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Informal settlement upgrading in the current policy context: lessons from the Civic Movement in Lebowakgomo in Limpopo Province, 1990-2000

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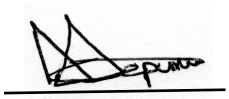
Research Title: Informal Settlement Upgrading in the current policy context: Lessons from the Civic Movement in Lebowakgomo in Limpopo Province, 1990-2000.

Informal Settlement upgrading in the current policy context: Lessons from the Civic Movement in Lebowakgomo in Limpopo Province, 1990-2000.

A research report submitted to the Faculty of Engineering and the Built Environment, University of the Witwatersrand, in partial fulfilment of the Degree of Master of Science in Housing, March 2009.

Declaration

I declare that this research report is my own unaided work. It is submitted for partial fulfilment of the degree of Master of Science in Housing in the Faculty of Engineering and the Built Environment at the University of the Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination in any other university.



D.M.C. Sepuru

31st day of March 2009

Abstract

The national and provincial departments of housing and local authorities can draw incredible lessons from the integrated approach of the Civic Movement in Lebowakgomo which is similar in many respects with major tenets of Chapter 13 of the National Housing Code in their endeavours to upgrade informal settlements in this country. The approach employed in this study hinges on a desktop study of grey and secondary literature, audio material in the form of information dissemination cassette complimented by the living memory of the only two respondents that I interviewed as well as my personal experience derived from my tenure as the Chairperson of the local branch of SANCO, Councillor for Ward 3, Chairperson (all Mayors of rural Transitional Local Councils (TLCs) were referred to as Chairpersons) of Greater Lebowakgomo TLC and the TLC Rep in the Northern District Council (NDC). These methods and procedures revealed that the Civic Movement approach encompassed major tenets of Chapter 13 of the National Housing Code, centred on concepts of urban-rural linkages, secure tenure, community participation and eradication of informal settlements and the people-centred and people-driven processes.

Dedication

To my mother and late father.

This report is affectionately inscribed.

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Abbreviations or Acronyms

AA	- Affirmative Action
ANC	- African National Congress
AZAPO	- Azanian People's Organisation
BA	- Business Area
BBBEE	- Broad-Based Black Economic Empowerment
BEC	- Branch Executive Committee
BNG	- Breaking New Ground
CALS	- Centre for Applied Legal Studies
CDM	- Capricorn District Municipality
CMIP	- Consolidated Municipal Infrastructure Programme
COSATU	- Congress of South African Trade Unions
DFA	- Development Facilitation Act
EPWP	- Extended Public Works Programme
Eskom	- Electricity Supply Commission
ESTA	- Extension of Security of Tenure Act
GA	- Government Area
HSS	- Housing Subsidy Scheme
IA	- Industrial Area
IDP	- Integrated Development Plan
IDT	- Independent Development Trust
IF	- Implementation Forum
JV	- Joint Venture
LCA	- Lebowakgomo Civic Association
LCO	- Lebowakgomo Civic Organisation
LDO	- Land Development Objectives
LIMA	- Lebowakgomo Interdenominational Ministries Association
LPM	- Landless People's Movement
LTA	- Lebowakgomo Traders Association
LTOA	- Lebowakgomo Taxi Owners Association

MEC	- Member of the Executive Council
MIG	- Municipal Infrastructure Grant
MK	- Umkhonto We Sizwe
MP	- Member of Parliament
MPL	- Member of Provincial Legislature
NDC	- Northern District Council
NGO	- Non-Governmental Organisation
PAC	- Pan Africanist Congress
PHB	- Provincial Housing Board
PIE	- Prevention of Illegal Eviction
PPC	- Public Participation Committee
PR	- Proportional Representation
PSC	- Project Steering Committee
PWV	- Pretoria-Witwatersrand-Vereeniging
RDP	- Reconstruction and Development Programme
Rep	- Representative
SAB	- South African Breweries
SACP	- South African Communist Party
SADF	- South African Defence Force
SADTU	- South African Democratic Teachers' Union
SANCO	- South African National Civic Organisation
Telkom	- Telecommunications
TLC	- Transitional Local Council
UDF	- United Democratic Front
UN	- United Nations
WHO	- World Health Organisation

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Chapter 1

Introduction to the research report

1.1 Introduction

Urban Land invasion is a daily occurrence that accounts for the existence of informal settlements throughout the world. The reasons for land invasions are manifold. Chief among them is lack of opportunities in the rural areas coupled with high commuting costs to and from the work centres in urban areas. This results in rural-urban migration with the formation of informal settlements in close proximity to formal areas where job opportunities are available. In South Africa, the process of informal settlement formation was predominantly driven by the Civic Movement and/or individual members of the civil society.

The mushrooming of informal settlements has become a headache for governments worldwide. Many governments resort to forced evictions, some just tolerate them or ignore them while others apply upgrading as a solution to the challenge of the escalating growth of informal settlements. The South African government has adopted upgrading and relocation of existing informal settlements as well as zero-tolerance to new invasions in its new housing policy as contained in Chapters 12 and 13 of the National Housing Code and a 2004 document entitled A Comprehensive Plan for the Development of Sustainable Human Settlements commonly known as Breaking New Ground (BNG).

The task of this research report is to analyse the experience of upgrading of informal settlements in Lebowakgomo, which occurred prior to the enactment of Chapter 13 of the

National Housing Code hereinafter interchangeably referred to as Chapter 13 of the Code or the Programme, to compare some of the key issues that were faced in that upgrading process and test their relevance for implementing upgrading processes in line with Chapter 13 of the Code. In an endeavour to accomplish this task, I will scrutinise how the controversial issue of eradication of informal settlements was tackled, how issues of urban-rural linkages impacted on tenure choice, how tenure security was addressed, and how community participation was conceptualised and executed by the Civic Movement during the period under review. To this end, I adopt an advocacy approach as a tool of analysis within the context of concepts of eradication of informal settlements, urban-rural linkages, secure tenure and community participation.

1.2 Background and Problem Statement

Although there is an extraordinary parallel and contrast between the Civic Movement approach to upgrading of informal settlements in Lebowakgomo hereinafter referred to as the Civic Movement approach and Chapter 13 of the Code, the local municipality of Lepelle-Nkumpi in Limpopo province has failed to draw lessons for an appropriate intervention from the Civic Movement approach while also failing to implement Chapter 13 of the Code since its adoption in 2004. This makes it relevant to compare and contrast the two approaches. The aim of this research report is to delineate the similarities and differences between the informal settlement upgrading as advocated by the Civic Movement in Lebowakgomo from 1990 to 2000 and Chapter 13 of the Code with a view to draw lessons for an effective informal settlement intervention. In this comparison, I will assess in particular issues of urban-rural linkages, secure tenure, community

participation and eradication of informal settlements and how they impacted on informal settlement inhabitants and the environment. The aim is to broaden our understanding of opportunities and constraints with regards to upgrading in line with the stipulations of Chapter 13 of the Code. In addition, the research report seeks to avail information needed for appropriate and effective planning and development within the context of informal settlement upgrading.

1.3 Research Question

Research Question

To what extent can Civic Movements use access to government as a strategy to influence the way Chapter 13 of the Housing Code is implemented and adapted to local contexts? – A case of Lebowakgomo in Limpopo Province.

The answer to this research question will centre on the following sub-questions:

Sub Questions

- What were the key components and philosophy of the Civic Movement approach in Lebowakgomo? To what extent were they influenced by the concepts of urban-rural linkages, secure tenure, community participation and eradication of informal settlements?
- What are the lessons that can be learnt from the Civic Movement approach in Lebowakgomo to unlock the potentials of Chapter 13 of the Code?

1.4 Hypothesis

The answer to the main research question provides an example of where the Civic Movement approach to informal settlement upgrading was effective and comparable to Chapter 13 of the Code, a programme which virtually all municipalities in this country do not apply yet. This is despite the availability of various reports that were commissioned by the National Department of Housing (DoH) and constructive criticisms and advice from commentators such as Marie Huchzermeyer. Therefore, this research report will not only add to an existing body of knowledge but also cast light on contentious issues.

The fact that there is a substantial overlap between the Civic Movement approach in Lebowakgomo and Chapter 13 of the Code will help us to draw lessons for a viable informal settlement intervention. Chief among these lessons is the fact that the mechanisms employed by the Civic Movement in Lebowakgomo pertaining to community participation will empower us in drawing a blueprint for effective community participation prior to, during and beyond the upgrading process.

1.5 Research Method

The research method for this study consisted of a desktop study review of secondary literature and grey literature. The grey literature that constituted the core of the documents that I used for purposes of this research report were minutes, memoranda, organisational reports, court papers and newspaper cuttings. Of importance is that these documents were informative, readily available, retrospective and affordable. The vast amount of these documents coupled with secondary sources on the study area covered

every aspect of enquiry without any gaps that needed to be filled. This was complimented by my recollection of observations of daily activities and experience from 1993 to 2000 while in the leadership of the Lebowakgomo Civic Association (LCA) which was later transformed into the local branch of the South African National Civic Organisation (SANCO) as well as the Greater Lebowakgomo Transitional Local Council (TLC).

My recollection of key events was boosted by the memories of the only two respondents who were carefully selected for open-ended interviews to emphasise specific points. Of the two respondents, one was the former Chairperson of the Lebowakgomo branch of the ANC and the other was the former Deputy Chairperson of the Lebowakgomo branch of SANCO, former Administrator of the Greater Lebowakgomo TLC and former member of the Provincial Housing Board (PHB) of the Northern Province. None of them came from the opposition civic organisation, i.e., the LCO for reasons that I will elaborate in the next sub-section of this report.

As I will vividly show in the main report, the case study of Lebowakgomo during the period under review is relevant to informal settlement upgrading today in that the Civic Movement approach in Lebowakgomo comprised of ingredients that are comparable with Chapter 13 of the Code. The sets of data that I collected and investigated hinged on concepts of urban-rural linkages, security of tenure, community participation and eradication of informal settlements. All of these concepts except urban-rural linkages are also covered in Chapter 13 of the Code.

1.6 Limitations of the research

As I have already pointed out, I conducted only two carefully selected open-ended interviews because the grey literature on the study area was rich and adequate to militate against the use of interviews. Moreover, the interviews were to result in the duplication of existing data. It is also highly probable that my dual leadership as Chairperson of the local branch of SANCO and Chairperson (Mayor) of the Greater Lebowakgomo TLC during the period under review might have antagonised leaders and supporters of the then opposition Lebowakgomo Civic Organisation (LCO) to either refuse to partake in the interviews for attitudinal reasons or withhold sensitive information for fear of reprisals. In summary, interviews were going to end up being biased due to ongoing tensions. The limited use of interviews as part of the research methods of my case study robbed the research report of the richness of oral evidence. This in spite of the possibility that there might have been a few people within the opposition category who could have granted me interviews given my conflict resolution skills, which have been hailed by many people (including the leadership and membership of the opposition LCO) I have crossed swords with during my dual leadership of both the local branch of SANCO and the TLC.

Further, I must acknowledge that my past and direct involvement in the leadership of the TLC and SANCO-affiliated LCA creates an ambivalent status between a personal and therefore somehow subjective narrative and an academic enquiry about the politics of formalisation of informal settlements and/or the dichotomies of being a civic leader and a government elected representative. Nevertheless, this report is still of value because of

the original and exceptional character of an ‘internal perspective’ on informal settlement upgrading and the shift from the civic to government.

Given the limited time-frame at my disposal, the research could not explore issues specifically related to women although women constituted more than half the residents of informal settlements. Neither could it address issues specifically affecting other vulnerable groups such as HIV/AIDS victims, people with disabilities, the youth and the aged, nor did it present statistical analysis of the poor. Nevertheless, an effort was made, albeit on a piece meal basis, to give a gender sensitive perspective of how the issues under review affected women. In addition, although it was not part of my task to categorise the poor, I endeavoured to outline how issues of informal settlement upgrading affected the working poor and the most destitute. Furthermore, issues that affect other vulnerable groups stated above were treated generally as similarly affecting the poor in informal settlements.

1.7 Ethical Considerations

I remained objective throughout my analysis and presentation of information obtained from grey literature by putting aside my allegiance to the local branches of SANCO and the ANC and its alliance partners in Lebowakgomo. The risk of a bias testimony was partly addressed through critical and self reflection as well as engagement with literature to allow for some critical distance. However, I never abandoned my personal living memory in the process of my inquiry. On the contrary, I strived to build on it and develop it through my interaction with facts I obtained from primary documents. As for the two

interviews I have already outlined in item 1.5 above, I divulged my identity and explained the purpose of the research to the two respondents, gave the two respondents the choice to give or withhold consent at any time of the interview and withdraw if they so wished, obtained the consent of the two respondents to reveal their identity; avoided sensitive questions, and refrained from raising any hopes about the outcome of the interviews.

Conclusion

This research report is an attempt to add evidence to the debate on how upgrading of informal settlements can be achieved in line with the stipulations of Chapter 13 of the Code. The aim is to address the failure by municipalities to implement Chapter 13 of the Code by way of drawing lessons from the Civic Movement approach in Lebowakgomo during the period 1990-2000 and existing South African and international literature on informal settlements.

The next Chapter deals with literature review and the conceptual framework of this study. Chapter 3 sketches the background within which the Civic Movement approach evolved. Chapter 4 interrogates the Civic Movement approach from the socio-economic angle while Chapter 5 scrutinises it from the political point of view. Last but not least, Chapter 6 points out lessons learnt from the Civic Movement approach and shows the road map national and international governments, the South African government in particular, need to follow for successful implementation of upgrading projects.

Chapter 2

Literature review and conceptual framework

2.1 Introduction

The conceptual framework of this research report hinges on issues of urban/rural linkages, secure tenure, community participation and eradication of informal settlements. The intention is to address the problem that almost all municipalities in this country turn a blind eye to the new housing policy as adopted in 2004 and thus fail to move in a new housing policy direction. This can be ascribed to lack of political support from the central government and provincial governments. It can also be attributed to the fact that municipalities embrace zero-tolerance to both existing informal settlements and the formation of new informal settlements. Another problem is that a few municipalities that have adopted upgrading as a strategy do not implement it in terms of the principle approach of Chapter 13 of the Code.

This chapter of the research report is concerned with a discourse on the issues raised above, including an overview of Chapter 13 of the Code, as reflected in the existing literature under the following headings: the Civic Movement nationally and in Lebowakgomo, informal settlements and informal settlement upgrading, eradication of informal settlements, urban-rural linkages, secure tenure and community participation.

2.2 The Civic Movement nationally and in Lebowakgomo

The civic organisations (civics) were formed by members of the civil society to address bread and butter issues in most townships and villages of South Africa in the late 1970s

(Huchzermeyer, 2004). After the formation of the United Democratic Front (UDF), an umbrella of organisations that were opposed to Apartheid, in 1983, the majority of the civics affiliated themselves to it. The UDF 'spread the [civic] movement beyond formal townships into informal settlements' (Ibid: 115) including 'the new generation of informal settlements that emerged with the administrative ambiguities of the 1980s' (Ibid). With the unbanning of the African National Congress (ANC) in 1990, the UDF was dissolved, leaving the civics uncoordinated at national level. Efforts at coordination at regional level led to the formation of the South African National Civic Organisation (SANCO) at national level in 1992. The civic organisations which were operating under the umbrella of the UDF and those which subscribed to the ideals of the Freedom Charter that were formed after 1990 such as the Lebowakgomo Civic Association (LCA) immediately affiliated themselves to SANCO.

The organisational structure of SANCO consisted of national, regions, sub-regions, branches, blocks and streets. Currently, the organisational structure is still the same except that it includes provinces which were established after the 1994 democratic elections. Immediately after its formation in 1992, SANCO aligned itself with the ANC-led Tripartite Alliance to constitute the Tripartite Alliance-Plus One. The reason for alignment with the Tripartite Alliance, which consisted of the African National Congress (ANC), South African Communist Party (SACP) and Congress of South African Trade Unions (COSATU), was because it was felt that the ANC was in a better position to advance the cause of the civics as compared to other political organisations.

Immediately after the democratic elections of 1994, attempts were made by ANC leaders to address bread and butter issues of the community at local level in competition with SANCO. This occurred despite the fact that in the early 1990s, 'local ANC leaders and branches generally allowed civics to play the leading role in local politics' (Seekings, 1997: 15). This sudden change in approach was caused by the fact that the ANC leaders saw the local government 'as a voice of the community and [thus] felt that it should not be accountable to the civic groups' (Mayekiso, 2003: 72). For this reason, it was felt that the primary allegiance of Councillors was first to the ANC and only then to SANCO (Mayekiso, 2003). This was an endeavour to force SANCO Councillors 'to choose between loyalty to the ANC and loyalty to SANCO' (Seekings, 1996: 26). This resulted in the notion that the Ward Councillor 'should answer directly to the electorate' through ward meetings (Mayekiso, 2003: 72). As a result, 'the historical bottom-up democracy of the Civic Movement was [ultimately] replaced by a top-down instrumentalist approach, which disempowered local civics' (Ibid: 66). Amidst these developments, 'council officials continued to develop projects without community involvement, and only included community groups in order to endorse developments' (Ibid: 72).

After the first democratic and community elections of 1994 and 1995 respectively, the Civic Movement lost many of its key cadres into government structures, 'both as elected representatives and as civil servants' (Seekings, 1997: 6). Mayekiso (2003: 62) argues that the fact that the civic lost its 'cadres to local, provincial and national government hampered the capacity' of its structures to represent community members. However, at its national conference in 1992, SANCO resolved to permit its leaders holding public office

to retain their positions in the Civic Movement. This move was aimed at addressing 'organisational problems caused by the exodus of leaders into public office' (Ibid: 23). Mayekiso (2003) argues that this policy shift meant that SANCO 'could contest local politics more effectively, contesting for influence within the ANC' (Ibid).

Mayekiso (2003: 59) further contends that 'aside from the stress on councillors adopting neo-liberal municipal fiscal, infrastructure and privatisation policies (many of which were not fully understood), social movement organisations had to re-orient themselves to replace the use of confrontation as the first option in addressing urban issues with the democratic state'. To this end, these organisations 'had to utilise consultation and collaboration as weapons to ensure service delivery and proper development of communities' (Ibid: 60). Seekings (1997) adds that 'many of the representative roles performed by civics at the local level hitherto' were ceded to political parties and Councillors (1997: 1). However, as the major thrust of this research report will show, the local leadership of SANCO in Lebowakgomo ensured that these roles were turned into a boon (Ibid). This contradicts Zuern's (2006: 187) argument that 'a social movement needed to be more independent of the state in order to be effective'. It also contradicts her assertion that the take-over by the institution of state of many of the roles that were previously performed by the civics rendered the civics redundant.

2.3 Informal settlements and informal settlement upgrading

UN-Habitat (2006: 97) defines slums as 'the generic term used to classify informal, illegal or unplanned settlements'. For it, informal settlements 'reflect a dynamic and

diverse labour market and offer affordable housing to those who cannot, or will not, pay for accommodation in the city' (2006: 50). Informal settlements originate from spontaneous or organised invasion of unused land. In established townships such as Lebowakgomo, planned land occupation took place on unused, unserviced but pegged sites on the periphery. In the case where they occur through the blessing of the authorities, such land invasions take cognisance of formal layouts. Of importance is that any land occupation that is modelled (informally) on the formal layouts creates 'suitable conditions for *in situ* upgrading' (Huchzermeyer, 2004:181). However, in most cases, illegal occupation in established townships takes place in an unorderly fashion in that it disregards the boundaries of sites and open spaces.

Prior to the new dispensation in South Africa, informal settlement intervention was characterised by eviction of unlawful occupiers. It was only in the 1990s that this strategy was toned down through the imposition of sites and services schemes on residents of informal settlements. These schemes entailed provision of access to water and sanitation with stand-alone toilet structures together with freehold title for informal settlement dwellers. The major problem is that 'land regularisation and the extension of infrastructure into informal settlements' took the form of a top-down approach whereby residents were treated as passive recipients of their housing needs by the authorities (Huchzermeyer, 2004:182; also see Mayekiso, 1996). Although they improved security of tenure, the sites and services schemes did not provide for houses for the poor, the majority of whom were residents of informal settlements. By so doing, they perpetuated poverty and overcrowding. Hence, the civics dismissed the products of sites and services

schemes as “toilet towns” because the introduction of these schemes did not fulfil their ‘expectations of decent standards’ (Mayekiso, 1996: 247). The fact that these schemes were ‘primarily concerned with economic efficiency and cost recovery’ means that they ignored the poverty factor as it applied in informal settlements (Ibid). They also ignored to take cognisance of the fact that the poor could not muster the necessary resources to construct their own houses on serviced plots (Mayekiso, 1996).

The first decade of democracy did not witness deviation from the sites and services schemes except for the inclusion of the top structure (house) through the Capital Subsidy Scheme. In fact, *in situ* upgrading took the form of ‘replacement of informal settlements with formal township layouts, standardised plots with freehold title, and formal housing’ (Huchzermeyer, 2004:229). Like the sites and services schemes, the once-off Capital Subsidy Scheme failed ‘to meaningfully take into account residents’ needs, realities, ideas and capacities’ (Ibid:76). In addition, ‘the role of the community organisation and leadership was reduced to that of serving the project objectives’ (Ibid: 152).

Further, identification and management of infrastructural projects was driven from outside through consultants. As a result, there was lack of community engagement ‘over layout dimensions around existing patterns of land occupation’ (Ibid: 77). Dwelling densities were also drastically reduced as the formal layout generally resulted ‘in increased plot sizes and wider access routes’ (Ibid: 151). In addition, ‘the pending remodelling and standardisation of the settlement layout according to the norms and standards attached to the intervention funding’ discouraged individual households from

investing in permanent construction of their homes or incremental housing (Ibid: 229). To make matters even worse, 'the residents' prospects for an individual asset that was to be gained through the capital subsidy system' discouraged any major popular challenge to the national policy of informal settlement intervention through the capital subsidy mechanism despite its flaws (Ibid: 230).

The informal settlement intervention through the capital subsidy mechanism did not serve as a safety net for the poor. Rather, the delivery of freehold title through the mechanism of capital subsidy was 'intended to tie the beneficiary household into a system of payment of rates and service charges, likewise a form of cost recovery introducing a new financial burden to the beneficiary households' (Ibid: 147). In addition, the informal settlement intervention through the capital subsidy mechanism was part of 'a government commitment to boost the macro-economy' (Ibid: 35). Further, the construction industry was not 'interested in implementing complex, socially responsive *in situ* upgrading that would minimise social disruption and build on existing processes in informal settlements' because it was only interested in profit-making (Ibid).

Huchzermeyer (2008: 95) argues that 'the South African government was far from embracing informal settlement upgrading' at the beginning of the new millennium. Instead, it 'focussed on relocation to formal housing, as well as to transit camps or temporary relocation areas, the latter in particular continuing apartheid practice' (Ibid). This approach was consolidated through Chapter 12 of the National Housing Code in 2004. Henceforth, relocations were propelled by the desire to "beautify" cities in line

with the UN-Habitat slogan of 'Cities without Slums' with a view to attract investors and tourists. In my view, informal settlements that are located in the vicinity of major international airports such as Makausi in the city of Germiston and Joe Slovo in Cape Town thus became the target of such "beautification" and associated slum elimination.

In the case of the city of Germiston, the Ekurhuleni Metropolitan Municipality endeavoured to clear seven informal settlements located in and around the city and its precincts. In Makausi, for example, the Ekurhuleni Metropolitan Municipality attempted to relocate the informal settlement dwellers from the area to Tsakane (about 40 km from the original settlement) on the pretext of health risk. This direct and negative eradication approach of the Ekurhuleni Metro can be ascribed to the fact that the said informal settlements are exposed to thousands of tourists who embark and disembark their flights at the nearby O.R. Tambo International Airport.

For the above reasons, Chapter 12 of the Housing Code (Housing Assistance in Emergency Situations) overshadowed the implementation of Chapter 13 of the Housing Code (National Housing Programme on Upgrading of Informal Settlements) which was also introduced in 2004. The result of this unfortunate situation, coupled with lack of political support and 'the widely practised negative approach to slum elimination', was that Chapter 12 of the Housing Code was abused to remove informal settlements to the periphery rather than upgrade them through the principles of Chapter 13 of the Code (Huchzermeyer, 2007: 2). Hence, Chapter 13 of the Code was not really implemented, not even by any of South Africa's large cities since its adoption in 2004 (Ibid: 2). Even

the nine informal settlement upgrading pilot projects that were initiated through Chapter 13 of the Code were neither carried through nor attempted in accordance with its innovative principles (Huchzermeyer, 2008). The current so-called informal settlement upgrading projects that were and are still being implemented in Lebowakgomo, Polokwane and other cities and towns of South Africa are nowhere near voluntarily embracing the innovative principles of Chapter 13 of the Code.

It is only in the recent case of Hangberg in Houtbay in the City of Cape Town that the first *in situ* upgrading project was applied for and approved for funding under Chapter 13 of the Code 'and in accordance with the principles defined in the programme' in 2008 (Huchzermeyer, 2008: 99). However, this project was 'in response to initiative, lobbying and groundwork by the NGO Development Action Group' (Ibid). In the same vein, the Durban-based grassroots social movement Abahlali BaseMjondolo is currently negotiating with Durban Metropolitan Municipality around having Chapter 13 of the Code implemented (Marie Huchzermeyer, Personal Communication, December 2008). Further, the Landless People's Movement (LPM) has very recently secured a court order that mandates the City of Johannesburg to investigate the feasibility of Chapter 13 of the Code (Ibid).

The abovementioned three cases show that municipalities neither pay attention to improve informal settlements nor get further involved in informal settlement upgrading as also noted by UN-Habitat (2006). These cases also parallel the Civic Movement approach, in which *in situ* upgrading of informal settlements was dependent on organised

civil society involvement, lobbying and negotiation. This will be expanded in Chapter 4 and Chapter 5 of this research report. The problem with this approach is that civil society pressure is not well received by the authorities in the current environment. All the above factors stand as proof that Chapter 13 of the Code was never implemented by any of South Africa's municipalities. It now becomes relevant to outline the basic tenets of Chapter 13 of the Code which follow next.

