

Secure tenure for the urban poor: Lessons from community based land tenure approach in Windhoek, Namibia

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Abstract

The Namibian Freehold System is well designed, appropriate and effective in providing security of tenure to higher-income households, although it is very legalistic and complex by nature. A community-driven process might offer an alternative to the present Land Delivery Systems that are criticised for being too expensive and thereby excluding the urban poor from land and housing ownership.

Two alternative solutions arose in direct response to the inadequacy of the formal system of land delivery to provide for the specific needs of the urban poor in Windhoek, Namibia. At grassroots level an own solution was sought. A community-driven process enables Self-Help Groups to own blocks of land with the most basic services whilst, at a legislative level, the Flexible Land Tenure Bill creates a parallel interchangeable property registration system.

SEKERHEID VAN EIENAARSKAP VIR ARM STEDELINGE: LESSE GELEER UIT DIE GEMEENSKAPSGEBASEERDE GRONDEIENAARSKAP-BENADERING IN WINDHOEK, NAMIBIË

Alhoewel Namibië se vrypag sisteem goed ontwerp, toepaslik en effektief is in verskaffing van sekuriteit ten opsigte van eiendomsreg vir hoër-inkomste huishoudings, is dit baie kompleks. 'n Gemeenskapsgedrewe proses mag 'n alternatiewe bied tot die huidige Grondoordragstelsel wat gekritiseer word as te duur en gevolglik die stedelike armes van grond- en huiseienaarskap uitsluit.

Twee alternatiewe oplossings het in direkte reaksie op die ondoeltreffendheid van die formele eiendomsregsisteem ontstaan om aan die spesifieke behoeftes van die stedelike armes in Windhoek, Namibië te voldoen. Op grondvlak is daar na 'n eie oplossing gesoek. 'n Gemeenskapsgedrewe proses bemagtig Selfhelp Groepe om stukke grond met die mees basiese dienste te besit, terwyl die Buigbare Eiendomsregwet op wetgewende vlak 'n verwisselbare parallelle eiendomsregistrasiesisteem daarstel.

LILUA LA MUBU LELI BUKELELIZWE MWA LIBAKA ZA BUKUWA: TUTO YE ZWELELA KWA MIKWA YA KULUWA MUBU YE ZAMISWA KI SICABA MWA MULENEŊI WA WINHOEK, NAHA NAMIBIA

Mukwa ya sikuwa wa kuluwa mubu kuya kuile wo u sebeliswa mwa naha ya Namibia u bakanyizwe hande, mi u sebeza ku sina butata. Mukwa wo, u fa mata kwa batu ba ba l pumanela ku luwa mubu. Ni ha kuli cwalo, mukwa wo (wona u zibahala ka "Freehold System" mwa puo ya sikuwa) wa tula, mi u ketulula batu ba ba shebehile kuba ni mata a kuluwa mubu kapa mandu mwa libaka za bukuwa. Ka libaka le, kufumanwi kuli, linzila zeñwi za ku luwa mubu zeo li zamaiswa ki sicaba li kona kutatulula butata bo.

Patiso ya ku talima linzila zeñwi ze fa mata kwa batu ba ba shebehile kuluwa mubu kamba mandu mwa libaka za bukuwa, ne i fumani linzila ze peli ze kona ku tatulula butata bo. Nzila ya pili i zamaiswa ki sicaba, mi i susueza batu ku kopana hamoho ka swalisano ni ciseho ni ku bupa tu tengo to tu itusa tona tuñi (to tu zibala ka "Self-Help Groups" mwa puo ya sikuwa). Tutengo to tu cwalo, tu kona kuluwa mubu (block erven) ni kufiwa li selezo ze bweshafalizwe, fa halimu a limembala za tona. Nzila ya bubeli, i sebelisa mulao wa sikuwa wo bukeleza ni ku susueza batu ba ba shebehile kuba ni mata a kuluwa mubu. Mulao nyana wo, u zibahala ka "Flexible Land Tenure Systems" mwa puo ya sikuwa.

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1. INTRODUCTION

The 'mushrooming and expansion' of informal settlements is a major problem in the developing world and Namibia is no exception to this phenomenon (Christensen, 2004: 9). This article concentrates on urban living conditions and the challenge to enact by law an informal system of land delivery to secure land tenure for the poor. In the City of Windhoek, the urban poor cannot afford to purchase individually registered erven created by means of the formal cadastre procedure. To compound this problem, the pace of land delivery lags far behind the rapidly growing land demand. In Windhoek, informal settlements have developed 'outside' the control of official administration and planning, and are located remote from decent employment opportunities. It is evident from the following two paragraphs that the political history, as well as the topographical shape of Windhoek, are two main reasons why landless communities have resorted to settle precariously on the peri-urban periphery.

Before it was abolished in 1977, influx control kept indigenous migrant workers from obtaining legal residence in urban centres of Namibia. 'Pass Laws' (a permit system used in urban centres) enforced their exclusion from city life. As the City of Windhoek expanded its boundaries, authorities forced poor communities into moving away, relegating them towards the peri-urban periphery and thereby restraining natural urbanisation. The independence of Namibia in 1990 assured greater freedom of movement and resulted in an unprecedented influx of people into Windhoek because of its primacy. The challenge remains to integrate marginalised, dislocated settlements back into the mainstream economy, formal city structure and civil society.

The Khomas Hochland, a vast highland of undulating hills, together with the Eros and Auas Mountains surrounding an already extensively developed urban Windhoek Basin, severely restricts urban expansion. Land in Windhoek is therefore an extremely scarce and valuable

commodity. It is not surprising that the huge influx of new urban migrants since Independence has had to settle on the most 'undesirable' and undevelopable fringes of the Basin.

An objective of the City of Windhoek is to keep abreast of urbanisation and influx whilst reducing the already existing backlog pertaining to erven. Based on available data, the City of Windhoek needs to deliver 27 000 fully developed, serviced erven by the year 2011, whilst 17 000 potential sites currently available in planned ultra low-income areas (City of Windhoek, 2003: 6-11).

