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Lombo, Nqobile

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Court_case 21.41.35

Cato Manor and the role of socially conscious architecture

07 February 2018

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Nqobile Lombo
7 February 2018

if you are to hold a handful of **soil**
it is comprised of 24% clay, 41% salt
and 35% sand
it is harmless
it is heavy
it wants nothing but to be part of the earth
and so it falls
we breathe on it
(Authors own)

Contents

EST-2017

Acknowledgments **Page 5**
Research Outline **Page 6**
Abstract **Page 7**
Prologue Page 8

CHAPTER 1: ESTABLISHING THE THEORY

Introduction Page 13
Timeline history of Cato Manor Page 14
Politics of Space Page 18
Socially Conscious Architecture Page 21
PRECEDENTS Page 22
Nelspruit Legislature Page 26
Red Location, Port Elizabeth Page 27
Constitutional Court, Braamfontein Page 28
Land Claims Court, Randburg Page 30
Land Claims Commission Page 31
Local Traditional Court, Amazimtoti Page 32
Conclusion Page 33
Socially Conscious Architecture cont. Page 35

CHAPTER 2: LAND
Dispossessed Page 41
Timeline history of land issues in South Africa Page 42
A place called home Page 44
Cato Manor and Land Page 47
Interviews with land claimants Page 52
Land claims and memory Page 62

CHAPTER 3: CUSTOMARY LAW VS ROMAN DUTCH LAW

Whose law is it anyway Page 68
Customary Law Rights Page 70
Land process Page 71
Customary Land Rights Page 74
Conflict resolution in Cato Manor Page 76
Land Claims Process Page 79
Current Conflict resolution by the land claims commission Page 80
Section 25 Page 81

CHAPTER 4: MAPPING
Ownership Page 88
Economy Page 89
Density Page 88
Density of Shacks Page 89
1940's aerial Page 90
1965 aerial Page 92
2015 aerial Page 94
Housing Page 97
River Page 98
Nolly Map Page 99
Vegetation Page 100
Land Use Page 101
Land Condition Page 102
Nodes of Activity Page 103
Community Buildings Page 104
Skills Page 105
SWOT Page 106
Photo Essay Page 107

CHAPTER 5: DESIGN DEVELOPMENT

Site Selection Page 116
Spatial experiments through research Page 118
Site Selection Two Page 120
Site Analysis Page 121
Client Page 123
Concept Page 124
Sketch Development Page 129

CHAPTER 6: Design Resolution
Programme Page 133
Reflection
List of Figures
References

Sometimes it was
Sometimes it was bigger than me
Sol Plaatjie,Bambatha
Sometimes it was simple (Ceri Laird our Dynamic Duo)
Sometimes it was emotional(Mommy)
Sometimes it was bigger than the writing (Dad, Kiki Doermann, Bab'Mgadi, Ngcane Lombo)
Sometimes it was what it was (Lwazi Lombo)

It was always God
It was always about the architecture (Hilton Judin)
Sometimes it was teamwork (Boipelo Masibi, Rethabile Monaheng, Sphephelo Mhlongo, Mlungisi Mathe, Menzi Ndlovu,Veronica Chipwanya)

Sometimes it was phone calls that spoke courage (Valerie Lehabe, Nomfundo Mdladla ,Clement Mahonde,Lungelo Makathini, Zuzile Ngcemu)
Sometimes it was black girl magic (Keteitse, Michelle,Solo)

Most times it was studio

Thank you all



Acknowlegments

EST-2017

Chapter 1 introduces the theory of the research report which looks at the court as a socially conscious spatial intervention in Cato Manor. It reviews the politics of space, the role of the court in South Africa and identifies possible layers of social inclusion as well as challenges and limitations. The Cato Manor development agency is interrogated as a tool to redress matters of the past such as land restitution. the politics of space
It looks at precedents that address issues of democracy and redressing the past sensitively namely the Land claims court in Randburg, a local customary court in Amazimtoti, Constitutional Court Johannesburg, the Red Location Museum and the Nelspruit Legislature building.

Chapter 2 explores important facets of which influence the architecture of the land claims court. It looks at the history of the Land Act of 1913 through to the Group Areas Act. Through this chapter, the issues with regards to Cato Manor are uncovered in relation to land restitution. The interviews conducted with land claimants are beginning to unravel a need for a dual system that accommodates customary law and Roman Dutch law to equip future land claimants with access to the complex issue of its legalities.

Chapter 3 outlines the differences in relation to Roman dutch law and Customary Law with the intention to guide the programme of the design intervention.

Chapter 4 explores the Site and the context of the research report with a photo essay and site analyses.

Chapter 5 introduces the design development and the proposed Land claims court. The research report builds an argument around the politics of land in Cato Manor as a cultural, as well as economical debate around the sense of belonging and place by proposing a parallel legal system land claims court that touches the soil conscientiously.

Abstract

EST-May

Townships are plainly dissipative complex systems of space with emergent properties and evolutionary history. Cato Manor was and currently operates as a traditional working class community and the architectural fabric does not integrate the communities past and present. This part of the city must be approached and explored as a fundamentally emergent and therefore open minded reality. The layers of the township could provide for architectural interventions that resolve many of the underlying tensions in the area.

The reality of the space is as follows: There are over 2000 unresolved land claims in the area, a majority of the 434 of the 5000 cases that have been resolved are unhappy with the process they endured when the lodgment of the land claims was introduced. There is a high rate of unemployment and thus there is a need for economic transformation and justice for the inhabitants of the township.

[1]Townships in South Africa were originally created as separate areas for black people, generally located on the periphery of towns and cities (Godehart 2007). Townships are considered a specifically South African 'invention' but they were inspired by colonial town planning and can be found in many African cities, such as Nairobi, Lusaka and even in Zanzibar. Colonial planning intended to deliberately spatially segregate three classes of citizens, which generally coincided with race groups: the white, Indians, Africans and coloureds. For the African working class townships or 'locations' were planned some distance away from the colonial towns, but in most countries few townships were actually built.

The focus is to translate and articulate the state of suspension/tension due to the unresolved land claims in the area, and possibly the greater Durban area in Cato Manor into an architectural language. The proposal is to design a courthouse that deals with the parallel legal system that exists in the township but is not formally recognised that would address these tensions. The ultimate aim is to try to achieve the potential embedded in the circumstances.

What did it really mean to the people of Cato Manor when the lodgment of the land claims was opened in 1994 after they had been forcible removed in 1950? The aim is to engage with a forgotten, political Cato Manor as new terrain and thus to explore the possibilities of architecture within a landscape confronted by a complex history and a challenging present. What possibilities does this then create on this contested land where architecture has historically been a result of a need?

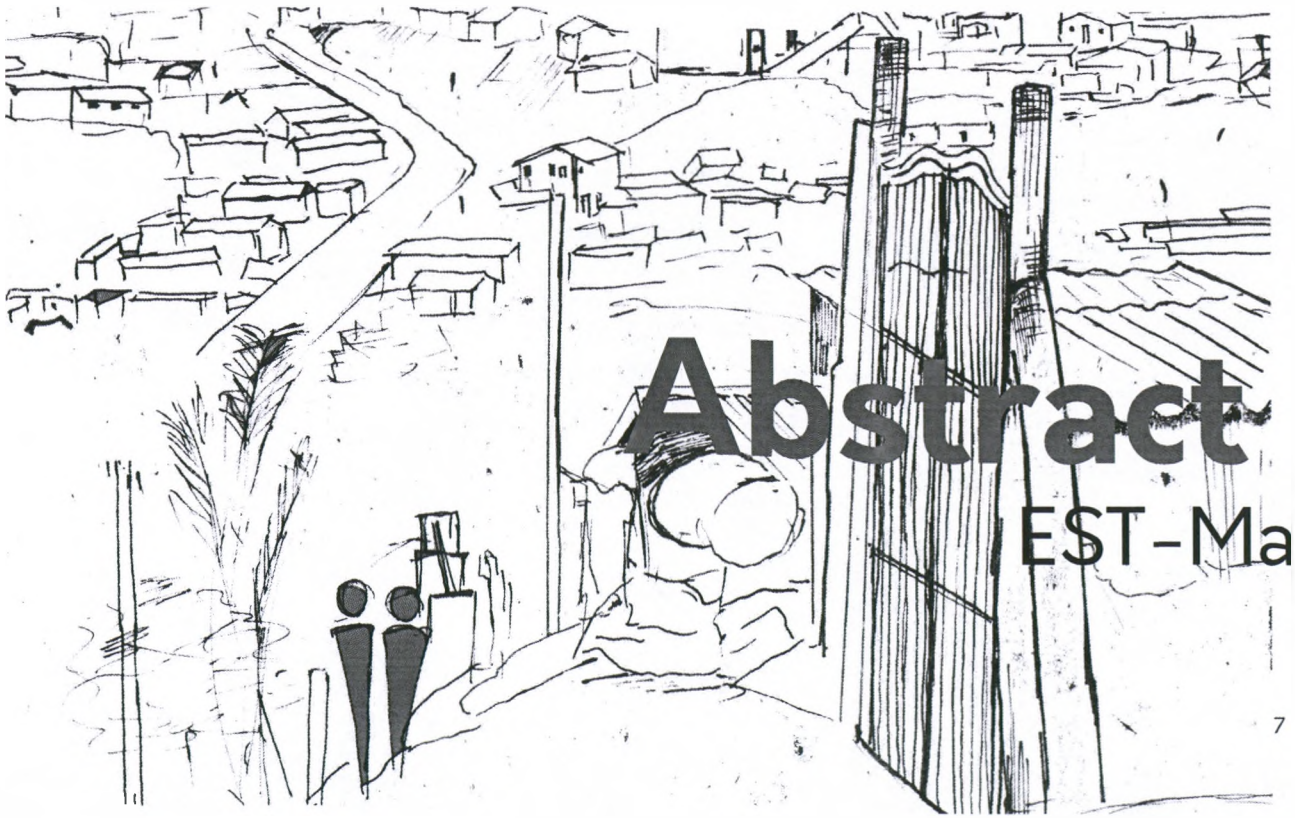


Figure 01.1: View from Cato Manor to Durban

Prologue

EST-May

The beginning of the story is personal. My family, the Lombo's, I am told is from lush Dalton, New Hanover in Kwa-Zulu Natal. The farm owner was a well-established producer of Pine products. My great- great grandfather, his great grandfather and my grandfather all worked, built a home, lived and died on this farm. My father was born there. The lineage of our family is based on this place yet like many Africans in the country we have nothing but our oral history to show for it.

Cecil John Rhodes favored that blacks be kept in reserves where subsistence farming could enable survival without a living wage (Pithouse 2005). The remuneration for the work was low, 2 pounds a month (equivalent to R2000.00 in today's economy) for the work of 6 people. The conditions that they were forced to live under were equivalent to modern day exploitation as the workers were exploited with no annual leave, no basic infrastructure and occasionally no pay or paid in kind (e.g. a bag of maize meal).

In 1961, my family decided to leave for Pietermaritzburg 45 kilometers away from Dalton. The family was taken in by extended relatives, and lived in a corrugated iron shack backroom for 10 years. The decision to leave Dalton had rendered us landless.

1971 is when we bought our first house in the Mpumalanga Township, Kwa-Zulu Natal. The township was established in the early 1960s for the labor pool that was working in the textile industries of the Hammarsdale area. It was one of the first townships where African people could own their own homes (Khumalo 2011).

Tenancy in arable land is an issue that my family is historically part of. In 2014, Gugile Nkwinti, the then minister of Rural development and Land reform published policy that proposed to democratize the allocation and use of land with the hopes of deracializing South Africa's rural economy (Joubert 2014). The document sought for a 50/50 split between commercial farmers and laborers. This aided on a discussion on land, because despite generations of living and working on farms, many South African farm laborers, like my family, had no claim to anything tangible.

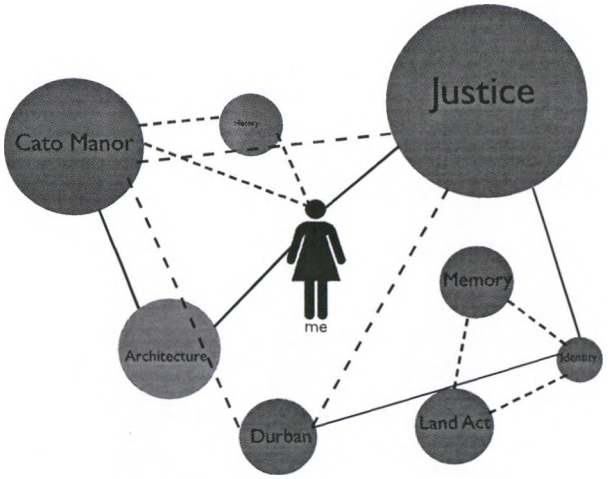
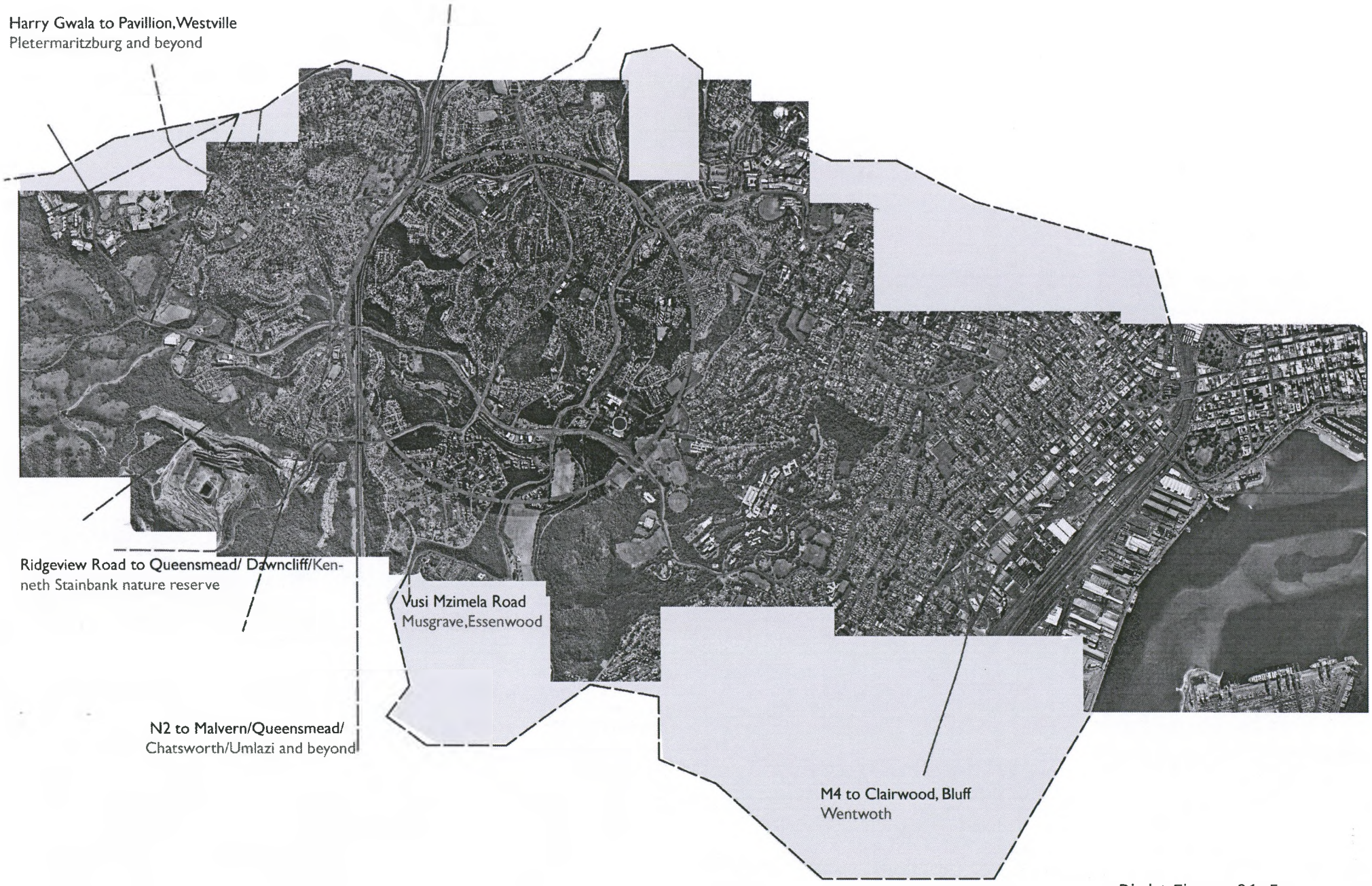


Figure 01.2: Prologue



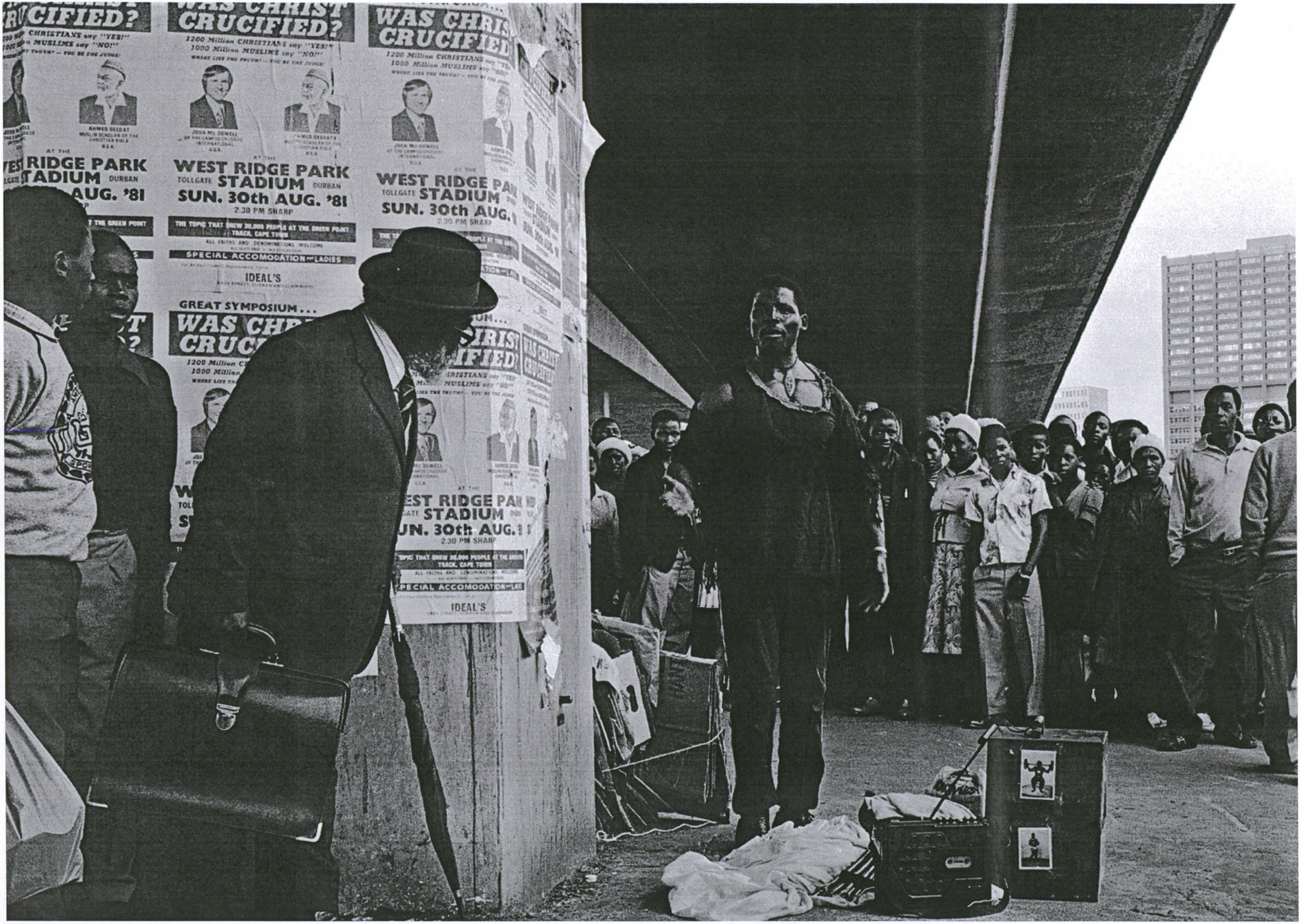
Figure 01.3: Cato Street in Durban


Durban
EST-1854



Left Figure 01: 4
Durban

Right Figure 01: 5
Durban Centre


CRUCIFIED?
CHRISTIANS say "YES!"
MUSLIMS say "NO!"
AT THE
RIDGE PARK
STADIUM DURBAN
AUG. '81
CRUCIFIED?
1200 Million CHRISTIANS say "YES!"
1000 Million MUSLIMS say "NO!"
WEST RIDGE PARK
TOLLGATE STADIUM DURBAN
SUN. 30th AUG. '81
2.30 PM SHARP
SPECIAL ACCOMODATION FOR LADIES
IDEAL'S
GREAT SYMPOSIUM...
WAS CHRIS
CRUCIFIED
WEST RIDGE PARK
TOLLGATE STADIUM
SUN. 30th AUG.
2.30 PM SHARP
IDEAL'S

Durban was originally given to Lieutenant F.G Farewell in 1824, as a token of appreciation for helping King Shaka of the Zulu nation recover from a stab wound he had received from battle. King Shaka, gave him 50km strip of land 160km deep. In 1839, the Republican Volksraad at Pietermaritzburg appointed George Cato Christopher to set out a new plan for Durban. and the first public sale of land took place in June 1839. He settled on 5875 hectares of land along the Umkhumbane river, Cato Manor (South African History Online 2011).

When George Christopher Cato died in 1893, his land was sold to White farmers and Indian settlers who began leasing to Africans. In 1933. there was a large demand for Africans to work in the city of Durban as the homestead structures were no longer adequate to support families, previously 37% of Africans lived in farms of that 45% lived in reserves and 1% lived in towns in the country (Bundy 2012).

Shack settlements began to be constructed following the loss of land in the rural areas of South Africa and the imposition of various taxes after the destruction of the Zulu Kingdom by English colonialism in 1883. At the same time there was a movement into the city of Indian workers who had completed their indenture on sugar plantations (Pithouse 2005). In the mid 1950's 40000 Indians and 120000 Africans are estimated to have lived in Cato Manor (Sarkin 2001).

The Indian settlers were leasing land to Africans in the Cato Manor area; this led to routine charges of slum-lord tactics and exploitation laid against Indian landowners, traders and transport operators (South African History Online 2011). This culminated, in January 1949, in two days of murder, loot and torching that left 50 Indians dead, 87 Africans dead and 550 injured. As a result of this and the introduction of the Group Areas Act, the Durban Native administration decided to expropriate land from Indian owners and Africans as Cato Manor was declared a whites only plot.

Durban in the 20th century quickly developed into one of the most segregated of South African cities (Abahlali.org 2017). The Durban Corporation was an innovative proponent of racial residential segregation. Policies developed and applied in Durban were to become models for many other southern African towns and cities and to be cornerstones of the Union Government's national policy of urban segregation. Cato Manor was a testing ground for such ideals. Its turbulent history is linked to issues of politics, race and land. The politics of space in Cato Manor are unique in their details yet a typical South African example of the disempowerment of majority through the access to resources for the few.

I n t r o d u c t i o n

Figure 01: 6
Omar Badsha(1981): Street perfomance Durban

Timeline

1854
George Cato Christopher given farm no 812, 5875 acres in size along the Umkhumbane River in Durban.

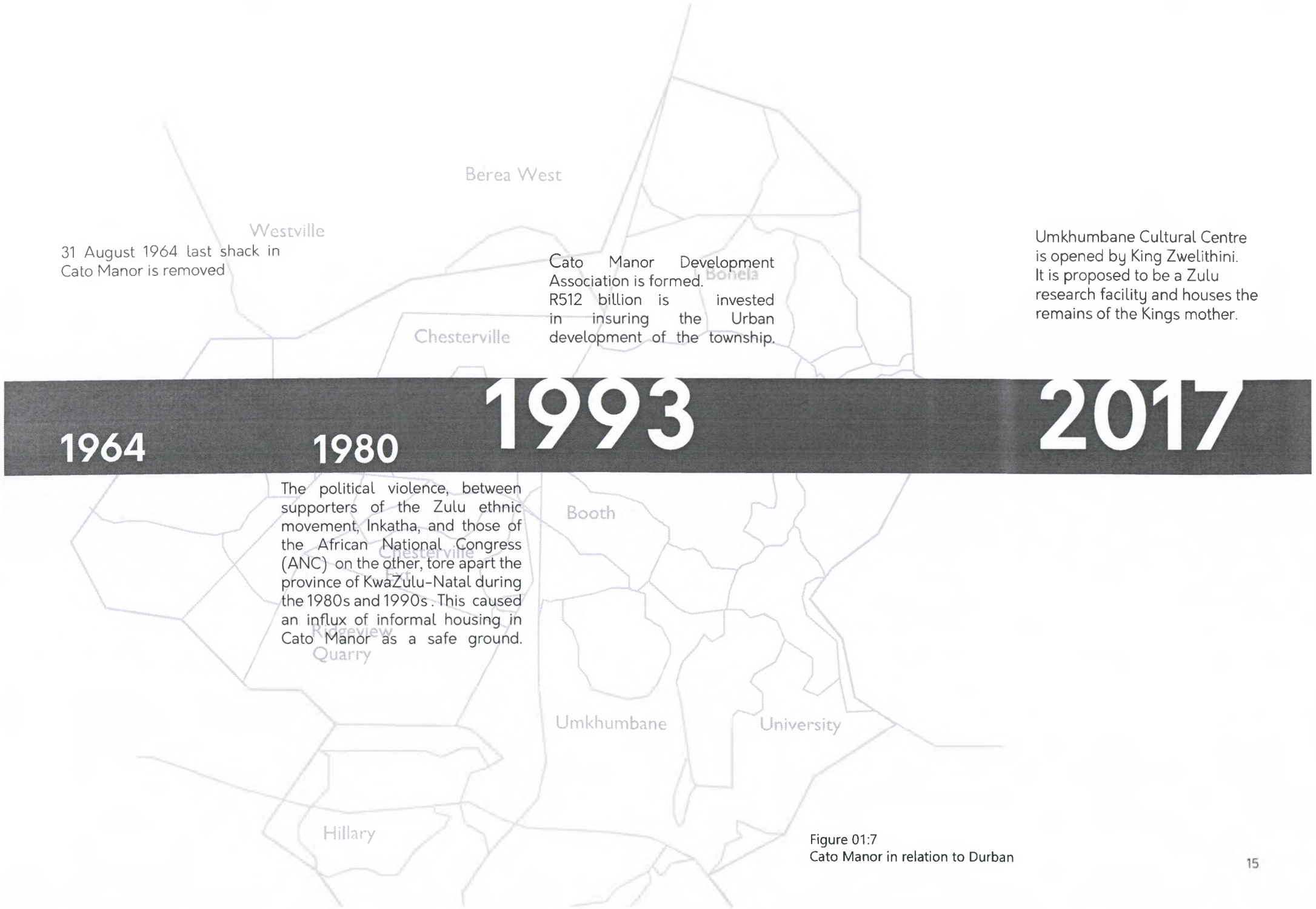
1857
Durban gains municipal status.

1892
George Cato Chirstopher dies, the Steam mill, his sugar cane, on his farm are sold to white sellers.

1933
Large demand for Africans to work in Durban.0 They rent plots from Indian land owners in Cato Manor.

1950
45000 - 50000 Africans recorded Africans are living in Cato Manor.

1959
Cato Manor Riots against Police and illegal Beer . An emergancy camp in Ridgeview Quarry is built.
Forced removals officially begin.



31 August 1964 last shack in Cato Manor is removed

Cato Manor Development Association is formed.
R512 billion is invested in insuring the Urban development of the township.

Umkhumbane Cultural Centre is opened by King Zwelithini. It is proposed to be a Zulu research facility and houses the remains of the Kings mother.