2.4 An overview of Chapter 13 of the Housing Code

The policy objective of Chapter 13 of the Code is 'to vest access and usage of physical land assets in the hands of the urban poor', and to ensure that informal settlement dwellers access permanent residential structures with security of tenure (Department of Housing, 2004b: 5). The target of this objective is to 'fastrack the provision of security of tenure, the provision of basic municipal engineering services, the provision of social amenities [and community facilities] and the empowerment of informal settlement inhabitants to take charge of their own housing development' (Ibid). Huchzermeyer (2006) contends that '*in situ* upgrading enables continued owner occupation of the existing dwelling structures and their incremental improvement over time, thus not imposing rigid-housing related costs' (2006: 64). It also 'confers several advantages such as high densities and associated land savings, the preservation of existing networks, and the optimisation of resources' (Irurah *et al*, 2002: 13).

The principle approach of Chapter 13 of the Code to upgrading of informal settlements is a holistic one characterised by an area and/or community focus 'with minimum

disruption or distortion of existing fragile community networks and support structures' (Department of Housing, 2004b: 6). Hence, it requires 'upgrading of whole settlements on a community basis as opposed to the normal approval of individual subsidies in respect of specific qualifying beneficiaries' (Ibid). The major thrust of this approach is not only to 'ensure viable households and communities in areas allowing convenient access to economic opportunities, and to health, educational and social amenities' but also to incentivise households to invest their own resources in starter or incremental housing (Ibid:3).

Another important paradigm shift of Chapter 13 of the Code is provision of its funding options for purposes of upgrading. The Programme provides funding for land rehabilitation. Although no ceiling amount of funding is provided for land rehabilitation [to make the land suitable for habitation], a detailed business plan (including flood line and geo-technical reports) with detailed technical information is required to determine the feasibility and costs of upgrading (Huchzermeyer, 2006). This does not auger well for effective community participation in the planning layout process because it depends largely on technical expertise of civil engineers, geologists and project managers. Places that are singled out for land rehabilitation revolve around 'settlements located in dangerous areas posing a threat to health and safety' and disaster-prone areas (Ibid: 50). The Programme provides for the purchase of occupied land for rehabilitation or unused prime land for relocation (in instances where relocation cannot be avoided on the grounds of health risk). Such land purchases must be done on the basis of a motivation accompanied by three independent valuations from the affected municipality and by so

doing, subjects the choice of land to bureaucratic processes as opposed to affected informal settlement inhabitants (Huchzermeyer, 2006). However, ‘state departments and other public entities are encouraged to make well-located land available at no cost’ (Ibid: 51).

In cases where relocation cannot be avoided for the reason stated above, Chapter 13 of the Code provides for the involvement of informal settlement residents ‘in identifying whether a portion of land is well-located in relation to their livelihood strategies and opportunities for the development of their human capital (such as ability to access educational and social facilities)’ (Ibid: 51). It also requires the consent of informal settlement residents over a chosen relocation site. Further, Chapter 13 of the Code provides that “relocation must take place at a location as close as possible to the existing settlement and within the context of a community approved relocation strategy’ (Ibid: 52). It also makes funding available for relocation support though this has been blamed by some affected community members and other commentators for having the effect of buying ‘instant community support for a relocation that does not make long-term livelihood sense’ (Ibid).

The Programme seeks upgrading projects to be implemented ‘on the basis of a phased development approach’ (Department of Housing, 2004b: 3). Phase 1 of the Programme is regarded as a launching pad for ‘future delivery of secondary and tertiary social services such as schools, hospitals and police stations over a period of time’ (Ibid:5). This Phase entails ‘the initial/immediate provision of basic infrastructure (water and sanitation)’

(Huchzermeyer, 2006: 53). In addition, it requires municipalities to be responsible for operational costs of such infrastructure. Huchzermeyer (2006) contends that the immediate provision of infrastructure 'addresses health risks, while also freeing up time for women and children to pursue activities that secure a livelihood or develop human capital (such as education)' (Ibid). Pugh (2001) also notes that environmental improvements 'reduce disease and premature death, and in well conceived programmes achieve education and training among women' (2001: 420), adding that this 'can enhance at-home study and improve the aspirations for longer and valued lives' (Ibid). Such an approach is crucial for the livelihoods of the poor considering that the "shortage of skills has an immediate bearing on poverty, education, unemployment, health and the environment – all targeted in the UN Millennium Development Goals" (The Star Workplace, 30.4.2008: 3).

Phase 2 of the Programme caters for 'provision of basic municipal engineering services' consisting of 'portable water, adequate sanitary facilities and domestic energy' (Ibid). It should be noted that Phases 1-3 benefit all the inhabitants of informal settlements 'including persons currently excluded from any of the benefits of the housing Subsidy Scheme' (Department of Housing, 2004b: 6). Huchzermeyer (2006) argues that the new approach to land and infrastructure plays a central role in promoting tenure security and addressing vulnerability. Phase 3 of the Programme provides for the establishment of Housing Support Centres "to support households at an early stage regarding their rights, housing options and construction of various housing typologies in accordance with their needs, means and aspirations" (Huchzermeyer, 2006: 56). However, Phase 4 of the

Programme does not mention 'the role for the Housing Support Centres, or support for the savings and community-based micro-lending, which would enable the incremental consolidation of upgraded informal settlements' (Ibid: 56-7).

Phase 4 of the Programme operates the same way as the Housing Subsidy Scheme (HSS) except for minor changes. While every informal settlement resident (except past and existing owners of residential property and those who benefited from state housing schemes in the past) is entitled access to land during Phases 1 to 3 of the upgrading process, Phase 4 distinguishes between those who qualify for top structures and those who do not (Huchzermeyer, 2006). The fate of those in brackets is "considered on a case-by-case basis" (Ibid: 56). Those who qualify are allocated subsidies for top structures as Phase 4 benefits while those who do not qualify are not only denied access to these benefits but are also forced to pay for sites that were serviced in Phase 2 at cost. As reflected in Huchzermeyer (2006), although they are not excluded from Phases 1 to 3 benefits, illegal immigrants and child-headed households are excluded altogether from individual freehold ownership during Phase 4 of the Programme. Huchzermeyer (2006) further contends that the qualification criteria for Phase 4 benefits 'may unwittingly call for premature pregnancies or unions, as having a dependent qualifies single people for the consolidation subsidy' (Ibid: 56).

In terms of Section 13.11.6 of the Code, 'one of the fundamental principles of the [Informal Settlement Upgrading] programme is the empowerment of the community to enable them to assume ownership of their own development and improvement of life'

(Department of Housing, 2004b:33). To this end, the Programme makes funding available for 'the community participation and empowerment process' including community engagement in layout planning (Ibid: 57). Layout designs are expected to cater for various stand sizes and to 'enable access for pedestrians and municipal infrastructure and services, including emergency services' (Huchzermeyer, 2006: 57). Section 13.6.1 bullet No. 3 of Chapter 13 of the Code provides for Human Settlement Redevelopment Funding for 'community participation and facilitation, conflict resolution and housing support' (Department of Housing, 2004b:21). The aim is to generate 'partnerships that are supported through inclusive, empowering, flexible and responsive governance of the upgrading process, in a way that supports good practice criteria rather than (inflexibly) forcing role players to use statutory arrangements (e.g., ward committees) regardless of their efficacy' (Ibid). In summary, the Programme encourages 'the development of social capital by supporting the active participation of the communities in the design, implementation and evaluation of projects' on the strength of what already exists in the locality (Ibid: 5).

Huchzermeyer (2006) argues that Chapter 13 of the Code recommends a permit or Permission To Occupy (PTO) as a preferred tenure form for informal settlements. In her view, this form of tenure 'does not impose costs on the resident household, but provides adequate tenure security for household investments to be made in the dwelling' (Huchzermeyer, 2006: 55). However, in terms of Section 13.2.2 of Chapter 13 of the Code, 'secure tenure may be achieved through a variety of tenure arrangements and these are to be defined through a process of engagement between local authorities and

residents' (Department of Housing, 2004b: 8). Although it embraces alternative forms of tenure as stated above, Chapter 13 of the Code favours individual freehold title. This contradiction can be ascribed to the fact that the Programme conceptualises individual freehold title as having the potential to provide collateral for loans (Department of Housing, 2004b). Therefore, it does not deviate from the government tendency to focus 'its energy on home ownership and [thereby] neglect[s] the rental markets' (Angels, 2000: 318). It should be noted that Huchzermeyer (2006) is alive to these shortcomings.

An overview of Chapter 13 of the Code was necessary before an illumination of the socio-economic (Chapter 4) and political (Chapter 5) components of the Civic Movement approach. The aim is to enable the reader to have a better understanding of the housing policy document on upgrading of informal settlements and the advocacy approach of the Civic Movement. Having sketched an overview of Chapter 13 of the Code, it is necessary to give a background to the study area (to which I turn in the next chapter of this research report) for a proper understanding of the genesis of the Civic Movement approach.

Although the Civic Movement approach was similar in many respects with major tenets of Chapter 13 of the Code, the comparison or the testing whether the Civic Movement approach aligns with that of Chapter 13 of the Code is somewhat limited by the very upgradeable nature of the informal settlements of Units R and S Phase II and III in Lebowakgomo. It would have been interesting to test the Civic Movement approach to informal settlements that a) did not emerge with SANCO content, b) were on contested land or very valuable land with vocal estate pressure, c) were on land not immediately

suitable for housing due to flooding/dolomite/slopes, d) did not have SANCO aligned communities, and e) had pressure of 'shack lordism'. Despite these limitations, Chapters 4 and 5 of this research report will demonstrate, without any shadow of doubt, that there are important similarities between Chapter 13 of the Code and the Civic Movement approach from which we can draw lessons for proper implementation of the Informal Settlement Upgrading Programme.

2.5 Eradication of Informal Settlements

2.5.1 Definition

The concept eradication of informal settlements means different things to various commentators and other members of the broader civil society. However, the South African government has adopted this concept as a target to address the problems of informal settlements. What does this concept mean? Is eradication an appropriate concept in dealing with the challenges of informal settlements? To what extent is the use of this concept influenced by international thinking? Is the eradication approach not tantamount to the proverbial cart that was put before the horse? Does the concept of eradication have a bearing on zero-tolerance to new informal settlements? Is the South African government's eradication approach feasible?

If the dictionary meaning of the term eradicate is anything to go by, then the South African government seeks to obliterate or uproot (Collins English Dictionary, 2006) informal settlements through a systematic approach of informal settlement upgrading and prevention of the emergence of new ones. Broadly speaking, UN-Habitat associates the

term eradication with ‘clearance’ and ‘eviction’. UN-Habitat (2006) as reviewed by Huchzermeyer (2008) defines it as improvement of the lives of slum or informal settlement dwellers and reduction of slum or informal settlement growth rates. Huchzermeyer (2008) distinguishes between the positive and indirect approach and the negative and direct approach to slum upgrading and prevention. On the one hand, she defines the former as improving the lives of informal settlement dwellers through provision of land, services and housing. On the other hand, she describes the negative and indirect approach as doing away with slums through ‘eviction and forced relocation from existing informal settlements, and criminalisation, arrests and forceful prevention of the emergence of new informal settlements’ through the state’s political target of shack-free cities by 2014 (Ibid: 94). Based on this distinction, it is clear that the concept of eradication has both positive and negative connotations to informal settlement upgrading.

2.5.2 Is the use of the concept eradication appropriate for upgrading of informal settlements?

Huchzermeyer (2006) is not comfortable with the unqualified use of the concept of eradication of informal settlements. It is her deep held view that the unqualified use of the term eradication ‘can be misunderstood as a blanket mandate to remove shacks in the absence of solutions that eradicate poverty, remove vulnerability and promote inclusion’ (2006:44). She argues that ‘unwittingly, the political message to informal settlement dwellers may be that they are to be eradicated, or at least displaced, and probably not given a meaningful role in defining a solution’ (Ibid). In her view, ‘improving lives is possible without eliminating slums’ (Huchzermeyer, 2007). She further contends that it is

'unlikely that informal settlements will be eradicated' (Ibid). On the contrary, attempts at eradication will result in 'increased overcrowding, lack of privacy, spread of communicable diseases' (Ibid). In this way, 'people's lives are not improving, and uncertainty increases' (Ibid).

Huchzermeyer's (2008) qualified approach contradicts UN-Habitat's cautious approach to the use of the term eradication. According to Huchzermeyer (2008: 95), 'whereas UN-Habitat would discourage the use of the term 'eradication' altogether, it is used in Breaking New Ground only in the positive and indirect approach to doing away with informal settlements'. In fact, she supports the indirect and positive approach and discourages the direct and negative side of eradication. For her, Section 2 (1) iii of the Housing Act promotes a positive and indirect approach, requiring all tiers of government to establish, develop and maintain 'socially and economically viable communities' as well as 'safe and healthy living conditions to ensure the elimination and prevention of slums and slum conditions' (Ibid). In order to realise this objective, the South African government has adopted Chapter 13 of the Code as a tool to eradicate informal settlements. In spite of the government's policy on informal settlements as stated above, local municipalities do not embrace this paradigm shift in national government thinking.

COHRE (2005: 31) maintains that 'the term 'eradication of informal settlements' used in the new housing plan raises concerns regarding measures municipalities may resort to in order to 'eradicate' existing informal settlements and stamp out any attempts at new informal settlements formulation' (2005:31). However, it also acknowledges that 'the

plan's intention is clarified as a 'shift' from 'conflict and neglect' to integration and cooperation, leading to stabilisation and integration of these areas into the broader urban fabric" (Ibid). Although I acknowledge that the use of the term eradication may have negative connotations, I share Huchzermeyer's (2008) qualified use of the term because the application of this term in a positive light may yield positive spin-offs for upgrading of informal settlements. Failure to use this term altogether means that governments worldwide will remain in perpetual improvement without the actual achievement of the target of eradication of informal settlements.

2.5.3 Evolution of the informal settlement eradication approach

Although the government rhetoric to move the country to a shack-free environment was not incorporated into the final version of Chapter 13 of the Code, it signalled the government's intention to eradicate informal settlements. That Chapter 13 of the Code is silent about the intention "to moving towards a shack-free society" does not suggest that it does not support moves into this direction (Huchzermeyer, 2006:44). It is a fact that Chapter 13 of the Code is an instrument introduced by a policy document entitled A Comprehensive Plan for the Development of Sustainable Human Settlements, commonly known as 'Breaking New Ground' (BNG) 'to support the focused eradication of informal settlements' (Department of Housing, 2004a: 46). The government has set as its task the eradication of informal settlements by 2014. This goal is mentioned in Chapter 13 of the Code with a recommendation that the identification of pilot projects should take account of the objective 'to achieve the national goal of eradication of informal settlements by 2014' (Department of Housing, 2004b: 31). Chapter 13 of the Code also emphasises that

‘any re-invasion of the land must be promptly dealt with in accordance to the provision of relevant legislation’ (Ibid: 57). However, it does not suggest changes to existing legislation; it implicitly promotes the introduction of new legislation like Kwazulu-Natal Slums Act which is aimed at eradicating informal settlements in that province.

Clearly, the South African government was influenced by international thinking to set itself the unrealistic target of eradicating informal settlements by 2014. The adoption of the eradication approach owes much to the government’s misinterpretation of Goal 7 Target 11 of the Millennium Development Goals (MDGs) that seeks to ‘achieve significant improvement in the lives of at least 100 million slum dwellers by 2020’ (UN-Habitat, 2003:8). The adoption of the eradication approach can also be said to be part of the global wave ‘which is putting pressure on national and local governments to “beautify” or “clean up” their cities in order to become competitive in a global economy that has seen the gap between the rich and the poor widen’ (UN-Habitat, 2006: 92). This was given a great impetus by the granting of the bid to host the 2010 Soccer World Cup by the Federation of International Football Association (FIFA) on 15 May 2004. Obviously, this put political pressure on the government to expedite the process of eradication of informal settlements.

As Huchzermeyer (2008) has pointed out, the problem with the South African state is that it is driven by the slogan of ‘cities without slum’ rather than by the actual MDG target of improving the lives of slum dwellers. In Huchzermeyer’s (2006: 45) view, the granting of the bid to host the 2010 Soccer Showpiece influenced the government ‘to adopt an

additional agenda of transforming all informal settlements 'visible' to international visitors into respectable living environments' through the Informal Settlement Upgrading Programme, i.e., Chapter 13 of the Code. For her, this is much more so given the fact that informal settlements 'pose an embarrassment to government' (Huchzermeyer, 2007).

2.5.4 Is eradication of informal settlements feasible?

Given budget constraints and the fact that access to land is still tied to the housing package, and the fact that informal settlements are mushrooming at a faster rate than the actual delivery of houses, it is impossible to eradicate informal settlements by the target date. In addition, it would not even be possible to achieve that by 2020 which is the Millennium Development Goal's (MDG) target of improvement (again not eradication of informal settlements) of the lives of 100 million slum dwellers. Another handicap to eradication of informal settlements is the fact that the Informal Settlement Upgrading Programme 'requires its upgrading projects to be 'within an approved Integrated Development Plan [IDP] of the municipality in question' (Huchzermeyer, 2006:49). In addition, given the negative attitude municipalities display against informal settlements, most municipalities use the rhetoric of 'queue jumping' and orderly (sequential) development to prioritise older low-income residential areas on their IDPs (Huchzermeyer, 2006). In fact, restrictions placed on the development of land outside an approved IDP of the municipality negate government commitment to the eradication of informal settlements by 2014 and thereby, prolong the vulnerability of the residents of informal settlements. Moreover, the system of wardism (whereby Councillors allocate resources on a ward basis) to appease Ward Councillors and political decisions 'override

important programme principles, particularly those that are delicably supported by the concepts of poverty, vulnerability and social inclusion' (Ibid: 49). Hence, Huchzermeyer (2006) urges municipalities to 'revise their IDPs so as to align them with the principles of the Informal Upgrading Programme' (2006: 51).

Further, most municipalities tighten municipal by-laws to prevent the mushrooming of new informal settlements. This is in line with the conception of Chapter 13 of the Code that 'strict enforcement of municipal by-laws' should be used to prevent re-invasion or occupation of vacated land (Department of Housing, 2004b: 57). This serves as evidence that, contrary to what Huchzermeyer (2008) would like us believe, clearing shacks is an approach that is indirectly promoted under Chapter 13 of the Code. In addition, some municipalities already take precautionary measures by relocating approved informal settlement beneficiaries to serviced sites and cleanse the vacated area of any shacks even before construction of top structures could commence in the area to which they are relocated, let alone the official hand-over of completed housing units. However, I share Huchzermeyer's (2008) assertion that shack clearance does not serve 'as an improvement in the lives of those living in informal settlements' (2008: 98). Further, municipalities do not bother to accelerate the programme of informal settlement upgrading. This serves as evidence that municipalities are not in 'the forefront of translating the Millennium Development Goals, particularly Goal 7 Target 11, into their own city-level goals and targets, and subsequently adopt citywide strategies for achieving them' (UN-Habitat, 2006: 176). Another major problem is that local authorities use the question of health risk as a pretext to relocation.

The proposed amendments to the Prevention of Illegal Eviction (PIE) Act which provides for shack demolitions when beneficiaries access Phase 4 benefits and receive permanent houses in order to prevent land re-invasion, will obviously strengthen the hands of municipalities the majority of whom practice zero-tolerance to invasions (Huchzermeyer, 2008). The proposed PIE amendments seek 'to tighten the criminalisation of land invasion' (Ibid: 10). By so doing, the proposed PIE amendments ignore the fact that 'informal land occupation provides access to the city for the poor, whereas formal development continues to segregate' (Huchzermeyer, 2007). The proposed PIE amendments are in conflict with UN-Habitat's stance against 'eviction, forced relocation to controlled transit camps, criminalisation of land invasions', etc., as measures for prevention of the emergence of informal settlements (Huchzermeyer, 2008: 95).

2.6 Urban-Rural Linkages

The choice on where to live in urban areas is influenced by factors such as urban-rural ties, kin systems, gender relations and religion. For the purposes of this report, my discussion will be limited to urban-rural linkages and its associated kin systems.

Smit (2006) argues that 'surveys in South Africa have been unanimous in showing that a large proportion of urban households have strong rural links (both an urban and a rural home, with some family members living at each home)' (2006: 115). He also asserts that the prevalence of rural-urban linkages is much higher in informal settlements. In his view, more often than not, households in informal settlements 'have a rural home at

which members of the urban-based component(s) of the extended family frequently visit'(Ibid). For him, 'the reasons for children not living in informal settlements include inadequate access to schooling, overcrowding, lack of access to electricity, lack of access to water and sanitation and safety concerns'(Ibid). In short, a rural home has the potential role to play 'as a safety net within the context of a diversified livelihood strategy' (Ibid).

Affordable Housing Institute (2005) identifies urban informal areas as 'entry points to urban life for migrants from rural areas' (2005:3). It attributes rural-urban migration to the fact that the rural poor seek 'access to the city and the work and income opportunities they hope it promises' (Ibid). UN-Habitat (2006: 50) identifies 'perceived and actual social and economic benefits' such as health care and education services as the driving force behind rural-urban migration. In summary, cities 'provide many opportunities for investment which not only support urban development but also contribute to rural development in an environment of urban-rural linkages' (Ibid: 47).

Affordable Housing Institute (2005) argues that informal access to land in urban areas is 'often governed by rurally-based social relationships' as well as 'by the specific household's rural land access' (2005:8). Royston (2006: 176) adds that 'for poor households, interests may be in opportunities for informal activities that are affordable by their very informality, while others may have the conventionally assumed interests in permanent urbanization, and the promise and expectations of formalisation'. UN-Habitat (2003: 26) contends that most migrants from the rural areas base their choices on where to live on experience; hence most of them 'have contacts (friends) or relatives in the city'.

Once they arrive in urban areas, their housing options are restricted by poverty; hence they seek the cheapest form of housing they can afford. Given the problem of affordability, some choose affordable rental housing 'until they can manage no longer' and move into informal settlements while others prefer shelter they can afford to build, 'backyard shacks or other informal accommodation' (Ibid: 29).

As far as the issue of secure tenure (to which I turn in more detail in the next section) is concerned, Lalloo (1999: 44) argues that households with rural ties 'are confronted with the choice of consolidating either their rural or urban base'. Royston (2006) adds that 'informal tenure may be a secure place to live in as cheaply as possible while in employment in the city' (2006: 76). Huchzermeyer (2004: 163) contends that households with rural ties want 'access to a cheap place to live' in urban areas because they prefer 'to consolidate in the rural areas' (Ibid: 158). Affordable Housing Institute (2005: 8) adds that 'retaining the rural base is especially important for economically vulnerable households – it becomes their safety net in case of their own or their relatives' economic failure in the city'. It further maintains that such households' urban residence is likely to be about access to income opportunities, from which any surplus would be sent back to the rural area to invest in land and housing there' (Ibid). For this reason, such households accept capital subsidy housing only to sell it informally or even rent it, 'moving back into informal settlements' (Ibid).

University of the Witwatersrand Research Team (2004a), in its study on supporting informal settlements, points out that 'some residents moved into informal settlements

after having sold their subsidized houses, usually due to financial difficulties, e.g., having to pay rates while generating no income/having to make a living, with the house being located far away from job opportunities' (2004a: 5). This can be ascribed to the fact that poor households prefer places that offer 'reasonable and convenient access' to better economic opportunities that do not place further costs to their livelihoods (Lalloo, 1999: 41-2). Therefore, it seems evident that urban-rural linkages and poverty are overriding factors that influence the choice of where to live for poor households in the urban areas of our major cities and secondary towns. However, the choice of where to live is limited by the extent of tenure security, which I turn to next.

2.7 Secure Tenure

2.7.1 Definition

What is secure tenure, security of tenure or tenure security? Is it title, access to shelter or right to land or a combination of the three? Is formal or informal tenure an appropriate form of secure tenure for the poor? In whose interest do the processes of streamlining regulations to access tenure and the land titling programmes work? Is the debate about the question of secure tenure the same as that of the land question in the context of the urban housing market? Is it the question of chicken and egg, as to which one comes first? It is to the interrogation of these issues in the context of informal settlements and their upgrading that I now turn.

Secure tenure is a broad term the definition of which depends on the school of thought to which a person belongs. Put in a simplified manner, secure tenure means security of the

residential status of a person living in a particular locality or the right to housing within a given locality. International literature as reviewed by University of the Witwatersrand (2004b: 18) conceives security of tenure as reduction of vulnerability, enablement of 'choice in selecting/developing tenure options through community participation' coupled with 'recognition of the link between livelihoods and land tenure' (Ibid). It also regards secure tenure as the ability 'to access any space where the poor can obtain a basic livelihood without fear of eviction' as well as 'the ability to move when livelihood opportunity change[s]' (Ibid). UN-Habitat (2003: 168) adds that secure tenure means protection from involuntary eviction from 'land or residence, except in exceptional circumstances, and then only by means of a known and agreed legal procedure, which must itself be objective, equally applicable, contestable and independent'. Thus, 'security of tenure can be considered the main component of the right to housing, and an essential prerequisite for access to citizenship' (Ibid).

2.7.2 Land and titling and affordability

The debate about secure tenure pits the neo-liberal approach against alternatives to the market approach. On the one hand, alternatives to the market approach regard land as a safety net and a 'livelihood-supporting asset' for the poor (Royston, 2006:175). For this approach, 'access to land is a fundamental human right necessary for a secure livelihood' (UN-Habitat, 2006:95). On the other hand, the neo-liberal scholars conceive land as a formal asset that can be exchanged for capital, leading to further investments in the house and increased property values. In addition, they regard legal title as a safety net for the poor. They also hold the view that the legal title transforms 'the dwellings of those who

live in squalor of squatter [informal] settlements into assets recognised by the formal sector' (Attuahene, 2004: 1111). This approach has been incorporated into Chapter 13 of the Housing Code.

