How tenure security can increase access to economic opportunities for the poor
Draft position paper for the second economy strategy project: an initiative of the presidency
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24th April 2008

Interpretation of the brief

The question that concerns this paper is: how can greater security of tenure increase access to economic opportunities for the poor? Because of the relationship of tenure to property, the primary concern of this paper becomes: how secure access to property can increase economic opportunities for the poor. Rephrased, the concern of this paper is: what routes to increased economic opportunity does property provide and how can this potential be enhanced? Tenure security is about defendable rights and enforceable duties to property and benefits flowing from it and rules, procedures and systems for managing these property rights and duties (Leap, 2005). Secure tenure would enhance that potential. Conversely, insecure tenure would undermine it.

The paper intentionally focuses on "tenure security", rather than "title", to accommodate a broader conceptualization of tenure arrangements and economic possibilities, and a more pro-poor perspective, than a more limited focus on tenure form, and title in particular, would allow.

Although the paper incorporates productive uses of land in its consideration of economic opportunities, these are home based. In other words, its focus is on residential property, and potentials for increased economic opportunity associated with it.

Introduction

The paper argues for a broad based access to property, broader than access to title allows, with the potential for wider, quicker and more sustained reach. It motivates for a place for tenure security in the second economy strategy as a means for securing access to property, a pre-condition for actualizing the potential that property has to increase access to the economy by the poor. An over-emphasis on access to title has neglected other property based economic opportunities. The paper identifies the ways in which property may increase access to economic opportunities, shifting the emphasis from the dominant focus on the secondary market and capital gains to a more balanced and relevant consideration of opportunity in relation to the concentration of the country's households on an income poverty continuum. These options are less promising than the beguiling prospect of bringing dead capital to live, or making capitalism work for the poor (de Soto, 200?). But they are more realistic and offer pragmatic and pro-poor avenues of support.

The argument is underpinned by a more sophisticated understanding of the nature of "the urban poor" (or alternatively a more pro-poor approach) than currently prevails in the policy discussions. The paper re-focuses attention on land based livelihood opportunities because of their relevance to the majority of the urban poor. It is a sobering, but realistic, perspective on the accumulation potential of property, and the deep rooted causes of poverty, rather than its symptoms (of which lack of title is an example). This approach is much more appropriate to a second economy strategy which seeks realistic opportunities in response to deep seated problems, rather than grandiose and unlikely achievements. The paper's understanding of exclusion leads to intervention areas that include action in the "first economy", rather than merely the imposition of mechanisms that are working for the wealthy, onto the poor. This approach opens the possibility of dealing with causes, rather than symptoms, and to alter the terms of incorporation into the economy in ways that benefit the poor more.

The potential of property access to increase economic opportunity

Three routes exist for property access to increase economic opportunity by the poor, the first of which tends to be favoured above others in the current policy discussion:

1. Property ownership and the production of capital gains
2. Land, livelihoods and accumulation
3. Secure household base for access to the city

The first is via property sale. The position here is that through sale, return on property investment accrues to individual title holders who are financially better off than before, so opening up access to a range of opportunities including purchase of a larger house, higher up on a housing ladder, from where they can continue to accumulate more financial wealth. The property investment may be private or public, the latter a windfall "profit", or realized return, provided through the housing subsidy scheme. In South Africa, an argument is increasingly being motivated that RDP should be sold, to encourage wealth accumulation, so the investment is public (Finmark, … Rust…). In either case, whether household private investment or public state investment, individual title holders are the beneficiaries. In this case title is a pre-condition. In practice, there is some evidence that property sales are believed to occur even without title having been conferred and where it has, unregistered sales are taking place. This route also depends upon property value, in order to accumulate financial wealth, which in turn is linked to location. It is also dependent on the availability if housing stock the next rung up on the housing ladder, and hence supply. Property in this case is a commodity, with potential to achieve wealth accumulation objectives.

The second is directly linked to the residential property and refers to the productive use of residential land. The opportunity here accrues from on site or property based livelihood opportunities such as on site rental accommodation provision, home based enterprise or urban agriculture. Title is not a precondition for such activities to occur. Officially speaking such practices are hindered by zoning schemes and land use management practices. In practice they often tend to be unregulated. The absence of municipal land use management in informal settlements, for example, means that in practice these uses occur despite official responses to limit, control and even eradicate them. Property in this case is more of a livelihood asset for poor people. Depending on the scale of enterprise, and the factors contingent on expansion from survivalist activity to economic enterprise, property in this case could also conceivably be an accumulation asset.