Namibia is a large country in terms of area - approximately 824 000 km². In 2003, the Primary Household Subsistence Level for the capital of the country, Windhoek, was approximately N\$1875 (US\$309) per month. This is an indication that poverty is rife in the Republic of Namibia and its capital, the City of Windhoek.

2. ACTUALITY

Two alternative solutions, in what can be called a 'semi-formal' approach, grew in direct response to the inadequacy of the formal system of land delivery to provide for the distinct needs of the urban poor.

At grassroots level, an own solution was sought. A community-driven process enables an association of households, the so-called Self-Help Groups, to own blocks of land with the most basic services.

The lowest point of entry into the Land Delivery System is to obtain secure land tenure in blocks of land under the established form of Freehold Title. The various Self-Help Groups hold the communal ownership of block tenure.

On a legislative level, the *Flexible Land Tenure Bill* creates a parallel interchangeable property registration system. The intention of the *Bill* is to make land ownership more accessible and affordable by means of the introduction of two new land tenure options, namely Starter Title and Land Hold Title.

After registration and purchase of the Settlement Block under the Freehold System, the Self-Help Group/owner of the land will apply to the Local Authority to establish a Starter Title Scheme. Starter Titles acknowledge the occupational rights of persons. After registration of the Block under the Freehold System, or if an upgrading of a Starter Title is being contemplated to convert to Land Hold Titles, the Self-Help Group and

owner of the land will apply to the Local Authority to establish a Land Hold Title Scheme on the Block. Occupational rights of persons with Land Hold Titles create an individual commercial tenure with individual obligations and rights similar to the Freehold System, but without the cost implications.

Thus the purpose of the introduction of the Flexible Land Tenure System is to create a legal statutory framework whereby the individual members of Self-Help Groups will obtain security of individual land tenure either under a Starter Title or Land Hold System.

The *Flexible Land Tenure Bill* is now a Cabinet-approved draft concept emanating from the 1997 Report on "A Flexible Land Tenure System for Namibia". Very little progress has since been made. Over the past ten years, three pilot programmes have been launched and studies with professional consultants done; however, without promulgation of the *Bill* yet (Republic of Namibia, 1997).

3. STUDY AREA

The Study Area lies in the Northwestern Sector of the City of Windhoek (See

figure 1), where urbanisation has its main impact. The three studied groups hail from the following proclaimed Townships in Northwest Windhoek:

- Khomasdal (Eagles Community Committee)
- Goreangab (Ondguundja Community)
- Okuryangava (Bethesda Community)

4. RESEARCH METHODOLOGY

The conduct of the research primarily relied on a qualitative methodology comprising structured questionnaires. Interviews and meetings were also held to gain the perspectives and insight of professionals and academics having expertise in the field. The study area was surveyed on a field trip with the National Housing Action Group, and experience was gained on the subject during a one-month liaison with the Sustainable Development Division of the City of Windhoek in January 2006.

Structured questionnaires were served at group meetings with the three study groups to obtain their profiles, history and first-hand accounts of

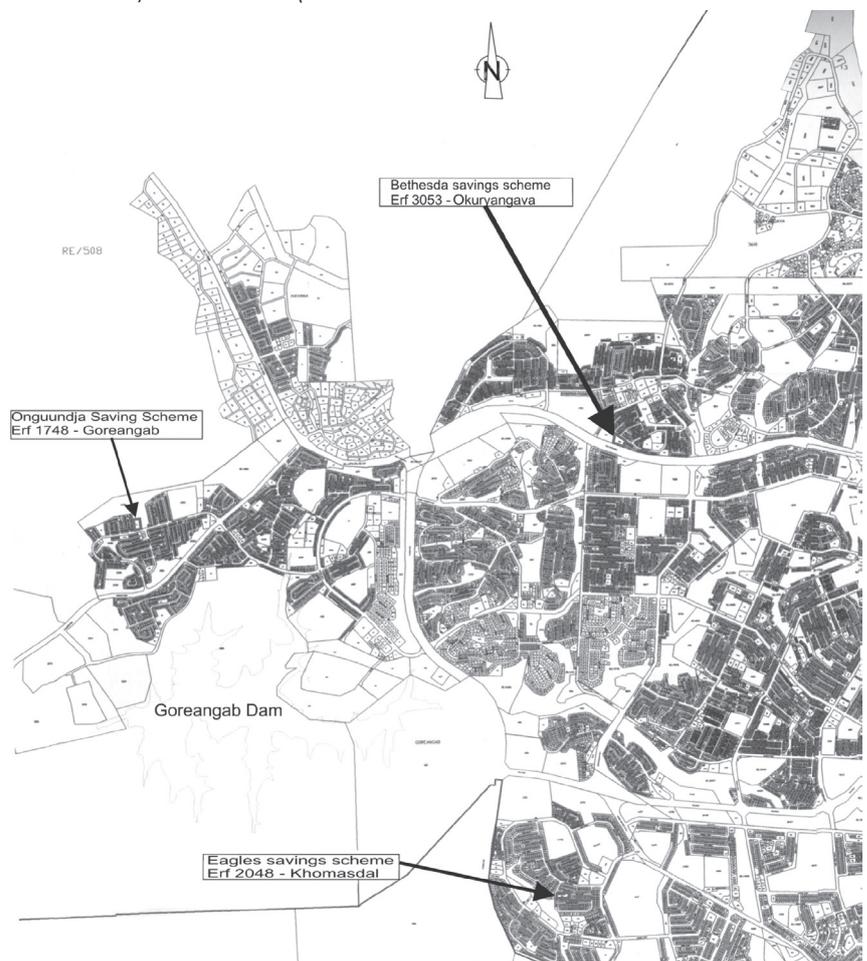


Figure 1: Northwestern sector of the City of Windhoek
Source: City of Windhoek, 2006

their experiences and present situation. Sampling the research involved selecting three Self-Help Groups, with the purpose in mind of evaluating their experience of land ownership. Limiting group sizes to fewer than twenty members made sampling the groups relatively more manageable. In order to obtain their opinions, the questionnaires were served on individual members in the Self-Help Groups. The first part of the questionnaire in general dealt with personal group background information, and consisted of open-ended questions. The rest of the questions were rated on the Likert Scale.