However, Angel (2000) argues that 'tenure choice is the single most important determinant of housing demand for all households, overshadowing the importance of both the quality of the structure and the amount of living space' (2000: 315). Nientied and van der Linden (1988) also note that 'housing and improvement of houses often do not have a high priority among squatters [Unlawful Occupiers]' (1988:145). In their view, 'economic conditions are considered more important than housing' by the poor (Ibid). The problem with the neo-liberal approach is that it confines itself to what it perceives to be good for the market and thereby neglects the impact its negative outcomes have on the poor. This can be ascribed to its reliance on 'western concepts of society which began to develop in a particular social, economic and political context' and thus do not hold in other contexts (Smith, 1999:41). As a result, it ignores the fact that 'there are major obstacles for poor people to access formal credit' (Royston, 2006:173).

As UN-Habitat (2006: 95) has pointed out, many examples around the world show that titling 'has not necessarily increased access to credit or prevented growth of new informal settlements'. Even a few that may access credit by using their properties as collateral may loose it through 'sale in execution for debt' much more so given the fact that non-payment is met by repossession in an economic system that is propelled by the profit motive (Royston, 2006:173). Therefore, the use of property as collateral results in a

‘vicious cycle of extralegality or informality–formalisation–revision into informality in terms of which an individual may transfer newly formalised property, and return to an informal settlement’ (Ibid: 169). Hence, the poor consider the use of property as collateral as too risky. This dispels the notion that the use of land as collateral can work better for the poor.

2.7.3 Is ownership title an appropriate form of tenure for the poor?

UN-Habitat (2003) regards the long-term objective of the market-oriented approach as promotion of ‘private ownership through the allocation of individual freehold/property titles’ (2003: 170). In its conception, ‘these measures are expensive and may price the poor out of the land market’ (Ibid). They may also ‘hinder community cohesion, dissolve social links, or induce or accelerate segregation processes through market eviction’ (Ibid). Huchzermeyer (2004) adds that vulnerability within the housing markets ‘is important evidence against the often-held neo-liberal assumption that the principles of middle-income property markets apply to, or can be imposed on, informal settlements’ (2004: 34). In her view, ‘market assumptions fail to recognize the possibility to explore the concept of tenure security in the light of options to freehold title, be they leasehold, communal ownership or the formal recognition of the existing informal tenure system’ (Ibid:154). She further argues that ‘tenure security cannot be achieved without affordability’ (Huchzermeyer, 2006: 54). Given lack of affordability as a result of high poverty levels in informal settlements, the poor are unlikely to maintain a formal system of tenure security (Royston, 2006; also See Huchzermeyer, 2006). This is much more so given that ‘few South Africans can afford much at all’ (Pottie, 2003: 132). Therefore,

lack of affordability pushes the poorest out of the market ‘to seek subsistence shelter on the city’s periphery’ (Huchzermeyer, 2004: 39).

UN-Habitat (2003: 169) further contends that large-scale allocation of property titles ‘has often resulted in increasing housing prices within the settlements, and/or in an increase in the cost of services, both of which have tended to exclude the poorest sections of the population’. Huchzermeyer (2004: 29) adds that the dominant South African informal settlement intervention ‘ties beneficiaries not only into fully registered freehold title, which is costly to transfer, but also into a system of rates and service charge billing’. Therefore, ‘solutions that are not affordable to beneficiaries in the long term will lead to their displacement to housing areas that impose fewer costs, usually new or remaining informal settlements’ (Huchzermeyer, 2006: 54). In this way, ‘tenure security is not reaching the most vulnerable groups’ (UN-Habitat, 2006: 92).

2.7.4 Housing norms and standards

Efforts aimed at enhancing affordability and innovation in upgrading projects requires flexibility in the application of housing norms and standards. Angel (2000: 162) argues that whilst building codes and standards result in an increase in housing quality, they also lead to a decrease in affordability. According to him, insistence on affordable standards ‘can force households to pay more for housing against their will, or it can force them to live illegally’. However, UN-Habitat (2006: 58) maintains that ‘disregard of building codes has clear implications for the durability and safety of housing’. In its view, there is

a need to ‘respect current building standards’ for purposes of ‘disaster mitigation and vulnerability reduction’ (Ibid).

Roux (2004) argues that to insist on compliance with the National Building Regulations Act ‘in the upgrading process would place an impossible burden on residents of informal settlements who attempt progressively to improve the standard of their houses’ (2004:17). He suggests that municipalities should ensure that land falling within their area of jurisdiction is exempted from the application of norms and standards. Such an approach is likely to ‘send a powerful signal to the residents of the settlement that they had been accepted as citizens of the local state’ (Ibid). UN-Habitat (2003: 165) adds that the introduction of user-friendly ‘regulatory frameworks will eliminate inappropriate standards of provision that raise costs’. This approach ‘combines protective administrative or legal measures against forced evictions – including the provision of titles that can be upgraded if required – with the provision of basic services’ UN-Habitat (Ibid).

2.7.5 Are alternative forms to ownership tenure suitable for upgrading projects?

Angel (2000) contends that ‘the perceptions of different tenures tend to vary among cultures’ (Ibid: 325). Hence, he propagates for striking a balance between ownership and other forms of tenure. In his view, this will afford consumers an opportunity to ‘choose freely between one form of tenure and the other’ (Ibid: 19). Attuahene (2004) adds that ‘government-owned, low-income, or rental housing may be more suitable options than ownership, given the situation of those in extreme poverty’ (2004:1173).

In order to circumvent expensive and time-consuming tenure regularisation programmes in South Africa, Royston (2006: 176) propagates for tenure security 'which involves a range of possible options along a continuum of tenure arrangement, not only individual title as currently configured in our centralised system of deeds registration'. UN-Habitat (2003) posits 'a wide range of options, from full ownership to less exclusive forms of possession and use' (2003:168). This requires simple legal and regulatory measures such as 'bills, voter registration forms, ration cards and municipal tax receipts' as a starting point of regularisation (UN-Habitat, 2006: 194; also See Royston, 2006). This form of tenure security can be 'upgraded according to future needs' of individual households (University of the Witwatersrand Team, 2004d: 57). As Smit (2006: 122) puts it, 'a one-size fits all approach to informal settlement upgrading, which ignores the differences between and within informal settlements, is not going to be successful'.

2.8 Community participation

2.8.1 Definition

Community participation refers to meaningful involvement of community members in matters that affect their well being based on the bottom-up approach. You and Waceke (2003: 8) argue that meaningful participation 'goes beyond soliciting the views and opinions of various stakeholders'. It entails active involvement of the community 'in the decision-making process from beginning to end, from policy idea to design of plans, to political ratification, to practical implementation' (Flyvbjerg, 2002: 364). In the context of informal settlement upgrading, it specifically means 'bottom-up involvement, from the

decision to legalise a particular informal settlement, through to the design of community facilities and the tenure options offered to the residents' and monitoring and evaluation of planning and development including every facet of life (Roux, 2004: 26). This requires empowerment of the civil society to make choices that would radically alter their lives and thereby reduce dependency. Empowerment in turn presupposes recognition of the principles of transparency and accountability and capacity building, i.e., to capacitate the ability of the community to participate. These aspects have been incorporated in Chapter 13 of the Code as mechanisms to empower communities to manage themselves in the context of state support. Is community participation replicable at scale? It is to the interrogation of these issues that I now turn.

2.8.2 Reasons for lack of effective community participation

Despite provisions of Chapter 13 of the Code, informal settlement communities are exposed to planning and development processes in which they have little or no say. United Nations (2007) contends that 'where there has been consultation it has often been done in a tokenistic manner after plans have already been put in place' (Ibid). This top-down approach with minimal community participation is ascribed 'to lack of institutional and technical capacities to undertake projects of the magnitude of informal settlement upgrading', on the part of municipalities (Jenkins, 1999: 442) and the weakness of civil society organisations, 'lack of funding options and few opportunities to properly engage with government' (United Nations, 2007: 6). In order to address this problem, United Nations (2007: 10) propagates for 'national and local funding and resourcing of civil society organisations'. This proposition can be utilised to compliment provisions of

Chapter 13 of the Code in the elaboration of strategies to maximise citizen participation as outlined in Section 2.4 in this chapter of the research report. This calls for ‘a stronger and closer collaboration between government and civil society organisations, not only in terms of delivery, but also in terms of having open avenues for advocacy and dialogue’ (Ibid: 9).

Community participation is also stifled by the challenge of ‘local politics’ because political bickering breeds and nurtures ‘reluctance to work with non-statutory bodies’ on the part of politicians across the three spheres of government (University of the Witwatersrand, 2004b: 40). Due to their obsession with power and the need to protect and consolidate their positions, politicians are generally politically sensitive to the leadership and dominant role of community organisations (Hardoy and Hardoy, 1991). This is further complicated by the fact that ‘civil servants and politicians collude in distrust of community initiatives and even more so of devolving decision-making to community level’ (Jenkins, 1999: 442). This corroborates Smith’s (1999:143) assertion that the idea of a society based on self-managed communities is ‘faced with the unwillingness of the state to relinquish any real measure of power, among other obstacles’. Situations of this nature do not allow for constructive engagement because such an approach depends on the willingness of those who wield power in government.

Another inhibiting factor to citizen participation is that ‘community activity is hindered and repressed rather than facilitated in the rush for rapid delivery’ (Jenkins, 1999: 444). Huchzermeyer (2004: 152) asserts that ‘to reduce the role of the community or

organisation and leadership to that of serving the project objectives does not allow for people's collective control over development'. Given the zero-tolerance approach to roll-over of funds by the Special Committee on Public Accounts (SCOPA) in this country, 'government officials are more concerned on delivery' (University of the Witwatersrand Research Team, 2004b:15). The rush for rapid delivery forces developers to regard community engagement and job creation as obstacles to meeting set targets and time frames. Jenkins (1999: 438) maintains that although lack of community involvement may expedite the process of delivery, 'the fundamental problems of decision-making on appropriate standards and affordability' will remain unresolved. To make matters even worse, the outcome tends to be unaffordable 'or not in the form desired by many' (Jenkins, 1999: 444).

Further, beneficiaries are not afforded the opportunity to input on the house design, choice of building materials, etc. This is exacerbated by the fact that more emphasis is 'placed on technical and managerial efficiency' (Jenkins, 1999:441). As a result, the house design fails to adapt 'to the wide variety of housing demand, especially given low levels of affordability at the end of the low-income market, and is even less applicable in terms of dealing with upgrading' (Ibid). As UN-Habitat (2003: 165) succinctly captures it, participatory slum upgrading should be 'conducted not as technical expertise, but as a political, social and organisational plan'.

2.8.3 How far can effective community participation be enhanced?

Smit (2006) contends that 'beneficiary participation needs to occur through a committee elected by beneficiaries, and the committee needs to be accountable to, and regularly report back to, the beneficiaries' (2006:120). In his view, 'stakeholders from surrounding areas should not have the right to participate directly in decision making around informal settlement upgrading (as they can derail the process), but they should be regularly informed about the process and be able to make inputs and have their view considered' (Ibid). He also postulates 'capacity building of committee and forum members and of local government officials who will be involved with the community' (Ibid).

The proposition and suggestions about 'capacity-building and reskilling among officials and councillors to enable them to work creatively "outside the box" that develop new operational approaches' are aimed at enhancing the implementation of Chapter 13 of the Code (University of the Witwatersrand Research Team, 2004b:52). According to Smit (2006), 'NGOs have an important role to play in building the capacity of communities to participate in the development process, and providing ongoing advice and support' (Ibid: 121). For reasons that I will outline in Section 5.2, I do not subscribe to Smit's (2006) latter view or the sentiment that 'residents be allowed to choose their own representatives and establish direct contact between themselves and the municipality' (University of the Witwatersrand Research Team, 2004b:25). As I will show in chapter 5 of this research report, there is a need for decentralisation of decision making to communities through participatory mechanisms of the Civic Movement, participatory democracy, and diversity of views that serve to enrich debates and ultimate decisions (Huchzermeyer, 2004).

In theory, the Municipal Systems Act provides other windows of opportunity that can compliment those provided in Chapter 13 of the Code for direct participation in decision-making processes, a factor which supposedly will enable residents to exercise control over matters that affect their lives (Roux, 2004). However, the fact that the role of ward committees has been reduced to that of an advisory one limits their powers to represent informal settlement dwellers effectively. In addition, lack of remuneration for ward committee members except the Ward Councillor serves as another handicap in that very few people are prepared for voluntary work in the ward committees. As UN-Habitat (2003) has pointed out, 'local participation should not be an excuse for exploitation' (2003:178). On the contrary, all tasks pertaining to participatory committees 'should involve paid labour' so as to instil commitment within community members (Ibid).

In order to 'enable a relationship between municipality and local community, which involves consultation and information sharing as well as direct participation in decision-making', organisations crafted by residents themselves and the Civic Movement in particular, become extremely important (Ibid:53). This is much more so given that the Municipal Systems Act provides for community participation of not only all residents of the municipality but also 'any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality" (University of the Witwatersrand Team, 2004b: 25). It also provides 'residents with a powerful legal basis to insist on meaningful involvement in the development process at local level' Ibid: 26.

As argued by Nicholson and Schreiner (1973: 53), community-based organisations should insist on good practice which 'involves a process that supports and strengthens these organisations in order to help them become active partners in the upgrading process'. In addition, they must exploit the communities' right to 'contribute to the decision-making processes of the municipality', and municipalities' obligation to develop a culture of community participation (University of the Witwatersrand Research Team, 2004b: 68). They must also exploit the municipality's obligation to establish 'appropriate mechanisms, processes and procedures to enable the local community to participate' in its affairs (Republic of South Africa, 2000: 25). As stated by Jenkins (1999: 444), 'for lower-income population, communal action, whether in the political, social or economic realm, permits a scale of activity impossible as individuals'. This will ensure 'active participation in the decision-making process which can continue all the time' as promoted in Chapter 13 of the Code (Nicholson and Schreiner, 1973: 39).

Conclusion

The pattern of informal settlement formation in South Africa was characterised by forceful occupation, be it legal or unlawful. The debates about the Civic Movement nationally concerning the loss of key SANCO leaders into public office following the first democratic elections of April 1994 and community elections of November 1995, attempts to dislodge SANCO from leadership in local politics and the need for alternative methods to adapt to a changed political environment capture what obtained locally in Lebowakgomo (More illumination of these issues forms the subject of Section 5.1 of this

research report). The same can be argued with regards to issues of population densities caused by natural growth and rural-urban migration, and spatial configuration of informal settlements. The problem of ignoring future installation of water and sewerage systems and provision of other services was not an exception as far as allocation of sites by the Lebowakgomo Civic Organisation (LCO) was concerned. However, as I will show in Section 3.6 of this research report, the local branch of SANCO in Lebowakgomo was proactive in that it took into account such factors when allocating sites in Units R and S Phase II and III.

The informal settlement intervention from sites and services scheme prior to 1994 and upgrading based on capital subsidy mechanism in the first decade of democracy was not a people-driven process by the Civic Movement but an externally designed and managed process without community participation and empowerment. Chapter 13 of the Code in particular, which parallels the Civic Movement approach in Lebowakgomo albeit with some minor differences, was designed to address these shortcomings. In summary, as I will elaborate in Section 5.2 of this research report, the Civic Movement approach to upgrading of the informal settlements of Units R and S Phase II and III in Lebowakgomo encompassed what Huchzermeyer (2008) refers to as the indirect and positive component of eradication while that of unlawful occupation of Unit R was characterised by what she calls the direct and negative side of eradication.

Chapter 3

Background of the study area

3.1 Introduction

This chapter of the research report is an outline of the status quo of the study area as it obtained prior to the new local government dispensation in South Africa up to the year 2000. It also serves as a background to the study area with a view to trace the context within which the Civic Movement approach emerged and how it impacted on the lives of informal settlement dwellers. This outline of the study area will be discussed under the following sub-headings: Area of study; physical environment; demographic features, social amenities and community facilities; employment and informal activities; administration; land invasions; rent and service charges boycott; and evolution of the issue of 'double cap'.

3.2 Area of study

Lebowakgomo is an R293 Township located at 23°59' 238'' S, 29°27'522'' E in Limpopo Province. The township is situated far from major towns approximately 60km South of Polokwane [former Pietersburg] and 63km east of Mokopane [former Potgietersrus] (See Appendix A: Map 1) in Limpopo province (TLC Report on Assets, April 1996). This township 'formed part of the self-governing territory of [former] Lebowa [homeland] until 27 April 1994' (Applicant's Replying Affidavit, Case number 15562/97:5). This township served as the capital of the former Lebowa homeland and had a strong civic presence during the last apartheid years (from 1990) and after the democratic elections of 1994 up to the year 2000. The township currently serves as a legislative capital of

Limpopo Province. However, for reasons that I will later outline in Chapter 5 of this research report, Lebowakgomo is currently having a very weak civic presence.

The Greater Lebowakgomo TLC was established as part of the new dispensation of local government through community elections of 1st November 1995. In total, the TLC consisted of Lebowakgomo Township and 44 villages. The TLC area of jurisdiction was divided into 6 wards. Ward 3 which forms part of the study area, covered Units A, R, S Phase I, II and III, BA (Business Area), J, Rustplaas and unoccupied residential sites of Units P and Q (See Appendix A: Maps 2-4). Units R and S Phase II and III constituted informal settlements that form the main component of the study area (See Appendix A: Map 5).

3.3 Physical environment

The total land surface of Lebowakgomo as of January 1996 was 16 050 hectares with a total breakdown of sites as per Table 1 (TLC Report on Assets, April 1996). This scenario changed with the belated proclamation of Units R and S as part of Lebowakgomo on 17 June 1997. This came as a result of the fact that Unit A was proclaimed in 1972, Unit B, C, D and Industrial Area (IA) in 1976 (See Appendix B) while the remaining units including E, F, R and S were not 'proclaimed in the Gazette as part of the Lebowakgomo town' prior to 17 June 1997 (Applicant's Replying Affidavit, Case number 15562/97: 27). The total number of occupied sites during the period 1990-1995 was 301 and 844 in Units R and S Phase II and III respectively (See Table 1). Prior to the community elections of November 1995, the low level zone, i.e., Units A

(excluding Rockville and Tleane), R and S derived water from the Chuene dam while the high level zone, i.e., units B, F, C, D, E, GA (Government Area) had Lepelle (Olifants river) as their source of water supply (See Appendix A: Map 3). There was an acute shortage of water for the low level zone 'due to lack of water capacity of the Chuene dam' (TLC Progress Report for Ward 3, November 1995 – September 1998:1).

Although major bus and taxi routes were tarred in units A and F, they were without taxi bays. As was the case in the Apartheid city throughout the country, internal streets were not tarred at all. Moreover, Units B, R and S were characterised by gravel bus and taxi routes and gravel streets without any form of storm water drainage.

3.4 Demographic features and social amenities and community facilities

The following demographic features and the state of social amenities and community facilities were applicable in Lebowakgomo as of 1996.

3.4.1 Population

The population size of Lebowakgomo was approximately 50 000 with a population growth rate of between 4.5% and 6% (TLC Report on Assets, April 1996). The average household size in Lebowakgomo was 4.7 persons. It is probable that the average household size of the informal settlements was slightly higher given the fact that the majority of informal settlement dwellers were from rural areas where the average household size was 5.7 persons (Ibid; also "Sisco" Sehlapelo, Interview, 1.8.2008). The

percentage of the population of a school going age at the time, i.e., 7-18 years, was 31% (TLC Report on Assets, April 1996).

The inhabitants of Lebowakgomo could be categorised into two groups, i.e., formal residents and informal settlements dwellers. Formal residents were located in Units A, S Phase I, B, F and E while informal settlements dwellers occupied Units BA, R and S Phase II and III (See Appendix A: Maps 3 & 5). These two categories of residents could further be broken down into the most destitute, working poor and the middle class, i.e., civil servants and business entrepreneurs. Units B and F were predominantly occupied by the middle class, Units A and S Phase I by members of all income groups, Unit E by the working poor while the informal settlements of Units R and S Phase II and III were dominated by the working poor and the most destitute ("Weso" Doubada, Interview, 1.8.2008).

3.4.2 Education facilities

There were five primary and five high schools, five pre-schools combined with crèches and/or nurseries, and one remedial school prior to the community elections of November 1995 (Baloyi *et al.*, 1994). However, none of these education facilities existed in the informal settlements of Units R and S Phase II and III during that period. In addition, Lebowakgomo as a whole did not have its own public library. The only library that served 'pupils at secondary school and students at the colleges' was located at Lebowakgomo parliamentary complex situated approximately 12km away from the informal settlements of Units R and S Phase II and III (Ibid). Nevertheless, an internal

arrangement was made to allow members of the public 'to make special arrangements to loan books' from this facility (TLC Report on Assets, April 1996: 14).

3.4.3 Health and welfare facilities and emergency services

A range of welfare services such as pensions and disability grants were provided by the South African government through the homeland government of Lebowa during the period under discussion, i.e., 1990-2000 (Baloyi *et al*., 1994). The nearest public hospitals prior to the community elections of November 1995 were Groothoek Hospital which was later renamed Dr. Machupe Mphahlele Memorial (MMM) and Pietersburg Hospital. These hospitals were situated approximately 20km and 60km respectively. Thabamoopo Mental Hospital (See Appendix A: Map 5) which served as a rehabilitation centre for the general public was situated just outside Unit A (Ibid). Poor health and welfare facilities in the public sector served 'to inhibit attempts to improve the quality of life' of the residents, the working poor and the destitute in particular (TLC Report on Assets, 1996: 15). This was complicated by the unaffordable nature of private medical practices (which were ten in number as of April 1996) that were only affordable to middle and high income groups and those of the working poor who qualified for Medical Aid Schemes.

As far as the question of emergency services is concerned, the fire station building that was located approximately 20km from the informal settlements of Units R and S Phase II and III in Unit Industrial Area (IA), was not utilised for the purpose of emergency services prior to the community elections of November 1995. This anomaly can be

ascribed to the fact that the person who was supposed to be in charge of it 'was going [to] earn [a] salary higher than that of the Chief Minister of former Lebowa' (Northern District Council Agenda, 15.8.1995: 18). As a result, the fire station building was subsequently 'rented [out] to the [South African] Defence Force' (SADF) to serve as its army base in 1993 (Ibid). The occupation of this building by the army caused untold damage to the building and fire station equipment. In order to make the fire station work to their benefit, the community of Lebowakgomo under the leadership of the LCA campaigned for the relocation of the army and for the building to be resourced.

3.5 Employment and informal activities

'Only few of the economically active persons in Lebowakgomo' were employed in the area, 'mainly in the public service' (60%) and the manufacturing sector (19%) as of 1994 (Baloyi *et al*., 1994: 44). The fact that Lebowakgomo is located far from major towns meant that a greater percentage of the inhabitants had no choice but to commute daily to Polokwane (former Pietersburg) and Mokopane (former Potgietersrus) 'to work in industry, commerce and services' (Ibid: 41). Of those employed in the retail sector, half were 'employed by establishments selling durable goods and the rest by cafe's and restaurants' (TLC Report on Assets, April 1996: 2). In addition, 'approximately a third of all workers were migrants with male absenteeism of 29%' (Ibid). Of workers employed in Lebowakgomo, professionals and clerks constituted 36% and 31% respectively (TLC Report on Assets, April 1996). The unemployment rate was very high in the informal settlements of Units R, S Phase II and III and BA (See "Sisco" Sehlapelo, Interview, 1.8.2008).

For purposes of livelihoods, unemployed households engaged themselves in informal economic activities such as 'market stalls, spaza shops, fruit and vegetable vendoring, plumbing, [and] panel-beating' as well as shebeens (Baloyi *et al*., 1994:44). These activities occurred 'at home, on street corners and, of course, occupying shop verandas', at main entrances to public institutions and shopping centres as well as taxi ranks (Ibid). Some hawkers specialised in the sale of staple food, mainly porridge and meat. Informal trading areas that specialised in the sale of staple food were popularly referred to as "Bush Hotels" ("Weso" Doubada, Interview, 1.8.2008). The bulk of informal traders at the main entrances to public institutions such as the Magistrate Offices and parliamentary complex, shopping centres and taxi ranks were residents of unit A and the informal settlements of Units R and S Phase II and III (Ibid).

3.6 Land invasions

The formation of the LCA in 1990 was prompted by the prevailing housing backlog in Lebowakgomo, arbitrary and exorbitant increase in rent and service charges as well as the desire to render the country ungovernable (LCA Secretariat Report, March 1994). The Civic Movement led the homeless to invade pegged empty sites without basic services in Unit S Phase II and III in 1991 and serviced sites in Unit R in 1994. Prior to the LCA-led invasion of Unit S Phase II and III in 1991, the bulk of the people who constituted the homeless were occupants of backyard rooms who migrated from the rural areas to Lebowakgomo in search of social and economic opportunities ("Weso" Doubada, Interview, 1.8.2008). The same prospects prompted other people from the rural areas,

those with relatives and friends in the township in particular, to flock to Lebowakgomo during the time of the LCA-led land invasion of Unit S Phase II and III in 1991 and Unit R in 1994 ("Sisco" Sehlapelo, Interview, 1.8.2008). It should be stated from the outset that the LCA-led invasion invasion of Unit S Phase II and III in 1991 was undertaken with consent from the then Town Manager, Mr. Molepo (Ibid). However, the LCA-led invasion of Unit R was in protest against the unilateral allocation of residential sites by the office of the Town Manager in 1994 and was, therefore, effected without consent from the authorities.

