SUBURBAN HOUSING ACTION CAMPAIGN!

8B SUSSEX RD 7925 OBSERVATORY
CAPE TOWN SOUTH AFRICA
TEL +27 (0)21 447 8281 FAX: +27 (0)21 447 1140
BOVAIN CELL +27 (0)82 896 4022
REG. NO. 2006/005998/08
E-MAIL: info@sibama.com
www.sibama.com

Carnegie III
BY EMAIL
24th July 2012

STROKE OF A PEN
REMOVING R150BN OF POVERTY AND INEQUALITY

Introduction

South Africa in the last 20 years has had one of the fastest historical roll-outs of housing stock in the world, some 3m plus units. However, delivery of this stock remains incomplete and in some cases misdirected. While we have provides houses, we have not resolved the unintended consequences and the policy failures. We have not listened to the signalling and sought to monitor feedback loops.

This article covers the view that significant, swift improvements are possible through relatively simple, cost effective policy and legislative change. The article will cover some of the problems only as a necessity for detailing and understanding the proposed solutions. However, the focus is on solutions.

Understanding the Complete Property Cycle:
Moving from Housing Provision to a Housing Market

As a country we have been broadly successful in delivering housing stock. We have been weak in acknowledging that delivering housing stock is the provision of shelter. This is static provision. Ensuring the stock can successfully transfer, that those who no longer need the shelter or need it less trade with those who need it more or value it more. This is dynamic. These are the signals of a market hard to replicate in any other form. This is about ensuring a secondary property market in emerging housing develops and is strengthened.

Current Fluidity

The table below highlights there is a lack of movement in these markets. The table provides data with regard chosen suburbs in Cape Town. It is easy to see that the churn or stock turn in emerging property markets is a factor some 10 times less than one would expect to see. Where in Parklands will take 10 years for all the houses to trade in Gugulethu it will take 200 years. What is causing this disparity?

Residential Units
CMA Data 2011

Suburb	Sales	Erven	Percent	Vacant	Percent	AV (Rk)	MV (Rm)
Camps Bay	68	1 549	4.4%	92	5.9%	7 384	11 438
Observatory	112	1 747	6.4%	16	0.9%	1 074	1 876
Rondebosch	159	3 038	5.2%	40	1.3%	2 905	8 825
Du Noon	8	2 947	0.3%	42	1.4%	76	224
Parklands	465	4 670	10.0%	371	7.9%	904	4 222
Ilitha Park	86	2 677	3.2%	848	31.7%	272	728
Mandela Park	52	2 991	1.7%	1 756	58.7%	151	452
Gugulethu	41	8 180	0.5%	202	2.5%	195	1 595
Langa	19	3 335	0.6%	175	5.2%	309	1 031
Philippi	71	5 456	1.3%	393	7.2%	103	562

Key Constraint 1: Transaction Barriers (Costs, Time, and Complexity of Current Formal Process / Educational Barriers)

The table below lists the general costs for the formal transfer of residential homes. As detailed the monetary sums emerging owners (10%) are asked to pay as a percent of asset value outstrip those of the very wealthy (8%). The middle class family will pay under 4%. The process is also complex and time consuming. It requires agents and professionals familiar with the process and takes, at a minimum, three months.

Transaction Cost Table
2012

Property Price (PP)	Bond %	Transfer Duty	Convey Cost	Bond Cost	Total Cost	% of PP
50 000	100.0%	-	6 500	3 600	10 100	20.2%
100 000	100.0%	-	6 500	3 600	10 100	10.1%
250 000	100.0%	-	6 700	4 500	11 200	4.5%
500 000	100.0%	-	9 700	7 000	16 700	3.3%
1 000 000	100.0%	12 000	15 600	11 700	39 300	3.9%
2 500 000	70.0%	117 000	24 300	15 000	156 300	6.3%
5 000 000	70.0%	317 000	38 800	25 900	381 700	7.6%
10 000 000	0.0%	717 000	53 200	-	770 200	7.7%

www.conveyancing24.co.za

Given the above, South Africans without funds and time have by-passed the formal process of title registration (Deeds Office – part of National Department of Rural Development and Land Reform) and developed informal methods of property transfer (quite rightly correcting state policy and market failure). The term we use for these "transfers" are "chair to chair" deals. The method used where it is "formal" is a SANCO letter or a Police Stamp.

Given our formal process an informal "transfer" does have long-lasting consequences, including:

- Pathways to future formal transfer are for all practical purposes lost.
- Inheritance cannot occur.
- The housing list (really a database) is rendered incorrect.
- On divorce rights are lost.
- Municipal service collection hindered.
- Debt finance opportunities lowered.
- Reluctance to relocate (labour market inflexibility).
- There is no mechanism to monitor those controlling multiple units.

Key Constraint 2: Title Emergence and Title Uncertainty

The state at all levels has proven inefficient in understanding that though provision of housing unit is important this unit only becomes a home, with the certainly this entails, when a title is supplied. In Cape Town some 65,000+ titles have never "emerged" even though housing units were provided.

Further, on the houses delivered, where title emerged, there is research that in 40%+ of units informal transfer has occurred. Given the cost and other barriers to formal transfer outlined above it is worth stating that it is highly unlikely any formal secondary market transfer of RDP stock is occurring or can occur.

