informality', homeless people increasingly began to organise themselves, starting in the early 1990s.

Poor people's organisation focused on lobbying for space in a relatively 'unfriendly market place'. By extension, this was about advocacy for a set of rules that would accommodate their interests and capabilities regarding land access and development. For some of the homeless, organising was about averting further frustrations from multiple evictions and the attendant livelihood disruptions. The poor's organisation took two main streams. The earliest was the housing cooperative movement, followed by the Mfelandaonye<sup>7</sup>/Federation. This has created a framework for civil society participation in urban land markets. These two types of social movements do not necessarily represent all urban poor residents in Zimbabwe. They have, however, secured recognition, they participate in key policy processes, have accessed considerable land, have implemented a number of housing programmes and continue to mobilise the poor. Their participation has broadened or opened up channels for accessing land.

Government recognises the work of civil society and includes their performance targets in its reporting cycles. Civil society organisations have also done some capacity-building in the public sector through exposing civil servants to international best practices. For instance, Dialogue on Shelter and the Zimbabwe Homeless

---

<sup>7</sup> Ndebele for 'dying in one place' (together).

People's Federation have taken housing sector public officials at local and national level to countries like Kenya, South Africa, Namibia and India, with such trips being seen as having influenced land allocations and development models being tested in some local authorities at present. The City of Harare has eased conditions under which poor federators and co-operators can enter the housing waiting list, for example through using savings booklets, which have allowed more entrants onto the list.

### The Housing Cooperatives Model

The NGO, Housing People of Zimbabwe (HPZ), was established in 1992 to promote the cooperative housing approach by providing technical support to registered housing cooperatives. Over the years, HPZ structured the housing cooperative movement into district unions, leading to the formation of the Zimbabwe National Association of Housing Cooperatives (ZINAHCO) in 1999 as an umbrella body for housing cooperatives with a mandate to advocate, build the capacity of district unions and cooperatives, as well as supporting the mobilisation of housing groups to form housing cooperatives. Though ZINAHCO was only formally registered in 2001, and it is one of three apex (cooperative) bodies, the others being for fishing cooperatives and for agricultural cooperatives. Zimbabwe has more than 3 000 housing cooperatives, although not all of them are affiliated to ZINAHCO<sup>8</sup>. There are two types of housing cooperatives; the first is workplace-based and the second community-based. Given the socio-economic background discussed in chapter 2, it is not surprising that there are more community-based than workplace-based housing cooperatives. Masuko (2008) makes reference to a third category of war veteran-based cooperatives that surfaced in the post-2000 period.

Cooperatives are generally self-mobilising entities where individuals with similar concerns and those attracted by benefits (actual and perceived) realised by older cooperators form or join cooperatives. Access to land for these cooperatives is through (central or local) State land allocations and purchasing land from private land owners. ZINAHCO cooperatives have, since inception, received state land in Mutare (1 144 residential stands) and another 1 500 stands on municipal land (City of Mutare) as part of a consortium of civil society organisations. Cooperators have also been allocated state and local authority land in other local authorities. In addition, Kumboedza Housing Cooperative<sup>9</sup> bought enough land for 68 stands in Ruwa, while Pepukai Housing Cooperative in Masvingo<sup>10</sup> has incrementally acquired land through the open market.

Using these two principal methods, the housing cooperative movement has accessed 6 078 residential stands (excluding non-ZINAHCO cooperatives) and built 2 045 houses in the last 10 to 15 years. However, accessing land has not been easy, as not all land and planning authorities have been supportive of the cooperative approach. Local authority responses to cooperatives' needs have been negative in some cases, while in others they have been very supportive. For instance, the land allocations in

---

<sup>8</sup> ZINAHCO currently has 104 members.

<sup>9</sup> Kumboedza Housing Cooperative has 100 members.

<sup>10</sup> 18 of the Pepukai Housing Cooperative's members now have houses.

Mutare reflect this openness to the model, while Harare and other local authorities have directly nurtured some housing cooperatives. Another key challenge that the cooperative movement has faced is the flurry of bogus and badly governed cooperatives where some members of the public have lost their life savings.

#### Activities of Dialogue on Shelter and the Federation

As described in chapter 3, Dialogue on Shelter for the Homeless People in Zimbabwe Trust was established in 1998 to boost citizens' housing initiatives as well as public sector-civil society partnerships. The organisation works in alliance with the Zimbabwe Homeless People's Federation, a 45 000-strong household movement in all local authorities in Zimbabwe.

Dialogue offers technical support in housing processes (from land acquisition to construction and beyond) and tries to deal with the negative experiences the urban poor have had at the hands of government (central and local) around the demolition of their housing.

Although Dialogue and the Federation are two distinct organisations, they do have interpenetrating structures focusing on relevant housing processes. Like the relationship between HPZ and ZINAHCO, Federation members are not Dialogue's 'beneficiaries' but rather its partners. In this way the relationship between the two organisations is based on empowering principles. Figure 5.4 shows this relationship.

The Federation is a community-based organisation with a national membership in seven regions and at least 200 savings groups. This makes the ZHPF a network of poor people's housing savings schemes coming together to address social and economic problems.

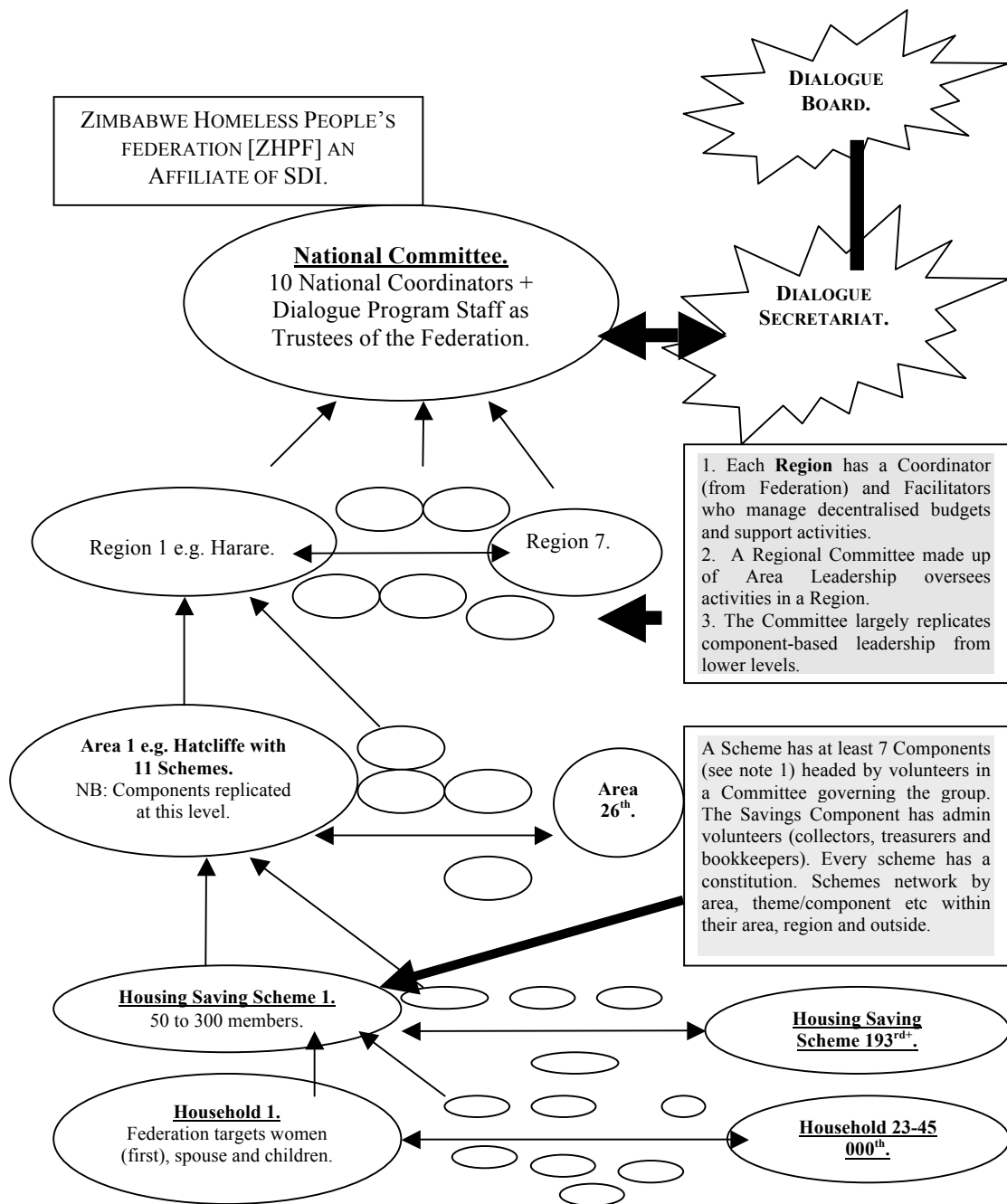
Dialogue and the Federation work together on six key components – *savings and mobilisation; land, loans or the Gungano Urban Poor Fund, enumeration, health, exchanges and networking*<sup>11</sup>, and *technical and training*. Each savings scheme has representatives for each component. The same structure is replicated at all levels, and every component compiles relevant information at their level. Components are the principal way in which the Federation's work is organised. The range of active components increases or shrinks depending on the needs in a community.

At the time of concluding this study, Dialogue had acquired 5 000 residential stands and built 2 000 houses. The other 3 000 stands had been serviced and awaited development. The alliance is in 54 local authority areas and is currently running about 30 schemes.

---

<sup>11</sup> These are local, regional and international, i.e. group to group within a region, the country or outside Zimbabwe for learning and teaching purposes.

**Figure 5.4: Zimbabwe Homeless People's Federation**



**Property rights for social movements**

Both the federators and co-operators use savings mobilisation within a framework of mutual self-help. As such, the kind of rights accorded to individuals with respect to land is subordinate to group rights. Cooperative and Federation members do not receive individual title until a scheme is fully developed and individual members meet their obligations. All allocated land is vested in the relevant cooperative or in the Zimbabwe Homeless People's Federation, as relevant. Land is allocated to civil society groups on the basis of offer letters and memoranda of understanding.

### Land servicing

Land allocated to civil society organisations is often in areas unserved by trunk services. This is partly because of problems with land availability in areas where such services are available. The other reason is because the poor tend to be squeezed out of prime land by 'market forces', particularly price. Social movements use a group approach to servicing land. Due to the lack of adequate off-site infrastructure, servicing extends over long periods as trunk services are expensive to install. At the same time, even on-site infrastructure is very expensive. Recent history shows that the poor are bearing the costs of services that the middle- and high-income urban residents did not have to meet directly.

The foregoing has demonstrated the significant role of civil society organisations in housing and land delivery. Worth noting is that civil society interventions represent some of the clearest examples of initiatives that target the poor. Driven by partnerships between cooperatives and civil society organisations, the emerging model is making an impact on housing and land delivery. Group-based property rights are the main form of property rights in such instances, and it seems this has been working well for the civil society interventions. Given this context, it is desirable that the notion of group rights be piloted as a model that suits the requirements of the poor (also see the discussion in chapter 8).

### **5.3 Real estate, valuation and property sales in Zimbabwe's urban land markets**

The preceding section has elaborated on land and housing delivery in Zimbabwe's urban land markets. This section is intended to inform the study on how land and housing delivered on the market is transacted. In a way, part of the section is based on a case study of only one estate agency. The section does not claim that data presented represent the national picture on property transactions. It is only intended to provide insights on some critical components of urban land markets, in particular sources of finance and the price range of properties.

Zimbabwe's property sector can be split into the three broad categories of commercial, industrial and residential properties. Each of the sectors has its own sub-sectors, with commercial divided into office and retail. Residential properties are composed of garden flats, town houses and stand-alone houses in high-, medium- and low-density areas. This differentiation affects transactions in both rental and property sales. Although there are no documented rules and regulations for land transactions, the Estate Agents Council has from time to time communicated to estate agents guidelines to be followed when transacting in land and with members of the public. These include securing written mandates for sale from land owners and authenticating ownership thereof; authenticating ownership with the Registrar of Deeds' Office; and where land is still to receive title to only be involved in selling when the developer has fully complied with the subdivision permit conditions in respect of requirements such as roads, water and sewer reticulations, and regulating fees chargeable for property transactions.

In Zimbabwe's urban land markets, land attracts different prices depending on the use type and location. Location can be looked at in two ways – between towns and

within towns. Land-uses which attract the highest values within a locality are commercial land-uses, with residential and industrial having almost similar values. Within each use type there are sub-sector variations. Thus, within the commercial use type, there are retail and offices, with the former tending to command higher rates per square metre. Land designated for warehouse use would also command higher rates under the industrial use type compared to general industrial use. There are also different rates between towns for the same use type, depending on the size of the town and the demand and supply fundamentals for that particular town. Harare has the highest land values per square metre for all use types, followed by Bulawayo. The property industry generally values land in smaller towns based on a percentage of Harare's values – mostly quoted as 60% – but this has not yet been scientifically proven. However, this general approach tends to lose relevance in some towns which may have excessive demand relative to supply. Towns such as Chinhoyi and Kariba are believed to have high demand compared to supply due to their locations.

Where the residential market is concerned, high-density properties are often financed by diaspora funds and employer-assisted schemes such as CBZ, NSSA, CAIPF and CABS. The leading building societies have in recent months resumed issuing limited mortgage bonds, a move which is expected to improve activity on the market. Serviced land that is ready to be built on remains in short supply, with most developers also having limited capacity to handle large tracts of land. As already mentioned, Harare property prices provide the guide on pricing trends. The range of prices for properties in Harare is as follows: high density - \$20,000 to \$35,000; one-bedroom flats - \$25,000 to \$35,000; medium density - \$35,000 to \$80,000; garden flats - more than \$60,000 and low density - from higher than \$80,000 and upwards (this data have been sourced from the records of one selected estate agency, 2011).

For commercial properties, except for a few good buildings such as Bard House and Livingstone House which have come onto the market for sale, most other buildings on the market are those which have reached the end of their useful economic lives and can only be brought back to life through major refurbishment. Most of these buildings are over-priced and stay on the market for a long time. The nature of property ownership in Zimbabwe – where the developers are also the owners – is such that very few properties trade on the market as the developers/owners invest for long-term commitments and not for selling property stock.

#### *Key steps in making a land sale*

It is important to have a discussion on the key steps in making a land sale. It must be noted that most of the steps are about the transfer of property rights (see chapter 7). The process is 'duplicated' here to demonstrate the role of estate agents – who happen to be the dominant source of property transactions in formal land markets. The steps covered in this report focus on land which is titled and which is being sold as it is. It is also assumed that all paperwork is starting from the estate agent's office at the point where both parties have signed a sale agreement. The steps would involve the following:

- Selling agent sends instruction to conveyancer of seller's choice to request conveyancer to attend to transfer of the property, enclosing copy of sale agreement.
- Conveyancer prepares declaration and power-of-attorney documents for signing by both parties.
- Payment made, with transfer fees being for the account of the purchaser. The estate agent can retain all sale proceeds in trust account or forward such proceeds to the conveyancer to be held in trust pending transfer.
- Conveyancer carries out deeds search to verify that the property is free from encumbrances such as mortgage bonds. Conveyancer liaises with bond holder to request release of original title deeds of the property; normally conditional on the bond holder being guaranteed payment of amounts owed to it.
- Conveyancer seeks rates clearance certificate from the municipality showing that all rates are paid up and covered for the next three months. A property cannot be transferred without a rates clearance certificate.
- Conveyancer arranges both parties to attend interviews at the Zimbabwe Revenue Authority (ZIMRA), leading to the granting of a Capital Gains Tax Certificate, without which a property cannot be transferred at the Deeds Office. Capital Gains Tax is normally exempt on principal private residences to persons above the age of 55 years.
- Once all documentation is in place, conveyancer lodges transfer documents with the Deeds Office for change of ownership from seller to buyer.