Overall, the informal settlements of Units R and S Phase II and III in Lebowakgomo resulted from a form of 'planned invasion' and, therefore, were fairly well laid out with large plots measuring between 450m^2 and 800m^2. Initially, these sites were earmarked for delivery of higher income housing by the erstwhile government of Lebowa. As a result, they were extremely well suited for *in situ* upgrading, in fact upgrading was already envisaged at the time of invasion. However, this is not necessarily representative of informal settlements elsewhere. Many informal settlements in and around Johannesburg are extremely dense and constantly densifying. As UN-Habitat (2006) puts it, 'population densities and spatial configuration of slums [or informal settlements] often do not allow for the development of the roads, sewerage systems and other facilities that may be easier to install in less dense and better planned areas' (2006: 47). This is complicated by the presence of shack lordism whereby tenants rent shacks from shack owners. Chapter 13 of the Code was consciously designed for this far more complex type of informal settlement, often on unsuitable land.

The expansion of informal settlements in Lebowakgomo was regulated and guided by the Civic Movement. During the LCA-led invasions in Units R and S Phase II and III, households were requested by the LCA not to erect permanent dwelling structures pending the outcome of the civic engagement with the authorities ("Sisco" Sehlapelo, Interview, 1.8.2008). In addition, they were requested to take cognisance of 'open spaces reserved for streets and pedestrian paths or access' (Baloyi *et al*., 1994:44). The aim was to avoid expensive demolition of permanent housing structures in case of installation of engineering services and encroachment to open spaces in Unit S Phase II and III and to await the outcome of double allocation of sites in Unit R. In order to curb land speculation and the abuse of residential sites, the following conditions were set by the local branch of SANCO as the criteria for site allocation:

> An Applicant for residential site had to be 30 years of age or more, neither have a site nor a house in Lebowakgomo, had to erect a temporary structure on the allocated site lest no deed of grant could be issued, and had to possess an identification document such as an ID or Passport (LCA Application Form for a site, Undated).

The Lebowakgomo Civic Organisation (LCO), a rival civic to the SANCO-affiliated LCA, led the invasion of pegged but unserviced sites in Unit R as from 6 April 1997 (Applicant's Replying Affidavit, Case number 15562/97). Unlike the LCA or local branch of SANCO before it, the LCO-led land occupation was not done with any consent from the authorities. The LCO cited as reasons for the illegal allocation or occupation of

land in Unit R the question of ‘double cab’, i.e., the Chairperson of the TLC remaining the Chairperson of SANCO, alleged continued allocation of sites by SANCO as opposed to the TLC, alleged corruption in the allocation of sites, corruption in construction of RDP houses and double allocation of sites in Unit R which were said to prejudice some residents (Ibid).

3.7 Rent and service charges boycott

Rates and taxes were never applied in Lebowakgomo until the present day. The only fees that were applicable in the early 1990s were house rent, water, electricity, service charges for maintenance of water and electricity infrastructure, sale of sites, registration of sites, and fees for the use of cemetery, civic hall and sports field (TLC Report on Assets, April 1996). Payment for rent was R6, refuse removal R2, electricity service charge R6 and general service charge R2.10 (Ibid). Payment for water and electricity was based on household consumption with provision for a flat rate of R3 per household with faulty water metres or no metres at all (Ibid). As I have earlier pointed out, the rent and service charges boycott was precipitated by arbitrary and exorbitant increase in rent and service charges. The rent and service charges boycott was led by Lebowakgomo Civic Association (LCA) and was supported by the majority of residents including business entrepreneurs. The situation was exacerbated by the gutting of the Superintendent Offices in Unit A on the eve of the first democratic elections of April 1994 by some residents who were probably threatened by arrears pertaining to rent and service charges as a result of the boycott.

3.8 Administration and governance

Prior to the formation in 1990 of the LCA, which in 1992 became the local branch of SANCO; Lebowakgomo was administered by the Town Council through the Town Manager's office, i.e., the Town Manager and two superintendents, one for Unit A Office and the other for Unit F Office. The Superintendent Office for Unit A was responsible for Units A, R, and S while that of Unit F was responsible for Units BA, B, F and E. Immediately after its formation, the LCA 'successfully brought the council system to its virtual collapse' by forcing Councillors to resign *en masse* in 1990-1 (Ibid). The township was thus rendered ungovernable with the result that only the Town Manager and the two superintendents administered it until March 1993 (Applicant's Replying Affidavit, Case number 15562/97). Between 1993 and November 1995, the township was co-governed by the Town Manager's Office and the local branch of SANCO through the Implementation Forum (IF).

'The 1995 Local Government elections gave birth to Greater Lebowakgomo TLC which consisted of 9 Councillors', i.e., 6 Ward and 3 Proportional Representation (PR) Councillors (TLC Progress Report on Three Years of Local Government Administration, 1.11.1995 – 1.11.1998: 1). In addition, these elections ushered in key civic leaders into the TLC through the Tripartite Alliance Plus One (ANC-SACP-COSATU Alliance plus SANCO) albeit under an ANC ticket. The Chairperson of the local branch of SANCO in Lebowakgomo was elected Councillor for Ward 3, Chairperson of the TLC and TLC Representative (Rep) in the Northern District Council (NDC). The TLC 'started functioning from the beginning of 1996' (Applicant's Replying Affidavit, Case number

15562/97: 9). Henceforth, the area was administered by the SANCO-inspired TLC with the Town Manager's Office as its administrative wing up to the year 2000.

Prior to the new dispensation, the administrative seat of the town was based at Lebowakgomo Civic Centre in Unit BA. The LCA operated from offices allocated for free by two local business entrepreneurs, i.e., Messrs. Victor Sithole (Mohlapa Garage) and Monamodi (Dandy Dry Cleaners). After the community elections of November 1995, the administrative seat remained at Lebowakgomo Civic Centre with the Town Manager and two superintendents at the helm of the administration (TLC Hand-Over Report to Lepelle-Nkumpi Municipality, 2000). The SANCO-inspired TLC appointed "Sisco" Sehlapelo who was both the Administrator and Deputy Chairperson of the local branch of SANCO as the TLC Administrator immediately after its inception. The aim was to stamp the authority of local public representatives on the Administrative staff and to ensure smooth coordination between the political and administrative wings of the TLC.

As I will show in the socio-economic and political components of the Civic Movement approach, the local branch of SANCO effectively utilised leaders it deployed into the TLC through the community elections of November 1995 to advance the interests of residents, particularly the inhabitants of the informal settlements of Units R and S Phase II and III. In addition, SANCO utilised its community participation mechanisms (to which I turn in the next section) to empower dwellers to partake effectively in matters that had a direct bearing on their lives. Therefore, contrary to Seekings' (1997) assertion that ordinary people became alienated from the civics as they began to see activists as

self-serving, more and more residents of Lebowakgomo associated themselves with the local branch of SANCO even after the 1995 community elections up to 1998.

3.9 Community participation mechanisms

Like the rest of SANCO branches nationally, the local branch of SANCO in Lebowakgomo relied on street, block and general mass meetings as mechanisms of community participation. The vertical and horizontal representative structure of the Civic Movement in the form of street, block and Branch Executive Committee (BEC) committees enhanced meaningful community contributions. Community members were co-opted into sub-committees of SANCO in order to address community issues in an efficient manner and to maximise community involvement.

Residents in general were 'supplied with a schedule of [monthly], street, block and general mass meetings and were timeously reminded of such meetings' by the local branch of SANCO and its street and block committees (SANCO Secretariat Report, 14.11. 1999 to 30.6.2001). Notices of general mass meetings were channelled through 'churches, schools, vendors, taxi associations and trade associations [all of] which played a major role in ensuring dissemination of information' (Ibid). Community engagement through a decentralised system of street and block committees coupled with general mass meetings and sub-committees of the Civic Movement served as effective means of community participation.

Faced with 'the collapse of essential services and huge sums of money in arrears owed by the community' as a result of the rent and service charges boycott and, against the background of calls for total *vis-à-vis* part scrapping of arrears, the SANCO-inspired TLC resolved on 'payment of a flat rate of R48.40 for the period February-May 1994' (TLC Chairperson's Address earmarked for Chairpersons/Mayors for Masakhane, 28.6.1996: 5). This flat rate amount was arrived at by adding standard service charges for the period February-May 1994 as 'a) R1.00 – Refuse Removal, b) R6.00 – Electricity Service Charges, c) R2.10 – General Service Charge, d) R3.00 – Water Consumption' (Ibid).

Although the issue of arrears and resumption of payment for rent and service charges was finally resolved on 19 May 1996, the actual debate by the community commenced in January 1996 and continued unabated at well attended monthly mass meetings convened by the local branch of SANCO. This followed the adoption of the Masakhane Campaign by the South African government in May 1995. The aim of Masakhane was two-fold; firstly, to end the rent and bond boycotts with a view to restore and inculcate the culture of payment for services, and secondly, to ensure delivery of services. Therefore, the dominant theme of the Masakhane Campaign was that residents should resume payment for services 'if there is to be provision of better services' (Times, 16.2.1996). Active community involvement was identified as a key pillar for the success of the campaign. In order to get the buy-in of the TLCs in the Masakhane project, the national government scrapped arrears for the rent and service charges up to January 1994 (Ibid). In addition, the Masakhane Awards were introduced. The criteria for TLCs to scoop the Masakhane

Awards were community participation, community education fame, payment level, service delivery, development projects fame, an efficient ward system, local development fame and completion of many schemes (Criteria for Award, Undated).

SANCO also entered into tactical, strategic and principled alliances with other structures across the socio-economic and political spectrum as dictated by material conditions on the ground from time to time. As was the case at national level, the local branch of SANCO entered into the principled alliance based on the Freedom Charter with the ANC-led Tripartite Alliance to improve the lives of residents. It also entered into tactical and strategic alliances with other structures through the All Structures meetings where various structures representing political organisations, businesses, churches, informal traders, trade unions and taxi associations participated. This served to deepen the culture of mandates and report backs and thereby, entrenched principles of community-driven process and community-centred development.

The TLC also engaged the community in matters that affected their well being through information dissemination audio cassettes entitled ‘Democracy in Action: Lebowakgomo TLC’ to the general public and distribution of Christmas presents (in the form toys and firecrackers) to children under the age of 12 in the informal settlements of Units R and S Phase II and III and hosting of functions in celebration of completed projects in 1996 and 1997 (See “Appendix I”). Monitoring, evaluation and reporting on the impact of the information dissemination audio cassettes (which were distributed through local taxis) at the community level were adopted as part of the broader strategy to assess the impact of

community outreach on the residents. The distribution of Christmas presents not only 'created a healthy atmosphere of the festive season among children who never had access to toys' and other social amenities before but also served as a signal that children and their parents were recognised as citizens of Lebowakgomo by the TLC (Ibid).

3.10 Evolution of the issue of 'double cap'

As was the case in the rest of the country, the local branch of SANCO in Lebowakgomo was affected by the exodus of its key leaders into public office following the first democratic elections of April 1994 and community elections of November 1995. Kamela Phineas Sekonya (Ex-Officio member of the branch and President of the Northern Transvaal Region in 1994) was elected into the provincial legislature, Chuene William Rammutla (President of the branch and Secretary of the Northern Transvaal Region in 1994) was absorbed into the civil service and Ponele Richard Seshai (Treasurer of the branch in 1994) was promoted into a high post in the Department of Justice. It should be noted that provincial structures of SANCO were referred to as regions and Chairpersons at all levels of the organisation including branches as Presidents prior to the democratic elections of 1994. In addition, this author (Chairperson of the branch who replaced Chuene Rammutla following the latter's absorption into the civil service in 1994, and Deputy Secretary of the Northern Transvaal Region in 1995) was elected as Councillor for Ward 3, TLC Chairperson (a position equivalent to that of the Mayor) and TLC Representative (Rep) in the Northern District Council (NDC) while Mashilo Jonas "Sisco" Sehlapelo (an Administrator who was also the Deputy Chairperson of the branch

at the time) was absorbed into the TLC and Provincial Housing Board (PHB) as an Administrator and member respectively.

While the former category of SANCO cadres except Kamela Sekonya were lost from the Civic Movement for good, the latter, i.e., this author and "Sisco" Sehlapelo retained their positions in SANCO. This approach was strengthened by the resolution, by SANCO at national level in February 1997, to allow the issue of 'double cap', i.e., elected Councillors, Members of Provincial Legislature (MPLs) of Members of Parliament (MPs) holding office in SANCO structures (See "Sisco" Sehlapelo, Interview, 1.8.2008). This move was aimed at addressing the problem of leadership vacuum caused by the exodus of SANCO leaders into public office at all levels of the organisation (Ibid). This policy shift meant that SANCO could retain its key leaders while grooming the new leadership (Ibid). In the case of Lebowakgomo, this policy directive enabled Kamela Sekonya to ascend to the national executive committee of SANCO while retaining his position as an MPL. In addition, this author retained his positions as the Chairperson of both the local branch of SANCO and the TLC while Sisco Sehlapelo retained his as the Deputy Chairperson of the local branch of SANCO and TLC Administrator as well as PHB member. Further, this policy shift empowered the local branch of SANCO to adopt the use of 'double cap' (retaining positions in SANCO while occupying positions in government) as a strategy to advance the interests of residents without loosing control of SANCO at the local level. This strategy gave rise to a fierce conflict over control of the Civic Movement at the local level (more illumination on this issue appears in Chapter 5 of this research report).

Although the deployment of key leaders into administrative and political positions in government created a leadership vacuum within the Civic Movement throughout the country, the local branch of SANCO was an exception because it successfully employed the controversial strategy of 'double cap' to advance the interests of residents in general and informal settlement dwellers of Units R and S Phase II and III in particular. This contradicts Seekings's (1997) and Zuern's (2006) assertion that experienced leaders of SANCO were co-opted into government structures to serve the interests of the ruling elite. On the contrary, these local leaders conceived their participation in government structures as consolidation of the arena of struggle to ameliorate the lives of residents in general and informal settlement inhabitants in particular. This can be attributed to the fact that the local branch of SANCO maximised the deployment of its cadres into the TLC through the community elections of November 1995 to enhance upgrading of informal settlements of Units R and S Phase II and III. However, this approach aroused a bitter conflict over control of such deployees between the local branches of SANCO and the ANC. As I will vividly show in Chapter 5, the leadership of the local branch of the ANC embarked on a campaign to dislodge the local branch of SANCO from the leadership in and influence over local politics as early as March 1996.

Conclusion

It is clear from the background outlined above that the study area lacked engineering services, social amenities and services as well as community facilities at the time of the LCA-led land invasion in Unit S Phase II and III in 1990. It also emerged that urban-rural

linkages played a dominant role in the occupation of the informal settlements of Units S Phase II and III in 1990 and R in 1994. These informal settlement areas were not proclaimed as part of Lebowakgomo, a factor which was corrected by the LCO-led invasion of Unit R as reflected in Section 5.3 of this research report. In addition, the issue of 'double cap' engendered bitter conflict for control of the Civic Movement between the local branches of the Pan Africanist Congress (PAC) of Azania and Azanian People's Organisation (AZAPO) and the ANC-aligned LCA. The informal settlements of Units S Phase II and III and R were also characterised by main gravel roads which were supposed to serve as bus and taxi routes and internal streets without any form of water drainage system. In addition, they were characterised by acute shortage of water, high levels of unemployment and poverty. The question posed by this background of this research report is how were these issues that impacted negatively on the lives of informal settlement dwellers addressed? The answer to this question lies in the Civic Movement approach that forms the main discussion of Chapter 4 (to which I turn next) and Chapter 5 of this research report.

Chapter 4

Socio-economic component of the Civic Movement approach

4.1 Introduction

The comparison and contrast between Chapter 13 of the Code and the Civic Movement approach exhibits similarities and differences between the two approaches. On the one hand, the socio-economic component of the Civic Movement approach that forms our discussion in this Chapter of the research report is identical in many respects with major tenets of Chapter 13 of the Code. On the other hand, the community participation aspect that constitutes part of the political component of the Civic Movement approach (to which I turn in Chapter 5) shows glaring differences while the eradication of informal settlements aspect reveals both similarities and differences between Chapter 13 of the Code and the Civic Movement approach. As I have already sketched an overview of Chapter 13 of the Code in Chapter 2 of this research report, it is now relevant to interrogate the socio-economic component of the Civic Movement approach in this Chapter of the research report and later its political component in Chapter 5. This will help us to draw a better comparison between the housing policy document on upgrading of informal settlements and the advocacy approach of the Civic Movement.

This Chapter sets out similarities between the two approaches by exploring issues of secure tenure, social amenities and community facilities, social services, and housing. Engineering services, roads and storm water drainage, parks and open spaces as well as domestic energy and community lighting will form the component of the discussion on

social amenities. Public schools and the library, the hospital and clinic as well as emergency services will be scrutinised as the component of social services.

4.2 Secure tenure

As highlighted in the previous chapter of this research report, planned land occupation with consent from the Town Manager, Mr. Molepo, meant that the inhabitants of the informal settlement of Unit S Phase II and III enjoyed secure tenure from the very beginning. This served to protect informal settlements dwellers from being threatened with eviction by the authorities. This was complemented by the installation of water pipes and communal taps in every street in Unit S phase II except for Phase III ("Sisco" Sehlapelo, Interview, 1.8.2008). Although the inhabitants of Unit S Phase III were forced to gather water from the nearest communal taps in Unit S Phase II, the installation of communal taps was itself identical in approach with provision of temporary engineering services as contained in Chapter 13 of the Code. The difference is that provision was not made for temporary sanitation services in the case of Unit S Phase II and III. Of importance is that funding designated for this purpose was derived from the Town Manager's Office through pressure from the Civic Movement.

After the Town Manager reneged on an agreement to install essential services in Unit S Phase II and III, the residents of Lebowakgomo under the leadership of the LCA resolved to embark upon a 5-day stay-at-home protest on 2 February 1993. This stay away was preceded by a protest march to the Bantustan government of Lebowa in pursuit of demands which cut across all residents, formal and informal. These demands included the

transfer of the Town Manager; immediate stoppage of servicing of *erven* in Unit R; immediate servicing of Unit S Phase II and III; development of parks; provision of clinics, one in Unit R and the other in unit F; erection of primary and secondary schools in unit S; and creation of posts for unemployed and newly qualified teachers. These demands except the latter can be said to be more or less similar to the current Phases 1 to 3 of upgrading of informal settlements as incorporated in Chapter 13 of the Code which covers 'access to land, basic municipal engineering services and social amenities and services' and community facilities (Department of Housing, 2004b: 9). This approach serves to illustrate the importance of the role of the Civic Movement as a centre of power for all communities as opposed to an organisation that only represents the interests of informal settlement dwellers.

With regards to the call by the LCA for the removal of the Town Manager from Lebowakgomo, the Civic Movement targeted the Town Manager's office because it was this office that was 'delegated significant degree of authority' as far as 'housing and service provision' was concerned (Baloyi *et al.*, 1994: 45). According to the structure of former Lebowa Department of Home Affairs, the needs of the community were identified and prioritised by the Town Manager and the two superintendents (Baloyi *et al.*, 1994). These needs and priorities were then despatched to the Department for finalisation and funding. This brought the Town Manager's office into a collision course with the Civic Movement. The LCA held 'the Town Manager and the superintendents responsible for the poor conditions in the township' (Ibid: 45). It should be noted that the Civic Movement existed as an alternative to the collapsed town council in line with calls for

advancement of organs of people's power in every sphere (See "Weso" Doubada, Interview, 1.8.2008). This was in line with the objective of Chapter 13 of the Code that seeks to empower 'informal settlement inhabitants to take charge of their own development' (Department of Housing, 2004b: 3).

The stay-at-home protest was so successful that the cabinet of former Lebowa capitulated to the bulk of the demands of the residents of Lebowakomo as represented by the LCA. Among other demands on which the LCA scored a victory for informal settlement dwellers were installation of engineering services, primary and secondary schools in Unit S and a clinic in Unit R. Other indirect benefits were an agreement for joint allocation of sites, creation of 2 320 teachers' posts and reinstatement of expelled SADTU (South African Democratic Teachers Union) members to their teaching posts. An agreement for installation of engineering services and provision of primary and secondary schools in Unit S and a clinic in Unit R underlines the importance of meaningful community participation in addressing issues that affects the lives of the inhabitants of informal settlements through the Civic Movement as opposed to a committee appointed by and responsible solely to informal settlements dwellers. Installation of engineering services through funding from the Department of Home Affairs enhanced regularisation of the informal settlements of Unit S Phase II and III.

Regularisation of the informal settlement of Unit S Phase II and III was further consolidated through a concession by the authorities to issue deeds of grant to informal settlement dwellers. The payment schedule and mechanism in the form of down payment

of R195 and the monthly interest-free instalment fee of R4.10 spread over a period of 30 years towards the total site cost of R1 400 were endorsed at street, block and general mass meetings held under the auspices of the local branch of SANCO. This confirms that meaningful community participation is essential for regularisation of informal settlements and other upgrading activities. This approach is being promoted under Chapter 13 of the Code. The difference is that Chapter 13 of the Code provides funding for promotion of participation whereas the Civic Movement approach relied on its meagre resources and political consciousness of the residents. No funding was made available for site purchases. Although it consolidated ownership, titling through deeds of grant which was a lesser ownership title to freehold title attracted service charges. This was similar to the current conception by Chapter 13 of the Code that individual freehold title 'also attracts rates and taxes' (Department of Housing, 2004b: 30). For a more understanding of the difference between deeds of grant and full title refer to Appendix B.

Those who did not manage to assemble the deposit towards purchase of their stands neither could on their own decide to sell the sites they occupied nor access benefits such as access to dustbins and refuse removal. The inability to decide to sell their properties on their own accord confirms the conception of Chapter 13 of the Code that 'co-operative/Group ownership confers limited use rights' to residents (Ibid). However, reluctance to contribute deposits necessary for purchase of sites on the part of some dwellers through instigation by the local branch of SANCO confirms the view that access to land is sufficient means of secure tenure for the households concerned. It also relieved them from the cycle of payment for services that usually characterises ownership title.

4.3 Social amenities and community facilities

Engineering services, roads and stormwater drainage, domestic energy and community lightning as well as parks and open spaces were social amenities and community facilities that were developed through the Civic Movement approach. It is to the discussion of these issues that I now turn.

4.3.1 Engineering services

With the inception of SANCO-aligned TLC, identification and prioritisation of community needs was done by the TLC with strong influence from SANCO. The Civic Movement viewed the TLC as a vehicle through which election promises that were made by the Tripartite Alliance Plus One during campaigns for 1st November 1995 local government elections could be realised. Among these election promises were constant availability of water supply, tarred bus routes and internal streets, erection of Lafata primary and Kopano secondary schools in Unit S, provision of a fully fledged clinic in Unit R, more serviced sites, recreation facilities and job creation (LCA Local Government Manifesto, 1995).

The TLC ensured that the residents of the low level zone got 'their water from the main Olifants river water pipeline and, thereby, abandoned the Chuene dam as a source of water supply due to its [un]reliability' during 1997 (TLC Progress Report on Three Years of Local Government Administration, 1.11. 1995-1.11.1998: 2). It was through the bulk water supply to the low level zone that the informal settlements of Unit R and S Phase II and III 'were provided with adequate and constant water supply' to address the problem

of periodic water shortages (SANCO Application/Request for Donation and/or Financial Assistance, Undated: 1). This meant that although the informal settlements of Unit R and S Phase II and III were provided with internal water and sewer reticulation in 1993, the majority of the inhabitants from these informal settlements started to fully enjoy the benefits of access to water and proper sanitation four years later.

At the beginning of 1998, the TLC replaced the oxidation pond system with a new Wastewater Treatment plant that was constructed south of Unit A to alleviate the problem of sewerage ponds that were already in a state of overflow (TLC Progress Report on Three Years of Local Government Administration, 1.11.1995 –1.11.1998). This problem was aggravated by the loading on the ponds from additional sewerage that was generated from the informal settlements of Units R and S Phase II and III. The new project was envisaged to accommodate '14 700 *erven* (± 100,000 people)' with a 'design lifetime of twenty years' (Ibid). This design was earmarked to accommodate the whole of Lebowakgomo including the additional 2 345 low-cost housing units and 1 010 middle income houses that were about to be developed in Units R and S Phase II and III and Unit P respectively (Report on Extension of the Northern Collector Sewer, June 1998). The new Wastewater Treatment works was also coupled with 'the construction of the bulk sewer pipeline for unit[s] A, R and S' (TLC Progress Report for Ward 3, November 1995 – September 1998: 3). From the planning point of view, the approach of the SANCO-aligned TLC differed from that conceptualised in Chapter 13 of the Code in that it considered provision of water and sewer on the long term basis with current and future

development in mind. This type of planning served to reduce poverty of the soil and to generate economic opportunities for the local community.

4.3.2 Roads and storm water drainage

Other than provision of water and sanitation, bus routes were tarred with storm water drainage characterised by side inlets in order to reduce costs associated with sub-surface piping in Unit S Phase II and III during 1997. Gravel internal streets were also graded and shaped with a necessary cross fall against the natural slope to serve as cut off channels. Upgrading of bus and taxi routes was in line with provision of engineering services as conceptualised in Chapter 13 of the Code. Tarred bus routes and streets and graded and shaped internal streets uplifted the standards of roads and streets and upgraded the storm water drainage system. This improved the internal transport system such that buses and taxis began to reach areas that were previously inaccessible by road. However, lack of a taxi rank within the informal settlements meant that dwellers were still forced to walk up to 4 Km to access taxis and buses to far flung places at the undeveloped taxi rank in Unit A (Ibid). Lack of a taxi rank, therefore, militated against the area from serving as a transport hub necessary for the well being of residents as conceptualised in Chapter 13 of the Code.

