

PRESENTATION TO THE PORTFOLIO COMMITTEE ON RURAL DEVELOPMENT AND LAND REFORM ON THE RELEASE OF STATE LAND FOR LAND REFORM PURPOSES

DATE: 18 January 2012

TIME: 10H00

**VENUE: Room 514, Marks Building
CAPE TOWN**



**rural development
& land reform**

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

20120118 PC rural

TABLE OF CONTENTS

- ❑ Introduction to State Land Disposal.
- ❑ State Land Disposal Processes.
- ❑ The State Land Disposal Committee (PSLDC)
- ❑ Opportunities in Disposing State Land for Land Reform.
- ❑ Challenges in Disposing State Land for Land Reform.
- ❑ State Land Applications in the Western Cape.



INTRODUCTION TO STATE LAND DISPOSAL

- ❑ State Land Disposal may only take place in terms of law of general application.
- ❑ Such law would, in the case of National Government, specify the relevant Executive Authority / Minister who administers it or there would be a separate Presidential Proclamation which identifies the relevant Minister.
- ❑ The National Department falling under such a Minister would then be regarded as a custodian of the category of land identified in such law.
- ❑ In the case of Provincial Government, the Premier would designate a Member of Executive Council (MEC) to be responsible for the administration of the relevant provincial law.



INTRODUCTION TO STATE LAND DISPOSAL

- ❑ The Provincial Department falling under the relevant MEC would then be regarded as custodian of provincial state land. There may be instances where more than one Provincial Department gets designated as custodian of different categories of provincial state land.
- ❑ The powers of disposing immovable assets are vested with the Executive Authority (Minister and MEC) at national and provincial government respectively.
- ❑ Each Executive Authority can only dispose of immovable assets falling under their administrative control.
- ❑ The Municipal Council in each municipality exercises disposal powers except in those cases where the Council has delegated such powers to other authorities.



STATE LAND DISPOSAL PROCESSES

- ❑ Each Sphere or State Land Custodian in each sphere determines policies, which are consistent with applicable legislation, to guide the disposal of state / public land.
- ❑ Such policies may provide for disposal through auctions, competitive bids or unsolicited proposals.
- ❑ The municipal disposal processes are not discussed in detail since none of the other spheres participate in such processes.
- ❑ The National Sphere generally makes use of the State Land Disposal Act, 1961 in letting, donating, exchange and selling state land.
- ❑ Each Provincial Government makes use of its own state land disposal legislation to dispose of provincial state land.



THE STATE LAND DISPOSAL COMMITTEE (PSLDC)

- ❑ The PSLDC comprises of provincial and national custodians in each province.
- ❑ It is not a statutory structure and exercises neither statutory nor delegated powers.
- ❑ It is simply an intergovernmental structure that seeks to ensure that each custodian does not dispose of a state property that may be required for service delivery objectives of another.
- ❑ It also ensures that each custodian does not dispose of an asset of another as a result of the uncertainty caused by such asset being registered in the name of a pre-April 1994 government.
- ❑ It only makes recommendations on applications brought by each custodian.



THE STATE LAND DISPOSAL COMMITTEE (PSLDC)

- ❑ The PSLDC only deals with applications once all internal processes within each custodian have been finalised and the application is ready for submission to the Senior Managers and the Executive Authority of the relevant custodian.
- ❑ The Chairpersonship of the PSLDC in the Western Cape rotates on a quarterly basis amongst different state land custodians and the secretariat function is always performed by the Department of Rural Development and Land Reform (DRDLR).
- ❑ The Chairperson as at January 2012 is the DRDLR.



OPPORTUNITIES IN DISPOSING STATE LAND FOR LAND REFORM

- Some farm land is controlled by the Department of Agriculture, Forestry and Fisheries and is used exclusively for land reform purposes.
- A substantial amount of farm land is also controlled by the Department of Public Works and is more often made available for land restitution purposes.



CHALLENGES IN DISPOSING STATE LAND FOR LAND REFORM

- ❑ Most challenges have resulted from lack of documentation of necessary administrative processes and therefore lack of direction.
- ❑ The key challenge relates to the identity of the custodian, as this is not always obvious from land registration documents.
- ❑ A Procedure Document has since been developed to guide the processing of restitution claims on state land so as to help resolve the above-mentioned administrative challenges.
- ❑ Multiple claimants or communities sometimes lay claim to the same land which then affect timely release of such land. This can only be resolved through thorough research and social facilitation.



STATE LAND APPLICATIONS IN THE WESTERN CAPE

- ❑ The DRDLR or its predecessor(s) does not have a measured property portfolio in the Western Cape since no part of this province ever formed part of a homeland.
- ❑ It only holds about 59 land parcels (41 935 hectares) which were acquired between 2006 and 2011.
- ❑ Almost all DRDLR land in the Western Cape was acquired for land reform purposes and is therefore utilised for such purpose.
- ❑ None of this land is claimed under the Restitution of Land Rights Act, 1994.
- ❑ Any application submitted to other state land custodians would not be known to the DRDLR since no central database is kept.



THANK YOU