The price fetched when selling a piece of land is also determined by the property rights status of the land. Land with title is ready to be sold and transferred. Thus the costs for virgin or raw land that still has to be subdivided and serviced are different from those for titled land. Assuming a seller engages an estate agent to dispose of his land, the attendant costs are: estate agent's fees at 7.5% of the selling price; rates clearances (depending on the amount owing) and capital gains tax of 5% to 20%. (Capital gains tax is levied at 5% of the selling price for those properties purchased before 1 February 2009 and at 20% of the net gain on those properties purchased after 1 February 2009.) The total costs to the seller which can be deducted from the selling price is therefore 12.5% if one assumes a 5% capital gains tax liability.

The discussion above shows that the involvement of estate agents in property sales pushes the price up by 7.5%, making such properties less affordable to the poor. Given the dominance of estate agents in property transactions, such a cost is largely unavoidable. The option of by-passing estate agents and purchasing directly from property owners is risky and exposes buyers to fraudulent property transactions.

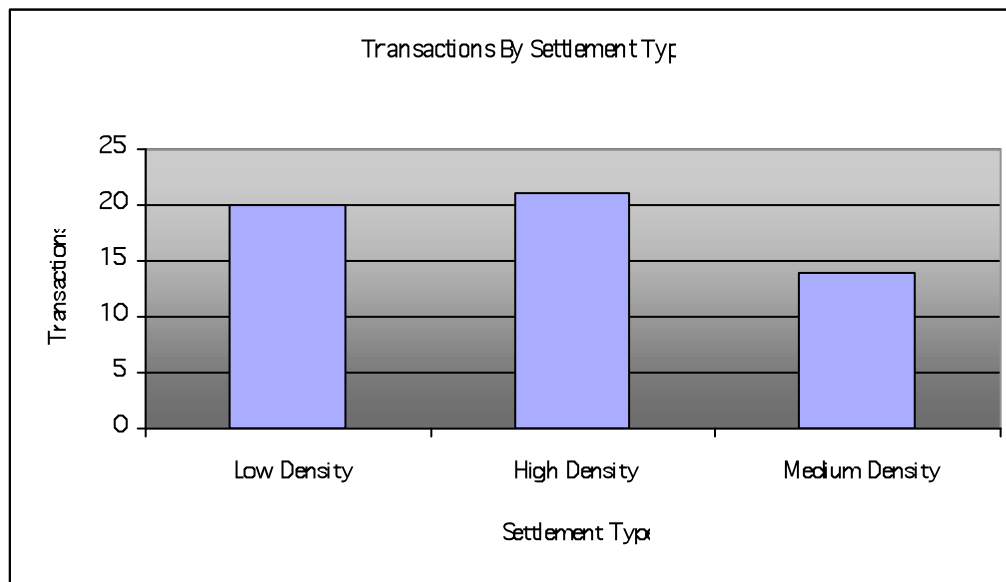
### *5.3.1 Sources of finance*

Land purchases in Zimbabwe are being financed through several sources – loans, mortgages, cash savings (locals) and funds from Zimbabweans in the Diaspora. For loans, these are mainly employer-assisted financing schemes. Employers require

land with title deeds as they have to protect their interests over the loan granted and such protection can only be effected on documents that are centrally registered and available to the public. There has been an improvement in the availability of mortgage finance. A reasonable number of transactions are being financed through this route. Building societies also insist on titled land. Other transactions are being financed out of own cash resources by the purchasers. Zimbabweans living outside the country also actively participate in land purchase transactions out of their own resources or through mortgage/loan finance sourced externally. Given that estate agencies are private organisations, data on volumes of transactions, sources of finance, etc. are not easily available. However, information from a case study of a particular estate agent can be used to demonstrate the significance of the various sources of finance in a particular year.

This particular estate agency carried out 55 transactions in 2010. Of these, 21 were for properties in high-density areas, 20 for properties in low-density areas and 14 for properties in medium-density areas (See Figure 5.5).

**Figure 5.5: Property transactions for a particular estate agent in 2010 by settlement type**

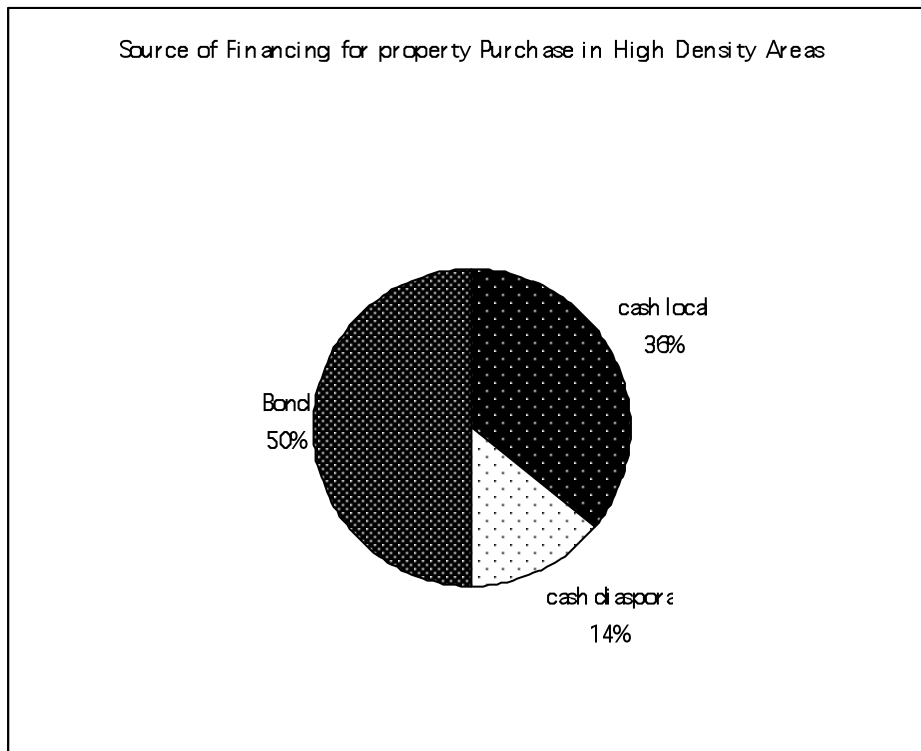


The sources of finance for the transactions were cash (57%), bonds (27%), employer-assisted schemes (5%) and deeds of sale (11%). It is important to note that Zimbabweans in the Diaspora constituted a significant 15% of the transactions. The statistics show that cash-based transactions dominate other sources of finance. With properties ranging in price between U\$9 000 and U\$150 000, it is evidently not the poor who are involved in these transactions. For this particular case study, only two financial institutions had financed property transactions, one contributing 5% and the other 18% of the transactions. The general picture of cash-based transactions dominating property transactions is a reflection of the liquidity crisis faced at national level.

Figure 5.6 shows how transactions for properties in high-density areas were financed. Bonds and cash-based sources contributed 50% each to the total volume of transactions, thus the employer-assisted scheme did not finance transactions in

high-density areas. Properties sold in the high-density areas were also all houses, with no transactions carried out for stands. Since practically the poor cannot afford to purchase a finished house, this data underscore the view that not even the transactions carried out in high-density areas were done by the poor.

**Figure 5.6: Sources of financing for house purchases in high-density areas**



*Source: Original data from a selected estate agency*

### 5.3.2 Operational challenges faced by the sales and real estate sector

As discussed elsewhere in this report, there is no public information on the details of urban land market transactions. The information available from the Registrar of Deeds is not only hard to find, but also has limitations. For instance, information on property transactions is only available for properties with title deeds, as those without are not registered at the Deeds Office. Yet there are many transactions taking place for properties without title deeds. Also, in many instances prices indicated on title deeds as the selling prices are known to be understated as parties seek to minimise their exposure on liabilities such as transfer fees and capital gains tax. However, the benefit in understating these values is marginal; capital gains tax when selling the same property in future will be calculated based on the understated value.

Urban land markets face several operational challenges, a significant number of which are traceable to the economic environment and government policies.

### Challenges in the rental market

- Rental payment challenges: there continues to be an increase in the number of defaulters on both rentals and operating costs.
- Leasing activity is down in all real estate sectors, with many businesses have down-sized their space requirements. Conservative estimates put the level of voids at 20%, which is double the trend over previous years.
- Zimbabwean rental levels in all sectors continue to lag behind those within the region and are reportedly the lowest. Existing levels make it difficult to embark on new construction projects as entry yields can be as low as 2%.
- The pool of quality tenants continues to shrink as regulators close down technically unsound businesses. The Insurance and Pensions Commission has to date closed down 74 insurance firms covering brokers, life companies and reinsurers. These companies have in response to the liquidity crisis failed to raise the statutory capital of \$300 000 for short-term insurers, \$400 000 for reinsurers and \$500 000 for life assurers. The Estate Agents Council of Zimbabwe has also this year closed down firms failing to meet registration requirements.
- It is taking very long to conclude rental negotiations, with some tenants tending to avoid the negotiations altogether. Protracted negotiations are not necessarily due to perceived high rentals being sought but uncertainty on the part of the businesses renting.
- The frequency of rental reviews has by and large remained annual, although some owners have been able to implement bi-annual reviews. Leases with escalations are virtually non-existent.
- Achievable rentals for all property sectors are still at low levels, making it difficult for investors to consider putting up new projects. Tenants are, however, still struggling to pay those low rentals and arrears are at astronomically high levels in some portfolios. This is further compounded by non-viable tariff structures for utilities such as power and water. One of the listed property companies (Pearl) reported its level of arrears at 25.3% at 30 June 2010 compared to 21.9% for the entire year of 2009. Another property counter (ZPI) collected only 68% of rentals due in 2009.
- There is a deliberate strategy by some property owners to keep some space vacant – either because it is expensive to retain ‘bad’ rent-payers or to place themselves in a position to accommodate ‘the’ good tenants expected to stream into the country once the economy picks up.

### Challenges in the sales market

- There is reportedly a decrease in interest in Zimbabwean properties from external investors following the announcement of ‘indigenous’ and ‘empowerment’ regulations. There are also increasing moves to bar foreigners from purchasing existing properties. These moves, if implemented together with the indigenisation legislation, will have an adverse impact on the value of

existing properties as local players have low appetite for properties due to limited financial capacity.

- Zimbabwean properties are currently under-valued, so there is a real prospect for value upliftment when the depressed economy and high country risk profile are addressed. That properties are under-valued explains why foreigners have always had an appetite for existing stock as a way of positioning for future upliftment in value.
- There is a decline in sales activity across all sectors of the real estate market. There are several reasons for this, the most notable being liquidity constraints and fewer buyers. Multi-currency trading has removed all speculative opportunities, in the process liquidating the buying capacity of most players.
- The lack of liquidity because of the absence of long-term mortgage finance and the effects of the global recession has severely limited the number of completed transactions. Very few commercial and industrial properties are being traded, making it difficult knowing where prices and cap rates should be.
- In spite of inflation having stabilised since 2009 due to multi-currency trading, replacement costs for properties still remain higher than market values (three times or more in some instances, at least for Harare commercial properties).
- Like most other markets, the property market is still suffering from the effects of the 'brain drain', with skills shortages remaining worrisome, for example in areas such as the servicing of lifts.

#### **5.4 Disputes in the urban land market sector**

This section presents an analysis of the types of disputes that occur in Zimbabwe's urban land markets. The section was developed from data collected from a review of court records, especially those from the High Court and Supreme Court of Zimbabwe. It informs the study on the types of land and property disputes, and the causes of such disputes.

The main types of urban land disputes presented in this report cover cases relating to rental disputes and evictions of tenants, fraudulent land and property transactions, disputes around the repayment of mortgage bonds and auctioning of property, and disputes associated with weakening land administration. Whereas such disputes have always happened in the past, certain types of disputes escalated in the post-2000 period. It is in this context that, for instance, rental disputes escalated at the height of inflation. As economic hardships increased and institutional decay took its toll, fraudulent land transactions also became prevalent. This discussion on land and property disputes also presents details on the nature/character of actors involved.

Conflicting parties involve all segments of society in the public and private sector. The disputing parties include individual buyers of property, financial institutions, local authorities, estate agents, conveyancing lawyers, landlords and tenants, and public institutions. In essence, the section is therefore a reflection of the challenges associated with land delivery and land administration, and the problems faced when

transacting in property rights. This section also demonstrates the significant role played by the courts in settling disputes in the urban land markets sector.

#### *5.4.1 Tenant and rental-related disputes*

Zimbabwe's rental market is regulated by two pieces of legislation that govern the operation of commercial premises and residential properties respectively: the Commercial Premises (Rent) Regulations of 1983 and the Rent Regulations of 2007. This section addresses the formal rental market. Important aspects addressed by the regulations relate to the negotiation of fair rent, the termination of leases and the eviction of tenants, and payments and refund of rental deposits. Further, the regulations also introduce the concept of a statutory tenant (that is, a tenant who continues to occupy leased premises upon the expiry of the lease agreement, continues to pay rent within seven days of the due date and continues to observe all other conditions of the expired lease agreement). This situation often arises when increases in rentals have not been concluded by the expiry date of the lease. Another issue here is that rent regulations explicitly state that rentals must be paid in the local currency. At the height of inflation and before dollarisation of the economy, rental disputes escalated as most landlords resorted to charge rentals in foreign currency, a transaction that was illegal at that time.<sup>12</sup>

The law stipulates that a tenant occupying a residential property ordinarily requires no less than 3 months notice to vacate the dwelling. More importantly, the law permits eviction for a set of prescribed reasons. In addition, the landlord is required to obtain clearance from the Rent Board that confirms that the reasons for the eviction are fair and reasonable. The rent regulations have therefore been criticised as over-protecting the tenant to the detriment of investors. Crafted soon after independence in 1982 to curb arbitrary increases in rent for residential accommodation following the relaxation of colonial controls which had caused a steep rise in demand for residential accommodation, the rent control regulations have, over time, discouraged investors from investing in residential accommodation. Whereas critics argue against any role for government in regulating the operation of the rental market, proponents of the policy justify it on the basis that it is pro-poor. Given the importance of housing for national development, such proponents argue that when left unregulated, the pricing of housing would become unaffordable to most citizens.

The dilemma then is balancing the needs of the poor and the investment interests of those investing in the housing market. The available evidence shows that such a balance has not been struck in Zimbabwe's housing sector. For example, a study by Kuipa (2006) noted that the critical shortage of all types of housing (flats, cluster homes and high- and low-density houses) was attributed to the lack of appropriate incentives for investment into housing by the major property investment institution that include pension funds, life assurance companies, building societies and unit trusts. The study revealed that the five major investors had between 1995 and 2005 disinvested from the housing sector, especially blocks of flats (Kuipa, 2006). The reasons for the disinvestment were centred on poor and negative returns as a result

---

<sup>12</sup> See for instance the case of Villa Real Flats Private Limited vs. Undenge and others (HH86-2005).

of rent control and escalating maintenance costs (ibid). Rent control and the subsequent disputes that arose in relation to managing rental investment portfolios largely explained the decline in institutional investment in the housing market (ibid). In practical terms, the pro-poor regulations have resulted in a reduction in the supply of rental accommodation that it was, in fact, meant to boost. It is therefore pertinent that government has to work out the right balance in regulating the provision of rental accommodation by the private sector to avoid perverse outcomes that could undermine the original purpose of the regulation.

In the main, rental-related disputes are characterised by disagreements over the setting of a 'fair rent;' eviction of tenants and challenges over the administration of leasing contracts. In general, disputes between landlords and tenants are arbitrated by the Rent Board. The discontented party can appeal the Board's decision to the Administration Court of Zimbabwe whose decision is deemed to be final. However, amongst other operational challenges, the Rent Board's arbitration process is characterised by delays.