4.3.3 Domestic energy supply and community lighting

The TLC in conjunction with the Department of Local Government and Traditional Affairs supplied bulk electricity with internal reticulation and high mast lights in Units R and S Phase II and III through overhead cables during 1996/97 financial year (TLC

Progress Report on Three Years of Local Government Administration, 1.11.1995-1.11.1998). The residents of the informal settlements of in Units R and S Phase II and III vigorously protested against overhead cables which they termed “washing lines” during installation and demanded underground cables instead from the TLC. It was the contention of these residents that overhead cables not only posed danger during times of storms but also threatened the value of their properties. It appears that the protest by the said residents was informed by the need to maintain existing design standards to avoid any form of discrimination, an aspect which is ignored in Chapter 13 of the Code. It was also an attempt to input on the design over a project that affected their lives, a factor which was in line with the current provisions of Chapter 13 of the Code. The residents’ approach implicitly posed the question as to what local authorities need to do in the face of financial constraints and maintenance of standards. Do they need to lower the standards to reduce the cost of supply or to maintain standards and raise rates and service charges? This dilemma is an area that needs further research to resolve.

The other issue that the informal settlement inhabitants were opposed to was the connection fee of R225 and the ready board fee of R400 which amounted to a total of R625. Dwellers demanded a single connection fee of R50 inclusive of the ready board as per ESKOM rates in rural villages. As I have indicated in Chapter 3 in this research report, the majority of the residents had rural ties. This is precisely why they linked the overhead design with ESKOM design in rural areas. The problem was that the Department of Local Government and Traditional Affairs contracted a private contractor, Schlebusch Electrical Consultants, to install electricity along the ESKOM design of

overhead cables and ready boards without inputs from the TLC and/or SANCO on the design concept. In addition, Schlebusch Electrical Consultants neither involved residents in the design nor took into account the affordability levels of informal settlement dwellers before the firm could embark on installation of electricity in Units R and S Phase II and III. This approach contradicts the current provisions of Chapter 13 of the Code.

The dispute around the electricity design and connection fee propelled residents of the informal settlements of Units R and S Phase II and III to constitute their own representative structure named the Concerned Action Committee during November 1996 (Applicant's Replying Affidavit, Case number 15562/97). The purpose of the Action Committee was to resolve a dispute with the TLC 'about the amount of connection fees that had to be paid in respect of electricity of Lebowakgomo town' as well as the overhead electricity design that was rejected by informal settlement dwellers in favour of an underground one. (Ibid: 13). The issue of 'double cap' also 'contributed immensely to the emergence of the Concerned Action Committee' (Ibid: 3). This was much more so given that the Chairperson of the TLC who was also the local Chairperson of SANCO and Councillor for Ward 3 'instructed the residents of S and R that they should pay R225 + R400 or pack and go to the rural areas' where the connection fee was R50 (Tripartite Alliance Commission of Enquiry Report: Undated: 1). Consequently, the 'residents of S and R did not see any difference between SANCO as their mouthpiece and Council as the governing body' (Ibid).

The issue of ‘double cap’ forced the president of SANCO at the time, Mlungisi Hlongwane, to forsake his position as the Mayor of Lekoa/Vaal TLC in favour of retaining the presidency of SANCO in 1997 (“Sisco” Sehlapelo, Interview, 1.8.2008). The question is as to whether a leader of the Civic Movement should resign his/her civic position immediately he/she ascends to higher political office in government. To me, the answer to this question depends on the quality of the leader in question. The Lebowakgomo experience has shown that the quality of the local leadership of the Civic Movement generated a host of benefits for residents by maintaining the question of ‘double cap’. This was made possible by the fact that the leaders concerned originated from the informal settlement of Unit S Phase II and III and, therefore, had the interests of the informal settlement dwellers at heart.

At a meeting of the Concerned Action Committee on 2 February 1997, Jack Mamphuti Phala and Moss Mphahlele of the local branches of the Pan African Congress (PAC) and Azanian People’s Organisation (AZAPO) respectively, ‘proposed a resolution of no confidence in the executive committee of the local SANCO branch also known as the Lebowakgomo Civic Association’ (Applicant’s Replying Affidavit, Case number 15562/97: 14). ‘This resolution was not passed and the chairperson, Mr. [Johannes] Lekgothoane, ruled that [the] purpose of the action committee was simply to address the electricity problem and that it was not to be used for political purposes or challenge the [local] leadership of SANCO’ (Ibid). The resolution passed at the Concerned Action Committee meeting on 2 February 1997 confirms the view that residents of informal settlements should be represented by the Civic Movement and only constitute their own

committee for specific issues of a project nature lest they risk loosing the leverage (power) of the Civic Movement. It also shows that once they constitute their own committee, they should maintain their independence and resist any attempts to hijack them from their own course or to pursue petty political interests. In this way, they stand a good chance to engage in effective community participation for their own benefit.

The issues of electricity connection fee, the optional nature of the ready boards and the electricity design were clarified through supportive documentation at a meeting between the Concerned Action Committee and the Town Manager, Elphia Moloto, in March 1997. After this meeting, the R225 connection fee, the optional nature of the ready boards and the electricity design were endorsed as appropriate by informal settlement dwellers at a report back meeting held under the auspices of the Concerned Action Committee towards the end of 1997 (Applicant's Replying Affidavit, Case number 15562/97). This underlined the need for effective community engagement as provided in Chapter 13 of the Code. It also brought closure to the chapter of the Action Committee and ushered in the formation of the Lebowakgomo Civic Organisation (LCO) which I will discuss in the next chapter of this research report.

As for the question of high mast lights, two were installed in Unit R, six in Unit S Phase II and III, one at Unit A Taxi rank and the other at Mathumetja Shopping Centre in Unit A while one existing high mast light in Unit S Phase I was repaired. This meant that informal settlement dwellers of Units R and S Phase II and III 'could enjoy benefits that go with community lighting' for the first time (TLC Progress Report on Three Years of

Local Government Administration, 1.11.1995-1.11.1998: 3). This was in line with the vision of Chapter 13 of the Code for the provision of 'lighting in key areas to enhance community safety and access to emergency vehicles' (Department of Housing, 2004b: 14). This also had a positive impact on parks and open spaces to which I turn below.

4.3.4 Parks and open spaces

The Clean and Green Campaign project was initiated in Lebowakgomo in April 1997 This project was a partnership between the TLC and the National Department of Public Works in association with the South African Breweries (SAB) to clean and green the environment and to transform parks from being hideouts for criminals into recreational facilities (Letter from TLC Chairperson to Chief Director for the Department of Local Government and Traditional Affairs, Undated). The project entailed collection of refuse from individual homes and businesses, clearing of rubble and refuse dumps in open spaces, debushing of trees in the immediate outskirts except those 'of natural ornament and wind breaking' qualities and development of parks (Claim from N.N. Doubada to TLC, 26.4.1997: 3). It should be noted that the debushing of trees and removal of rubble and other forms of dirt from open spaces are not provided in Chapter 13 of the Code; hence the majority of our towns and cities are dirty. Upgrading of parks and debushing of trees in the outskirts turned open spaces into a user-friendly environment as opposed to being hideouts for criminals. Further, the Clean and Green Campaign project contributed to poverty alleviation, albeit for a short period, in that 'twenty jobs were created out of which three supervisors earned R900.00 and [seventeen] labourers R700.00 per month for the period April 1997 – April 1998' (Ibid: 5).

The problem is that the principles of Clean and Green Campaign project were abandoned with effect from May 1998 due to the appointment of refuse removal contractors along the old lines of a refuse removal tender which concentrated mainly on collection of refuse from individual homes and businesses by the Department of Local Government and Traditional Affairs. Attempts by the TLC to incorporate the concept of Clean and Green Campaign were met with resistance from the Departmental officials who were responsible for procurement of waste management services. This prompted unemployed volunteers to organise themselves into Boikarabelo (take the responsibility) Club to fill the void by cleaning open spaces and developing parks. The TLC provided this clean and green movement with working tools.

The problem with the TLC was that it was reluctant to accommodate Boikarabelo Club volunteers in terms of payment or compensation for keeping the township tidy and developing parks for recreation purposes. The reason for failure of the TLC to accommodate these volunteers as far as payment is concerned can be ascribed to lack of willingness on the part of the TLC and the local branches of SANCO the ANC. This was because they suspected that the Boikarabelo Club was 'influenced by opposition parties for political gains' (ANC BEC Minutes, 3.10.2000: 3). The local branches of SANCO and the ANC as well as the TLC were antagonised by close leanings the Boikarabelo Club had with their rival, the LCO. It was only after tremendous pressure was brought to bear by the Boikarabelo Club that the TLC decided to give the said volunteers a once-off payment of R15 000 in September 2000 (ANC BEC Minutes, 3.10.2000). This shows

that meaningful community participation in community projects can only occur in an environment where the representative structures of dwellers put their interests first lest they risk to be rejected by the authorities or their interests will become subsumed under the interests of the opposition.

4.3.5 Other Social amenities and community facilities

The local branch of SANCO made efforts 'to get a Community Resource Centre consisting of SANCO offices, a community hall, a conference room, counselling rooms for victims of violence, rape, HIV, etc, career guidance rooms and a mini library' (SANCO Application/Request for Donation and/Financial Assistance, Undated: 2). These efforts were stalled by shortage of funds. Provision of multi-purpose centres such as the aborted one as envisaged by the local branch of SANCO in Lebowakgomo is not provided under chapter 13 of the Code. However, the TLC managed to strike an accord with Telkom for the installation of land lines in Units R and S Phase II and III with a view 'to make telephones accessible to all residents in November 1997' (TLC Notice to All Residents of Ward 3, 6.11.1997: 1). In addition, an agreement was struck with the Postmaster of Chuenespoort Post Office who also happened to be an executive committee member of the local branch of SANCO at the time, to grant residents of Units R and S Phase II and III as well as Lafata primary and Kopano secondary schools postal lobby boxes so that they could access their posts. Chapter 13 of the Code ignores the question of extending telecommunication services to informal settlements.

4.4 Social services

The Civic Movement approach on social services centred on public schools, library, hospital and clinic as well as emergency services to which I turn below.

4.4.1 Public schools and library

Plans to erect state-of-the-art double storey school buildings for Lafata Primary and Kopano Secondary schools were scuppered by the take-over of the Homeland government of Lebowa by the central government Task Team that was led by Fourie in the latter part of 1993 (Department of Education and LCA Minutes, 13.5.1994). The envisaged state-of-the-art double storey school buildings for the two schools consisted of two blocks of eight classrooms, administration block, ablution block, laboratory, school hall, library, tennis court and sport field for various sporting codes per school. The school building structures and related amenities were budgeted to the tune of '± R8 million and this amount was to be covered by 1993/94 school backlog programme' (Ibid: 1). Unfortunately, the school backlog programme for 1993/94 financial year was 'exhausted by the Task Team (Fourie) on salaries' (Ibid: 2). The Civic Movement tried in vain to lobby the new government to adopt the said school design concept which could have set the tone for future provision of user-friendly schools. Had this concept been accepted, the Civic Movement could have arranged with the two schools that residents access social amenities of the two schools as was the case with an undeveloped sports field at Kopano Secondary School and a school hall at Little Bedfordview Primary School in Unit A (See "Sisco" Sehlapelo, Interview, 1.8.2008). The important concept of state-of-the-art schools comprising the aforementioned social amenities and "community facilities" as

conceptualised in the Civic Movement approach is neglected in the provisions of Chapter 13 of the Code.

The local branch of SANCO vigorously advocated for the establishment of a library within the informal settlements of Units R and S Phase II and III through its secretariat and Chairperson who was also the Chairperson of the TLC and Councillor for Ward 3. As a result, the TLC approved and budgeted for a new community library during 1999/2000 financial year. Due to insufficient funds, the first phase of the new library consisting of the book area, children's library, group activity room, store room, kitchen and ablution facilities was constructed. The second phase of the library which covers the study area, reception, book repair store, offices, workspace and another store room still remains to be embarked upon. This community library was located approximately 2km from the new Lebowakgomo Hospital next to Unit R and 3.5km from Unit R Clinic and the two schools.

The idea behind the location of the library was to make the library 'accessible for pedestrians, cars, wheelchairs (users), bicycles, etc' and to reduce the distance between this educational facility and the two health service facilities (which I discuss below) (TLC Report on Lebowakgomo Library, Undated: 3). It was also envisaged that users who may for one reason or the other feel a headache or get sick or injured while studying at the library could access medical services nearby. The location of the public Library in close proximity to the informal settlements of Units R and S Phase II and III was crucial for the creation of an atmosphere conducive for studying, enhancement of at-home study

and the development of human capital. The location of the library within walking distance from the informal settlements, schools and health facilities is also promoted under Chapter 13 of the Code.

4.4.2 Health care and emergency services

Following an agreement reached after a defiant protest march on 2 February 1993, the former Lebowa Department of Health, Social Welfare and Pensions was forced to arrange for provision of clinic services at the building structure earmarked for a clinic in Unit R (SANCO Secretariat Report, March 1994). The arrangement for the operation of this structure as a primary health facility was a sequel to the agreement that the police would vacate the building earmarked for a clinic in Unit R 'to make way for provision of health services' (Agreement entered into between the Minister of Health, Social Welfare and Pensions and LCA, 17.3.1993). This served as a relief to residents of the informal settlements of Units R and S Phase II and III because they no longer had to travel for 12km to access primary health services at Lebowakgomo parliamentary complex. This was complemented by the introduction of mobile clinic services through active guidance of the TLC at the beginning of 1996 (TLC Report on Three Years of Local Government Administration 1.11.1995-1.11.1998: 3). The introduction of mobile clinic services also enhanced primary health services for informal settlement dwellers.

In line with its vision for transformation of Lebowakgomo into a fully-fledged town, the SANCO-inspired TLC lobbied the Department of Health and Welfare for the erection of a hospital to provide tertiary health services in Lebowakgomo. The efforts of the TLC

paid dividends through the resolution for decommissioning of Dr MMM Hospital and establishment of Lebowakgomo and Zebediela Hospitals during the latter part of 1996 on the part of the Department. SANCO leaders within the TLC lobbied vigorously for the hospital to be built next to Unit R 'on approximately 50 hectares [of land] on the farm Voorspoed 449, Registration Division K.S.' along the main road from Unit A to Unit F (TLC Report on Proposed Regional Hospital, 23.7.1996: 1). The purpose of this location was 'to make [health] services accessible to all residents' of Greater Lebowakgomo, especially those from the informal settlements of Units R and S Phase II and III (Ibid). The idea was that informal settlement dwellers could access tertiary health services from within walking distance as is also currently conceived in Chapter 13 of the Code.

In summary, the establishment of Unit R clinic and Lebowakgomo Hospital, installation of community lighting as well as cleaning and debushing of open spaces and development of parks were in line with Chapter 13 of the Code's conception that health and safety 'builds human capital by enhancing the productivity of labour and reducing vulnerability to disease' (Department of Housing, 2004b: 5). This conception was complemented by the establishment of Lebowakgomo Library nearby. The idea behind the location of health facilities within walking distance from the informal settlements of Units R and S Phase II and III was to enable the poor to use non-motorised transport to access these facilities ("Weso" Doubada, Interview, 1.8.2008). Poor households could, for example, utilise wheelbarrows to ferry patients to the nearby hospital in case of sudden illnesses (Ibid).

From September 1995, the local branch of SANCO campaigned for provision of emergency services through protest marches. These efforts were supplemented by submission of motions by its Chairperson in his capacity as the TLC Rep in the NDC. The issue of making the fire station that was located in Unit IA operational was vigorously raised by the TLC Rep in the NDC (who was also the Chairperson of the local branch of SANCO) through submission of written motions. As a result, the budget was allocated by the NDC during 1996/97 financial year for the purpose of making the fire station operational (Report on Assets, April 1996). Upon investigations, it was discovered that the budget that was required for repairs of the fire station building far exceeded that of constructing a new structure altogether due to damages caused by the occupation of the station by the army. For this reason, the desire for emergency services by the community was only realised with the construction of a new fire station adjacent to the Civic Centre by the TLC and NDC successors in title, Lepelle-Nkumpi Local Municipality and Capricorn District Municipality (CDM) respectively in 2004. This fire station is located approximately 8km from the informal settlements of Units R and S Phase II and III which meant a reduction of 12km from the old unused fire station in unit IA. Of importance is that the new Fire Station incorporated fire fighting, Jaws of Life and human resuscitation services which were important to prevent loss of property and human life.

4.5 Housing

Most informal settlement dwellers of Unit R and S Phase II and III had already constructed their own houses by the time 1 000 consolidation and 1 000 project-linked subsidies were allocated for Units R and S Phase II and III in 1996 (TLC Progress Report

for Ward 3, November 1995 – September 1998). The fact that both Units R and S Phase II and III had already benefited from engineering services in 1993 meant that only R7 500 per beneficiary was available for top structures pertaining to consolidation subsidies (Ibid). Due to low profit margins associated with construction of Reconstruction and Development Programme (RDP) houses, the appointed construction company, Comdev, felt that it was going to run at a loss were it to construct 36m^2 RDP houses for R7 500 per site or beneficiary as per the contract. Although the housing finance regulations did not provide for it, building materials were purchased for beneficiaries based on their preferences for incremental housing given the fact that most beneficiaries had already built their own houses. This arrangement was arrived at through the insistence of the local branch SANCO and the TLC. This innovation is absent from the provisions of Chapter 13 of the Code. However, Chapter 13 of the Code provides for community inputs in the house designs during Phase 4 of the Programme to allow for various housing typologies.

The Civic Movement approach not only helped increase the living space of 421 beneficiaries in Units R and S Phase II and III but also afforded them housing of their choice and thereby broke away from the "one size fits all" mentality, i.e., construction of an ocean of standard RDP houses characterised by a similar shape and small living space (See "Appendix D"). It also prevented fraud and/or abuse of R7 500 consolidation subsidies for other household items such as food, transport, clothing, education, etc., at the expense of household accommodation.

It was only after those who qualified for consolidation subsidies claimed their building materials that an application was made to convert the remaining 579 consolidation subsidies into the project-linked housing subsidies by Comdev (TLC Hand-Over Report to Lepelle-Nkumpi Municipality, 2000). Due to pressure from the TLC and the local branch of SANCO, this conversion was approved 'subject to the Joint Venture agreement and a 50/50 professional team between the established and emerging companies'; hence Mokibelo Kgathi of Mokibelo Properties from unit A was roped in as a Joint Venture (JV) partner with Comdev (Approval Letter from Department of Housing and Water Affairs, 26.11.1996: 1). An agreement was reached with Mokibelo Properties/Comdev JV that the JV would contribute R20 per completed RDP house 'to enable SANCO to carry out its day to day business' and two show houses as a way of ploughing back to the community (SANCO Secretariat Report, 14.11. 1999 to 30.6. 2001: 6). This was a good way to enhance meaningful community participation.

In order to address the problem of escalating material costs that were not catered for by the R15 000 subsidy quantum that remained the same for quite sometime, the JV was allowed to construct shells and leave out demarcation of rooms on $36m^2$ RDP top structures. The result of this arrangement was that more power was given to households to design their room sizes based on individual preferences. This deviation from the "one size fits all" mentality pertaining to demarcation of rooms for RDP houses also yielded rooms of various typologies and sizes, albeit this occurred at a cost to the beneficiary.

Preference for the allocation of project-linked subsidies was given to Unlawful Occupiers from Helen Joseph in Unit BA and those from Unit R as well as applicants on a waiting list (TLC Hand-Over Report to Lepelle-Nkumpi Municipality, 2000). For example, of the 44 Unlawful Occupiers from Helen Joseph, 42 were relocated to Unit R while 2 were relocated to Unit S Phase III (Helen Joseph Relocation List, Undated). However, those relocated were not provided with relocation funding for food and transport as is currently incorporated in Chapter 13 of the Code. It was only after Unlawful Occupiers were accommodated that new applicants from within and outside the township were considered. In summary, the two RDP housing projects, i.e., the consolidation and project-linked housing subsidies were 'aimed at eradicating squatter [informal] settlements in Lebowakgomo and to provide the homeless with proper shelter' as part of the TLC strategy to ensure a shack-free environment (TLC Progress Report for Ward 3, November 1995 – September 1998: 3).

Further, beneficiaries who did not qualify for low-cost housing subsidies 'managed to acquire [RDP] houses through fraudulent means' due to lack of affordability for bonded houses that were available on the market, especially in Units B and F, and lack of access to housing finance (SANCO Secretariat Report, 14.11. 1999 to 30.6. 2001: 5). In addition, some of those who qualified did not occupy their RDP houses but resorted to 'renting them at a fee to the needy ones' (Ibid). Furthermore, certain beneficiaries sold their RDP houses informally while others used them as business premises such as hair saloons (See "Appendix E"), driving schools, spaza shops, taverns, etc., (SANCO Secretariat Report, 14.11. 1999 to 30.6. 2001). Those who rented or sold their RDP

houses confirm the view that households with rural ties most likely prefer to consolidate in rural areas as opposed to urban areas. Their acquisition of RDP houses was probably influenced by lack of housing options such as rental and rural housing or the desire to stake out a living.

Conclusion

Similar to the current provisions of Chapter 13 of the Code, the Civic Movement approach to upgrading of informal settlements of Units R and S Phase II and III was holistic in form and character. Thus, it preserved existing community networks and support structures as conceptualised in Chapter 13 of the Code. It also benefited all informal settlement dwellers including illegal immigrants except for provision of subsidies for RDP houses, the same way as is currently conceived concerning Phase 4 of Chapter 13 of the Code. Although they were excluded from the provision of RDP houses, illegal immigrants had access to private rental accommodation as provided by individual housing beneficiaries and other individual informal settlement dwellers with backyard rooms. This is an aspect that is ignored in Chapter 13 of the Code.

As far as the issue of planning is concerned, provision of water was found to have failed to take into account the source of water supply, i.e., the Chuene dam. Hence, the internal water reticulation system was not activated due to lack of water pressure. Moreover, the oxidation pond system was found to be in a state of overflow. These factors bring to the fore the probability that some infrastructure in municipalities might be found to be improperly planned and, therefore, existing infrastructure needs to be reviewed to take

account of increasing population as a result of birth and migration of people from rural areas to urban areas. This is an issue that is also not considered in Chapter 13 of the Code.

The Civic Movement approach ensured that informal settlement dwellers had access to secure and upgradeable tenure, basic municipal engineering services, social amenities and services, community facilities as well as adequate housing. Of importance is that social amenities and services as well as community facilities were located within walking distance from the informal settlements under discussion. The idea was to enable the poor to use non-motorised transport to access these facilities. The Civic Movement approach on these issues sits well with the provisions of Chapter 13 of the Code as outlined in Section 2.4 of this research report.

Funding mechanisms of the Civic Movement approach resembled that contained in Chapter 13 of the Code except that it was disintegrated. The only thing that tied funding for upgrading of informal settlements of Units R and S Phase II and III together was the advocacy approach of the Civic Movement in Lebowakgomo. However, other aspects of Chapter 13 of the Code such as the provision of the community hall, community resource and day care centres, taxi rank and sports fields were not catered for. Lack of provision of these facilities meant deprivation in that provision of these facilities serves to enhance a sense of belonging and a shared community.

The Civic Movement approach further helped reduce criminal activities in the study area through community lighting, debushing in the outskirts of residential areas and development of parks. It also enhanced human capital through skills training and empowerment during the implementation of community-based projects. This helped reduce poverty and vulnerability. It further encouraged the development of social capital through meaningful community participation.

Chapter 5

Political Component of the Civic Movement approach

5.1 Introduction

Community participation mechanisms of the Civic Movement transcended engagement of the community through government created mechanisms. The Civic Movement approach involved the community in all aspects that affected their lives through the street, block and general mass meetings; and the All Structures meetings. These community participation mechanisms were translated into the TLC approach through the Masakhane Campaign. However, political bickering that followed conflict over the form community participation needed to take generated seeds of conflict at the political level in Lebowakgomo. It also brought the alliance the local branch of SANCO had with that of the ANC and the issue of 'double cap' into question. Further, the Civic Movement approach of eradication of informal settlements prior to the formation of the LCO assumed the role of what Huchzermeyer (2008) refers to as 'positive eradication'. This approach was carried forward by the local branch of SANCO and the TLC albeit with some aspects of what Huchzermeyer (2008) refers to as 'negative eradication' towards unlawful occupation of land as spearheaded by the LCO after its formation in April 1997. I will interrogate these issues under the concepts of community participation and eradication of informal settlements to which I turn below.

5.2 Community participation

5.2.1 Street, block and general mass meetings and the Masakhane (let us build together) Campaign

In 1996, street committees facilitated the naming of streets whereas block committees ensured that the informal settlement community renamed Units R and S Phase II and III Thabo Mbeki and Hillary Mahlatji sections respectively. Thabo Mbeki was the Deputy President of the Republic of South Africa whereas Hillary Mahlatji was an MK (Umkhonto We Sizwe) veteran who was residing in Unit B at the time. Street naming enhanced access to the localities by emergency and police vehicles as promoted under Chapter 13 of the Code. The renaming of Units R and S Phase II and III helped phase out the use of the name *"Shushumela"* (Invaded land) with its negative connotation of forceful occupation.

General mass meetings organised by the local branch of SANCO were well attended probably because its Chairperson happened to be both Councillor for Ward 3 and Chairperson of the TLC (TLC Chairperson's Address earmarked for Chairperson/Mayors for Masakhane, 28.6.1996). Therefore, the issue of 'double cap' serves as evidence that it is good strategy for the civic to be in government in order to be able to shape and implement the policies that will address the people's needs. The inherent internal contradictions such as conflict over control of resources and competition for support of residents between councillors and civic leaders and among councillors were mitigated by the unity of purpose between and among the leaders of the civic and the local authorities. The fact that the local branch of SANCO used the language best understood by the

community, i.e., Northern Sotho together with respect for other people's views and encouraged constructive debates also propelled members of the community to partake at all levels of community meetings.