1964 1980 1993 2017

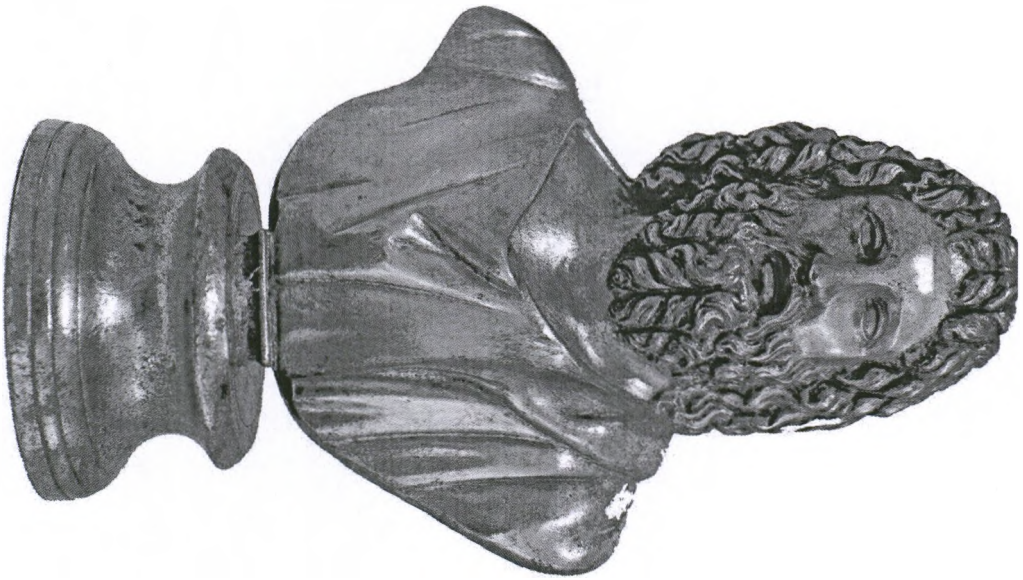
The political violence, between supporters of the Zulu ethnic movement, Inkatha, and those of the African National Congress (ANC) on the other, tore apart the province of KwaZulu-Natal during the 1980s and 1990s . This caused an influx of informal housing in Cato Manor as a safe ground.

Figure 01:7
Cato Manor in relation to Durban

There is a politics of space because space is political (Lefebvre and Nicholson-Smith, 2016)

Space is what architecture is built on thus architecture embodies the political. Alas, if space is political, architecture is political. In Cato Manor and essentially South Africa the politics of space have been a direct result of a tumultuous relationship. The control of space by the Apartheid government was used as a means to limit the progression and movement of people of colour.

Chapter



/ER STRUCTURE LAND POWER STRUCTURE LAND
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POWER STRUCTURE LAND

Space was used to demobilize a sense of community of the natives when the (native land act 1913) was introduced. Space was used to separate people when the apartheid government introduced the Group Areas Act. People were moved from spaces as a result of this. The apartheid state had 'space' at the centre of its agenda. Thus, it is critical to uncover the layers that govern the politics of space in its most simplistic form to understand the elements of Cato Manor and the possibilities in approaching it architecturally. It is also critical to state that architecture in post- apartheid Cato Manor has largely been a response to space in need. For the Indian community in the township, a more permanent sense of space existed. They were able to establish places of importance such as the Cato Manor Hindu Temple and Second River Temple but for the Africans, housing of any type was the main necessity.

Lefebvre (Lefebvre and-Smith, 2009) argues that space is social morphology. Social morphology is the manner in which socio economic perceptions are created and it is emergent or determined by actions of individuals. "Instead of conceiving space as a fixed construct, we should regard it as an incomplete, tension-filled process, always subject to the effects of the (social and political) actions of humans" (Oliver ,2012). In the context of Cato Manor and for the purposes of this research report, it is vital that social morphology of space is understood as an attainment of power and stability in order for socially conscious architecture to provide a necessary response in the community. Space is not an isolated construct (Lefebvre, 1991) but rather it is 'made' through the actions of the human occupants who engage with it on a daily basis. For the claimants of Cato Manor space that had belonged to the people was adapted by various urban development schemes and this success of this approach remains debatable.

(Bell and Leong 1998) supports this argument of space being a resultant of many forces and applies it to architecture. He states that as a design develops, it opens up the possibility of a type of neutrality, and yet a building almost by its very nature sites the inherently political.

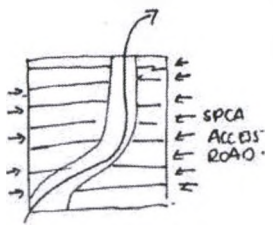
According to David van Heerden (2017) principal architect of the Ntuthuko Junction in Cato Manor, space in this township of Cato Manor is livelihood. Mhlaba (2009) an expert in indigenous architecture of Kwa Zulu Natal enforces a school of thought that believes Nguni buildings spatially are an extension of African politics, culture and should be understood as such. He believes that with regards to Cato Manor as it was originally an immigrant society, the spaces designed were pragmatic and rational and left no room for pleasure and a quality of life. He proposes that in the African context, space and politics are intertwined.



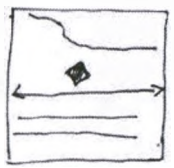
Figure 01.8 A Zulu woman and space

A representation of social morphology in the context of Cato Manor.

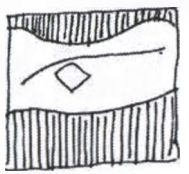
African people from the rural homesteads were economically forced to move into urban areas furthermore. In the case of Cato Manor, violently removed as a means to control movement and space.



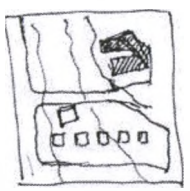
The building a thouroughfare



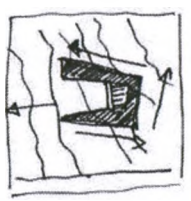
The building an interruption



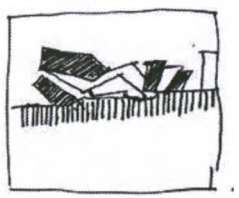
The building a passage



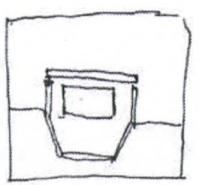
The building assimilates in the neighborhood



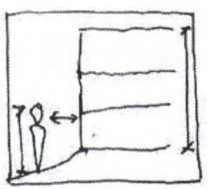
The building and visual access



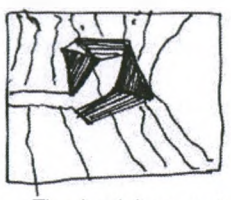
The building an icon



The building sunken in the land



The building and the human scale



The building a story

Fig 01.9 Investigations on how the court touches the land in Cato Manor

SOCIALLY CONSCIOUS ARCHITECTURE

This essay looks to uncover the principles of socially conscious architecture and its pivotal role in South African design. I look at what was done by the Cato Manor Development Association which was a collective of Urban designers and Architects in Durban. The intention is to uncover the successes and failures of the project and thus aid in the design process of the court proposed. Furthermore, what are the design approaches of architects working in the South African landscape that are tasked with creating buildings that are inclusive. How have they touched the land when they have been tasked with the responsibility to create buildings that are affect various sensitive issues that arise in communities.

Communal based architectural interventions force designers to think of buildings as holistic projects. such as projects that could reduce crime, increase job opportunities, improve skills, create solar energy and empower citizens. This is the focus of inclusive contemporary architecture and design.

Socially conscious architecture as a theme emerged in the 1960's when architects and designers sought greater influence in shaping the designed environment (Smolker and Lanza 2011). Architects began to involve residents in the decision making process regarding low income housing and sought for solutions that could aid in poverty alleviation through the built environment process.

According to Mass Architects co-founder Alan Ricks (2016), one can measure the indirect impact of architecture by assessing four key categories: economic, environmental, educational and emotional impact. The economic category addresses issues such as building cost in relation to the community. Questions such as through the building process has the community been empowered or employed are introduced in the design process of the building. The environmental category being the carbon footprint that the building occupies. The educational includes involving the community in the sciences of the building project. They will learn how to use materials in a more efficient manner and acquired skills that will equip them in the future. The emotional category addresses the need of the building, the building process must solve the right question, the community must be be involved in the problem solving. This is the architecture that resonates with a community and their everyday life. An architecture that people can call their own.

The emotional category is arguably the main influencer with regards to South African public architecture that aims to redress the past. We are a country that is essentially 23 years old into democracy and there isn't a textbook manual on how to design for all peoples when spatial politics(space) have been pivotal to the architecture South Africans occupy. Notions of identity and culture are complex layers many architects are faced to understand when designing.

Post-Colonial public buildings in South Africa should encourage a dialogue around identity and culture.

Architecture has for many years been the effective manner in which the notion of identity has been created and conveyed (Herrie, 2008).

"The beauty is that if there's any power in architecture, that's the power of synthesis. All those forces at play eventually can be synthesized in a design. We just have to understand the language and also the way that we respond to design. We do not have to become policy makers or economists. Our contribution to a problem is as designers" (Winston 2016).

Diebedo Francis Kere argues that in order for architecture to touch people they must be involved in the building process as there is a sense of pride when one contributes to something that stands physically. Participatory design is pivotal. Architects such as Alejandro Aravena intentionally start social projects "as far away from architecture as possible"(Winston 2016).

Adjaye (2017) supports the argument that architecture is a social act (Tomkins 2013). "I am in interested in what architecture could do, rather than in how beautiful it is (Tomkins 2013)." In a talk presented by the Graduate School of Architecture (2017) he touches on how the built environment in Africa can be exciting as it is always in response to layered context. The challenge is that it must live and have a life of its own after the design is complete and this system is one that the architect cannot control. There are two things, on the one hand being sensitive and connected to the moment that you live in, and then responding to that with a proposal, with a design, that is able to stand the test of time (Winston 2016).

Noble (2011) further adds on to this argument but looks at public buildings in South Africa, based on Fanon (1952). Through the analysis of five public buildings he questions whether architects have attempted to fully integrate all South African citizens in their designs. He questioned whether they have put on a mask by being insensitive to the context, its history and hiding behind decorative facades or they have really tackled the challenge of designing for South Africans in South Africa. Furthermore, he states "not all buildings are equally suited for raising questions of cultural identity and when issues of cultural identity are raised their terms of reference are bound to differ from one building type to the next "(Noble 2011, 3).

Demissie (2007) focuses on contemporary African cities caught in the contradiction of an imperial past and thus a post- colonial present. He comments on contemporary African cities such as Harare, Nairobi, Cape Town and Johannesburg and argues that the cities are deeply rooted in a long history of western ways and thus the interpretation of these spaces is misunderstood in African urbanism.

Murray offers the views that the Architectural project is possibly one of a series of sites of engagement, and should be seen as one form of practice. (Deckler et al [Murray],2007;)This statement may appear to shift the argument away from built Architecture as an appropriate tool for engagement, but the author feels that if one does not question the role of Architecture then one cannot explore how and where the discipline fits into today's context.

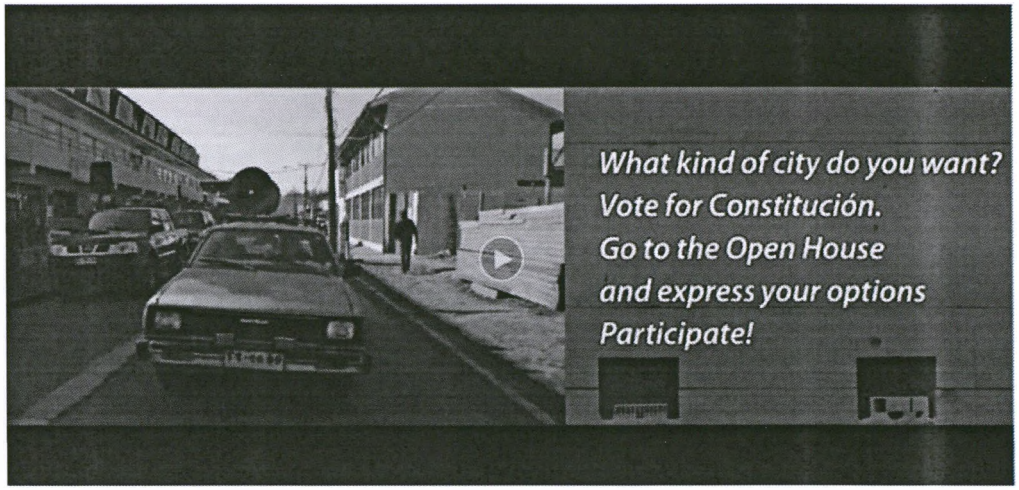


Figure 01:10 Ted Talk

Alejandro Aravena shows an advert that was broadcasted in Chile after the 2010 tsunami and earthquake that encouraged people in the country to participate in the re-construction of the country. The firm was tasked to design public spaces, homes and urban design solutions that would efficiently rebuild the country in a hundred days.

The Durban Corporation was an innovative proponent of racial residential segregation. Policies developed and applied in Durban were to become models for many other southern African towns and cities and to be cornerstones of the Union Government's national policy of urban segregation. Cato Manor was a result of low grade urban tissue that was exacerbated by informal settlements moving towards the inner city, have the interventions that have been designed in the township been cognizant and sensitive towards this? This was the mandate of the Cato Manor Development Association formed in 1993.

The concept was to create a rejuvenated township; 'a city within a city' (CMDA 2002) with the support of the Durban metro. It was an agency that partnered with community-based organizations in facilitating redevelopment of the poor, underserviced area. The project was inclusive and involved the community through meetings that were held in make shift community halls. It projected to impact 1, 400, 000 people (Odendaal 2007). Through this association, initiatives such as the Shayamoya housing, the local library, Wiggins Housing, Cato Manor Heritage centre and the Wiggins community centre were built.

The guidelines according to Nancy Odendaal for the Cato Manor Development Association were as follows. There was a relationship with public administration as the Greater Cato Manor Development Association was initially established in 1992 as a collaborative forum to guide and advise the eThekwini City Council on development of the area (Odendaal 2007). It was designated as a Presidential lead project in 1995 by the Mandela administration and thus it received funding from international donors mainly the European Union. Funding and finance made the projects attainable. They were tasked in creating 25 000 units and creating 25 000 permanent jobs.

With regards to Land restitution it was approached as a hindrance to the urban development (Walker 2010). When the first 419 land claims were made in Cato Manor, the municipality advised that the parties should negotiate a settlement amongst themselves. In 1994 the CMDA took the lead in lobbying drafters for a clause in the Restitution Act- section 34. This Act would allow state bodies to approach the land claims court to rule out restoration where land was owned by the state and deemed necessary for public development. By 2003 land claimants of the 1950's played no role in the vision of the CMDA to redesign Cato Manor.

Many academics such as Walker (2010) argue that urban framework did little work to address the issue of land restitution, given that Cato Manor was involved on of the largest sets of individual land claims lodged by the Commission on Restitution of Land rights nationally (Walker 2010). There was a lack of attention to the urban removals in the design of the restitution programme. However, there was a clash, with the instant need of housing versus the need to address land restitution alas this was a missed opportunity to formulate an integrated, reflective post- apartheid township.

Precedents

NELSPRUIT LEGISLATURE, LUIS FERREIRA DA SILVA

The building was a cultural endeavor spear-headed by the premier of the province as an opportunity for the future of the community to be represented through architecture. The Premier of the province summed up his province's hopes for an architectural representation that would imply that the province is looking towards a new future.

The building was an overall consolidation of symbolism taken from the site and its history. The architect chose to express cultural vernacular. They chose to physically respond to climate and respond to the socio cultural context through choice of materiality and sculpture.

The tower itself is said to be a form that is a traditional African, it represents an ant hill and also pays homage to Mapungubwe. Concrete head sculptures scattered around the site humanize the landscape and represent the many faces of the people and that they have the power.

Technologies used throughout the buildings are directly inspired from the landscape, its ecosystems, flora and fauna. San rock engravings of the area inspired the cast bronze wall and floor pieces.

The Peoples Square, a public space in front of the Northern Cape Legislature, with symbolic trees set in a stylized landscape, 1998 (Malan 2003: 49). At the Northern Cape Legislature, the symbolic trees stand in a stylised landscape (figure 0.1.1). The 'peoples' square', uses subtle sculptural and architectural gestures to suggest the a sense of the dessert.

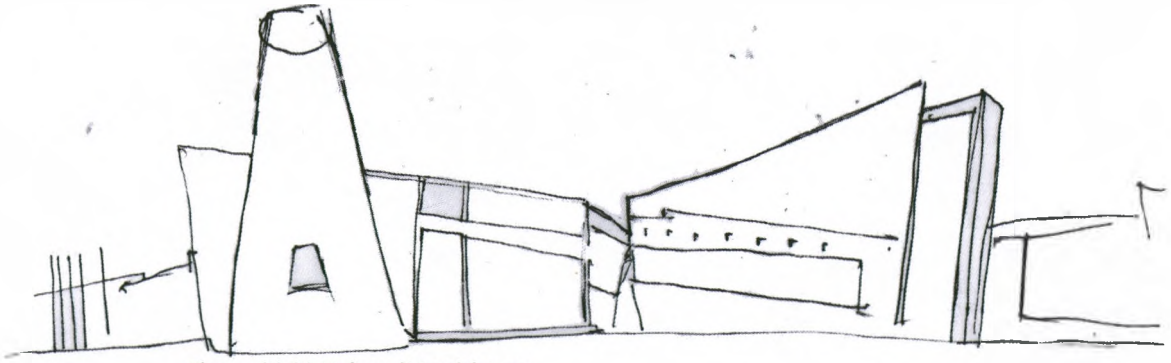


Figure 01.11 Nelspruit Legislature

The Red location Musuem, Port Elizabeth was opened in 2006. The architects main motivation was to create a radically different reading of a museum in South Africa. The overall intention of the museum was to create economic potential for the community. The concept was derived from the memory box, inspired by the memory boxes that migrant workers used to keep their possessions in. They are 12 unmarked boxes with the belongings that offer in depth insights of memories of the apartheid struggle("Red Location Museum" 2017). The user is meant to explore these juxtaposed boxes and the spaces between them are meant to allow the users to reflect on the information provided.

The location was the first settled black township of Port Elizabeth. It is of historic importance as Umkhonto weSizwe (the armed wing of the African National Congress) cell was established and ANC veterans such as Govan Mbeki, Raymond Mhlaba lived in the area. The township also saw the first arrest in the Defiance Campaign against the pass laws in the 1950s(Plessis 2017).

The museum was meant to be the economic life line of the Red location but has been closed since 2013 with residents threatening to assault any tourist who dares to enter the premises.

There was a three year stand-off with the community and the Nelson Mandela municipality of the location. They demanded improved RDP houses and held steadfast to the common belief that they had told the municipality from the design phase of the building that the need for proper housing was more important than a R22 million museum.

The Red location steering committee demand that 288 of the houses in the location are rebuilt, that local residents are employed and once that is complete only, then can the building open for operation.

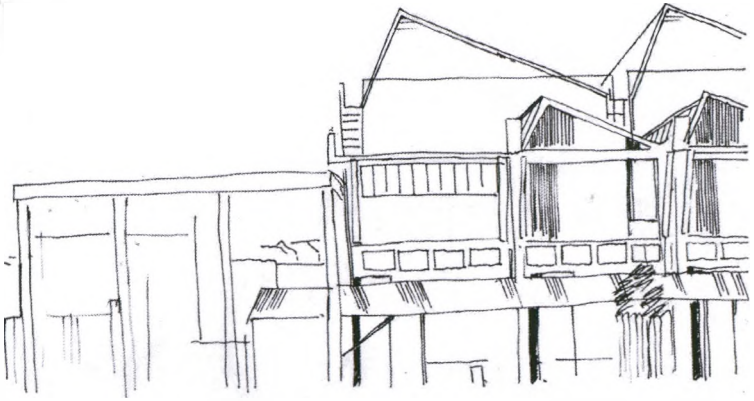


Figure 01:13 Red Location External View

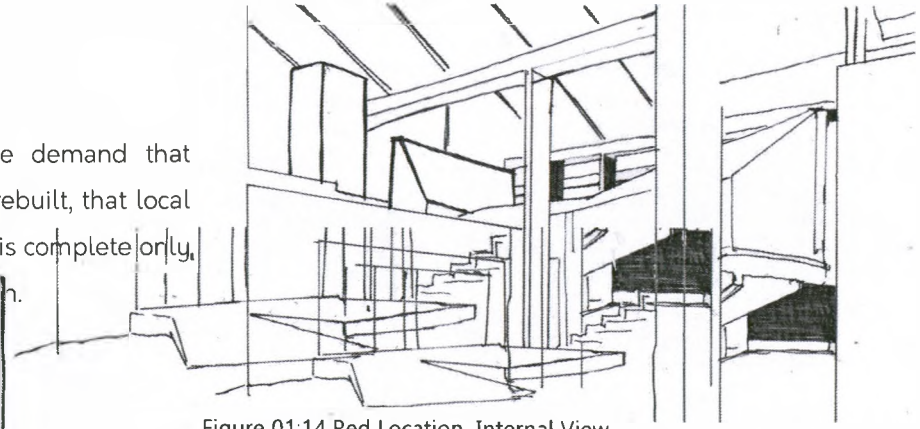


Figure 01:14 Red Location Internal View

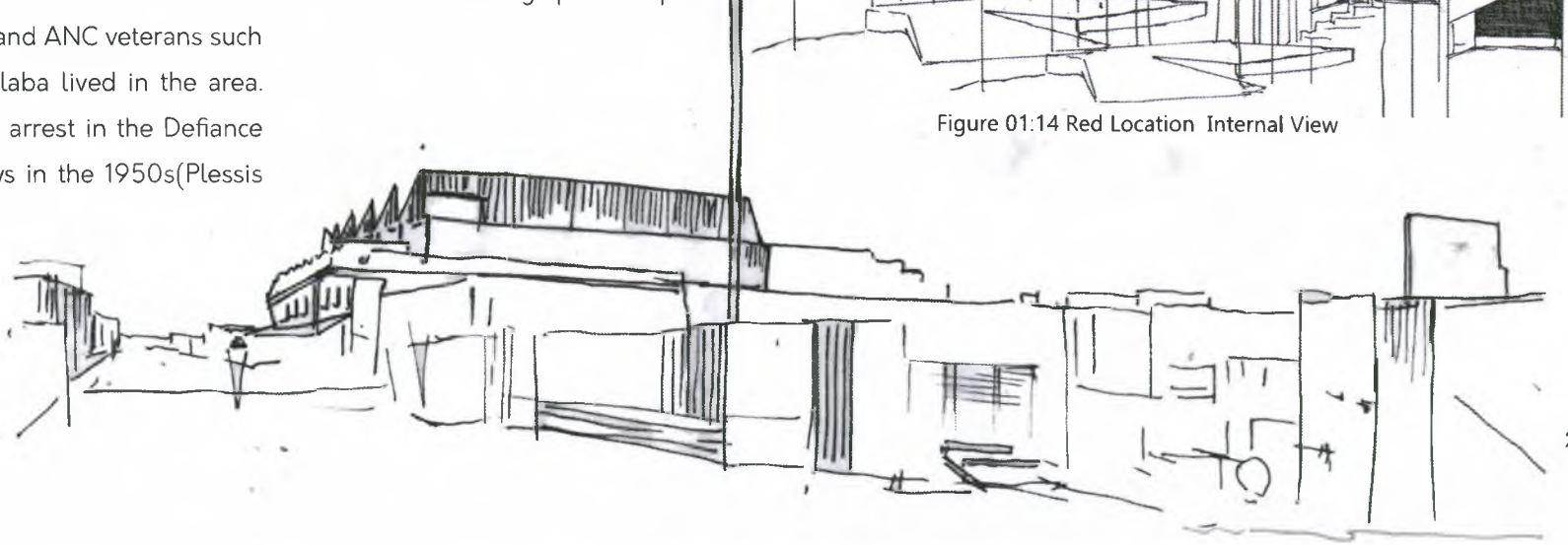


Figure 01.12 Red Location

In the 19th century Constitutional hill was a high security prison(Currie, Bronstein, and Pieterse 2004). Over the years is was occupied by the South Africa military that built a series of forts. To the natives of the country it was known as number 4 because of the terrifying section that was designated for blacks.

The brief for the new Constitutional court sought to juxtapose the painful narrative of the Old fort with a celebratory space that signified a new constitution for all South Africans. The jury, headed by Charles Correa an architect, urban planner and activist wanted to create "a major public space for Johannesburg and a symbolic building for the country." An international competition was held which was won by OMM design workshop and Urban solutions + Urban designers.

To neutralize the relationship that the public had with the ambivalent site. The urban planners designed the public space in such a manner that one would undergo a reflection process from the old fort till the court. The building traverses a range of time scales(10 Years+ 100 Buildings 2009). Accessibility of the building was a main influence of the footprint, as the building lies at the edge of Braamfontein and Hillbrow . This major intersection was addressed with the formalization of two pedestrian access points.

To create an inclusive space the design team chose to concentrate on a merge between craft and modernism. National competitions were opened to the public and some of the pieces were integrated into screens, doors, carpets, lanterns and even nosing.

The plan of the court allowed for a public flow parallel to the private proceedings of the court with spaces are clustered around courtyards. With openings to allow for a controlled dialogue between public and private.



Figure 01.15 Site Plan

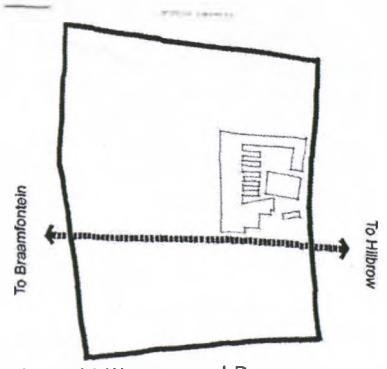


Figure 01.16 Axis from Hillbrow and Braamfontein

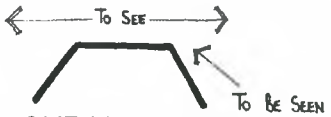


Figure 01.17: Visual Access

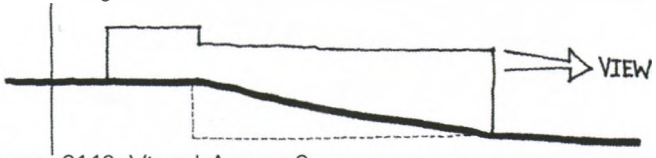


Figure 01.18: Visual Access 2

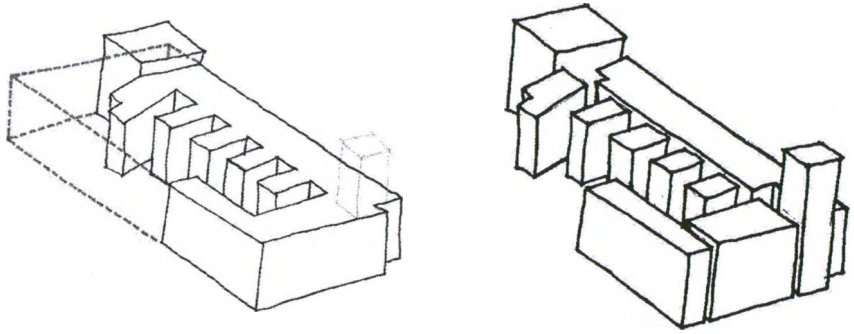


Figure 0.19: Form

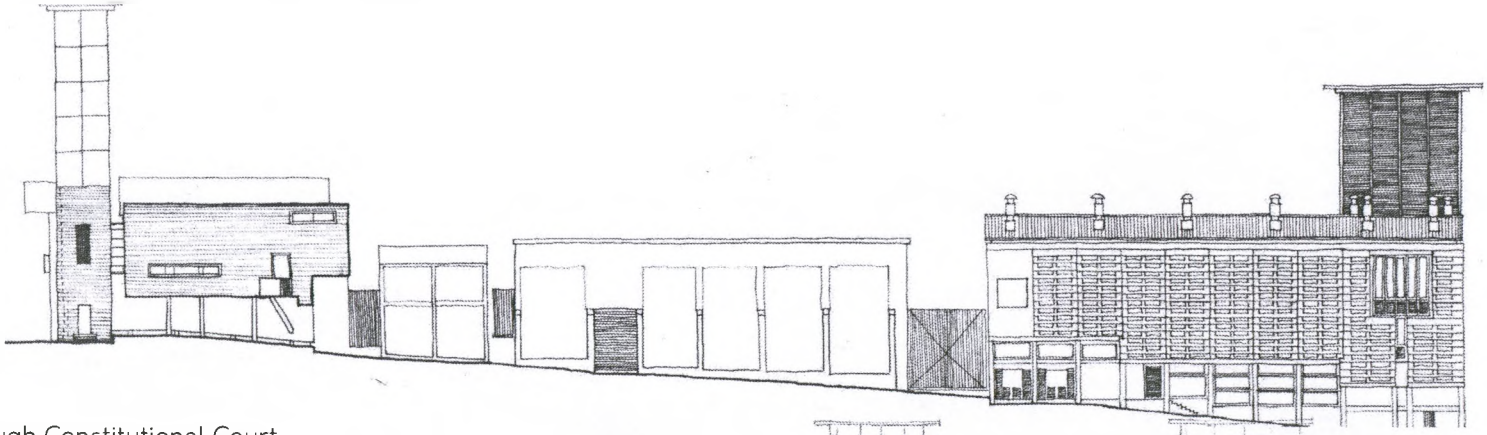


Figure 01.20: Section through Constitutional Court

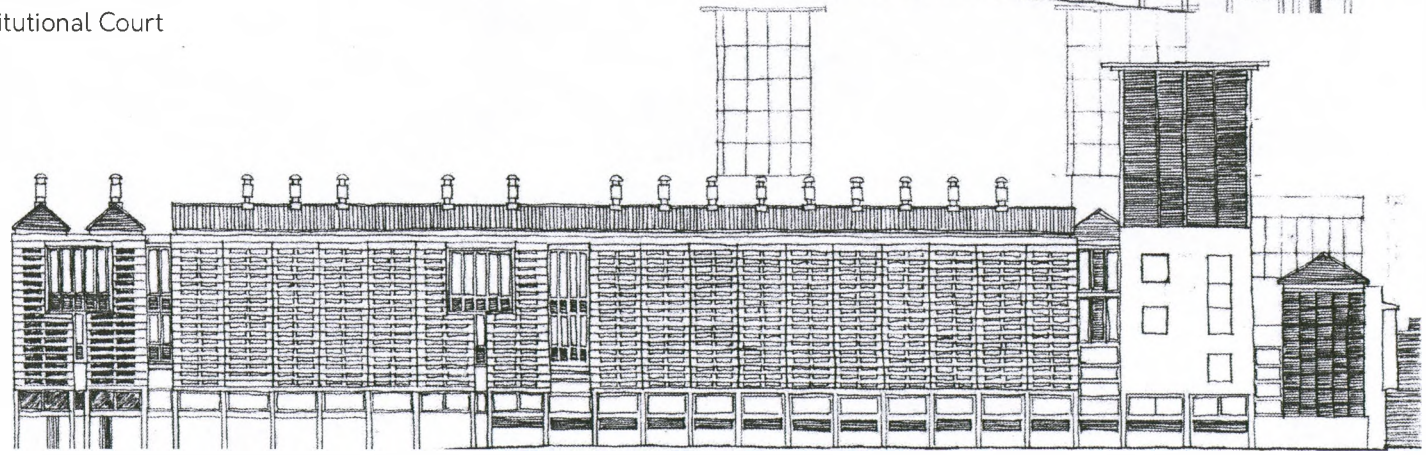


Figure 01.21 Elevation of Constitutional Court

LAND CLAIMS COURT, RANDBURG

The current land claims court in Randburg is in an Old Pick n Pay building adjacent to the Randburg Street Mall. The exterior of the building has been untouched however the interior has been retro fitted to accommodate the specifics for the function of the court. Unlike its counterparts the Randburg Land Claims court is unannounced, utilitarian. It functions as a space that resolves issues of national importance but does not encourage a debate on what inclusive architecture. could be. It specifically addresses a major historical injustice but is very discreet in that manners.