Multiple reasons can cause the eviction of a tenant. This discussion is important because it highlights the practical issues that investors and developers must consider before making decisions on the eviction of tenants. Such a discussion also brings to the fore the concerns that both developers/investors and tenants have to consider in managing their relationships. A look at some of the landmark judgments will assist in demonstrating some of the main causes of rental disputes which often result in the eviction of the tenants. In 1991 the Supreme Court of Zimbabwe made a ruling that the decision by a property owner to use the premises for its authorised purpose was a legitimate and commercial decision, and thus constituted good and sufficient cause to allow for the eviction of the tenant<sup>13</sup>. Violation of the conditions of the lease agreement has also been a cause of rental-related disputes, possibly leading to eviction. In the case of Local Authorities Pension Fund versus Duxochrome Services (Pvt) Ltd, heard in 2008, the latter was renting premises which were to be used as a phone shop. The tenant changed the use to a vegetable shop, prompting the shop owner to seek his eviction. The court granted the eviction. It is a common feature of lease agreements that the tenant is forbidden from undertaking any alterations or additions to the premises without the written consent of the landlord. In the case of Aerial Heights (Pvt) Ltd versus Craft Trading (Pvt), the tenant fitted burglar bars to the display windows of the shop without the landlord's permission. The Magistrate's Court allowed the termination of the lease agreement and ordered the tenant to vacate the premises, a move that was confirmed by the High Court on appeal.

The above discussion shows that disputes in the urban land markets sector are partially caused by the ignorance of the rights and obligations of one group of actors, in this case tenants. The information campaign that is proposed later in this report is particularly useful in solving such issues.

It is common practice in the rental market that tenants have to pay something called a 'good tenancy deposit' as a surety against damage to property. Such a deposit is refundable when the tenant vacates the premises without counter-claims on

---

<sup>13</sup> See the case of Mobil Oil Zimbabwe (Pvt) Ltd vs Chisipite Service Station (Pvt) Ltd, 1991 (2) ZLR 82 (SC).

damages to the property by the landlord. This has the tendency of increasing the costs of rental accommodation for the poor. In addition, deposits paid have been a cause of conflict between landlords and tenants. In some situations, tenants have agitated suing for interest accrued for the period their funds were deposited with the landlord. In general, the Zimbabwean courts have not granted such requests.<sup>14</sup>

#### 5.4.2 *Fraudulent property transactions*

The post-2000 period has witnessed a surge in fraudulent land and property transactions. The most common practice has been that of the owner simultaneously selling the property to more than one buyer. In other situations, non-owners have forged property documents to sell land that either does not exist or that they do not own. With the weakening of all state institutions, both state and non-state actors have in some cases facilitated fraudulent land and property transactions. The relaxing of professional ethics has seen officials involved in the land markets sector, including conveyancing lawyers, estate agents and state officials, facilitating fraudulent land transactions.

In many instances, property professionals have colluded in undertaking fraudulent property transactions. In one such case brought before the courts, the employees of registered real estate agency Fingold Real Estate masterminded the fraudulent sale of a stand.<sup>15</sup> In a related case a conveyancing lawyer disregarded standing procedures by releasing money paid to the seller before the transfer of the property had taken place. In making a ruling, the judge noted that “for a conveyancer to release a deposit to a seller paid by a buyer before transfer is effected in favour of a buyer is an act attended with the utmost hazard”.<sup>16</sup> In other situations, legitimate property owners driven purely by greed sold property, especially residential stands, to more than one person. In the case of *Fisc Guide Investment versus Tazarura and others*, the judge observed that it goes without saying that this is a case of a double sale of property, involving two innocent purchasers where no transfer has been passed to either party. In the absence of special circumstances affecting the equities, the rights of the prior purchaser take precedence over those of subsequent purchasers”. As discussed earlier, the actions of some property professionals have been characterised by increasingly less adherence to policies and procedures, creating challenges in the functionality of urban land markets.

The analysis of legal cases on fraudulent property transactions also shows that unscrupulous sellers have started to exploit the fact that property transfers take a long time to go through, leading to double sales. Thus it seems as if the weakness of

---

<sup>14</sup> In the case of *Lens Agencies (Pvt) Ltd v Knight Frank and Rutley and Anov*, a tenant who had leased premises from a landlord had been obliged to a good tenancy deposit with the landlord’s estate agent. The tenant claimed that it was entitled to interest on the amount lodged as a deposit when dismissing the application, the Judge noted that ‘ there is nothing in section 50 of the Estate Agent Act (Chapter 27:05) that obliges an estate agent to pay interest on money held as deposit equally, there is nothing in that section that the estate agent is entitled to keep interest earned on this money. However, no authority was placed before the court to show that under common law interest is invariably payable by anyone holding money of another: The deposit paid was in reality a *mutuum* or loan for consumption, and interest is only payable under a *mutuum* if the contract expressly or impliedly provides for it [2LR 1997(2), 167]

<sup>15</sup> See *Drawing Services (Pvt) Ltd v Kanyuchi* (HC 3016/08)

<sup>16</sup> *Simbarashe Manhando versus Stanley Mtetwa of Ziweni and company*; HH-25-2003:pg3)

land administration systems is aiding fraudulent property transactions. Furthermore, the lack of public information on property transactions also aids fraudulent property transactions, since there is no place where a potential buyer can go and check the details of a property transaction (including property descriptions and prices) taking place in an area.

#### 5.4.3 *Failed repayment of mortgage loans*

In the past, mortgage loans were the predominant source of finance for purchases of land and other immovable property in the urban land market sector. It is also common knowledge that when purchasers fail to repay their mortgage loans, financial institutions seek recourse from the courts to recover their investments, together with interest. The calculation of interest (on borrowed money) has caused considerable debate in the urban land markets sector. In 1996, the High Court of Zimbabwe formalised the application of the in *'duplum rule'* where the interest claimable in a summons should not exceed the capital sum due. Thus for all debts where the capital sum is repaid with interest, interest stops running at the point where it equals the unpaid capital<sup>17</sup>. At the height of inflation, this judgement had a catastrophic effect on existing mortgage loans, as financial institutions failed to recoup their investments.

#### 5.4.4 *Inefficiency in land administration systems*

Disputes have also arisen as a result of inefficiency in the land administration system. In one exemplary case brought before the court, the title deeds of two neighbouring properties showed the boundary between them as a straight line. However, a wall on the grounds of one of the properties encroached onto the neighbour's property. When a new owner bought the property, he claimed ownership of the illegal extension based on the law of prescription. The argument was that the wall had been erected more than 30 years before the said purchase – although the new owner had not owned the land for 30 years. Whilst the judge did not grant the request of acquisition through prescription, it is evident that the problem had persisted for such a long period because of weak development controls by the responsible local authority<sup>18</sup>.

Whilst the dispute resolution mechanism remains firmly in place through the country's courts and the Deputy Sheriff's office, there are challenges to executing judgements. For instance, the slow recovery of the economy has meant goods sold at auction as part of executing judgments go for lower than expected prices. – because of less expendable income being available in the economy. In some situations there is also resistance to the Deputy Sheriff seeking to execute court judgements, with cases recorded where one of the parties had sought to stop execution through engaging friends or colleagues with influence. This clearly indicates the need to strengthen the institutions involved in the dispute resolution process.

---

<sup>17</sup> ZLR 1996(2) 420, p 421

<sup>18</sup> Judgement No. HH-102-05

The lack of understanding of the land development process is also fuelling disputes in urban land markets. Some practitioners, because they lack expert knowledge and experience, or even because of some ulterior motive, wrongly advise their clients, leading to litigation. Of course, these situations could also arise because of the lower standards now regulating the operations of professionals working in the urban land markets sector. For instance, there are cases where estate agents sell stands before a title survey has been completed. And sometimes town planners' layout plans even contain more stands than can actually be accommodated on the land, with the resultant problems of encroachment of property boundaries.

Another major weakness in the dispute resolution process is the time taken to settle disputes in court. An analysis of court judgments confirms that most property disputes take several years to finalise. Of course, the costs associated with going to court (including hiring a lawyer to represent one's case) are prohibitive. Thus whilst the courts remain open and accessible, the poor can rarely afford the costs of engaging lawyers.

The nature and type of property disputes are also shaped by the state of the economy. Interviews with the Deputy Sheriff's office confirmed that double sales were on the rise during the hyper-inflation period from 2008. They also revealed that since the dollarisation of the economy, there seemingly has been an increase in tenant evictions because of their failure to pay rent. The Deputy Sheriff's office also noted that at the time of writing of this report, an average of three evictions from commercial premises and about five from residential premises were conducted in Harare daily.

## **5.5 Conclusion**

This chapter has provided insights into the performance of different components of formal urban land markets in Zimbabwe. Using Harare as a case study, the chapter presented trends in housing and land delivery. At the time the study was carried out, government was the main source of land for urban development. The chapter also noted the increasingly significant role of civil society organisations in providing land and housing for the poor. Although partnerships exist which facilitate civil society interventions, there is room for further partnerships. The chapter also provided a snapshot survey of property transactions – which are predominantly financed by cash resources, a situation that does not favour the poor. The chapter concluded with an analysis of the type and causes of disputes that characterise Zimbabwe's urban land markets.

## **6. Informal land markets in Epworth and Hopley settlements in Harare**

This chapter presents findings on the status of informal land markets in Zimbabwe, presenting a somewhat different scenario from land transactions in the formal sector. It is based on data collected from Epworth and Hopley settlements in Harare. Epworth, a settlement originating in the pre-independence period, is a typical informal settlement which is still in the process of evolving into a formal settlement. The data presented in this chapter show how central and local government have moved to formalise some sections of the settlements through planning, service delivery and some notion of property rights registration. On the other hand, Hopley farm is largely a post-2000 settlement, with some sections planned while others are not.

The data presented in this chapter relate to methods of accessing land, the planning status of settlements, the type of property rights applicable in the area and issues of transferability, the status of housing and the servicing of stands (water and sewer reticulation). The chapter was developed largely through key informant interviews with residents in Epworth and Hopley, interviews with the Epworth Local Board (ELB) officials and a review of secondary data.

To ensure a sound understanding of Zimbabwe's informal land markets, we give a brief historical account of Epworth. Located some 25km outside of Harare, Epworth was established in the 1890s by the Methodist Church on three farms – Epworth, Glenwood and Adelaide. It initially consisted of two main villages called Chiremba (Muguta and Makomo) and Chizungu (Chinamano and Zinyengerere). As the liberation war intensified in the 1970s, more people migrated to the cities which were considered safer. The informal set-up of Epworth made the settlement an easy destination for new arrivals, resulting in unprecedented growth, which forced the Church to donate part of its land to government to allow the establishment of a local government area. This led to the creation of the Epworth Local Board in 1986, with the mandate of administering and regulating growth of the settlement (Chatiza and Mlalazi, 2009). At that stage, efforts were started to regularise and formalise the settlement.

An important term in the discussion of informal land markets in Epworth is the concept of 'original residents.' Original residents are the settlers who stayed in the four villages of Makomo, Zinyengerere, Muguta and Chinamano. (Each of these was of course extended as the original settlers expanded in numbers.) At the creation of the Epworth Local Board, original residents occupied more land in the area as they moved to defy the authority of the newly created body. The original residents were recorded in a register and were allocated ELB cards. The register has since been computerised to facilitate payment of rates. As is discussed later in this section, this provides some security of tenure for the original residents.

Informal settlements started to be established again in the post-2000 period at the instigation of ZANU P.F.-led land occupations. (Some of the schemes started earlier during the 1998/1999 land occupations.) An estimated 13 147 stands were allocated

by ZANU P.F. structures but these remain unplanned, although the Epworth Local Board is in the process of regularising them<sup>19</sup>.

### **6.1 Land access methods in Informal land markets**

There are multiple methods of accessing land in Epworth and Hopley settlements. These include purchases from original settlers, free allocation from the Methodist Church (for originals), allocation by the authorities (Epworth Local Board and the state) and settlement through the post-2000 land occupations. In Epworth, social networks played a critical role in informing would-be residents on the availability of land for sale. Many of the original residents, who had been allocated land that measured a couple of acres, subsequently subdivided and sold new plots. The new residents came both from within and outside of Epworth. In most of the cases, transactions were witnessed by relatives and friends. The Epworth Local Board now plays an important role in sanctioning land transactions. Box 6.1 provides further details on land access methods by some of the residents in the study area. For some sections of Epworth and Hopley, residents occupied the land during the post-2000 land occupations. This particular mode of land acquisition provided the basis for the fusion of informal land markets with formal land markets. Using land occupations to access urban land does not conform with the key legislation traditionally used to acquire such land. Following the use of informal methods of land access and allocation, government moved to formalise the settlements, though land allocation was instituted via politically and socially driven processes (Marongwe, 2009).

---

<sup>19</sup> Interview and Epworth Local Board records, 2011

### **Box 6.1: Land access methods in Epworth**

Household A was allocated a 4 900 m<sup>2</sup> stand by the Methodist Church in 1979. As an employee of the church and a church-going member, the stand was allocated for free. Records at the Methodist Church and ELB papers document ownership. The family constructed four cottages, three three-roomed and one two-roomed. The key source of livelihood for the family are pensions, remittances and urban agriculture.

Household B was allocated a 4 900 m<sup>2</sup> stand by the Methodist Church in 1977. At that time, stands were being sold to old residents of Epworth only. The household head (the husband) then worked for the City of Harare. Around the time a new 'village,' Domboramwari was being set up. Those willing to join the settlement were required to join the Methodist Church and complete forms with a marriage certificate attached. No initial purchase price was paid though beneficiaries paid for the land in annual instalments. ELB cards issued years later and rates receipts are the source of tenure security. The household understands that it can sell the property freely although consent from the ELB is required. The family constructed a six-roomed main house in 1981 and the property is served by a deep well and pit latrine.

Household C was allocated a 4 900 m<sup>2</sup> in 1977. At that time the household was based in Mufakose, a high-density residential neighbourhood in Harare. A close relation of theirs who worked as a teacher at a local school in Epworth had informed them of land sales in the area by the Methodist Church. The household paid no initial deposit, although the husband was as an employee of O.K. Zimbabwe. The head of the household (the husband) paid yearly instalments to the Methodist Church. The family invested in a seven-roomed house, a toilet and a well. ELB cards and rates receipts are the documents that prove property ownership.

*Source: Field survey 2011*

Land access methods in Epworth defy the traditional conception of informality where land is for free. A good number of 'originals', particularly those not affiliated with or working for the Methodist Church actually purchased land. Even those that got land for free are justified in claiming it as theirs as allocations by affiliation suggest formality. As such, there is a marked difference from the post-2000 land occupations-based mechanisms for accessing land. What is clear though is that the Epworth land market is governed by factors different from other urban settlements in Zimbabwe. The Epworth Local Board's regulatory authority is only slowly being established (Chatiza and Mlalazi, 2009) and the land values as well as land transactions respond to different parameters (Chatiza, 2010).

## **6.2 Land and property rights in informal settlements**

Epworth and Hopley settlements have elements of both formal and informal land markets. For the two settlements, the land involved is essentially state land. In the case of Epworth, areas categorised as formal have approved layouts and the stands are numbered. Hopley has a combination of areas that were properly planned before occupation and a section where people have haphazardly settled as part of post-2000 land occupations. In the properly planned areas, residents have leases administered by the Ministry of Local Government and Urban Development while those in unplanned sections have no formally recognisable land rights. Hopley also hosts residents affected by the 2005 Operation Murambatsvina evictions elsewhere and as such has become relatively overcrowded.

As is shown in Table 6.1, sections of Epworth have gone through unique processes of change and growth. Some of the sections were replanned, a process that marked the beginning of formalisation of the settlement, while others have continued to sprout without any formal planning. In terms of land rights, Epworth residents prove ownership by way of signed leases, receipts for rates payment and lodgers' cards issued by the local authority. All Epworth residents have been registered by the Epworth Local Board. As such, the Council-based register, signed leases and rates receipts constitute proof of ownership and thus act as a validation of tenure security for residents. Issuance of leases only applies in areas where non-title surveys have been done. The lease is, however, issued upon request by a stand owner. When such a request is made the stand is valued and full ownership will be granted once the agreed value of the land has been paid up.

Discussions with Epworth Local Board officials revealed that residents only ask for leases with options to purchase when seeking finance from financial institutions. In general, it was revealed that residents were less enthusiastic about paying the full value of the land to allow full ownership. Thus, residents seemed content with the register and the rates receipts as their form of tenure security. Indeed, the original settlers argue that the land has always been theirs and that the Epworth Local Board as a recent creation has no mandate to "sell land to them" (Chatiza and Mlalazi, 2009). As noted by Chatiza (2010), this has created a situation where some of the land in Epworth is locked in a development system of low value and haphazard utilisation.