The issue of payment for arrears based on a flat rate and resumption of payment for rent and service charges was resolved by residents themselves through street, block and general mass meetings. This signifies the centrality of the community in advancing meaningful community participation on issues that affect their lives through the Civic Movement. In order to deepen the culture for payment of services, the TLC extended 'payment for water, Refuse Removal, General Service Charges and purchase instalments for sites' to the informal settlements of Units R and S Phase II and III with effect from April 1996 (Ibid:6). Payment for refuse removal and general service charge was declared the same as that of formal residents of Units A, S Phase I, etc. These payments were discussed and ultimately endorsed at street, block and general mass meetings held under the auspices of the local branch of SANCO. It was at these meetings that more emphasis was placed on the significance of payment for services by the local leadership of SANCO and the TLC as well as residents themselves. In addition, informal settlements dwellers were 'also urged to have sewerage connection in their stands so as to activate the sanitation system on sewerage reticulation which was provided in 1993' (TLC Press Statement on Masakhane Campaign, 30.4.1996:2).

All residents, formal inhabitants and informal settlement dwellers alike, were also urged through leaflets, pamphlets, electronic media such as radio and television, print media

such as local and national newspapers to be up to date with payment for services. The fact that funds were set aside for provision of domestic energy and community lighting, clinic, primary and secondary schools, etc., by the TLC as discussed in the previous chapter of this research report, went a long way in convincing the inhabitants of the informal settlements of Units R and S Phase II and III about the necessity for payment of services.

Community-Based Public Works Programme (CBPWP) projects such as bulk water supply, wastewater treatment works, roads and stormwater drainage project, etc., empowered the local community through job creation, education and training. Skills development that was provided through CBPWP funding covered training in administrative, management, construction, and financial skills were developed in areas such as holding of regular meetings, drafting of agenda, minutes taking, purchasing and bookkeeping, collections of monthly payments, project selection as well as project and practical management (See Annexure G). Skills development in these areas was also vital in community participation pertaining to issues of the broader society. This form of public participation and empowerment transcends the current provisions of Chapter 13 of the Code.

As a result of effective community participation and payment for and delivery of services, the TLC ‘was awarded the Masakhane Certificate of Excellence at a function held at the Union Buildings [in Pretoria] on the 28 June 1996’, as the provincial winner of Masakhane for the Northern Province (now Limpopo) (TLC Report on Masakhane,

14.11.1996: 1; also See “Appendix F”). It was at this function that ‘the other seven provincial winners in brackets were awarded the Masakhane Certificates of Excellence: Free State (Mokwallo, Fredefort), Gauteng (Lekoa/Vaal), Mpumalanga (Middleburg), Western Cape (Oordshoorn), North West (Bophirima District Council), Northern Cape (Keimoes) and Eastern Cape (Butterworth)’ (Ibid). The ninth province, i.e., Kwazulu-Natal was ‘excluded because it was still to hold the community elections when winners from provinces were announced’ (Letter from TLC Chairperson on the Selection Committee for Masakhane Awards, 4.11. 1996: 1).

5.2.2 All Structures meetings

It was through the All Structures meetings that the Civic Movement led a delegation consisting of hawkers trading at the main entrances to public institutions and at shopping centres and the taxi rank, street vendors, as well as spaza and shebeen owners to the local police station with a view to get the local police to refrain from harassing informal traders in 1994. The SANCO-led delegation of informal traders insisted that the police relax their application of trading laws so as to allow unencumbered ‘trading under the cloak of free enterprise’ (TLC Report on Assets, April 1996:14). As a result, informal traders in general were allowed to stake out a living without any police harassment based on enforcement of unpopular and outdated regulations. This serves as proof that informal settlement dwellers do not solely require their own organisations to advance their cause.

On the question of community safety, the All Structures meetings gave rise to the formation of the Monitoring Forum between the Civic Movement and the local police

station with a view to conduct night patrols in the whole township to curb robbery and theft. It was also through the All Structures meetings under the guidance of the local branch of SANCO that Lebowakgomo Interdenominational Ministries Association (LIMA) was charged with the responsibility to convoke crime prevention prayer services at the Roman Catholic Church and Lebowakgomo Taxi Rank in Unit A. The prayer convocation services were important in that they inculcated the spirit of togetherness and discouraged criminal elements from engaging themselves in criminal activities which were described by the church as the work of the devil. This was one aspect of community participation that could draw informal settlement dwellers into meaningful participation in matters that threatened their lives and well being side by side with other residents as opposed to condemnation of informal settlements as havens of crime.

The SANCO-inspired TLC adopted the model of the All Structures meetings during its compilation of the Land Development Objectives (LDOs) in the period 1997-1999. All Structures/Stakeholders across the socio-economic and political spectrum in the TLC area constituted the Public Participation Committee (PPC) under the chairpersonship of the TLC to address 'issues related to land uses and control and integrated development planning' (TLC Progress Report for Ward 3, November 1995 – November 1998: 4). The fact that SANCO leaders within the TLC were steeped in the *modus operanti* (workings) of the All Structures meetings means that they were able to advance the interests of all stakeholders irrespective of their ideological backgrounds.

As compared to the current IDP committees, the PPC was pragmatic with clear mandates that were readily accommodated by TLC leaders who were more experienced as far as stakeholder engagement was concerned. The problem with the current IDPs is that they are technocratic in approach in that they are driven by professional planners or consultants the majority of whom are still trapped in 'a strongly traditional and spatially oriented practice of planning' (Harrison, 2006: 196). Moreover, 'the participatory element of the IDP mixes uneasily with a performance culture, driven by targets and time frames' that is not responsive to the realities of public participation on the ground (Ibid: 202).

5.2.3 Tripartite Alliance Plus One and Ward Councillor meetings

Jack Mamphuti Phala, the Secretary of the LCA who was elected in 1991 and Moses Mphahlele, who was an additional member of the LCA at the time, opposed the alignment of the Civic Movement to the Tripartite Alliance as early as 1993 (LCA Secretariat Report, March 1994). It should be noted that Phala and Mphahlele were local leaders of the local branches of the PAC and AZAPO respectively. Phala and Mphahlele insisted that it was inappropriate for SANCO to align with the ANC-led Tripartite Alliance because the Civic Movement consisted of members from different political shades.

The opposition against the alignment of SANCO to the Tripartite Alliance by leaders of the local branches of the PAC and AZAPO support the commonly held view that the communities cannot effectively indulge themselves in constructive engagement in an

environment where the Civic Movement is aligned to some political organisation(s). This is true in as far as the academic debate is concerned. However, from the point of view of practical and effective community participation, the Civic Movement is best positioned to address the needs and aspirations of informal settlement dwellers and the broader community through street, block and general mass meetings as an ally of the Tripartite Alliance, provided it maintains its independence as is the case with the SACP and COSATU. The Alliance with the ANC-led Tripartite Alliance supplemented by mass action where appropriate certainly gave the local branch of SANCO a jumpstart over the rival LCO in addressing bread and butter issues of the informal settlement inhabitants of Units R and S Phase II and III.

Political jockeying for power between the ANC and SANCO forced the former to reposition itself and assume the leadership of the Tripartite Alliance Plus One as entrusted to it (the ANC) by history (Joint ANC BECs Minutes, 07.03.96; also See "Weso" Doubada, Interview, 1.8.2008). To this end, the ANC identified a need to realign its branches into civic-oriented structures as early as March 1996 ("Weso" Doubada, Interview, 1.8.2008). The need was also identified 'for close coordination between the BEC's and Councillors, especially those who represented the wards within the boundaries of the existing branches' as well as 'constant feedback from the Councillors' (Joint ANC BECs Minutes, 07.03.96: 6-7). It was also felt that Councillors should be accountable and responsible to the ANC and that the Councillor together with the BEC report to the general membership and the community through ANC branch and Ward Councillor meetings respectively ("Weso" Doubada, Interview, 1.8.2008).

For the above reasons, the Tripartite Alliance Plus One *Lekgotla* (Council) held on 9 May 1997 resolved that the Ward Councillors should 'together with the ANC, be accountable to the electorate in the form of ward meetings' (Alliance Structures Bosberaad Notes, Undated: 1). This resolution contradicted SANCO's approach that Ward Councillors report at community mass meetings held under its auspices whereby residents took part 'in SANCO activities at all levels – street, block and branch levels', to tackle issues of the broader community within the wards (SANCO Chairperson's Address to the AGM of SANCO, 14.11.1994: 4). The shift in ANC strategy was also precipitated by the fear, which emanated from calls on the part of some activists within the Civic Movement nationally and locally, that SANCO ought to be transformed into a political party *Ibid*. This made ANC politicians doubly anxious about their positions and careers and thus they began to mistrust SANCO.

Political bickering within the Tripartite Alliance confirms the view that politicians use the system of participation to garner support for their organisations and to entrench themselves with a view to further their political careers. It also shows that the ANC was politically sensitive to the dominant role of SANCO and thereby corroborates the view that politicians distrust community organisations. Further, the insistence that Ward Councillors be accountable to the electorate through Ward Councillor meetings by the local Lebowakgomo branch of the ANC served to steal the platform of meaningful community participation away from the local branch of SANCO and thereby, reduced its

base and weakened it further. It also served to slow down the tempo of community involvement and representation.

However, the Alliance *Lekgotla* influenced the TLC to engage residents through participatory budget albeit at Ward Councillor meetings. This was a sequel to the resolution for 'involvement of the people in drafting of people's budget (participatory budget)' as adopted by the Alliance *Lekgotla* on 9 May 1997. Henceforth, the TLC began to identify and prioritise community needs 'through involvement of communities in the budgetary processes' (Alliance Structures Bosberaad Notes, Undated: 1; also See Official Hand-Over of Completed Projects, 14.10.1996:1). Community participatory budget was based on the scoring system. The criteria for scoring revolved around issues of service type, participation, sustainability, job creation and capacity building (Scoring Table for Capital Projects, Undated). The fact that community participation was adopted as one of the ingredients for budgetary purposes propelled the local branch of SANCO in Lebowakgomo and the TLC to engage the community further in public participation.

5.3 Eradication of informal settlements

5.3.1 The formation of the LCO and unlawful occupation of Unit R

The decision to abandon the right to joint allocation of sites with the Town Manager's Office on the part of the local branch of SANCO after the community elections of 1995 was informed by the need to promote orderly urbanisation. The aim was to curb the emergence of new informal settlements and thus attract investments in line with SANCO's broader objective to develop Lebowakgomo into a fully-fledged town. This

decision left the gap concerning the emergence of informal settlements as a solution to address the rising demand of housing by the homeless and migrants from rural areas. This void was filled by the LCO which emerged as a rival to the LCA (the local branch of SANCO). The LCO was formed by Jack Mamphuti Phala and Moss Mphahlele of the local branches of the PAC and AZAPO respectively on 6 April 1997.

The reasons for the formation of the LCO were manifold. Chief among these reasons were the huge housing backlog for the homeless, dissatisfaction against the alliance SANCO had with the ANC as well as the question of 'double cab'. The LCO leaders, notably Phala and Mphahlele, wanted separation of roles between SANCO and the TLC and that SANCO be independent from the ANC. It was feared that SANCO could easily be associated with delivery of services as against the TLC as the local sphere of government by the community and thereby, boost the ANC during elections (See "Weso" Doubada, Interview, 1.8.2008). As a result, the LCO battled for turf with SANCO.

In order to address the plight of the homeless and to dislodge SANCO from local politics, Phala and Mphahlele led the invasion of Unit R (in the morning) and the formation of the LCO (in the afternoon) on 6 April 1997 (Applicant's Replying Affidavit, Case number 15562/97). The majority of those people who were allocated sites were from the rural areas in search of economic and housing opportunities ("Weso" Doubada, Interview, 1.8.2008). Phala and Mphahlele were elected Chairperson and Secretary of the LCO respectively, at its launching meeting. Given this state of affairs, it is safe to conclude that the occupation of land in Unit R was not spontaneous. Rather, it was carefully planned

and organised in order to get support for the establishment of the LCO for purposes of representing the interests of the homeless and to dislodge SANCO. It can also be argued that the formation of the LCO was not an initiative of Unlawful Occupiers but of outsiders much more so that both Phala and Mphahlele were residing in Unit A. Moreover, Victor Selapa, Ally "Madlisa" Mapheto and John Langa (now late) who were also elected into the executive committee of the LCO were inhabitants of the informal settlement of Unit S Phase II and III.

Further, the LCO complained of the length of time the homeless took without being allocated sites, corruption in the allocation of sites, prejudice as a result of double allocation of sites in Unit R and that SANCO continued to allocate sites as opposed to the Town Manager's Office (Applicant's Replying Affidavit, Case number 15562/97). As for the complaint in relation to corruption, the LCO cited 'certificates of completion of building in respect of the house build on unit "S" site 316 [Phase II] and in respect of site 1321 unit "S" [Phase III] in the town Lebowakgomo' that were issued by the building inspector of the Northern District Council (NDC) on 9th and 20th January 1997 respectively (Ibid: 12). These certificates were issued for mere foundation trenches as a result of the building inspector of the NDC having relied on the unscrupulous local contractor's word that individual subsidy houses were already constructed by him on the aforementioned sites. This revelation by the LCO confirms that the Civic Movement can effectively play the representative and watchdog roles on behalf of informal settlement dwellers.

5.3.2 Regularisation of Unit R as a means of 'positive eradication' of informal settlements

Of the 210 households who were allocated sites in Unit R by SANCO in 1994, 166 were allowed to apply for deeds of grant upon payment of R195 deposit towards the purchase of their sites. The remaining 44 households were made to obtain legal ownership of their sites through transfer of deeds of grant from households who were allocated the same sites by the Town Manager during the collapse of the Implementation Forum in 1994. During March 1996, 'the chairperson of the local branch of SANCO and the rural council of Greater Lebowakgomo, made an announcement that the people with problem of double allocation within unit "R" should come to the office of the Town Manager of Lebowakgomo and must come and make sure that their names are on the waiting list from which the allocation of the new serviced sites was to take place' (Ibid: 8).

Out of the 100 additional sites that were serviced in Unit R in 1996 for the purpose of resolving the problem of double allocation, preference was given to 44 'applicants who were the holders of deeds of grant in respect of sites in unit "R" that were occupied by people to whom SANCO had allocated such sites' during 1994 (Ibid: 32). 'After having allocated sites to holders of deeds of grant who lost their sites due to SANCO's action during 1993 [1994], the Town Manager during March 1996 started to allocate the remaining sites within unit "R" according to the waiting list of applicants in its office' (Ibid: 33). 'The process through which legalisation of the occupation of sites within unit "R" took place was that the occupant of a site to which SANCO allocated to it [him or her] during 1993 [1994] had to obtain a letter of confirmation that the respective site had

been allocated to him or her during 1993 (1994) by SANCO and then had to pay the prescribed amount for the site to the Town Manager whereafter a deed of grant was issued' (Ibid: 32).

Further, as I have already pointed out in Chapter 4 of this research report, preference for allocation of RDP houses was given to Unlawful Occupiers from Unit R and Helen Joseph in Unit BA and applicants on a waiting list. Of Unlawful Occupiers in Unit R, some did not qualify for RDP houses either because they benefited elsewhere or were earning more than R3 500. Some of those who qualified but were reluctant to apply for RDP houses did not want to consolidate in urban areas because they preferred their rural villages ("Weso" Doubada, Interview: 1.8.2008). The TLC's attempt to address the problem of Unlawful Occupiers through the Housing Subsidy Scheme (HSS) and the waiting list served to neglect the housing situation of the above categories of people. This approach can also be said to have been in contradiction to the provision of Chapter 13 of the Code pertaining to engineering services for people who have either benefited from other areas or do not qualify for Phase 4 benefits of the upgrading process. It also did not offer choices for those who preferred to consolidate in rural areas.

Nevertheless, the TLC addressed the problem of people in desperate circumstances to a certain extent by giving preference to Unlawful Occupiers concerning allocation of RDP houses in Units R and S Phase III. The TLC could have done more in this regard should it not have allocated 56 remaining serviced sites in Unit R on the basis of a waiting list because such an approach neglects people in desperate circumstances. On the contrary,

the TLC should have given preference to those of the Unlawful Occupiers who neither qualified for RDP houses because they earned above the qualification limit nor prepared to consolidate in urban areas or those who had already benefited elsewhere. This is an aspect that is addressed under Phases 1 to 3 of chapter 13 of the Code. Had the TLC realised how significant the question of rural links is on home choice, it could have afforded households with rural ties the opportunity to opt for rural subsidies or institutional housing for purposes of rental accommodation.

5.3.3 Application for court eviction and 'negative eradication' approach of SANCO-inspired TLC

In an endeavour to ensure the eradication of informal settlements and a shack-free environment, the TLC applied for a court order for eviction of the LCO-led Unlawful Occupiers from Unit R. This application was backed by the local branch of the ANC by way of despatching a letter to the TLC 'emphasising its support for proper control of the allocation of sites' (Ibid). The LCO was defended by Advocate Louw who contended that the Unlawful Occupiers had immediate need for land or shelter and, therefore, 'should be allowed to continue to occupy land which they had invaded' (Ibid: 42). The defence also argued that there was 'lack of orderly administration of Lebowakgomo town since 1994' (Ibid: 54), that the allocation of sites was done by SANCO as opposed to the Town Manager 'without proper process of allocation or on the basis of friendship, family ties or payment of money' (Ibid: 57). In addition, the defence contended that the low-cost housing development was 'being done without proper plans being submitted to the town

manager and without proper inspection by the building inspectors of the Transitional Local Council' (Ibid).

The TLC argued to the contrary of the defence and asserted that the LCO 'had no power to allocate sites', that 'illegal occupation of sites took place in an inorderly fashion, interfered with bulk services provided and took place on the boundary of sites' (Ibid: 24), and that it was the LCO's 'action to invade and occupy the land without proper authorisation' that would instead 'interfere with the orderly administration of the Lebowakgomo Town' (Ibid). In addition, the TLC submitted that it did 'not make sense for homeless people to settle illegally on land which has been serviced and developed in order to provide housing to people who are homeless' (Ibid:27). Further, the TLC insisted that illegal occupation interfered 'with the process of orderly administration of government, the allocation of sites according to waiting lists' and made 'proper planning and orderly development impossible' (Ibid:24). This argument is not different from the conception of Chapter 13 of the Code that seeks proper planning and orderly development to be based on the Integrated Development Plan (IDP) of each municipality.

During the day of the Supreme Court sitting over the application for eviction of Unlawful Occupiers from Unit R on 21 July 1997, Advocate Louw alluded to the fact that a precedent had been set through legal recognition of occupation of land by informal settlement dwellers who were led by SANCO to invade land in Unit S Phase II and III in 1991 and Unit R in 1993. He also referred to 'the provisions of Section 26 (3) of the Constitution which provides that no person shall be evicted from land unless all the

circumstances pertaining to their occupation have been taken into account' (Judgement, Case number 15562/97: 3). Based on this constitutional provision, Advocate Louw exhorted Judge Daniels to consider such circumstances as advanced by the LCO defence.

In his judgement on 22 July 1997, Justice Daniels pronounced that 'the respondents do not claim a legal right, derived legally and officially to occupy the land in question, or to allow any person to occupy,' that the respondents were 'in illegal occupation of the land', and that circumstances referred and alluded to Counsel 'call for political rather than judicial intervention' (Ibid: 3-4). He also added that the respondents had taken 'the law into their hands, and in so doing invaded the land, and rendered the applicant's efforts to administer the allocation of land almost impossible', that they 'one sidedly and single mindedly disrupted the orderly allocation of land and by adopting the illegal means they have created a situation which is untenable' and that circumstances relied upon by them 'have mostly been created by themselves, and are certainly not circumstances to be taken into account' (Ibid:4).

For the above reasons, an order for eviction of Unlawful Occupiers from Unit R was granted with Kalkbult as an area of alternative accommodation. It should be noted that Kalkbult was situated approximately 20km away from the unlawful occupation of Unit R (See Annexure A: Map 2). In addition, the LCO leaders and Unlawful Occupiers were ordered to bear the costs of the court application jointly and severally. The TLC Chairperson summed up the negative eradication approach through his emphasis that the Supreme Court judgement 'gave an indication that the days of illegal forceful occupation

of land by squatters [Unlawful 0ccupiers] will soon be over in Lebowakgomo' in his interview with Phasha (Undated: 3) on the profile of the TLC Mayor. The judgement supported the move by the TLC and SANCO to ensure orderly urbanisation and eradication of illegal occupation of land. It was also in line with international thinking and the current conception of Chapter 13 of the Code that evictions must be undertaken on the basis of a court order.

It should further be noted that unlike the LCA before it, the LCO led land occupation on state land without permission from any government structure (Applicant's Replying Affidavit, Case number 15562/97). As a result, its legal representative could not adduce any legal reasons to show that the Unlawful Occupiers were legally occupying the land (Ibid). In my view, the LCO defence should have referred to the right to housing as enshrined in the South African constitution. In terms of section

> '26 (1) Everyone has the right to adequate housing.
>
> (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right'.
>
> (Republic of South Africa, 1996: 12).

As Budlender (2003: 6) correctly puts it, 'the right to housing (like all other social and economic rights) is a factor which has to be taken into account, with due weight, in all administrative decisions which bear the realisation of the right'. In addition, the state has

the duty to respect the right to housing. This 'requires the state to refrain from interfering with the enjoyment of the right' (Ibid). However, it should be borne in mind that the case of the unlawful occupation of Unit R occurred before the landmark Grootboom ruling in the Constitutional Court (ConCourt) in 2000 when the right to housing was given more detailed meaning.

The omission on the part of the LCO defence to cite the constitutional right to housing means that the application for court eviction of Unlawful Occupiers from Unit R was adjudicated without reference to Section 26 (1) and (2) of the Constitution. Secondly, the LCO defence failed to maintain that 'the squatters [Unlawful Occupiers] were entitled to protection from eviction' under the Prevention of Illegal Eviction (PIE) Act because they were living in desperate circumstances. In addition, the LCO defence did not contest the validity of the use of the waiting list for people in desperate circumstances as the Unlawful Occupiers under discussion. Moreover, it did not argue that no provision was made in the TLC or government 'housing policy for people in crisis situation the squatters [Unlawful Occupiers] found themselves' (COHRE, 2005: 27-8). Further, it did not exploit provisions of the Development Facilitation Act (DFA) which entitled Unlawful Occupiers to be relocated in a way that accommodates their interests in the land and homes they already occupied.

Although 'Kalkbult 169 K.S. adjacent to the rural settlement Lekušwaneng' was cited as an area of alternative accommodation by the TLC, the area was not provided with tents, portable latrines and communal taps to ensure proper water supply and sanitation along

the lines of Phase 1 of Chapter 13 of the Code (Applicant's Replying Affidavit, Case number 15562/97: 60). What the TLC merely did was to clear the area for occupation and dig seven trenches for pit latrines for approximately 400 households that were expected to relocate to Kalkbult. This contradicts the TLC Chairperson's argument as contained in Phasha (Undated: 3) that the TLC felt that it could "not just throw people away without giving them alternative accommodation to settle on". Had the LCO leaders and their defence done their homework, they could have challenged Kalkbult as an area of alternative accommodation on the grounds of lack of temporary communal water taps and ablution facilities and its close proximity to the sewerage pond. These factors posed health risk to human habitation at Kalkbult. In fact, the question of heath hazard could have necessitated a further relocation from the area as is currently provided in Chapter 13 of the Code. In addition, the LCO leaders and their defence could have noticed that although it was situated in close proximity to places of economic opportunities such as Unit IA, Kalkbult was not well-located to social opportunities such as shops, schools and places of worship as well as sports fields as is currently provided in Chapter 13 of the Code.

Further, the LCO leadership and its defence failed to notice that the development of low-cost houses in Unit R was not going to affect Unit R Extension 2. As a result, they failed to indicate Unit R Extension 2 as a suitable remedy available to the TLC 'to solve the problem of the illegal occupation of state land in the Lebowakgomo town' (Ibid: 61). In addition, they failed to supply particulars of any people who were in dire need of accommodation next to the existing unlawful occupation of Unit R for the purpose that

alternative accommodation could be provided in close proximity to the area of occupation. All the aforementioned factors should have been raised as relevant circumstances that needed to be considered by the Supreme Court in terms of Section 26 (c) of the South African Constitution. Surely, their case could have been strengthened had the LCO leadership and its defence done their homework properly and adduced all these factors as relevant circumstances for consideration by the Supreme Court. Nevertheless, on the flip side of the coin, planned unlawful occupation of Unit R made the TLC aware through the application for court eviction of Unlawful Occupiers from Unit R that certain residential areas such as Units R, S, Q, P, F and E were never 'formally proclaimed in the Gazette as part of the Lebowakgomo town' (Ibid: 27). Unit R, for example, 'was identified and approved to be incorporated into the town of Lebowakgomo in 1987' but the process was not carried to its logical conclusion (Ibid). The TLC took advantage of the need to close any loopholes pertaining to the application for court eviction of Unlawful Occupiers from Unit R through an immediate proclamation of outstanding units and other surveyed farms on 17 June 1997 (Applicant's Replying Affidavit, Case number 15562/97; also See Annexure G).

On the day of eviction of Unlawful Occupiers from Unit R through the court order, the LCO leadership tried to negotiate with the TLC Chairperson on the eviction site to have Kalkbult replaced as an area of alternative accommodation. To this end, they proposed unit J, open space next to Unit S Phase II and the area next to Lebowakgomo showground as preferred alternative relocation areas. They felt that any one of the three areas was suitable as an alternative to Kalkbult because of their close proximity to the area of

eviction. They cited proximity to schools in Unit S, the clinic in Unit R and the nearby hospital for health services, sports fields, church services as well as the shopping and undeveloped taxi rank in Unit A. The request by the LCO was in line with the conception of Chapter 13 of the Code that emphasises 'minimum disruption or distortion of existing fragile community networks and support structures' (Department of Housing, 2004b: 6). It was also in line with the provision of Chapter 13 of the Code that 'the relocation must take place at a location as close as possible to the existing settlement and within the context of an approved community relocation strategy' (Ibid: 19). The fact that the TLC made no provision for transportation and loading costs for structures as well as relocation food support for Unlawful Occupiers contradicts the current provisions of Chapter 13 of the Code on relocation.