The waiting area is narrow, the entrance is unassuming, the movement through the building is limited and the building is not well documented as its counterparts.

The courtrooms are made to accommodate a maximum of 20 people, they are no pronounced entrances into the courtrooms and the judges are elevated as per the norm. Public access into the building is strictly controlled as one must be escorted through the premises unless there is a public- hearing.

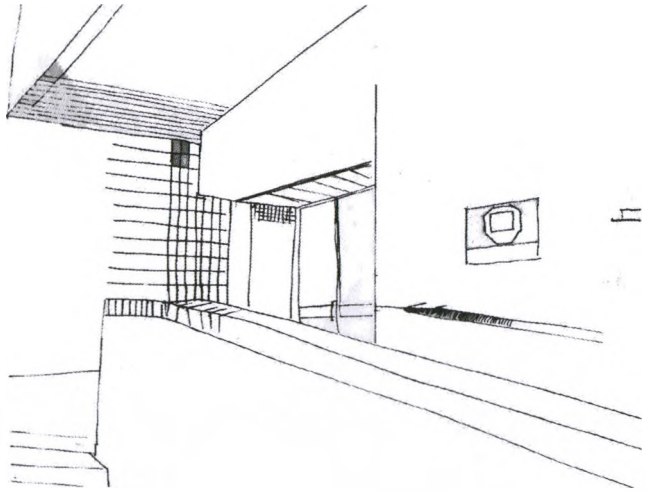


Figure 01.22: Exterior view of the Land Claims Court

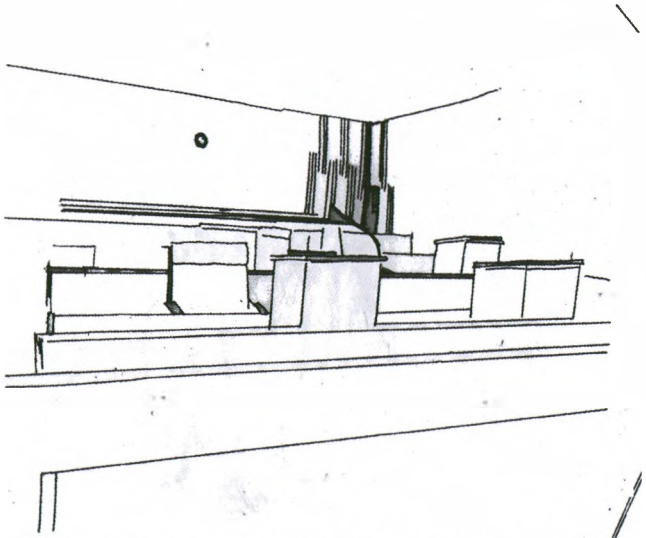


Figure 01.23: Interior view of the Land Claims Court



Figure 01.24: Exterior view of the Land Claims Commission.2017.

The intention was to explore the context of the existing land claims court in Pietermarizburg. It is based in a central part of the city, yet as such an integral fabric of the country, its presence is understated.



Figure 01.25: Interior view of the Land Claims Court

The passageway leading to the main reception from the main street. The commission is housed in the African Life Building. One is not aware that they are in a prominent space.



Figure 01.26: Interior view of the Land Claims Commission.

The reception of the only Land Claims Court in South Africa. s

LOCAL TRADITIONAL COURT, AMAZIMTOTI

The Amazimtoti traditional court is a rondeval outside the induna's homestead. The homestead is where normal meetings are held. The rondeval is where gatherings specific to the ancestors are conducted. The design of the rondeval is in such a manner that one must bend into an entrance 1000mm high in order to enter the sacred space. This act in itself is one done to acknowledge the presence of the ancestors and in respect to the induna of the area.

Internally the space is divided as a isibaya with the space opposite the entrance being the most sacred, this is where the induna occupies space.

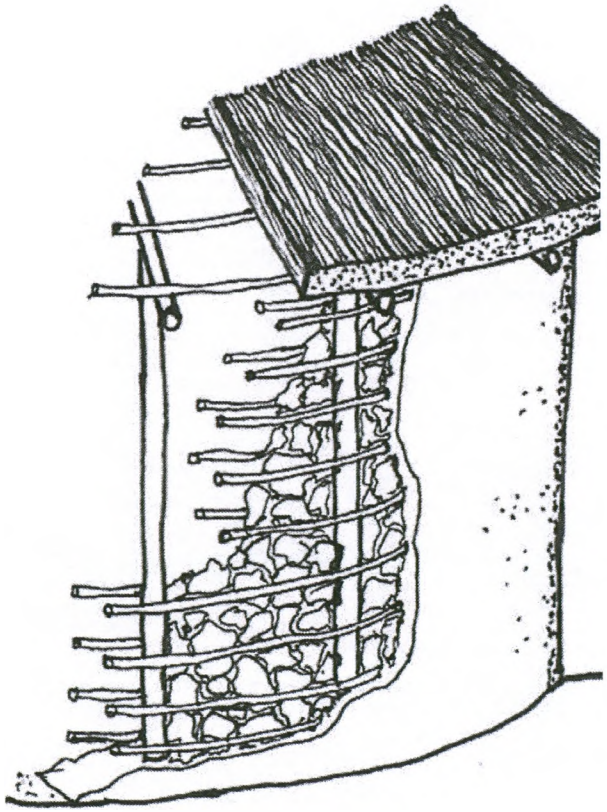


Figure 01.27 A schematic section of a traditional structure



Figure 01.28 Amazimtoti induna's court

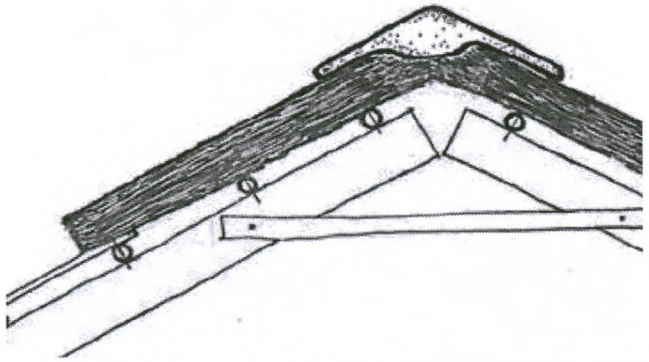


Figure 01.29 A schematic section of a traditional structure

Conclusion

Socially conscious architecture can be approached in various ways through the process and final product, depending on the context. In regards to the land claims process, culture and identity seem to arise as main issues. A need for the sense of belonging after decades of forced removals and the denial of ownership to previous generations of residents of Cato Manor set up the framework for what a land claims court would need to address in terms of physical integration into the context as well as programmatic guideline for its performance.

Frantz Fanon called the shanty town the gangrene of colonialism and the colonial city was often in part a displacement of the European slum (Pithouse 2006). The architectural proposal is to give this space, Cato Manor a newly defined meaning and to engage with the lost voids in the township thus ensuring that the court through its design approach remains relevant. It aims to extract the poetic potential between geometry, space and land with the hopes that it would aid this community where the remnants of apartheid are still so bare.

Through this essay the aim was to specifically look at the politics of space and the manner in which architecture can approach these complexities through it being socially conscious.

It is critical from this point onwards to introduce the idea that there is a way African people in Cato Manor have historically organized themselves, how can this be translated spatially?

There is a politics of space because space is political (Lefebvre and Nicholson-Smith, 2016)

As mentioned previously the success of a socially conscious building can be measured (Rich 2016) by the indirect impacts of architecture by assessing four key categories: economic, environmental, educational and emotional impact. How would a land claims court building in Cato Manor offer an opportunity for holistic transformation for the people. This land, Cato Manor was governed by a system that restricted such architectural explorations. An architecture of symbolism, an architecture of dispute and aspirations were impractical for a society that lacked basic needs.

There is a need for historical injustices to be resolved in the area, furthermore there is a critical need for representation of the law for the extremely disadvantaged.

Currently the buildings that are of civic importance in the community are the Ntuthuko Junction, Wiggins Community centre and the new Umkhumbane centre. In order for one to report any dispute they must travel 72km to the Pietermaritzburg Land claims court and furthermore partake in a judicial system that was not historically designed to empower every South African citizen.

Politically speaking a central mandate of the ANC in the early 20th century was the demand for an 'unbiased' judicial system and 'equal' application of the laws of the country without regard to 'race or creed'(Ngcukaitobi 2017).

This influence would also be pronounced in the ANC's response to the 1910 South Africa Act and the 1913 Native Land Act. The response of Africans to both these pieces of legislation was to work within the 'constitutional' system. In 1923 African lawyers, working under the auspices of the Congress movement, produced the first draft 'Bill of Rights for South Africa' that was subsequently not recognised by the state.

This meant that Africans encountered the legal system either through the native courts or the magistrates' courts. Both of these institutions were extensions of the executive. Colonial magistrates were government appointees, but they were also clothed with judicial power (Ngcukaitobi 2017).

Concurrently with this development of the South African constitution was the existence of native law and customs. Customary law was protected by and subject to the Constitution (Ndulo 2011). Customary law, prior to colonialism, had its sources in the practices, traditions and customs of the people

Courtrooms are seen as having authentic, fixed and unproblematic identities in which the placing of bodies in particular ways is no longer contestable (Mulcahy 2017).

When justice facilities have been observed the focus tends to be on prisons and the contributions they make. However, the positions of courts as democratic spaces in fortresses of authority make them an ideal subject for detailed research about the rhetoric and reality of public space (Mulcahy 2017). These are spaces we as citizens seek to employ democracy and for it to prevail.
In the 17th century (Mulcahy 2017) there were many stake holders in the process of the British legal system, the church, the police and the chancery all of whom oversaw courtroom design for many centuries.

There were no custom built courthouse, only houses which happened to host courts. Local trials were held in churches, assembly rooms and guildhalls. Town halls were used for hearings, the civil court proceedings would take place in the first floor and the criminal court hearings would happen in the open market space below. Medieval courts were much more sociable than their modern counterpart.

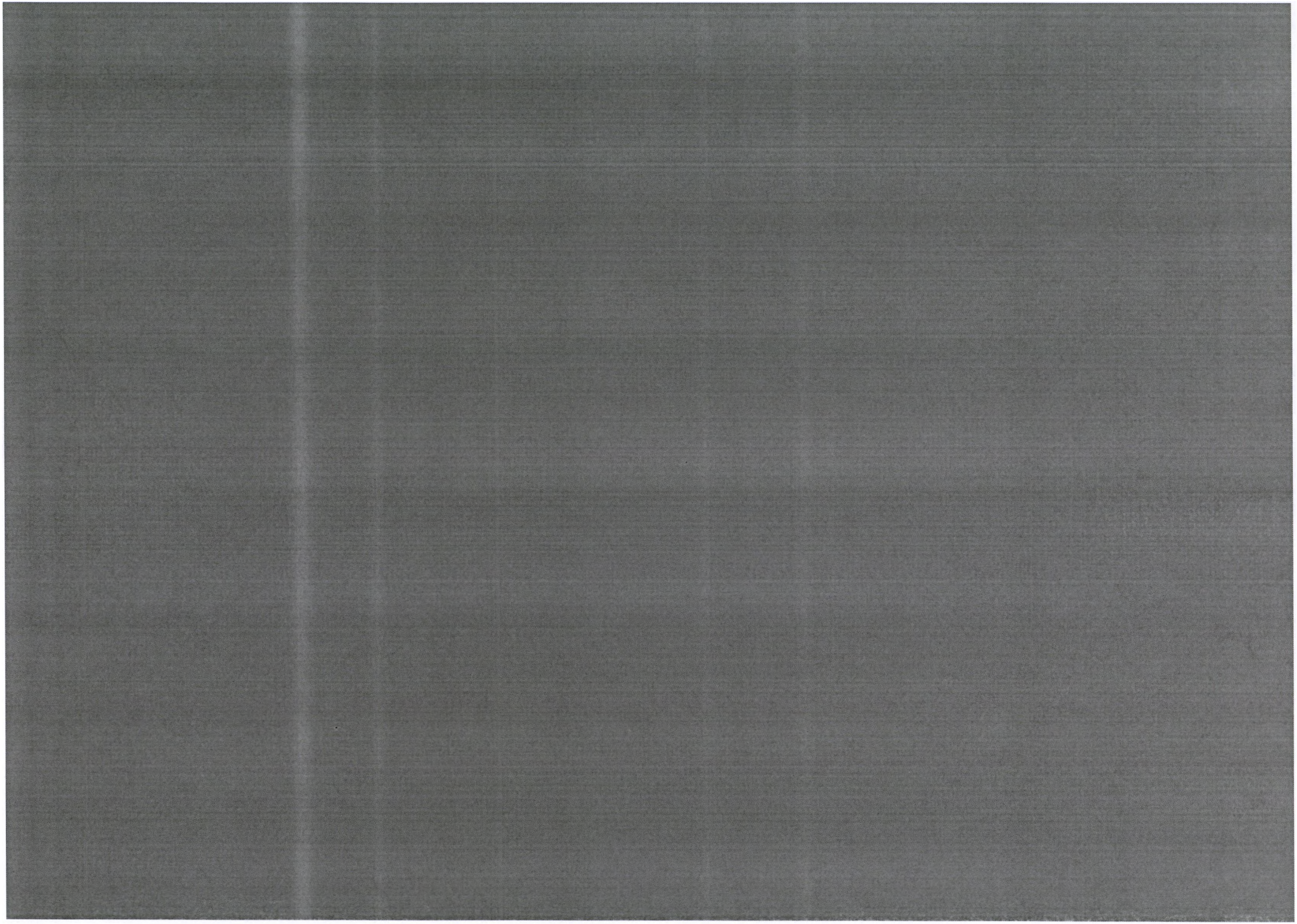
The purpose built courthouse design started in Europe in the late eighteenth century.

There was an interest in neo-classicism and gradually as time progressed court spaces became grandeur and were seen as major architectural commissions. They were an expression of public affirmation of the status of architects and lawyers in their time (Mulcahy 2017).

In South Africa, the relationship with the court prototype is complex as it was imported and developed without the intention to include all the peoples of the country. Perhaps the best example to show how removed the court prototype is to the South African landscape is through analyzing the history of the presence of the Supreme Court in the country.

Roman Dutch law begun when the Dutch East India company sailed ashore in 1652. The law that governed the soil was imported from Hollands 17th and 18th century way of life. When the British defeated the Dutch in the Cape (Anglo-Boer war year) Roman Dutch Law governed common law and English law and practice prevailed. From 1910-1950 the highest court in the country was the Judicial Committee of the Privy council it was based in London.
The Appellate division was formed in demand in 1905 as many attorney generals felt that South Africa needed a supreme court. It was in 1909 that a provision was made through the South African Act 1909 and it was decided that the seat of the court would be in Bloemfontein. The logistics of this decision rendered the appellate division nomadic as the first chief justice Lord Henry De Villier operated in Cape Town.

Alas court hearings took place in the supreme courts of Cape Town, Kwa Zulu Natal and the Transvaal and would be concluded in London, United Kingdom.



Chapter 2

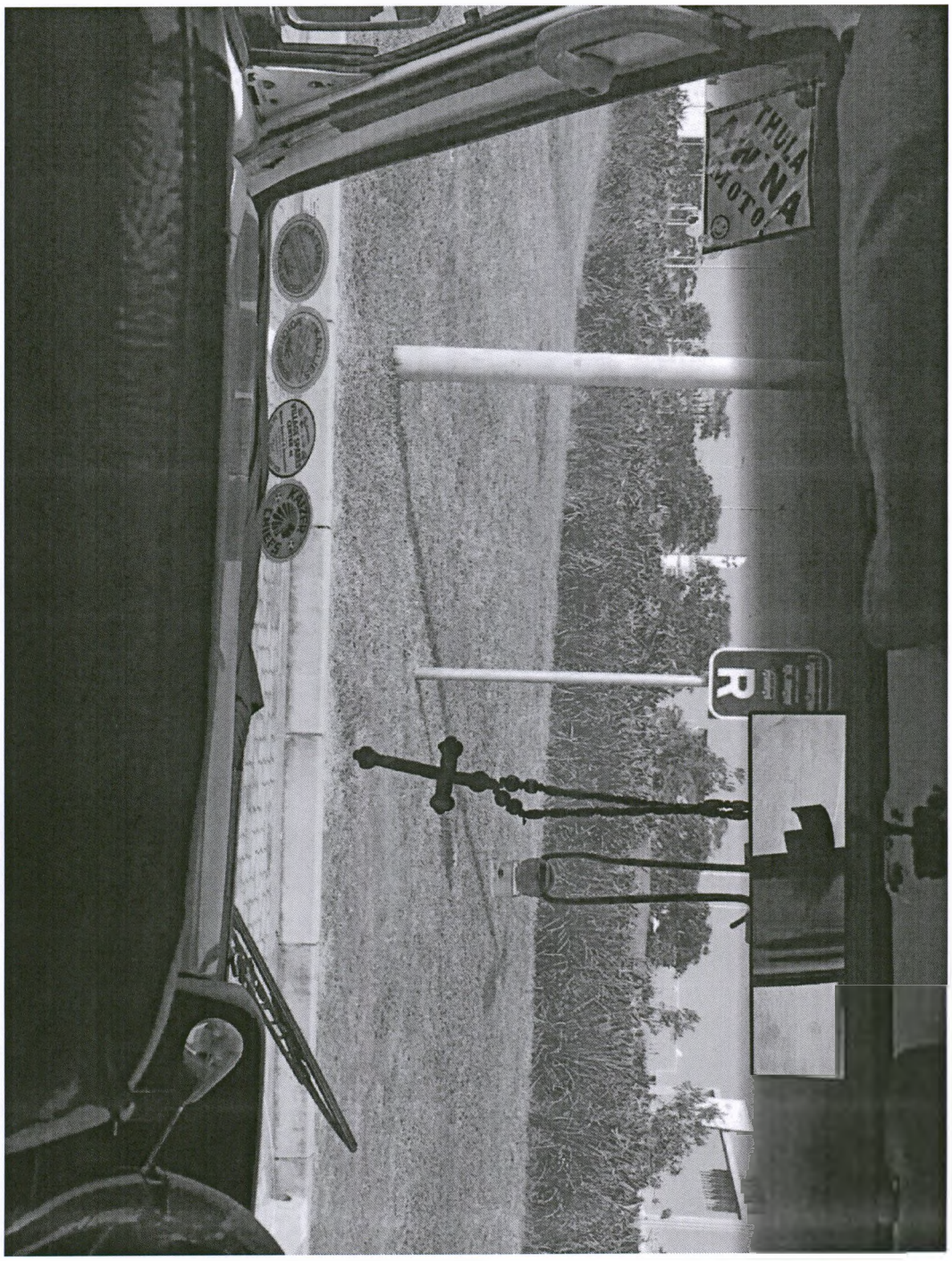


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Figure 02=.30 Dispossed

Dispossessed

You were born in affluence
Land as vast as sea

Pegging, pegging each seasonal year
A plot for ploughing
Hundreds of livestock you possessed
Your dwellings a fortress
Your wives as many as your fingers
Each night, a different woman
Not a word of grouse

Someone arrived
Helmeted he was
Astride a white horse
Attention, he demanded,
Get me a fire kindled
Draw water for me
Get one of your sons to look after my horse
In the open he chose to sleep
A gun by his side

He was awake earlier than you
Inspecting everything on sight
Casting his face afar
Noting, Noting, Noting
Giving a scornful smile
As he looked at you
Turning his face in satisfaction
Murmuring: "Blooming Kaffir'

A year later
He returned
Accompanied by a troop of police
Get tents ready, boys
He commands his men
In an hour a town is pitched
A flag hoisted
A bugle sounded
"Fall in," He lined up his men
Each a duty: tonight.
Your unletterded brain pronounced
ZARP! mai- isi-isi
Stupid you were
Not to say Zuid- Afrikaanse Polisie

You were discontinued from trying cases
"Call a pitso"you were ordered
Head tax. Hut tax.Dip Tax.
All piled on you.
Hard cash. With queen victoria's head
A golden sovereign
Minted somewhere you don't know.

>>>
You were ordered to pay tax by selling cattle
Golden sovereign. Queen Victoria's head
You marked X against your name
You raised two fingers
"Modimo nthuse- God help me"

You bid farewell to your wives
None cried because custom allows
No crying
Soldiers to battle.

>>>
Your here to pay tax
Twelve months of contract
Save your money in a syrup tin
Lock your box
>>>
Farewell
>>>
In your absence
The government has impounded some of your cattle
Dip taxation
Tick Sickness
Mouth and foot disease
Tsetse fly
And culling
You're poor now

(Dikobe 1983)

1840 — Voortrekkers establish the republic of Natal. Every male Voortrekker who had entered Natal before 1840 recieves 2 farms; those who arrive after 1840, recieve 1 farm.

1847 — The commission for locating natives recommends the establishment of 7 locations/ reserves. These are subsequently established

1879 — The Zulu wars begin as a result of land hunger by both Africans because of the frought of 1876-1877.. Zululand is invaded by the British.

1906 — A Zulu rebellion,led by Chief Bambatha, breaks out in Zululand in protesst against the extension of white ownership.

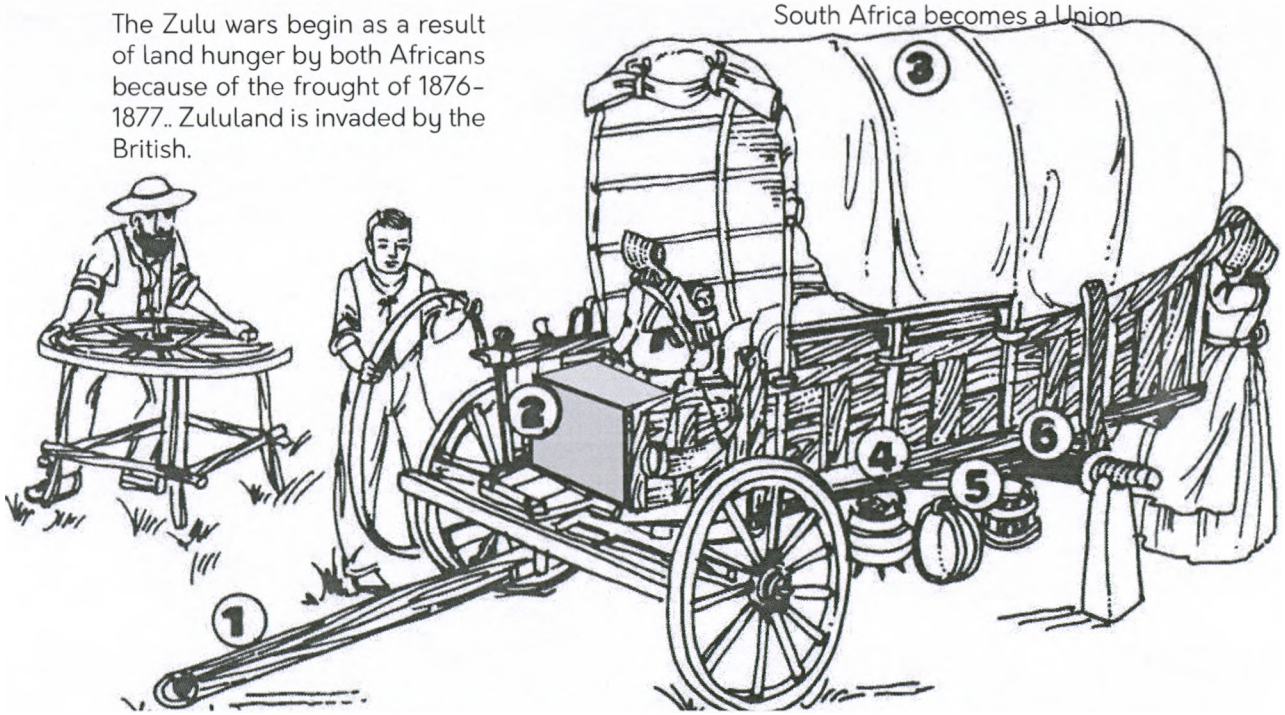
1910 — South Africa becomes a Union

1913 — Native lands Act Passed

1922 — The Stallard Commision recommends, " natives should only be permittted in munipal areas for as long as their presences is required by whites

Land

(Harley and Fotherinham 1999)



1923

Native Urban Areas passed. Native advisory boards regulated influx control and removed 'surplus' people, i.e. those who were not employed in the local municipality.

1927

Native Administration Act passed. It placed the system of tribal government under white control.

1934

Slums Clearance Act Passed. Laid down minimum standards for housing and allowed for evictions and the expropriation of properties deemed to be slums.