The official position that all land under the ambit of the Epworth Local Board is state land means that residents are legally not supposed to sell or transact in such land. In practice, residents do conduct land sales, but mostly as subdivisions of their original stands. Those wishing to subdivide their stands are required to approach the Board first to check whether there is room for a subdivision to be effected. The Board also uses that opportunity to check if the person intending to subdivide is the owner of the land as recorded in the register and on rates receipts.

Although the Epworth Local Board pretends not to be aware of the motivation of subdivision, most residents do it to sell the land. For the Epworth Local Board, the creation of a new subdivision means an additional source of revenue through the payment of rates. Thus, whilst efforts are being made to formalise the settlement, many of the transactions taking place are being done through informal channels. Even the type of property rights issued (the register and rates receipts) is a blend of formal and informal land market activities. The transition from informal to formal is a process that takes time to complete. What is important is to recognise that a process that covers a large proportion of Epworth has been initiated. Yet despite the existence of non-title surveys, in some sections it will still take a long time for a fully operational formal land market to develop in Epworth. This is because there are still some areas which are clearly categorised as informal settlements. The politics of the post-2000 period gave rise to many such types of settlements (see the discussion in Chapter 1).

In Epworth these informal settlements have no approved layout plans and no planned roads. Interviews with Epworth Local Board officials revealed that in a politically driven process, residents in ward 7 (where the informal settlements are)

demonstrated to Council, demanding recognition as 'official' residents. Consequently, a register was developed, temporary household cards issued and residents started paying rates. Discussion with residents in the post-2000 settlements confirmed that tenure security for informal residents was guaranteed by their political affiliation to ZANU P.F. Examples from both Epworth and Hopley provide credence to this (see Box 6.3).

**Box 6.2: A typical informal settlement in Hopley**

The section known as Mbare in Hopley emerged in 2005 following the Cleanup Campaign. The residents stayed in the 'real' Mbare prior to the Campaign. When they were evicted following the destruction of their illegal structures they relocated to Hopley. The Hopley section where they reside is purely informal. There is no-one with authority over the settlers on matters of land access. The stands have not been properly demarcated, they have no stand numbers and the stand sizes are unknown. The section is haphazard, overcrowded and has poor sanitation facilities.

*Source: Field data, February 2011*

**Box 6.3: Land access and property rights issues in the post-2000 informal settlements in Epworth**

Household D was allocated a 3 000 m<sup>2</sup> stand in ward 7 following the year 2000 land occupations. Previously, the household stayed in rented accommodation in Epworth. The household confirmed that they were allocated land by ZANU P.F. party structures. The possession of a ZANU P.F. party card was seen as providing them with security and tenure. The family has since invested in the development of a two-roomed cottage and a toilet. The political tension between MDC and ZANU P.F. was seen as complicating the communication between residents and the MDC-controlled Council of Epworth Local Board.

Household E was allocated a 1 600 m<sup>2</sup> stand following the ZANU P.F.-led land occupations. The head of household E had been retrenched from work at the time the land allocations started. His parents, who resided in Epworth, invited him to come and participate in the land occupations. The fact that Epworth has a long history of unplanned settlements gives people confidence that the settlement is permanent. Further, being ZANU P.F. party card-holding members is seen as providing sufficient tenure security.

Household F was allocated a 1 600 m<sup>2</sup> stand under the same programme as Households D and E. Prior to the land occupations, the household stayed in Epworth as tenants. Having stayed on the stand since 2000 is seen as providing security of tenure. The family has invested in a five-roomed cottage, a deep well and a pit latrine.

The common view among households D, E and F was that land was given to them for free because they were the children of original inhabitants of Epworth. It was also an agreed position that their political party, ZANU-P.F., did not permit the selling of the stands allocated to them.

*Source: Field data, February 2011*

### **6.3 The intersection of informal and formal activities in Epworth**

An important argument presented in this chapter is that land markets in places like Epworth and Hopley are a hybrid of informal and formal land market transactions. Over time, the state (central and local) has moved towards formalising such settlements through settler registration, planning and non-title survey, as is under way in Epworth. In the post-2000 period, politics played a critical role in the emergence of new informal settlements. Even some schemes of the post-2000 period have since been planned and formally allocated. This is the case with Hopley

scheme, part of which falls under the Garikai/Hlalani Kuhle housing programme (see the discussion in Chapter 5).

Table 6.1 gives a general description of the different sections of Epworth. By and large, most of the settlements started with residents accessing pieces of land through their own methods (informal land access). The history of individual sections of the settlement shows that they started very informally, with no state involvement. Most of the settlements have since been planned, with the exception of one area known as Zinyengere Extension or Magada. Thus one important step towards formalisation is almost complete. In some of the sections, water and sewer infrastructure has been put in place, although the system remains non-operational for maintenance reasons. This can be seen as the second step towards formalisation. With the exception of Overspill, most of the sections do not have houses with approved plans. The standard, type and quality of housing present clear evidence that these buildings were erected without technical support from Council. Thus such buildings reproduce a typical characterisation of informal settlements.

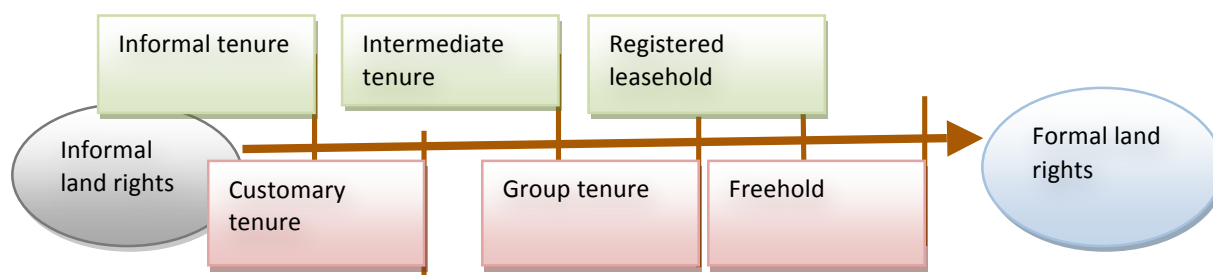
The status of property rights registration in Epworth has elements of both informality and formality. For the planned settlements, provisions for obtaining leases with an option to purchase exist. As already discussed, interviews with Epworth Local Board officials revealed that there has been a slow take-up of the option. Discussions with residents revealed that Epworth Local Board cards and rate receipts were seen as the key forms of tenure security. This can be seen as a progression towards formal property rights since receipts and registers do not fully represent formal property rights (they do not, for instance, provide for the description of the pieces of land which they represent). In the post-2000 settlements, affiliation to ZANU P.F. as a political party is seen as a form of tenure security. This can be viewed as a very informal arrangement although it can be argued that the recognition by a political party is a step towards formalisation. In Epworth, ZANU P.F. affiliation was effectively used to agitate for formalisation and the first elected Council (MDC-T) resolved to accommodate the formalisation process. Overall, the trends in Epworth confirm the existence of a continuum of land rights in urban areas as presented by UN-Habitat (2010) (see Figure 6.1). Thus, it can be argued that informal tenure has evolved into intermediate forms of formal tenure, with some already transforming into registered leaseholds. Indeed, the arrangements suit the situation of poorer people who cannot meet the requirements for formal registration of property rights (see Chapter 7). The set-up of Zimbabwe's urban areas is such that customary tenure does not exist in those areas, even in informal settlements like Epworth.

**Table 6.1: Intersection of informal and formal land markets in Epworth**

Area	Year	History of settlement	Legal and planning status	Status of property rights	Status of housing	Service
Makomo	Circa 1908	Methodist Church members were allocated land which formed the core of the settlement growth.	Legal and formally planned	Lease agreements options exist, ELB cards & rates receipts provide tenure security	Old houses have no approved plans, new houses have.	Water and sewer infrastructure exists but not working for lack of pumping capacity and water respectively.
Chizungu	in the 1940's	Original settlers some of whom sold part of their land.	Re-planned in the 1980s, partial installation of infrastructure.	Lease agreements options exist. Rates receipts are a form of security.	Some houses have approved plans others do not have.	Use of natural springs and use of pit latrines
Jacha	Circa 1978	Area used to be gardens of original settlers, descendents of whom demarcated and sold stands.	Settlement is unplanned but recognised by ELB. ELB provided stand numbers.	ELB cards and rates receipts provide security for tenure.	Houses have no approved plans.	Water infrastructure with no running water for lack of pumping capacity. Sewer infrastructure not working for lack of water.
Chiremba	Pre-1980	Settlers consider themselves 'originals' who settled in Epworth first.	Legal and officially recognised.	Lease agreements options exist, cards and rates receipts provide tenure security	Houses were built before establishment of ELB. Houses have no approved plans.	Water and sewer infrastructure in place but not working. Use of deep wells and pit latrines
Chinamano Extension	Just before 1980	Original residents sold land in their fields and grazing areas.	Settlement re-planned and upgraded in early 1980's by central government.	Lease agreements option exists, ELB, cards and rates receipts provide tenure security.	Old & dilapidated houses, mostly with no approved plans.	No water and sewer infrastructure. Use of pit latrines and deep wells
Overspill	in the 1980's	Settlement planned from the beginning	Formal and planned settlement	Lease agreements options exist. ELB cards and rates receipts provide tenure security	Houses have approved plans though others do not have.	Water infrastructure with no running water for lack of pumping capacity. Sewer infrastructure not working for lack of water.
Magada /Overspill	Early 1980's	Originals sold land that was part of their fields.	Formal and planned	ELB cards and rates receipts. Settlers considered illegal.	Houses have no approved plans.	Water and sewer infrastructure exists but not working for lack of pumping capacity and water respectively.
Zinyengere extension/ Magada	Circa 1997	Original residents sold land in their fields and grazing areas.	settlement not planned	Land owned by ELB, residents not clear on this status. Security is in the form of rates receipts.	Houses have no building plans, structures range from shacks to houses.	Individual connections to piped water financed by Plan International. No sewer, use of pit latrines
Domboram wari		Originals sold land in their fields and grazing areas.	Legally recognised by ELB.	ELB cards and rates receipts provide tenure security	No approved building plan.	Water infrastructure exists but no running water. No sewer; use of pit latrines.

Source: Summarised from Epworth Local Board (2009)

**Figure 6.1: A continuum of land rights in urban areas**



Source: UN-Habitat 2010:7

Property transactions taking place in Epworth combine informal and formal methods. Whilst the land involved is state land and is not supposed to be sold, even the ELB admitted that residents continued to engage in the buying and selling of such land. The ELB has created space for itself as a ‘witness’ to the transactions. The same situation is replicated through the subdivision of stands. With no formal procedures followed to subdivide stands, residents, with the blessing of Epworth Local Board, are involved in the subdivision of land. It is in this context that the discussion on the intersection of informal and formal land markets is couched.

#### **6.4 Informal settlements: a place for the poor?**

Chapter 5 has argued that prices for houses and stands in the high-density areas are well beyond what the poor can afford. For instance, the chapter showed that prices for houses and stands in high-density residential areas range from US\$2 000 to US\$10 000. In Zimbabwe’s depressed economy where income levels are low and civil servants – the largest section of those employed – earn only around US\$200 per month, this represents a serious constraint. In Epworth, stands in the planned area is being sold for US\$650.00 for a 150 m<sup>2</sup> stand (interviews with Board officials, February 2011). It is evident that the very poor can only afford stands in places like Epworth. The following discussion presents profiles of randomly selected residents from Hopley to better understand the poverty status of residents.

##### Household J at Hopley settlement

Household J originally came from Porta farm. The household was evicted by the police and the army during the Cleanup Campaign of 2005. Originally from Mozambique, the family was allocated a 150 m<sup>2</sup> stand under the Garikai/Hlalani Kuhle scheme. As per requirement, the household paid US\$50 deposit upon allocation and pays US\$50 yearly as lease fees to the Ministry of Local Government and Urban Development. The family’s major income source is the sale of flowers to mourners at Granville Cemetery. When the family arrived in 2005, it stayed in plastic shacks provided by AN NGO, Christian Care, until the City of Harare pegged and allocated stands. The government, through the City of Harare, then started building two bed-roomed houses for those that had been allocated stands. Some houses were completed while others were left at foundation level. Others were never built. Those whose houses were completed were made to pay US\$15 per month while

those whose houses were left at slab level pay only US\$50 per year for improvements made. Household J's house was left at slab level but it has since completed the two-roomed house.

#### Household K at Hopley settlement

Household K is female-headed and was also evicted from Porta farm in 2005 by the Cleanup Campaign. The household head is originally from Mozambique but cannot remember the actual date she arrived in Zimbabwe. There are seven children in the household, all born in Zimbabwe. When she arrived at Hopley, she stayed in a plastic shack provided by Christian Care, together with four other siblings for close to two years, during which time the stands were being developed. She has a stand that measures 150 m<sup>2</sup>. The stands were only allocated to those who had been affected by the Cleanup Campaign. In an interview, the head of household K noted that "...at first we never paid anything for these stands until 2009 when we started paying monthly rentals of \$15". She has a lease agreement signed with the Ministry of Local Government and Urban Development. She noted that the main problem the area faces is a critical shortage of water and a lack of proper infrastructure such as roads and electricity. She further noted that "...we do not have access to firewood. When we go to nearby plots to fetch firewood, we are chased away by war veterans. Another big challenge that we face here is that of lack of water suitable for domestic use. Two boreholes that were sunk broke down a year ago and we are fetching water from unprotected wells thereby risking contracting cholera." She survives on selling a popular 'illicit brew' (*chikokiyana*). She argued that politicians from different political parties were hampering development in the area by canvassing for votes and further alleged that political parties often lied.

#### Household L at Hopley settlement

Household L came from Malawi in 1963 and worked at Inyati Mine in Headlands (Manicaland Province) before the mine closed in the 1980s. After the closure of the mine and from the savings given as a retrenchment package, the family of six moved to Mbare in search of employment. Upon arrival in Harare, the husband worked for two companies before being retrenched again. The high rent and subsequent loss of employment forced them out of Mbare to Porta Farm in 1999. The household then accessed a piece of land to build a two-roomed 'makeshift' house at Porta farm. In 2005, the family, alongside others, were bundled into police vehicles during the night and dumped at Hopley Farm. The household did not pay any money for the land during the first four years of their stay at Hopley farm where they were allocated a 150 m<sup>2</sup> stand. The household head now works as a security guard while the wife and children are involved in fish vending, which they get from Porta Farm where the family members have remained members of fishing camps. The household also has a lease agreement signed with the Ministry of Local Government and Urban Development. In addition to the two rooms built under Garikai/Hlalani Kuhle, the household has since managed to build two other bedrooms at the stand (not roofed at the time of the study).

#### Household M at Hopley settlement

Household M is female-headed with four children. The head has never been married. She came from Mbare in 2005 where she was renting a one-roomed backyard shack

in the Matapi area. She was forcibly removed and the shack destroyed during the Cleanup Campaign. During the mayhem, she managed to pull out her wardrobe, bed and some small kitchen utensils and sought accommodation at a local church until they were driven out of the church during the night and taken to Hopley farm. She stayed in a shack until she was allocated a 150 m<sup>2</sup> stand. Like other residents, she is also paying monthly rentals of \$15 to the responsible ministry. Since acquiring the property she has managed to extend the two rooms to three and has plans to finish the house in two years' time. She earns a living through selling eggs and *sadza*<sup>20</sup> to tobacco farmers at Boka Auction Floors located some 300 m from her house.

## **6.5 Discussion**

All four households described above were victims of the Cleanup Campaign of 2005. They used to stay in informal housing either in Mbare or at Porta Farm. The households also depended on precarious livelihoods as vendors and lowly paid formal sector employees. The living conditions that prevail in Hopley are poor. With stand sizes averaging 150 m<sup>2</sup> rentals at \$15 and households relying on communal toilets and water supply, it is clear that residents of Hopley are poor. In other high-density areas, rentals are around \$50 per room, a figure that the poor cannot afford. Whilst settlements like Epworth and Hopley are partially formal, it can be argued that informality coexists with formality. A related point to make is that Government and the City of Harare are visible actors in terms of the Hopley land market, but only in the formally planned section of the settlement. Tenure is secure, with beneficiaries holding valid leases and with fees (annual) and rentals (monthly) paid to the Ministry of Local Government and Urban Development since the settlement is on state land. Public sector participation has had a bearing on the rental levels and lease fees. However, there are other households in the unplanned sections of Hopley where land ownership, tenure security and service provision are more complex but generally inadequate and insecure.