The TLC rejected the proposed relocation alternatives and insisted that any deviation from Kalkbult as an area of alternative accommodation would contradict the court order at a meeting held a day after the LCO's request. As I have earlier highlighted, the issues around an alternative relocation place should have been raised as relevant circumstances that needed to be taken into account by the Supreme Court on the part of the LCO and its defence. The TLC's rejection of alternative areas of relocation as proposed by the leaders of Unlawful Occupiers as well as the strict application of the court order means that relocation was not undertaken 'in a voluntary and negotiated manner' as envisaged in Chapter 13 of the Code (Ibid: 20). Following the rejection of the LCO's alternative areas of relocation, the Unlawful Occupiers relocated themselves to the open space next to Unit S Phase II to the west of Unit S Phase I. After they stayed for two months in this area,

the Unlawful Occupiers relocated to Unit R Extension 2 on their own accord. This was probably after they observed that the area was not going to be affected by low-cost houses that were being constructed in Unit R. The relocation of Unlawful Occupiers to Unit R Extension 2 means that, as against the current provisions of Chapter 13 of the Code, no mechanisms were devised by the TLC 'to ensure that the land [of relocation] is not re-occupied' (Ibid).

Faced with re-occupation of land by Unlawful Occupiers in Unit R, 'the TLC distributed questionnaires to squatters [Unlawful Occupiers] at Unit R (Extension 2) and the information regarding their names, ID numbers, previous residence etc was gathered' (TLC Minutes, 9.9.1999: 6). An 'inspection was also conducted where illegal water connection' was effected (Ibid). 'A meeting with their steering committee was also arranged for 19 August 1999' but representatives of Unlawful Occupiers boycotted it 'due to their reluctance to meet with officials regarding their removal and re-allocation to another place' (Ibid). These efforts by the SANCO-inspired TLC were not carried out with the interest of Unlawful Occupiers at heart but to build a case for another application for court order which was subsequently obtained by the TLC successor in title, i.e., Lepelle-Nkumpi Municipality in 2002. The TLC efforts, therefore, were geared towards what Huchzermeyer (2008) refers to as the 'negative eradication' of informal settlements.

Conclusion

The case of the Civic Movement in Lebowakgomo has proved that participatory mechanisms as adopted by the local branch of SANCO can serve to frustrate the top-

down approach of the local authorities. Although they were not necessarily designed for the informal settlements of Units R and S Phase II and III, community participation mechanisms as adopted by the local branch of SANCO and the TLC proved effective in ensuring meaningful community involvement in matters that affected the lives of informal settlement dwellers. Moreover, these mechanisms can be replicated at scale at any informal settlements in South Africa. They can also be used to compliment those that are contained in Chapter 13 of the Code. Further, the local branch of SANCO was able to synergise its community participation approach with that of the TLC through leveraging the influence of its leaders who were deployed into the TLC. Community participation mechanisms of the Civic Movement involved every member of the community with powers to make decisions as opposed to stakeholders as provided in the current Ward Committee system. In addition, these mechanisms did not require participants to commute to meeting places because they were applied within easy reach of the community unlike the current Ward Committee system with vast distances between residential areas. Further, participation based on stakeholder representation occurred through active engagement of stakeholders with clear mandates and decision-making powers unlike the Ward Committee system wherein participants serve in an advisory capacity without powers to execute their resolutions. Moreover, the community participation approach of the Civic Movement empowered residents of Lebowakgomo in general, the informal settlement inhabitants of Units R and S Phase II and III in particular, to actively partake not only in projects from conception to inception but also in every facet of their lives.

With regards to the question of eradication of informal settlements, the Civic Movement promoted ‘positive eradication’ from its inception in 1990. This can be ascribed to the fact that the leaders of the Civic Movement propagated for tenure security, provision of engineering services, social amenities and services as well as community facilities in Units R and S Phase II and III along the lines of the current provisions of Chapter 13 of the Code. In order to regulate the formation of new informal settlements, the Civic Movement abrogated its right to joint allocation of sites with the local authorities to the TLC immediately after its leaders were ushered into the TLC through community elections of November 1995. However, the rising demand for housing led to the emergence of the LCO, a rival civic organisation to the local branch of SANCO, which coordinated the invasion of land in Unit R. Henceforth, the local branch of SANCO and the TLC adopted the ‘negative eradication’ approach towards the unlawful occupation of Unit R. SANCO and the TLC missed the opportunity to regularise the unlawful occupation of Unit R by supporters of the LCO by insisting on accommodating the interests of Unlawful Occupiers through provision of RDP houses in a greenfield development nearby.

Chapter 6

Conclusion and recommendations

6.1 Introduction

The Civic Movement approach illuminates lessons which municipalities can draw from to sharpen their strategies regarding upgrading and ultimate eradication of informal settlements. These lessons (to which I turn below) hinge on the concepts of urban/rural linkages, secure tenure, community participation and eradication of informal settlements. I will start my discussion of these lessons with the conclusion of this study from which I will formulate possible recommendations for a viable informal settlement intervention.

In summary, provision of secure tenure, social amenities and community facilities, social services and housing through the advocacy approach of the Civic Movement uplifted the standard of living of the informal settlement dwellers. It also contributed to poverty reduction of the physical environment and the inhabitants of the informal settlements under discussion. As to how poverty reduction of the inhabitants was effected will be subjected to scrutiny below given the fact that poverty reduction of the physical environment has been explored above.

6.2 Conclusion

Although most of the dwellers originated from rural areas, the Civic Movement and the TLC never conceptualised the impact rural ties have on tenure choice in urban areas. Hence, no efforts were made to accommodate the interests of people with rural connections in the informal settlements that constitute the case study of this research

report. This was aggravated by the fact that prior to the year 2000, the national housing policy was skewed towards the urban areas, townships in particular. This factor coupled with lack of rental accommodation in urban areas precipitated migrants from rural areas to enrol for RDP houses *en masse* only to sell them informally and revert to informal areas because they did not prefer to consolidate in urban areas. This was a subtle way to bring the urban biasness of the national housing policy into question.

This case study of Lebowakgomo has also shown that community participation as espoused by the local branch of SANCO was not tokenistic in form or project based but went beyond mere consultation and encompassed every facet of life. The nature of decision-making was characterised by a bottom-up as opposed to a top-down approach of the government authorities. Further, the local branch of SANCO in Lebowakgomo did not owe its strength to any form of funding from the state but to community members themselves. Hence, unlike its mother body at national level, the local branch of SANCO was not affected by the drying-up of donor funding after the democratic elections of April 1994. This dispels the notion that donor or government funding is necessary to empower residents pertaining to issues of participatory planning and development as contemplated in Chapter 13 of the Code.

The alignment of SANCO to the Tripartite Alliance generated a lot of opposition from the local branches of the PAC and AZAPO in Lebowakgomo and resulted in the formation of the LCO which became an arch rival of the local branch of SANCO. The battle for turf between the LCO and the local branch of SANCO did not auger well for

the unison advancement of the needs of informal settlement dwellers. However, on the flipside of the coin, the alliance SANCO had with the ANC-led Tripartite Alliance gave it a jumpstart to advance the cause of informal settlement dwellers through its leaders who were elected into the TLC on an ANC ticket. It was through access to positions of power and resources in the TLC that the local branch of SANCO improved the informal dwellers' lot.

Although the local branch of SANCO represented the needs of the broader society, informal settlement inhabitants influenced it to take specific actions on issues that had a direct bearing on their well being. This category of residents only formed their own organisation, the Concerned Action Committee, (which they dissolved after the resolution of the electricity crisis) to address specific issues of a project nature when they felt that their interests were being threatened under the leadership of the local branch of SANCO. Had they relied on their strength or committee alone, they could have missed the opportunity to leverage the power of the local branch of SANCO as well as solidarity from the broader community. This serves as evidence that a committee appointed by informal settlement dwellers only becomes relevant to address specific issues of a project nature and that such a committee needs to maintain its independence and resist any attempts to being hijacked for petty political interests and closing shop upon fulfilment of its mandate. It should be noted that informal settlement inhabitants do not live in an island to be represented by their own organisations or committees as opposed to the Civic Movement. Therefore, any view that propagates for participation through committees elected by and accountable to informal settlement dwellers with indirect inputs from the

broader community within which informal settlements are located will only serve to perpetuate social exclusion and to deprive dwellers of the opportunity to leverage the power of the Civic Movement and to access solidarity of residents beyond the informal settlements.

Conflict over the electricity design as spearheaded by the Concerned Action Committee serves to enlighten us to the significance of community involvement on the development design in the conception stage of any projects. In addition, the fact that the beneficiaries were allocated building materials of their own choice through the consolidation subsidy scheme and were given the opportunity to design their own rooms through the project-linked housing subsidy scheme means that the community was empowered to design houses of their own tastes. This approach enhanced human creativity and ushered in houses varying in typology and size, an ingredient that is promoted under Chapter 13 of the Code. Hence, the informal settlements of Unit S Phase II and III and part of Unit R do not conform to the view that capital subsidy houses are characterised by rows of "one size fits all" matchbox houses. This approach can be replicated in any upgrading projects and beyond.

Security of tenure was ensured through provision of a wide range of tenure choice from access to land without any form of titling to land titles in the form of deeds of grant. Provision of different forms of tenure is also promoted under Chapter 13 of the Code. However, like full titling as suggested as one form of tenure in Chapter 13 of the Code, titling in the form of deeds of grant tied residents into an economic burden of payment of

rates and service charges. However, the allocation of serviced sites outside the capital subsidy scheme by the TLC was biased in favour of the poor in line with the current provisions of Chapter 13 of the Code. In addition, households who could not afford to raise down payment towards purchasing of their sites could still enjoy secure tenure for the rest of their lives or up to a point where they decided to put their properties on sale. However, such households were deprived of services such as dustbins and refuse removal. This form of deprivation also meant that these households were freed from the cycle of payment for services which is tied to titling.

Further, households who managed to afford down payment and monthly purchase instalments were exonerated from payment of interest. In addition, the payment period was user-friendly to the poor because it was spread over a period of 30 years. Such an approach freed poor households from volatile interest rates. It should be noted that, more often than not, volatile interest rates leads to dispossession of properties and thereby, drive the poor into informality. Therefore, the view that mortgage loans are an inappropriate form of housing finance for the poor holds water. By not levying interest on purchase instalments for sites and spreading the payment period over a period of 30 years, the advocacy approach of the local branch of SANCO in Lebowakgomo ensured that sites were made affordable to the poor. However, titling in itself attracted service charges without any attempt by the SANCO-inspired TLC to subsidise poor households up to adequate and acceptable levels of consumption.

The allocation of sites based on the system of the waiting list blurred both the SANCO-inspired TLC and the local branch of SANCO itself from considering people in desperate circumstances. Qualifying beneficiaries who preferred to consolidate in rural areas acquired RDP houses for purposes of pursuing other opportunities such as employment, rental income, better education, or to realise liquid value through informal sales. This issue has become a thorn in the flesh of local authorities because they neither recognise the livelihoods of the poor nor comprehend the significance rural ties have on tenure choice in urban areas. This issue is also ignored in Chapter 13 of the Code.

The issue of wearing two hats on the part of SANCO leaders set the tongues wagging over the effectiveness of utilising community leaders deployed in government structures to advance community interests while they still retained their positions in the Civic Movement. This is the issue that needs further research. The case of Lebowakgomo has already set the tone for this debate by serving as evidence that the question of 'double cap' generates a lot of benefits for the community in general, inhabitants of informal settlements in particular. The fact that the local branch of SANCO in Lebowakgomo effectively utilised its leaders deployed in the TLC, NDC and PHB who also retained their positions in the Civic Movement to advance its cause and to immensely improve the lives of informal settlement dwellers attest to this point.

The formation of the opposition LCO was not only legitimate but also had its advantages in that it deepened participatory democracy, forced the SANCO-inspired TLC to give preference to Unlawful Occupiers regarding the allocation of RDP houses and to

proclaim areas of Lebowakgomo that were not yet proclaimed, and brought corruption in respect of construction of RDP houses to the fore. These factors point to the usefulness for residents of having a variety of strategies in their relationship with power be it co-operational or confrontational. They also corroborate the view that the Civic Movement is best positioned to play both representative and watchdog roles as opposed to a committee elected by and accountable to dwellers only.

Concerning the question of the right to housing, the LCO leaders failed to stick to constitutional provisions and other legislation in their opposition against the application for court eviction of Unlawful Occupiers from Unit R. Leaders of the LCO also failed to challenge Kalkbult as an area of alternative accommodation despite the fact that they had convincing reasons at their disposal which they advanced to the TLC long after the Supreme Court ruling for eviction. Although the court eviction led to the downfall and collapse of the LCO, the Unlawful Occupiers relocated to the area of their own choice closer to Unit R as opposed to the far away official relocation area of Kalkbult characterised by bad odour and infested with mosquitoes from the nearby sewerage pond. This was made possible by the fact that the SANCO inspired-TLC failed to take precautionary measures to prevent the formation of new settlements as conceptualised in Chapter 13 of the Code. This omission is clear indication that ‘positive eradication’ of informal settlements cannot be realised without deliberate measures to do away with the conditions that lead to land invasions.

Relocation to the far away area of Kalkbult meant additional commuting costs for schooling, shopping and church activities because such activities were carried out within walking distance from Unit R. Therefore, the defiant move to an area of own choice on the part of Unlawful Occupiers under the leadership of the LCO helped preserve community networks. It also ensured that Unlawful Occupiers stayed in close proximity to social amenities and community facilities as well as social services and economic opportunities on the same footing with residents of Units R and S Phase II and III. The other problem with the SANCO-inspired TLC is its failure to provide relocation costs such as transport, loading and food support as is currently promoted under Chapter 13 of the Code. It also failed to provide temporary shelter as well as water and ablution facilities at the relocation area of Kalkbult as catered for in Chapter 13 of the Code. In summary, the approach of SANCO-inspired TLC on relocation to Kalkbult was in conflict with the current provisions of Chapter 13 of the Code. Further, the invasion of the land earmarked for RDP houses in Unit R is a microcosm of illegal occupation of shelter meant for the homeless by other homeless people in South Africa. In most cases, this leaves the local authorities with a dilemma as to who should be accommodated or left out between the desperate illegal occupier and legal owner. As was the case with the SANCO-inspired TLC in Lebowakgomo, local authorities tend to resort to forceful evictions by means of a court order, an aspect that is also promoted under Chapter 13 of the Code.

With regards to the problem of crime, the inhabitants of the informal settlements of Units R and S Phase II and III were involved in crime prevention on the same footing with

other residents through night patrols and prayer convocation gatherings. This changed the face of seeing informal settlements as havens of crime but as combatants against criminal activities. Provision of community lighting also enhanced efforts at crime prevention.

Further, participation in the compilation of the LDOs through the PPC was different from the current IDPs because inputs from stakeholders were not subjected to prioritisation based on technocratic means as is the case with the current IDPs. In addition, participation was facilitated by SANCO-Council representatives with experience on stakeholder involvement amassed through the All Structures meetings as run by the local branch of SANCO in Lebowakgomo. Moreover, community participation was not based solely on the ward system but encompassed various mechanisms of participation. The lessons raised above lay the basis from which governments at local, national and international level can chart a possible way forward regarding successful implementation of upgrading projects which can be adapted to local conditions, contexts and needs. It is to the recommendations emanating from these lessons complimented by national and international literature that I now turn.

6.3 Recommendations

Given budget constraints and the fact that the rate of urbanisation far outstrips provision of housing by municipalities, the formation of new informal settlements must be tolerated and guided through pro-active planning. This can be done through a massive land acquisition programme with clear targets to provide land and occupancy rights that can be upgraded on a progressive basis depending on the needs of individual households in a

greenfield development area. Government subsidies must be used outside of capital housing subsidies to fund the cost of land and infrastructure as is provided in Chapter 13 of the Code. In order to address the demand and supply equation, prime land for residential development must be purchased at cost with expropriation as a last resort. The process of transferring land in the hands of government paratatals to municipalities for free as contemplated in Chapter 13 of the Code should be expedited through the designation and declaration of such land for affordable residential development.

Titling programmes should be based on upgrading of tenure on a progressive basis from simple land occupancy rights to full title. The choice on the type of tenure should depend on the affected households. The simple land occupancy rights should be protected against forced evictions. In fact, a moratorium should be declared on all evictions except for settlements with scientific proof of health risk which cannot be rehabilitated. However, any relocation based on health risk should only be effected once engineering services along Phase 1 of the provisions of Chapter 13 of the Code have been installed. This should be coupled with provision of satellite schools, clinics and police stations and regravelled bus and taxi routes to reduce vulnerability of the poor and enhance access. This will pressurise municipalities to resort to relocations as a last resort. Tents should also be phased out for relocation purposes and be replaced with proper structures that can be dismantled with ease whenever the need arises because they are not fit for human habitation but for leisure. Further, the establishment of permanent schools must be packaged to cover building structures, ablution facilities, well equipped libraries and laboratories, computer facilities, sports fields for various sporting codes as well as the

school halls. These facilities should be opened for members of the public after school hours and during weekends and school holidays in informal settlements where such community facilities do not exist so that dwellers can develop a sense of belonging and ownership.

A massive programme for land acquisition and provision of land occupancy rights in greenfield areas should be coupled with another massive programme for provision of engineering services, social and economic amenities as well as top structures based on a well calculated phased-in municipal development plan. The envisaged phased-in development plans must be crafted by the Civic Movement with active community engagement of other Community-Based Organisations (CBOs) along the lines of the All Structures meetings. The National Department of Housing must set and enforce annual affordable goals based on the proposed phased-in development plans as initiated by the Civic Movement in collaboration with other CBOs. However, municipal by-laws should be tightened and strictly enforced to prevent the formation of informal settlements outside the proposed development plans as shaped by the Civic Movement to prevent politicians from organising invasions for their narrow political interests. At the same time, massive development of greenfield areas alongside massive upgrading of existing informal settlements should be accelerated to enhance the phasing out, or put bluntly, the eradication of informal settlements.

Upon completion of the installation of basic services in greenfield development areas, households in desperate need of shelter should be allowed to construct any form of

shelter according to their means while awaiting other phases of development within given phased-in development plans and budget constraints. Poor households with own plans and means such as access to family support and loans from social clubs and friends should be allowed incremental improvement of their shelter over time free from application of building norms and standards. Such households should be reimbursed for expenses incurred on a scale equivalent to the subsidy quantum as early as the commencement of Phase 4 of the upgrading process. This will help them in their repayment of interest free loans or improvement of their existing houses or to meet other household expenses such as food, education, clothing, transport and furniture. It will also serve to incentivise poor households to invest in their starter houses for purposes of ensuring a shack free environment.

Households who prefer to use their own housing plans/designs during Phase 4 of the upgrading process should be allowed to use capital subsidies to purchase materials of their choice to ensure houses of various typologies and sizes. Further, in order to promote provision of affordable rental accommodation, informal rentals in backyard rooms need to be recognised and subsidised by the local authorities. This will help discourage informal landlords from the use of shacks as opposed to properly constructed rooms for purposes of rental accommodation, and thereby avoid the development of unsafe and unhealthy conditions. Local authorities also need to tighten regulations pertaining to rental payments and to set rental ceiling to protect tenants against grossly overpriced rentals and forced evictions.

Furthermore, serviced sites should be availed to poor households for free and at cost to those who can afford such as the moderate income households. Measures must also be adopted to expropriate unoccupied sites at cost and to allocate such sites to the needy for free. Down payment towards the purchase of sites by the moderate and high income households should depend on the means of an individual household as defined by the household concerned. In addition, purchase instalments should be spread over a period of 30 years without any form of interest levied on monthly repayments. This will help increase affordability levels. The allocation of sites and housing should also be made a joint affair between the Civic Movement and the municipalities to curb nepotism and corruption. The allocation criteria can be based on the waiting list along the lines of the proposed phased-in development plans on the proviso that people in desperate circumstances are guaranteed first preference on an urgent basis as and when they come to the fore or the need arises. A contingency budget should be compiled for this purpose. The community must also be given an opportunity to input on the allocation criteria for purposes of reviews.

Households who prefer to consolidate in rural areas must be given an opportunity to opt for rural housing subsidies while retaining access to interest-free residential sites or subsidised rental accommodation in urban areas. This will help reduce commute costs for households who regard informal settlements as dormitory towns. This needs to be coupled with an integrated and affordable transport system. Municipalities are best positioned to contribute in this regard through reduction of a greater percentage of destinations to shorter distances that can be managed by bicycle and foot. This requires

expansion of the bicycle and foot networks on internal streets and provincial roads. This calls for partnership between municipalities and provincial departments of transport on the one hand, and municipalities and the NGOs and industry on the other, to promote bicycle and foot traffic. Of importance is that cycling and walking are economical, safe and contribute to good health. The extensive use of bicycle and foot traffic will contribute to poverty reduction through job creation. Further, the taxi industry should be heavily subsidised to lower transport costs since taxis are able to reach most destinations within the informal settlements.

The block committees accountable to the block communities concerned under the leadership of the Civic Movement can best serve the function of existing Community Development Workers (CDWs). It is ideal that these committees be coordinated by the Civic Movement with direct contact to the three spheres of government in order to keep the authorities on their toes. The existing CDWs need to be phased out because they tend to owe their allegiance to politicians as opposed to the communities that they are serving as a means to consolidate their positions and to advance their careers. The ward committee system also needs to be jettisoned in favour of the block committee system because of its distorted powers and the abnormal distance between settlements within wards. The process of identifying informal settlements for purposes of upgrading should be left in the hands of the affected inhabitants under the leadership of the Civic Movement in collaboration with other CBOs and should be detached from IDP processes. Otherwise attempts to upgrade informal settlements through a revamped principle approach of Chapter 13 of the Code will remain a pipe dream. This approach also calls

for good coordination between and among various government departments and the three spheres of government to promote cooperative governance with a view to synergise planning and budgets on a consistent basis. The Masakhane campaign also needs to be revived and made the major component of community participation with community engagement, consumer education, upgrading of informal settlements, shack-free environment, service delivery, an efficient block system, poverty reduction and zero-tolerance to roll over of funds as tools for monitoring and evaluation of the impact community participation makes on the lives of dwellers.

The introduction of greening of open spaces such as parks and road reserves along the lines of the Clean and Green Campaign project and advanced wastewater treatment plants is also vital. These kinds of projects will help transform open spaces into user-friendly environments, create poverty reduction opportunities for the local residents and to reduce poverty of the physical environment. A community park including a kids section with entertainment facilities needs to be provided to strengthen the spirit of communalism. In addition, households with rural connections can benefit immensely through allocation of plots and supply of compost, seeds and cultivating implements for urban agriculture on the part of local authorities.

All that I have recommended can be replicated with ease and success in every locality. Therefore, community participation should not only find conscious expression in all the programmes and policies of government but should also be lived in practice by politicians and government officials with active participation of dwellers under the

leadership of the Civic Movement. It is of no use to lament the failure by the municipalities to create such conditions because dwellers themselves need to impose themselves on decision-making processes that affect their well being.