1937

Native Laws Amendment Act Prohibited Africans from buying land in urban areas

1952

ANC begins its defiance compaign

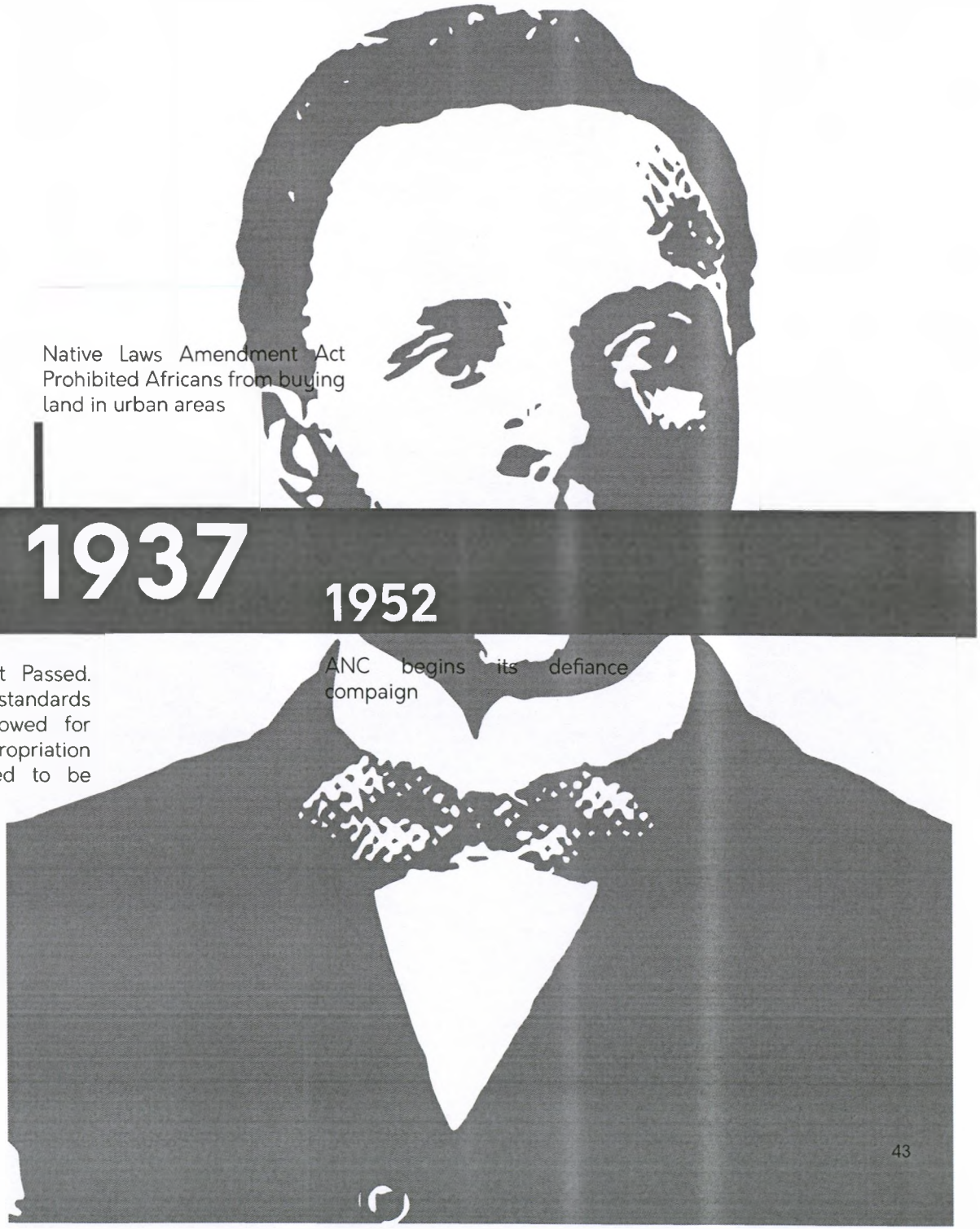


Fig 02.31: "Awaking on Friday morning, June 20, 1913, the South African Native found himself, not actually a slave, but a pariah in the land of his birth."(Plaatje, 1931)
In 1914 Sol Plaatje went to Britain as a member of the deputation charged with appealing to the British government against the Natives Land Act.

There is a correlation to the broader economic and political transformations in Kwa Zulu Natal and the changing concept of a home according to Zulu culture(Pieterse and Edjabe 2015). To the initial missionaries the African homestead was a representation of immorality, filth and disorder. African homes seemed to lack the appropriate spatial definitions between public and private.

To a zulu man, home has been and still remains a holistic entity and of paramount importance to the zulu tradition and culture. You are born there (a clinic), married off on the premises, go through various cultural rituals aligned to your various stages of age and maturity (a church), your cattle is bred there (space of reproduction). You and your ancestors are buried either on the lower side of the yard or not far from the foundations of a home(graveyard). In urban spaces this way of life is contested as the meaning of a home in the city was influenced by the need of economic stability.

In the 1930's many Africans migrated from the homelands due to the then government colonial policies as well as systemic degradation of the standard of life. Settlers of South Africa lobbied for stricter control of African land ownership and the increase of taxation of homesteads in order to eliminate the economic independence of Africans thus increase the cheap labour force of people for their own production (Healy- Clancy and Hickel 2014).The Bambatha Rebellion is a case in point where the Zulu people refused to bow to the Colonial policy that forced them to reduce the number of cattle they owned as well as pay 'head' or poll tax. As a result, the Zulu people flocked to cities to search for employment. High population density, land shortage, soil exhaustion and overstocking combined to create conditions of severe hardship for Africans in the homelands (Maylam 2017).

In Port Natal later to be known as Durban, there was a need for cheap labor to improve the infrastructure of the city especially after world war 2 which stimulated the local manufacture of consumer goods and war materials and generated increased activity at the dock. From the mid 1930's the post-depression recovery saw a rapid growth in manufacturing in South Africa's industrial centres, among which Durban featured prominently. With the influx of Africans into Urban areas the notion of home changed completely into an in-between space that was an extension of a rural norm. For instance, in many townships homes were still referred to by clan names and some traditions were carried out in these new spaces.

According to the Natal Code of native law 1878, when the colonizers landed in 1652 the native administration sought to exercise power with a controlled budget thus they infiltrated the chieftain system of the amaZulu using maximum control ¬to provide cheap labor for themselves. This political move began to destroy and disintegrate a system and concept of a Zulu family. The system worsened after the declaration of the Republic of South Africa where Africans were handed over to the Republic. Scholars such as Guy(1977)argue that the home often becomes the focal point of historical memory and political discourse(Healy-Clancy and Hickel 2014). Umuzi was for a family, that aggregated into larger unit, izizwe which were run by the chiefdoms under amakhosi to whom the homesteads gave allegiance and in return received the right to occupy land. Zulu homesteads embodied a definite correlation between kinship structure and domestic architecture (Healy- Clancy and Hickel 2014). Consequent to this systemic destruction of

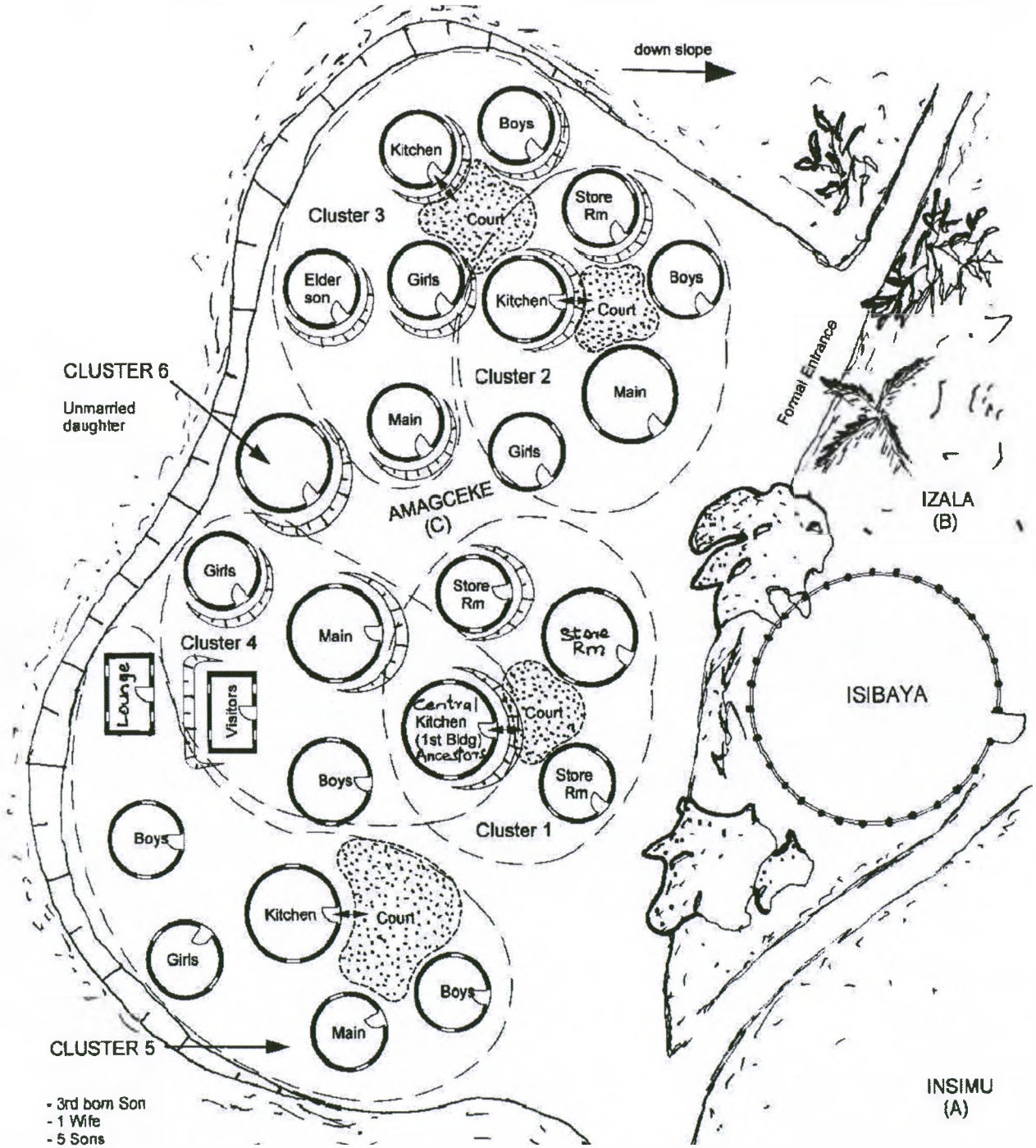


Figure 02.32 A zulu Homestead

This investigation is important to the research report as it outlines the generic arrangement of a zulu homestead. In the township of Cato Manor it communicates a spatial arrangement from rural Zululand that is explored further in the design development of the land claims court.

Consequent to this systemic destruction of the African and Zulu familyhood was the exodus of people towards towns where they built places like Cato Manor and many smaller settlements.

The earliest evidence of occupation of land in Cato Manor is in the form of Iron Age sites. Metallurgy permitted its users to engage in more settled forms livelihood, around agriculture and domestication of animals, which in turn led to the emergence of a village life and culture (Sarkin 2001). According to Sarkin (2001) there is evidence that in the 1820's, the coastal areas in the vicinity of Port Natal were inhabited by numerous small scale chiefdoms. One of these was the Nqondo clan who probably occupied the area around 1650-1730. They were later displaced by the larger Ntuli group, one of the peoples on the southern periphery of the emergent Zulu Kingdom (C.M.D.A 1995).

Land has always been a contested matter, destroying clans and nations while building new ones. According to CMDA (1955) the first indication that land was an issue was in 1894 when Cecil Rhodes addressed council (The Glen Grey Act 1894) with concerns that many settlers felt that the natives were reproducing at too fast a rate. If continued, this would not leave enough space for the colonisers to settle appropriately. This concern was addressed by authorities in 1913 with the legalization of the act (native land act 1913) that prohibited Africans from owning space in this country. It was furthermore enforced with the development of the Urban Natives 1933 Act that controlled the spatial demographics of Durban.

In 1958 in terms of the Group Areas act of 1950 Cato Manor was declared a 'whites' only area and systematically all inhabitants of the township were forcibly removed. On the 31st August 1964, the Durban Bantu administrative council demolished the last shack in Cato Manor. In the late 1960's this portion of Durban was empty of any occupation (Sarkin 2001).

Need for land justice

It is clear, that a need for justice has played a role in the new architectural developments in the township however it has not been translated in the issue of land claims in the area as mentioned in chapter one the Cato Manor Development Association disregarded the prevailing land claims and claimants. The first period for lodgment was opened between 1994 and 1998. In 1995, there was a crisis in restitution seeing as the rights come at a definite price. There was also an issue of slow delivery and management was unable to plan strategically due to an inadequate database of claims and incomplete claimant submissions. It is estimated that at least 3.5 million people were forcibly removed from their land because of colonialization and apartheid laws implemented after 19 June 1913 (Gabara 2015).

The land question shot again to national prominence with the 2001 land occupation in Bredell on the East Rand. The Pan African Congress(PAC) "sold" vacant plots for R25.00 each. The Bredell Precinct measuring a total of 2783ha in extent (Ekurhuleni. gov.za, 2017). It is located to the east of the Kempton Park CBD area, north east of OR Tambo International Airport. It primarily comprises residential area and agricultural smallholdings, and is scattered with small scale commercial and industrial sites.

Reports put the number of people that responded to the PAC sale at between 7000 and 10000 and within a matter of days, 1200 wood and iron shacks had been built on the land (Hendricks, Ntsebeza and Helliker, 2013). The land in Bredell was owned by the government, Transnet, the company Groengras Eiendomme and servitude holder Eskom. The squatters were evicted after the land's owners obtained a court order for them to leave and many of them moved to Thembisa (news24 2017).

In the 2013 State of the Nation Address Jacob Zuma, the president announced that Government would consider re-opening the lodgment of land claims, and explore exceptions to the 1913 cut-off date for land claims to accommodate the descendants of the Khoi and San, historical land-marks and heritage sites. The new land claims lodgment period opened in July 2014 and closes in 2019.

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Following that announcement by the State President, the Rural Development and Land Reform Minister Gugile Nkwinti stated that by November 31, 2015:
- 78 483 claims had been settled, of which 59 758 were finalised;
- This involved the awarding of 3 290 685 hectares of land to claimants, at a cost of R19.3bn;
- 1444 million hectares had already been transferred to beneficiaries, and;
- 7 584 land claims lodged by December 31, 1998, were still awaiting finalisation. (Evans 2017)



Figure 02.33 Travel Light

From the beginning Cato Manor dominated the Land claims commission in KwaZulu Natal, when the lodgement of land claims was opened in 1994, 3412 land claims were from the township and thus they accounted for approximately 70% of the land claims in Durban (Walker 2010). When the first wave of land claims closed they were approximately 5000 claims. 2000 of those were former land owner families of Indian descent and 3000 were former tenant families of African descent (Walker 2010).

Cato Manor was also a hugely contested land as it was not only the original tenants from the 1959 forced removals but also people who had settled on the land in the 1980's due to civil township wars in Durban.

Fieldwork

I conducted fieldwork through interviews with the intention to understand the process of the land claims and the needs of the land claimants in Cato Manor. The interviews were conducted in a manner that would allow the claimants to feel comfortable with their history. It was done with the intention to be able to develop a socially conscious land claims court based on the needs of the claimants. I contacted one community leader in the area of what used to be called Mkhumbane. I trusted him to give me access to a dependent network, broad enough to cover a diverse variety of people in the community. The contact was an entry point into to the land claimants in the area, furthermore he was my guide in the township.

I met with claimants and inquired on the process of claiming and followed protocol outlined by the ethics committee. I spoke to the claimants in Zulu. I told them that participation was voluntary and explained the research was for academic purposes. It was challenging.










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ACLA hears first historical land claim in Natal

THE AmaHlubi land claim is the first claim dating back to British colonial dispossession which ACLA has heard in Natal. Other land claims from dispossessed communities in Natal have come from people who were removed under apartheid laws.



The AmaHlubi presented their land claim to ACLA in April 1993. They are claiming 38 farms in the Estcourt District, of which the government owns 21.

"WE black people are regarded as people who can't look after land. I'd like such ideas to be removed from the minds of those who hold these ideas. I would like to make a direct challenge to whites: Let us compete regarding the proper use of land. If the government can restore our land, we will protect it. The farms which we are claiming and which have very good soil will be used to grow food for the AmaHlubi and for others." These were the words of Mr Nimrod Hadebe to the Advisory Commission on Land Allocation (ACLA). Mr Hadebe was one of several members of the AmaHlubi community of Estcourt who gave verbal submissions to support the community's land claim at a public hearing called by ACLA in Estcourt on April 21 1993.

The current AmaHlubi chief, Chief Hadebe, told ACLA that the AmaHlubi had been struggling to get back their land for a long time but that nobody had seemed to care about their plight. "Today I expect ACLA to recommend that the land we lost and from which we were ruthlessly removed should be restored to us," he said.

The AmaHlubi are claiming 38 farms in the Estcourt District as well as some form of compensation for land which they originally occupied but on which other black communities now live. Of the 38 farms being claimed, 21 are currently state-owned.

The Estcourt Farmers Association (EFA) challenged the historical basis for Amahlubi's claim. EFA representative, Mr Dietrichsen, said that the land from which the AmaHlubi were removed in 1873 was occupied by them without permission from the British colonial government which then controlled Natal. "Entry was refused to Chief Langalibalele by the Natal colonial government. Langalibalele then squatted," he said. However, Mr Dietrichsen admitted that the AmaHlubi would probably have been allowed to continue staying on the land if there had not been problems between Chief Langalibalele and the colonial authorities.

He said the EFA were not opposed to aspirations for land in the Estcourt area but there should be practical solutions to these. The EFA proposed that a substantial number of farms being claimed (the "corridor farms" in Estcourt) be made into tribal land. In their written submission to ACLA, the EFA suggested that this land be incorporated into KwaZulu. Other farming land in Estcourt should go back to private ownership for commercial purposes, they said.

to page 4

Historians generally agree that there was undisputed colonial recognition of the AmaHlubi's territory until the "Langalibalele rebellion" around 1873 and that the "rebellion" was manufactured because of colonial jealousy over AmaHlubi success as small farmers. Had there not been differences between Langalibelele and the colonial authorities, the AmaHlubi would today still be living on the land they are now claiming. AFRA believes the land being claimed by the AmaHlubi should be returned to them and should remain under South Africa. We also believe the AmaHlubi should be given the necessary support, resources and assistance to develop this land, when it is restored, so that they can again become the thriving agricultural community they once were.

The EFA's suggestion that much of the land which the AmaHlubi are claiming could be incorporated into KwaZulu seems to be an attempt to use ACLA to revive old-style apartheid consolidation proposals. A similar proposal was put forward under the Mentz Commission. We hope that ACLA will not allow itself to be drawn into such plans.

Some facts about the AmaHlubi claim

THE 38 farms being claimed lie within the original AmaHlubi location settled by them between 1849 and 1873. The AmaHlubi believe that this gives them a prior claim to the land which was empty when they settled there. Some of the land was sold to white farmers after the AmaHlubi were broken up in 1873 following the Langalibalele "rebellion".

Since the 1970s, the government has planned to buy up and consolidate into KwaZulu the farms being claimed by the AmaHlubi. The government now owns about 21 of the farms being claimed.

The AmaHlubi currently live at Draycott (Bhekuzulu) in the Estcourt District, where about 8 000 people are crowded into 1 000 acres of land. The AmaHlubi bought Draycott towards the end of the last century.

A pilot survey of the community which AFRA carried out in October 1991 showed that people are partly dependent on agriculture and want to continue farming. People said that they wanted to *improve their farming* practices so that they could develop into a community of small farmers, organised on a communal basis and with some provision for people who were not able to or did not want to farm to settle in rural villages or towns. To realise this, the AmaHlubi need more land.

The AmaHlubi's submission to ACLA to get back their land is the latest in several attempts to do so. In 1926, AmaHlubi chief, Tatazela Radebe, increased the size of Draycott by 38 acres and then again in 1930 when the Ximba District of Location 1 was merged with the AmaHlubi land. In 1931, the chief wrote to the Estcourt Native Commissioner to ask for more land.

In 1972, a claim was made to the Bantu Affairs Commissioner in Pietermaritzburg for all land from Ntabamhlope to the Drakensberg between Giants Castle and Cathkin Peak, on the grounds that this had been Langalibalele's territory.

During the 1980s, the AmaHlubi also asked the KwaZulu government for more land, but nothing *happened*.

In 1989 the AmaHlubi were reportedly granted an interview with Mr Jurie Mentz, MP and chairman of the Commission for Cooperation and Development (now a member of the IFP), where they raised their claim. Mr Mentz reportedly agreed to raise the issue in parliament, but nothing further was heard.

Because of the lack of response from the government, the AmaHlubi contacted AFRA in early 1991 to strengthen their representation and to plan future development of land they might get back. They also joined with other rural land claiming communities to pressurise the government about their land claim.

In 1991, the government tried to auction off one of the major farms being claimed by the AmaHlubi. The sale was stopped through publicity around the attempted sale and pressure on the government to halt it. A second government attempt to sell off farms being claimed by the AmaHlubi was also stopped in February 1992.

From Left to right:
Fig 02.37 Bourquin, S. (1993). S. St Bourquin papers: AFRA NEWS
Fig 02.38 Bourquin, S. (1993). S. St Bourquin papers: AFRA NEWS



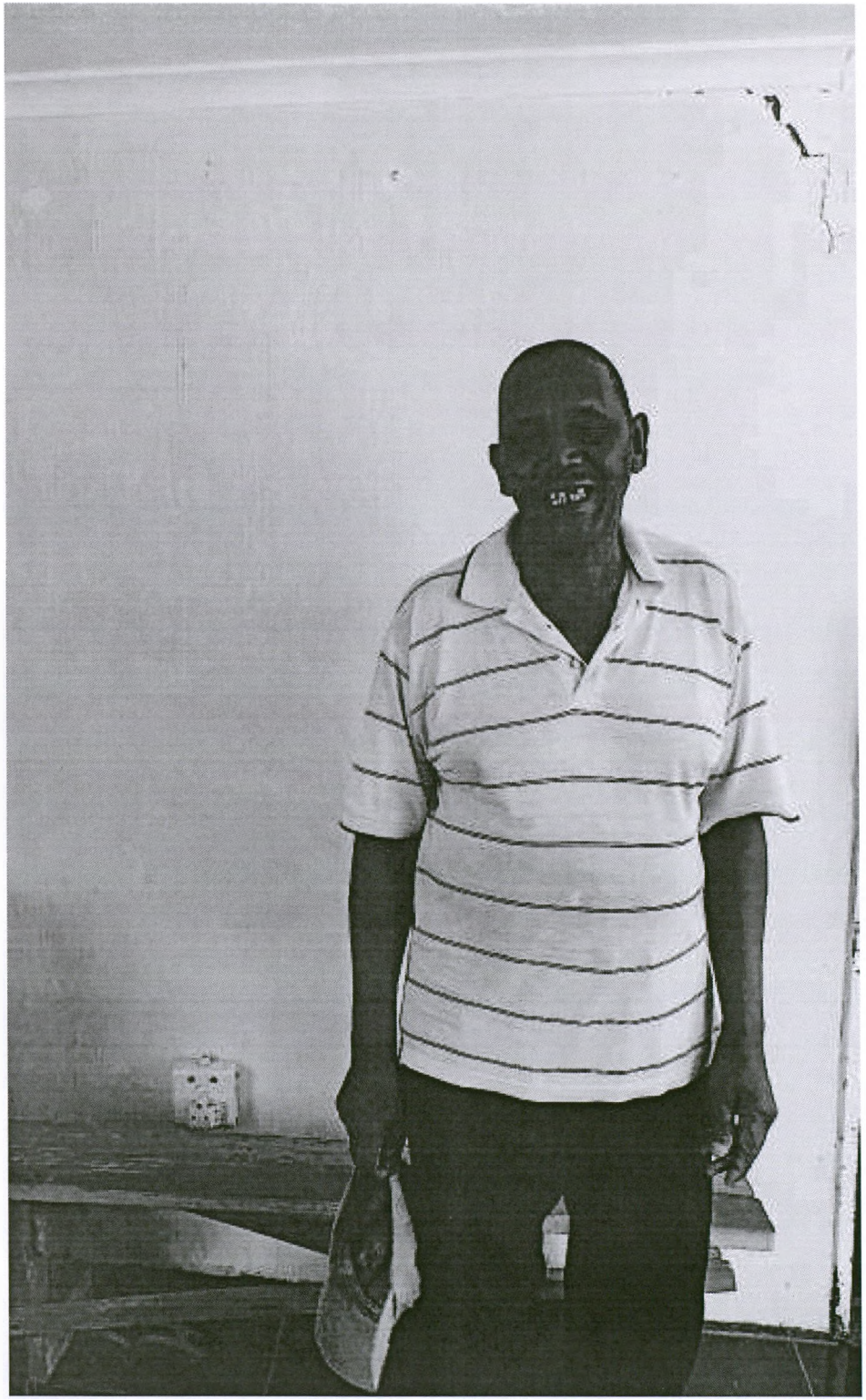
land claimant

Gogo's family lived in New Claire, Umkhumbane. She and her siblings were brought up by her single mother until they were forcibly removed in 1958. They were taken to Umlazi in a truck and rendered homeless in the new township because according to the Native Administration an unmarried woman could not be placed in a house immediately. They lived with family for some time in the new location.

The struggle for a home proved to be too stressful. Gogo's mother committed suicide by burning herself alive. The forced removal had rendered them homeless and without financial support. It was tough. In 2002 she heard an announcement on Ukhozi fm (a Zulu language based radio station) that people could apply for land in the Cato Manor area if they were forcibly removed in the period 1959 onwards. She went through the process of approaching the Land claims commission in Durban, the community meetings and in 2005 she was given a one-bedroom house for a family of four. She recently got her title deed.

"okusalayo indlu ngiyiphethe"
(Against all odds, I am thankful that I have a house)

Fig 02.59 Land Claimant 1



land claimant

Umkhulu Mgadi (euphemism for an old man) was born in Hammarsdale and grew up in Ndilende, Cato Manor for 12 years. They were forcibly removed from their mud house in 1958. He remembers the forced removals starting in 1957 even if no one was in the house. People would come back from work homeless. He comments that there was only one house that wasn't destroyed by the Administration that still exist till this day. On the day his family was forcibly removed, he remembers soldiers dressed in blue overalls removing their furniture and their shacks being destroyed with simple movements as if they stood on no foundations. They were moved into a truck to a big emergency camp in Kwa Mashu. They were notified that they would be forcibly removed from the informal settlement but there was no indication as to when the day would be.

In the camp, households were separated by bed sheets and tall used communal toilets. They were verbally told that they were moving to Kwa Mashu township from the emergency camp. Two families were put into 1 bedroom houses as the housing scheme was not complete. All these movements were verbally communicated and instructions were from representatives of the municipality.

Forty (40) years later, Mkhulu saw an advert in the paper that called for previous land owners from Cato Manor to claim their homes. He took a bus from Johannesburg to the Land Claims office in Pietermaritzburg. Through the process he was told by the land claims commission that he would be offered R20 000 in financial compensation from the government. He refused the money and so began the 20-year battle to get the land for his family, which he did. He claimed the land on the behalf of his mother Thembilucia Mgadi. When asked about the where abouts of the Nduna, Umkhulu Mngadi comments that umDledle lived in an area called KwaGezizandla in Cato Manor which is now Ethekwini College. They were removed to Umlazi while other elders left the city to go back to the rural areas as they could not fathom living in one bedroom houses that were designed in Kwa- Mashu.

"Ngajabula ngoba ngivuse umuzi wababa"(I was happy because I resurrected my father's house).

He believes the process would have been better if only they had gotten better houses in return of the land claims. Currently the houses are positioned near the quarry and every two weeks there is a tremble from the stone being broken. The houses are unable to handle pressures thus they crack.

Fig 02.60 Land Claimant 2



land claimant

Gogo had her first born in Newlook, Umkhumbaan.
She was married in 1963 her furniture and everything she had owned at that point was moved into a truck and moved to Umlazi. She was a newly wed.

Her family was one of the last families to leave Umkhumbaan which had become quite unsafe. Her husband worked in the South Coast and they were placed in Umlazi for 20 years.