At first, the research would have taken the form of a participatory observational Case Study. It would have been ideal to work with Self-Help Groups from the 'inception phase' right up to their land formalisation process. However, this process would have taken much longer.

5. A THEORETICAL BACKGROUND TO URBAN PLANNING AND LAND TENURE

Urban planning emerged in response to the creation of industrial slums during the nineteenth century (Hall, 2002: 14). The reaction was primarily two-fold: Marxism advocated a radical and, finally, revolutionary overthrow of capitalist political systems that perpetuate a polarised society. The 'utopian' alternative accepted the urban-industrial system in broad terms, believing that state intervention would ameliorate its worst excesses (Pacione, 2004: 158). These are alternatives to the current view in the Western World that "land is a commodity, which is bought and sold in the market", thus a free-market approach (Blumenfeld, 1979: 169).

The latter approach, articulated by United Kingdom factory and sanitary reformers, believed in an ideal stemming from utopian socialists like Robert Owen, reflected in the Garden City Projects inspired by Ebenezer Howard (Hall, 2002: 91). The utopian ideal of perfectly designed and planned cities offered communities the hope to escape harsh production conditions and decadent environments of the industrial city (Hall, 2002: 92).

Jane Jacobs (1961) is legendary for her active revolt against the 'statistical aggregation' of communities, having once been reprimanded by the police in resisting an urban renewal programme. She argues for diversity in a number

of her ideas that greatly influences new-urbanism. According to Jacobs, the solution to urban problems does not lie with urban renewal programmes but necessitates a more humane response (Jacobs, 1961: 13–15).

Through urban renewal and urban redevelopment programmes, low-income housing in the central city is replaced by housing for higher-income groups (Blumenfeld, 1972: 173). The question that arises is: Where should the poor go? According to Blumenfeld (1972: 172–173) and Jacobs (1993: 353), planners support the 'high standards' that municipalities enforce to achieve 'public health and welfare', but these standards are enforced to keep people with low incomes out, precisely those who require more municipal services for education, health and welfare. In the United States and Canada where Real Property Tax is the main source of municipal revenue, the municipalities use their regulatory powers to prevent housing for low-income families, resulting in the main North American cities being designed by the invisible hand of the market (Blumenfeld, 1979: 4–5). Thomas (1997: 16) also agrees that capitalism has caused an uneven development within cities where profiteering is the primary driving force in the production and maintenance of the built environment.

In order to address the alienation of low-income housing to be replaced by housing for higher-income groups in the central city, the Dutch Legislator enabled labourers to own housing collectively: a measure that contributed much towards the improvement of social housing (Van der Berg, 1981: 104–105).

In opposition to this, the formalisation of legal policies in Brazil is still conditioned by individual property ownership instead of the collective dynamics of life in the favelas (Huchzermeyer, 2004: 63). Regarding the right to occupy land, the popular demand in Brazil was still for individual Freehold Title (Huchzermeyer, 2004: 111). This was triggered by a "continuous displacement of favelas through processes of land speculation" (Huchzermeyer, 2004: 232).

In South Africa individual Freehold Titles are imposed on informal settlements in spite of changes in household compositions, the disintegration of households due to HIV/AIDS and the mobility of households (Huchzermeyer, 2004: 161). The civic movement in South Africa,

in response to the realities of poverty, promoted a communal relationship to urban land (Huchzermeyer, 2004: 232).

In Nairobi, where informal tenure refers to occupation and use of land without a legal basis (Lamba, 2005: 44), it was found that informal land tenure systems were acceptable and legitimate for the informal settlement residents (Lamba, 2005: ii). Here, apart from titling, the following other actions offer tenure security, namely:

- Recognition of settlements by the state;
- Moratoria on evictions and demolitions; and
- Upgrading of settlements (Lamba, 2005: 55).

6. INTERNATIONAL DEBATES ON LAND TENURE FOR THE URBAN POOR

Informal settlements encompass the so-called 'squatter' settlements as well as 'slums'; where the former refer to unplanned temporary structures and the latter traditionally to overcrowdedness in neglected parts of the city. According to Smolka (2007), dwellers are living informally if:

- they do not have title deeds for the land that they occupy;
- the occupied land is not serviced and lacks basic infrastructure; and
- there is no compliance with regulations or building codes.

The United Nations' Habitat (2006/7: 17) calculates a slum if it lacks more than one of the following:

- Access to improved water;
- Access to improved sanitation;
- Sufficient living area;
- Durability of housing; and
- Secure tenure

Dwellers have secure tenure if the right of all individuals and groups to effective protection against evictions exist. People have secure tenure when there is evidence of documentation or there is either de facto or perceived protection against evictions. Countries which succeeded in the reductions of slums had pro-poor land and housing reforms (UNHabitat, 2006/7: 19).

In 99 percent of the cases informality is illegal (Fernandes, 2007), contributing

towards the struggle of informal dwellers to gain access to finance. De Soto (2000: 32) sees 'Dead Capital' lining the streets of every Asian, African, Latin-American and former communist nation. This is capital invested in informal settlements or the informal economy. A reason behind capital in poorer regions seen as 'dead' is because the property rights are not documented well; therefore these assets cannot be used for collateral for a loan (De Soto, 2000: 6). De Soto (2000: 32) finds that a formal property system slowly kills ownership and entrepreneurial skills by taking years of bureaucratic steps to obtain the licensing or title to premises. However, do Freehold Titles guarantee access to finance? Do banking institutions accept titles, or do they look at salaries, pay slips and the ability to repay loans? However, commercial banks do see informal dwellers as too high a risk, resulting in their exclusion from the financial culture (Accioly, 2007).

