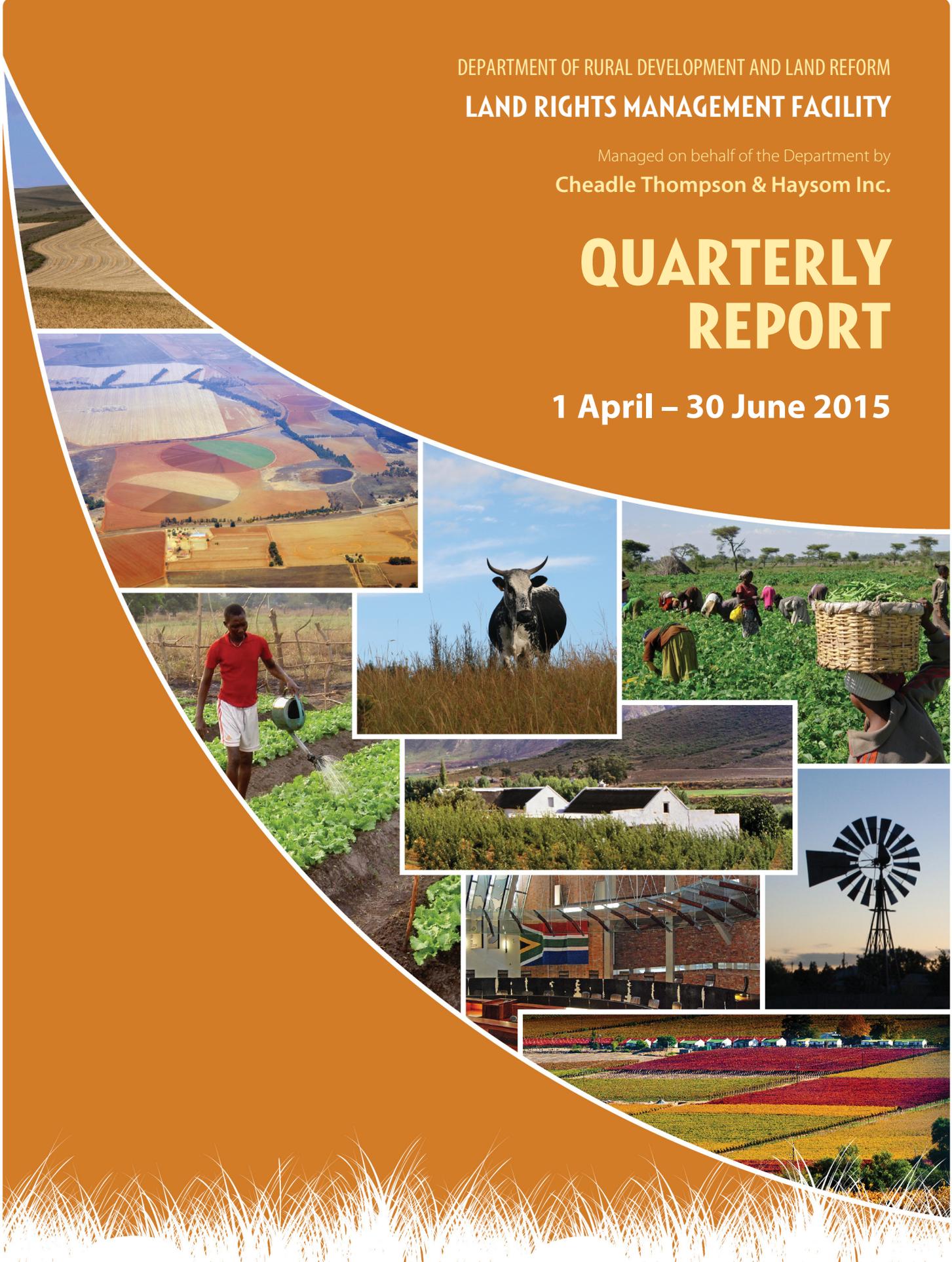


DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM
LAND RIGHTS MANAGEMENT FACILITY

Managed on behalf of the Department by
Cheadle Thompson & Haysom Inc.

QUARTERLY REPORT

1 April – 30 June 2015



**rural development
& land reform**

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA



**CHEADLE THOMPSON
& HAYSOM INC.**
ATTORNEYS



April to June 2015

LRMF DASHBOARD

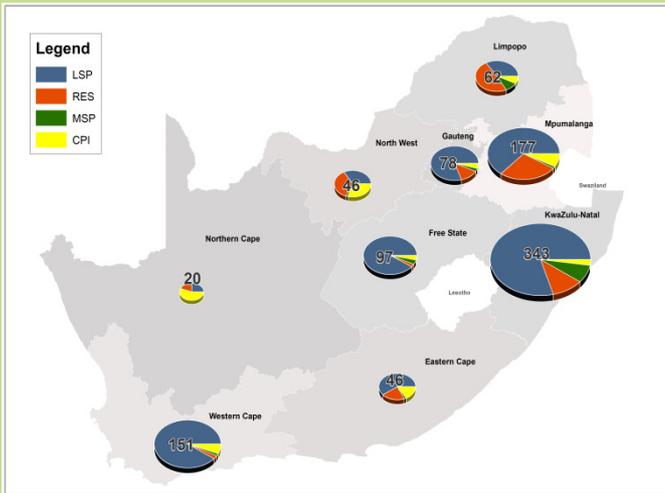


ACTIVE CASES
As at 30 June 2015

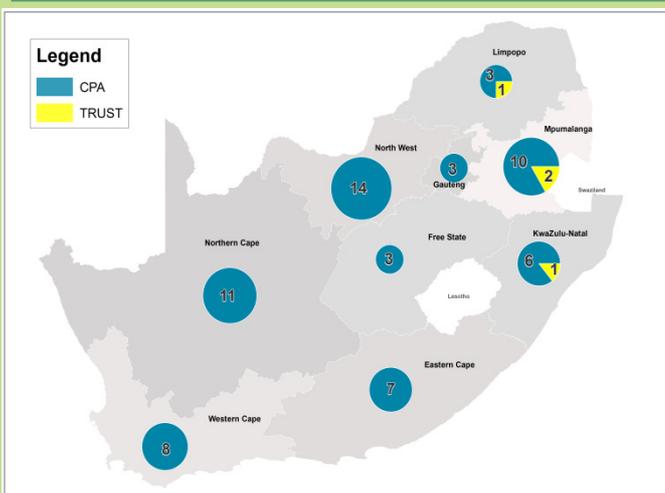


NEW MATTERS
1 April – 30 June 2015

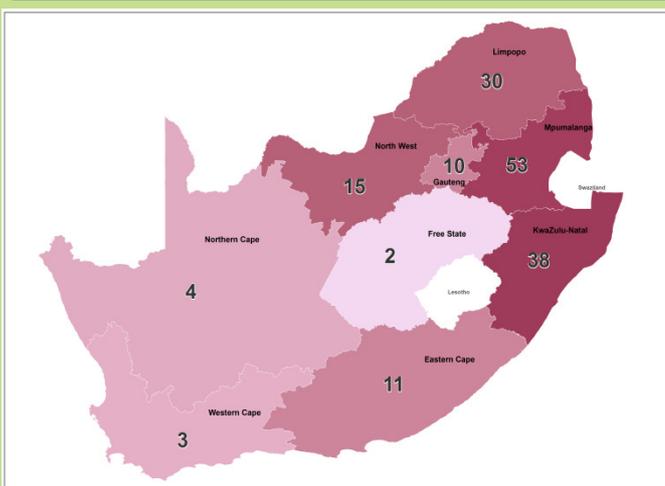
LRMF CASE VOLUME & DISTRIBUTION



CPI CASE VOLUME & DISTRIBUTION



RESTITUTION CASE VOLUME & DISTRIBUTION



LRMF CASE STATUS

	NEW MATTERS	CLOSED MATTERS	PENDING TOTALS
LSP	61	61	745
MSP	19	16	40
Restitution	4	3	166
CPIs	4	29	69

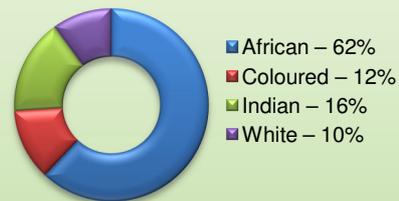
TENURE SECURITY CASE CATEGORIES

– LEGAL & MEDIATION SERVICES

- Threatened eviction – 31%
- Illegal eviction – 6%
- Eviction – 48%
- Livestock dispute – 6%
- Other - 5%
- Burial rights dispute – 2%
- Parties in Dispute – 2%



LRMF PANEL COMPOSITION



- Female – 29%
- Male – 71%



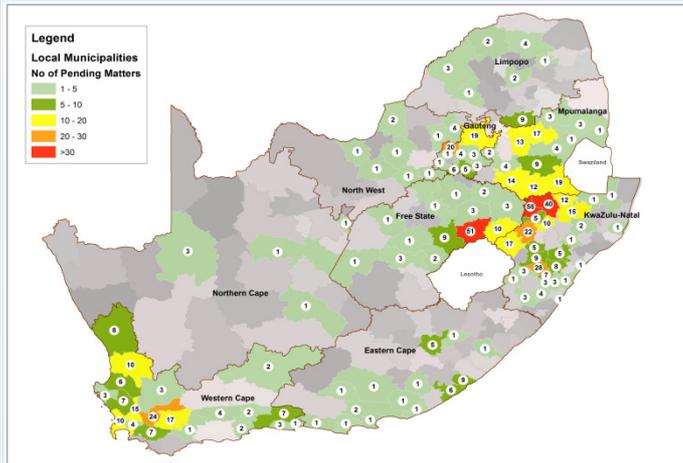
PROJECT FINANCES

FUNDS DISBURSED TO DATE:



Land Tenure: Dispute Hotspots

APRIL TO JUNE 2015



Dispute Hotspots – Municipalities

Province	Municipality	Land Tenure
Kwazulu-Natal	Newcastle Local Municipality	58
Free State	Dihlabeng Local Municipality	51
Kwazulu-Natal	Emadlangeni Local Municipality	40
Kwazulu-Natal	uMngeni Local Municipality	28
Western Cape	Breede Valley Local Municipality	24
Kwazulu-Natal	Emnambithi/Ladysmith Local Municipality	22
Gauteng	Mogale City Local Municipality	20
Gauteng	City of Tshwane Metropolitan Municipality	19
Mpumalanga	Mkhondo Local Municipality	19
Mpumalanga	Emakhaseni Local Municipality	17
Western Cape	Langeberg Local Municipality	17
Kwazulu-Natal	Okhahlamba Local Municipality	17
Kwazulu-Natal	Abaqulusi Local Municipality	15
Western Cape	Drakenstein Local Municipality	15
Mpumalanga	Lekwa Local Municipality	14
Mpumalanga	Steve Tshwete Local Municipality	13
Kwazulu-Natal	eDumbe Local Municipality	12
Mpumalanga	Pixley ka Seme Local Municipality	12
Western Cape	Cederberg Local Municipality	10
Western Cape	City of Cape Town Metropolitan Municipality	10
Kwazulu-Natal	Endumeni Local Municipality	10
Free State	Maluti a Phofung Local Municipality	10

* Municipalities that feature for the first time in the hotspot list.
 † Municipalities that have moved up the list with more pending tenure security matters in this quarter as compared to the previous quarter.
 ‡ Municipalities that have moved down the list with less pending tenure security matters in this quarter as compared to the previous quarter.

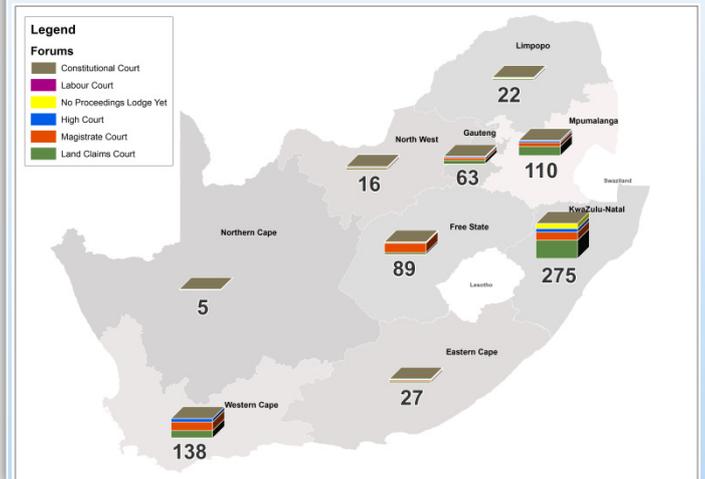
Land Tenure

NUMBER OF MATTERS PER YEAR OF INSTRUCTION



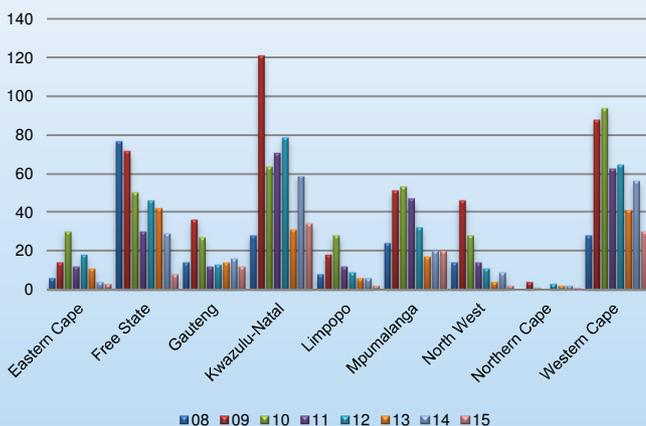
Land Tenure: Forums

PENDING MATTERS AS AT JUNE 2015



Land Tenure

NUMBER OF MATTERS PER YEAR OF INSTRUCTION PER PROVINCE



Land Tenure: Matter Outcomes

PERCENTAGE SUCCESS RATE PER CATEGORY



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GLOSSARY OF TERMS

Commission	Commission on Restitution of Land Rights
CPA	Communal property association
CPA Act	Communal Property Associations Act 28 of 1996
CPI	Communal property institution
DRDLR	Department of Rural Development and Land Reform
ESTA	Extension of Security of Tenure Act 62 of 1997
LRMF	Land Rights Management Facility
LTA	Land Reform (Labour Tenants) Act 3 of 1996
MIS	Management information system
RLRA	Restitution of Land Rights Act 22 of 1994

INTRODUCTION

1. Background

Cheadle Thompson & Haysom Inc. (CTH) was appointed by the Department of Rural Development and Land Reform (the Department) under Bid No RDLR-0038 (2012/2013) to manage the Land Rights Management Facility (LRMF) established to provide legal and mediation services to labour tenants, farm dwellers, communal property institutions, restitution claimants and other land reform beneficiaries in 9 provinces for a period of three years. The contract period is from January 2013 to December 2015. This report covers the period April to June 2015.