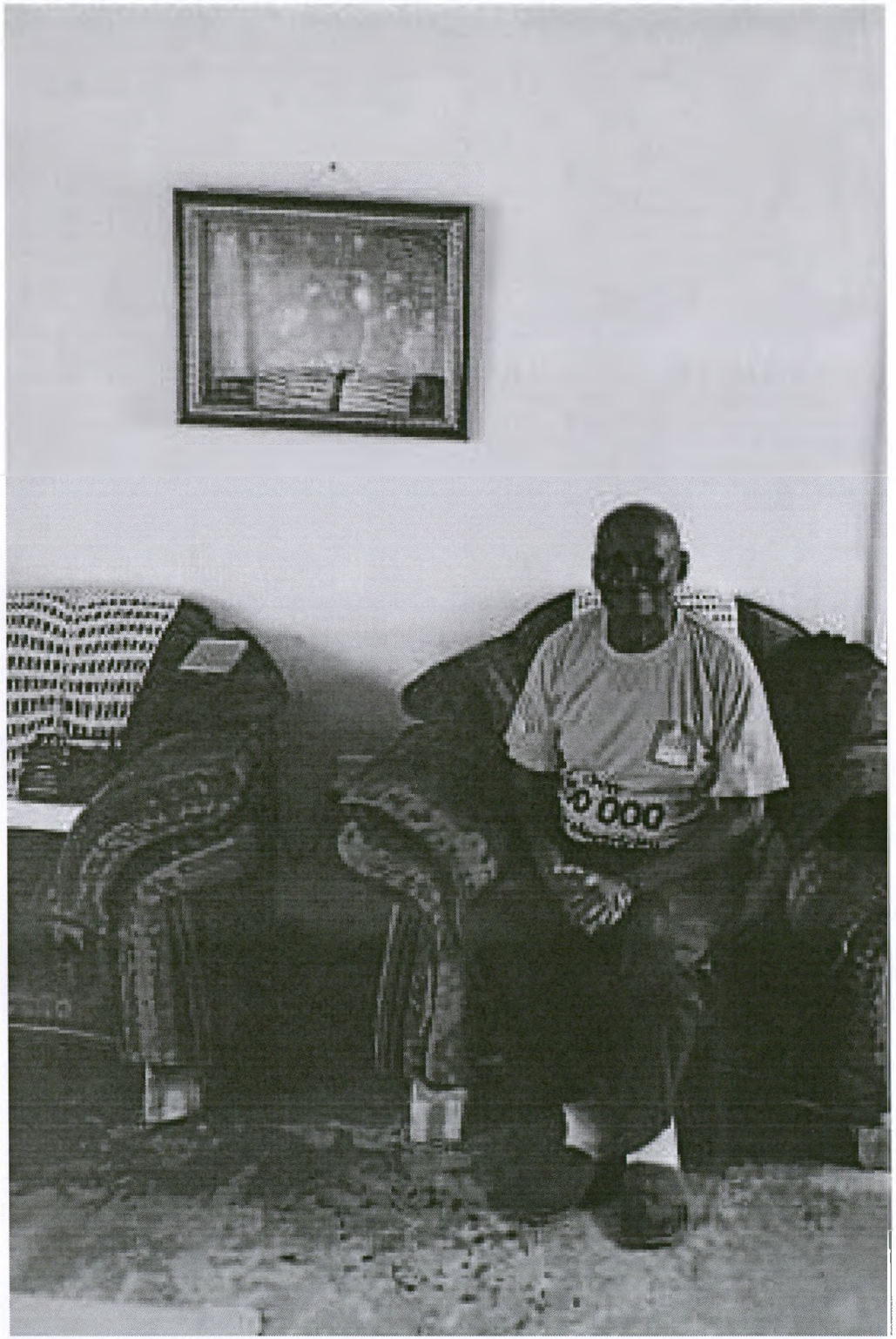
She heard about the land reclamation of Umkhumbaan opening on the radio and went to Durban to start the process.

She went to the White house in Commercial, Durban in and was given a one bedroom house in 2006. She currently has a family of 4 living in the house.

She still doesn't have a title deed.

"Ngijabulile kodwa isindlu zakwe kabi"
I am happy but the houses were not built correctly.

Fig 02.63 Land Claimant 3



land claimant

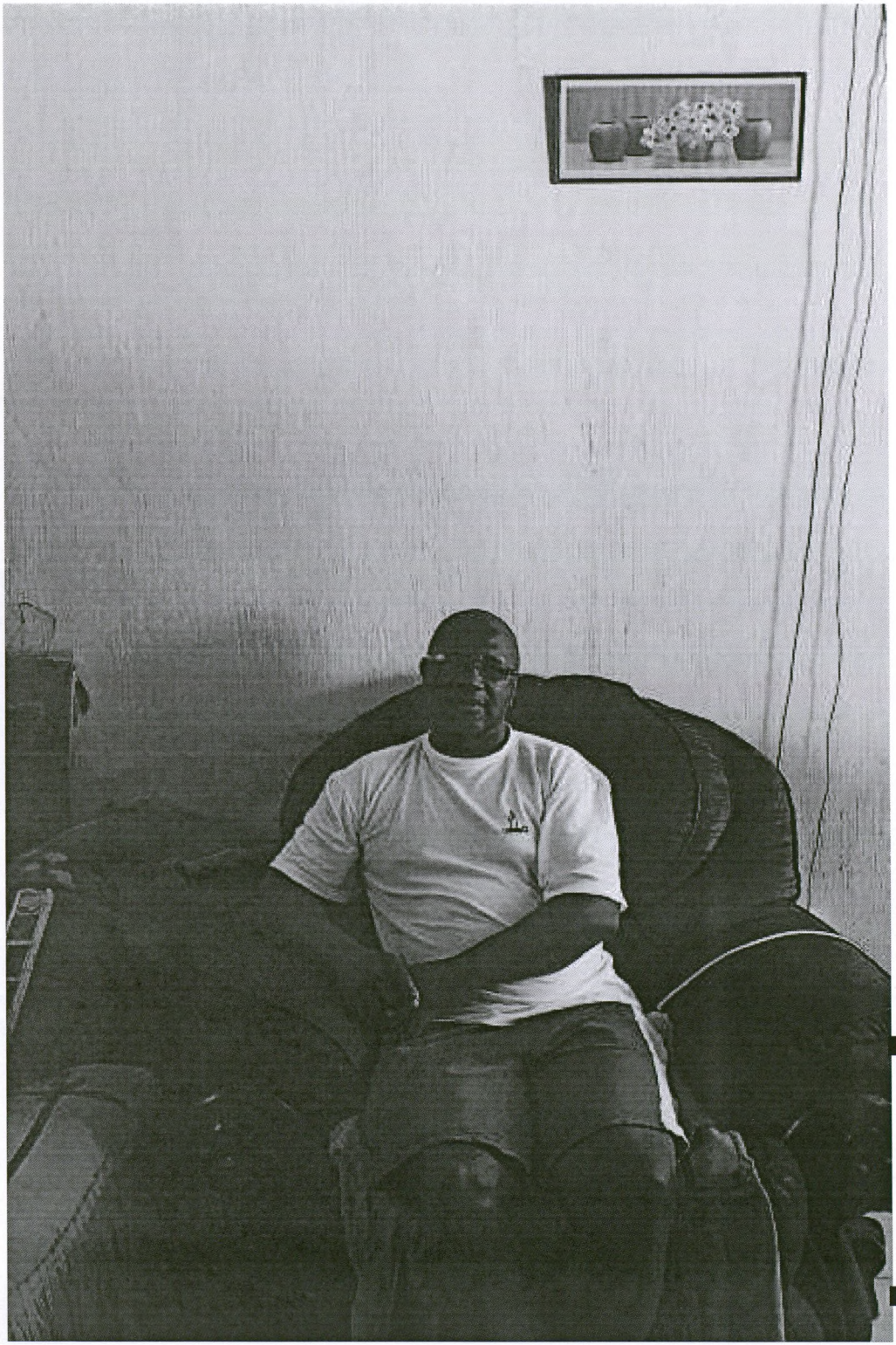
Mkhulu's family lived in New Claire, Umkhumbaan.

When the forced removals started in 1958 his family was fortunate to get a formal written notice and were told that they were placed in Umlazi. He never bought Ilanga paper before, but on the day he did, he saw an advert in the paper, alerting people that they could reclaim land in Cato Manor if they had been forcibly removed between the years of 1958-1964.

He went to the Land Claims Office in Commercial, Durban in 1995 and was given a one-bedroom house in 2004. He was a musician in a band called Rhythm Aces. They lived in the area for 12 years and were forcibly removed in 1964. He would perform in different areas in Durban mainly Overport. He describes Cato Manor then as a vibrant space. When the forced removals started in 1958 his family was fortunate to get a formal written notice and were told that they were placed in Umlazi. Fifty (50) years later. he saw an advert in the Ilanga newspapaper, alerting people that they could reclaim land in Cato Manor if they had been forcibly removed between the years of 1958-1964. He went to the Land Claims Office in Commercial, Durban in 1995 and was given a one-bedroom house in 2004.

He still doesn't have a title deed. "Namanje ngisayiphethe inotice" (I still have the notice).

Fig 02.64 Land Claimant 4



land claimant

Baba Eugene was only 5 years old when his family was forcibly removed from KwaBanki in Cato Manor. His family was moved into a four-bedroom house in Umlazi in 1962.. It was his late mother who began the process to claim their land back. The land claim had been lodged in 2005 and it took 2 years for the family to get their land.

He insists that the process was easy as the land claims commission was transparent about their progress. They were assisted by a representative of the land claims commission known as Percy. He helped the family get a title deed. All that was complicated was the particulars they would be asked to prove as their mother had aged and they did not remember many of the details required.

When their claim was complete they were offered R21000 and they felt that it was not what the land was worth and separating the money would not help the family. His only complaint is that when they were given the housing they were not given any options with regards to the placement of the houses and that the houses were not built well

Fig 02.65 Land Claimant 5



Land claimant

Gogo's family lived Emgangeni in Cato Manor and where she is placed was known as New Claire. The family lived in Cato Manor for 12 years. In the 1960's the family was moved to Umlazi. She remembers houses being destroyed in her young age. They were first moved into emergency housing in the township. She recalls that up to 10 people would be placed in one emergency house.

Her family was finally moved into a formal four bedroom house in Umlazi. She felt that this was her home.

She claimed the land on the behalf of her father. Gogo heard on the radio that one could claim their land back at the Pietermaritzburg land commissions office and then she heard that one could claim in Durban at the White house when the closing date was nearest. She was given forms to sign that were written in Zulu but she had to give them to her son to fill in.

She would attend meetings in Durban, held by the land claims commission. They would be taken into archives to prove if they remembered some parts of the old township.

Fig 02.66 Land Claimant 6



land claimant

Mam Phumalo is an activist who has fought for the land claimants in the area. Her mother was a well known stewart of Cato Manor. She was very young when they were forcibly removed but remembers her mother being active in the land claims process.

She wishes the system of land claims could have had a supportive structure as many people have these homes but are unemployed and have no source of income.

Fig 02.67 Land Claimant 7



Figure 02.40 Footprints

I explore the memories of Cato Manor, with my being on their land/
Im tired of seeing houses demolished/
Im tired of seeing things gone/
Im tired of these memories

(Authors Own)

It is clear through the interviews conducted that memory plays a powerful role in land restitution, yet it is not heavily not recognised in the restitution process and should be considered in the design development. In Cato Manor many of the claimants had no physical proof of them residing in the areas that they did. All they had were strong recollections of places they had been in or seen and they were critically analysed through a process that rigorously challenged their experiences. Bohlin (2007) states that once claimants decide to participate in the restitution process, they begin the operation of translating their own, private memories into official narratives.

For many of them these memories were supported by a collective. Through the process many claimants would meet in groups and discuss the things they remembered about Cato Manor. Ellis (2010) states that "in many land claims the narratives have been about the loss of more than the land. It has been about the nostalgia for the almost idealised and romanticized community that was lost." This is true to the claimants, as many of them reminisced of a Cato Manor that was vibrant space but not many mention the struggle as this was a severely poverty stricken location with high unemployment rates.

Similarly, Sithole(2017) states in Kwa Zulu Natal that there are over 19000 cases which the Land Claims Commission simply loses due to poor mismanagement. Memories are lost. Spatially this encourages a dialogue but more so identifies the insensitive manner in which the commission has dealt with this task. Ricks, (2016) states that the emotional attachment to a building is gained through a participatory process then one could argue that memories in the process of land could aid in the design development of the land claims court that would work efficiently for the community.

Ranchod(2017) comments that the manner in which our brain works with regards to memory is that through music, art and dance, humans activate the salience network which allows one to sift through information. It is quite reminiscent to many African customs when there is a gathering there is a celebration of the past through music, traditional dancing and chanting. Visual, auditory and emotional content are merged in our memories (Eberhard 2009). Furthermore, she states that this is essential to a cohesive community. Similarly, Eyerman (1999: 161) argues that "memory provides individuals and collectives with a cognitive map, helping orient who they are, why they are here and where they are going."

Anna Bohlin and Uma Dhupelia-Mesthrie, two analysts who have studied urban restitution extensively, have drawn attention to both the neglect and the significance of the symbolic aspect of urban land claims. In their research they argue that little academic work has paid attention to the memories produced by claimants involved in the restitution process (Dhupelia-Mesthrie 2006 and Bohlin 2004, 2007) this is true for the community of Cato Manor. Much of the information available speaks to a one sided collective narrative that has not catered for the whole community.

Addressing the role of memory in restitution, Walker (2000) states that, "the Land reform Commission works with living memory all the time." Furthermore, she states that "memories of place, of what was lost, the identities that infiltrate through those memories, the politics of place – these are constantly manifested in all the claim forms, letters and supplications stacked in their thousands in brown government folders in the Commission's registry" (Walker 2000).

The narrative is one focused on rural dispossession while ignoring the continued change and development in urban land reform (Walker 2005). An important point to note is that urban land claims were initially excluded by the Land Claims Working Group (Walker 2005b: 813). Restitution discussions at CODESA and the legislation which followed were much more focused on rural land claims than that of urban claims. Areas such as Sophiatown and District six received much coverage whereas townships such as Cato Manor are not well documented.

The narrative does not take into consideration what happens to the land and claimants in subsequent years (Walker 2005). Many claimants rented their new properties in Umlazi, Ntuzuma and Inanda for decades and were unable to own their property until after 1994. This essentially prolonged the physiological want for a home.

The narrative does not provide space for the conflicts involved in the restitution process (Walker 2005) Many claimants currently living in the Cato Manor are not content with the plots that there were given. The houses were built improperly and they believe they were conned by a commission representative who charged them illegally. They also felt that their recollections were not treated sensitively.

New Dunbar
2017

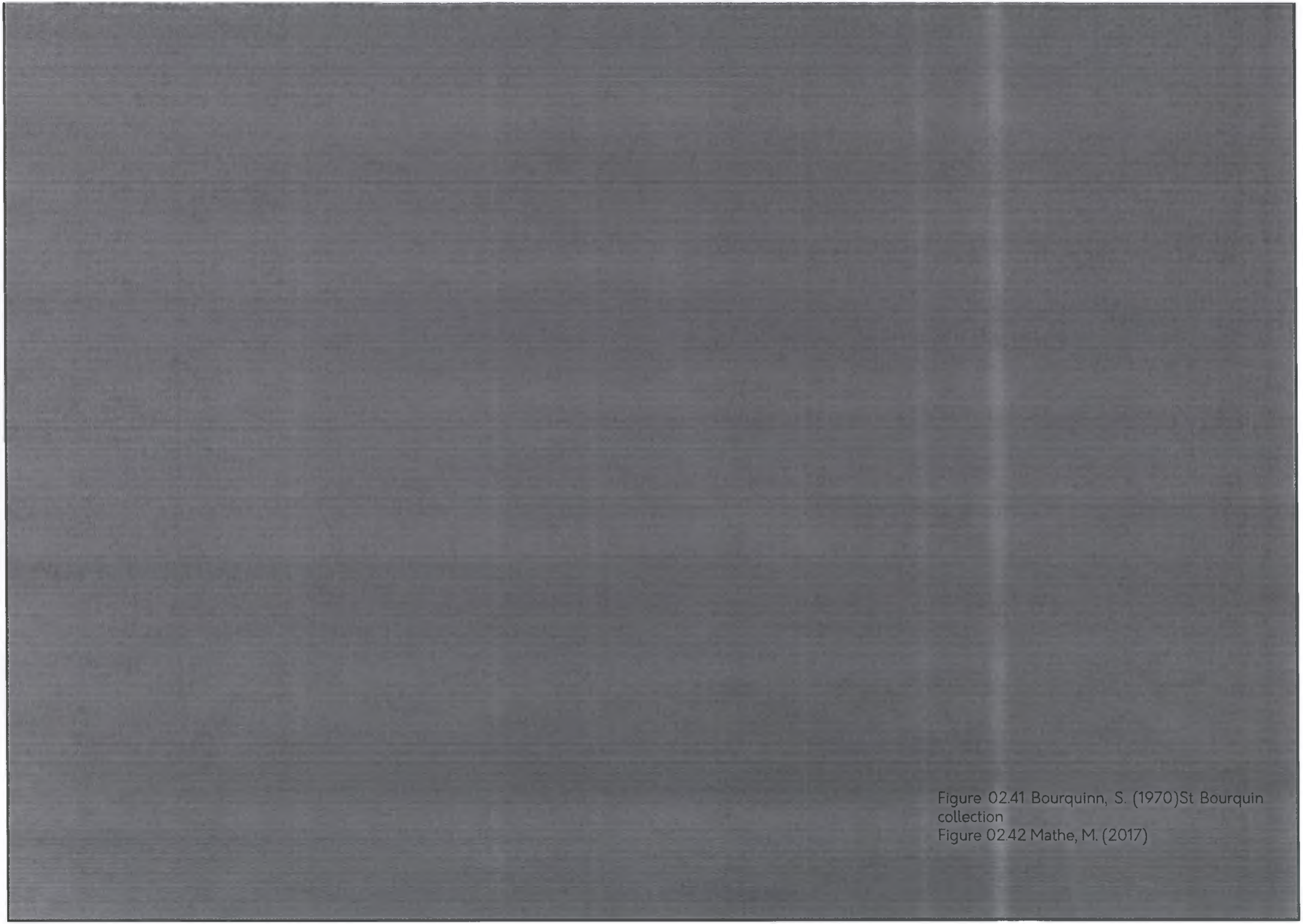


Figure 02.41 Bourquinn, S. (1970)St Bourquin collection
Figure 02.42 Mathe, M. (2017)

Chapter



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The law presented by government with regards to land reclamation has not accommodated the divide between the Roman Dutch and Customary practices. Furthermore, the complications arise from land claiming and the fragmented memories that the land claims commission works on. Although there was initially no interest in the laws and institutions of the indigenous populations in Southern Africa, colonial administrators soon realized that African customary law was tenacious and that it had become necessary to regulate the application of that law formally (Niekerk 2011) with regards to land.

Land, property and value can only be understood through the passageway of colonial violence and its manifold psychic, cultural, political, economic and spiritual legacies (Pieterse and Edjabe 2016). On the 30th April 1845, Kwa Zulu natal was constituted as a distinct and separate government to be administered by a Lieutenant-Governor that fell under Roman Dutch common law (Tinashe 2011). It was this legal system that prevailed in Holland during the 17th and 18th centuries and was introduced into and applied in South Africa after the southernmost tip of the Cape was settled by the Dutch in 1653.

In 1847, the Natal Commission found that any "African law which was not incompatible with Roman-Dutch law would have to be used for the time being. In Natal, customary law was further recognized through the Natal Code of 1878("SCA History" 2017). The code defined "native law"which outlined issues of marriage, lobola and land tenure. The current living claimants in the Cato Manor area are the second generation offspring of an emergent Zulu migrant community from rural Kwa Zulu Natal, thus the community is loosely dictated by customary Law.

African culture is characteristically preliterate. Language is an oral expression of African cultural life and plays an important role of social and legal relations. Your word is your honor. This is important as the Dutch upon colonizing South Africa introduced a law which differs greatly from the latter. Roman dutch law advocates amongst other things for words on paper in order for issues to be resolved. There is however a shared characteristic between Customary law and Roman Law: orality(Niekerk 2011). In Roman law the method of contract is the stipulati. The principles of Roman law are formed on the basis of FIDE which is the belief of truthfulness and trust. It was the most sacred thing in life. Your word, formed the binding foundation of any obligations.



Figure 03.43 Whose law is it anyway

In Kwa Zulu Natal there has been a consistent demand for the codification of native law. (Healy-Clancy and Hickel 2014). In order for one to understand the culture of land tenure they must understand the language that governs its people. Zulu governance was a pivotal to its culture, and in order for it to be controlled, settlers demanded that it be understood and recorded. Alas, the Native code of law 1891 was created by settlers of Natal that outlined 298 clauses pertaining to the governance of African life.

Pertaining to land, per-colonial concepts of land were that it is God-given and cannot be appropriated. You received land from the King, built Imizi (Paust 1998a)which was a right to residential sites and arable fields (Paust 1998b)for the grazing of your cattle. The king was expected to provide land and you in return would plead allegiance to the king. This practice was based on a personal relationship between the chief and his subjects (Healy- Clancy and Hickel 2014).

Furthermore, according to Zulu Culture, the concept of ownership is complex. The concept of "ownership" is particularly difficult, as is the idea that before "ownership" all things were held in common with everybody having equal rights to the same thing or belonged to nobody (Pieterse and Edjabe 2015).

Traditional leaders derive their legitimacy from the founding fathers and are seen as a direct channel to communicate with the ancestors, they have certain powers with regard to the land. They have power to allot the land, regulate the use of common resources and expropriate and confiscate land in certain circumstances. Land is owned by the king, run by the chief and loaned to the commoner via verbal agreement. However, the social strata of the community is in such a way that without a community there is no king. For instance, land is negotiated verbally, with king a traditional ceremony is held where the chief's advisory introduces you to the community. If this process does not take place, you are an illegal land tenant.

With colonialism came a real estate market (Frantz and Du Plessis 2013) the common law concept of ownership, property law and African customary law had limited room to develop at its own pace and based on its own principles. The colonial conquest introduced a market economy and African indigenous law, was at least officially and as far as property was concerned, replaced by common law(Pieterse and Edjabe 2015). With the introduction of commerce, an exchange value had to be attached to a commodity, and in this context ownership provided the answer in securing the property. Pre- conquest, African societies were structured around the control of people (cattle and labour of woman) was replaced with capitalism thus the acquisition of things (Healy-Clancy and Hickel 2014).

Furthermore, with ownership came the idea of "absoluteness" that implied that one person could hold all the entitlements in a certain property, and dispose of it at free will. This differs greatly from the pre-colonial era where different interests in the same property could vest in different holders and where these interests are furthermore flexible and ever changing(Pieterse and Edjabe 2015).

Currently customary law in Kwa Zulu Natal is practiced specifically in spaces that fall under the Ingonyama Trust, here customary law applies to customary marriages, succession, guardianship and land tenure. According to the Bill of Rights chapter 12 persons can claim to be judged by their tribal law and custom, provided that these are consonant with



LAND

PRE COLONISATION

Traditional leaders are seen as a direct channel to communicate with ancestors to the land



KING

Chief and commoner facilitate discussion and negotiation on land



CHIEF

Receives land but it is under the king who is for the people.



COMMONER

COLONISATION

Traditional leaders are seen as a direct channel to communicate with ancestors to the land, however the land avaliable covers 7% of the country. The king answers to the British government pays hut tax, cattle tax etc.



Chief is no longer necessary in many areas. The role of title deeds,ownership is capitalised in land not owned by the king and all urban areas .



CHIEF

Is considered a native, can not own land in urban areas but needs to work in these areas as there is no longer a system that enables sufficient income in the rural land



COMMONER

COURT_CASE 24.41.35

Traditional leaders are seen as a direct channel to communicate with ancestors to the land;concurrently the roman dutch system is understood and both methods with regards to land are employed



Chiefs are necessary and ensure that a parallel system is used with regards to small land claim matters



CHIEF



Is empowered in the land claims process as they system they understand is employed and thus beneficial to them.



COMMONER

For the claimants of Cato Manor this means that they can opt for their land claims to be resolved via traditional customary or roman dutch law. Customary law and conflict resolution being a process that is more spiritual and holistic than that provided by Roman Dutch law (South African law) with regards to land.

It must be noted that there was customary law that was adhered in the community of Cato Manor, however the removals made these systems powerless as the community had to answer to the municipality with any issues regarding land.

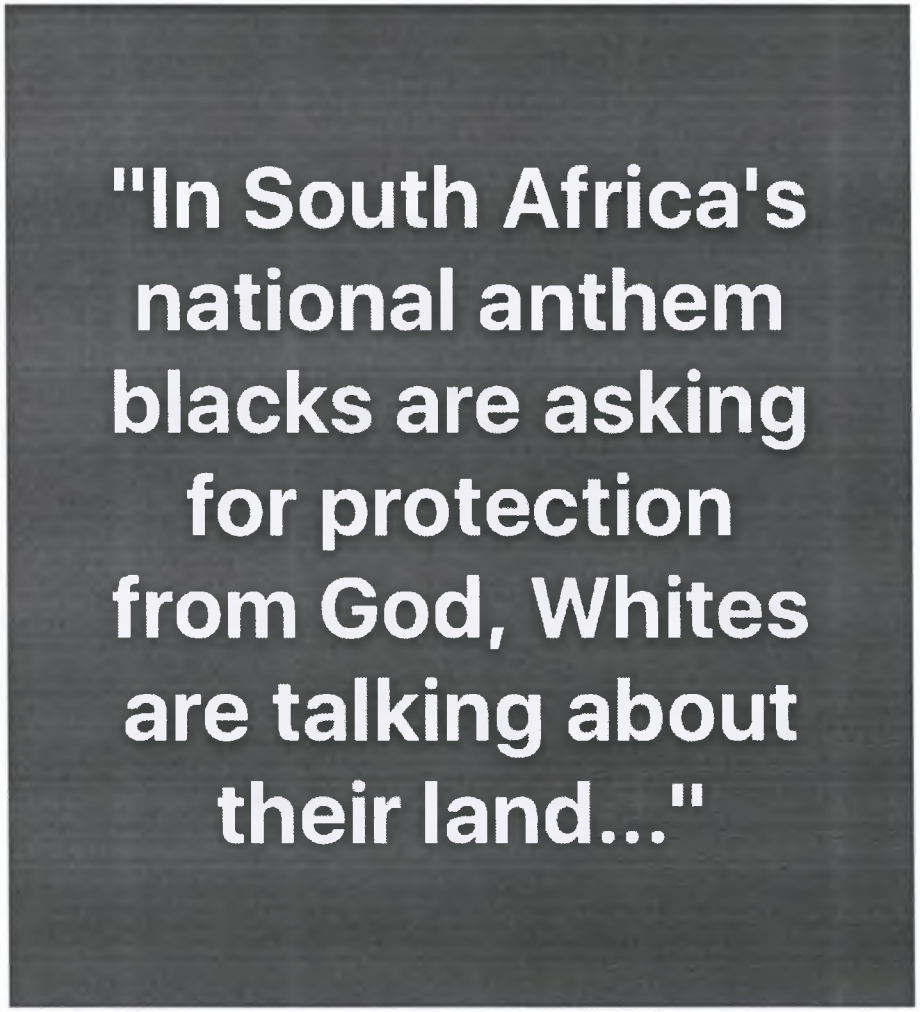

Figure 01.44 Seekers of land

Honestly love everything about being black. Only thing missing is generational wealth and land

Top: Tweet by @Slindo_M dated 2 November 2017



Figure 01.45 No more shacks in Umkhumbane

Socially conscious architecture could aid the resolve of conflict in Cato Manor.

It must be noted, African conflict resolution must be understood. In a country that has marginalized the powerless in democratic decision making there are practices that could aid in better understanding a people and thus ease the process of decision making.

For example, according to Karuiki(2009)in Senegalese rural communities that practice customary law if one has a conflict with another, the victim approaches the elders of the community who congregate under a tree. They have the opportunity to physically fight it out. The only restriction is that it must happen in a controlled environment in the presence of the elders using knock berries or fists. Finally,when the elders feel that a resolution has been reached between both parties, a goat is slaughtered and both the victims must eat from the same goat as a peace offering.

In customary law Ntshadi argues that "Negotiation, is a very crucial concept and a useful process, the backbone of conflict management and resolution, its heart and soul.

Negotiation is a mechanism, a process of attempted problem solving in which people, groups or other entities in conflict discuss their perceived or real differences voluntarily and attempt to reach joint decisions on their common concerns. In most cases the ideal end would be the complete or partial resolution of conflict("Olowolagba_Ntshadi_2000. Pdf" 2017).

As argued by Ntshadi (200) African conflict resolution is definitive. You are held responsible and expected to keep your word as this is a decision that has been approved by the community and more than likely witnessed by them.

But how does this system work in the 21st century modern South Africa? Which are the parties involved? What are their strengths and weaknesses? What are their social/ historical roots? Are they prepared to seek a solution? resolution to the conflict? What is the quality of their leadership (when groups)? Can the leadership play a key role in the conflict resolution and management.

In the Zulu community conflict resolution is structured in this manner. When one has an issue they approach their elder or the patriarch of the family. The elder decides whether this issue can be resolved privately or with the involvement of other elders in a clan. Elders resolve disputes due to their long experience, wisdom and the respect they are accorded in society(Karuiki 2009).