The third is indirectly linked to the property. Here, property provides a base from which to access off site economic opportunities in the city. For a particular household, this route can co-exist with the other two. A good location maximizes this opportunity and "good" in this sense represents proximity to economic opportunities. In this case, property functions in diverse ways, depending on the livelihood strategies of households. For the poor, it is more likely to be a livelihood asset from which to secure access to economic opportunities. Land price is the significant factor in access to a good location. Recent research (Cubes, 2008; ULM, 2007) supports the concerns in BNG (RSA, 2004) about the poor location of RDP housing projects. Paradoxically, occupation, and ownership, of state subsidized RDP housing leaves some households worse off or at least in the same economic position as before, due to location. Quote ULM. Quote cubes on return. So location is perhaps the major challenge in realizing this potential.

Increase access to property

Access to property is an obvious pre-condition in all three cases. A key policy direction emerging from this assessment is a, perhaps rather mundane, proposal to increase access to property by opening up channels for potential, rather than limiting them, in other words by multiplying both the routes of access and the means for tenure security. In one respect this implies increasing supply of property through its varied channels – state subsidized, financially driven (developers, lenders – the commercial private sector), and socially determined (unofficial, local or informal). In another it means widening or opening up those channels more through accommodating title and other tenure arrangements, as well as unformalised developments, in order to avoid squeezing access to economic opportunity through the small channel of formalized, individually titled property. A key policy direction is therefore to broaden the base of opportunity by expanding routes to property and the terms on which property can be held, beyond formalized and individually titled access and holding.

Title and tenure security

In all cases secure tenure facilitates this potential. Insecure tenure undermines it. Title is one form of tenure. The registration of deeds (ROD) system is South Africa's particular version of individual freehold title. Rental is another form of commonly understood tenure. In practice there are also variety of, often unrecognised, tenure arrangements which describe people's relationship to property and govern their rights and obligations. The term "arrangements" more accurately captures the property relations than "form" (Leap, 2005). Recent ULM commissioned and supported research (respectively Isandla et al, 2007, Cubes, 2008) has made use of the term "claims" to signify something similar, which focuses attention on people's relationships to property rather than merely the type of tenure. Tenure arrangements are embedded in land management and administration practices. In urban areas, the state is seldom absent from these arrangements. Many people in informal settlements, backyard shacks, peri-urban communal areas and inner city buildings experience these forms of tenure. Such tenure arrangements are evident even in ostensibly "formal" situations. Some of these are "hybridized" (Leap, 2005) versions of the more recognised forms, including title. These arrangements are often unrecognised because they govern property which neither the state nor the (commercial) private sector have been actively involved in delivering to the current users. Even if the underlying ownership of the land is registered in the Deeds Registry, "title" does not accurately describe the relationships, rights and duties of people currently living there. In this sense, rights often overlap. Nevertheless title dominates in people's minds when reference is made to tenure.

Figure 1: Urban tenure arrangements in South Africa identified in recent research

Description of tenure arrangements	**Evidence of claims**
Registered ownership	
Residents live in an area that has been surveyed, registered and descriptions of the parcels of land are lodged in the Deeds Registry and residents are in possession of the primary transfer title deed to the erf that they are living on.	Title deed
Intermediate ownership	
Residents live in an area that has been surveyed, registered and descriptions of the parcels of land are lodged in the Deeds Registry and residents are in possession of documentation that indicates that they will gain possession of a title deed to the erf that they are currently living on.	"Happy letter" confirming the resident's satisfaction with the services/dwelling
Expectation of registered ownership	
Residents are in possession of a document that indicates that at some time in the future, they will be gain possession of a title deed but to a parcel of land that has not yet been identified. C-forms are issued to residents when they apply for low income government housing subsidies, it places one on the waiting list for subsidized RDP housing wherever suitably available. B-forms have created some confidence among people, in fact they believe it confers specific 'rights' to their site until such time as they receive an RDP house.	C-Form demonstrating an application for housing/land has been lodged and is being reviewed. B-forms believed to confer rights to site until they receive an RDP house.
Off-register ownership	
Residents live in either a registered township or informally and do not have any first generation or primary documentation to prove their claim.	Informally transferred title deeds, application forms, or other official documentation or receipts of sale.
Occupancy	
Residents live informally or illegally on land.	Physical presence on invaded land
Officially recognized rental	
Residents possess a rental agreement in an area that has been surveyed, registered and descriptions of the parcels of land are lodged in the Deeds Registry and landlords are in possession of the primary transfer title deed to the erf that the tenants are living on.	Physical presence in rental unit in formalised area usually agreed verbally. Written agreements?
Unofficial rental	
Residents rent from landlords who themselves do not have any original documentation to prove their claim.	Physical presence in rental unit in informal area usually agreed verbally

Description of tenure arrangements	Evidence of claims
Looking after, or borrowing	
Residents have negotiated or have been requested to (temporarily) occupy a piece of land on behalf of someone else that retains the primary claim to the parcel of land. This is similar to temporary pledging which should be returned on request.	Documentation unlikely and confirmed by physical presence and verbal agreements with owners and neighbours.