## **6.6 Conclusion**

The coexistence of formality and informality in Epworth and Hopley presents a working arrangement that suits the situation of the poor. Both government and civil society organisations have made efforts to help the poor in these informal settlements. It is fair to suggest that both (state and non-state) organisations have facilitated land market participation by the poor in ways that require upscaling to cover other poor people that remain unserved. There is more potential for partnerships between residents of such settlements and various state and non-state actors. It seems as if government, where it saw fit, showed traits of flexibility when dealing with informal settlements. Such flexibility is, however, not divorced from the hidden agenda of seeking state control of the residents. The case of Epworth also demonstrates that the Council is following up on residents who occupied land, formally registering them as a way of ensuring their compliance with a more formal and urban governance regime moving forward. In both Hopley and Epworth, obtaining land rights include informal tenure, intermediate tenure and registered

---

<sup>20</sup> This is the staple food in Zimbabwe, made of mealie-meal.

leaseholds. Gravitation towards formal land rights is evident in Epworth. Both settlements present some options for integrating the poor in formal urban land markets – more so in Hopley, since most of the beneficiaries there were victims of the 2005 Cleanup Campaign.

## **7. Land and property rights registration in Zimbabwe's urban areas**

### **7.1 Introduction**

This chapter presents an analysis of the registration of property rights in Zimbabwe's urban areas. The discussion is entirely informed by the formal processes of registering property rights. The chapter starts with a historical account of how property rights registration evolved in the country, starting from the colonial period. The chapter discusses the types of property rights applicable in the urban areas, and the implications of such forms of rights to the needs of the poor. The chapter interrogates the key steps followed when registering property rights and the documentation required in such a process. The key argument pursued is that the formal property rights as they currently exist cannot be afforded by the poor. Informed by the discussion in the preceding chapter, the chapter argues that a hybrid of informal and formal property rights could be the solution to the poor's property needs.

### **7.2 The history of land registration in Zimbabwe**

Pre-colonial Zimbabwe did not have an organised, systematic system of land registration. The system of land registration operational in the country is a vestige of colonialism. The land registration system in Zimbabwe is closely modeled on that in South Africa. The Rhodesian Deeds Registries Act is a replica of the South African Deeds Registries Act of 1937. The primary statute on land registration was the Land Survey Regulations of 1895 published in the Survey Regulations (Government Notice, Survey Department Number 1 of 1894). However, the Deeds Registries Act passed in 1959 remains, with a few amendments, the applicable statute in Zimbabwe.

Originally all land in the country belonged to the State. In colonial times it was known as crown land, now it is generally termed State Land. There was no title or private ownership of such land. If the state granted one title to such land he/she was given a Deed of Grant. This was the first title to land and evidence of private ownership. In the absence of any such arrangement the state land was known as unalienated State land as defined in terms of Section 2 of the Deeds Registries Act. Unalienated state land is defined as state land in respect of which no title deed other than a Certificate of State Title exists. Each piece of land registered as a separate entity must be surveyed and reflected on a separate diagram approved by a Surveyor General. The debate in the formal land markets is hinged on the thinking that an efficient system of land registration is impossible unless each registered unit of land is surveyed and represented on a diagram or general plan.

The very act of registration originates in the survey of the unit of land to be registered. It is the deciding factor for determining the boundaries of any unit, for the Deed itself can only repeat the description as it is on the diagram. The preparation of diagrams and plans is governed by the Land Survey Act. In terms of this Act a diagram can only be recognised if it has been signed by one recognised in law as a land surveyor and thereafter be approved or certified by the Surveyor General. A general plan on the other hand represents the relevant positions and dimensions of two or more land pieces of land and has been signed by one

recognised in law as a land surveyor and thereafter be approved or certified as a general plan by the Surveyor General. The importance of a diagram lies in the fact that the diagram is the deciding factor for determining the boundaries of any unit. If there are any variances between Deed and diagram, the description in the diagram must prevail. Section 40 of the Land Survey Act prohibits the registration of land without an approved diagram or a general plan.

The land registration system is operationalised by a registered conveyancer who is in private professional practice. The conveyancer is empowered to act in the place and stead of one called the Appearer. Between them is the fiduciary relationship of agent and principal. The enabling document is the special Power of Attorney. Without it the conveyancer has no capacity to act on behalf of an individual. The next rung in the ladder is the Surveyor General and the Registrar of Deeds. These are both indispensable components of the system. They are essential to the process of registration and without them there can be no registration of title in immovable property in Zimbabwe. The end-product of the land registration system is the registered title which is evidenced by a Title Deed.

### ***7.3 Types of ownership of urban land***

Ownership of land in the urban area is evidenced by a Title Deed. This is the deed whereby title to land is held. It is a generic term for Deed of Transfer, Deed of Partition Transfer, Deed of Grant, Certificate of Registered Title, Certificate of Consolidated Title etc. The Deed of Grant is the original title to land wherein the State has granted title to an individual. It is succeeded by Deeds of Transfer, Deed of Partition Transfer, Certificate of Registered Title etc. The diagram deed is the deed under which property is or was held to which an approved survey diagram is attached. The holding deed is the deed under which the registered holder currently holds title. When a new deed is registered, the previous deed, not being a diagram deed, becomes a dead deed. Substituted title deeds are documents that are issued instead of title deeds but have the same value and weight carried by title deeds.

#### ***Undivided shares in land***

When a piece of land is owned by or is transferred to two or more persons it is said to be held by those two or more persons in undivided shares. These shares could be equal or not. In Zimbabwe, there are many properties registered jointly in the name of a husband-wife couple 'in equal undivided one-half shares'. An undivided share in land does not signify and may not be held to represent defined or distinct portions of the land even if the joint owners have agreed to each occupy defined or distinct portions of the land. If one of the owners builds a structure or enhances the property in any way, such structures and enhancements will be jointly owned by all the owners in their respective shares. Actual ownership of a defined or distinct portion of the land can only be achieved by the owners agreeing to partition the land according to their respective shares in the land. Such partitioning of land constitutes a subdivision and is subject to the provisions of the Regional, Town and Country Planning Act and the Land Survey Act.

### Block share system

This was a system of ownership of a single unit in a building or block of flats before enactment of section 27 of the Deeds Registries Act. Although the system is still in existence in some urban areas it is no longer popular. It is rarely used now with preference being given to undivided shares coupled with exclusive right of ownership. In terms of the block share system an owner of a piece of land which is to be developed into a block of flats or where there is a block of flats for multiple transfer would register the flats in the name of a company. The property would then be transferred to the company and shares would be created that correspond to the flats as illustrated in Table 7.1.

**Table 7.1: Types of shares in a block share system**

Class A Shares	Flat number 1
Class B Shares	Flat number 2
Class C Shares	Flat number 3
Class D Shares	Flat number 4
Class E Shares	Flat number 5

*Source: summarised from appropriate legal documents*

The purchaser who intended to buy flat number 3, for instance, would purchase class C shares in the company. Consequently, there would be a transfer of shares to the purchaser and issuance of a share certificate. The certificate was proof of title in the same way that a title deed is used. The main advantages of this system is that it is simple to put in place, it is less expensive than the normal system and that it would be suited to low-income users. However, there are disadvantages as well. Title deeds and selected substituted title deeds are the exclusive evidence of ownership of immovable property not a mere share certificate which is proof of ownership of shares in a property holding company. Also, a holder of a share certificate is not able to mortgage their property in the same way that mortgages are registered over immovable property. Loan finance would have to be secured over the whole title deed which is in the name of a company. It is inconceivable that all the owners of the shares in the property would agree to one person burdening the property to the detriment of all. A holder of share certificates would face grave challenges when trying to sell the property as he/she could only sell shares rather than land, as evidenced by the title deeds. Likewise the insolvency of the company would affect innocent holders of the blocks of shares.

### Undivided shares couples with exclusive right of ownership

It was because of the inadequacies of the block share system that the system of undivided shares coupled with exclusive right of ownership was introduced. This is in terms of section 27 of the Deeds Registry Act. It is popularly known as **Sectional Title**. It is similar in model to the systems in South Africa and Botswana. It applies to urban land only. The procedure is for the owner of a piece of property to register a Notarial Deed against the Title Deed to the land where he wishes to transfer to one or more persons an undivided share in land coupled with an exclusive right of occupation. The Notarial Deed:

1. Specifies the number of shares which are coupled with an exclusive right of occupation
2. Indicates clearly the buildings or portions of the building which are to be subject to the right of occupation
3. Defines the reciprocal rights and obligations of the owners of undivided shares
4. Provide for the administration and maintenance of the building and the land concerned
5. Provides for the manner in which the Notarial Deed may be amended.

The exclusive right of ownership is a real right and is inseparable from the undivided share. Undivided shares coupled with exclusive right of ownership shall not be regarded as subdivisions of the land concerned in terms of the Regional, Town and Country Planning Act. Exclusive right of occupation is defined as the right of the owner of an undivided share in a piece of land in an urban area to the exclusion of every other owner of an undivided share in the land concerned either with or without any area of ground.

#### Partition transfer

Partitioning of land is defined as when the joint owners of a piece of land, or pieces of land (provided each partitioner holds a share in each of the pieces) agree to redistribute such land by subdividing it in such a way that each receives a defined piece of land. In order to effect this, there must be a subdivision permit. Ownership is, thereafter, held under a Deed of Partition Transfer.

#### Cessionary rights

The most common circumstances in which rights, title and interest in property may be ceded from one person to another is where the holder of unregistered title, rights and interest in a property cedes to another. Due to the absence of proper Title Deeds, the normal process of transfer may not be used hence the only means of transferring rights, interest and title in immovable property is through cession. The document that enables this is the Deed of Cession which then becomes the evidence of title, rights and interest. The transfer is achieved by a cession to the third party who then acquires title, rights and interest in the same way that the original right holder did. Transfer of rights by way of cession also happens where title is still held by the local authority or municipality and has not yet been transferred to the last purchaser. Every local municipality has its own guidelines or regulations relating to the cession of land. The purchaser has a right, with the consent of the local authority, to cede the property to another. Usually before a property can be ceded from one person to another, the written consent of the local authority is required.

As a general rule, the local authority may direct that land be ceded to a third party where the holder of rights in land has failed to fulfil certain obligations or conditions relating to the property. For example, the City Council of Harare ceded rights where owners of various properties in Harare's high-density suburbs had not developed their properties over protracted periods of time as per agreement. Municipalities and local authorities derive their power and capacity to cede properties to third

parties in the event of default from the agreement of sale. A clause is usually contained in the agreement signed between the local authority and the purchaser. The local authority thereby retains a right to cede the property to another in the event of the purchaser's failure to satisfy the terms and conditions of the purchase and/or transfer. In the case of lease-to-buy agreements, the local authority also has the right to terminate an agreement and cede their rights in the land to another. An example of this is where a person fails to meet their obligations or falters in payment of certain rentals. The local authority then cancels the agreement and proceeds to cede the same property to another. In summation, the cessionary rights in property owned by City Council come in three forms.

The first is through a normal lease; where the tenant is given a certificate of occupation. The tenant cannot sell the property. For example, if he/she passes away, the City Council has the right to give such certificate to another new or independent tenant. The second is through a cession. In such case, the City of Harare as the registered owner of a certain property; cedes the rights of that property to another party. The new owner can subsequently cede those rights to a third party provided that the City Council; as the owner; consents to the cession; through an endorsement on the cession form. The third is through actual ownership where say the City of Harare gives a party the right to ownership and the same can subsequently apply for a title deed in his/her favour.

### Discussion

The types of property ownership applicable in Zimbabwe's urban areas have largely not been placed in the context of affordability by the different segments of society. In particular, the relevance of each of the mentioned type of ownership is not linked to what form of property rights are applicable to the poor. The analysis of the cost implications of each form of ownership and its impact on affordable property rights regimes that suits the poor was beyond the scope of this study. Title surveys based on block surveys would be subsequently cheaper and more affordable to the poor than the title survey earmarked for individual freehold title. Also, it is worth noting that the type of ownership of land and other property affects business transactions that involve such properties, especially the making of a sale of the said land and or developing such land. For example, the new urban centre hierarchy established in the post-independence period saw the establishment of growth-points nation-wide. In general, land in such centres has no title and this affects land sales and the use of such property as security against loans obtained from the banks.

Cessionary rights are a commonly used property rights regime in Zimbabwe's urban areas. In Harare, there are still existing properties in the high density areas where no title survey has been done. This includes properties in Mbare, Mabvuku/Tafara, Glen Norah and Mufakose. In such situations, cessionary rights are the prevailing property rights regime. However, in Bulawayo, the City Council pre-financed the costs of block surveys and subsequently charged beneficiaries. This strategy can be seen as one such option of providing secure property rights for the poor.

Evidence gathered from court records reveals that the administration of cessionary rights is problematic to local authorities. In many situations, owners of cessionary rights attempt to sell their rights in such properties without the knowledge of the

local authority. Ultimately, some members of the unsuspecting public have lost on payments made when in the end local authorities refuse to transfer title. In nullifying one particular transaction that had been done without the knowledge of the local authority, the Judge quoted the verbatim of the Council Agreement, “the purchaser shall not part with the possession of the property or any part thereof nor cede nor assign nor hypothecate this Agreement or any rights hereunder to any person without the previous consent in writing of the Council.”<sup>21</sup> In other cases, fraudulent transactions involving cessionary rights have taken place.<sup>22</sup> There are also strong elements of informality when beneficiaries trade in cessionary rights but deliberately choose not seek authorisation in order to avoid the official violation of council policy that an individual can only benefit once from the allocation of council land or houses.<sup>23</sup> However, informal arrangements often backfire when people used as fronts to facilitate ‘illegal’ transactions refuse to cede the rights when required to do so as per the ‘informal agreement’ between the parties concerned.

#### **7.4 The process of registering a property**

The process of registering property requires the services of a conveyancer. Conveyancing costs are normally passed on to the purchaser and this in itself is expensive to the poor. The conveyancer needs to be given the power of attorney before the start of the registration process. The paper work starts with the drafting of an agreement of sale followed by the preparation of the Deed of Transfer. Supporting documentation required before the lodging of documents include the rates clearance certificate and the capital gains certificate. These steps increases the costs of transferring property and the time involved. The net effect of this is that it works against the poor.

##### Role of a conveyancer

A conveyancer is a lawyer in private, professional practice who has undergone specialised training in the technical and specialised discipline of Conveyancing and is registered as such by the High Court of Zimbabwe in terms of the Legal Practitioners Act. In Zimbabwe, a conveyancer is crucial and necessary to the process of land registration. There are documents which, in terms of the law, may not be accepted for registration if not drawn-up by a conveyancer. These are certificate of title, deed of transfer, mortgage bond, cession of mortgage bond, consent to substitution and agreements to variation of terms of a mortgage bond. Moreover, it is the conveyancer who performs all the preliminary tasks such as searching for the original deed in the deeds office to ensure its existence.

##### Securing the powers of attorney

The power of attorney simply means the power to act on behalf of someone. It can either be a special power of attorney or a general power of attorney. A special

---

<sup>21</sup> See the case of Pambana Kudakwashe v Muzira and others, HH 52-2006; HC 996/2000

<sup>22</sup> See the case of Cyril Chikadaya vs Zakeyo Chikadaya and City Council of Harare, HH 1-2002; HC 11678/98.

<sup>23</sup> See also the case of Mushure Jangara v B Chinembiri, B Nyakutumba and B Guveya and City of Harare.

power of attorney is executed where a person who wishes to transfer property gives a conveyancer the power to pass ownership. In transfers where a special power of attorney is used, it must be filed with the Deeds Registry. If acting under a general power of attorney, the original is lodged together with a certified copy. The Registrar will return the certified copy to the conveyancer. The existence of the original power of attorney is evidence that it has not been revoked. When a minor child is receiving a donation of land, the power of attorney must be executed by the minor's guardian. The process of securing the power of attorney is particularly significant as it ensures that it is the owner or his/her representative that has authorised the sale and the subsequent transfer. When done properly (especially after a Deeds search to prove ownership), fraudulent transactions become less probable.