If this matter cannot be resolved by elder the victim has an opportunity to approach the Nduna of the area. The Nduna acts in capacity on the King, if this issue is not resolved by the Nduna the procession then has the opportunity for it to be resolved by the Chief or the KING. In the past Chiefs, headmen and other traditional leaders can deal with certain offenses with the Minister's authorization. The crimes they can handle include common law, statutory and customary law.

The exceptions to these crimes for which the traditional leaders have no jurisdiction are listed in the Third Schedule to the Act. The traditional leaders only have jurisdiction if both the offender and the victim are African. Traditional leaders may impose any punishment under customary law except fines exceeding R100, death, imprisonment or corporal punishment. The traditional leaders may report a defaulter to a magistrate within 48 hours and the magistrate will order the defaulter to comply. A person aggrieved by the decision of the traditional leader may appeal to a magistrate under Section 20(8) of the Act.

The mediation process, long being accepted as key pattern of conflict management is based on the principle of interaction, acceptability, impartiality and neutrality of the mediator. All mediation success or failure depends on the level of the dispute/conflict, its historical roots, causes and repercussions. Mediation, as all other mechanisms of conflict management depends on the designing of the proper, concrete general strategy, the role of the agenda and the attention to details associated with all issues (Hare 1986, Axelrod 1988).

With the complex issues that have been outlined that arise from land restitution in South Africa the manner in which these claims are solved has proved inadequate.

It is clear that with this tapestry with regards to the issue of land, it is approximated that if the current Land claims commission were to continue at its pace it would take over 100 years for all the cases to be resolved (eNCA 2017). It is necessary to look at other ways in which this mammoth issue can be resolved. Different methods of conflict resolution could be investigated.

The major issues which are to be addressed by the Land Claims Commission is how the claims themselves are to be validated, particularly where no physical or recorded evidence exists like many cases with regards to Cato Manor (White 1998).

Could these memories be aided by practices that encourage stimulants such as the salient brain function? Could the claimants be better aided in system that was designed by them since inception.

In traditional conflict resolution spiritual agency governs all aspects of the community especially in conflict resolution. Traditional healers, herbalist can also play a vital role. Commenting on the mediating role of elders, Kenyatta notes that : "The function of an elder, both in his own family group and in the community, is one of harmonising the activities of various groups, living and departed. "

Roman Dutch law is absolute. Its either you win or lose. It enforces patriarchal norms of control and domination. "Modern humanity and in particular Western technological humanity, has accumulated wealth by denying the rights of others to share in natures bouty (Agrest, Conway, and Weisman 1996)."

Rungasamy (2011) argues that there is an inextricable link between form and the spoken work (Tinashe 2011). All restitution claims are made against the state, not the current owners of the land. The Restitution of Land Rights Act 22 of 1994 was the first law passed by the ANC-led Government of National Unity that set out to redress the legacy of apartheid rule" (Hall 2010). Furthermore, Hall (2010) states that the Act "... affirmed the right to restitution and defined the process by which those who were deemed eligible could lodge their claims" these land claims are dealt with by the Department of Land Reform

The department of land reform commission is a statutory body that falls under chapter 25 sub section 7 that states a person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.

CURRENT CONFLICT RESOLUTION BY THE LAND CLAIMS COMMISSION

The claim cycle is outlined as follows:

Phase 1: Lodgement

The lodgement is done through the Land Claims office which operates in Pietermaritzburg, Kwa Zulu Natal. The commission deals with the screening and classification of claims as well as with initial research. These activities are conducted by the officials of the Regional Land Claims Commission who are known as project officers. The commission project officer categorizes the claim under urban or rural claim, and further categorized between individual or group claim. Urban claimants represent only 10% of potential land restitution beneficiaries(Rungasamy 2011). Desktop research is embarked on by the project officer.

Phase 2:

The claim is validated and published by the Regional Land Claims Commissioner in the government gazette where the general public is given 30 days to comment or contend the lodged land claim. Thereafter the first stakeholders meeting is held which includes the land owners of the land under claim, the claimants, the CRLR and other government departments involved.

Phase 3:

This consists of further research in terms of conducting verification of the claimants identifying who are the rightful beneficiaries. During this time an options workshop is conducted with the claimants. The options workshop is conducted by the post-settlement unit. During these workshop claimants are advised about the various restitution options that are available through the land restitution programme, such as restoration of original land, provision of alternative land, payment of financial compensation, provision of alternative relief and priority access to other government housing and land development programmes.

Valuation on the claim is conducted by the Commission using qualified valuers to determine the monetary value of the claim. This is a critical issue with regards to land claims. Many argue that the process of valuation is unfair as it does not consider the prime value.

Phase 4:

Land Restitution

Under the Land Restitution Act of 1994, persons or communities who lost their property as a result of apartheid laws or practices after 1913 were invited to submit claims for the returning of land or compensation the financial compensation of land by property valuation.

OR

Land redistribution is about making land available for agricultural production, settlement and non-agricultural enterprises. During the first five years (1994-1999) the main emphasis of land redistribution was to provide the destitute and the poor with land for housing and small scale farming purposes. ("Land Reform" 2017). The department of Rural development and Land Reform introduced the Settlement Land Acquisition Grant(SLAG)as it provided groups of poor people in rural land with R16000 cash grant that supported beneficiaries as full- time farmers. It succeeded in transferring 780,407 hectares to 55 383 people, with 14% headed by women but in the bigger picture it only succeeded in transferring 1.2% of the land. The program ended in 2000 with the introduction of the Land Redistribution of Agricultural Development.

SECTION 25

According to Jackie Dughard(2017) section 25 of the constitution was a result of a negotiation between property owners who were mainly white and those who had been dispossessed. It attempts to deliver both these imperatives to an agreement that is progressive for the ordinary South African

Furthermore, Dughard(2017) states that all over the world expropriation, in many cases is used to aid in the development of infrastructure and only in Africa is it mainly used for reparation purposes. This point is critical.

1. No one may be deprived of property except in terms of law of general application and no law may permit arbitrary deprivation.

The law states that there is no right to property. It offers negative protection to anyone who has property. It has made deprivation very wide, and expropriation very narrow, this is a transformative interpretation. Deprivation is allowed while expropriation attracts compensation. Tax money would have to be used in order to provide compensation and this is why it is not advocated for in the case of land appropriation.

Property may be expropriated only in terms of general application.

a) for a public purpose in the public interest and b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.

Dughard(2017),further states that many South Africans think that there is a willing buyer, willing seller narrative and the value of the property on the day of market value. This is a notion that is taken from the expropriation act which is a 1994 piece of legislature it is not the post 1996 regime. In fact, it is established that although it is advised for the amount of expropriation to be agreed before it takes place, if you as the owner of the property do not agree to the terms of the expropriation, part 2 of the Section 25 the process may continue in the public interest of for the public purpose in terms of the law of general application which would inturn mean that expropriation could take place on your property without your consent.

3. The amount of the compensation and the time and manner of payment must be just and equatable, reflecting equitable balance between the public interest of those affected, having regard to all relevant circumstances including:

a) the current use of the property

a holiday of home, a game lodge or a community centre etc.

b)**the history of the acquisition and use of the property**

If people were forcibly removed.

c)the market value of the property

If this it taken to consideration, and the other factors in the clause outlined are adhered to, it is possible that property may be expropriated at the value of R0.

d)the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property

e) the purpose of the expropriation

The constitutional paradigm for expropriation and compensation is what is just and recruitable and not what is market value. It is very clear.

4. For the purposes of this section

a)the public interest includes the nation's commitment to land reform, and to reforms to bring about equitable access to all South Africans natural resources and

b) property is not limited to land reform.

5)The state must take reasonable legislative and other measures, with foster conditions which enable citizens to gain access to land on equatable basis.

Section 6 A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws of practises is entitled, to the extent provided by an act of parliament, either to tenure which is legally secure or to comparable redress.

Section 7 A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practises is entitled, to the extent provided by an Act of parliament, either to restitution of that property or to equitable redress.

Dughard(2017)states that this is the part of legislature that many South Africans feel that the constitution has failed. The land claims commission has overwhelmingly pushed people into accepting financial restitution other than going through the process outlined by sub section 3. Because the land claims commission is under pressure, financial restitution is an easier option instead of going through the full process of land claim. Furthermore the governments lack of movement on the issue of land. Land is a serious equity. However, it cannot be blamed on the Constitution rather on the government.

The attempt to align customary land law with the constitution has been very difficult. Traditional authorities as they exist today are a colonial construct, but they have been entrenched in the constitution.

How do we equip in customary areas that don't have lessor rights without perpetuating the black administration regime that saw traditional leaders act within the confines of a racial regime.



Figure 01.46 Cato Manor Development Agency

Chapter 4



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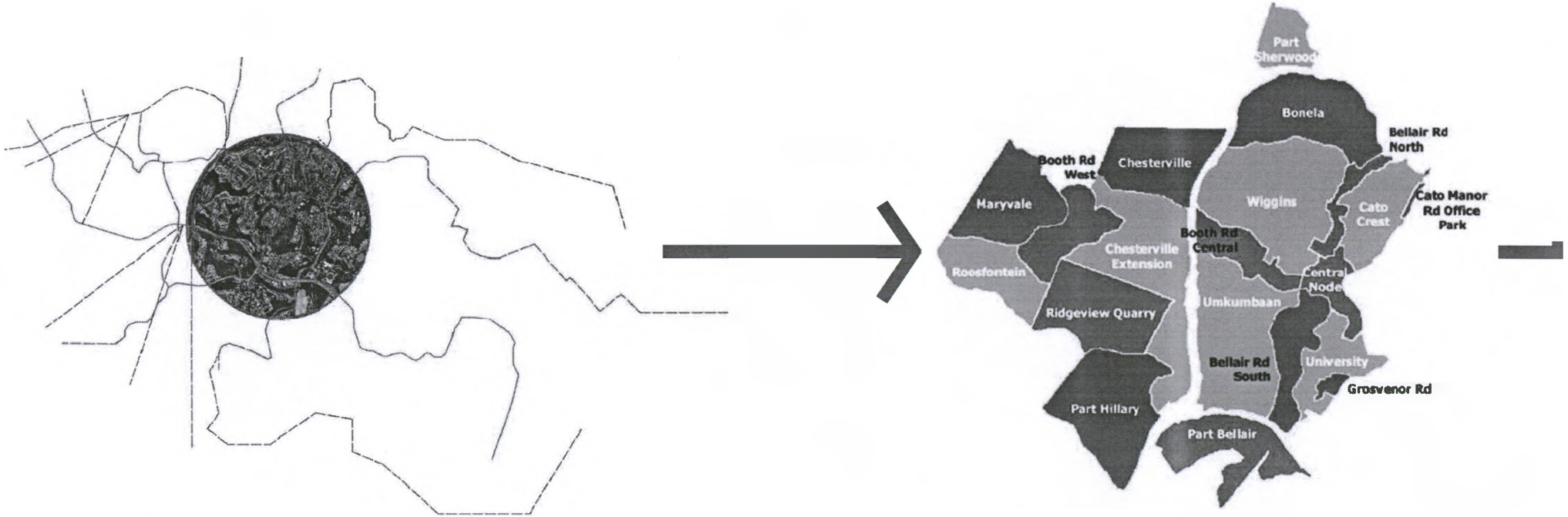
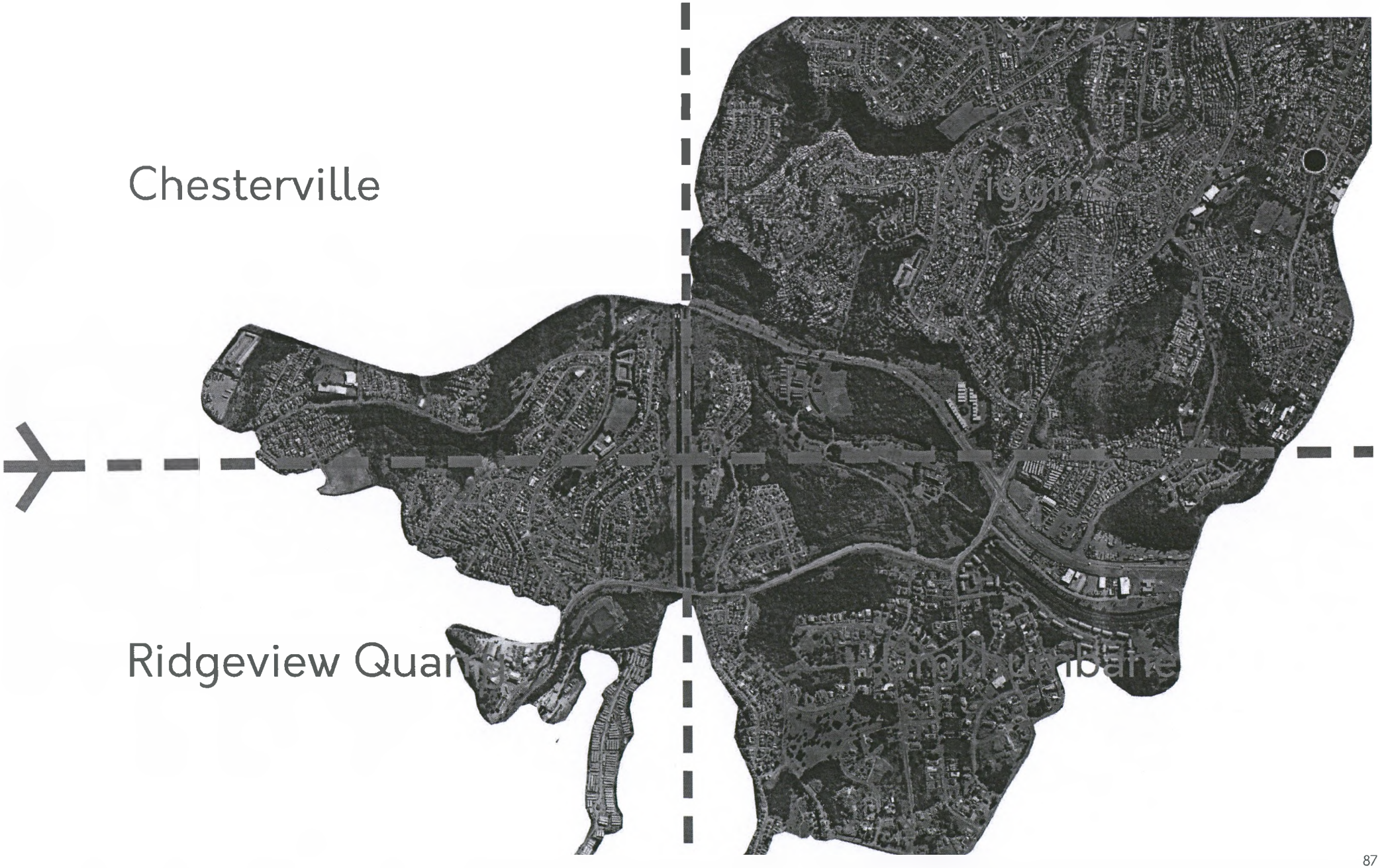


Figure 01.47 Cato Manor


Chesterville

Ownership

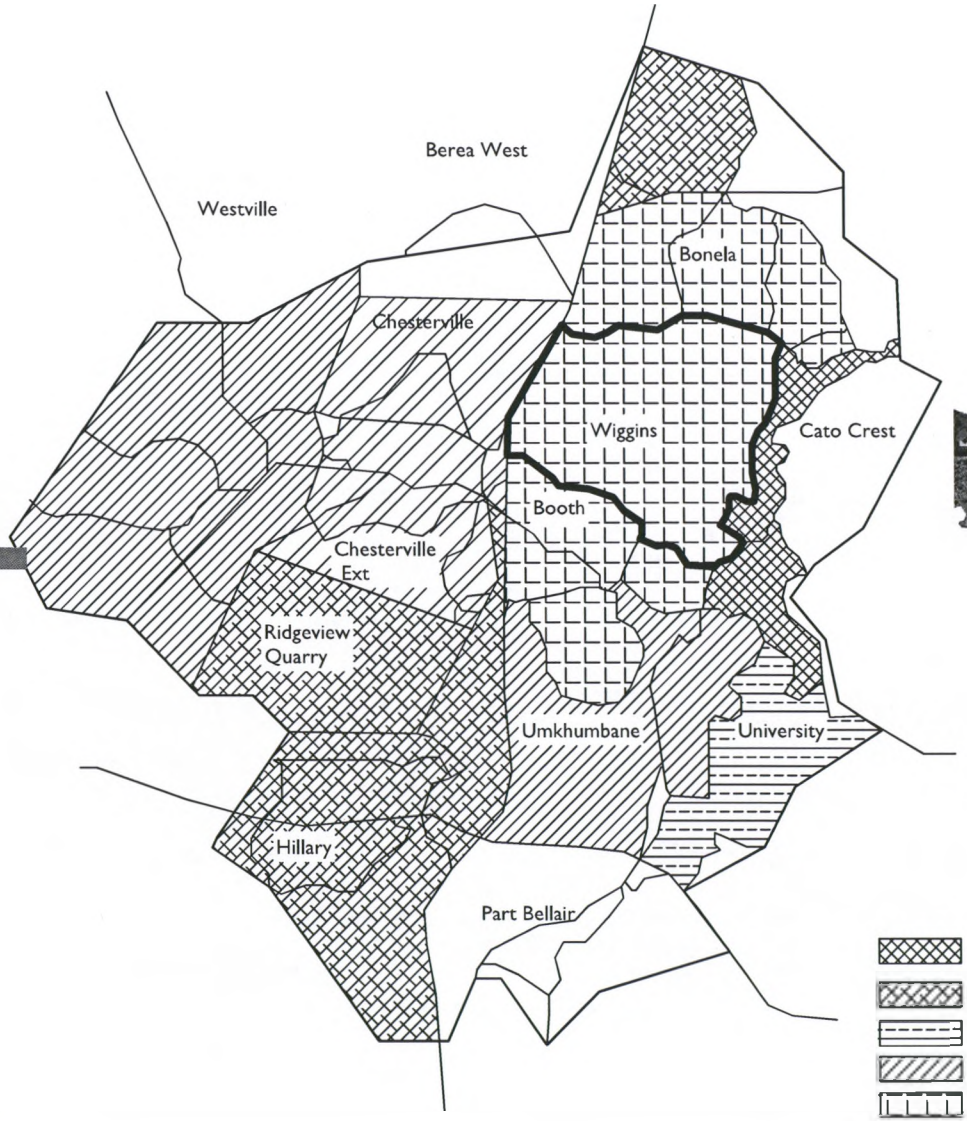


Figure 01.48 Cato Manor Land Ownership

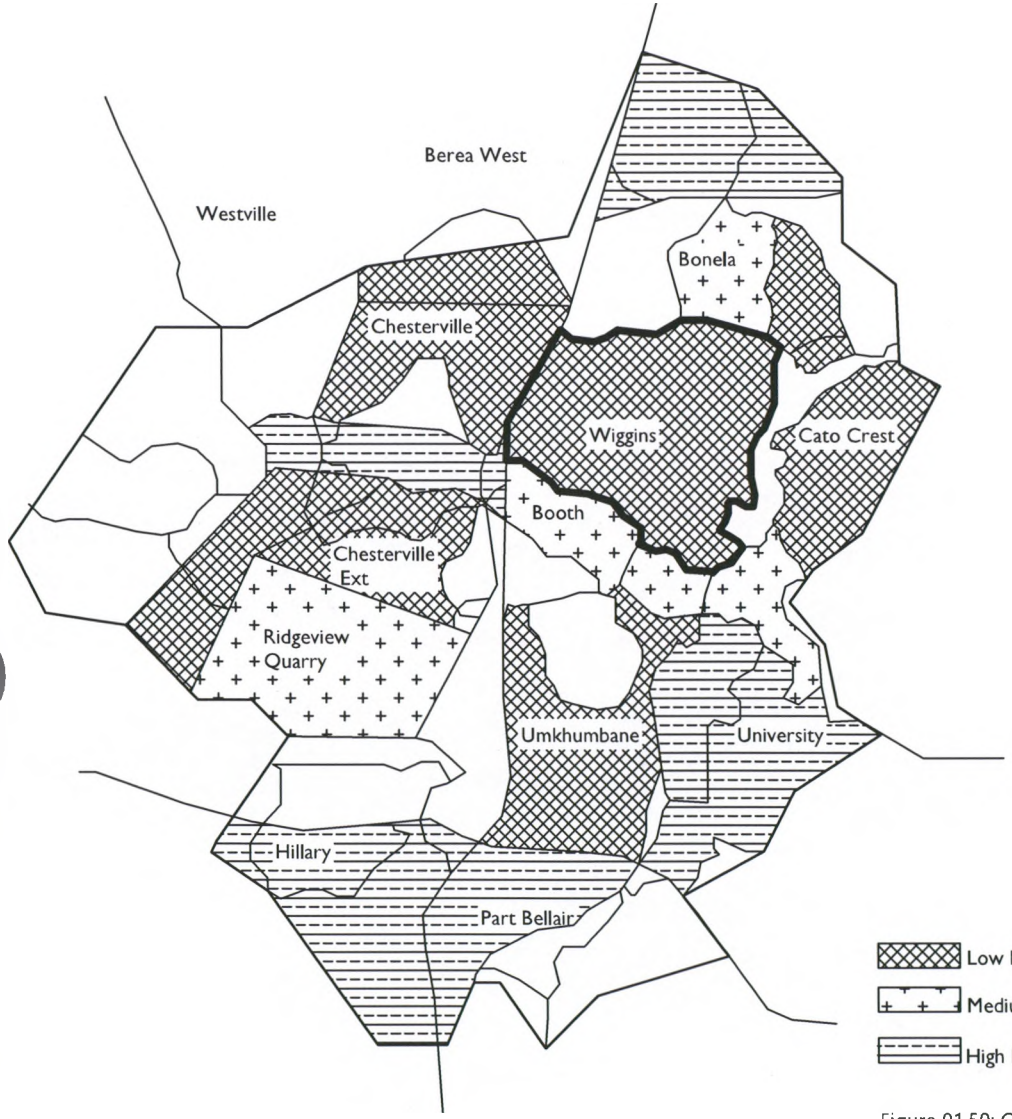
2001/2017



Figure 01.49 Land Claims Cato Manor



Figure 01.50 Cato Manor



Low Economic Profile - Medium to low density housing including squatter camps

Medium Economic Profile - Mixed use: Commercial and Formal Housing

High Economic Profile - Entertainment, civic, cultural Business, Retail

Figure 01.50: Greator Cato Manor Social Fabric :Robinson T.P (2001)



Figure 01.51 SPCA on Wiggins Hill

Density

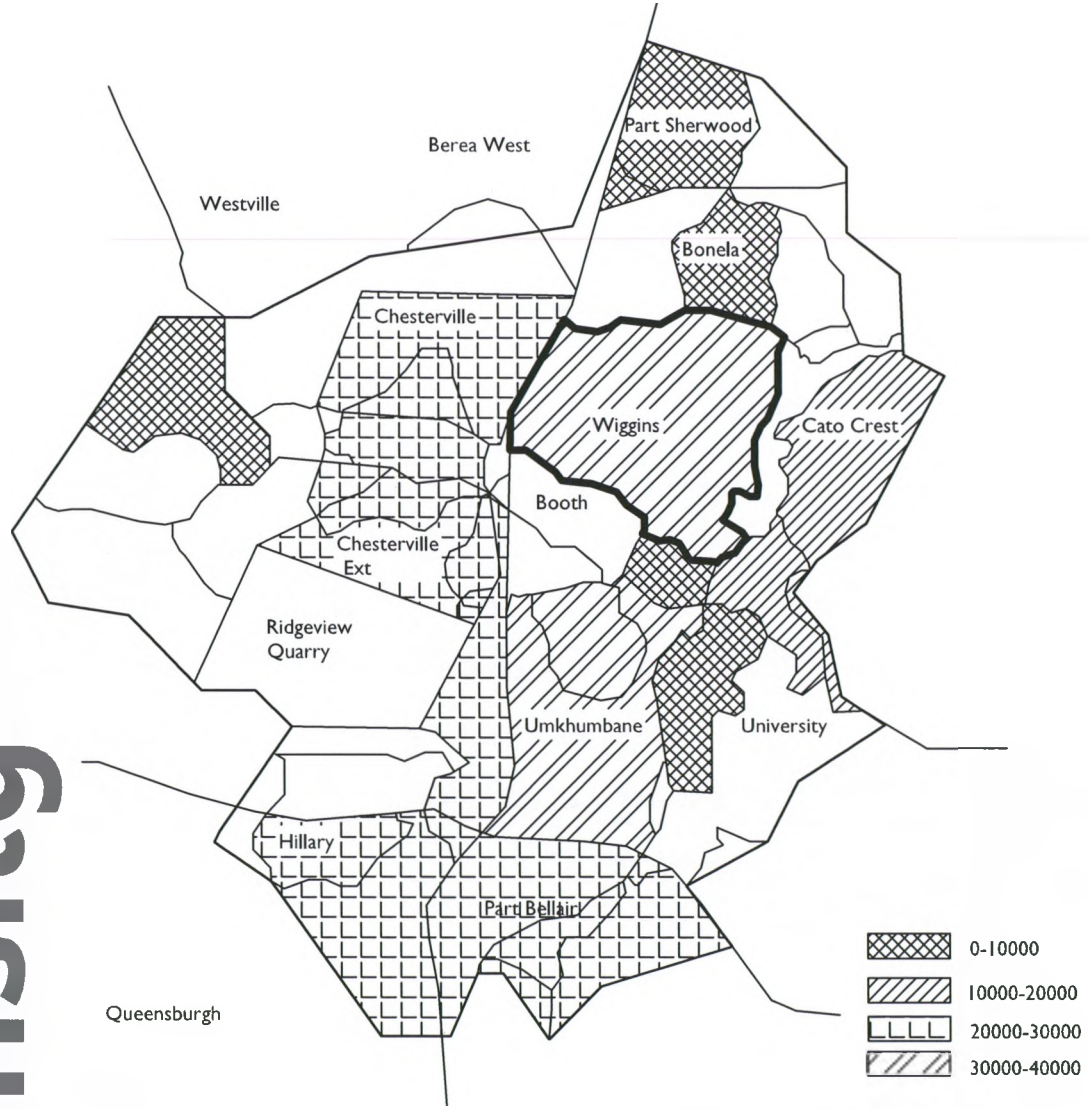


Figure 01.52 Density in Cato Manor
(Source: Adapted from CMDA, 1992)



Figure 01.53: Greator Cato Manor



Figure 01.54 Density in Cato Manor
(Source: Adapted from CMDA, 1992)



Figure 01.55: Greator Cato Manor SPCA ACCESS

Land Use



Figure 01.55 Land Use



Figure 01.56 Land Use

Nodes of Acitviy



Figure 01.56 Activity Nodes



Figure 01.57 Skills

Skills


1940


SITE


1965


SITE


2015


SITE

Figure 01.44 Cato Manor in the past
Figure 01.45 Cato Manor in the 1950's
Figure 01.46 Cato Manor in 2015

1850's Informal Settlement

1850's Beerhall

1850's Informal Settlement before demolition

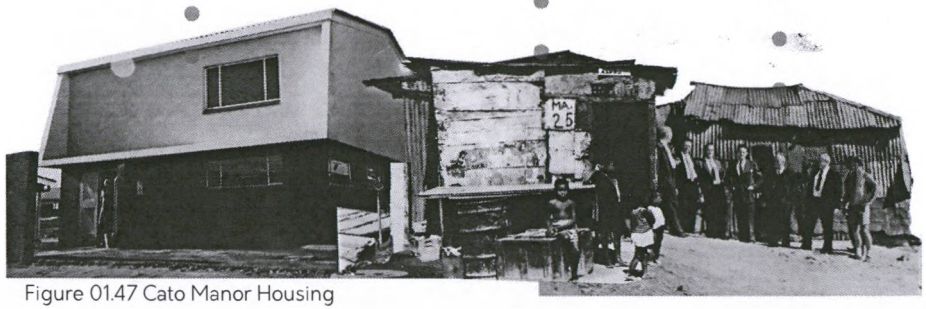


Figure 01.47 Cato Manor Housing

Housing

Current Housing

Current Shack dwellings

Informal Housing

Lindelihle informal housing



Figure 01.70 Cato Manor Housing

Community buildings

Cato Manor Heritage Centre

Cato Manor Clinic

Umkhumbane Cultural Centre

Wiggins Community Centre

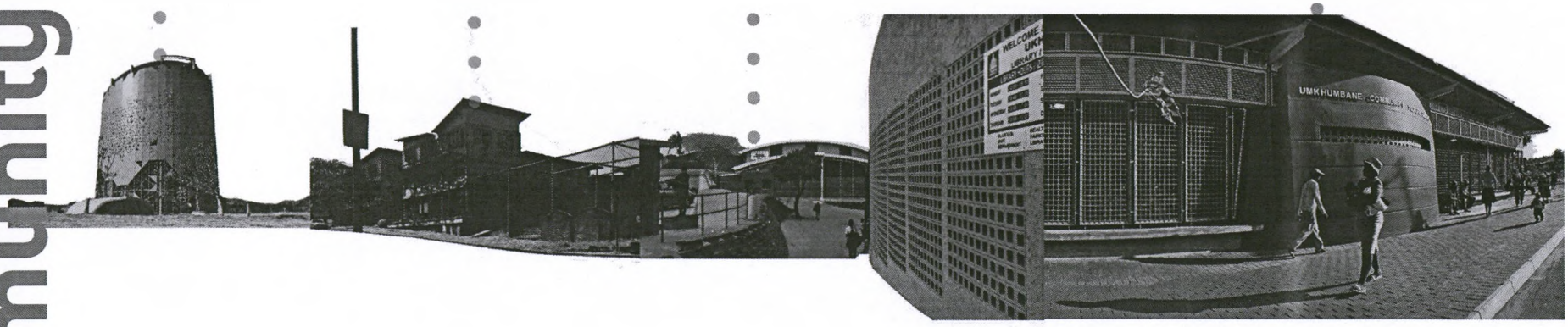
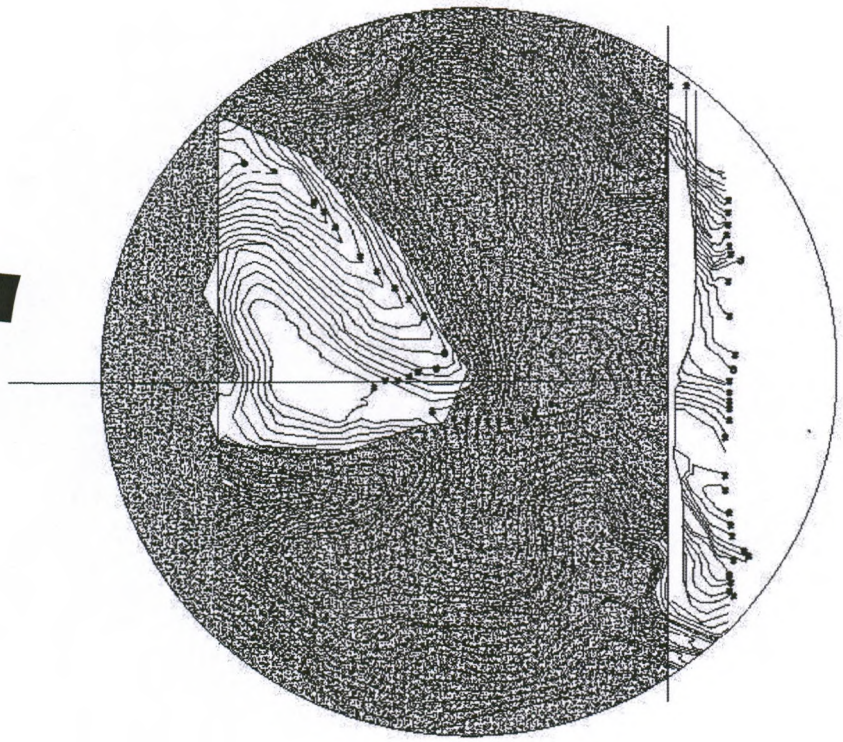


Figure 01.71 Cato Manor Public Buildings

Chapter 5



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In my process of design I aimed to understand how two parallel legal systems with different, specific spatial requirements could work together to aid a land claimant from the area.

