



SOUTH AFRICAN LOCAL  
GOVERNMENT ASSOCIATION

**SALGA**

*Inspiring service delivery*

# **Municipal Urban Land Acquisition and Release**

**KZN Provincial SPLUM Forum  
Durban, Kwa-Zulu Natal  
23 August 2019**

# Presentation Outline

- Background
- Legislative Framework
- Municipal Land Management Challenges
- Proposals
- Process and Progress

# Background

- Municipalities face challenges in acquiring strategically located land owned by national government, provincial government, SOEs and private land owners.
- Spatial transformation and inclusive economic growth efforts of local government hampered by difficulties in land access.
- Land governance and administration in some municipalities have significant inefficiencies that are contributing to the inability of the Poor to access well-located land.
  - Inefficiencies in municipal urban land release.
- The key signs of failures in land governance and administration include (but are not limited to):
  - Unlawful land occupations that are increasingly overwhelming cities and towns
  - Urban growth patterns that are driven by market forces and not entirely aligned to municipal SDF and IDP priorities;
  - Government housing developments that are located on the periphery of urban areas away from economic and employment opportunities.

# Background



(Source: [https://www.boredpanda.com/unequal-scenes-drone-photography-inequality-south-africa-johnny-miller/?utm\\_source=google&utm\\_medium=organic&utm\\_campaign=organic](https://www.boredpanda.com/unequal-scenes-drone-photography-inequality-south-africa-johnny-miller/?utm_source=google&utm_medium=organic&utm_campaign=organic))

# Legislative Framework Guiding Municipal Land Acquisition and Release



1. The South African Constitution, 1996
2. **Local Government: Municipal Finance Management Act, 56 of 2003**
3. Local Government: Municipal Finance Management Act, 2003 – Municipal SCM Regulations
4. **Local Government Municipal Systems Act, No 32 of 2000**
5. **Local Government Municipal Property Rates Act, No 6 of 2004**
6. **Interim Protection of Informal Land Rights Act, 1996**
7. **Transformation of Certain Rural Areas Act, 1998**
8. **Expropriation Act, 63 of 1975**
9. State Land Disposal Act No 48 of 1961
10. Provision of Land and Assistance Act, No. 126 of 1993
11. Spatial Planning and Land Use Management Act, No. 16, 2013
12. Deeds Registries Act No 47 of 1937 (as amended)
13. Land Administration Act No 2 of 1995 (as amended)
14. Government Immovable Asset Management Act, 19 of 2007
15. Housing Act, 107 of 1997



# MUNICIPAL LAND MANAGEMENT CHALLENGES

# Land Management Challenges

Internal	External
<p>Lack of a programmatic and strategic approach to the identification and use of municipal land (by municipalities) for development purposes. Land acquisition requirements are made on a project by project basis.</p>	<p>Land acquisition negotiations with SOEs and State Departments are protracted and often negatively impact on municipalities' ability to implement their IDPs and SDFs.</p>
<p>Many municipalities do not have up-to-date municipal immovable asset registers that are informed by up-to-date land audits.</p>	<p>SOEs and State Departments conduct land audits without properly engaging local government.</p>
<p>Poor management of land leading to illegal occupations and land invasions.</p>	<p>Poor management of land leading to illegal occupations and land invasions.</p>
<p>Many municipalities do not have land acquisition and release strategies.</p>	<p>Poor participation of SOEs and State Departments in municipal IDP and SDF review processes. Programmes, projects and land needs by SOEs and State Departments are, therefore, not properly captured.</p>
<p>Land acquisition and release does not form an integral part of municipal planning processes (i.e. IDP and SDF formulation and review). IDPs and SDFs are therefore not backed by thorough land needs assessments.</p>	