Sources, with minor adaptation: Cubes, 2008 and Isandla Institute et al, 2007

Tenure security is not the same as title, although the two concepts are often conflated. Leap (2005, web site address) offers the following indicators for secure tenure:

- People's rights are becoming clearer, people know better what their rights are and they are more able to defend these rights
- Land rights administration processes such as application, recording, adjudication, transfer, land use regulation and distribution of benefits are becoming clearer, better known and more used.
- Authority in these processes is becoming clearer, better known and more used
- There are more and increasingly accessible places to go to for recourse in terms of these processes and these are becoming clearer, better known and more used.
- Land rights administration processes are becoming less unfairly discriminatory against any person or group
- Bridges are being built that span the gaps between actual practice and legal requirements
- Benefits and services are becoming as available to people as they are within the registration of deeds system.

Threats to security of tenure

Identifiable sources of threat to tenure security are the state, the market, community and family. The poorer people are, the more they are susceptible to these threats. The main threat from the state through evictions has been challenged through various constitutional court cases from Grootboom through to the recent Olivia Road judgments. The state is required make reasonable provision for housing the poor and consultation requirements are being emphasized in these judgments.

The more vulnerable are even more insecure. Hence "family" or "community" can be a threat to tenure security too. Often reference to "household" or "community" blinds analysts to the internal power dynamics and heterogeneity of both community and household. Property access and anticipated benefits of economic opportunity may not be shared, or may accrue to the more powerful within both families and communities.

Title is not always the most secure, especially for the poor, although conventional wisdom has it differently. Technical difficulty and social complexity are often major stumbling blocks to conferring title (Durand-Lasserve and Royston, 2004). Examples of technical difficulty are bottlenecks at township establishment and deeds registration, or boundary identification. Social complexity arises in particular in the identification of individual title holders. Assuming for a moment no technical difficulty in conferring title or social complexity in identifying individual title holders, title's biggest threat to security, once obtained, and hence access to economic opportunity, comes from "market-displacement" (Durand Lasserve, 200?) or "downward raiding". This is especially true for those living in individually owned subsidy housing in a context where more middle income housing is not being supplied by the private sector at sufficient scale to meet demand in that segment. This is an important aspect of the "gap" housing problem. It results in mis-targeted subsidy allocation. It is perhaps worth reiterating that in terms section 2(1)(a) of the Housing Act, the first of the thirteen general principles applicable to housing development is that: "National, provincial and local spheres of government must give priority to the needs of the poor in respect of housing development."[1] The current direction that housing sector policy is taking regarding realizing the asset value of housing and addressing the whole residential property market, conspires to actively encourage this mis-allocation by promoting the sale of individually owned subsidy housing in pursuit of realising the asset potential of housing and addressing poverty, without disaggregating, or differentiating, the poor. It may work for some, but it won't work for all, of the poor. And it may take considerable time before it becomes a reality, even for some of the poor. Wallace and Williamson (2006) point out that western democracies took hundreds of years to develop land markets in which wealth creation can be accelerated and that developing countries are trying to encapsulate that experience into decades. Even de Soto's presentation of the US history of the "capitalization process" demonstrates vividly how long it takes – over two hundred years (Royston, 200?). The slow development of property markets has also been noted in transition economies. Charman (LILP, 1996?) notes that western critics of the new democracies in former socialist states in Eastern Europe fail to recognise that in the west, systems evolved and developed over a long period of time, adapting to changing circumstances and changes in law and practice.

A more appropriate direction on realizing the asset value of housing is to broaden the conceptualization of value, from a narrowly targeted, inaccessible and distant capital gain to be more reflective of the actual value that property has for poor people in the here and now, and how that can be maximized to redress poverty. Unfortuantely the options *are* limited, poverty is complex and deep rooted and structural, and naïve optimism is misplaced. This perspective implies broadening access to property (not immediately ownership), securing that access (including but certainly not limited to title especially) and reconceptualising support to alternative routes.

[1] A welcome reminder emphasized by Moray Hathorn, personal communication 16th April 2008.

Route 1: The potential for property sale to increase access to economic opportunity by the poor

Persistence of affordability and scale constraints

Affordability remains the biggest constraint to accessing the benefits of the financially determined property market. The access frontier is a very distant prospect for the majority of the country's households. The following table demonstrates that 64% of households have an income below R3500 per month.