#### Drafting an agreement of sale

In Zimbabwe, all sale of land must be reduced to writing in the form of a memorandum of agreement of sale. This is particularly important in minimising risks associated with giving verbal instructions. The agreement of sale is prepared in terms of Section 1 of the Consumer Contracts Act. In terms of the Contractual Penalties Act an agreement for the sale of immovable property must also be reduced to writing otherwise the onus of proof is shifted to the person alleging its existence. Before drafting an agreement of sale one should check with the Deeds Office the correct names of the parties, the endorsements, servitudes, restrictions, caveats, mortgages and so on.

The normal agreement of sale where the full purchase price has already been paid pose no problems and are usually registered with no queries at all. Problems usually arise in a sale of land by instalments, a process commonly referred to as the Deed of Sale. The seller may become insolvent or as has become increasingly common among low income groups; the seller sells to more than one purchaser. In all these cases the purchaser is not a secured creditor and only has personal rights against the seller. To try and deal with this, section 64 of the Deeds Registries Act was enacted. It provides for, among other things, the new requirements for a valid sale of immovable property. These include that the agreement must be reduced to writing to be registrable.

Secondly, the consent of the registered owner and the purchaser are required. Registration of the Deed of Sale has the effect of endorsing on the title deeds of the land concerned that such land is subject to the contract. These endorsements can only be cancelled with the written consent of the registered holder and the purchaser

#### Deed of transfer

Section 13 of the Deeds Registries Act deals with the preparation of Deeds. By law, a deed of transfer may only be prepared by a duly registered conveyancer practising anywhere in Zimbabwe. Zimbabwean law generally recognises professional liability for negligence in improperly drawn documents. The processing of a Deeds Transfer becomes a possibility upon meeting fundamental requirements relating to availability of a rates clearance certificate; payment of the capital gains tax, payment of conveyancing fees and where appropriate, payment of the estate agency fees.

Effectively, these key conditions have the effect of pushing up the prices of properties, making them less affordable to the poor.

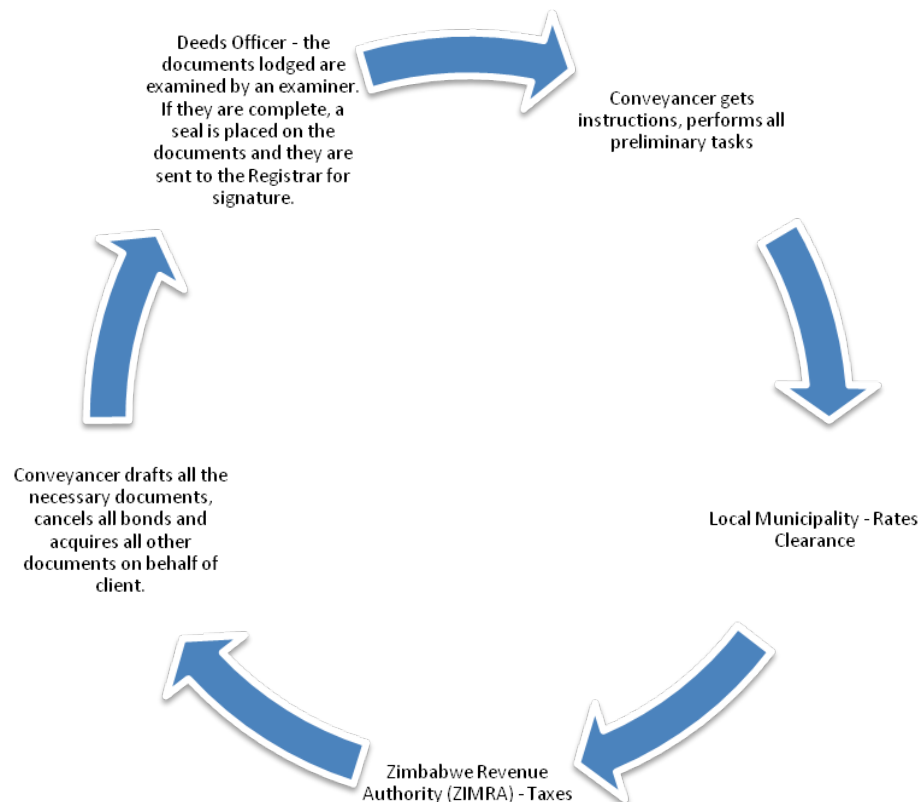
### Payments of rates, taxes, levies and duties

It is necessary to lodge a rates clearance certificate when transferring immovable property on which rates are levied. These are paid at the local municipality or council in which the property is located. Section 282 of the Urban Council Act prohibits the registration of transfer before a rates or charges clearance certificate is issued. The practice varies from local authority to local authority. Generally the conveyancer who has been instructed to attend to a transfer writes to the relevant local authority requesting the rates clearance certificate. The local authority will calculate all rates in arrears and add this to the rates to be paid some time in future. Most district councils in Harare ask for payment of rates three months in advance. The conveyancer will forward the payment of the required rates before the local authority issues the rates clearance certificate. The Registrar of Deeds will reject any papers lodged without the rates clearance certificate. Further, the Registrar of Deeds can only register a transfer of immovable property on production to him/her of a Capital Gains Tax Clearance Certificate.

### Lodging of documents

When all paper work is complete, the documentation is lodged at the Deeds Registries Office. Figure 7.1 summarises the key steps in the land registration process.

**Figure 7.1 Key steps in the land registration process**



The complexity of the formal registration process is evident from Box 7.1. At least 12 types of documents are required before the lodging of the documentation. To arrive at this stage, other critical steps that would have been passed through include the layout planning approval process, the title survey process and the servicing of land that would end with the issuing of the compliance certificate that makes it possible for property transfer processes to start. From Table 7.2, the costs of property transfers include the capital gains tax calculated at 4% of the value of the property; stamp duty calculated at 4% of the value of the property and the conveyancer's fees calculated at 3% of the value of the property. Cumulatively, property transfer costs increase by a minimum of 11%, and where applicable, 7.5% fees for the estate agency are added.

Based on statistics presented in Chapter 5, prices of properties in the high-density area ranged from US\$9 000 to US\$31 000 (for houses), compared to US\$900 to US\$6 300 and US\$21 000 to US\$150 000 for medium- and low-density areas, respectively. Thus, a property costing US\$10 000 in a high-density area will approximately attract an additional US\$1 100 for capital gains tax, stamp duty and conveyancing fees. Considering that incomes of employees remain low (see also the discussion in chapter 2) with civil servants earning around US\$200 a month, the cost of purchasing a property and its registration are not affordable to the poor.

**Box 7.1: Documents required to register property**

The Deed of Transfer is lodged with the following documents which are known as supporting documents.

- 1. Power of attorney to pass transfer
- 2. Title deed (which is the Holding Deed)
- 3. Diagram (if the holding deed is not a deed of grant)
- 4. Proof of appointment
  - Letters of administration of the deceased's estate issued by the Master of the High Court
  - Resolution of the Board of Directors of a company
  - Certified copy of a will
  - General power of attorney
  - Constitution
- 5. Mortgage bond together with cancellation of mortgage bond
- 6. Rates clearance certificate
- 7. Declarations by purchaser and seller
- 8. Capital gains tax clearance certificate
- 9. Various consents in relation to conditions of title
- 10. Court order
- 11. Certificate of designation
- 12. Cheque for stamp duty

*Source: Summarised from appropriate legal documents*

**Box 7.2: Costs and payments in property registration**

Action	Cost	Payment made to	Approximate cost for a standard high-density core house costing US\$10 000
Rates clearance certificate	All rates in arrears and some in advance	Local Municipality	
Capital gains tax clearance	4% of the value of the property	ZIMRA	US\$400
Lodging of documents	4% of the value of the property for stamp duty	Deeds Registry Office	US\$400
Conveyancer's fees	3% of the value of the property	Law firm	US\$300

Source: Summarised from appropriate legal documents

### **7.5 The central role of the Deeds Registry Office in the registration of property rights**

In general, the Deeds Registry Office is the hub of formal land market transactions. All transactions involving land are, invariably, directed to the Registrar of Deeds at one point or another. It is not possible to sell, cede, donate or transfer land in Zimbabwe without going through the Deeds Registry. Moreover, the Deeds registry keeps record of all mortgage bonds burdening any piece of land within Zimbabwe, together with any subsequent consents, waivers, cessions, cancellations and amendments.

An important point to note is that the Registrar of Deeds is in charge of all Deeds and Documents in the Deeds Registry and no person can lawfully acquire copies of those deeds and documents without the authorisation of the Registrar. The Registrar's seal and signature are indicative of the authenticity of any such deed or documents. The Registrar has the power, capacity and mandate to reject any deed or document that does not conform with the requirements set out in the Deeds Registries Act. In practice, the examiners at the Deeds Registries Act examine all deeds and documents, and record any queries or errors on the Examining Sheet. Thereafter, if they are satisfied that the deeds and documents are correct, they seal the document and send it to the registrar for his/her signature. This system of registering rights in land is based on longstanding juristic practices and procedures that have withstood the test of time, the effect of which is a system that guarantees title upon which financial institutions and investors can rely. The systems and processes of examination and registration, its control and monitoring, public registers and information systems as well as methods of preservation cumulatively contribute towards providing security of title in the eyes of the law, financial institutions and the public.

The system of registering property rights is based on the fundamental and justifiable principle that no person may be deprived of property except in terms of the law and no such law may permit arbitrary deprivation of property. This is entrenched in Section 16 of the Constitution of Zimbabwe. Several arguments have been put

forward to justify the continued existence of a centralised system of registering rights in land. These include the following:

Conveyancing is a highly technical and specialised discipline that has been, for many years, the exclusive preserve of the Registrar of Deeds, conveyancers and a few other relevant officials involved in the process. Over a decade ago, the Law Development Commission argued that creating more offices would result in declining standards because of a shortage of resources.

The cost of creating new sub-offices in other cities and towns is often considered 'too' high for central government given that the two Deeds Registries in Zimbabwe are not commercialised (i.e. fees charged are subsidised) and would not be able to finance such a project on their own. Additional Deeds Registries offices are therefore not seen as a priority for Zimbabwe in the light of this argument.

Another argument used to stall decentralisation is that there has been no record of the two Registries failing to cope with the load of work. This is despite the fact that the system is no longer effectual nor efficacious. This, however, serves as an indicator to central government that additional offices are not necessary.

A major critique of the existing system is that it was established in colonial times. Given the volume of transactions that prevailed in relation to now, it was realistic to have two administrative offices to govern the process of acquisition of proprietary rights. Surprisingly, the system has remained inviolate in post-independent Zimbabwe and yet it cannot be seen as coping with demands of land administration of present day Zimbabwe. More importantly, the present system of registering rights in land is not pro-poor. In the prevailing economic hardships, it is inconvenient, for instance, for a person in Victoria Falls to travel all the way to Bulawayo to handle such matters only. In general, the system is in dire need of a complete overhaul if it is to remain credible, accessible and transparent.

### **7.5 The Deeds Registry office and its operational challenges**

The importance of the Deeds Registry office cannot be overstated. The centrality of its position arises from the fact that there has to be a place where the public can access information regarding the property rights of any property owner. This is important for protecting the public from any fraudulent activities within their properties or properties wherein they have interests. For the Deeds Registry office to execute its mandate it must be equipped with the requisite human and other resources. It must be able to operate at full capacity. Moreover, all staff must be adequately remunerated to pre-empt any who may be tempted to act fraudulently or in a corrupt manner. Yet, at the present moment the Deeds Registry office is functioning with a skeletal staff that is struggling to cope with the load of work. The brain-drain that affected the nation in the last few years did not spare the Deeds Registry office. There has been a large scale exodus of skilled staff from the office leaving an office with few staff members most of whom are ill-equipped to handle matters at hand. While it is not necessary for the staff members to have an advanced qualification in the law, it is regrettable that most staff members have negligible understanding of the concepts underpinning the discipline of Conveyancing.

In 1999, the Ministry of Justice, Legal and Parliamentary Affairs, as it then was, in conjunction with the Ministry of Finance commissioned and institutionalised a steering committee for the computerisation and commercialisation of the deeds registries office. The idea was to transform the Deeds Registry Office into a functional and efficient public office. The effect of computerisation would be simplifying the process of land registration as well as securing all deeds and documents in a way that the manual system cannot. Much has been done in a move to attain this goal but the target has not been surpassed. At the present moment, the Harare Deeds Registry Office survives on both a computerised and manual record keeping system. The manual system involves the hard copies of deeds and other registration documents that are filed by the filing clerks and kept in the basement in huge folders. Regrettably, this antiquated system is failing. Most records kept in hard copy are succumbing to the elements and are no longer durable. It is therefore no surprise that most deeds that are older than 25 years are unusable, if they are available at all. To complement this system, is a computerised record keeping system; which stores information relating to the deeds registered within the office. It is important to note that this system does not store soft-scanned copies of the Deeds which would have been the ideal but is only meant for recording information relating to properties.

Land Registers are physical registers that record all land in Zimbabwe that is held under specific title. These must be electronic if they are going to be effective and meaningful to the general public. The present system of card indexing whereby cards that bear an index number are used to search for deeds that are filed in derelict folders is obsolete and antiquated in this age of computers. Moreover, manual deeds searches are no longer compatible with this generation of information technology. The filing system whereby ageing folders and files are used is unreasonable given the importance of the information held in the deeds office. There is no secondary back-up. Therefore, it is clear that the manual system in use is a disaster in waiting.

In essence, the state of the Deeds Office is poor. Deeds and documents are kept in large folders in alphabetical order. Most of the deeds above the age of twenty five years are in a state of physical deterioration and dereliction having been destroyed by white ants and other physical elements. These Deeds can hardly be used and if this is not changed they will be utterly beyond use and, therefore, lost in a few years. This has caused serious problems especially when searching for old deeds and documents. The reason for this dereliction is neglect. The Deeds Office is not a commercial office. All monies that are receipted at the deeds offices are government levies which are absorbed into central government coffers.

## **7.6 Summary of major challenges faced in the registration of property**

1. The drafting and lodging of documents can only be done by a legal practitioner who must be registered as a conveyancer. This means that it is the sole preserve of conveyancers who are few and charge exorbitant fees for their services and this has a deterrent effect on would be property owners, especially the poor.
2. The process is long and tedious given that the parties to the agreement of sale need to acquire a capital gains certificate and rates clearance certificate. This

means that certain offices have to approve certain formalities before the documents can be lodged with the Registrar of Deeds. It might take two or three months before the property is finally registered with the Deeds office.

3. The lack of computerisation at the Deeds offices means that the process is done manually. Whilst it is not possible to estimate the volume of transactions on the formal land markets, it is evident that as the economy continues to recover the formal land market will continue to get busier. Consequently, the backlog on property rights is expected to grow as well. It is likely that the Deeds Registry will fail to cope with the high volumes of documents lodged by the office.
4. There has been an increase in people being issued with fake title deeds as a result of corrupt practices at the office where certain officers have issued fake documents in return for money.
5. There has been lack of efficiency at the offices as a result of understaffing. This has led to un- or under-qualified personnel being employed, further affecting the registration of property records.

#### 7.6.1 Recommendations for improving land registration systems

The problems being faced in the registration of property records can be solved if the following suggestions are implemented:

The first step is to reform and change the law in order to facilitate decentralisation and commercialisation of the office. If the law governing the deeds office is not reformed then it is hardly possible to introduce the proposed changes as they would be *ultra vires* the enabling act.

The offices need to be decentralised to other parts of the country making them accessible to everyone. This can be done through the establishment of independent offices at the Magistrates court dotted around the country. This means that there should be a deeds office at town, city or district level depending on the available funding scheme.