The correlation between poverty and no title is as low as 30 percent (Smolka, 2007), though security of tenure is an issue. Therefore it is necessary to investigate other tenure options that provide security of tenure, since individual Freehold Titles is not the only option available. The range of possibilities available includes collective freehold and leasehold. Research done in 16 countries revealed that security of tenure depends on residents' perceptions of government policy (Payne, 2002: 1). In South Africa "where generations were denied any rights for several generations, individual titles are considered the only form of tenure worth having" (Payne, 2002: 2), while in Bogotá, Columbia where residents are constitutionally entitled to those public utilities that they can afford, formal tenure is not a concern for informal dwellers.

Informality is also about the function of urban land markets (Smolka, 2007). However, the free-market approach, as discussed in the previous section, did not cater for the urban poor, as they are evicted by the market from centrally located areas. This action pushes them out into informality on the periphery (Fernandes, 2007). Several countries are increasing public control over urban land because markets do not supply affordable land for the urban poor, though this does not always result in a better supply of land for housing. Although extensive public land ownership exists in countries such as Zambia

and cities as Hong Kong or Singapore, the cost of housing is still high in the former and land prices extremely high in the latter (Payne, 1984: 222–223). Especially in the developing world, land ownership contributes towards inequality with the growing disparity between the wealthy landowners and the mass of the urban poor (Payne, 1984: 221). Since informality do not only include the poor (Perlman, 1980), the question that arises in South Africa is: Who qualifies for the subsidised Individual Freehold Titles in informal settlements – only the poor?

7. INTERACTION BETWEEN FORMAL, INFORMAL AND FLEXIBLE LAND DELIVERY

Globally the quest is towards more sensitive and humane forms of Local Land Management tasked to create habitable communities (De Kock, J.S. & De Kock, J., 2006). This represents a swing away from excessive nationalised bureaucratic ways of handling local issues. Searching for administrative structures rooted in African culture (extended families and kinship ties or community groups) would not be an isolated process, nor necessarily turn back the clock of civilisation, but instead reflect what appears to be a worldwide trend. This section investigates different forms of land delivery, namely the Formal Freehold System, informal community-driven systems and the proposed flexible alternative.

7.1 Formal land delivery

Formal Land Delivery is a system driven by formalistic cadastre procedures. This formal mechanism for the delivery of fully serviced, registerable and mortgageable land is a well-developed institution in Namibia. It provides registered Freehold Titles of surveyed land in the Registrar of Deeds office, thereby providing a high degree of tenure security. The system is well designed, appropriate and effective in providing security of tenure to higher-income households (Republic of Namibia, 2005). It is expensive to implement, as it involves the payment of various fees and charges to public and private institutions. Professionals implement the system.

There are at least six key role players closely involved in Formal Land Delivery. It is important for them to work cooperatively in order to create sensible urban communities and habitable environments. They are:

- Private/Public Developers and Land Owners;
- Environmental Managers;
- Urban Planners;
- Land Surveyors;
- Engineers; and
- Conveyancers (Republic of Namibia, 2004: 10-13).

The cadastre forms the basis for the system of land delivery used in Namibia and South Africa. The cadastre developed along market-related principles. Formal property ownership is a fundamental condition for economic development, in particular the recording of rights in land and the transfer of such rights. The different types of tenure of the Formal Delivery System are Individual Land Ownership (known as Freehold), Joint Ownership, Notarial Leaseholds and Sectional Title Ownership of sectional units.

7.2 Informal land delivery

From 1990 to 1998 the City of Windhoek implemented planned interventions (though regarded by some as emergency responses), for the unprecedented influx of migrant labourers that settled on public and municipal land (De Kock, J.S. & De Kock, J., 2006). These migrants settled primarily in planned Reception Areas. Since 2000, the City Council has adopted an official policy of enabler/facilitator, moving away from provider/developer. Since the policy shift, a dual-upgrading approach or rollover projects are implemented to deliver land and tenure to the landless (City of Windhoek, 2006: 11).

There is a great demand for land designed to cater for the needs of the urban poor, because the formal process is too slow in delivering land. Poverty and the lack of technical skills by the relevant authorities in the 'regions' or the shortage of institutional resources (work force) in Windhoek leave the urban poor excluded from the formal system of land delivery to acquire individual, fully-serviced, registered erven.

An informal method of land delivery developed because of the emergence of Self-Help Groups. Self-Help Groups are 'recognised' by the city in special circumstances, for instance where the sale or lease of land to low-income and ultra low-income residents forms part of a poverty reduction strategy.

An outline of a block of land is registered in terms of the formal cadastre procedure. A communal Freehold Title is formally registered in the name of the legal entity on a block of land. Once the block of land is registered and allocated to a group, a community-driven process is initiated by the group in conjunction with the authorities, primarily the National Housing Action Group and the Shack Dwellers Federation of Namibia, tending to the land and service needs of the members of the group. Land ownership by means of this method is not in terms of the cadastre, but is linked to personal information that is described in a database held by either the Local Authority or a record within the group.

The basis of the informal method to land delivery lies in the description of beneficiaries as a group within a block of land, and not in the registration of individual rights to single erven. For this purpose the compilation of a database for Self-Help Groups is a prerequisite. A blanket registration initiative of all *kambashus* (informal housing) for the City of Windhoek is proposed in this regard. The project earmarked for 2006, budgeted at N\$250 000, is in the process of building a registration database that corresponds with permanent markings on the *kambashus* (City of Windhoek, 2006: 11). The complete registration of *kambashus* creates a sense of control that discourages land invasion and facilitates monitoring.