I explored how Zulu people resolve conflict and attempted to spatially represent the discussions and manners in which issues within the community are resolved.

It was important to explore what these spaces could look like if they were to be designed against a formal roman dutch law programme.

There was no precedent thus i followed a path of making and unmaking that touched the soil in a manner that demanded the building to sink within the land as to make a statement about the violent and temporamental relationship between the people of Cato Manor and soil.

The intention of the design is to create a building that grows from the earth. That touches Cato Manor sensitively.



Figure 01.72 Journey

As the land claimants of Cato Manor have embarked on a journey that has been long and enduring, the land claims court should speak to that. It should be a space that elevates one from one process to another through the narrative that welcomes reconciliation,restitution to all.



Figure 01.73 Form

The building is an exploration of two systems. An idea of an amalgamation on site between two forms. The forms "speak" to each other however they still function, on their own, as necessary entities in order for the land claim to be fully resolved.



Figure 01.74 Memory

My design concept deals with the conscious and unconscious manner in memory is explored within a court.

Scale and proportion to be used as manner to convey power and importance of the court.

WHOSE LAND IS IT ANYWAY



SECTION 25 BILL OF RIGHTS

(6) A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redresss

Native Land Act 1913 | **Group Areas Act (1950)** | Bill of Rights 1994

COMMISSION PROCESS

Willing Buyer/Willing Seller

Willing Buyer/Willing Seller

People forcibly removed

(1959)

People forcibly removed

(1959)

People forcibly removed

(1959)

Process has taken 20 years

Process has taken 20 years

LEGAL SYSTEM

OUTCOME

progress?

progress?

progress?

Customary Law

Figure 01.75 Flow Chart outlining the different approaches to land restitution as outlined by the land claims commision. The first option being a process which financially distributes money through the roman dutch law system, the second option which gives people their land through the roman dutch system. The third option which gives the land back the owner through a legal system they

Land Briefs



Government proposal to encourage black farmers

A GOVERNMENT appointed committee to evaluate agricultural policy recommended that the agricultural sector be deregulated to encourage black farmers but still adhere to GATT guidelines.

The committee said there should be one marketing policy to cater for the needs of commercial and developing agriculture. They also proposed that there be minimum government intervention. The national marketing council should be restructured to include representatives from consumers, developing agriculture, commerce and industry, producers and the state. Although subsistence and marginal farmers accounted for only 10% of marketable products, theycreated considerable levels of employment and non-marketable produce. Imbalances between commercial and developing farming should be rectified through development support and using the infrastructure and know-how available to commercial farming to support developing farmers.
(Business Day: January 25 1994)

Election attitudes

RURAL people in Natal are considerably more fearful of violence during the election, than their urban counterparts, according to a Human Sciences Research Council survey conducted towards the end of 1993. More than 50% of the rural respondents said that their chief would influence their vote.
(Natal Mercury: January 11 1994)

UK gives R6,5 million for rural health

THE British government has granted R6,5 million to the Rural Foundation for basic primary health care and training projects in the rural areas of Natal and the eastern and northern Cape. The health programmes would be implemented over four years and would help to meet the basic needs of about 31 000 farmworkers and their families on 400 farms. The Rural Foundation said it expected to help about 350 000 individuals.
(Natal Mercury: December 1 1993)

Farm prices may drop

RURAL land prices could decrease over the next 12 months, predicted the former president of the SA Institute of Valuers. Farmers could expect large scale affirmative action in rural areas in the short term, he said. Such affirmative action would include areas being specifically set aside for small scale farming, financial, training and support programmes. "Such a programme would probably see a marked expansion of tenant farming practices, with special legislation guarding the rights of tenant farmers," he said. Some farmers in areas which underwent major changes would probably want to relocate and would be prepared to sell at depressed prices. He said that the real average national selling price of agricultural land had dropped in 1991, if compared with 1981 prices. The 1991 average price was three times that of 1981, whereas a real price increase would have meant the 1991 average price should have been about four times the 1981 level.
(Business Day: February 2 1994)

Cato Manor residents land claim opposed

MORE than 100 land claims from former Cato Manor residents, evicted from the area in terms of the Group Areas Act about 30 years ago,were turned down because the area was being developed. The claims were lodged with the Commission on Land Allocation, but a House of Delegates housing spokesman said the land fell outside the Commission's brief. He said the House of Delegates was developing part of Cato Manor and another part was taken over by the Cato Manor Development Association for a R200 million development project. A possibility for former residents with land claims was to give them alternate sites or monetary compensation, the spokesman said.
(Daily News: January 26 1994)

Figure 01.76 An except taken from the Durban Archives, the intention which is to show the relationship between Zulu people and the monarchy. The line between politics and culture is different for the Zulu as they plead allegiance to the king.

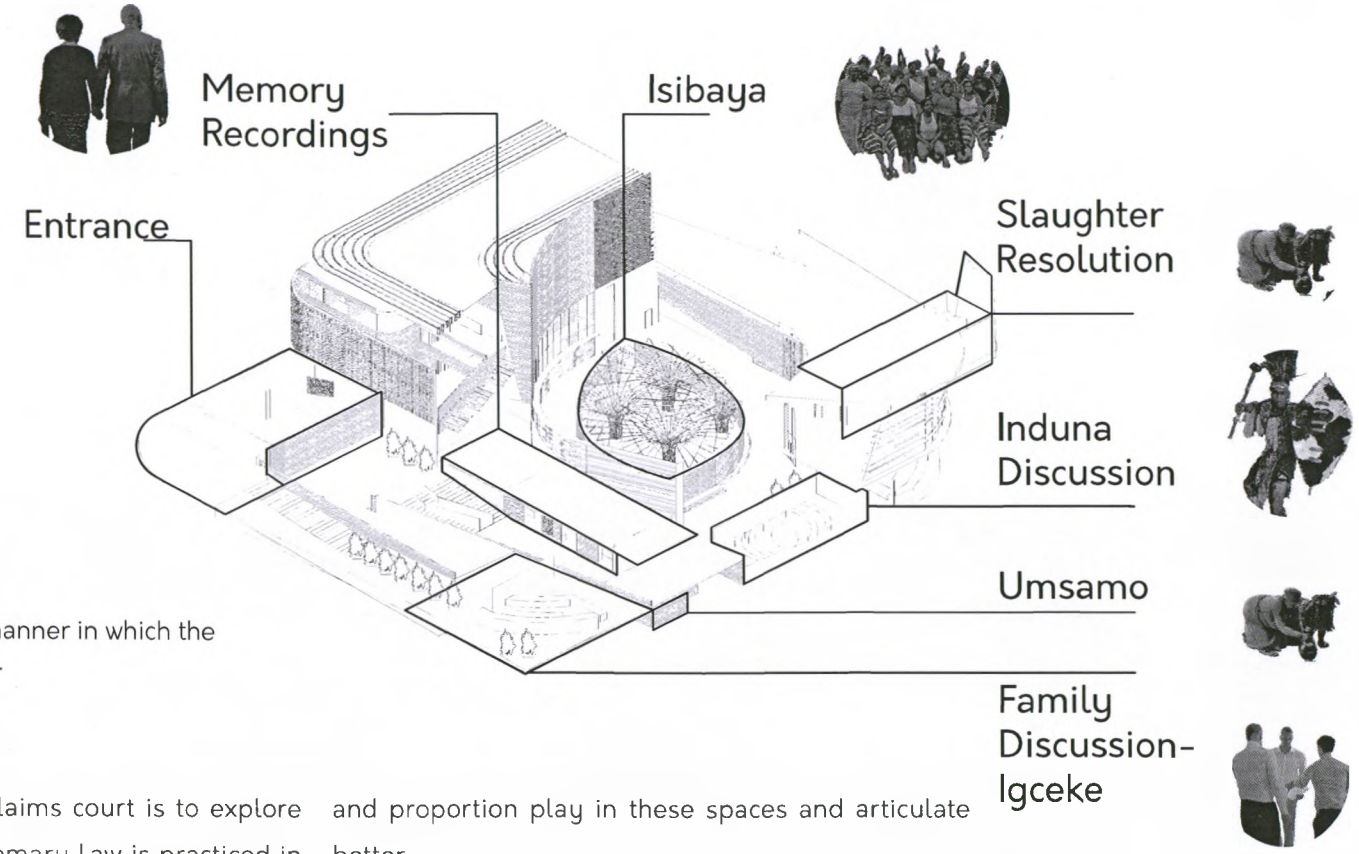


Figure 05.77 The proposed manner in which the Land Claims Court would run.

The intention of the land claims court is to explore the manners in which Customary Law is practiced in the Zulu culture, which is predominant in the area of Cato Manor.

As mentioned previously, Customary Law is based on verbal agreements. The spaces are traditionally held "egcekeni"- the backyard of a house. I investigated what happens in those spaces and how they can be spatially recognized, what would it mean to speak to an elder in a "formalised" space.

What role can architecture play. What role can scale and proportion play in these spaces and articulate better.

The narrative of the court was informed by the hierarchy in conflict resolution that exists currently in the community. I observed the protocol followed by people in the area specifically when it came to property. The journey presented is a simplified version of events.

Khaya Sithole liked



Julius Sello Malema @Julius_... · 1d

We remain a conquered black nation because the founding principles of our revolution have not been attained, the land of our ancestors 😢

Top: Tweet by @Julius Malema dated 2 December 2017

South Africa, wrote UCT Constitutional law professor Pierre De Vos, is "entangled with the past because everything all of us assumed, everything we believed, everything drummed into our collective consciousness over 350 years of colonial conquest and racial domination did not evaporate into thin air in 1994."

Top: Tweet by @Ntoetse Lerotholi dated 2 December 2017

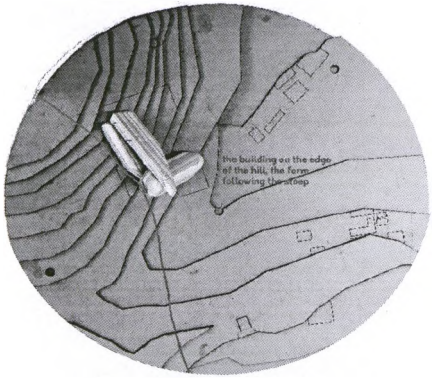


Fig 05.78: Site 3

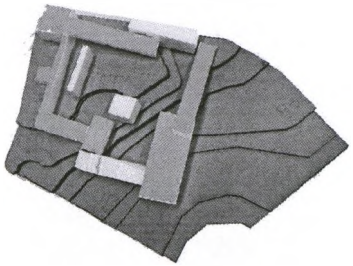


Figure 05.81 Access



Fig 05..79: Site 1- Form relationship

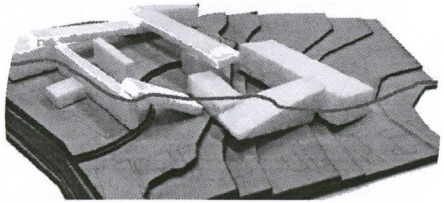


Figure 05.82 Circulation

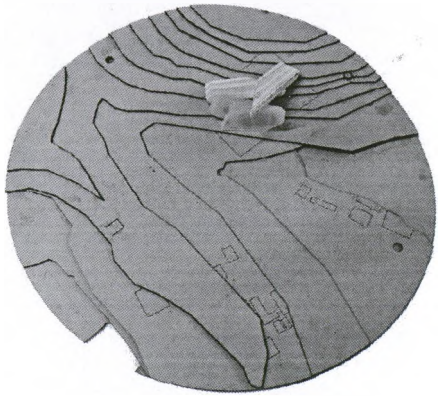


Figure 05.80 The form

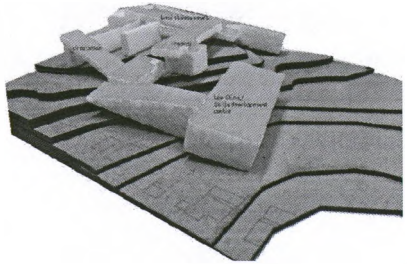
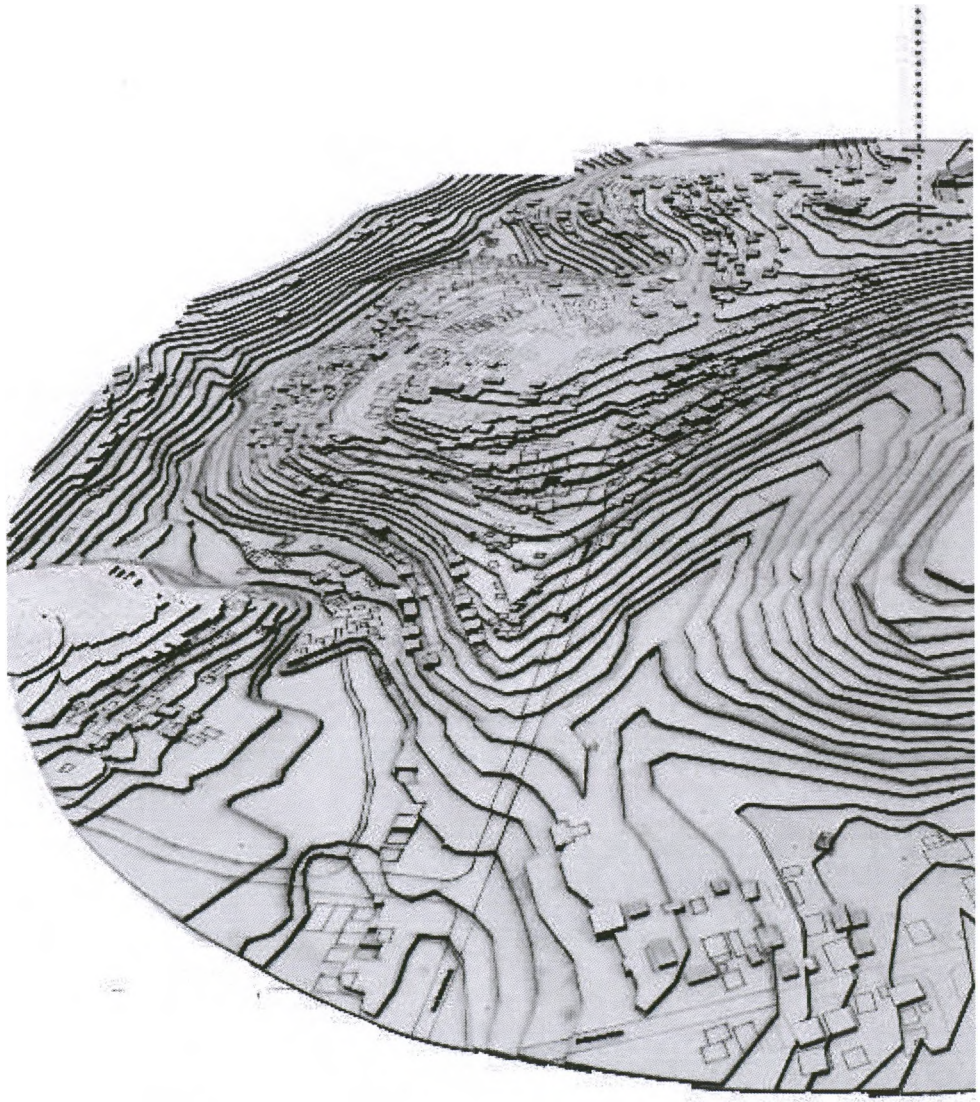