Figure 2: Household income distribution in South Africa

Monthly household income	*% of households*		*# of households (millions)*	
	1994: White Paper estimate	2005/6: income & expenditure survey	1994: White Paper estimate	2005/6: income & expenditure survey
> R3 500	13.9	36	1.2	4.5
< R3 500	86.1	64	7.1	8
Totals	100	100	8.3	12.5

Source: adapted from Rust, 2008

House price data (Rust, 2008) indicates that the cheapest house, or formal market entry level housing, exceeds R200 000[2], requiring a monthly income of over R11 000[3] on a loan installment of R3 400[4]. The monthly loan repayment is almost equal to the monthly income of 64% of the country's households. While it has not been possible to quantify the number or percentage of households in South Africa with an income of R11 000 or more[5], it is evident than only 19% of households earn more than R8 000 per month. This means that in excess of 81% of South Africa's households are not currently accommodated in formal, commercial private sector supply. In other words, the access frontier is too high for by far the majority of South Africa's households, at over 81%. As a result, the second economy strategy needs to be wary of confirming this direction. It also depends upon sufficient housing being supplied, at affordable prices, to income segments other than the below R3500 per month household income poor. In fact the property access question may be a much more significant focus of public policy attention than anything else, as access to property is a precondition for any of the routes described in this paper. The public policy focus ranges from in excess of 81% (who can't currently access commercial private sector property) to 64% (who are not likely to be accommodated by incentivised private supply (through inclusionary housing for example). As "down-market" as the incentivised providers may go, it is extremely difficult to get "as low" as this 64%. Even social contract, or transformation charter, agreements will struggle to be more inclusive than the R3500 to R11 000 household monthly income bands.

[2] R205 917.00
[3] R 11 345.77 at 30% of household income
[4] Calculated at 14.5% over 20 years
[5] I have not been able yet to disaggregate the > R8000 category

Reinforcing market failure

The in excess of 81% figure is an indicator of massive market failure. In the absence of sufficient supply at the current housing gap, in supporting the development of a secondary market, via the sale of RDP stock, in quite the blunt, optimistic and immediate represented by this route, the second economy strategy would be encouraging the investment of public money in housing the middle classes and the housing programme runs the risk of missing the poor. In short, there are major issues of relevance, if inclusion of the poor is a policy objective, which it is in the second economy strategy as well as housing policy, notwithstanding “the whole market” position. Were it to take this direction, the strategy would be reinforcing market failure, instead of intervening to redress it. The opportunities associated with the two other potentials are likely to be limited, as poor households are displaced by state driven property access.

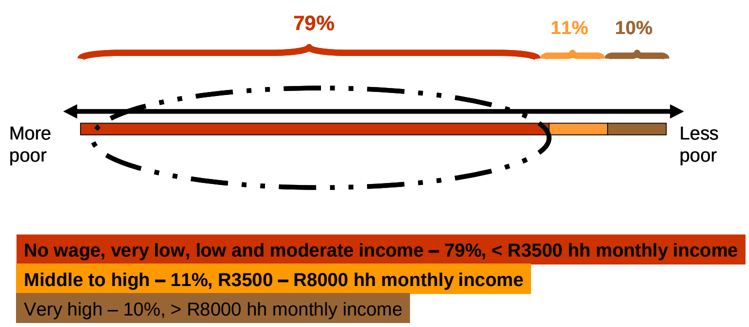
The much-maligned prohibition on resale clause in RDP housing represents an attempt to intervene to address market failure – especially the problems of market entry and of supply represented by downward raiding. Its problems in this argument are largely around compliance and enforcement. A re-think might be better directed at alternative means for achieving the same end, rather than abandoning the desired outcome in its entirety. The privatization of the subsidy, through its delivery in individually titled stand alone housing schemes, is a fundamental premise of the housing policy. A look into securing a range of tenure arrangements is called for, rather than abandoning a principle because the mechanisms for its operationalisation come under fire, or are failing. Social housing, as collective ownership and rental accommodation, in its early formulation, intended to address this. Its constraints have been limited supply in the scheme of housing delivery, increasingly limited down-market reach, and in the group ownership options, conflicts between collective and group responsibilities and interests (Development Works, 2004). More incremental and flexible tenure and land management alternatives are needed, that work more closely with what exists already.

Limited applicability

So, the sale and return potential, or route, is title-specific. The other routes are not necessarily so. It is also dependent on formalisation and therefore only applicable to official segments of the housing supply ladder – various rungs of private supply and RDP housing. Thus it only applies to people who have officially recognised access to land. Everyone else, waiting patiently on a list, not yet on the ladder, also has to wait for access to property related economic opportunity. Formal access, and title, becomes the means for access to economic opportunity from property. Property related economic opportunity is contingent on access to official housing and title. In turn, its potential to perform is determined by how well state and private sector are functioning at land supply to the poor. ULM research on how the poor access, hold and trade land (ULM, 2007) indicates that unofficial systems of supply function much better in the short term, at providing access to land (although there are limitations in these systems of supply). This severely limits the potential of this route to perform for generations. Based on the experiences in the west regarding the establishment of a secondary property market, it may be an even more distant dream – the access frontier a distant blur on the horizon. Because increased economic opportunity from property is contingent on access to property, any effort to seriously grapple with the potential of property, must engage with how poor people access it in the first place. The following figure illustrates where the focus of public policy attention should be, given the overwhelming majority of households (79%) that are poor – with a monthly household income less than R3500 per month. And the number of households below the access frontier, in excess of 81% of households nationally. The gap housing market more or less targets the 11%.