# PROPOSALS



# Proposals

No.	Proposal	Overview	
1	<b>Municipalities should have the right of first refusal on state-owned and SOE-owned land disposal</b>	<p>Municipalities should have the right of first refusal to acquire state-owned land and land owned by SOEs when the State and SOEs intend to dispose of land.</p> <p>Engagements with the State and SOEs should be preceded by extensive land audits and land needs assessments by municipalities. The urban land needs assessments should enable the implementation of and should support the visions and objectives of the municipal SDFs and IDPs.</p> <p>Moreover, municipalities should be consulted during the land audit and land needs assessment processes of SOEs and Sector Departments.</p> <p>NDHS/HDA has committed to ensure that their land assembly process will be informed by municipal IDPs and SDFs.</p>	

# Proposals

No.	Proposal	Overview	
2	<b>Municipal urban land acquisition should lead to negotiated development outcomes</b>	The terms of land transfer should be case and context specific and should be supported by legislation and Council-approved policies.	

# Proposals

No.	Proposal	Overview	
3	<b>Capacity building is required to create efficient municipal land administration and governance</b>	<p>Capacity building within municipalities is required in order to improve efficiencies in municipal urban land governance, management and administration processes.</p> <p>Municipalities should have access to up-to-date and credible data from the Deeds Office, Office of the Surveyor General, Office of the Valuer General as well as geo-informatic data.</p> <p>Shared service models, for example, can be used to provide capacity and expertise in under capacitated municipalities. Other plausible solutions need to be urgently sort.</p>	

# Proposals

No.	Proposal	Overview	
4	<b>Advocating for less bureaucracy and greater efficiency in SOE and State land transfer</b>	To reduce red-tape, it is proposed that SOEs and national sector departments that are custodians of State and SOE land authorise their regional/ provincial offices to make decisions on land disposal, in particular land that has been identified as non-core SOE and State land.	

# Proposals

No.	Proposal	Overview	
5	<b>Funding urban land acquisition for spatial transformation</b>	<p>Given the major financial constraints faced by municipalities, municipalities should not be expected to pay financial compensation for all land acquired. Non-financial compensation should be explored (e.g. land use and development incentives, investment incentives, land swaps, land banking etc.).</p> <p>Moreover, municipalities should explore the use of expropriation of urban land as the current legislation empowers municipalities to expropriate under certain conditions.</p> <p>SALGA to lobby National Treasury to set up an Urban Land Grant that can be used by municipalities.</p> <p>National Treasury to explore the potential use of the HSDG and USDG (through NDHS and HDA) to fund municipal land acquisition in the event that the Urban Land Grant cannot be accommodated in the current fiscus.</p>	

# Proposals

No.	Proposal	Overview	
6	<b>Engagement with traditional authorities</b>	<p>Municipalities may use the structures and systems created by the Department of Cooperative Governance and Traditional Affairs, as well as the Department of Rural Development and Land Reform to engage traditional authorities on matters relating to urban land acquisition and release.</p> <p>DRDLR and COGTA to provide guidance and leadership on how to engage traditional authorities and facilitate land transfer within this context.</p>	

# Proposals

No.	Proposal	Overview	
7	<b>Urban land governance should facilitate efficiency in urban land administration</b>	<p>Good governance in urban land management and administration is required in order to create an efficient system of urban land acquisition and release.</p> <p>The Joint Coordinating Committee on State Land Release (JCC) needs to be given a revised mandate in order to effectively address the urban land administration and governance challenges associated with State, SOE and municipal land acquisition and release.</p> <p>Moreover SALGA, all metros and selected intermediary cities must form part of (and be represented in) the JCC. Municipalities (through SALGA) should be represented in the IMC on Land Reform and the Land Management Task Team.</p> <p>SALGA together with key role players to expeditiously address bottlenecks in inter-state land transfers.</p>	