The LRMF was initially established by the DRDLR in 2008, motivated by the need to remedy evictions, threats of eviction and human rights abuses in rural areas. The establishment, management and co-ordination of the LRMF represented an innovative and concrete strategy by the Department to improve access to justice in rural areas. The key rationale of the Department was to provide dedicated state-funded panels of specialist land rights lawyers and mediators in order to provide legal and mediation services to poor, marginalised and indigent people in rural farming areas, to support land tenure reform and to contribute to stabilising and improving social relations in rural farming communities.

2. Objectives of the LRMF

The objectives of the LRMF are:

- 2.1 to facilitate the provision of specialised legal and mediation services to individuals and communities who are faced with the violation of their rights and livelihoods;
- 2.2 to regularise and support dysfunctional CPIs; and to administer legal and mediation assistance approved by the Chief Land Claims Commissioner in terms of the Restitution of Land Rights Act 22 of 1994;
- 2.3 to build a network of human rights lawyers and mediators who specialise in the field of land rights;
- 2.4 to promote the rule of law and strengthen democracy.

3. Key deliverables

Key deliverables of the project include:

- 3.1 Maintaining and updating the panels of lawyers and mediators;
- 3.2 Receiving legal and mediation case referrals from the Department;
- 3.3 Receiving legal representation and mediation matter referrals contemplated in sections 9, 13 and 29(4) of the Restitution of Land Rights Act from the Chief Land Claims Commissioner;
- 3.4 Referring cases and matters to members of the legal and mediation panels on the instructions of the Department;
- 3.5 Monitoring the progress of cases referred, the performance of panel members and the outcome of cases in relation to the objective of providing adequate legal and mediation services to indigent land reform beneficiaries;
- 3.6 Administering the panel funds provided by the Department for this purpose and assessing and paying the accounts of members of the panels on behalf of the Department;

- 3.7 Designing and conducting an appropriate training programme to educate panel members to improve their skills and capacity and an appropriate skills transfer programme for officials of the Department;
- 3.8 Providing legal opinions as requested by the Department or Commission on matters relating to the LRMF.

4. Project focus areas

Project focus areas

4.1 Land tenure

The core work of the LRMF involves the provision of legal and mediation services to vulnerable farm workers and farm dwellers, providing critical access to justice in order to protect and promote their land tenure security.

4.2 Communal property institutions (CPIs)

This focus area concentrates on the provision of assistance to dysfunctional communal property institutions (communal property associations and land reform trusts) to become legally compliant and sustainable.

4.3 Restitution

The restitution focus area is directed at administering legal and mediation services approved by the Chief Land Claims Commissioner regarding restitution of land rights.

KEY DEVELOPMENTS

5. Provincial reviews

CTH held a series provincial review meetings this quarter. Review meetings provide a useful platform for panellists and officials to discuss matters, raise areas of concern and share experiences and best practices.

Provincial reviews		
LSP	Western Cape provincial review	The Western Cape provincial review meeting took place on 20 and 21 April 2015. 11 panellists and 5 officials attended the meeting. All panellists were well prepared and their matters are up to date.
	Kwazulu Natal provincial review	The Kwazulu Natal provincial review meeting took place from 13 to 15 May 2015. The attendance was good both from panellists and officials. This review was coupled with visits to panellists who could not attend the review meeting. 26 panellists attended the review meeting whilst CTH visited 9 panellists at their offices.
	The following provincial review meetings are scheduled for the next quarter: <ul style="list-style-type: none"> • Free State - 14 and 15 July 2015; • Eastern Cape - 24 July 2015. 	
CPIs	Kwazulu Natal provincial review	The Kwazulu Natal review meeting was held in Durban on 11 and 12 May 2015. On 11 May there were 29 attendees and on 12 May there were 45 attendees including the panellists, the DRDLR officials and CTH.
	Follow-up provincial review meetings are scheduled for all provinces during August, September and October 2015.	

6. DRDLR / CTH meetings

DRDLR / CTH meetings		
Land tenure	ESTA network meeting	The ESTA network meeting was held on 11 June 2015. In addition to a general review of land tenure matters, referral forms for mediation and litigation were reviewed.
Restitution	Restitution quarterly meeting	The second quarterly restitution meeting for 2015 was held on 25 June 2015. CTH delivered an online presentation on the LRMF Management Information System (MIS) and the attendees were taken through financial and demographic statistics relevant to restitution. A number of matters from each province were raised, discussed and resolved at the meeting. The Court Manager and the Registrar of the Land Claims Court also attended the meeting.
CPA	CPA bi-monthly meeting	The CPA bi-monthly meeting between CTH and the DRDLR was held on 16 April 2015. The meeting discussed CPA progress, specific CPA matters, case trends and analysis, and strategic issues related to CPA management, as well as pending matters that needed further instructions.
Trusts	Trust meeting with DRDLR	CTH and the DRDLR met on 16 April 2015 to decide on a way forward regarding pending trust matters. The meeting agreed to close 25 matters. The DRDLR reiterated that it is difficult to intervene in Trust matters and that these matters will generally not be referred to the LRMF as the DRDLR has no clear mandate as in the case of CPAs.
Executive Committee	Quarterly Exco meeting	The quarterly EXCO meeting was held on 22 May 2015 at CTH offices in Braamfontein. CTH presented the key developments from the previous quarter, case trends and analysis, project finances and strategic issues regarding the LRMF.

7. Education, training and skills transfer

CPA training for DRDLR staff took place from 29 June to 1 July 2015 at the Protea Hotel in Kempton Park. The training was attended by 43 officials from the Commission for Land Restitution and the DRDLR CPA unit and relevant CTH staff. The training course was produced by CTH in conjunction with the Law Society of South Africa (LSSA). Retired Judge Ismail Hussain, who for the past 10 years served as a Judge of the High Court, Judge of the Competition Appeal Court and Judge of the Court of Military Appeals, was the key presenter.

The course dealt with the following topics:

- The CPA Act,
- The CPA Amendment Bill,
- Dispute resolution techniques,
- Drafting of CPA constitutions; and
- Report writing skills.

The training was designed to provide a general overview of the CPA legal framework, drafting CPA constitutions and handling CPA compliance issues. Discussion and training activities included dispute resolution and report writing techniques. Participants were very responsive to the training content and process.

Based on the evaluation forms completed by participants, the training achieved its objectives and was a success with an overall course rating of 4,8 (out of 5). The outcome of participant evaluation is set out below:



Figure 1: CPA training evaluation

Each participant was issued with a legal education and development certificate of attendance at the 3 day Communal Property Associations course. The certificates were jointly issued by the Law Society of South Africa (LEAD) and CTH.

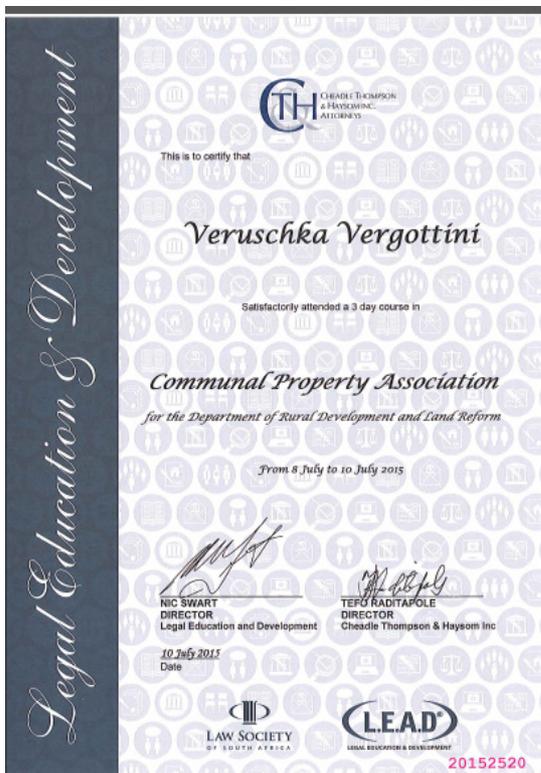


Figure 2: Example of CPA course certificate

Due to the overwhelming interest in the course, a second workshop is scheduled from 8 to 10 July 2015 and 61 DRDLR officials have confirmed their attendance.

CASE TRENDS AND ANALYSIS

There are currently 1020 pending matters across all focus areas.

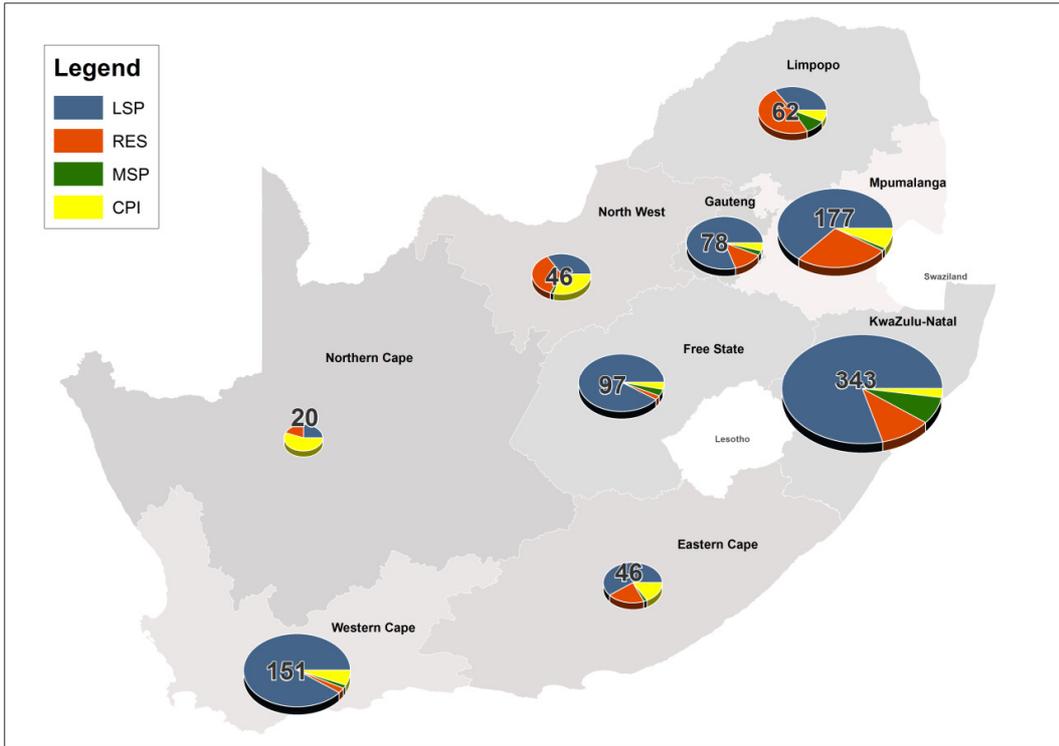


Figure 3: LRMF case distribution by focus area and province

During the quarter 88 new referrals were received across all focus areas.

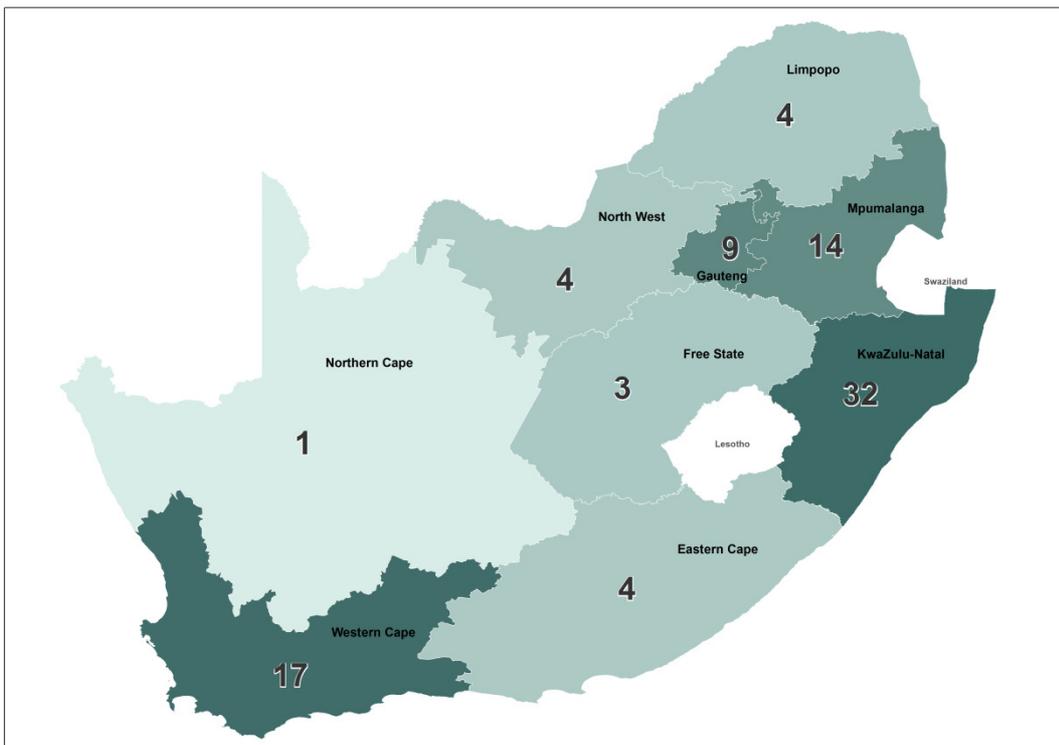


Figure 4: New LRMF referrals by province

During the quarter 110 matters were finalised across all focus areas.