Comment [L1]: These are based on 2004 labour force survey figures and need to be updated for the 05/06 IES figures. 79% is now 64% but this does not fundamentally alter my argument. It's still enormous.

Figure 3: Towards disaggregating "the poor" and appropriate targeting of second economy intervention



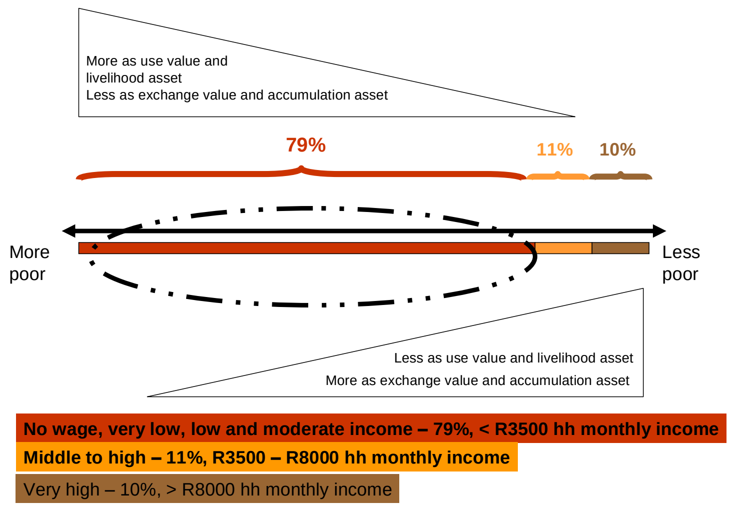
Insufficiently cognizant of the functions of property and its value

ULM research (ibid) highlights that most people in subsidy housing would not want to sell it. Over a five year period 11% of houses were obtained through transfer, 6% of these were sales. 53% of respondents say they won't move from their RDP houses. While this has something to do with the availability of housing stock "up the ladder", it also relates to people's conceptions of property. It may be a faulty assumption that this is only a function of inadequate supply in the gap. A better understanding of how property works for poor people (because it *does* differ depending on how much money you have, however much proponents of this route wishfully think that the poor should benefit through the same mechanisms as the middle classes), or the functions it performs. Although urban policy has paid little attention to this issue, rural work has, and ULM (2007) suggests that many households see property as being a family asset, and would prefer to pass it on to other family members if they had to move. In the ULM research more than 60% of people in RDP houses indicated that they would put a family member in, if they were to move. This is a transfer, but it may not be a sale. Fewer than 20% say they would sell. Cubes research (2008) builds on this finding, identifying that 90% of respondents said they would sell neither their home nor their documents, and many said they would give them away to family members. In these surveys property is not valued as a capital gains asset by the vast majority of respondents, but as an urban base for an extended family network. In the Cubes research, people perceive sale with a degree of suspicion questioning why someone would wait ten years for a houses, and then sell it when they received one. Suspected reasons were that someone already had a house somewhere else, or, that someone would sell to make some money and then return to where they had come from. Although qualitative in nature, these are indications that support how removed from reality it is to argue for secondary market transactions so soon after primary access. “Consumer education”, the default strategy for surprising non-conformity (often perceived as traditional or unmodern behaviour), belies an unwillingness to take seriously both the agency of the poor, and the deep-seated causes of exclusion.

More is understood now about the livelihood value that property has to people, about the functions it performs from the Voices of the Poor (ULM, 2007c) and operation of the land markets work of ULM (2007b and 2008). An analysis of 74 household interview transcripts as part of the operation of the market study into how the poor access, hold and trade land indicates that decision-making about accessing urban land is closely linked to livelihoods. In other words, accessing urban land in a suitable location can result in increased access to jobs and income-generating activities, and lower living costs (Smit, 2008). Furthermore, in a series of “voices of the poor” workshops held in 2007 designed to obtain more directly perspectives of the poor, it was found that community organisations overwhelmingly link access to urban land with livelihoods. Many informal settlement communities are fighting for their right to stay close to jobs and facilities such as schools, and are resisting relocation by the state to peripheral locations where there are no jobs or facilities (DAG, 2007; ULM, 2007c). Land for urban agriculture was also seen as being important. Although not explicitly raised as a livelihoods issue, it was also clear that the rental of backyard shacks was seen as a form of income generation. (ULM, 2007c: 6).

Return on investment and the associated accumulation objectives are not valid across the board, and arguably less and less valid the poorer people are. The following diagram builds on the previous figure by overlaying onto it the functions of property. The second economy strategy needs to base the direction it takes on property and tenure on clarity regarding the functions that property performs. Two sets of alternative conceptions are helpful here - property as livelihood asset or asset for accumulation; and the use and exchange values of property.