# Proposals

No.	Proposal	Overview	
8	<b>Advocating for an integrated land administration system</b>	<p>A structured, comprehensive and integrated land administration system is the backbone of an efficient approach to land acquisition and release, as well as government's urban land reform efforts.</p> <p>It is proposed that a land administration system be set up that integrates all spatial and land information that is currently held by different government departments, different spheres of government, State-owned entities, as well as research and academic institutions.</p> <p>The land administration system should be easily accessible to all spheres of government, State-owned entities and all members of the public.</p>	





# PROCESS & PROGRESS

# Process & Progress

- SALGA is currently in Phase 2 of the Municipal Land Acquisition and Release project. This phase involves collation of detailed land needs by municipalities and lobbying various stakeholders (including State departments and SOEs) on SALGA's land position and proposals.
- The **Inter-Ministerial Committee on Land Reform** resolved that local government should be an active role player in land reform efforts in the country. As such, SALGA (i.e. organized local government) and all State departments that are mandated to manage and administer land should engage each other in order to address the bottlenecks in inter-State land transfer.
  - **Land Management Task Team** set up to unblock bottlenecks (primarily) in inter-State land transactions and transfers.
    - (ARDLR, HSWS, HDA, DPW&I, SALGA, DOT)
- SALGA is in the process of collating data on land from various State Departments and SOEs. The data collation process seeks to ascertain land ownership, use and extent in order to assist municipalities with developing and updating their land audits.

# Process & Progress

- In April 2019, SALGA initiated a process to compliment the SOE and State land data collation process. Phase 1 of the data collation will be finalised by July 2019.
- Municipalities are currently being engaged to ascertain if they have Council approved (SALGA Circular 08/2019):
  - Land Acquisition and Disposal Policies and Strategies
  - Immovable Asset Registers and their periodic updates
  - Land audits
  - Land needs assessments

Province	Municipality	Property Description	Extent (ha)	Location (SG coordinates/ GPS coordinates/ street address)	Ownership	Zoning	Current Land Use	Municipality's Envisaged Use in terms of SDF	Linkage to IDP and SDF Priorities

# Process & Progress

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## CIRCULAR 08 / 2019

**FROM : CHIEF EXECUTIVE OFFICER**

**TO : MUNICIPAL MANAGERS**

**HEADS OF DEPARTMENTS RESPONSIBLE FOR PROPERTY MANAGEMENT, REAL ESTATE, LAND ADMINISTRATION, LAND MANAGEMENT IN MUNICIPALITIES**

**DATE : 16 MAY 2019**

### REQUEST FOR INFORMATION ON LAND POLICIES AND ON LAND AUDIT

#### 1. BACKGROUND AND PURPOSE

Land reform, restitution and expropriation have been at the centre of public discourse and debate in the country in recent years. Land reform and the facilitation of access to land for spatial transformation remain key obligations of all spheres of government.

Municipalities' attempts to acquire land for spatial transformation, including their efforts to facilitate access to land by various groups (in particular the urban Poor), have been hindered by bureaucracy and weaknesses in inter-governmental relations. Municipalities continue struggling to acquire strategically located urban land that is owned by national and provincial governments, State-Owned Entities and, private land owners.

It is against this background that SALGA conducted research on the acquisition and release of land for socio-economic development. The purpose of the research was to:

- Conduct a situational analysis regarding the acquisition and release of land by municipalities in South Africa and;
- Develop proposals that municipalities can introduce as strategies in their respective land administration, management and governance processes in order to promote inclusive economic growth and facilitate spatial transformation.

While SALGA's research provided an overview of the opportunities and challenges that municipalities are confronted with in their acquisition and release of land, there is a need for further detail in order to empower SALGA to represent the sector more effectively.

# Process & Progress

	All Required Info Acquired
	Partial Info Acquired
	No Info Acquired

	Municipalities (in alphabetical order)	Land Needs	Land Needs: Landowner(s) to be Engaged	Land Audit/ Register	Land Policy

No responses received from all KZN municipalities.

SALGA was, however, able to confirm that Ethekewini Metro has a Council approved Land/Property Management Policy.



**Thank You**