7.3 Proposed flexible system

The Flexible Land Tenure System that provides an affordable, more secure and simple right (Christensen, 2004: 4) is a land delivery process intended to be driven by the community through government support. The *Draft Bill* creates a legal framework to recognise individual members' rights to security of land tenure.

The basis of the Flexible Land Delivery Method is the registration of Starter Titles and informally measured Land Hold Titles at the Registrar of Lands. Ownership of land is not linked to the cadastre, but due to the recognition given to occupation and registration with authorities. The land rights of the individuals that form part of Self-Help Groups are registered at the Registrar of Lands.

This method provides a legal framework for upgradeable land titling and land registration to formalise the process

whereby group members in settlements can obtain security of tenure in various steps. The formalisation process includes informal methods for the physical planning of the blocks of land. Land titling and registration is inter-linked with planning processes. A similar process to Informal Land Delivery follows:

7.3.1 Informal Planning and Starter Title Registration

After registration and purchase of the settlement block under the Freehold System, the Self-Help Group/owner of the land will apply to the Local Authority to establish a Starter Title Scheme. The Local Authority will then investigate the application. If the application is feasible, the Local Authority will approve the scheme. Upon approval, the Self-Help Group will then approach the Registrar of Deeds to endorse the Freehold Title to establish a Starter Title Scheme on the registered block. On completion, the Group will inform the Registrar of Lands of the names of the beneficiaries. These names will then be entered under the Flexible Land Register and Starter Titles will be issued to each beneficiary. Occupational rights of persons with Starter Titles are acknowledged, but this Title does not have any commercial value and may not be sold or hypothecated. Similar processes with respect to a community-based service delivery must then follow.

7.3.2 Informal Planning and Land Hold Title Registration

After registration of the Block under the Freehold System or if an upgrading of a Starter Title is contemplated to a conversion of Land Hold Titles, the Self-Help Group and owner of the land will apply to the Local Authority to establish a Land Hold Title Scheme on the Block. The Local Authority will investigate the application and the conditions applicable. If the application is feasible, and the internal block layout is available and measured with a cadastral map, the Local Authority will approve the scheme. Once approved, the Self-Help Group will then approach the Registrar of Deeds to endorse the Freehold Title to establish a Land Hold Title Scheme on the block or alternatively convert the Starter Title to a Land Hold Title. Once completed, the Registrar of Deeds will inform the Registrar of Lands of the endorsement. The Registrar of Lands will register the cadastral map prepared by land surveyors and the names of the beneficiaries will then be entered and

registered. Land Hold Titles will be issued to each registered member according to the map reflecting such member's site or plot.

Occupational rights of persons with Land Hold Titles create individual commercial tenure with individual obligations and rights similar to the Freehold System, but without the cost implications. It would thus theoretically be possible to present Land Hold Titles as collateral to financial institutions. The Land Hold Tenure allows for commercial transactions and may be sold and be hypothecated.

Should the need arise, a Self-Help Group could apply to upgrade their Land Hold Titles to Freehold Titles by means of a formal land survey. The same planning processes as set out in the formal Land Delivery System will then apply. The Flexible Land Tenure System may operate as an ancillary system to the formal cadastre procedure and Land Registration System. It may function within block erven developments to supplement group ownership by providing security of tenure to individual members of Self-Help Group's by means of either a Starter Title or Land Hold Title.

The *Bill*, if enacted, might take away the flexibility of community-driven processes in land delivery. In the informal system used currently, the rights of community-based group members are legally entrenched by way of a contractual relationship and secured without the introduction of a Starter Title and Land Hold Titles as proposed in the *Bill*, which entails the additional administrative and legal registration of land rights.

People do not necessarily need a title deed to their land to feel more secure or to upgrade their dwellings. However, title deeds may be used as collateral to borrow money from financial institutions or under the Government's Build Together Scheme, while informal land tenure systems are not regarded as collateral by these institutions. Groups thus have to depend on Savings Schemes to upgrade their communities or to access funding for the acquisition of the land and to provide housing structures.

The question that could be posed is if the Flexible Land Tenure System could add value in securing individual land tenure for the poor. The reply is positive, as few options are available to secure individual land tenure for the urban poor. Under the current system,

affordable, individually serviced erven are not available to the urban poor, as the following research indicates.

8. CASE STUDY: WINDHOEK SELF-HELP GROUPS

The primary objective of this article is an investigation into the different Tenure Options and Land Delivery Systems operating in Windhoek, Namibia. In particular, the focus is on whether the proposed Flexible System could solve the present slow land delivery to the urban poor.

A secondary objective is to acquire community opinions on land delivery,

tenure options and the upgrading of services. In this regard, meetings with Self-Help Groups were conducted, highlighting their experience of land delivery and tenure security.

The Head of the National Housing Action Group, (a Non-Governmental Organisation that assists the Shack Dwellers' Federation of Namibia), recommended a comparative study of Self-Help Groups A, B and C, since these three groups have made the most progress and were therefore ahead of the other groups in the process. The National Housing Action Group facilitated contact with the leaders of these groups, who agreed that their groups participate in the

questionnaire research. Group A is the Eagles Community Committee on Erf 2048, Khomasdal Extension 12 (See figure 2 and figure 3). Due to the previous problems experienced with the Homeless Community Committee, the group decided against joint ownership. The group decided to acquire the erf in undivided shares in the name of the Eagles Community Committee. Group B is the Ondguundja Group on Erf no 1748, situated in Green Mountain Street, Goreangab (See figure 4), and Group C is the Betesda Committee on Erf 3053 Okuryangava, situated in Omukaru Street, Okuryangava (See figure 5).