Figure 4: A more differentiated "poor" and the functions of property



Constraints to the delivery of title

The subsidy programme has run into difficulties around title, with as yet unquantified blockages at the township proclamation and deeds registration points in the property development process. This presents a significant operational constraint to realising the (rather more limited) potential of the property sale and return route to increased economic opportunity, as having title is a pre-requisite.

Insufficient attention at the biggest property market issue - price

Land price has been a key factor in the poor location of RDP housing projects, and poor location is critical to the national housing policy problem statement regarding lack of integration (RSA, 2004). This route presumes that the property in question has sufficient market value to generate a return, which in turn depends on location, as well as investments in improvements. Cubes (2008) finds that investment in improvements is limited, because lack of disposable income, with 98% of households having made no investment at all. Those households which had invested, had done so to make houses more livable, not more tradable, and for family related reasons. Poor location remains an intractable problem in the housing policy, and one that affects all routes to economic opportunity in this paper, especially routes 1 and 3. Re-framing the issue may help by opening inquiry into the link between better location and non-ownership tenure.

Route 2: the potential for increasing on site economic opportunity

This is the second route to increasing economic opportunity. It relies on maximizing the productive potential of property. Recent Finmark research in townships and inner city areas (Finmark, 200?) found 355 000 "home based enterprises"[6], comprising 13% of the total population of these areas and generating R6b annual income. It concluded that prevalence levels are low but that income generation is significant. It also identified that "small scale land lords"[7] provide rental to almost 2 million households, 15% of South Africa's population. 60% of these enterprises are on the property of the landlord and an average income of R1800 per month is being generated, which constitutes just over R56b annual rental income or R427m per month. Furthermore, over 62% of landlords indicate that it is easy to find tenants. Two opportunities arise here, from the perspective of increasing economic opportunity. The first is growing the scale of the enterprises at an individual level, to increase the accumulation possibilities for individuals concerned. The second is increasing access to the opportunity as livelihood strategy and in support of livelihood diversification, once again opening up the channels of potential more.

The second economy strategy should support maximising this potential by increasing access to property. Neither access to title nor formalization should be pre-conditions for increasing access to on site economic opportunity. Thus policy interventions with regard to permissions, for example, should not be predicated solely upon formalisation, otherwise large swathes of settlements in the country, and smaller localities within formal areas, will be excluded. Neither should policy aim to curtail the variety of "sub-tenancy" arrangements in informal settlements which have some degree of official recognition. Increasing access to land and securing tenure are key policy directions in this regard. Land use management policy should have a more positive approach to the livelihood diversification and accumulation objectives linked to on site, or home based, productive land uses. Rights should be articulated in land management instruments that are inclusive of informal settlements, and rights to income generate on site should be addressed.

The housing policy itself does little to support home based income generation through the provision of rental accommodation. Gilbert (200?) argues that the South African government is taking tenants away from needy landlords by giving subsidies for ownership only (or more accurately, mainly). He proposes that more could be done to support very poor people making money from their homes by subsidizing the extension and improvement of rental space. In ULM backyard rental research (Isandla Institute et al, 2007 and Smit, 2008), evidence exists that people are aware that by choosing to live in rental accommodation rather than in informal settlements, they are virtually giving up on ever getting RDP housing.

[6] These include what would be termed, in another lexicon, livelihood strategies or activities
[7] This includes backyard shacks

Route 3: the potential for increasing access to urban economic opportunity with property as a base

The third route is the more indirect route of using property as a (secure) base from which to access urban economic opportunities. Access to property by the poor is a varied market of supply, and some access channels suffer from labels of illegality or extra-legality or from policy intentions of eradication. An alternative approach, which works from what exists, rather than from a clean slate, would search for, and find, means that address the adverse terms on which poor people are accessing property (or, that alter the terms of incorporation rather than simply imposing what works for the wealthy, unchanged, onto the poor). Current supply channels include the state, the commercial private sector or financially driven markets, and local channels or socially determined markets[8]. These channels of supply are not always mutually exclusive. For example the state is seldom absent from the socially determined supply and holding of property. For example, in registering shacks the state creates a new commodity which revolves around a right to future development (ULM, 2007a). ULM research (ULM, 2007a) finds that the social (informal) systems perform better for the poor in the short term, they demonstrate more elasticity than state and formal market systems.

This route is highly dependent on the extent of economic opportunities that urban areas have to offer. In this sense, the potential of property is limited in how far it can go in increasing economic opportunity. However, expanding secure access to property (and not necessarily individual ownership) can go some way towards putting in place a pre-condition to realize the potential that does exist. In many ways this is an alternative phrasing of the issue of "backlog", and in that sense it is nothing new. However, it offers a different emphasis on broadening access to property through multiplying the channels that count and expanding their accessibility. On one hand this means continued, energetic focus on making the housing subsidy scheme work better – increasing its pace, ensuring that it targets the poor, accommodating a property livelihoods perspective for the poor (much more appropriate than a property accumulation perspective for at least the 64% of households with less than R3500 monthly incomes and arguably for over 81% who are not able to afford entry level property at 2007 prices – whatever the percentage, it is significantly in excess of the majority of households in South Africa). On the other it implies working with the systems of supply that are best at providing access – the unofficial, informal or socially determined markets. One dimension of this is to make property more accessible beyond the bounds of state supply via the subsidized housing programme. International examples of "guided land settlement" exist. The City of Johannesburg has begun to explore, with technical assistance from ULM, ways of identifying and securing rights and obligations in informal settlements in the city as part of its system of land management – the building blocks of an alternative approach to tenure security. Rental accommodation is another avenue – especially support to backyard or home based rental accommodation because of its ability to reach the poorer income segments.