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Interviews

List of Informants

LEBOWAKGOMO (LEPELLE-NKUMPI LOCAL MUNICI PALITY,

CAPRICORN DISTRICT, LIMPOPO PROVINCE)

Nathaniel Ntshame “Weso” Doudaba: Secretary of Chris Hani (Ward 13) Branch of the ANC. also PR Councillor for the ANC in Lepelle-Nkumpi Municipality (Chairperson of Lebowakgomo Branch of the ANC during the TLC era), 1.8.2008

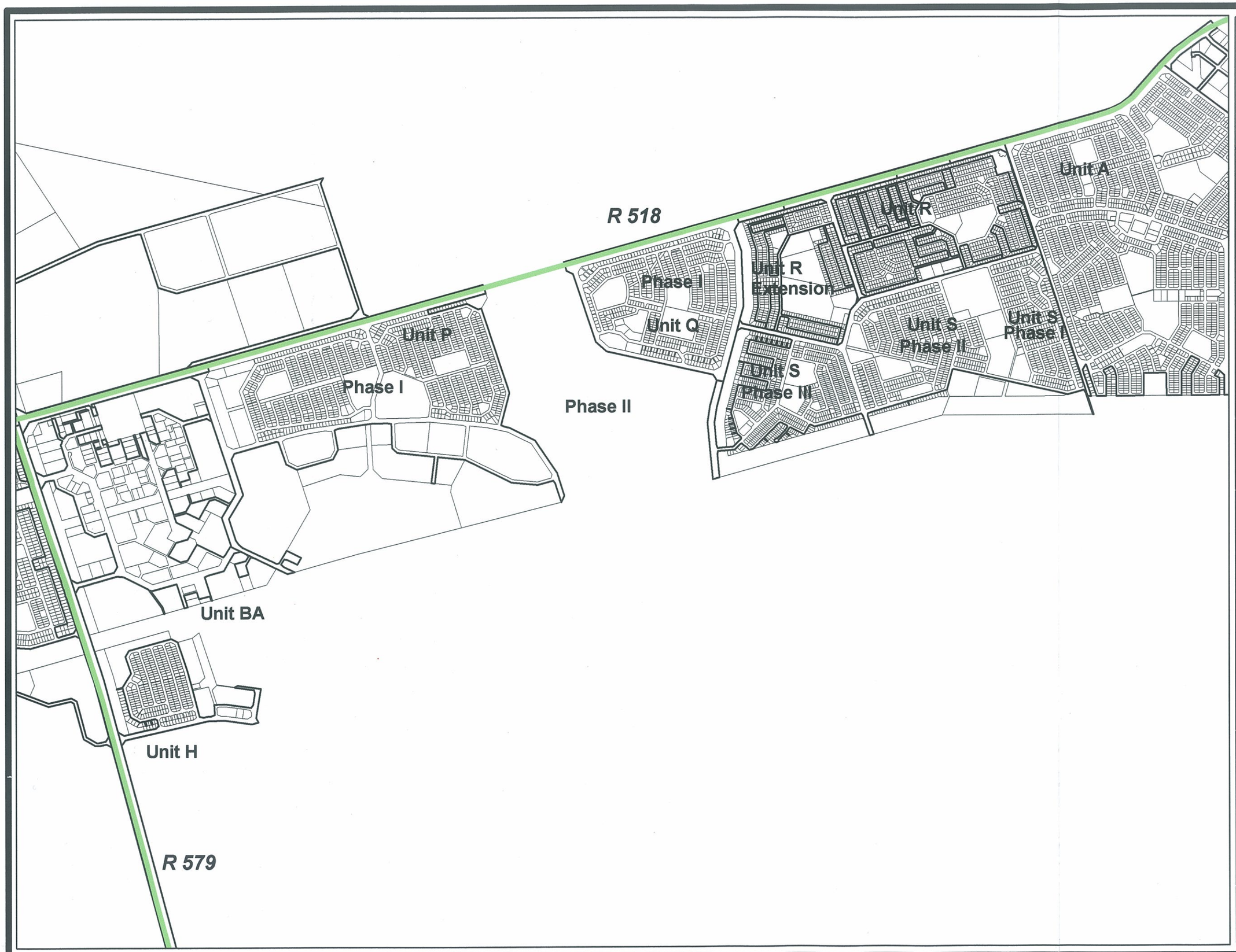
Mashilo Jonas “Sisco” Sehlapelo: PR Councillor for the ANC in Lepelle-Nkumpi Municipality (Deputy Chairperson of the local branch of SANCO during the TLC era. also former Administrator of Lebowakgomo Branch of SANCO before the inception of the TLC and later of Greater Lebowakgomo TLC. also member of the Provincial Housing Board (PHB) in the Northern Province during the period 1995-2001), 1.8.2008

AUDIO MATERIAL

Democracy in Action: The Great North, Greater Lebowakgomo Transitional Local Council. (Source: Greater Lebowakgomo TLC)

Appendices

Appendix A: Maps 1-5



Legend

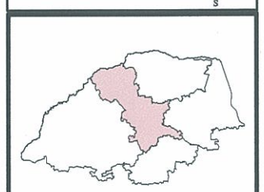
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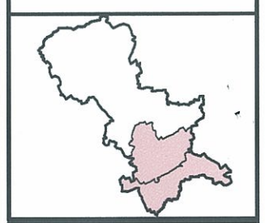
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- National freeway
- National route
- Secondary road
- Surveyed Erf

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Map Title:

Lebowakgomo

Locality Map

Map 4

Source:

inviromap
Strategic Planning & GIS

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Map Production:
INVIROMAP
Polokwane
Phil Jansen
Tel: 015 - 296 4954

High Level Zone

Unit D

Intermediate Level Zone

Unit C

LEBOWAKGOMO BBO

Unit B

R 518

Unit F

Unit BA

Unit P

Unit R

Unit J

446KS

Unit Q

Unit A

Unit S

Low Level Zone

458KS

Unit E

R 579

123KS

Industrial Area

456KS

489KS

488KS

487KS

Legend

SG Roads

RDTYPE

- Arterial route
- Main road
- National freeway
- National route
- Secondary road
- Surveyed Erf

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Scale 1 : 40 000





Map Title:

Lebowakgomo

Locality Map

Map 3

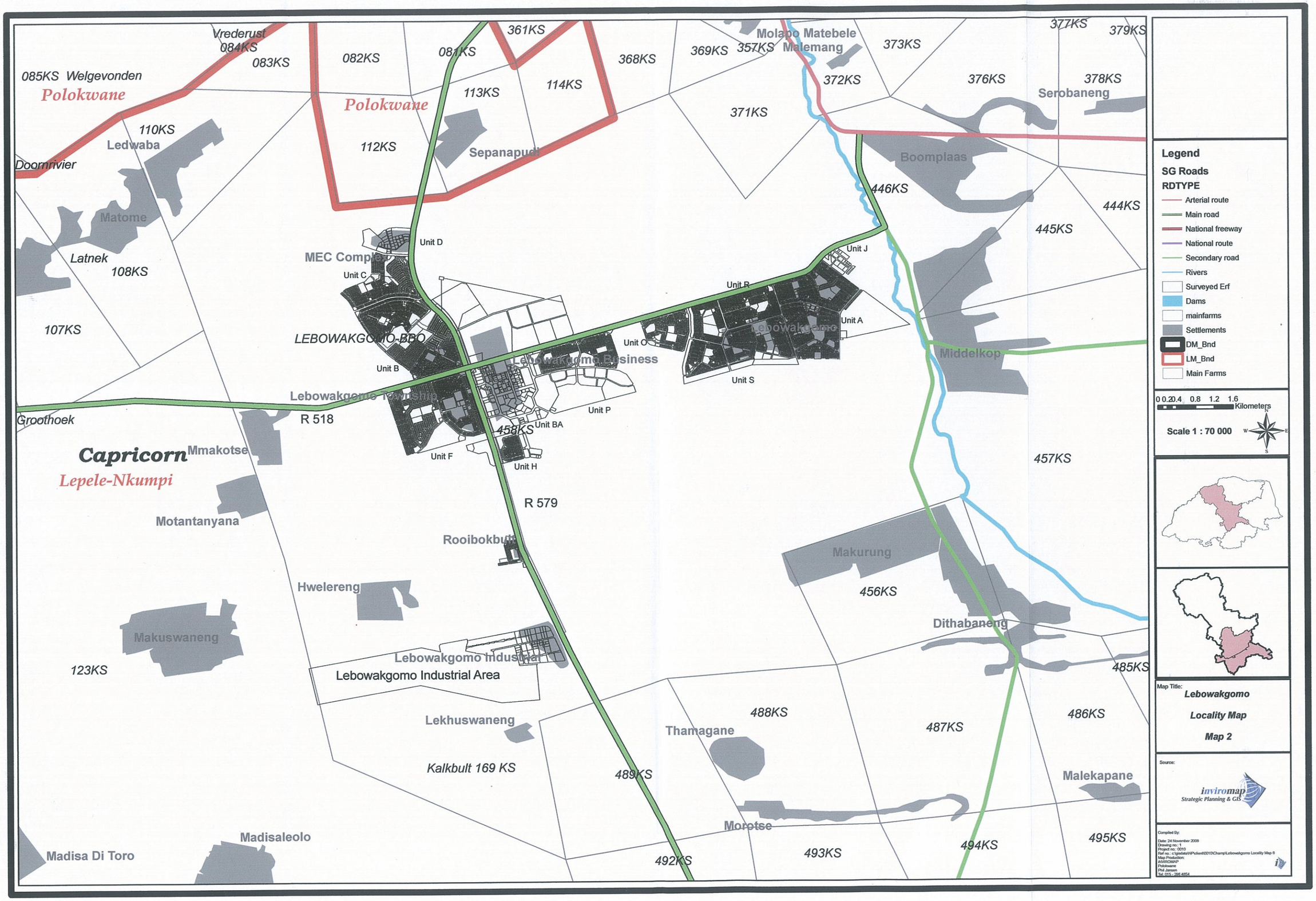
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invironmap
Strategic Planning & GIS

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Map Production:
INVIROMAP
Polokwane
Phil Jansen
Tel. 015 - 295 4954


Vrederust
084KS
083KS
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361KS
368KS
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Molapo Matebele
Malemang
373KS
377KS
379KS
085KS Welgevonden
Polokwane
Polokwane
113KS
114KS
372KS
376KS
378KS
Serobaneng
371KS
110KS
Ledwaba
112KS
Sepanapudi
Doornrivier
Boomplaas
446KS
444KS
445KS
Matome
Latnek
108KS
Unit D
MEC Complex
Unit C
Unit J
Unit R
Unit A
107KS
LEBOWAKGOMO-BBO
Unit O
Lebowakgomo Business
Unit B
Unit S
Middelkop
Lebowakgomo Township
Unit P
Groothoek
R 518
458KS
Unit BA
Capricorn
Mmakotse
Unit F
Unit H
457KS
Lepele-Nkumpi
R 579
Motantanyana
Rooibokbult
Makurung
Hwelereng
456KS
Dithabaneng
Makuswaneng
485KS
123KS
Lebowakgomo Industrial
Lebowakgomo Industrial Area
488KS
486KS
Lekhuswaneng
Thamagane
487KS
Kalkbult 169 KS
489KS
Malekapane
Morotse
495KS
493KS
494KS
492KS
Madisa Di Toro
Madisaleolo
Legend
SG Roads
RDTYPE
Arterial route
Main road
National freeway
National route
Secondary road
Rivers
Surveyed Erf
Dams
mainfarms
Settlements
DM_Bnd
LM_Bnd
Main Farms
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Kilometers
Scale 1 : 70 000
N
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E
S
Map Title:
Lebowakgomo
Locality Map
Map 2
Source:
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Strategic Planning & GIS
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Map Production:
INVIROMAP
Polokwane
Phil Janson
Tel: 015 - 295 4954

Blouberg
Vhembe
Makhado
Greater Giyani
Dendron
Greater Giyani
Molemole
Soekmekaar
N1
Greater Letaba
Aganang
Modjadjikloof
Mopani
Capricorn
Tzaneen
Polokwane
(Formerly Pietersburg)
Greater Tzaneen
Mogalakwena
Polokwane
N1
R 37
Waterberg
Mokopane
(Formerly Potgietersrus)
Lepele-Nkumpi
Maruleng
R 518
Lebowakgomo
Fetakgomo
Greater Sekhukhune
Greater Tubatse
Mookgopong

Legend

lproads

TYPE

Gravel Roads

Main Roads

Rivers

Dams

DM_Bnd

LM_Bnd

0 2.5 5 10 15
Kilometers

Scale 1 : 550 000

Map Title:

Lebowakgomo

Locality Map

Map 1

Source:

inviromap
Strategic Planning & GIS

Compiled By:

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Map Production:
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Polokwane
Phil Janson
Tel: 015 - 296 4854

Unit J

Lebowakgomo Hospital

Lebowakgomo Library

Informal Settlement

Unit R

Informal Settlement

Unit R Clinic

Thabamoopo Hospital

HORAIO SECONDARY SCHOOL

Unit S

Unit A

Unit S Phase II

Informal Settlement

Unit S Phase I

Unit S Phase II Informal Settlement

LAFATA PRIMARY SCHOOL

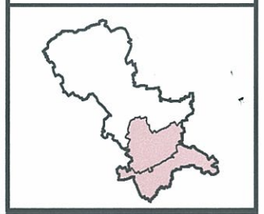
Legend

- Hospitals
- Clinics
- Surveyed Erf
- Schools

0 0.04 0.08 0.16 0.24 0.32 Kilometers

Scale 1 : 10 000





Map Title: *Lebowakgomo Locality Map Map 5*

Source:

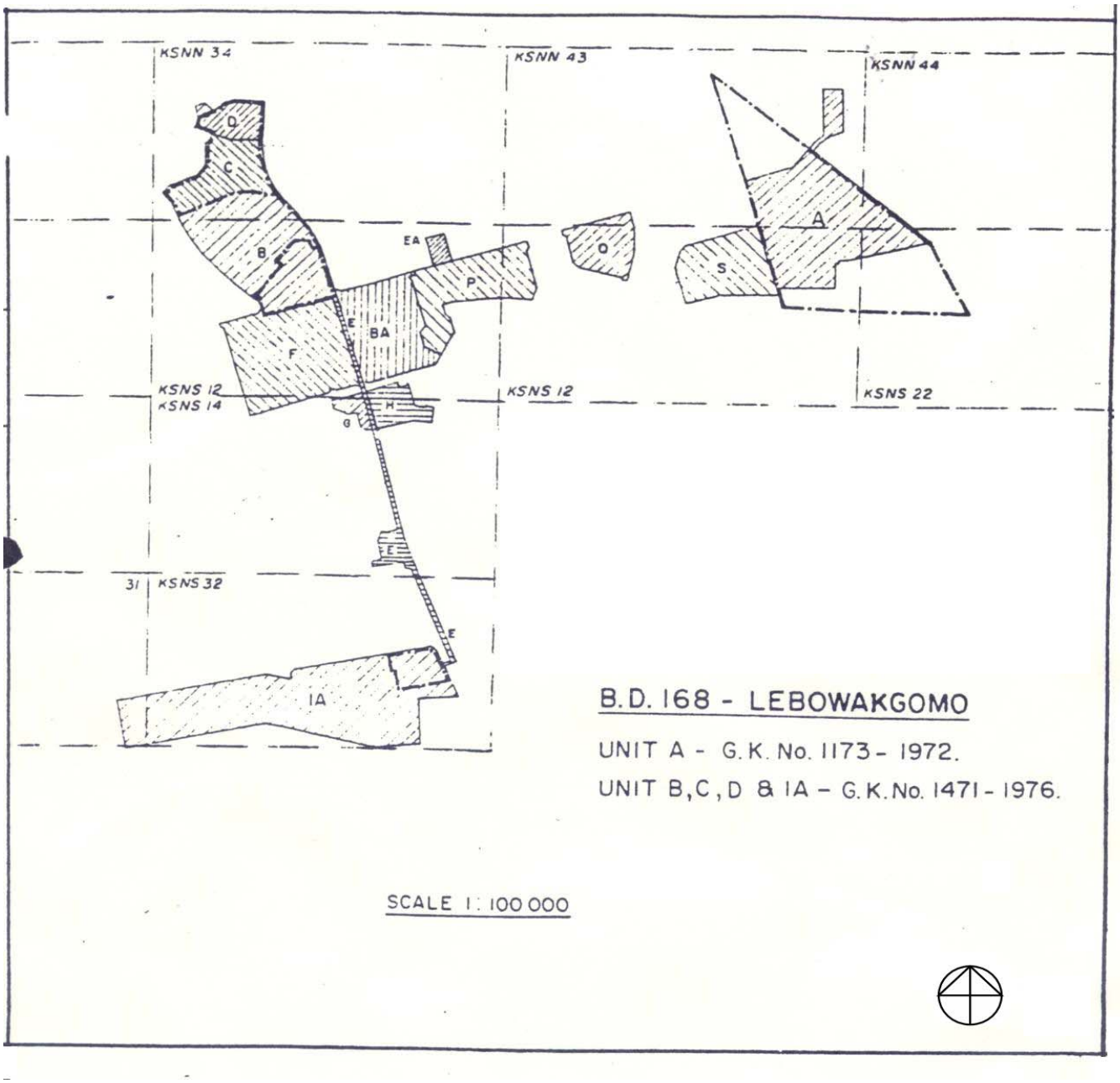
inviromap Strategic Planning & GIS

Compiled By:

Date: 24 November 2008
Drawing no.: 11
Project no.: 0010
Ref no.: c:\gisdata\WP\client\0010\Champ\Lebowakgomo Locality Map 5

Map Production:
INVIROMAP
Polokwane
Phil Jansen
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Appendix B Lebowakgomo 1:100 000 Map showing proclaimed areas of the Township as of 1972 and 1976



Source: Provincial Gazette Extraordinary, 17 June 1997

Appendix C Advantages/Disadvantages of Deeds of Grant and Full Title

ADVANTAGES / DISADVANTAGES OF DEEDS OF GRANT ISSUED IN TERMS OF THE REGULATIONS FOR THE ADMINISTRATION AND CONTROL OF TOWNSHIPS IN BLACK AREAS (PROC. NO. 293 OF 1962) AND FULL TITLE ISSUED IN TERMS OF THE LESS FORMAL TOWNSHIP ESTABLISHMENT ACT, 1991 (ACT NO. 113 OF 1991) AND THE TOWN PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORD. NO. 15 OF 1986).

1. ADVANTAGES : DEED OF GRANT.

* Proclamation of township in terms of Proc. 293/62 **takes ± 3 months** less than a proper township establishment process in terms of Act 113/91 or Ord. 15/86.
* Townplanning **costs are ± R150 less per erf** and there are virtually no legal costs involved.

2. DISADVANTAGES : DEED OF GRANT.

* Proc. 293/62 was proclaimed in 1962 and it **is associated with outdated methods of "township establishment" and control.** No provision is made for land use control and rezoning, except that a residential site is distinguished from a trading site. **Proc. 293/62 was repealed** in the former Trust areas in 1986 and in the former Venda in 1990 and **replaced by proper township establishment legislation** that, inter alia, make provision for the upgrading of deeds of grant to full ownership.
* Proc. 293/62 is **an "apartheid's" legislation per excellence** and is still referring to "Blacks", knobkerries, the ethnic character of townships and various other discriminatory aspects.
* Proc. 293/62 **places discriminative restrictions on traders that infringe upon human rights and dignity and hampers economic activities**, e.g. an applicant obtains a site only if the authorities consider him to be suitable (Chap. 3 reg.4(2)(b)), the Commissioner determines shop hours (reg. 7), the internal walls and ceilings of business premises must be white washed or washed down every January, May and September (reg. 15(3)(b)), all traders and their assistants must submit themselves to medical examinations when required by the town authorities (reg. 16), etc. With respect to residential sites no person may erect a fence without the written permission of the town authority and no fence may exceed 4ft. in height (Chap. 2 reg. 24).
* **Nobody may dispose of a residential site without the permission of the Director-General** and where a deed of grant is transferred to a person who is not a Black person, with the consent of the Minister (reg.6). Save with the approval of the Commissioner, no person may be granted permission to occupy a site within a township while holding residential rights elsewhere in a scheduled area (reg. 7(3)), etc.
* **No provision** in Proc. 293/62 **for preliminary investigations** with respect to the geological suitability of a terrain for township establishment purposes, topographical features (e.g. floodlines), availability of bulk services and existing land uses (e.g. electricity lines, water pipelines), etc.

* **No provision** in Proc. 293/62 **for inputs from provincial and national line function departments** (e.g. Agriculture, Public Works, Education, Water Affairs, Mineral and Energy Affairs, etc.) that are essential for any township establishment process.
* Proc. 293/62 **does not make provision for public participation.** A township could be proclaimed without the consent of the TLC or consultation of the affected communities. No provision is also made for any objections/ comments on the "township establishment" process.
* Proc. 293/62 **does not make provision for the opening of a township register** and the actions prior thereto, i.e. the preparation of a small scale diagram (subdivisional diagram of farm), the approval of the general plan/s and small scale diagram by the Surveyor-General, the disposal of title conditions and mineral rights, etc., **and full title can thus not be issued at a later stage.**
* **No provision** in Proc. 293/62 **to dispose of conditions that are written in the title deed of the farm**, e.g. servitudes, rights of way and mineral rights, on which the town is to be proclaimed. The fact that existing rights could be jeopardised, **may lead to future claims for compensation against the Provincial Government and/or TLC.**
* The **registering process of deeds of grant** exercised in the registration offices of the former Venda, Lebowa and Giyani are **not of the same standard as the Deeds Office in Pretoria**. In the registration offices a filing system is practised where each erf has a file that is filed in a cabinet. According to a conveyancer it is the duty of the holder of the deed of grant to prove his ownership, if such a file is misplaced or lost.
* If individuals want to **upgrade their deeds of grant to full ownership in future** the **TLC will have to open a township register** for such township. The **costs** to open a township register at a later stage, and the actions prior thereto, **will have to be borne by the TLC.** The disadvantage is that the costs will be a once-off payment and not be spread over a number of erven as in the case of a full title development. For example, if a development consists of 1000 erven, the costs to open a township register and related actions could be approximately R 100 per erf x 1000 = R 100 000, an amount that will be for the account of the TLC. The financial implications originating from the fact that there have not been dealt with restrictive conditions, servitudes and mineral rights must also be sorted out by the TLC. These costs will differ from town to town. After the township register is opened **the individual will have to appoint a conveyancer to upgrade his/her deed of grant that will cost approximately R 500**. Most families can usually not afford this kind of "unexpected" expenses.

3. ADVANTAGES : FULL TITLE

* Act 113/91 and Ord. 15/86 are **not discriminative legislation.**
* **Title deed** is still the **ultimate land tenure right.**
* An individual may **sell** his/her **property** to anybody **without the consent of anyone.**
* The Registrar of Deeds **maintains three registers** namely a central land register, a central personal register and a central debt register in which all

information regarding a property and the owner thereof are registered. It is thus impossible for a title deed or information regarding a property to get lost or misplaced and the onus rest on a person/institution who disputes an individual's land right, to prove such accusation.

* Provision is made in Act 113/91 and Ord. 15/86 for **proper public participation** i.e. advertisements, hearings, etc.
* Act 113/91 and Ord. 15/86 is **proper township establishment legislation** i.e. a township register can be opened, full title can be issued, restrictive title conditions are disposed of, mineral right holders are consulted during the process that will prevent future claims for compensation, etc.
* Act 113/91 and Ord. 15/86 make provision for **preliminary investigations** with respect to geological suitability of terrain, topographical features (e.g. floodlines), availability of bulk services and existing land uses (e.g. electricity lines, water pipelines), etc.
* Acts make provision for **inputs from provincial and national line function departments** (e.g. Agriculture, Public Works, Education, Water Affairs, Mineral and Energy Affairs, etc.) that are essential for any township establishment process.
* If full title is issued with the township establishment process, the **costs** to open a township register, and the actions prior thereto, **is spread over the whole development** and there will not be future costs involved for the individual or TLC.
* The regulations of Act 113/91 and Ord. 15/86 **do not place discriminative restrictions on traders.**
* A **town-planning scheme can be promulgated** in terms of Ord. 15/86 **that provides for proper land use control** i.e. specifies building lines, provides for a variety of land uses, rezoning and subdivision of erven, etc.

4. DISADVANTAGES OF TITLE DEED

* Proper township establishment process **takes ± 3 months longer** as the informal proclamation process of Proc. 293/62.
* Townplanning **costs** are approxiamately R100 more per erf and legal costs amount to approxiamately R250 per erf.[1]

[1] These costs are subtracted from the R15 000 subsidy amount.

Source: Greater Lebowakgomo TLC

Appendix D Photograph illustrating capital subsidy houses of different typology and size, whereby beneficiaries were permitted to purchase building materials of their choice.



Source: Titus Rampeka Mpye, House No. 263, Peter Mokaba Street, Unit S Phase II, Lebowakgomo

Appendix E Photograph illustrating RDP houses that are used for Business purposes, Monterl Classiques Hair Salon, House No. 467, Unit R, Lebowakgomo



Source: Sèan Moganedi, House No. 467, Unit R, Lebowakgomo

Appendix F The Masakhane Certificate of Excellence Awarded to Greater Lebowakgomo TLC at the Union Buildings in Pretoria on 28 June 1996



Source: Greater Lebowakgomo TLC

Appendix G Proclamation of surveyed farms and units of Lebowakgomo, 17 June 1997

PROCLAMATION

PROCLAMATION

No. 5, 1997

DEPARTMENT OF LOCAL GOVERNMENT AND TRADITIONAL AFFAIRS

REDEFINITION OF THE AREA OF THE TOWNSHIP, KNOWN AS LEBOWAKGOMO, SITUATED IN THE DISTRICT OF THABAMOOPO, NORTHERN PROVINCE: AMENDMENT OF GOVERNMENT NOTICES Nos. 1173 OF 30 JUNE 1972 AND 1471 OF 20 AUGUST 1976

I, Ratshilumela John Dombo, under the powers vested in me by regulation 4 (1) of Chapter 1 of the Regulations for the Administration and Control of Townships, published under Proclamation No. R. 293 of 1962, as amended, and assigned to me by Proclamation No. R. 162, published in the *Government Gazette* of 31 October 1994, do hereby amend Government Notices Nos. 1173 of 30 June 1972 and 1471 of 20 August 1976 by the addition of the surveyed farms and portions of farms as described in the Schedule hereto.

R. J. DOMBO
MEC: Local Government and Traditional Affairs

SCHEDULE

1. Randjes 111 KS.
2. Zwartkop 115 KS.
3. Storm 370 KS.
4. Droogte 118 KS.
5. Rooibokvlakte 120 KS.
6. Vogelstruisnest 119 KS.
7. Rooiboschplaat 450 KS.
8. Voorspoed 449 KS, consisting of—
   (a) Portion 1;
   (b) Portion 2; and
   (c) Portion 3.
9. Rustplaats 447 KS, consisting of—
   (a) Portion 1;
   (b) Remainder of Portion 2;
   (c) Portion 3;
   (d) Portion 4; and
   (e) Remainder of the farm.
10. Kaffirkraal 167 KS.
11. Rooibokbult 121 KS.
12. Naboom 451 KS.
13. Vaalboschlaagte 454 KS.
14. Kalkbult 169 KS.
15. Turfpan 122 KS.
16. Dwaalkop 455 KS.
17. The remaining portions of Uitvlugt 117 KS, excluding Lebowakgomo Units B and C.
18. The remaining portions of Kiel 116 KS, excluding Lebowakgomo Unit B.

Source: Provincial Gazette Extraordinary, 17 June 1997

Appendix H Skills Development Certificate Awarded to Mr. Sebutsoeledi Simon Mengwai as part of Community Empowerment Training through RDP/CBP Projects



Mthimkulu Training

Investing in People

This is to certify that

Simon Mengwai

I.D. No : 560110 5422 083

has participated in the Community Builder

Committee Skills 1	8 Hours	Practical Management Skills	16 Hours
Committee Skills 2	8 Hours	Project Management Skills	8 Hours
Bookkeeping 1	8 Hours	Project Business Planning	8 Hours
Bookkeeping 2	8 Hours	xxxxxxxxxxxxxxxxxxxxxxx	xxxxxx
Purchasing Skills	8 Hours	xxxxxxxxxxxxxxxxxxxxxxx	xxxxxx
Project Selection Skills	8 Hours	xxxxxxxxxxxxxxxxxxxxxxx	xxxxxx

over (10) ten day
at Lebowakgomo - Northern Province

February 1996

Date:

Signature

Funded by:
RDP Municipal
Funds
Northern Province

639

Source: S.S. Mengwai, 817 Unit A, Lebowakgomo

Appendix I Information Dissemination Audio Cassette produced by Greater Lebowakgomo TLC in collaboration with the Joint Center for Political and Economic Studies



Source: Greater Lebowakgomo TLC