Figure 2: The Eagles community committee group cadastra
Source: City of Windhoek, 2006

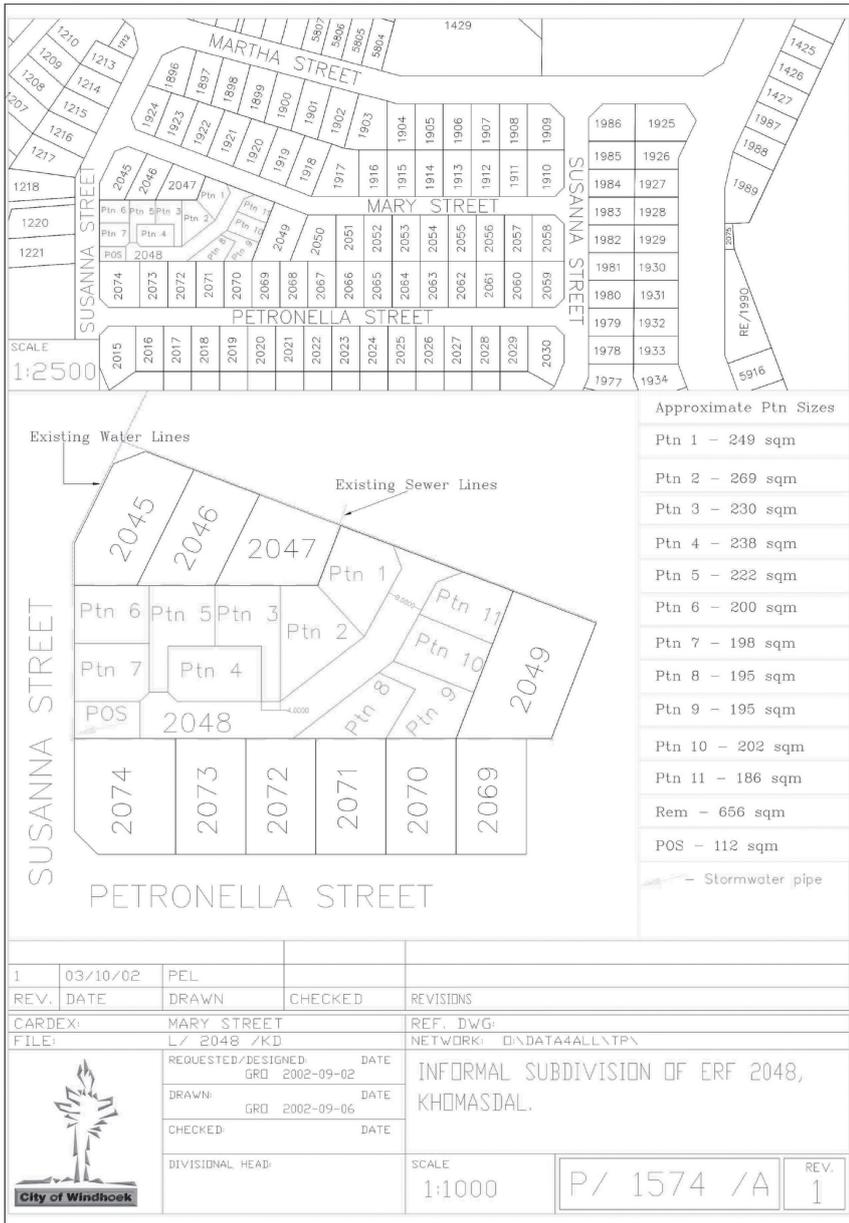


Figure 3: Example of an informal subdivision erf 2048 Khomasdal
Source: City of Windhoek, 2006



Figure 4: Ondguundaja - photos of block of land and group
Source: Photos by author(s)



Figure 5: Betesda - photos of land and group
Source: Photos by author(s)

Two open-ended questions, evoking positive or negative comments relating to shared ownership of land, give an indication of group opinions. Table 1 summarises the positive and Table 2 the negative responses received, presented along with the frequency of similar views in the three Self-Help Groups. Table 1 indicates that all three groups find owning and living communally positive in it being easier to acquire land in a group, cheaper to acquire land, and being secure in their ownership. The members also feel that living communally increases cooperation through the sharing of ideas and that they can thereby help one another to look after children and houses of the group.

After two years since first occupying Erf 2048, members of Group A were still awaiting copies of their ownership certificates. After being informed of this problem, the City of Windhoek resolved this matter by producing copies, as the original certificates were held as security for mortgage bonds registered in favour of the City.

A specific need exists for fencing and light poles to protect them and their property, which is freely accessible and open to thieving and vandalism. Enclosure may inhibit trespassing, provide security, and delineate property ownership (Thomas, 1997: 169). Groups A and B share similar financial problems relating to the group payment of due rates and taxes in arrears by some members. The problem that originated in Group A was the result of an administrative technicality by the City, as an account was incorrectly rendered to a new member that joined the group. This was reported to the City, where after the error was corrected. The error within Group B came about through the communal use of services exploited by some. This was reported to the City. After the leader had discussed it with the City, the matter was clarified, which enabled the leader to report to the group. They now have the option to receive individual Rates and Taxes Accounts.

Table 1: Positive aspects regarding communal type of Freehold Tenure

Group A Positive Responses	Frequency
Easy to acquire group land	5
Easy to be in group	4
Have own house	2
We communicate and share ideas	2
No-one tells me to leave my house	1
Provide house loan	1
Purchase of land cheaper per group	1
Group B Positive Responses	Frequency
Kids looked after by group	6
My land	6
Get land easier	3
Peaceful	3
Pay land together	2
No problem	1
Own house	1
Help one another	1
Group C Positive Responses	Frequency
Own place	4
Centrality (Close to school, clinics, shops)	4
Look after one another's houses	3
Living securely	2
Like family/community	2
Saamstaan Groups are the best	1
Work together	1