[8] An alternative, but less accurate, phraseology is state, formal market and informal markets, respectively.

On the other hand, it means addressing the vexing, and seemingly intractable, issue of location. In this argument, a better location enhances access to opportunity and in general, although the meanings of a good location vary, proximity to opportunities is what counts – in the formal and informal economies, in a localized or city-wide sense, and given the legacy of apartheid spatial structure, access to transportation networks. Findings from ULM's qualitative research (Smit, 2008) shows that rental accommodation in an established township seems to offer the best location as older townships have become more centrally located. Whereas residents of Greenfield RDP housing projects have little or no choice about project location with severely negative impact on the quality of life, more choices are available in informal settlements and backyard shacks, and residents make conscious decisions, and trade-offs, about location. Transport links and a range of facilities have developed over many decades. This is confirmed by international research (Gilbert, 1997, quoted in Smit, 2008) – small scale rental housing in developing countries tends to offer better location than equivalent ownership housing and facilitates greater labour mobility, important for the livelihood strategies of poor households.

Key intervention areas for the urban component of the second economy strategy

Several policy positions have been identified in the preceding sections, pre-eminent among them is the need to differentiate the poor.

Segment the market and "mind the gap"

This policy direction is based on the need to disaggregate or differentiate the poor, in the interests of appropriate targeting of public policy in general and housing subsidization in particular. The continuum figures in this paper are intended to focus attention on the sheer volume of households with a less than R3500 per month income, households to whom the formal property market does not deliver, even if the gap housing problem were overcome. This does not fundamentally question the gap housing problem, but it certainly questions whether it is an appropriate target market for public policy. This paper questions the relevance of the argument that delivering to the gap has a positive spin off to the poor in terms of upward mobility (the whole market argument), for the majority of the poor in the foreseeable future. In the meantime a very real danger exists of distraction from the primary focus of public policy attention – the poor, as is arguably the case with the diversion into inclusionary housing at present. Much greater clarification of what is meant by "the poor" is required if policy attention is to be appropriately pro-poor.

Several intervention areas arise from the policy positions, and directions, offered the body of the paper, some of which are overtly concerned with tenure, while others are more general in nature but flow from a tenure orientated perspective on the poverty and inequality concerns which underpin the notion of the second economy. The first sequence of intervention areas are more directly concerned with tenure and the last few tenure-informed.

1. Title:

A large programme of titling is already in place through the housing subsidy scheme. However, investigation into blockages to transfer of title is required in order to better understand the constraints to its delivery. On this basis a more elaborate position could be developed on the implications of a blanket titling approach, against which this paper has argued. Title has limitations in meeting expectations traditionally associated with it, expectations vigorously renewed by Hernando de Soto in the Mystery of Capital and headily embraced, with this affirmation in mind, by the Commission on Legal Empowerment of the Poor and here in South Africa by Finmark Trust (see Shisaka's township residential property markets study undertaken for FinMark). Unfortunately, as alluring as it may be, the promise to the poor and their governments of poverty alleviation and wealth accumulation through title is shallow, if not downright empty, as it depends on market access and on this access being maintained over time (Royston, 200?). Recent empirical work in Ekurhuleni (Cubes, 2008) shows that possession of a title deed has little impact on residents' perceptions of tenure security, improvements and household investment, borrowing / access to credit, making houses easier to sell, income generation through sale, and household saving.

2. Local property registers:

This paper has made repeated calls for alternative channels to secure tenure. Local property registers give substance to this proposal.

Tenure security enhances the economic potential of property. The development, implementation and management of alternative systems of property registration is a means of securing tenure. This paper's emphasis is on secure tenure as a pre-condition for securing access to property as a means, in turn, for realizing the potentials that property has for increasing economic opportunities. It argues against title being a singular avenue for tenure security, and suggests working with tenure arrangements that exist. This requires work on land management (broader than the management of use) rather than a narrow focus on tenure form – in other words processes and procedures which identify and secure people's rights and obligations. Local land registers are a proposal for intermediate means for the registration of tenure (property rights and obligations).