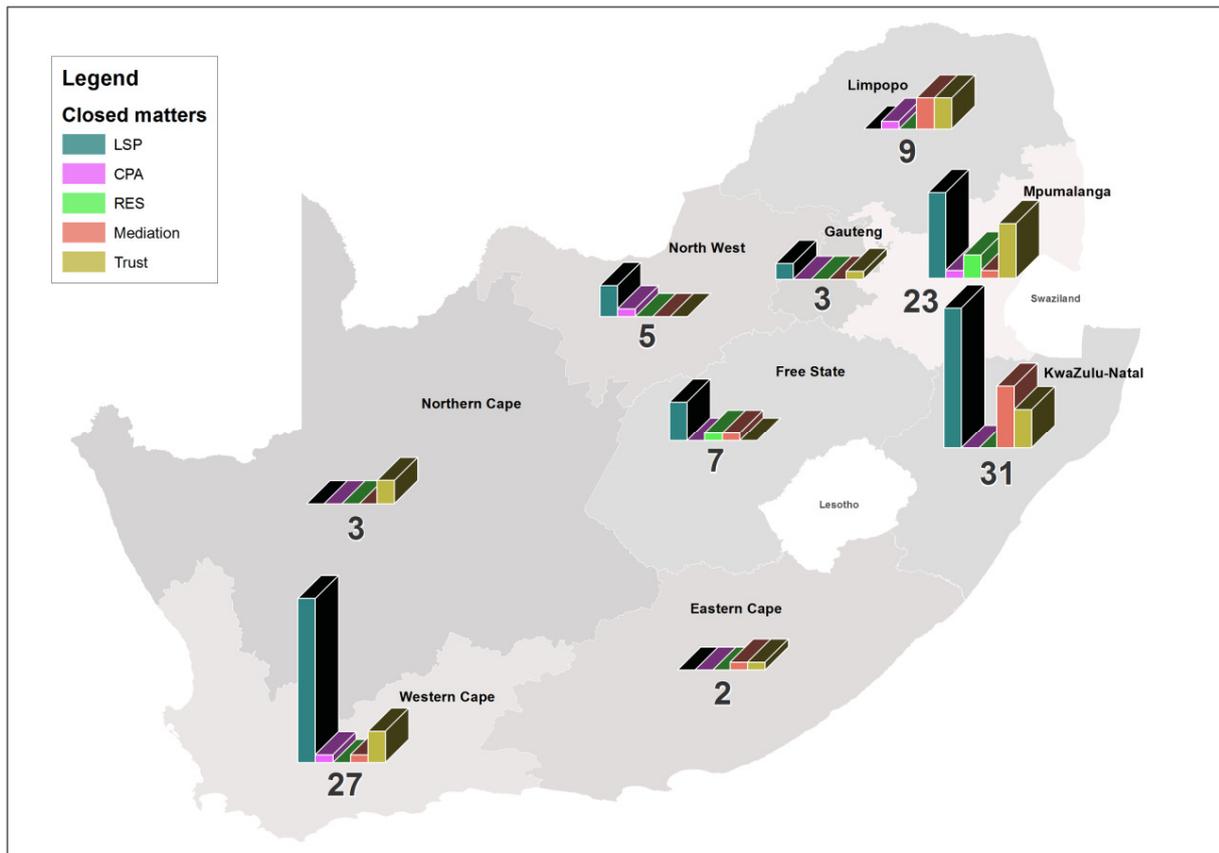


Figure 5: LRMF finalised matters by focus area and province

8. LAND TENURE LEGAL

8.1. Land tenure case status

There are currently 745 pending legal service matters administered under the LRMF. 61 new cases were referred to the LRMF during the period April to June 2015. We are in the process of closing 61 matters. 9 matters were re-opened over the period, where further instructions were given.

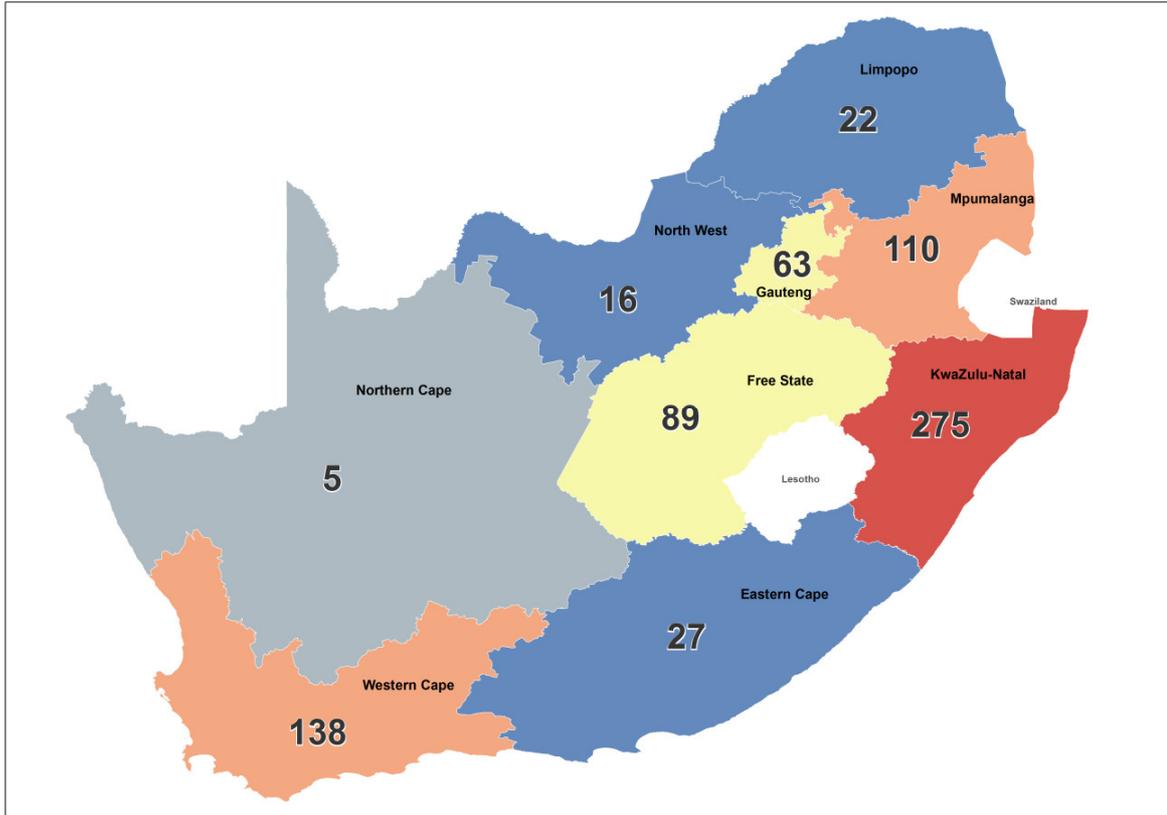


Figure 6: Land Tenure case distribution - pending matters

8.2. Case categories

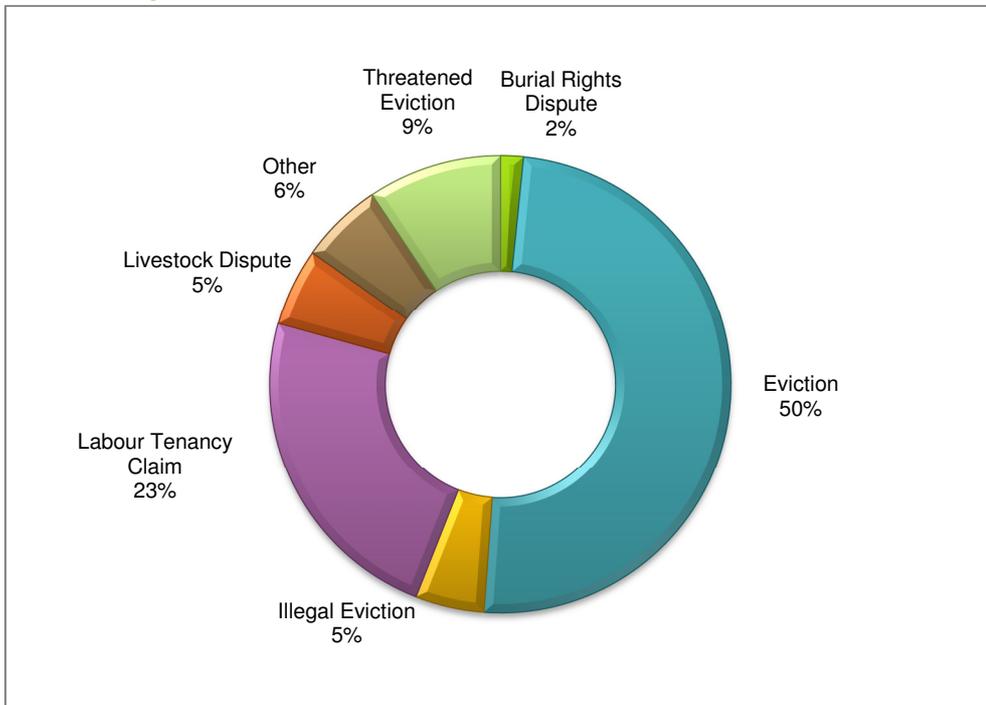


Figure 7: Land Tenure case categories – pending matters

The provincial distribution of the 745 pending matters per case category is presented below.

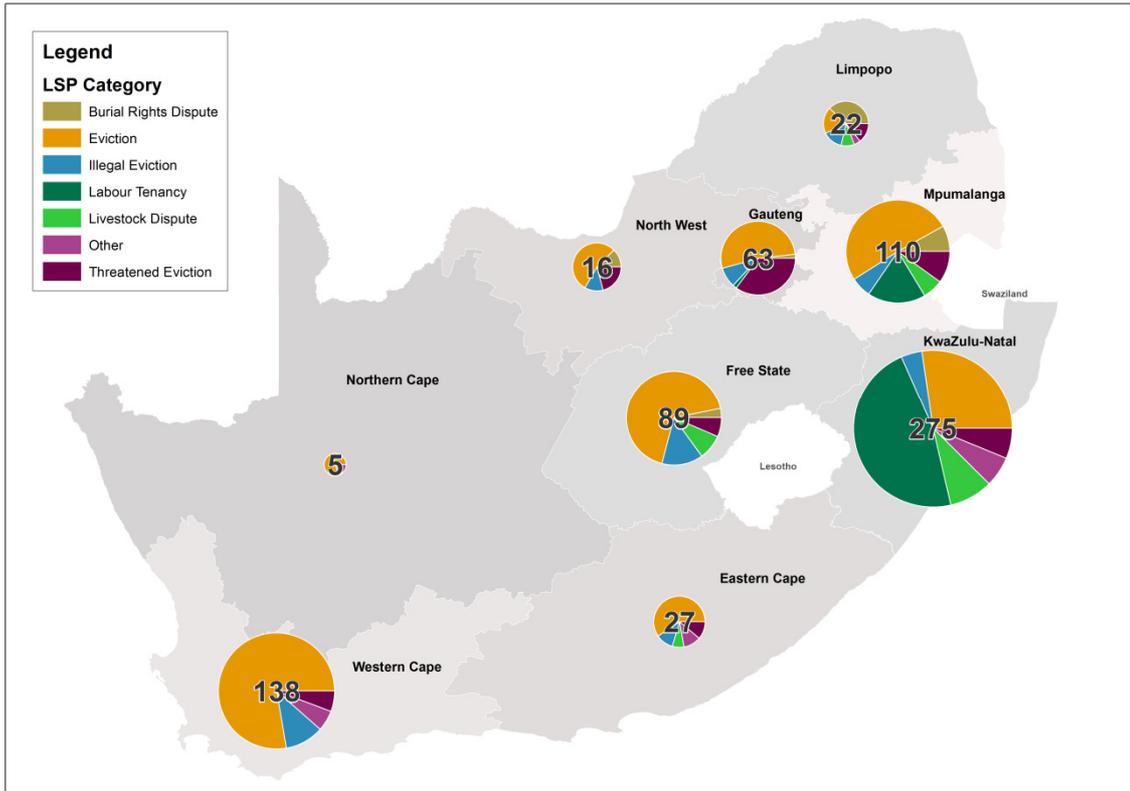


Figure 8: Land Tenure case categories – pending matters per province

8.3. Forums

The forums in which LRMF legal service matters are currently located are set out below.