Table 2: Negative aspects regarding communal type of Freehold Tenure

Group A Negative Responses	Frequency
Looking for our certificates	10
No loans from bank, only Build Together Loans available	6
Negative about paying erf tax as group	4
Payment in arrears by some	3
No cooperation	2
Plot was not serviced internally	2
Land ownership by group – not individual	2
Member cannot make own decision on land	2
Need to fence in erf to protect against thieves	2
Storm water	1
Electricity biggest problem	1
No light poles, too dark	1
Group B Negative Responses	Frequency
Neighbour's sewer runs through erf	5
Small erf	3
Erf in river below flood-line	2
Outsiders steal	2
Some members do not pay	1
Water very expensive	1
Jealousy over land	1
Communal services unaffordable	2
Group not together	1
Long time to build	1
Interest on loans unaffordable	1
Group C Negative Responses	Frequency
Lot of work (removing rocks and boulders)	5
Difficult to work together, cooperate and group conflict	4
No help from City	3
Shack living unhealthy whilst construction took place	2
Builders ask a lot of money	2
No money for the poor in the group	1
Have no final say in own property	1
Own erf is too expensive	1

As the most successful group, Group C did not appear to complain about money issues or wasted time in building. They all built their own houses and removed massive boulders within one year of occupation. In addition, they managed to construct the necessary internal infrastructure according to municipal approval and standards, now awaiting the final installation of individual electricity boxes. A contributing factor may well be the stated centrality of the group.

Group A are, however, still only halfway through with building their own houses after two years. Group B is the furthest away from the City and after four years their block of land is still relatively undeveloped and only somewhat upgraded with communal services. Housing construction has only recently commenced and the majority of the members are still living in shacks.

What Group C experienced through their building process is an important lesson. For instance, Group C, like all the other groups, encountered difficulties and hardships that they overcame through hard group work and little help from others. This involved having to remove the large rocks, compared to the other two groups that had to deal with storm water flooding of their blocks of land. However, conflict and disagreement is a major complaint in all three Self-Help Groups, which either strengthens or slows down their progress.

The following two tables display questionnaire answers based on graphs measured on the Likert Scale. Respondents were required to answer in terms of (1) absolute agreement; (2) much agreed; (3) a neutral stance; (4) little agreed; and (5) no agreement.

The outstanding feature of Figure 6 is complete neutrality by Group A in respect of communal Freehold Title. This could be attributed to the fact that they already have Individual Tenureship Titles, although they receive a communal Rates and Taxes Account, whilst other accounts are issued on an individual basis. The figure indicates that overall most of the members are entirely satisfied with their present communal ownership. According to Figure 7 below the groups are more or less divided when having to choose between the two tenure options. However, most absolutely prefer an individual erf, but realise that it is unaffordable.

Households headed by women are predominantly active in the community-

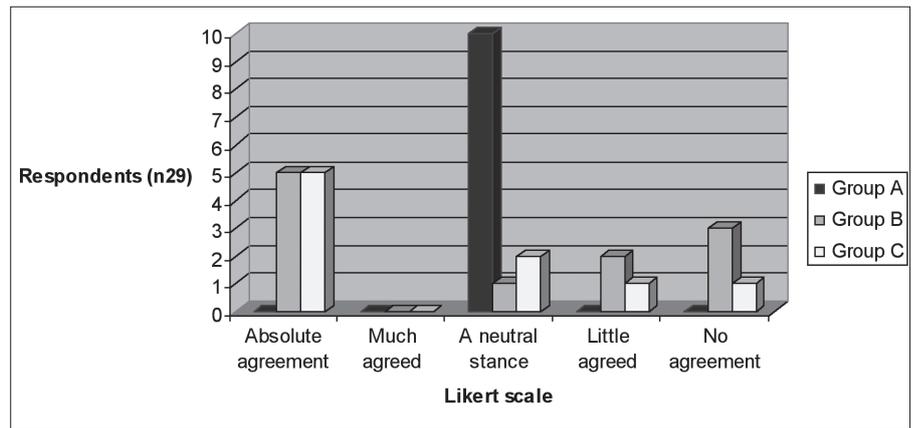


Figure 6: Group's satisfaction with communal type of Freehold Title to own a block of land

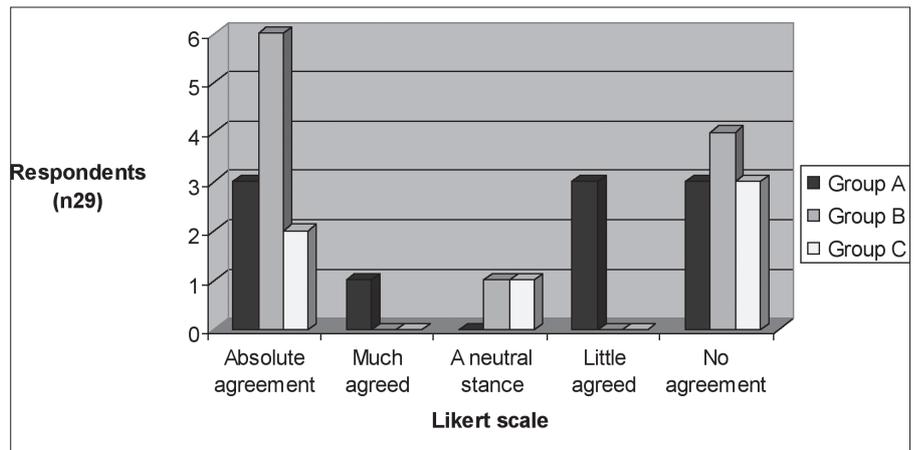


Figure 7: Groups' preference to owning an individual erf rather than a communal block of land

driven process to secure land for their needs. With regard to group ownership, the response of Group A, which has an undivided Tenureship Title, was quite remarkably different from the two other groups that had Communal Ownership. All three groups find owning and living communally positive in that it is easier to acquire land in a group, cheaper to acquire land, and consequently being secure in their ownership. The members also feel that living communally increases cooperation through sharing of ideas and that they can thereby help one another to look after children and the houses of the group.

During the group meetings and questionnaires the Groups identified certain administrative and financial concerns, which through the involvement of the research was followed up with the City of Windhoek and resolved. All the Groups strongly attest that the City of Windhoek develops land too slowly.