Upon decentralisation, the deeds office must be given a measure of autonomy in relation to revenue collection and its use. If given the permission to commercialise its operations and be allowed to operate autonomously, the deeds registry office may be able to garner resources for the smooth functioning of the office. Lessons may be drawn from the functioning of the deeds offices in other countries. Complete decentralisation will allow all levies and imposts charged by the deeds office to go towards refurbishment of the office, computerisation, increase of staffing levels etc.

As discussed above the process is a sole preserve of legal practitioners who charge high fees for their services. However in order to guard against this monopoly there could be introduced legal aid clinics to help those than cannot afford the high fees or allowing judicial officers such as magistrates to draft the documents and allow them to charge a small fee which is remitted to the state. Other than this, conveyancing matters may also be handled on a *pro deo* and *pro amico* basis in the same way that paupers are assisted by the state in instituting or defending other civil and criminal matters. This will be particularly useful in assisting low-income groups, most of

whom neither understand the law nor have the resources to engage a legal practitioner.

Introducing e-conveyancing like in other countries as this helps expedite the process as the documents are lodged online and then the records can be accessed easily anywhere in the world via the internet. The introduction of e-conveyancing can only be complimented by the computerisation of the Deeds Offices given that most information is now recorded on a computer making it easily accessible.

The recent move of stationing police officers to combat corruption and fraud is worthy of praise. However, much still needs to be done if this step is going to be effective. These policemen must be equipped with the requisite resources and capacity to ensure efficiency and they should be remunerated well to be motivated to continue this work.

### **7.7 Concluding remarks**

This chapter has demonstrated the complexity of the formal property registration system. It is a demanding process that the poor can rarely afford. The discussion in chapter 6 has shown the continuum of property rights that exist in informal settlements. The key point raised in Chapter 6 is the importance of a property rights registration system that is affordable to the poor. Based on the discussion presented in this chapter, debate is also required on how the existing property rights in the formal sector can be made to work for the poor. The notion of group rights being tried in the registration of property rights need to fit into the framework of property rights in the formal sector. It has also been argued that the Deeds Registry office needs extensive support in order to improve on the efficiency of land registration.

## **8. Proposed programme on urban land markets in Zimbabwe**

The problems and challenges identified by this scoping study are deep and systematic. There is no single programme that can address all of the identified challenges. The programme activities proposed here are a realistic attempt to address some of the fundamental issues in a way that will assist in 'making urban land markets work better for poor people'. The proposals outlined in this programme cover two broad areas. The first is direct support to projects and activities that support the poor (e.g. servicing of informal settlements, accessible and secure tenure rights for the poor, etc). The second is putting in place a policy and legislative environment that makes land markets work better for poor people..

### **8.1 *Synopsis of challenges***

The study has shown that the governance of urban land markets is faced with multiple operational challenges. Seven key issues are discussed in this section. In discussing these seven challenges, some justification for action is presented as well as initiatives or partnerships that exist.

The findings of Chapter 3 have shown that government's performance in land administration is constrained by a lack of adequate human, technical and financial resources. Thus, key government departments like the Deeds Registry office remain centralised and underfunded. State actors are also suffering from the loss of institutional memory emanating from, inter alia, collapsing records and documentation infrastructure. Previous attempts at computerising the Deeds Registry Office were not implemented to completion.

Chapter 5 has argued and provided evidence of the fact that partnerships between local actors like cooperatives, actors in the private sector and mainstream civil society organisations face operational challenges. Apart from resource constraints, the partnerships have been stressed by loss of trust and the politicisation of land issues in the country. However, there are some critical institutional spaces where debate to enhance policy consistency and institutional coordination has occurred with a focus on housing delivery. Some local or community-based actors, in particular cooperatives which in essence represent the poor, suffer from a broader governance crisis characterised by weak institutional mechanisms that are incapable of promoting transparency and accountability.

Despite the adjustments made to the planning framework over time, such changes remain insufficient and more still needs to be done to facilitate the release of affordable land for housing and economic development (please refer to the key findings of Chapter 4). Policy directives have not been supported by an appropriate review of legislation, leaving application to individual local authority discretion. At the same time, interpretation of relevant policy guidelines has been positive in some local authorities while rigid in others, resulting in policy inconsistencies that need to be addressed.

Whilst government has made significant attempts to upgrade informal settlements, as demonstrated in Chapter 6, urgent work is still required in the upgrading of

tenure rights and the servicing of settlements. The practical management of informal and quasi-formal settlements like Epworth, Hopley and Hatcliffe presents challenges as far as service provision, tenure security and access to land are concerned. This situation is also found in other post-2000 peri-urban areas and in overcrowded old neighbourhoods in the City of Harare and elsewhere. Tenure insecurity in these areas affects residential, commercial and service-industrial land. These complex insecurities affect livelihoods, further complicating socio-economic development and by extension limiting prospects for improving urban land market functionality. Addressing the complex tenure insecurity situations will leverage livelihoods, spur urban market functionality and guarantee human security and development.

Chapter 5 has demonstrated that the performance of urban land markets is hindered by the absence of public information on property transactions. Information on land delivery remains scattered and the picture on land supply is not that clear. A combination of human and technical capacity limitations and the tendency to move towards informality, particularly in the post-2000 period, have eroded the capacities of state and non-state actors to continually update the information required for the smooth functioning of urban land markets.

A key finding of this scoping study is that research and other academic work on urban land markets are lacking. This limits the level of understanding of the performance of urban land markets. As such, there is a dearth of policy-relevant evidence to guide improvements to urban land market functionality.

The programme of work proposed in this chapter addresses some of these issues anew whilst also complementing existing processes. The components of the proposed programme cover the broad themes of policy and legislative review, tenure upgrading and servicing of informal settlements, strengthening of local authorities and local actors in urban land markets (in relation to housing approaches for the poor), public information and dialogue on the functioning of urban land markets, and a research programme on urban land markets.

## **8.2 Programme components**

### *8.2.1 Planning policy and legislative review programme*

The study has shown that the country's legislative and planning processes still present bottlenecks to land delivery in the urban areas. Many of the provisions in the RTCP Act are outdated. For instance, the methods for promoting public participation are no longer adequate. It is imperative for new forms of public participation that benefit from the rapid improvement in technology to be enshrined in policy and legislation. The use of the internet, email, cell-phones, workshops and various other means of communication need to be incorporated as new tools for promoting public participation. In particular, special legal provisions that provide for the participation of the poor need to be made. There are also no clear indicators that can be used to assess the performance of the country's planning and legislative processes. Many of the operational Master and Local Plans and Town Planning Schemes have remained rigid. Thus, for instance, the provisions that support cluster housing development (a model that suits the needs of the poor) are missing, while restrictions on land that has been designated as 'temporarily restricted' against development for the past 30

years remain in place, limiting access to land by the poor. Given this context, a review of the planning and legislative framework in Zimbabwe would be appropriate within a potential future programme of activities. This would include a review of the RTCP Act, the Urban Councils Act and the existing Master and Local Plans. The policy review process will focus on developing appropriate tools that can facilitate the release of land to the urban poor. For instance, land ceded to councils as endowment can be used for benefitting the poor. In addition, there is a need for clear policy on defining/identifying and supporting the urban poor. Town planning officials also need a proper understanding and interpretation of the existing planning legislation and how they can make use of it to overcome some of the challenges they face in the governance of urban land markets. A renewal of the internal planning processes and procedures that affect land delivery should also form part of this scope of work.

Zimbabwe's urban areas do not have strategies of adapting to and mitigating the impacts of climate change. The planning framework presents one of the best opportunities of managing such impacts, as well as increasing the resilience of the urban population to such climate variability. In particular, the planning framework needs to guide or enable the creation of green infrastructure and the adjustment of planning standards to mitigate the impacts of climate change. In this regard, the review of legislative frameworks for urban planning and governance should enable interventions on climate change mitigation and adaptation. Ongoing re-planning of informal settlements also needs to factor in relevant approaches. An appropriate town planning and climate change handbook to assist planning officials in planning climate-resilient cities needs to be developed. Table 8.1 summarises the key components of a potential Planning Policy and Legislative Review Programme .

**Table 8.1: Summary of the planning policies and legislative review programme**

Description of problem	List of activities	Actors	Expected outputs
<p>1. Framework/policies and processes ill-adapted to rapid urbanisation and climate change</p> <p>2. Old and rigid Town Planning Schemes, Master and Local Plans</p> <p>3. Inflexible interpretation of planning law</p> <p>4. Slow delivery of land and restrictive internal processes</p> <p>5. Unreliable tools for housing demand estimation and targeting of the poor in housing allocation</p> <p>6. Inflexible planning, infrastructure and housing standards</p>	<p>1. Support<sup>24</sup> review of the RTCP and Urban Councils Acts</p> <p>2. Support review of Master and Local Plans</p> <p>3. Support relevant specialist studies<sup>25</sup> to guide review of Master and Local Plans</p> <p>4. Support review of internal processes and systems for, among others, plan approval, subdivisions and consolidations and special consent</p> <p>5. Build professional capacity in application/interpretation of the law, resolving disputes, etc.</p> <p>6. International exposure of elected and appointed officials</p> <p>7. Develop new tools for estimating housing demand and targeting of the poor</p> <p>8. Undertake review of planning, infrastructure and housing standards</p> <p>9. Holding seminars and workshops to disseminate results, engage policy-makers and practitioners and stimulate relevant debate</p>	<p>1. Department of Physical Planning</p> <p>2. Association of Local Authorities</p> <p>3. Planners in private practice</p> <p>4. National consultants and academics</p> <p>5. International experts</p>	<p>1. Revised legislation</p> <p>2. Revised Master and Local Plans</p> <p>3. Updated internal processes and systems</p> <p>4. Reports of specialist studies</p> <p>5. Updated planning, infrastructure and housing standards sensitive to the poor's needs</p>

### 8.2.2 Tenure upgrading programme

The study has shown that the formal property rights registration system, while desirable, is largely inaccessible to the poor. The process is both complicated and expensive, making it inappropriate for the poor in a general sense. At the same time, the experience in Epworth and Hopley settlements in Harare has shown creative methods of bringing a reasonable form of tenure security to residents in informal settlements. The use of a council register and the use of rates receipts are serving the purpose of securing property rights without serious shortcomings being observed. Further, cooperatives have piloted the notion of group rights. In this regard, a potential programme of work going forward should look to supporting the further refinement of an appropriate continuum of property rights affordable to the poor, and to supporting the institutionalisation of such a property rights regime

<sup>24</sup> Support will include direct funding and provision of international technical expertise.

<sup>25</sup> To include infrastructure, population, housing, employment, poverty trends, climate change adaptation, governance, etc.

through capacity-building of relevant actors. Such property rights also need to be provided for in policy and legislation. It has been noted that even in the re-planned informal settlements, informality continues to take place through transactions such as subdivision of land. A future programme of activities can include support for the updating of such subdivisions. This is particularly important to minimise disputes about property boundaries in future. Local authorities like the Epworth Local Board need support in recording such important land administration information that suits the requirements of the poor.

Informal settlements are faced with challenges relating to the servicing of stands and the quality of housing developed. The study made reference to different partnerships that have assisted in providing sewer and water infrastructure in informal settlements like Epworth. In Hopley, some civil society organisations assisted in providing shelter. There is an opportunity for a programme to coordinate such partnerships and make a contribution in the servicing of such stands. Whereas sewer and water infrastructure has been put in place in some of the settlements, the system remains largely non-operational because of design and infrastructure or equipment failings. The programme could support the piloting of appropriate partnerships (state-community, state-private sector, state-civil society, etc.) for the development and maintenance of infrastructure and the delivery of services in informal settlements, while in the process contributing to appropriate models for city-wide upgrading initiatives. Table 8.2 summarises the major components of a potential Tenure Upgrading and Servicing of Informal Settlements Programme.

**Table 8.2: Tenure upgrading programme and servicing of informal settlements**

<b>Description of problem</b>	<b>List of activities</b>	<b>Actors</b>	<b>Expected outputs</b>
1. Limited models on appropriate tenure rights for the poor 2. Lack of monitoring of informal transactions in informal land markets 3. Inadequate partnerships in servicing of informal settlements 4. Lack of appropriate land servicing models that benefit the poor and promote local economic development	1. Undertake baseline studies <sup>26</sup> in informal settlements 2. Develop and pilot incremental tenure upgrading system 3. Develop a land information system <sup>27</sup> for informal settlements 4. International exposure and local appraisals to develop and pilot partnerships for servicing informal settlements 5. Holding seminars and workshops to disseminate results, engage policy-makers and practitioners and stimulate relevant debate	1. Local authorities 2. Residents of informal settlements 3. National consultants and academics 4. Relevant state departments 5. International experts	1. Updated base maps and layouts for informal settlements 2. Reports of baseline studies 3. Land information system in place 4. Model partnerships for land servicing and settlement upgrading

<sup>26</sup> The studies will establish socio-economic data, land use patterns, transportation, land market structures and performance, land disputes and resolution mechanisms.

<sup>27</sup> Ranging from simple land registers to GIS-based systems.

### *8.2.3 Local authorities and local actors programme*

Governance systems in local authorities in Zimbabwe's urban areas are not functioning well for a number of reasons. First, the state of national politics presents governance-related challenges as discussed in Chapter 1. Secondly, decision-making within local authorities is through elected councillors, many of whom do not have adequate knowledge and skills around town planning and land administration issues. For example, their knowledge of the RTCP Act and the important provisions of the Urban Councils Act is largely peripheral. With no clear understanding of critical legal provisions that deal with, for instance, the sale of public land, use of endowment land, use of the development account, change of land-use reservation and the importance of public participation, councillors cannot make meaningful input into monitoring the implementation of such provisions.

Thirdly, there is a worryingly weak culture of transparency and accountability in the governance of local authorities. Regardless of political affiliation, it seems as if councillors are motivated to take public office as a means of facilitating access to state resources, especially stands. In the absence of any formal induction of councillors on good local governance and a participatory performance monitoring system, it is likely that local authorities will continue to be misgoverned as councillors are driven by self-enrichment motives. For these reasons, local authorities, especially councillors and top management officials need to be exposed to methods of promoting good urban land markets governance. A carefully designed training programme and exposure to relevant best practices on local governance are required. Further, it might be useful to have minimum qualifications and experience for one to be eligible for election as a councillor. Such an intervention will require backing through review of relevant provisions of the Urban Councils Act. Also, such issues require extensive debate and research before incorporation into policy and legislation.

This study has argued that local actors, especially cooperatives, are facing governance challenges. In some cases, the leadership of cooperatives has been involved in the embezzlement of funds. In other cases, partnerships between the private sector and cooperatives have not worked smoothly. This is partly attributed to that cooperatives are not properly equipped with the know-how on how to manage partnerships and contractual arrangements with the private sector. Accordingly, it is appropriate for ULMP to support the activities of local actors such as cooperatives in order to improve on their governance and delivery capacity. A summary of the key components of a potential Local Authorities and Local Actors Programme is presented in Table 8.3.

**Table 8.3: Governance programme: strengthening Councils, local actors and property professionals**

Description of problem	Activities	Actors	Outputs
<p>1. Weak administration of land and real estate stocks by public institutions (e.g. weak enforcement of planning rules, un-procedural sale or change of reservations of public land, contestable land grants, etc.)</p> <p>2. Inadequate operational knowledge of relevant planning and land administration instruments</p> <p>3. Lack of statutory accounts relevant to proper functioning of land markets (development and estate accounts are empty)</p> <p>4. Lack of proper enforcement of good governance in Councils and embezzlement of funds</p> <p>5. Lack of integrity<sup>28</sup> in the functioning of land markets</p>	<p>1. Training of Councillors on relevant sections of the RTCP and Urban Councils Acts</p> <p>2. Training of property professionals on land administration and the maintenance of (professional) standards/ethics</p> <p>3. Promote public dialogues between residents and elected officials (MPs and Councillors) on relevant land administration and planning issues</p> <p>4. Exchange visits</p>	<p>1. Councillors and Parliamentarians</p> <p>2. Property professionals</p> <p>3. Key Council officials</p> <p>4. Consultants</p> <p>5. Central government</p>	<p>1. Training manuals</p> <p>2. Improved skills and knowledge</p>

#### 8.2.4 Public information and dialogue programme

The study revealed that there is no public information on specific issues that are central to the governance of urban land markets. For instance, it noted that data on land delivery is not collated consistently, leaving it scattered in individual layout plans. There is no clear picture of land delivery at the national level. The collation and compilation of land delivery information is really nobody's domain. The contribution to land delivery by the state, individuals and the private sector cannot be easily segregated. The same challenges apply to information on property transactions. As already argued, this affects the functioning of urban land markets, especially the pricing of properties, which works best where information on comparative prices is readily available. A potential programme of work in this area could support the compilation of key information on the operation of urban land markets to make it available to all the actors. Appropriate electronic and/or physically accessible platforms can be used to display such data. Such facilities need to be developed in Zimbabwe in partnership with local organisations (state or non-state).