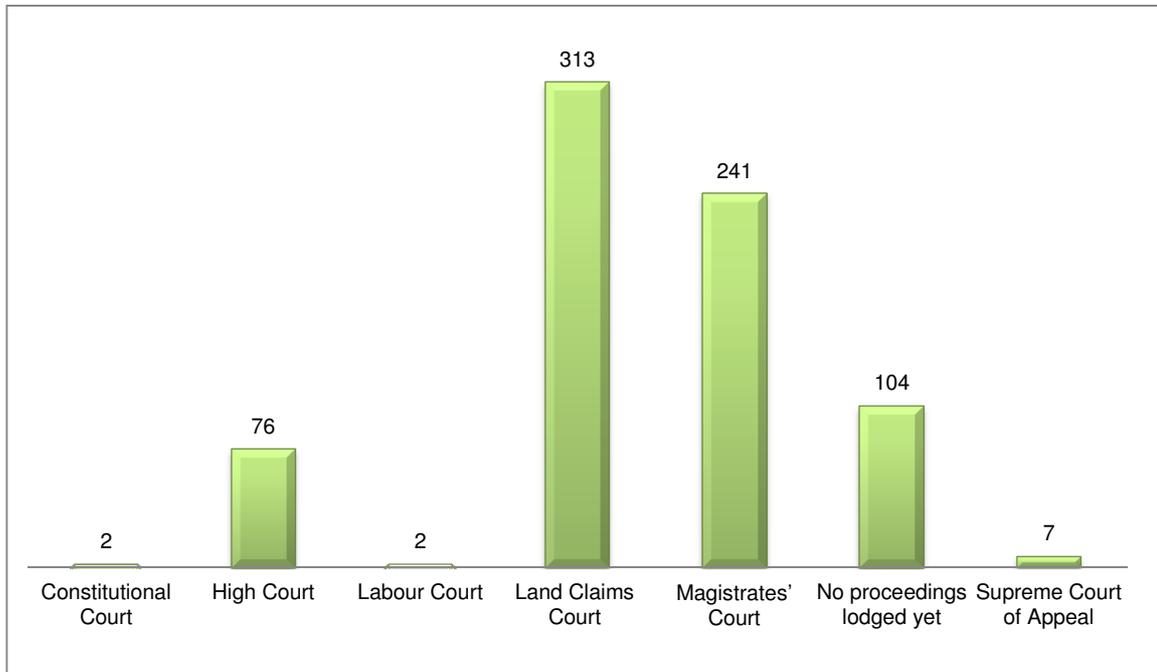


Figure 9: Land tenure case forums

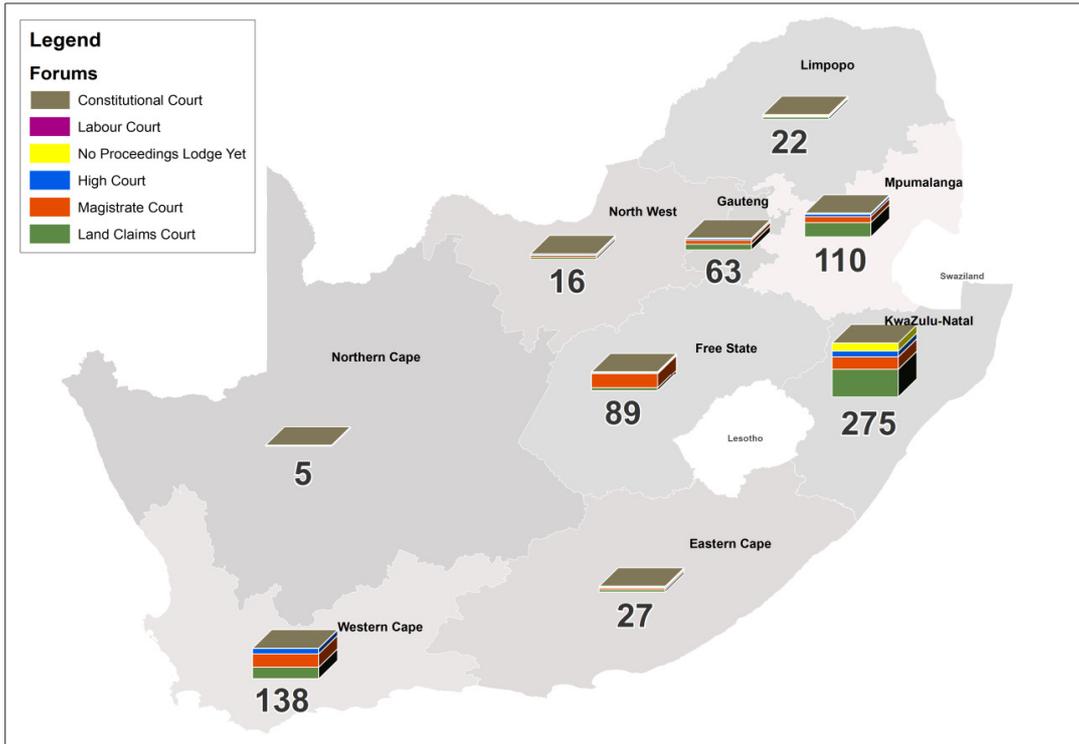


Figure 10: Land tenure case forums per province

8.4. Municipal hot spots

We continue to analyse trends within the key municipal dispute hotspots. The map below indicates a colour coded distribution of pending tenure security matters per municipality in municipalities with 10 or more pending matters.

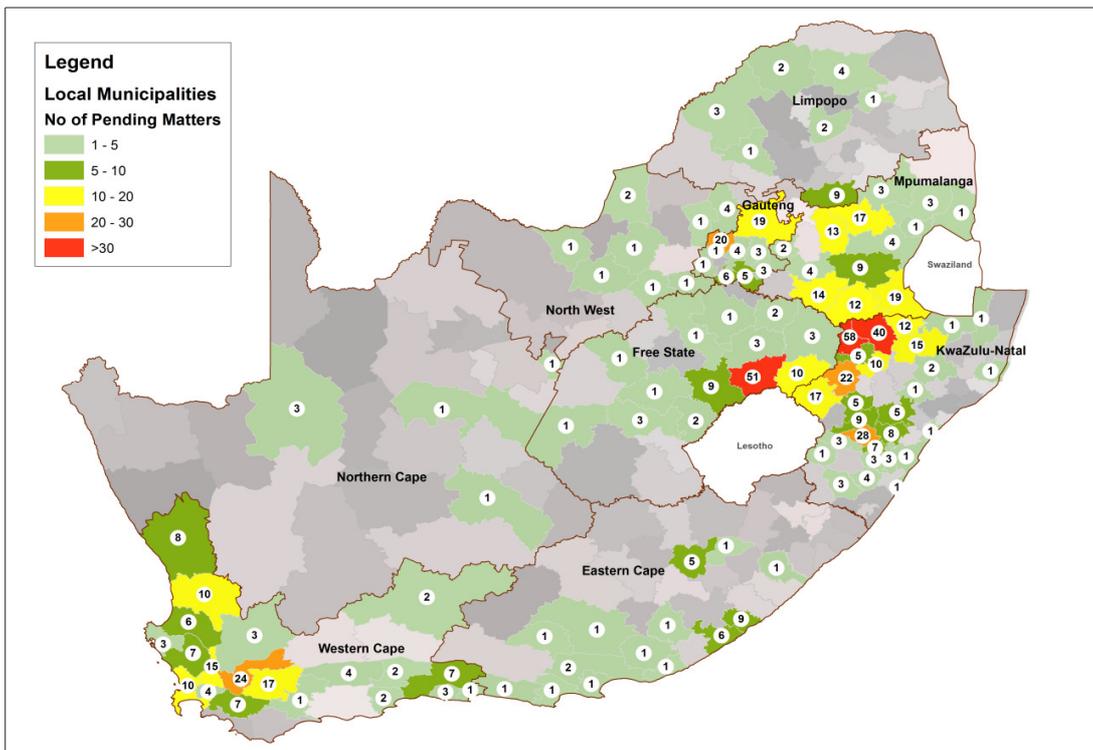


Figure 11: Municipal hotspots

The municipalities with 10 or more pending land tenure disputes are set out below:

Province	Municipality		Land Tenure
Kwazulu-Natal	Newcastle Local Municipality		58
Free State	Dihlabeng Local Municipality		51
Kwazulu-Natal	Emadlangeni Local Municipality		40
Kwazulu-Natal	uMngeni Local Municipality		28
Western Cape	Breede Valley Local Municipality		24
Kwazulu-Natal	Emnambithi/Ladysmith Local Municipality		22
Gauteng	Mogale City Local Municipality		20
Gauteng	City of Tshwane Metropolitan Municipality		19
Mpumalanga	Mkhondo Local Municipality		19
Mpumalanga	Emakhazeni Local Municipality		17
Western Cape	Langeberg Local Municipality		17
Kwazulu-Natal	Okhahlamba Local Municipality		17
Kwazulu-Natal	Abaqulusi Local Municipality		15
Western Cape	Drakenstein Local Municipality		15
Mpumalanga	Lekwa Local Municipality		14
Mpumalanga	Steve Tshwete Local Municipality		13
Kwazulu-Natal	eDumbe Local Municipality		12
Mpumalanga	Pixley ka Seme Local Municipality		12
Western Cape	Cederberg Local Municipality		10
Western Cape	City of Cape Town Metropolitan Municipality		10
Kwazulu-Natal	Endumeni Local Municipality	*	10
Free State	Maluti a Phofung Local Municipality		10
* Municipalities that feature for the first time in the hotspot list;			
↑ Municipalities that have moved up the list with more pending tenure security matters in this quarter as compared to the previous quarter;			
↓ Municipalities that have moved down the list with less pending tenure security matters in this quarter as compared to the previous quarter.			

8.5. Case outcomes and impact

Set out below is an illustrative selection of case outcomes relating to land tenure matters finalised during the period April to June 2015.

SOME SIGNIFICANT MATTERS		
LSP50637 - Timani CC / occupiers of portion 20 of Schoonspruit	Eviction, alternative accommodation	In this matter, Timani CC instituted eviction proceedings against 63 occupiers. The eviction order was granted against 56 occupiers. The farm owner agreed that 6 of the occupiers could remain on the farm because they are long term occupiers. The occupiers, who were evicted, brought an application to compel the municipality to provide alternative accommodation. The order was granted against the municipality.
LSP50085 – Jan & Elsie Klaase / JJ van der Merwe	Eviction	Applicants instituted eviction proceedings against first respondent (the husband) in terms of ESTA in the Clanwilliam Magistrate’s Court. The eviction was granted and confirmed on review in the LCC. The respondent lodged an application for leave to appeal to

		<p>the Supreme Court of Appeal against the judgment and confirmation thereof. The wife also brought an application directly to the LCC based on the fact that she was an occupier in her own right because she grew up and worked on the farm, and her rights did not arise from her marriage to the first respondent. The LCC refused the applications for joinder and stay of the eviction order. The court further dismissed the application for leave to appeal. The matter is currently on appeal to the Constitutional Court.</p>
<p>LSP50210 – Sally & Adam Pieterse / Suiderland Plase</p>	<p>Eviction, alternative accommodation</p>	<p>Applicants were evicted following an order granted by the Piketberg Magistrate’s Court, which was confirmed on review in the LCC. Applicants brought an application for rescission of judgment in the Piketberg Magistrate’s Court. The rescission was granted because the Magistrate was of the view that the Applicant had a valid defence. Following the granting of the rescission application, the farm owner withdrew the eviction application. The farm owner did not make an offer for restoration. As a result of this, the Applicants brought an application in terms of section 14 of ESTA for the restoration of their rights of residence. The Court refused the application. The Court was of the view that the first Applicant was not an occupier in her own right because she was a seasonal worker. The Court further stated that in light of the fact that Mr Pieterse (the second Applicant) owned a house, it could exercise its discretion in not granting the restoration order, even if the house was not built to completion.</p>
<p>LSP10325 – Sophy Molusi & Others / Frans Voges & Another</p>	<p>Eviction on termination of lease agreement</p>	<p>The Appellants were evicted following eviction proceedings in the LCC. In the LCC the farm owner’s case was that the Appellants were being evicted in terms of section 8(1) of ESTA. The farm owner alleged that the right of residence ended on termination of lease agreement by common law. The eviction was granted by the LCC. The matter went on appeal to the SCA and the appeal was dismissed. In the majority judgment, the Court stated that ESTA does not require the termination of the right of residence to be in writing and that it was sufficient that the occupiers knew that the farm owner wanted to evict them. Previous LCC judgments state that the notice requirements in section 8 and 9 of ESTA are peremptory. This matter is currently on appeal to the Constitutional Court.</p>
<p>LSP50620 – Yolanda Daniels / Theo Scribante</p>	<p>Threatened eviction</p>	<p>The farm owner removed the door from the house occupied by the Applicant (occupier) and cut off her water supply. An application for an interdict was brought against the farm owner and was successful. The farm owner refused to fix the door and leaking roof. A further application was brought to declare client as an ESTA occupier and to compel the farm owner to fix the leaking roof and the electricity supply. The order was granted.</p>
<p>LSP50654 – Motyre (EDMS) BPK / Randall Gurah & Others</p>	<p>Evictions for material breach</p>	<p>This matter came on automatic review to the LCC. The Magistrate had granted an eviction order against the respondent because the respondent continued to receive a social grant in terms of the Social Assistance Act whilst employed on the farm. On review, the LCC set aside the eviction. In setting aside the</p>

		<p>eviction the LCC stated that the Magistrate failed to inquire whether the respondent was an occupier protected by section 8(3) of ESTA and whether the respondent had committed a material breach. The Court further stated that the mere fact that the occupier had transgressed the Social Assistance Act does not automatically mean that he has committed a breach justifying an eviction.</p>
<p>LSP50840 - William Ntuli / Jan Gouws</p>	<p>Compensation in evictions</p>	<p>The applicant was unlawfully evicted from the farm in his absence. An application for the restoration of his rights was brought and an interim order was granted with a return date. The farm owner did not comply with the order and contempt proceedings were instituted and granted. One of the parties who were cited in the contempt proceedings was a certain Mr. de Wet who stated that he was in charge of the farm. On the return date, the Court awarded compensation of R20, 000.00 to the occupier, stating that restoration was not feasible because the house that the occupier previously occupied was now occupied by another farm worker and further awarded costs. The Court further awarded costs in favor of Mr. de Wet in the contempt proceedings. The Court’s reasoning was that Mr. de Wet was not a party to the proceedings when the interim order was granted. The farm owner has applied for leave to appeal the judgment.</p>
<p>LSP 10860 - Baston Phiri & Others / Strydom Venter Strydom</p>	<p>Automatic review on ESTA evictions</p>	<p>The farm owner instituted eviction proceeding against 46 occupiers in terms of the Prevention of Illegal Evictions Act. Sixteen of the Applicants were not evicted because in their opposing affidavit they met all the requirements of an occupier as set out in the Extension of Security of Tenure Act. The other 30 occupiers were evicted because, even though they alleged that they are ESTA occupiers, they did not prove that they earn less than R5, 000.00 as required by the Extension of Security of Tenure Regulations. The Magistrate did not refer the matter on automatic review in terms of section 19(3) of ESTA. When the Sheriff sought to execute the eviction, the new legal representative brought an application for the stay of the eviction order, until the matter is referred for automatic review in terms of section 19(3) of ESTA. The Court held that section 19(3) of ESTA will be triggered even if no defence based on ESTA is raised but it appears from the information available that ESTA might be of application. The Court ordered that the record be transcribed and the matter be referred to the LCC for automatic review.</p>

8.6. Other key developments

8.6.1. Meeting with the DRDLR

The ESTA network meeting was held on 11 June 2015. At the meeting the referral forms for mediation and litigation were reviewed. The next meeting is scheduled for 15 August 2015.

8.6.2. Provincial reviews – Western Cape and Kwazulu Natal

- The provincial review meeting for the Western Cape took place on 20 and 21 April 2015. 11 panellists and 5 officials attended the meeting. Most panellists were well prepared and their matters are up to date;
- The provincial review meeting for Kwazulu Natal took place from 13 to 15 May 2015. The attendance was good both from panellists and officials. This review was coupled with visits to panellists who could not attend the review meeting. 26 panellists attended the review meeting whilst CTH visited 9 panellists at their offices.