9. FINDINGS AND URBAN PLANNING PROPOSALS

Based on the findings of this study, the following urban planning solutions for the development of settlement areas are

proposed. The following objectives need to be achieved in Namibia, as well as within the City of Windhoek, to effectively service land and provide for a lack of tenure rights for the urban poor:

- Relevant tenure delivery alternatives (which target the very specific needs of and the problems faced by the landless poor);
- Cheaper tenure;
- Faster tenure delivery;
- Simpler systems of tenure delivery; and
- An effective institutional framework to implement all of the above (In this respect, sustainability of implementation is the key – whatever tenure system is adopted or whatever solutions are developed – these must be manageable by the current institutional framework operating in Namibia).

The City of Windhoek cannot meet the aspirations for land in the low-income areas and is still unable to adequately provide tenure to the rapidly growing informal settlement population. The City decided on categorising the low and ultra-low income groups into upgrading

typologies or development levels of various income sub-categories.

The Flexible Land Tenure System seems to be a logical technical conclusion to and could support the City's Development and Upgrading Strategy. This Strategy makes use of a community-driven process to provide in the needs of a Self-Help Group, the mapping of their informal sites, the construction of services by local builders and land tenure under joint ownership. However, under the Flexible Land Tenure System a safeguarding of individual rights under Starter Titles and Land Hold Titles will have to take place.

The question that could be posed is if the Flexible Land Tenure System could add value in securing Individual Land Tenure for the poor. The reply is in the positive, as few other options are available to secure Individual Land Tenure for the urban poor. The matter is of critical importance nationwide and must be addressed at all levels.

REFERENCES

- ACCIOLY, C. 2007. Land Management and Informal Settlement Regulation Course. Institute for Housing and Urban Development Studies and Lincoln Institute of Land Policy. Erasmus University: Rotterdam.
- BLUMENFELD, H. 1972. *The Modern Metropolis. Its Origins, Growth, Characteristics and Planning*. PD Spreiregen (ed.). Cambridge: MIT Press.
- BLUMENFELD, H. 1979. *The Metropolis... and Beyond. Selected Essays*. Paul D Spreiregen (ed.). New York: John Wiley and Sons.
- CHRISTENSEN, S.F. 2004. The Flexible Land Tenure System-The Namibian solution bringing the informal settlers under the register. Expert Group Meeting on secure land tenure: 'new legal frameworks and tools'. UN-Gigiri, Nairobi, Kenya 10-12 November.
- CITY OF WINDHOEK. 2003. Department Planning Urbanisation and Environment. Updated Urbanisation Report 1999.
- CITY OF WINDHOEK. 2006. Department Planning, Urbanisation and Environment. Status of Living Conditions in North-Western Constituencies.
- DE KOCK, J.S. & DE KOCK, J. 2006. The Role of Regional and Local Authorities in Planning, Land Management and Development. LUX-Dev. Urban Development Project Nam/341 Katima Mulilo.
- DE SOTO, H. 2000. *The mystery of capital: why capitalism triumphs in the West and fails everywhere else*. New York: Basic Books.
- FERNANDES, E. 2007. Land Management and Informal Settlement Regulation Course. Institute for Housing and Urban Development Studies and Lincoln Institute of Land Policy. Erasmus University: Rotterdam.
- HALL, P. 2002. *Cities of Tomorrow*. 3rd ed. Oxford: Blackwell Publishing.
- HUCHZERMEYER, M. 2004. *Unlawful Occupation. Informal Urban Policy in South Africa and Brazil*. Eritrea: Africa World Press Inc.
- JACOBS, J. 1961. *The Death and Life of Great American Cities*. Harmondsworth: Pelican Books.
- JACOBS, J. 1993. *The Death and Life of Great American Cities*. Modern Library Edition. Modern Library: New York.
- LAMBA, A.O. 2005. Land tenure management systems in informal settlements. A case study of Nairobi. Unpublished Master's thesis submitted to the International Institute for Geo-information Sciences and Earth Observation. Enschede, The Netherlands.
- PACIONE, M. 2004. *Urban Geography*. London: Routledge.
- PAYNE, G. 2002. Secure tenure for the Urban Poor. Round Table seminar organised by Cities Alliance, 23 May [online]. Available from: <<http://www.citiesalliance.org/events/2002/secure-tenure.html>> [Accessed 16 October 2007].
- PAYNE, G.K. 1984. *Low-income housing in the developing world: the role of sites and services and settlement upgrading*. Chichester: Wiley.
- PERLMAN, J.E. 1980. *The Myth of Marginality: Urban Poverty and Politics in Rio de Janeiro*. Berkeley: University of California Press.
- REPUBLIC OF NAMIBIA. 1997. Ministry of Lands, Resettlement and Rehabilitation. Report on a Flexible Land Tenure System for Namibia. Windhoek: Government Printers.
- REPUBLIC OF NAMIBIA. 2004. Ministry of Regional and Local Government, Housing and Rural Development. Notes on Town Planning and Land Management. Division Planning.
- REPUBLIC OF NAMIBIA. 2005. Ministry of Regional and Local Government, Housing and Rural Development. Draft Report on Secure Land Tenure and Housing Conditions of Low-Income Groups in Namibia. Windhoek: Namibia National Habitat Committee.
- SMOLKA, M.O. 2007. Land Management and Informal Settlement Regulation Course. Institute for Housing and Urban Development Studies and Lincoln Institute of Land Policy. Erasmus University: Rotterdam.
- THOMAS, K. 1997. *Development Control. Principles and Practice. The Natural and Built Environment Series 10*. London: UCL Press.
- UNHABITAT. 2006/7. State of the World's Cities. [online]. Available from: <www.unhabitat.org> [Accessed 16 October 2007].
- VAN DER BERG, G.J. 1981. *Inleiding tot de planologie. Voor ieder een plaats onder de son?* (Introduction to the science of planning: a place for all under the sun) Brussel: Samson Uitgeverij.