The keys actors who are expected to participate in the development of public information on urban land markets are state, civil society and private sector institutions. State actors at the core of this activity are the Deeds Registry (for information on property transfers), the Department of Physical Planning and local authorities (for information on land supply and land delivery) and the Deputy Sheriff's office (for information on property auctions). Private sector actors central to the activity are financial institutions (for information on financing property

<sup>28</sup> This manifests through bogus estate agents, slack professional standards, fraudulent transactions, etc.

transactions) and estate agencies (for information on property transactions, including pricing data and volumes of transactions). Civil society institutions will be particularly useful in providing information on land delivery to the poor and tenure rights applicable to settlements that house the poor. Information generated will be in various forms, including a newsletter, a website and annual reports. Where appropriate, policy briefs will be developed.

The process will need to be steered by a selected organisation from either civil society or academic institutions. Such an organisation will have the key responsibility of accessing information from different actors and processing such information to meet the requirements of particular dissemination channels. A public information dissemination strategy will be developed, targeting key decision-makers like parliamentarians and councillors. The information generated will also feed into policy and advocacy processes. The major components of a potential Public Information and Dialogue Programme are shown in Table 8.4.

**Table 8.4: Public information and dialogue programme**

Description of problem	Activities	Actors	Outputs
<p>1. Absence of public information on property transactions in urban areas</p> <p>2. Lack of information on land delivery for use in planning and land supply projections</p> <p>3. Undeveloped forum where public information on land markets can be displayed for the better functioning of urban land markets</p>	<p>1. Facilitate agreement on a framework<sup>29</sup> for collating and facilitating access to information on land markets</p> <p>2. Establish a focal point for collating the public information on land markets</p> <p>3. Establish an urban land markets Stakeholder Forum</p> <p>4. Establishment of contact points in key institutions working in the urban land markets sector</p> <p>5. Development of appropriate methods for disseminating information (newsletter, website)</p> <p>6. Hold seminars and workshops to steer relevant debate</p>	<p>1. Estate Agency Council</p> <p>2. State Departments involved in land administration (e.g. Deeds, DPP, and Surveyor General etc.)</p> <p>3. NGOs</p> <p>4. Academics</p> <p>5. Private sector (e.g. Estate Agents)</p> <p>6. ICT service providers</p>	<p>1. Framework for public information system on land markets</p> <p>2. Information dissemination platforms</p>

### 8.2.5 Research programme on urban land markets

This scoping study was limited in terms of issues/themes covered and the spatial coverage of study sites. The local contexts faced by the poor will always vary based on parameters related to, amongst other things, the location of towns, the type of settlements and the size of urban settlement. Thus there are readily identified gaps where more research is required to improve on policy-making processes. For instance, towns established based on mining activities present specific challenges to the poor. When mining operations cease, the poor in such settlements are left with

<sup>29</sup> This can include the development of coordination and collaboration mechanisms (e.g. signing of MOUs, regular meetings of contact points, etc.)

limited livelihood options. Mining towns are also established without strict adherence to town planning principles and the type of urban land markets that evolve in such settlements are not well understood.

In addition, a large proportion of the urban population, mostly composed of the poor, rely on rented accommodation. This study has not been able to capture issues relating to challenges faced by the poor who rely on rented accommodation. Issues relating to affordability of rentals and evictions of tenants are particularly critical. There are many other issues that require more research work.

A potential new programme of work could make a significant impact by commissioning academic studies on the functioning of urban land markets in Zimbabwe. This particular report perhaps represents the only major work on urban land markets in more than a decade. There are many issues where further research on the functioning of urban land markets is needed. Also, research activities will support the functioning of other programme components on public information and dialogue and debate on urban land markets. There is need for a more rigorous analysis of key issues relating to land and property disputes in urban areas, land transactions in informal settlements, housing delivery approaches and affordability by the poor, land administration challenges, property professionals and the governance of urban land markets, access to land for economic activities, planning and its place in managing climate change impacts, etc. In addition, appropriate university departments can be involved to promote research work, even by students through their Masters' dissertations. This approach would require the preparation of an appropriate research proposal on urban land markets, with clearly articulated research methodologies. A consultative approach is required in developing and shaping the research programme.

**Table 8.5: Summary of the research programme on urban land markets**

Description of problem	Activities	Actors	Outputs
<p>1. Weakened land administration system</p> <p>2. Slow development of new housing and infrastructure (design and delivery) models</p> <p>3. Lack of innovation in land acquisition and use of land to leverage resources</p> <p>4. Inadequate understanding of property disputes</p> <p>5. Inadequate appraisal of existing partnerships (some models work on one project and not on others)</p> <p>6. Limited understanding of the performance of financial markets (small and large-scale, formal and informal).</p> <p>7. Limited understanding of planning standards and their implications for land market effectiveness</p>	<p>1. Develop<sup>30</sup> a multi-disciplinary research programme on urban land markets</p> <p>2. Setting up of multi-disciplinary research teams inclusive of property professionals, sociologists, urban geographers etc.</p> <p>3. Setting up a student research programme at Bachelors', Masters' and Doctorate levels, anchored in the Department of Rural and Urban Planning</p> <p>4. Undertaking field-based research on urban land markets<sup>31</sup></p> <p>5. Support a publications stream (monographs, books, journal articles and policy briefs) based on field research</p> <p>6. Support feedback processes to refine programme and other relevant national processes</p> <p>7. Seminars and workshops to disseminate results, engage policy-makers and practitioners, and stimulate relevant debate</p>	<p>1. CASS Trust and Department of Rural and Urban Planning</p> <p>2. Other relevant University Departments</p> <p>3. Councillors &amp; Parliamentarians</p> <p>4. Private practitioners</p> <p>5. NGOs/civil society organisations</p> <p>6. Relevant state and local government units</p> <p>International experts</p>	<p>1. Research reports and student dissertations</p> <p>2. Policy briefs and policy recommendations</p> <p>3. Publications</p>

### 8.3 Risks to programme implementation

The unstable political and economic situation perhaps presents the most serious risk to programme implementation (to the extent that urban land market functionality depends on economic stability and performance). Political stability also allows for policy consistency and predictable policy reforms that make for the effective insertion of new ideas and appropriate capacity-building. In such an environment, capacities become easier to retain. As such, in the absence of these two critical dimensions of stability (economic and political), the proposed programme may face challenges. The politics of the country, though generally peaceful for development work purposes, can potentially be a risk if politically motivated violence escalates. The potential for violence to escalate will heighten should the country decide to go for national elections. However, such events will always need to be watched closely to allow appropriate decisions to be made on programme implementation.

<sup>30</sup> To include consultations with stakeholders to ensure ownership of a national research agenda.

<sup>31</sup> Such studies will be national in character in terms of spatial coverage and the composition of research issues.

Land policy and administration have been heavily politicised in Zimbabwe since 2000. A number of informal organisations and ways of administering land (yet to be codified) have arisen over the years that have acted to reduce predictability and market functionality. Programme interventions on land matters are often considered as sensitive. There is therefore a risk that programme partners, particularly in the public sector, may be hesitant, while non-state actors may lack both clout and adequate information. However, the study was actively supported by the Ministry of National Housing and Social Amenities since it allows operationalisation of key National Housing Convention resolutions as well as commitments in relation to the 2010 Bamako Declaration.

Related to the above is that there is a shortage of land experts and property professionals in state institutions with the confidence to handle urban land market performance issues. Any programme initiatives require a robust short-, medium- and long-term capacity building-component for key institutions. For instance, the review of planning law will require close collaboration with the Department of Physical Planning. With limited experienced staff it may become important to support secondment of experienced experts for intermittent periods to work out of the Department to entrench ownership of such a review process while also building internal capacity. The same may be true of other state institutions that will be critical for the other suggested components. It is therefore critical for potential partners to a new programme of work not to take too many capacities for granted as there is a 'missing middle tier of public sector professionals' with a host of green graduates. For example, UN-HABITAT has had to complement state resources in setting up ZIMHABITAT as a way of ensuring that appropriate capacity is attracted into the system.

Related to the risk of assuming too much capacity is the question of under-estimating the amount of data 'reconstitution/recovery' that is needed in some key institutions. With the considerably sustained stress on land information management systems, in part due to updating backlogs but also due to a deluge of informality, especially in peri-urban areas, a medium- to long-term focus becomes critical. There is a risk of assuming a quick consultancy-type intervention, which may not yield sustainable results. It will be important for partners to a potential new programme of activities to promote a sustained presence and a broad partnership approach.

The other risk relates to entrenched interests in an elitist system of planning and administering land. Some key informants may be stuck in 'the way we used to do things'. In the process this may delay if not completely obstruct any transformation. For example, there has been debate aimed at establishing a 'one-stop' plan approval framework where critical actors sit as a 'Board' to consider planning submissions complemented by use of the 'deemed approval' principle as part of expediting plan approvals. The arguments for such a proposal are founded on investment facilitation through cutting red-tape and generally not punishing the developer (i.e. reversing the 'deemed refusal' principle in the RTCP Act). There has been professional resistance from some senior planners to the 'deemed approval' principle, which borders on doing things the 'usual way.' Similar debates exist in terms of adapting

land survey technology, data sharing regarding land transactions and property registration options.

#### **8.4 Concluding remarks**

The political and economic situation in Zimbabwe is yet to normalise. It is expected that many of the proposed interventions will have to be negotiated with the relevant authorities. The programme has been designed in such a way that the first years of programme implementation will focus mainly on research and public information issues. This will enable the programme to be developed on the basis of better knowledge. This will run parallel to some technical assistance to key institutions to bring international good practice and perspective into the process of change. The latter years of programme implementation will focus on targeted interventions on tenure upgrading and piloting of ideas emerging from the research, as well as some regulatory/policy impact work to model some of the possible implications (especially for the poor) of effected policy or legal interventions affecting urban land markets.

## References

- AMCHUD (2010). Bamako Declaration, African Ministerial Conference on Housing and Urban Development (AMCHUD).
- Balchin and Kieve (1977). Urban Land Economics, Macmillian, London.
- Chatiza, K. (2010). Human Settlement Needs Assessment Methodology: Report of Rollout Activities and Emerging Policy Lessons in Epworth, UN-HABITAT, Harare.
- Chatiza, K. and Mlalazi, A. (2009). Human Settlement Needs Assessment in Zimbabwe: Critical Review and Proposed Methodology, UN-HABITAT, Harare.
- Chikowore, E. (1995). Harare: Past, Present and Future. Chapter in: Zinyama, et al. (1995). Harare: The Growth and Problems of the City, University of Zimbabwe Publications, Harare.
- Cities Alliance (2008). Slum Upgrading Up Close: Experiences of Six Cities, Cities Alliance and Sao Paulo, Cities Alliance, Washington D.C.
- Cities Alliance (2007). Liveable Cities: The Benefits of Urban Environmental Planning, Cities Alliance, Washington D.C.
- City of Harare (2002). Proposed Housing Policy, Department of Housing and Community Service, City of Harare, Harare.
- Government of Zimbabwe (2009). Second National Housing Convention, Abridged Final.
- Government of Zimbabwe (2007). Rent Regulations, Statutory Instrument 32 of 2007, Government Printers, Harare.
- Government of Zimbabwe (2005). National Housing Delivery Programme – 2004 to 2008: Operation Garikai/Hlalani Kuhle-Shelter for the People, Government Printers
- Government of Zimbabwe (1996). Regional, Town and Country Planning Act; Chapter 29:12; Revised Edition, Government Printers, Harare.
- Government of Zimbabwe (1996). Urban Councils Act, Chapter 29:15; Revised Edition, Government Printers, Harare.
- Government of Zimbabwe (1996). Deeds Registry Act, Chapter 20:05; Revised Edition, Government Printers, Harare.
- Government of Zimbabwe (1996). Valuers Act, No. 5, Government Printers, Harare.
- Government of Zimbabwe (1983). Statutory Instrument 676 of 1983, Commercial Premises (Rent Regulations), Government Printers
- Government of Zimbabwe (1996). Land Acquisition Act, Chapter 20:10, Revised Edition, Government Printers, Harare.
- Government of Zimbabwe (1989). Harare Infilling Study, Department of Physical Planning, Ministry of Local Government, Rural and Urban Development, Harare.

Kuipa, N.T. (2006). Investigating the Decline in Institutional Housing Investment in Zimbabwe: 1995-2005. Masters Dissertation for the Executive Master of Business Administration Degree, Africa University, Mutare.

Masuko, L. (2008). War Veterans and the Re-emergence of Housing Cooperatives. Chapter in: Moyo, S. et al. (2008). Contested Terrain: Land Reform and Civil Society in Contemporary Zimbabwe, S & S Publishing; Pietermaritzburg, pp 181-206.

Muller, A., Chatiza K., and Matamba and Company Auditors (2008). Programme Impact Assessment and Systems Audit of Dialogue on Shelter for the Homeless People in Zimbabwe Trust. Study commissioned by Sida and Dialogue.

Rakodi, C. (1993). Trends in the Residential Property Market in Harare and Gweru. RUP Occasional Paper Number 124.

Schlyter, A. (2003). Multi-Habitation: Urban Housing and Everyday Life in Chitungwiza, Zimbabwe. Nordiska Afrikainstitutet Research Report No. 123.

Tibaijuka, A.K. (2009). Building Prosperity: Housing and Economic Development, Earthscan, London and Sterling.

UN-HABITAT and Urban LandMark (2010). Urban Land Markets: Economic Concepts and Tools for Engaging in Africa, UN-HABITAT, Kenya.

UN-HABITAT (2010). Housing the Poor in African Cities – Land: A Crucial Element in Housing the Urban Poor. UN-HABITAT, Nairobi.

UN-HABITAT (2009). Planning Sustainable Cities: Global Report on Human Settlements 2009. UN-HAITAT, Earthscan, London and Sterling.

Zinyama, L.M. (1995). The Evolution of the Spatial Structure of Greater Harare: 1890 to 1990. Chapter in: Zinyama, et al. (1995) Harare: The Growth and Problems of the City, University of Zimbabwe Publications, Harare, pp 7-32.

**Annexure 1: List of participants for the methodology workshop on governance of urban land markets in Zimbabwe  
19 November 2010, CASS Trust Boardroom, Harare**

<b>Name of participant</b>	<b>Institution</b>	<b>Cell no</b>	<b>Email address</b>
Dr Nelson Marongwe	CASS Trust	0772347715	nmarong@mweb.co.zw
Dr Kudzai Chatiza	CASS Trust	0772908160	kudzai@mweb.co.zw
Dr Vupenyu Dzingirai	CASS Trust	0772312752	dzingi@mweb.co.zw
Wonder Jekemu	SIDA	0772278801	Wonder.jekemu@foreign.ministry.se
Peter Mutavati	UN-HABITAT	0772227464	Peter.mutavati@undp.org
Beth Chitekwe-Biti	Dialogue on Shelter		btchitekwebiti@gmail.com
A Kasiyamhuru	City of Harare	0712623460	akasiyanhuru@hararecity.co
J Chaeruka	UZ- RUP	0772980021	jchaeruka@gmail.com
Margaret Madanhi	Legal consultant	0772572155	Magi-madanhi@yahoo.co.uk
R Chizema	Economist	0772261572	
Joseph Chaumba	CASS Trust	0773813475	jtchaumba@yahoo.com
Trymore Muderere	University of Zimbabwe	0775 031 477	
N T Kuipa	SouthBay Properties	0772303265	
Shame Mukoto	ARUP	0774329719	