8.7. Closure of matters

During the last quarter, 61 matters were finalised and are in the process of being closed. The LRMF is in communication with the Department and panellists regarding these files. These matters relate to the following case categories:

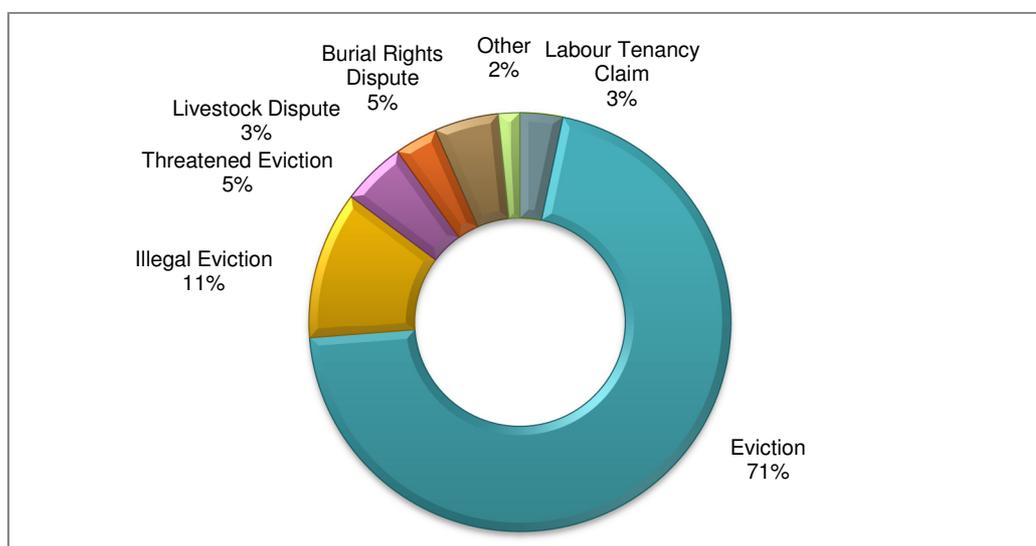


Figure 12: Land tenure case categories – matters to be closed

9. MEDIATION

9.1 Mediation case status (Restitution, Land tenure and CPIs)

As from April 2015, the LRMF has streamlined reporting on mediation matters to report per focus area; namely land tenure mediation, restitution mediation, CPA mediation and Trust mediation. This allows for the transition from mediation to litigation or regularization to be easily monitored. During the period April to June 2015 there were 19 new mediation referrals. 16 matters were finalised during this quarter. Confirmation of closure has been sent to the relevant officials in the provinces. This leaves 40 active mediation matters at the end of June 2015.

	New Matters	Closed Matters	Pending Matters
Land tenure	18	3	28
Restitution	0	4	6
CPA	1	4	4
Trusts	0	5	2
	19	16	40

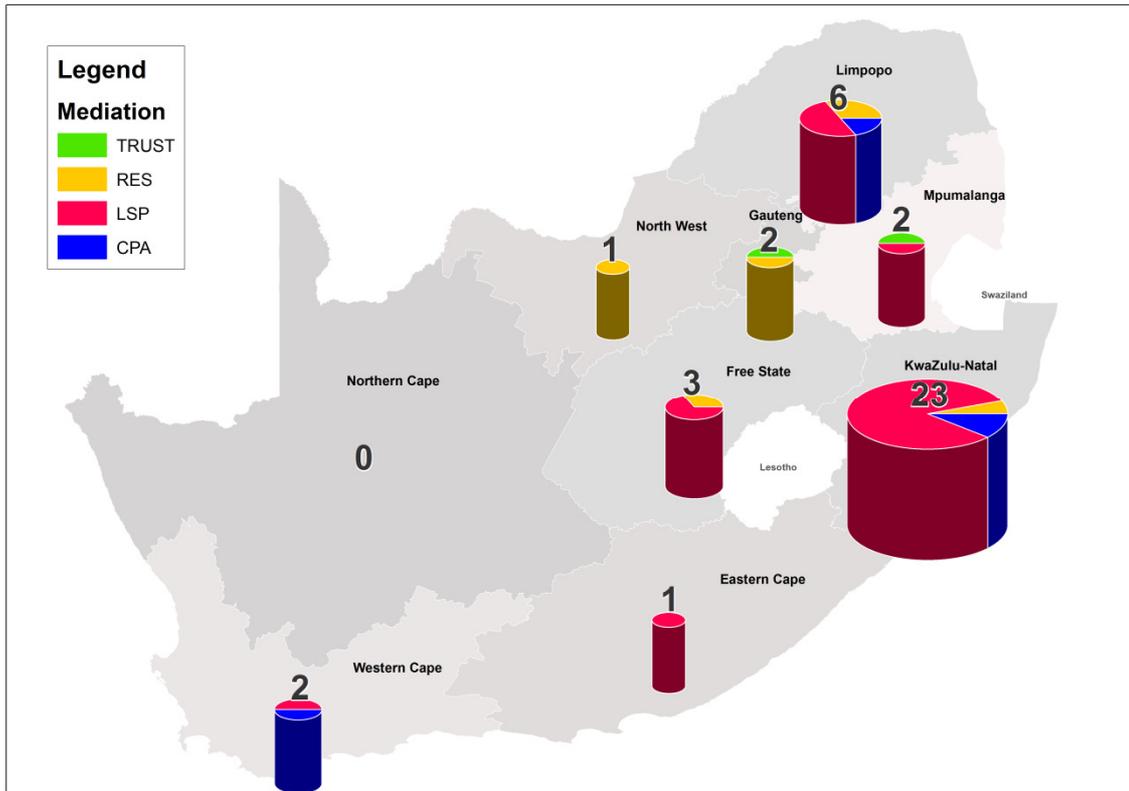


Figure 13: Mediation case distribution - pending matters

9.2 Case categories

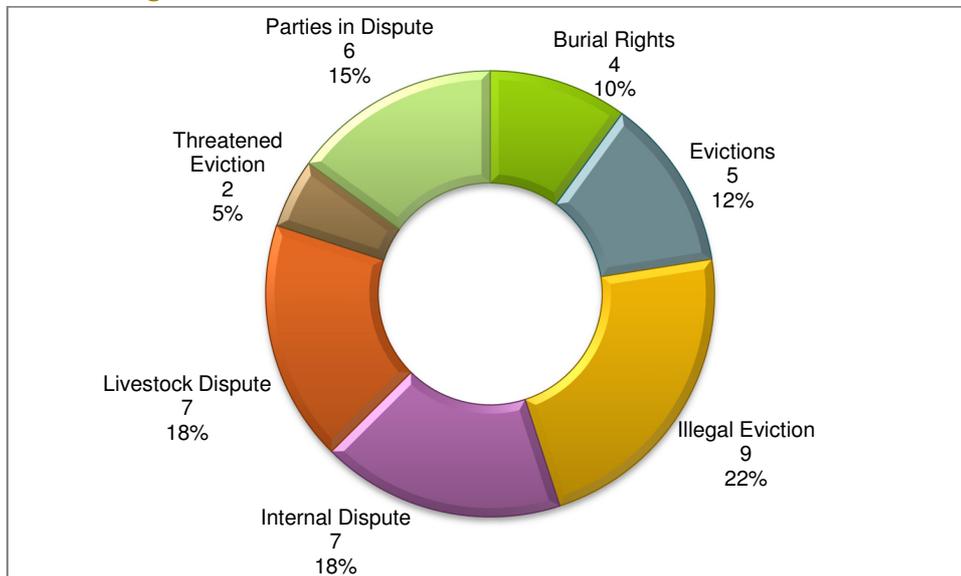


Figure 14: Mediation case categories – pending matters

9.3 Significant mediation matters

9.3.1 Restitution mediation matter: RES 50190 - Kafferskraal Community

The office of the Regional Land Claims Commissioner, Gauteng (“RLCC”) received a claim from Mr Ndala Knox Moshidi, as the representative of the Kafferskraal Community, on the farm Kafferskraal 475 JR. The claim was investigated and then gazetted. Thereafter, the Commission received

representations from the land owner. The RLCC found that these representations did not produce any evidence that might influence the RLCC to withdraw and/or amend the Gazette Notice. The landowners indicated that they were amenable to the Chief Land Claims Commissioner appointing a mediator to attempt settling the claim.

A panellist was appointed to attend to the matter. The panellist met with the parties and attended an inspection in loco. Various meetings were held with the landowners. In January 2015 it was reported that settlement was reached with the land owners and the terms were to be presented to the claimants at a community meeting to be held in February 2015. A settlement agreement was signed in the matter; the community opted to take financial compensation. The RLCC agreed to attend to the valuation as well as the verification in order for the Minister to approve the compensation figures.

10. Communal Property Institutions

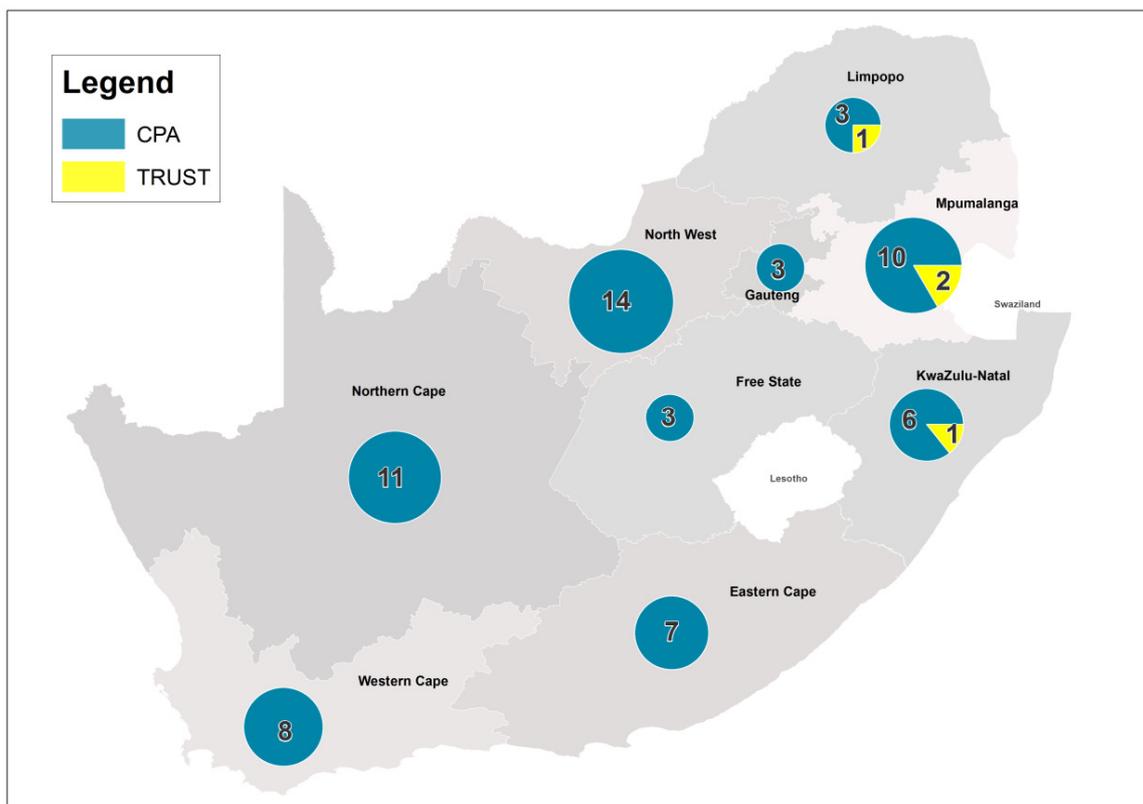


Figure 15: CPI case distribution

10.1. CPAs

There are 65 pending matters as at the end of the quarter. 4 matters were closed during the quarter and 4 new CPA matters were referred. The provincial distribution of the 65 pending matters is as follows:

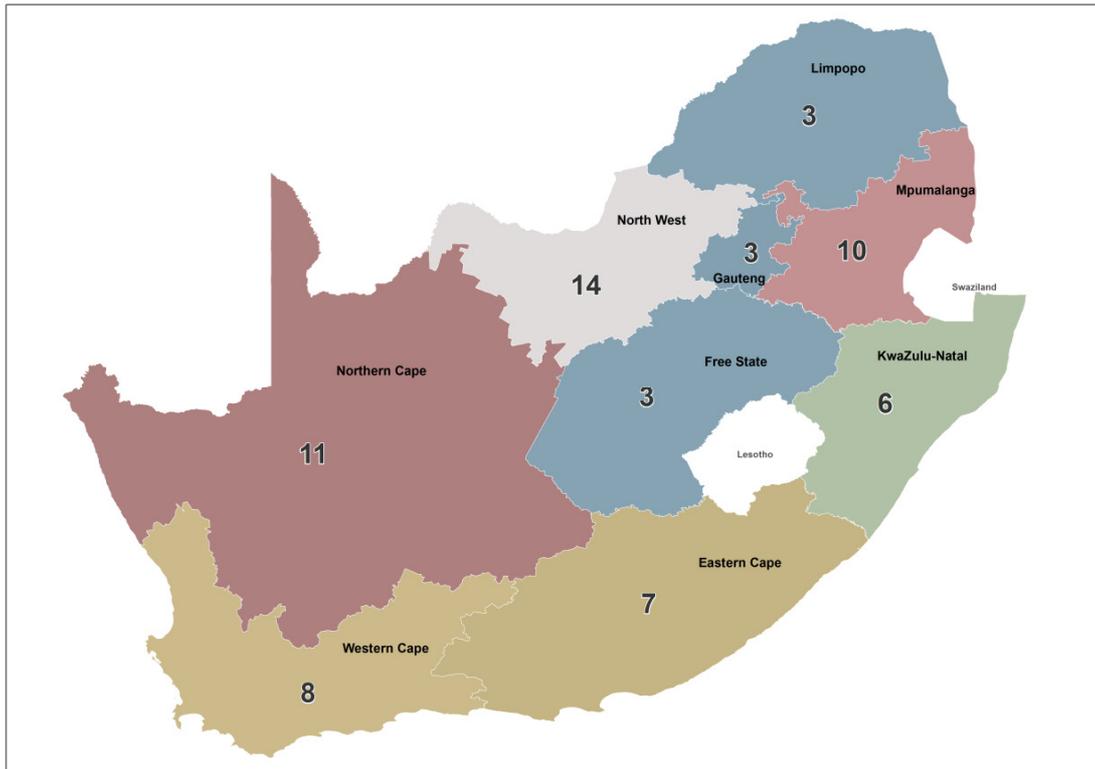


Figure 16: CPA provincial distribution

10.1.1. Categories of CPA matters

We have categorised the 65 pending matters in the graph below:

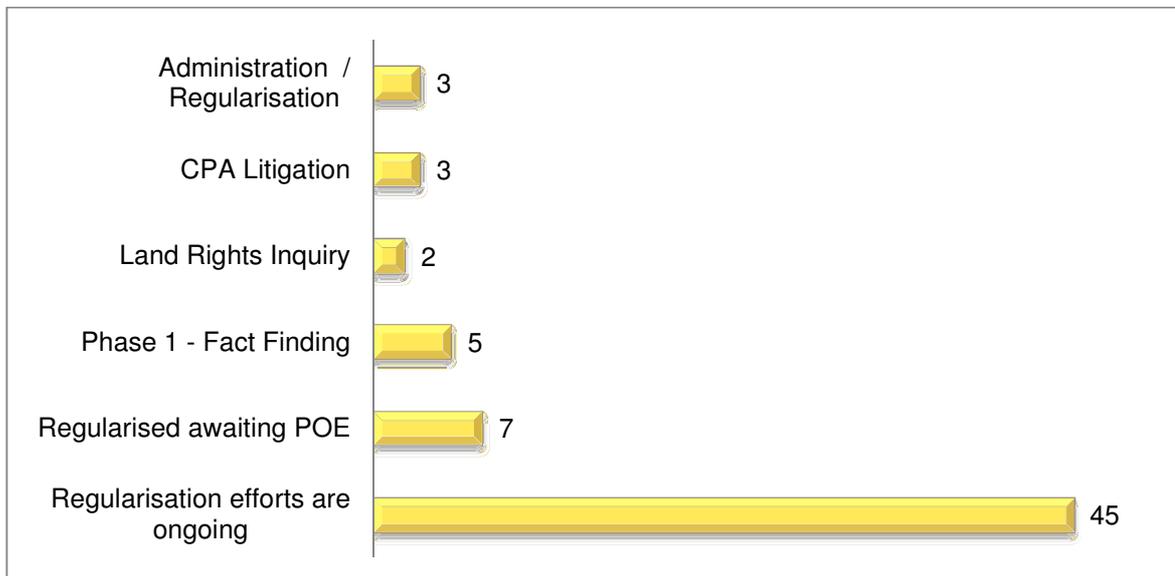


Figure 17: CPA categories

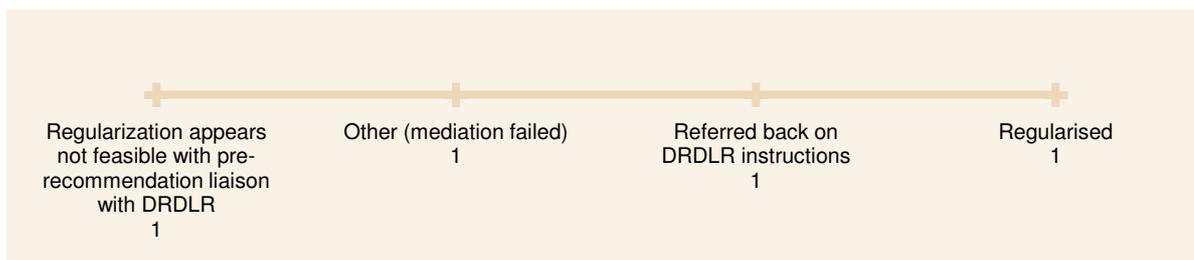
10.1.2. New referrals

4 new CPA referrals were received during April to June 2015.

No	File Ref.	Matter Name	Province	Status
1	CPA50158	North West	Bokamoso CPA	LRMF assisting with regularisation.
2	CPA50159	North West	Bakerville CPA	LRMF assisting with regularisation.
3	CPA50157	Northern Cape	Maremane CPA	LRMF assisting with regularisation
4	CPA50140	Western Cape	Mamre	LRMF assisting with regularisation

10.1.3. Closed matters

The 4 finalised matters are categorised below.



10.1.4. Significant CPA matters

CPA 50143: Ebenhaeser – Land rights enquiry

The CPA was established in March 2014 and the first phase of the land rights enquiry was completed in April 2014 with the submission of a report to the Municipality. The panellist was then appointed to finalise the land rights enquiry on the irrigated plots; to undertake a land rights enquiry on the grazing land and house plots which are located on the irrigated plots; and to facilitate a participatory design and agreement on the future land rights in this TRANCRAA area of Ebenhaeser. Once the various components described above are completed, the Department of Rural Development and Land Reform will be able to transfer the TRANCRAA land (and the restitution land) to the CPA.

There have been intense negotiations around the restitution claim which delayed the processes around land rights. With the signing of the Settlement Agreement on the 13 June 2015, the TRANCRAA and land rights issues are now proceeding. The Ebenhaeser TRANCRAA process is the first of 11 in the Western Cape and it is understood that the DRDLR is looking to its outcome and process to guide the others. Of particular importance will be the relationship between the land rights enquiries, the land use planning and the tenure arrangements resulting in the land use management system to be utilised by the CPA and associated legal entities that take over such land.

Members of the community are enthusiastic to address matters that have been an area of conflict between land rights holders in the community for many years. The establishment of a Development Trust and the close working relationship that has developed between the Trust and the CPA Committee will mean that possible conflicts and tensions, which have been common when dealing with issues of land rights and tenure, are likely to be addressed in a positive manner.

The lack of clarity on land rights has been an ongoing issue since 1996 when the last rights were formally allocated. The transformation process (in terms of TRANCRAA) began in 2004 and came to a standstill in 2005 with no finalisation. The resolution of both these matters will have a significant impact on individuals and on the community as a whole. Rights holders will have clarity on the nature of their rights which will enable them to utilise the land and resources in a long term way. The community through its CPA will become the owners and managers of a vast area of land and, with the land use management system, will be able to manage the land proactively and sustainably.

CPA 50019: Hazeldean Housing Association

The Hazeldean Housing Association matter was reported in detail in the previous quarterly report. The case has a number of unique features which require clear policy decisions by the DRDLR. In this regard, uTshani seeks to exit from Hazeldean and to affect the transfer of the land to the CPA or other parties by agreement. Essentially the DRDLR can either approve transfer of the land to the CPA as per the original agreement (which the panelist does not recommend as the rationale for the Housing Association has fallen away) or it can approve the individual transfer of the residential erven to qualifying members of the CPA who have constructed houses (which is the request of the members) and transfer of the remainder of the land portions (209, 210 and 213) to the City of Cape Town or another organ of state as appropriate through a negotiated process to develop in consultation with the community.

In this matter the panelist is to facilitate a settlement agreement between the various role players including the DRDLR, the Hazeldean CPA, uTshani Fund (which owns the land) and the city of Cape Town. This land includes the disputed Derek Hanekom Centre as well as undeveloped portions suitable for agriculture or residential development.

As noted in the previous quarterly report, the panellist met with Ms Shehaam Sims, Director of Urbanisation in the City of Cape Town on 15 April 2015 to discuss the City's position and future role in Hazeldean. He also met with senior officials in DRDLR Tenure Systems Directorate on 17th April 2015 to discuss the Department's position. Since these meetings he has been unsuccessful in securing any further progress with the City despite repeated correspondence and telephonic follow ups. The Director of Urbanisation was on leave for five weeks and the panellist was informed on 9 July 2015 that she is no longer in post.

CTH has scheduled a meeting with the Chief Director of DRDLR and the panellist for 14 July 2015. The Chief Director of DRDLR is identifying other officials in the City to pursue the matter further.

10.1.5. Bi-monthly meeting with DRDLR

The bi-monthly CPI meeting between CTH and the DRDLR took place on 16 April 2015. The meeting discussed CPA progress, specific CPA matters, case trends and analysis, and strategic issues related to CPA management. The next meeting is scheduled for 16 July 2015.

10.1.6. CPA provincial review meetings

CTH convened the Kwazulu Natal two day CPA provincial review meeting in Durban on 11 and 12 May 2015. On 11 May there were 29 attendees and on 12 May there were 45 attendees who included the panellists, the DRDLR officials and CTH.

The first day of each meeting involved the responsible officials and the purpose thereof was to discuss the status of matters, overall CPA trends, portfolios of evidence, to agree on the further action to be taken on matters and to discuss challenges. The panellists joined the review on the second day to provide an update on their matters and to discuss challenges experienced. The memorandum on the limited mandate was discussed and feedback on the further conduct of matters was provided to panellists. These review meetings provide a useful opportunity for panellists and officials to share experiences and explore new approaches to challenges.

10.1.7. CPA training

The CPA training for officials took place from 29 June to 1 July 2015 at the Protea Hotel in Kempton Park. It was attended by 43 officials from the Commission on Land Restitution and the CPA unit and relevant CTH staff. The course was produced by CTH in conjunction with the Law Society of South Africa (LSSA). Based on the evaluation forms completed by participants the overall course was rated as excellent with a score of 4.8 (out of 5).

10.1.8. CPA beneficiaries

Beneficiary data for the CPAs managed by the LRMF was obtained from the DRDLR’s CPA files, DRDLR officials and LRMF panellists but is not available for all CPAs dealt with by the LRMF under the pilot project. In this regard, reliable data is not available for 12 CPAs.

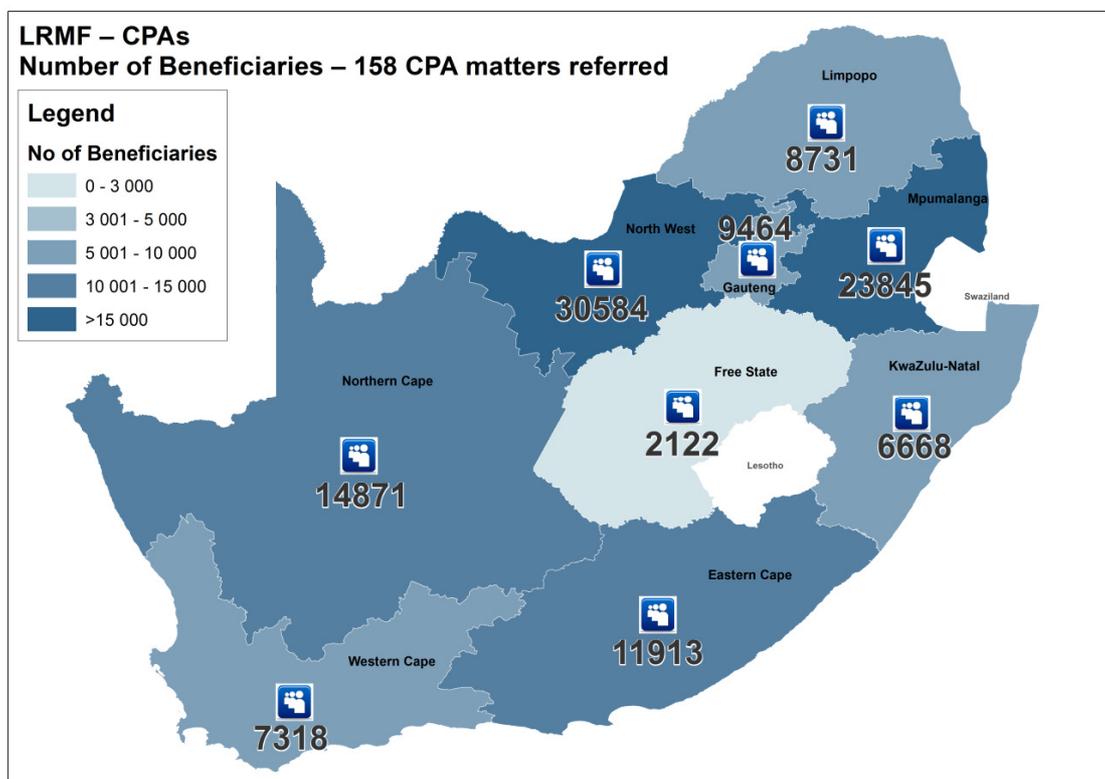


Figure 18: CPA beneficiaries

10.1.9. Key priorities for next quarter

- An additional session of training for DRDLR officials on CPAs is scheduled to take place from 8 to 10 July 2015 and 61 DRDLR officials have confirmed their attendance.
- The second round of CPA provincial review meetings are scheduled for August to October 2015. The dates are set out below.

	August	September	October
Western Cape <i>Venue: Cape Town</i>	11-12 August		
Eastern Cape <i>Venue: East London</i>	25-26 August		
Northern Cape / Bloemfontein <i>Venue: Kimberley</i>		2-3 Sept	
Limpopo / Mpumalanga / Gauteng <i>Venue: Nelspruit</i>		9-10 Sept	
North West <i>Venue: Mahikeng</i>		16-17 Sept	
Kwazulu Natal <i>Venue: Durban</i>			30 Sept – 1 Oct

10.2. TRUSTS

The nature of the intervention by LRMF panellists in respect of trust matters has been investigative, facilitative and mediatory. The nature of disputes in respect of trust matters includes the following:

- Evictions
- Old trustees refusing to vacate office
- Beneficiaries litigating against one another
- Issues relating to verification of membership
- Deregistration of trusts
- Traditional authorities in dispute with trustees and beneficiaries and internal conflict

The Trust Property Control Act has no provision (unlike the Communal Property Associations Act) which allows for the intervention into the affairs of a Trust by the Minister or the Director-General. Panellists have accordingly not been able to intervene without the consent of trustees.

CTH and the DRDLR met on 16 April 2015 to decide on a way forward regarding the trust matters. The meeting agreed to close 25 matters.

The DRDLR reiterated that it is difficult to intervene in Trust matters because of the type of entity formed. Trust matters will generally not be referred to LRMF as there is no clear mandate as in the case of CPAs.