Other "Lesser" Constraints and Inefficiencies: Crowding Out, Rule of Law, Education, Effective State Immovable Asset Management

Other factors worth mentioning, though of lesser import, include:

- A VAT trap is currently in place for the private sector delivery of residential homes.
- The state is providing "free" houses crowding out the ability of the private sector to innovate and enter the segment.
- Market makers (agents, bulk buyers, developers, banks) are absent for the reasons covered above.
- The rule of law is not operating evenly (transfer, eviction, service collection) favours the educated and wealthy (complexity, cost).
- The pre-emptive clause remains in place in instances.
- Municipalities retain rental stock.
- The requirements for an effective rental market to emerge (rule of law, legal certainty, cheap and simple eviction) are not understood and internalized. Rental stock provision will remain a key necessary component of housing provision (currently it cannot effectively operate).
- The state at all levels retains immovable asset stock and has proven ineffective at managing its holding (or even knowing its holdings).
- Research and Property Education funds which would produce good returns are not spent in this sector. [The State works its P&L and not its Balance Sheet. Train Councillors and Officials in Property Matters, and the transaction cycle and life cycle (the ladder).]
- The (lack of) constitutionality of repossessing homes with a value under R100k is not fully internalized by the market. [Progressive realization of socio-economic rights. So-called Section 26 rights. "The state must take reasonable legislative and other measures, within available resources, to achieve the progressive realization of this right."]
- The banks should not be able to repossess (for R10) and take judgement for the remainder due (for say R250k). This is the case in South Africa. It is not the case in Ireland and the States.
- There is currently limited interface across academic departments (law, economics, urban planning, graduate schools), inhibiting their ability to provide government with effective advice.
- The State has an absence of "feedback loops" off policy and delivery so as to monitor and proactively resolve unintended consequences and state policy failure.

- Better vertical coordination with regard Human Settlements. For instance, policy and budget set by National, subsidy administered by Province, and land and roll-out by Municipal. (Clarity of responsibility and accountability.)
- Improved horizontal coordination across government departments (Human Settlements, Public Works, Rural Development and Land Reform).
- Rates exemption and averaging of values have unintended consequences.
- Improve incentives for everyone to unlock blocked residential homes (the banks, the private sector, and vacant land owners). [The price of holding and not effectively using assets held in this sector are not high enough.]
- In many instances basic state administration is simply not occurring.
- Communally held (rural) units not taken into account in urban allocation.
- Mortgage bonds are the wrong financial instrument for houses less than R100k.
- Proper waiting list methodology and preference. (Pensioners over single parents. Sunset clauses.)
- Subsidy use broadening to cover service arrears, extensions, repairs, legal costs.
- "Free" housing provision, by definition, means infinite demand.
- The cost of not having effective administration needs quantification and internalization.
- 61% of South Africans are urban. Is urban land reform not as important, if not more important, than rural land reform?
- Banks and State to hand over title where residential unit value is less than R100k and occupant has not previously owned.

Proposed Solution: A Simple Pathway to Full Title and Cost Effective Transfer

Currently the only potential remedies for regularise a house where an informal transfer has occurred is through a High Court order or the Land Titles Adjustment Act 1993. Neither approach is practical.

The most appropriate practical policy solution discussed and developed (though interaction with Steve Kahanowitz of the Legal Resources Centre and Jens Kuhn of the City of Cape Town Housing Department) is the municipal licencing of Residential Property under 500m^2 and under R150k in value. The process would work as follows:

a) Within the category one would fill out a form with the Municipality to "licence" the property. This licence document, resulting in something like a drivers licence, means the person registering is taking responsibility for the house, for services, for by-laws. The *de facto* occupant is putting their hand up.

b) There would be a licence fee, say R500.
c) The licence would be transferrable. (Fill out another form with the Municipality, pay another R500.)
d) Any gain or loss on secondary licenced transfer is the sellers.
e) The fee is both an administrative charge and an insurance payment for dispute resolution where this occurs.
f) The *de jure* owner, or anyone with an interest in the property, can register their interest in the property with a period of time, say 10 years.
g) Once the property has been licenced for 10 years formal transfer can occur. (Deeds Office stamps it off as owned and issues title.)
h) A method will need to be found for banks to lend against the licenced properties. This will reflate the market from a current cash one to a debt financed one (which is the norm). [Banks would in time become comfortable to lend against licenced properties (as the market would be so large). The Municipality may assist by ensuring Bank approval prior to passing (licenced) transfer.]

Conclusion: Correcting Market Failure

What has emerged from the work above is that currently it is highly likely that very limited (if any) RDP type units are transferring through the current formal process on a secondary market basis. Overwhelmingly formal transfers are the State and primary transfers in some form.

The broad current mathematics (using Cape Town prices) is as follows:

- The average all-in cost to the State of providing an RDP house – R120k.
- The average market value on the RDP house on delivery (where title has emerged) – R80k.
- The average informal transfer price for the RDP house – R30k.
- RDP houses provided by the State since 1994 – 3million+.
- Total value creation through a solution – R150bn.
- Total potential initial debt market creation – R150bn.
- Potentially every regularized RDP house saves the State R120k (contingent gain). Where this applies to 1m units this is a fiscal saving of R120bn.

Through some simple policy intervention and emphasis on basic administration the position of South Africa's emerging urban property market would be significantly improved for the benefit of everyone. The reflation and co-joining of informal and formal property markets in this segment would have immediate positive effects. This poorly understood and under discussed policy area has the potential to deliver an immediate impact on poverty alleviation and inequality.

END