In this regard, existing practices (or intentions) have something to offer. In eThekwini, COJ and some other cases initiatives are underway to explore local land offices, and the management of land use and rights in informal settlements. The proposal is for the establishment of local registers in informal settlement upgrading processes, or township formalization processes, where possible building on what already exists with municipal or provincial shack registration processes, or community registers. However, current population or occupancy registers are only a starting point – they need to shift to become property registers which focus less on freezing population growth and embrace the objective of tenure security. They need to move in the direction of registering rights (including rights to transfer), and managing change (including transfers). They should contain family name, physical address, a geo-spatial reference and a record of property rights and obligations. The purpose is to secure land tenure in support of land related livelihood strategies and economic opportunities.

3. Rental housing:

Rental housing is an economic opportunity for rental providers (route 2). It is also a channel of property access with potential to access urban economic opportunities with secure property as a household base (route 3). Rental housing options are varied in nature inclusive of public rental, social rental (the particular brand of social housing in South Africa) and private rental. Private rental arrangements vary with landlords ranging in scale and housing typology. Small scale landlords provide accommodation to 15% of the population – this includes backyard shacks, "granny flats", and medium density forms of accommodation (Finmark, 200?). Rental housing also tends to have a more positive relationship to location than ownership housing, with economic spin-offs for tenants (Gilbert, 1997, in Smit, 2008).

4. Increase the supply of land to poor people:

As property access is a precondition for realizing its potential in increasing economic opportunity, the most significant policy direction is to open up channels of supply. This paper, building on recent ULM research, offers a trifocal lens on systems of supply:

- Commercial private supply, financially driven;
- State supply, or state assisted supply through the housing subsidy programmes;
- Local or informal supply, socially determined.

It suggests that informal systems of supply should count more in the second economy strategy than they currently do in the housing policy discussions. Efforts to release land should be revisited and enhanced in order to broaden access to property and the potential it offers for increased economic opportunity.

Comment [L2]: How does the hsg devt agency respond to this?

5. Maintain, and revitalize, a focus on the housing subsidy scheme:

The housing subsidy scheme is an enormously significant achievement in the so-called second economy. Its allocation, or targeting, remains a critical challenge of the state. The second economy strategy should be wary of confirming the direction of encouraging RDP secondary market transactions in the short to medium term due to the lack of availability of housing stock for upward mobility, the attendant risks of displacement and reversion to informality (the ladder as snake – Royston, 2007), the alternative value that property possesses (alternative to financial value, alternatives to commoditization). On the other hand, neither should the second economy strategy confirm a direction that seeks to prohibit resale as this is plainly difficult to enforce. Instead inquiry into the nature of tenure rights on state subsidized property and alternative channels to support (such as support to backyard shacks (should be opened.

6. An urban land for livelihoods programme:

Urban land functions as a livelihood asset for poor people. In the current policy discussion this seems to be viewed as a somewhat stagnant and limiting approach, especially in the light of the extent of poverty in the country. The notion of asset building and accumulation (Moser, 2007) has much more traction, because of what it offers for anti-poverty strategies, but also for the anti-welfare, “third way” ideology that informs it. The position here is simply not to lose the asset protection argument or to forget the livelihood nature of land, and to target the different conceptions of property appropriately – a point which the continuum diagram intended to make, largely on the basis of the sheer volume of households for whom the housing, or property, access frontier is a blur on the horizon.

A more permissive land management approach to home based productive use of land is required if the potential of route 2 is to be maximized. This route to economic opportunity would be greatly facilitated with less restriction on the occurrence of non residential land uses. Regarding rental accommodation in backyard shacks, ambiguity prevails in current policy discussions regarding how much more to intervene in what seems to be a relatively well functioning and pro-poor sub-market.

7. Capture value from well functioning properties to distribute benefits more evenly:

Instead of confirming direction that imposes first economy mechanisms on the poor, more attention is needed in conceptualizing actions needed in the first economy itself. No matter the extent of wishful thinking regarding how capital gains can be realized from property for the poor, primary transactions, or property access, remains the most important constraint for the poor and alternative mechanisms are needed if the gains made off property in functioning formal markets, driven financially, are to be more evenly distributed, more accessible to the poor. The Lincoln Institute of Land Policy in Boston is a leading global institution advocating value capture. The Development Action Group in Cape Town is the primary South African advocate. Inclusionary housing is an example of value capture, but its ability to target the poor is questionable. Many instruments for value capture are currently available in South Africa, in the realm of planning permissions, property taxation and so forth. It is their pro-poor application that requires attention.

Conclusion

Property performs a range of different functions for the urban poor. Tenure is a means of securing property access and holding. Secure tenure facilitates improved access to the economic potential of property in a number of different ways which include sale of property; on site income generation; and a secure urban base to access more economic opportunity available in the city. The main policy directions offered by this paper are opening up channels to property and securing tenure which includes but is not limited to title.

Intervention areas proposed in the paper are local property registers to secure tenure rights, continued subsidization of housing with an additional emphasis on rental housing, increased land supply, an urban land for livelihoods programme and value capture.