At the end of the last quarter there were 29 pending trust matters being dealt with by the LRMF. During the period April to June 2015 there were 25 matters closed as agreed with the DRDLR. This leaves 4 active Trust matters at the end of June 2015. The provincial distribution of the 4 pending trust matters is as follows –

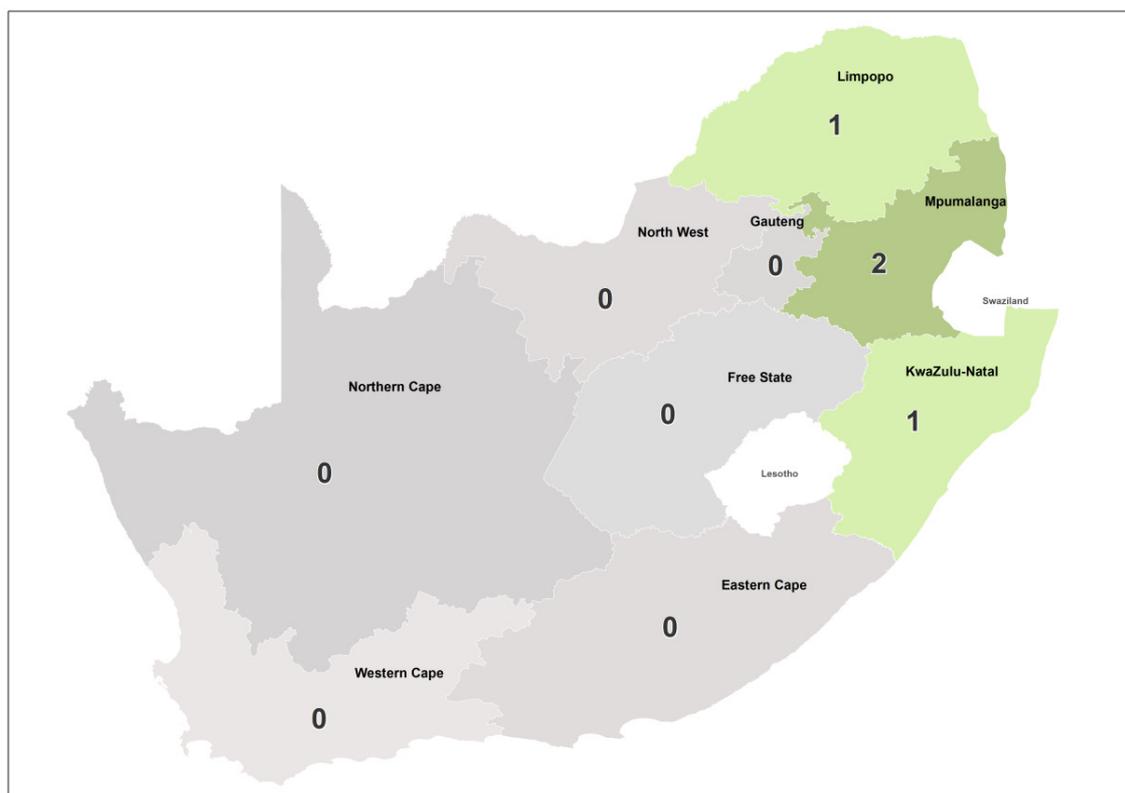


Figure 19: Provincial distribution of Trusts

10.2.1. Closed matters

No	File Ref	Province	Matter Name
1	TSPM0002	Kwazulu-Natal	The Thuthkangele Land Trust
2	TSPM0003	Mpumalanga	Ndwandwa Community Trust
3	TSPM0004	Kwazulu-Natal	Slindokhule Community
4	TSPM0005	Limpopo	Bakgaga Bakopa Motheo Trust
5	TSPM0006	Limpopo	Songozwi CPA
6	TSPM0007	Limpopo	Modimolle Community Trust
7	TSPM0008	Gauteng	Bhekamafa Trust
8	TSPM0009	Mpumalanga	Libuyile Community Trust
9	TSPM0011	Mpumalanga	Somhlolo Trust
10	TSPM0012	Northern Cape	Schmidtsdrift Trust
11	TSPM0013	Eastern Cape	Mizizi Community in Bizania
12	TSPM0014	Kwazulu-Natal	Mdlala Trust
13	TSPM0015	Kwazulu-Natal	The Imphaphala Trust
14	TSPM0016	Kwazulu-Natal	Ntombela Trust
15	TSPM0017	Western Cape	The Klerk Family Trust
16	TSPM0018	Western Cape	The Goudmyn Farmers Trust
17	TSPM0019	Northern Cape	Tshwaraganang Small Farmers Trust
18	TSPM0020	Mpumalanga	ED Group Sanford Comm
19	TSPM0022	Mpumalanga	Maaphogolo Community Trust
20	TSPM0023	Northern Cape	Moso Emerging Farmers
21	TSPM0025	Western Cape	Immanuel Beleggings Trust / Piet Dees and Teresa Wentzel
22	TSPM0026	Mpumalanga	The Siphumelele Tenbosch Trust
23	TSPM0027	Mpumalanga	Manyeleti Conservation Trust
24	TSPM0029	Limpopo	Dutya Family Trust
25	TSPM0030	Western Cape	Ithemba Farmers Association

11. RESTITUTION

11.1. Restitution referral volume and distribution

There are currently 166 pending restitution matters administered under the LRMF. There were 4 new matters referred to the LRMF during the period April to June 2015 and 4 matters were finalised.

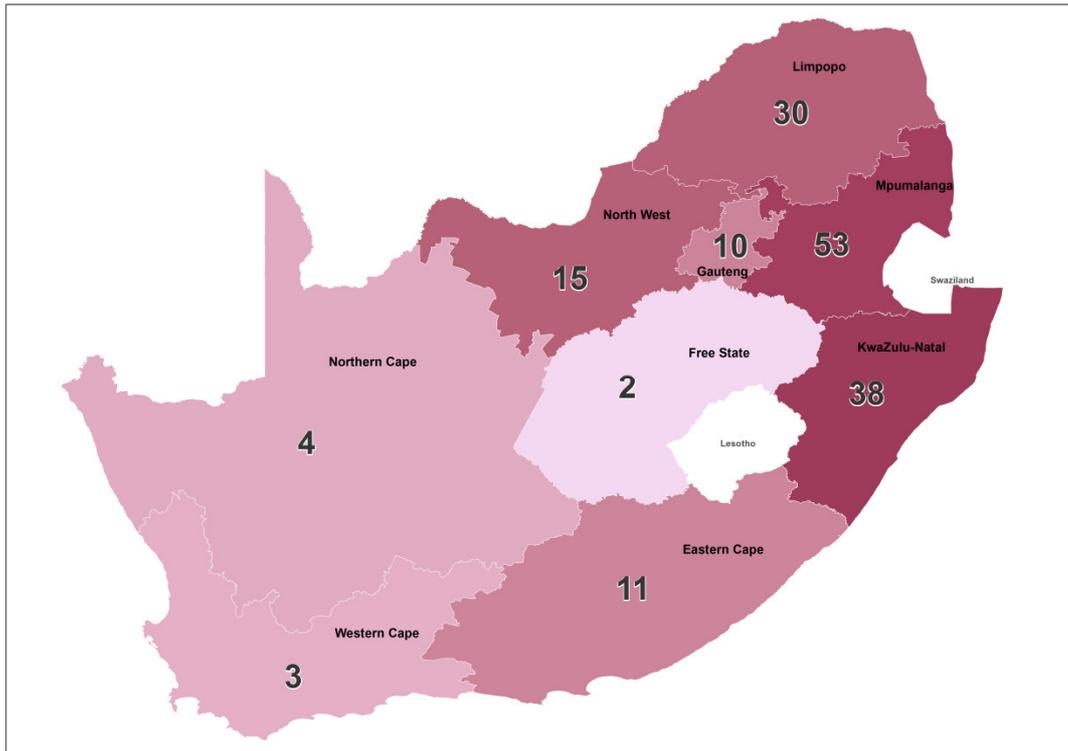


Figure 20: Provincial distribution of pending restitution matters

11.2. Case forums

The courts in which LRMF restitution matters are currently located are set out below.

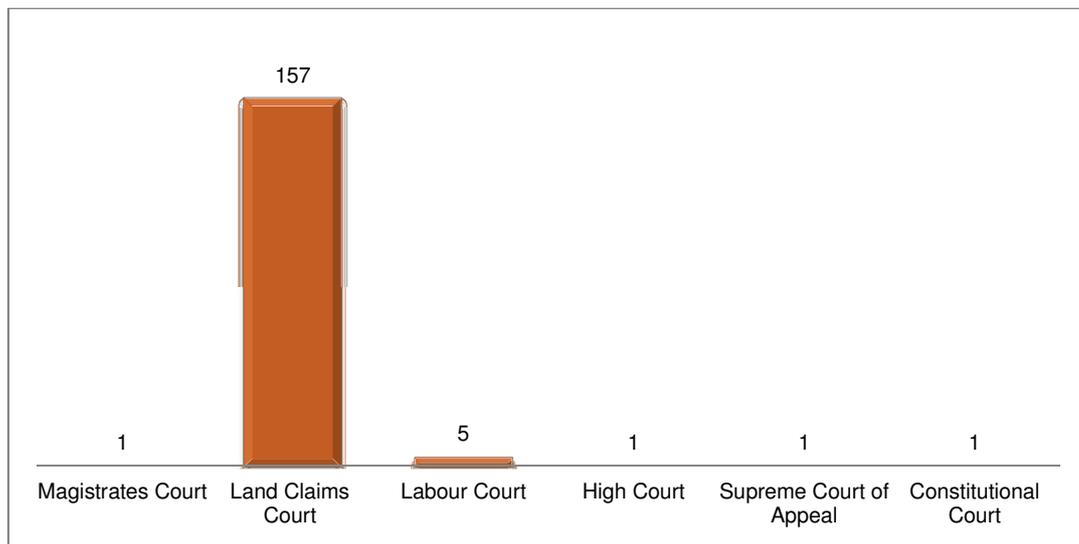


Figure 21: Case forums – restitution matters

11.3. Significant case outcomes

Set out below are significant case outcomes relating to restitution matters during the period April to June 2015.

SIGNIFICANT RESTITUTION MATTERS

Zwelabantu Dube Communal Property Association - RES50197

The intervention in this matter commenced in February 2015. The panellist held meetings with the Nkosi, chairperson, treasurer and the secretary of the CPA in order to establish the status quo and conduct preliminaries on various documents and financials for the last 6 and a half years.

The panellist concluded from these meetings that there was clearly poor record keeping and questionable financial transactions. A number of irregular financial activities were found both in the CPA account and the CPA company account in June 2015. The panellist reported that she met with the full committee on 4 May 2015 to schedule dates and election preparations. Elections were held on 21 June 2015. The IEC signed an MOU and assisted with the election of the new committee on 21 June 2015. The new committee has suggested that reports be studied by community members to be discussed at the next general meeting.

The RLCC assigned a forensic team to conduct investigations into the finances and this outcome may result in further action being taken. The CPA was being managed by committee members and there was no communication or accountability to the community at large. Funds are being misappropriated and the local chief has a say in all matters of the CPA and this has created problems within the community at large. There is a property developer that has forged questionable relations with old committee members and the chief and the incoming committee members will have a challenge with regard to these relations and if not properly managed will result in the dividing the community and escalating the conflict which is not in the best interests of the CPA.

RES 50007 – Mrs D R Rampedi

The matter was heard on 11 June 2015 and absolution from the instance was granted in favour of the land owners.

11.4. Recent relevant case law

Niehaus v The Regional Land Claims Commissioner & Others (116/2014) [2015] ZASCA 51 (27 March 2015)

This matter dealt with an appeal against a Judgment by Loots AJ in the Land Claims Court. The Court stated that the matter had a long and chequered history, depicting a sad picture of administrative ineptitude on the part of the Commission.

The appellant, Mr Niehaus, is the registered owner of two farms on which he conducts game farming in Limpopo (the properties). During or about February 2006, the appellant obtained a copy of a notice published in a government gazette in March 2005 to the effect that the Majadibodu community had lodged land claims over certain property in Limpopo. The appellant's properties did not appear in that notice. As the appellant had received an unconfirmed report that there may be land claims over his properties he instructed a firm of attorneys to seek confirmation of this in writing from the RLCC. Despite repeated requests he received no response. As a result the appellant served a request for information on the Commissioner in terms of the Promotion of Access to Information Act 2 of 2000 (PAIA) in August 2006. In November 2006, the Commissioner responded by saying that they had checked their land-base and there was no information regarding any claim on the two farms at the time. Furthermore an undertaking was made that in the event that there was any new information suggesting that there were any claims in respect of the properties, the appellant would be notified. As no new information was forthcoming from the RLCC the appellant assumed that there were no claims in respect of the properties and he abandoned his investigations. During December 2009 the appellant received notification that restitution claims had been lodged against the properties by the fifth respondent. He again instructed his lawyers to investigate the matter further

with the Commission. Once again he received no meaningful reply and the attorneys filed another formal request for information under PAIA at the appellant's request. In response to many repeated reminders a bundle of documents was delivered to the appellants attorneys on 1 April 2010, but none of the documents provided contained any information pertaining to the properties. Despite this the Commissioner maintained that there were claims in respect of the properties on its computer database. The appellant then demanded that the properties be removed from the database. Except for an acknowledgement of receipt there was no substantive response to this demand and the appellant was unable to find any acceptable proof that legitimate claims existed over either of his properties.

The appellant then instituted proceedings at the LCC primarily for an order declaring that there were no valid claims as defined in s1 of the Restitution Act lodged against his properties. The RLCC reported to Court that it had checked all their records and was unable to find in its hard copy files any claims relating to the properties. However, the electronic database showed that the properties were affected by claims. The court stated that the RLCC then curiously reported that the farms were erroneously or fraudulently captured onto the electronic database and therefore his office would take corrective measures and remove the farms from the database. This was never done. When the matter came before Loots AJ in December 2012 she issued an order by consent of the parties in terms of which the RLCC, CLCC and the Minister of Rural Development and Land reform were amongst others, required to deliver a status report in respect of the claims lodged by the Majadibodu community. A report was subsequently provided and the appellant's properties appeared last in a schedule attached to the status report with the caveat 'farms still to be researched'.

The RLCC also published a notice purporting to amend the initial notice in the Government Gazette by adding the appellant's two farms to a notice published in terms of s11 (A) (4) in GG36307. The appellant attacked this notice. The Court below found that it was not in accordance with the court order as it was issued in terms of s11A(4) instead of s 11(1) of the Restitution Act. Accordingly it set the notice aside. Further the court found that it could not grant an order declaring that there are no claims lodged against the properties as one of the communities had come forward asserting that it had lodged a claim and providing evidence of this. Thus the court dismissed the application. The SCA agreed with the appellant that as no evidence had been tendered as proof that a claim had been registered properly in terms of s 11(1) in respect of the properties, the appropriate order was for the matter to be remitted to the court below for further hearing.

The SCA stated that it was clear that the question whether any claim had been registered in terms of s11 (1) against the appellant's two properties had still not been answered. The SCA also stated that the appellant's position had been compounded by the un-cooperative attitude and unexplained failures by the respondents to respond to his concerted enquiries and stated that regrettably the uncertainty persisted to date.

The uncertainty over the properties had caused the appellant anxiety and any further delay in the matter would exacerbate this prejudice. The appellant had done everything humanly possible to investigate the matter and get acceptable proof that his properties are subject to valid claims. The RLCC had been more obstructive than helpful. The SCA illustrated various provisions in section 11 of the Restitution Act that had not been complied with by the RLCC. The SCA stated that the conduct of the RLCC warranted comment and censure and stated the following:

[25] It is important to emphasise the duties, responsibilities and obligations of the first respondent. Undoubtedly, the first respondent is pivotal to the entire process that is, the lodgement of claims to land, their registration, the issuing of notices, publications of claims in the Government Gazette, including informing the land owner in respect of whose property a claim has been lodged and any

other party which might have an interest in the property. This includes investigations of claims lodged culminating in their finalisation, which might be through mediation or referral to the Land Claims Court, in appropriate circumstances. Self-evidently claims to land can never be properly processed without the co-operation and assistance of the first respondent.

[26] Sadly, this case demonstrates that the first respondent did not appreciate the crucial role which he is expected to play in processing land claims. So far he has succeeded to stymie persistent efforts by the appellant since May 2006 to get clarity regarding the status of the claim in respect of his properties. What exacerbates the situation is that even after the court order of 6 September 2013 by Loots AJ, the first respondent has still not produced any proof of the lodgement of any claims against the properties. Evidently this conduct is unacceptable.”

The SCA upheld the appeal, declared the notice published under Government Notice 1044 in October 2013 invalid and referred the matter back to the LCC to afford all respondents an opportunity to address the court on whether claims had been lodged against the properties. The RLCC and the CLCC were ordered to pay the costs of the hearing on 25 April 2013.

Jacobs v Department of Land Affairs and Others

In this interlocutory application to a pending restitution claim, the first defendant in the main matter, being the Department of Land Affairs and Rural Development seeks leave to withdraw an admission made in the restitution matter. Further it wants to be granted leave to defend the claim and to pay costs of this application. The application was opposed by the plaintiff.

The claimants lodged claims in respect of Erf 38 Upington and the farm UAP 28A. Only the farm UAP 28A (the property) is relevant to the application. This claim was initially disputed by the Commission. In 2013 the plaintiff was advised by the State Attorney that the Commission no longer disputed the validity of the claim. It was this admission that the defendant sought to withdraw.

The defendant argued that the admission was made in error. The deponent on behalf of the defendant, Cindy Benyane, stated that the UAP claim together with other claims were the subject of intense discussion regarding validity. She was advised to admit the validity of the claim, which advice she took and admitted the validity of the claim on 3 December 2013. The reasons given for why the validity of the claim should be admitted were basically that the Regional Land Claims Commissioner was of the view that the claimants in UAP were the same as those in the Erf 38 case, the circumstances of the dispossession were the same, and that in light of the judgement given by the LCC in the Erf 38 claim, the validity of the UAP claim should be admitted. It subsequently became evident that while the claimants are the same and the social context in and around the area are the same; the particular factual circumstances of the two dispossessions are quite different.

The LCC considered whether the validity admission was an administrative action. And if it were, why the provisions of the Promotion of Administrative Justice Act 3 of 2000 (PAJA) were not followed. The Court held that the validity admission was not an administrative action and the provisions of PAJA did not apply. Thereafter the court considered whether the withdrawal application satisfied the requirements, in that a reasonable explanation had been provided and that there would be no prejudice occasioned by the withdrawal. The Court was satisfied that the test was met and the application to withdraw the validity of the admission made in December 2013 was granted. The defendant was given leave to defend the claim and was ordered to pay the costs of the interlocutory application.

Commission on Restitution of Land Rights and Others v Koedoesrivier Boedery (Pty) Ltd and Other LCC123A/2014

The applicant in this matter is Koedoesrivier (Pty) Ltd. The respondent is the Regional Land Claim Commissioner (LP). In December 2014 the respondent initiated an application for leave to appeal against the whole of the judgement of the LCC delivered in November 2014. The parties, after consultation between them, agreed that the application be heard on 10 April 2015, and that respondent (RLCC) would set the matter down. This was never done.

The Applicant, despite not having received a notice of set down, attended at court on 10 April 2015. Respondent did not appear on this date. It is the wasted costs of 10 April 2015 that the applicant seeks.

The Judge stated that it was clear that the applicants had attended at Court not because they were legally bound to do so. Rule 55(4) of the LCC rules state: *"55(4)A notice of set down containing the time, date and venue or venues of any hearing, must be delivered by the applicant or plaintiff within ten days of being informed (at a conference or by the Registrar) of the date."*

The court dismissed the application for payment of wasted costs as the Court was of the view that the applicants attended Court to avoid the risk of the matter being argued in their absence. Legally, there was nothing that compelled them to attend.

11.5. Key developments

11.5.1. Court orders compelling funding

Mr Minnesh Singh, on behalf of the Kwacele Community LCC24/2015 and Deekraal Community LCC27/2015 applied to the Land Claims Court (LCC) to compel the Chief Land Claims Commissioners office (CLCC) to provide funding to these communities in terms of section 29(4) of the Act. The applications brought were unopposed and were granted by the LCC. The documents instituting these proceedings were served on but not received by the CLCC's office. Thus, the applications were unopposed. The CLCC's office has raised this with the Registrar of the LCC and efforts have been put in place so that the LCC can assist the Commission by alerting them when such applications are going to be heard.

11.5.2. Pending LRMF matters where panellists have reported that claims have been lodged in terms of the 2014 amendments to the Restitution Act.

There are currently 5 pending LRMF matters where panellists have reported that further claims have been lodged in terms of the 2014 amendments to the Restitution Act.

11.6. Quarterly restitution meeting

The second quarterly restitution meeting for 2015 was held on 25 June 2015. CTH delivered an online presentation on the MIS system and the attendees were taken through financial and demographic statistics relevant to restitution. A number of problematic matters were raised by each province and these were discussed and resolved at the meeting. The Court Manager and the Registrar of the LCC also attended the meeting. The third quarterly restitution meeting is scheduled for 17 September 2015.

11.7. Key priorities for the next quarter

- Continue to attend to the monitoring and evaluation of matters that show little or no progress.
- Identify problematic panellists and resolve delays in matters.

PROJECT FINANCES

12. Legal and mediation panel funds

A statement of income and expenditure with respect to the legal and mediation panel funds for the period December 2012 to June 2015 is set out below:

Income and expenditure items	December 2012 to June 2015
Opening balance	1,140,552
Income	192,695,095
DRDLR fund transfers	189,958,837
Interest received	2,736,257
Expenditure	141,241,275
Expenditure from legal and mediation panel funds	139,008,665
Interest paid to DRDLR	2,232,609
Balance at 30 June 2015	52,594,372
Fund portion	52,090,724
Interest portion	503,648

13. Monthly breakdown of funds disbursed

A monthly breakdown of funds disbursed over the contract period is provided below. The amount of R683,153.00 for December 2012 and R457,400.00 of the January 2013 payment involve the balance of funds from the previous contract. R3,834,543.00 from the January 2013 payment and the balance of the payments to December 2012 involve new contract funds.

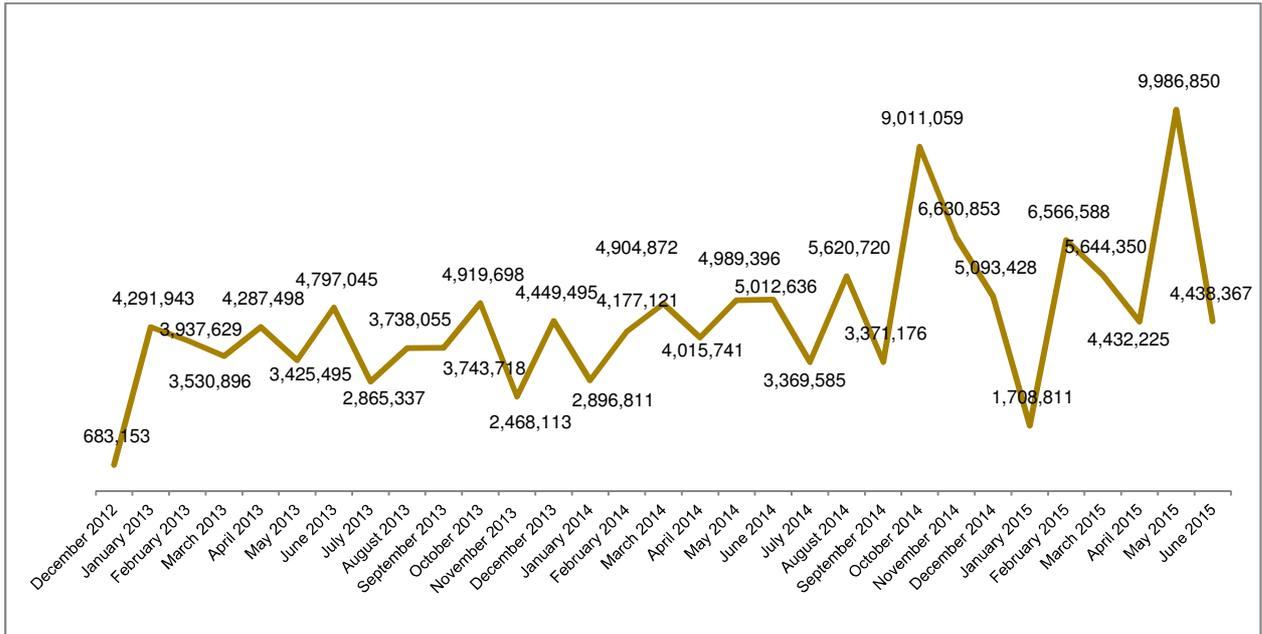


Figure 22: Breakdown of funds disbursed per month

14. Financial trends and analysis

Since commencement of the new contract period, 45% of funds were disbursed with respect to land tenure legal services (R63,315,531); 3% in relation to land tenure mediation services (R3,796,027); 13% (R18,192,065) was disbursed in relation to communal property institutions; and 39% (R53,705,042) in relation to restitution matters.

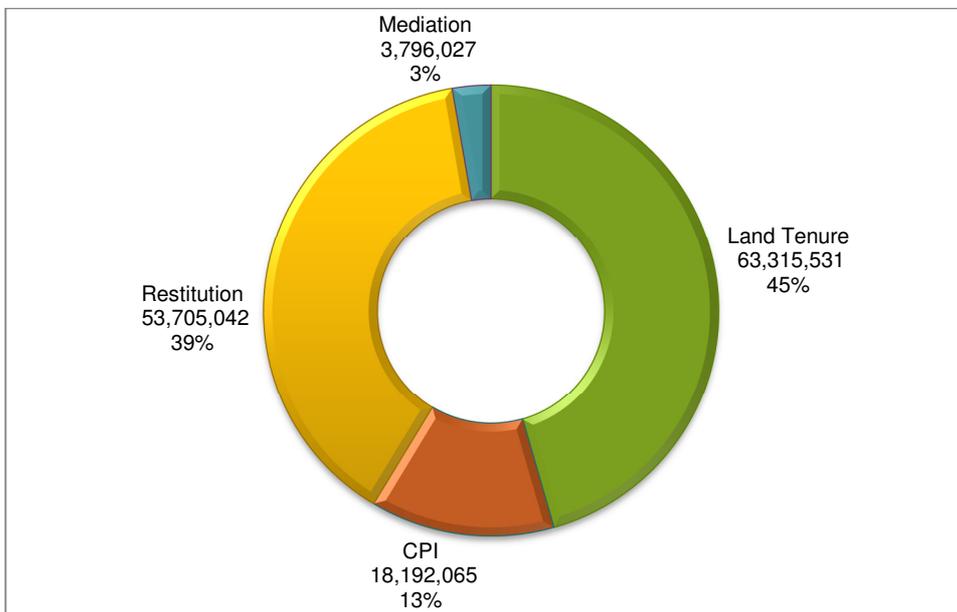


Figure 23: Disbursements per focus area

15. Fund expenditure projection

We have based the legal and mediation panel fund expenditure projection on the average monthly disbursement of funds from February 2015 to June 2015 and the proportional breakdown of

disbursements per project focus area. On this basis, the legal and mediation fund balance as at 30 September 2015 is projected as set out below:

Date	LSP	MSP	CPI	RES	Fund expenditure	Fund balance
Balance as at 31/06/2015	63,315,531	3,796,027	18,192,065	53,705,042	139,008,665	52,090,724
31/07/2015	2,840,317	142,206	328,096	2,892,844	6,203,463	45,887,261
31/08/2015	2,840,317	142,206	328,096	2,892,844	6,203,463	39,683,798
30/09/2015	2,840,317	142,206	328,096	2,892,844	6,203,463	33,480,335
Total	71,836,481	4,222,646	19,176,355	62,383,573	157,619,055	33,480,335

A revised projection will be provided at the end of the next quarter.

16. Contingent liability assessment

The contingent liability assessment with respect to pending matters as at 30 June 2015 is set out below:

Contingent Liability Assessment : 30 June 2015	
Tenure security legal matters	R 58,952,220.78
Tenure security mediation matters	R1,606,153.96
CPI matters	R4,647,957.85
Restitution matters	R 41,192,018.63
Total	R 106,398,351.22

A revised assessment will be provided at the end of the next quarter.