Figure 05.83 Circulation



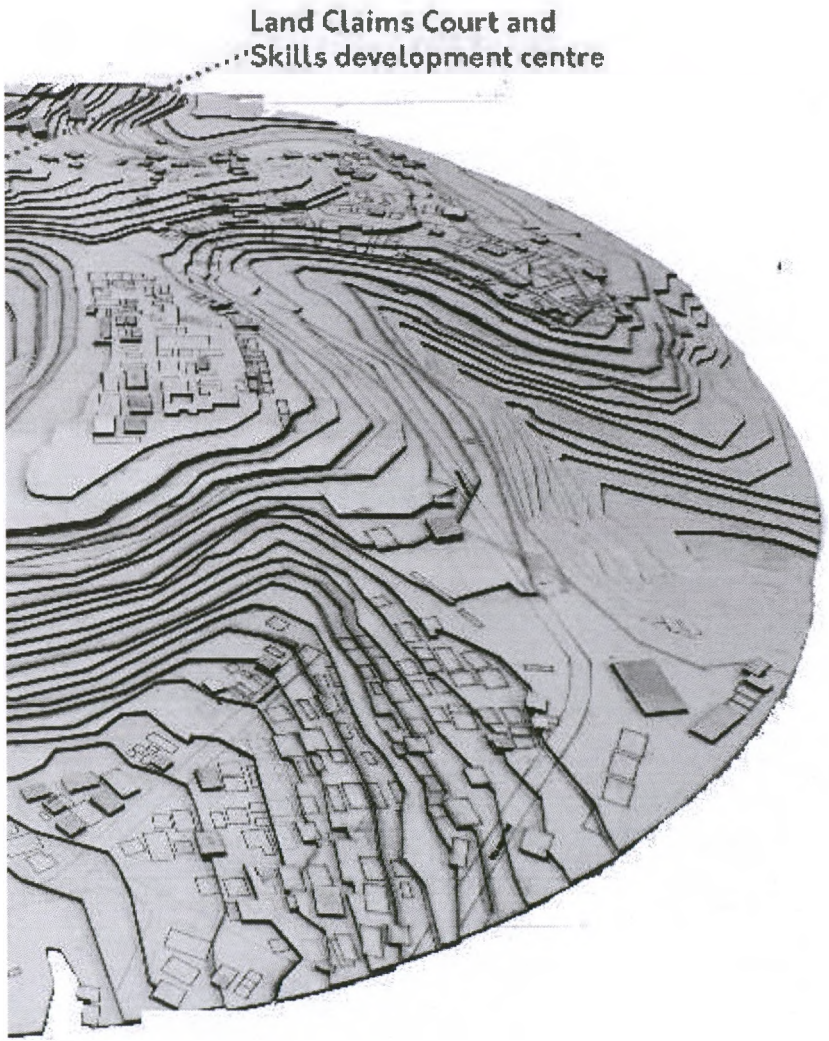


Fig 05.84: Site Model

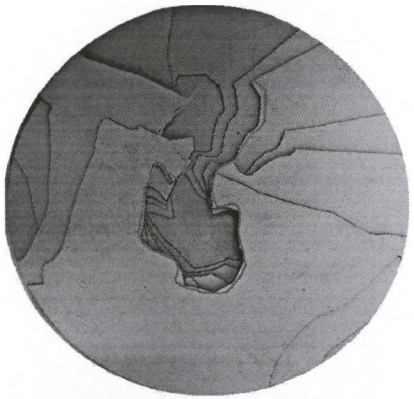


Fig 05.85: Digging into the earth

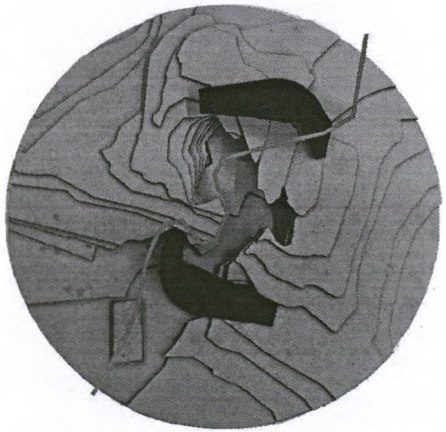


Fig 05.86: Digging through the earth

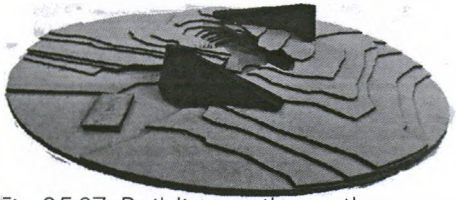


Fig 05.87: Building on the earth

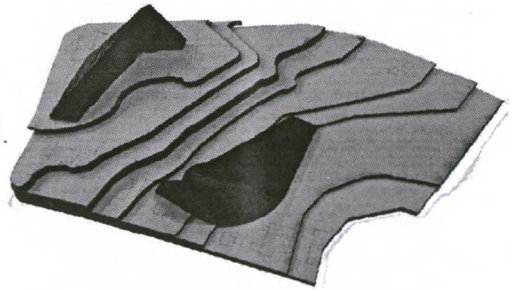


Fig 05.88: Building for the earth

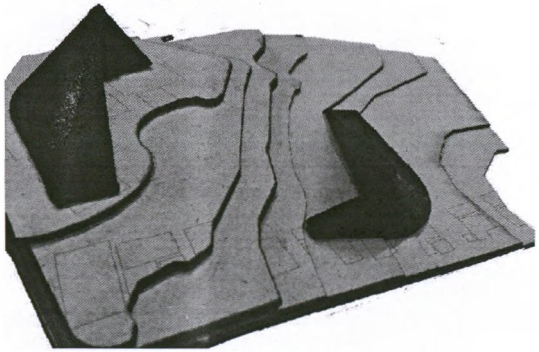


Fig 05.89: Building for the earth

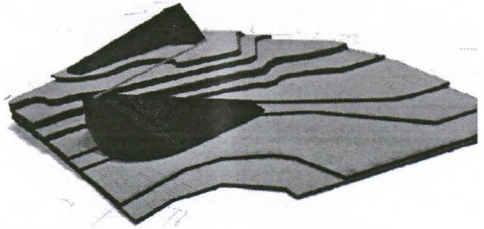


Fig 05.89: Building for the building

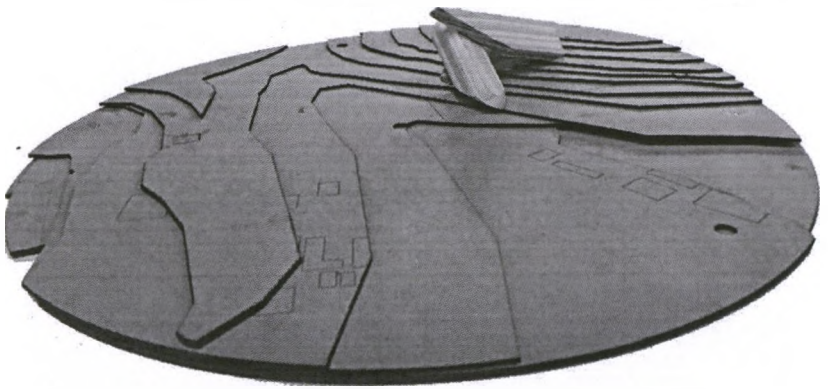


Fig 05.90: Site model complete

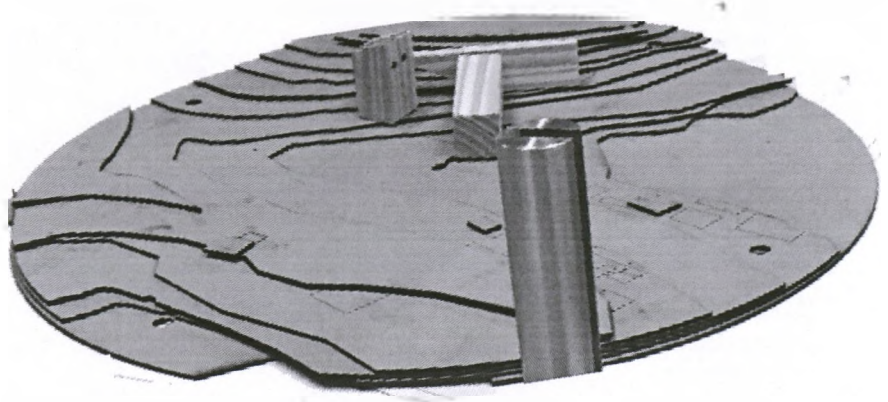


Fig 05.91: Site model complete

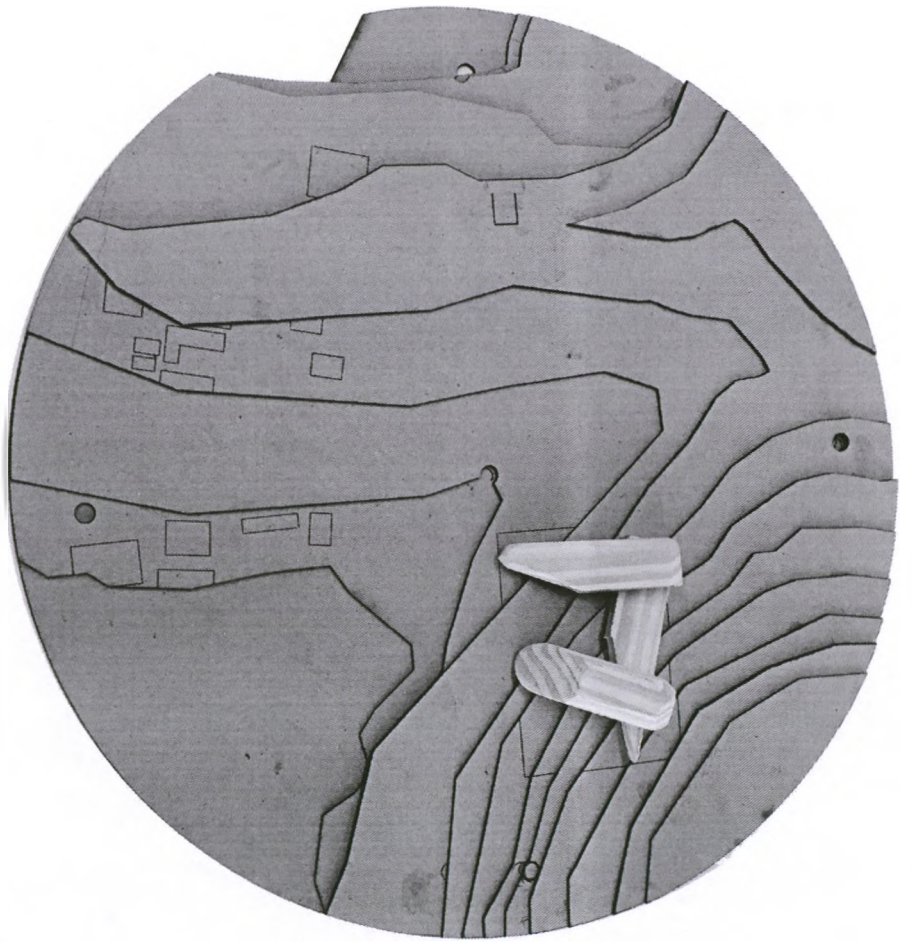


Fig 05.92: Site model complete

How to touch the land

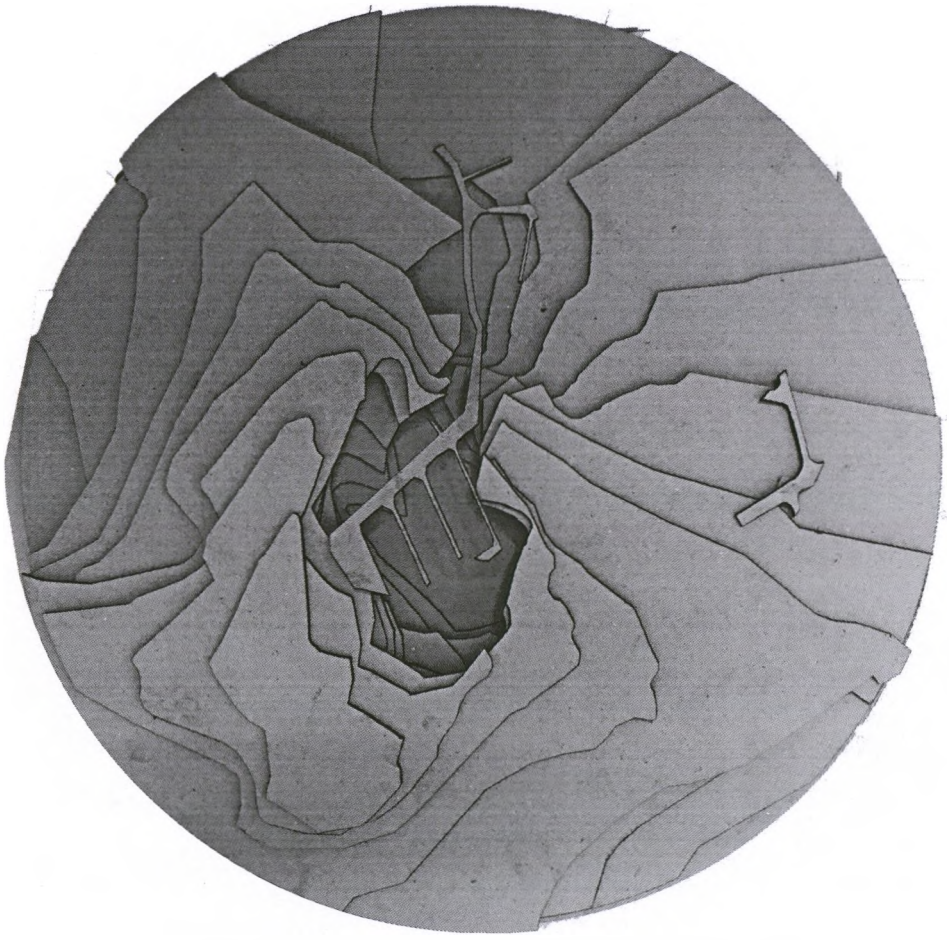


Fig 05.93: Concept Model

Design Manifesto

The building touched the land aggressively and sensitively. It dug, into the ground, it leveled with the earth through the processes outlined for negotiation.

The land claims court should be of a scale that the people of Cato Manor can relate to.
It should be a statement to the people whose land was taken from them.

When land was taken, this building is symbolic of what they lost and stand to gain back.

I explored this idea in section. I wanted to know what different activities related to law would look like.
How would they look if they were to take place in different pockets of the land. How would the placement of the building within the soil would feel.

I searched for a space that had been occupied by the initial land claimants of Cato Manor but soon realised that this would not be possible in this specific township.

After several visits in the township I came across the SPCA Access road. The site is on the edge of the hill that has been unoccupied because of its steep contours according to the community. This interested me seeing as, I was dealing with forced removals on occupied land.

The sites immediate surroundings are the Wiggins community centre which includes Wiggins Primary School, Wiggins High School and the Community Library. All of these buildings being initiatives completed by the CMDA. The site also lies 1km away from Masxha, a site that the land claims commission had initially built for land claimants of Indian descent. The houses were forcibly occupied upon completion by the community. New land , Bonela which is 2 km from the site was given to the Indian claimants.

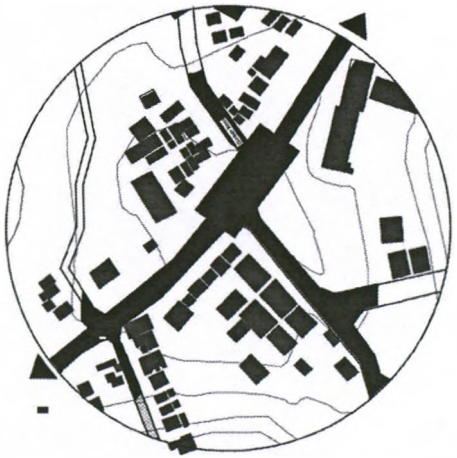


Fig 05.94Taxi Main Route
Scale 1:5000



Fig 05.95 Movement intensity
Scale 1:5000



Fig 05.96: Site - Form
Scale 1:5000

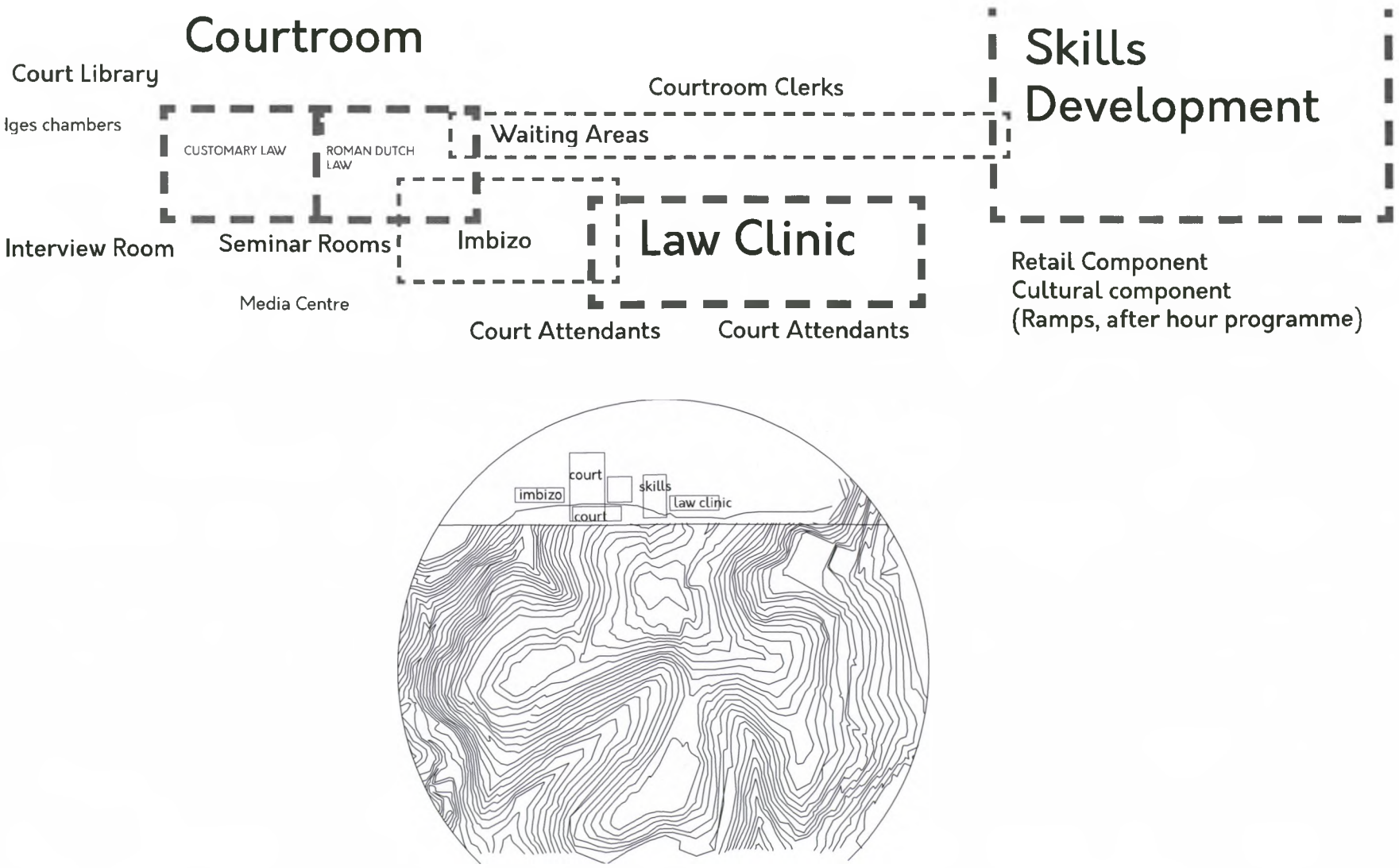


Figure 01.97 The building programme

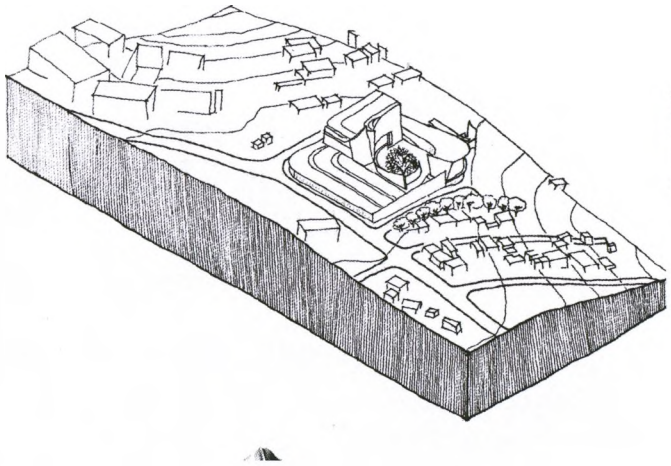


Figure 05.98 The building form 1

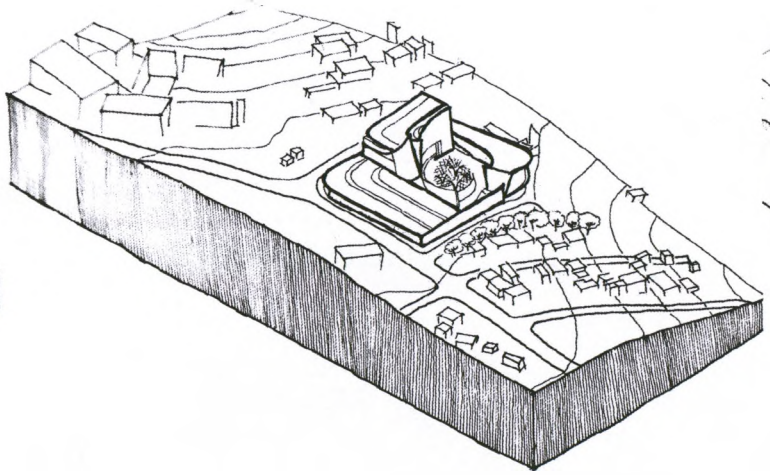


Figure 05.100 The building form 2

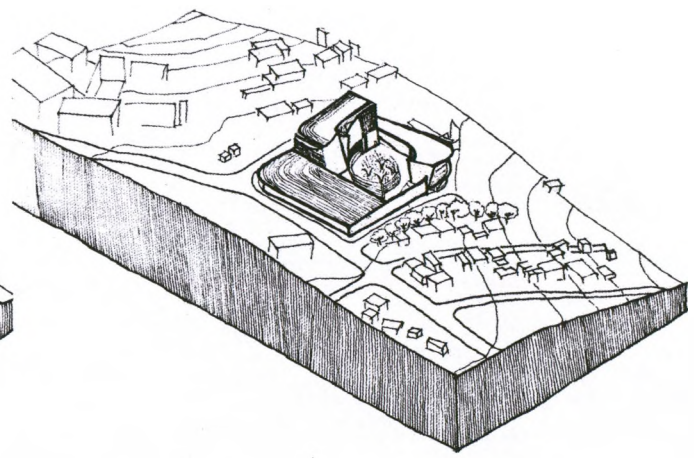


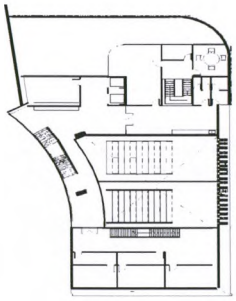
Figure 05.101 The building form 3



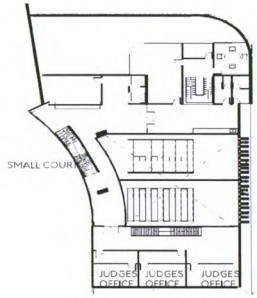
Figure 05.102 Inkantolo yomhlaba

123

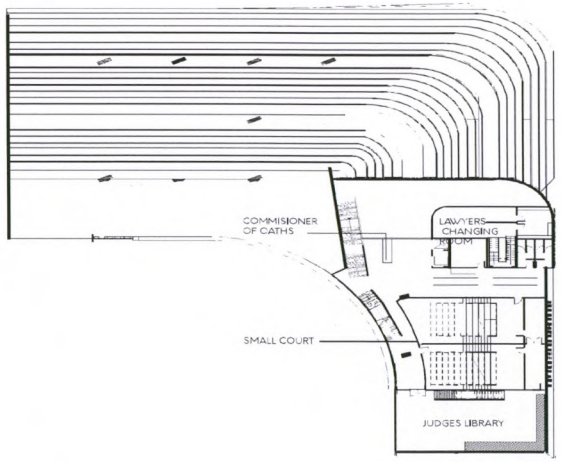
in the land



Third Floor
Scale 1:500



Second Floor
Scale 1:500



First Floor
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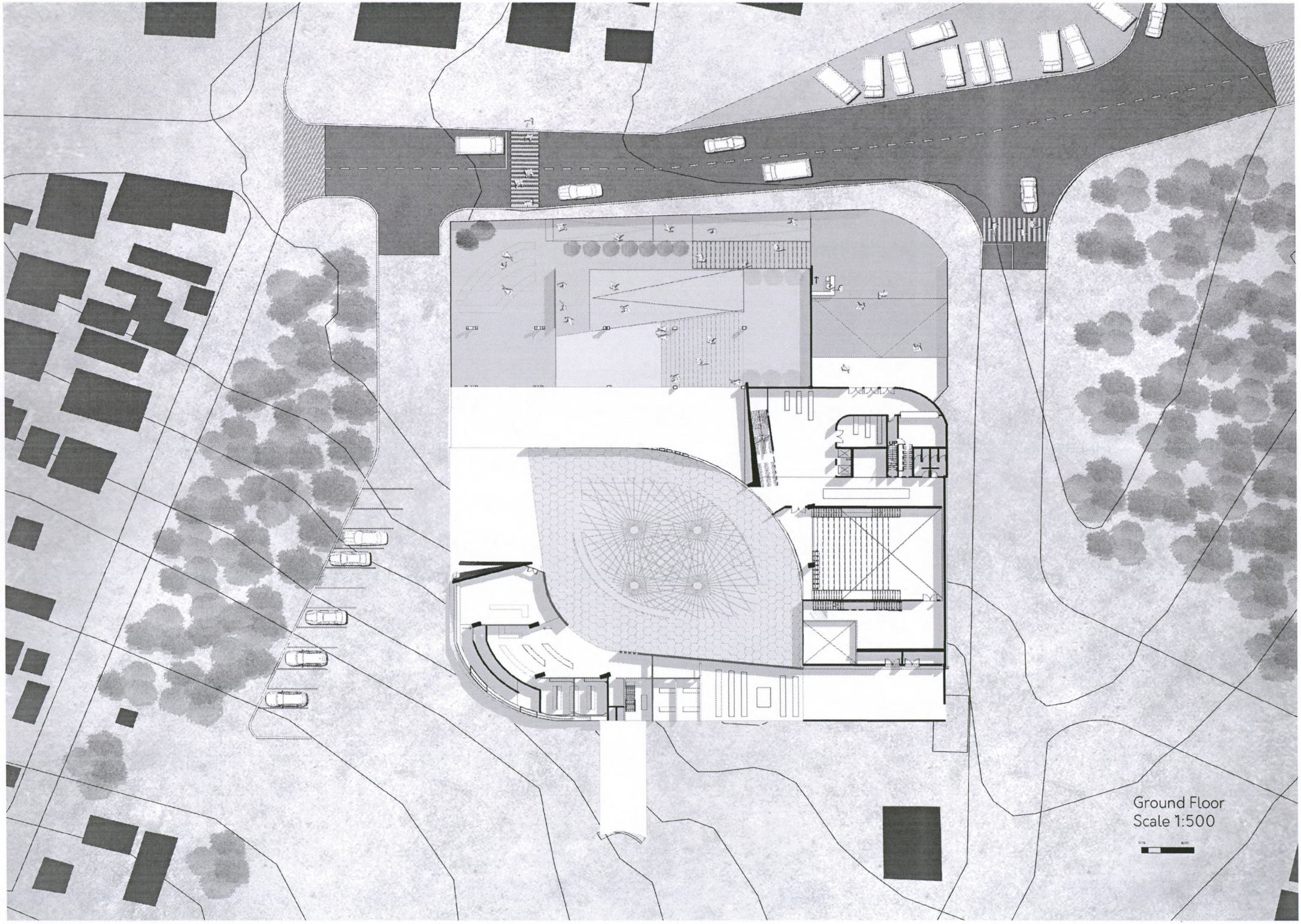
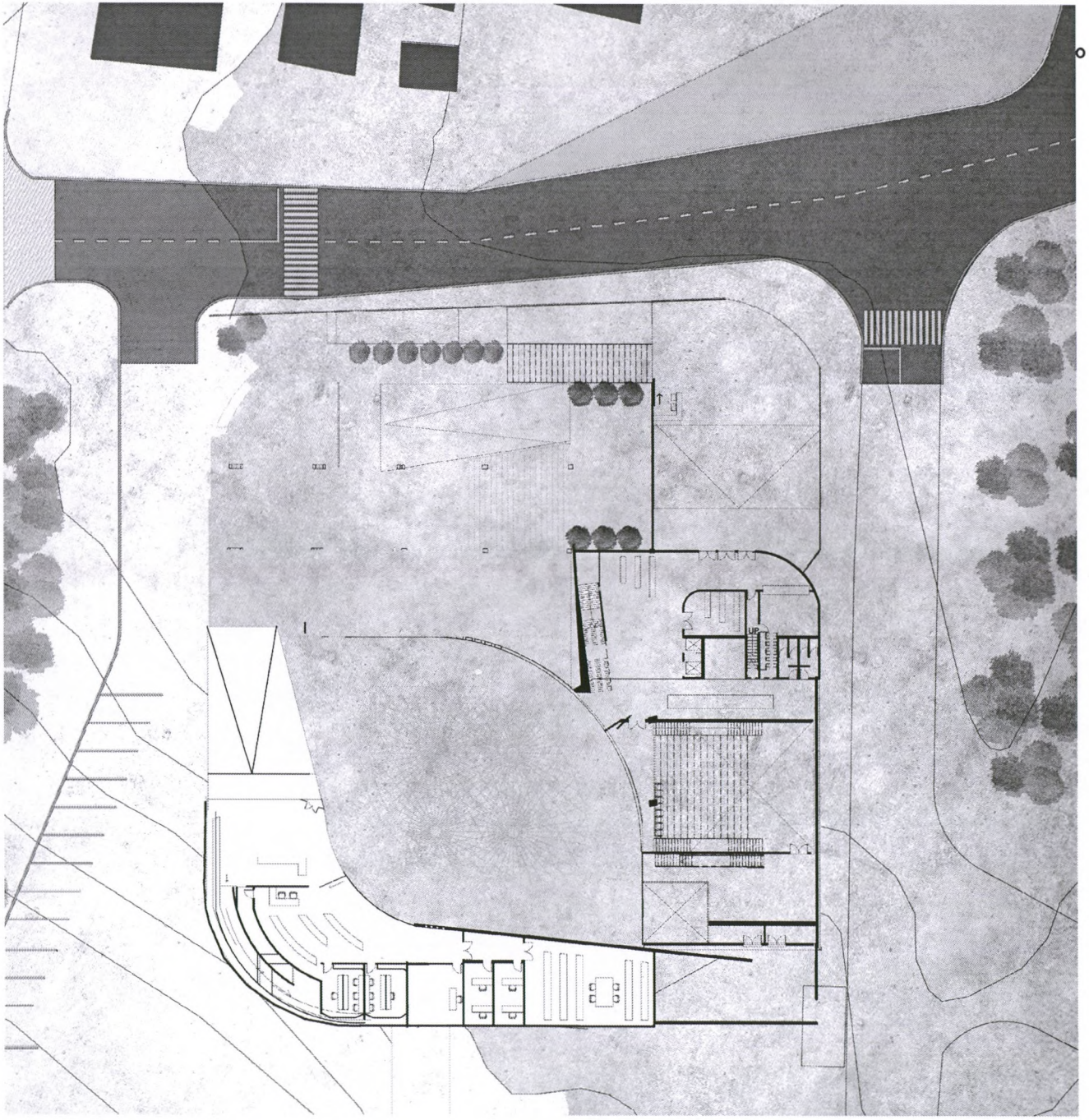
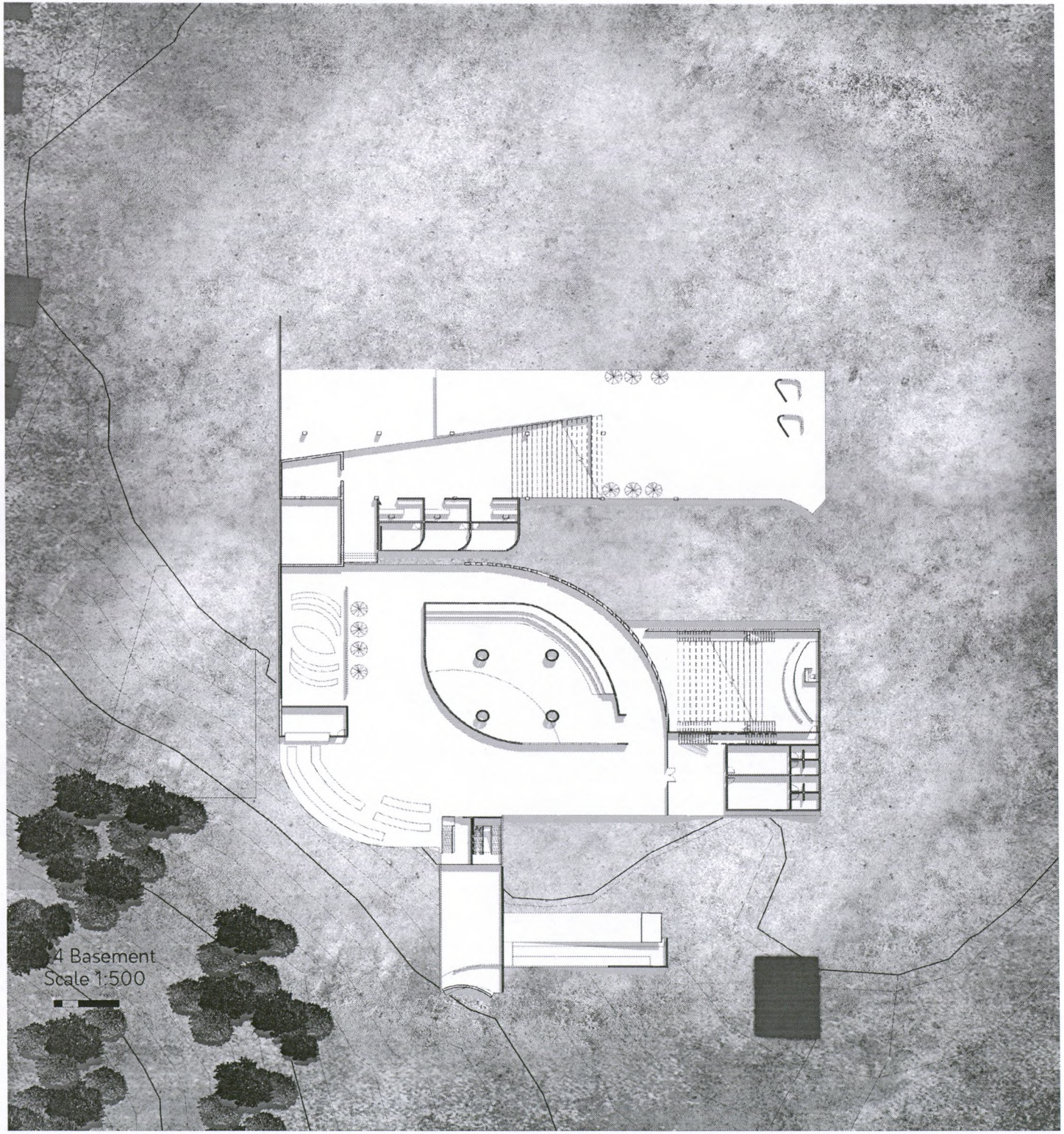
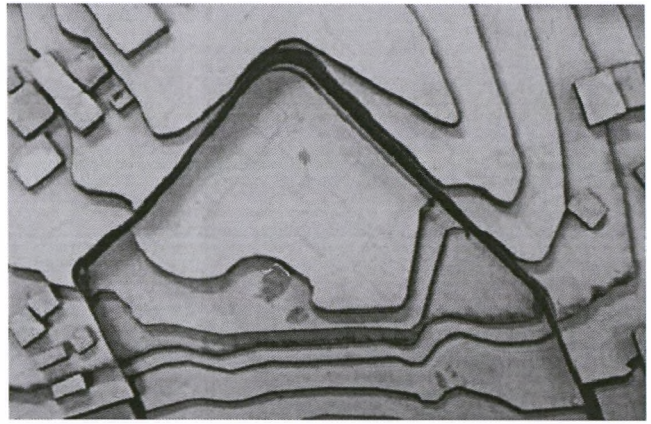

Ground Floor
Scale 1:500



Law Clinic Ground Floor
Scale 1:500







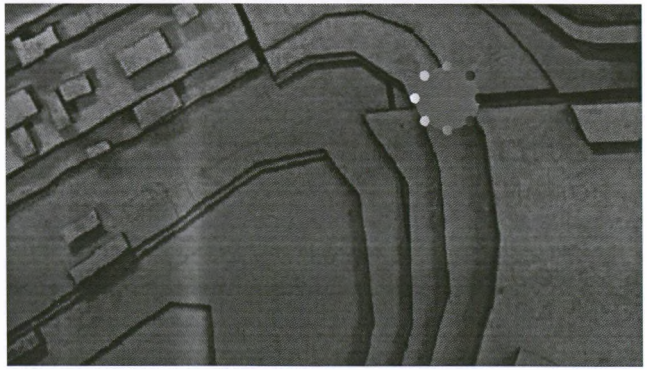
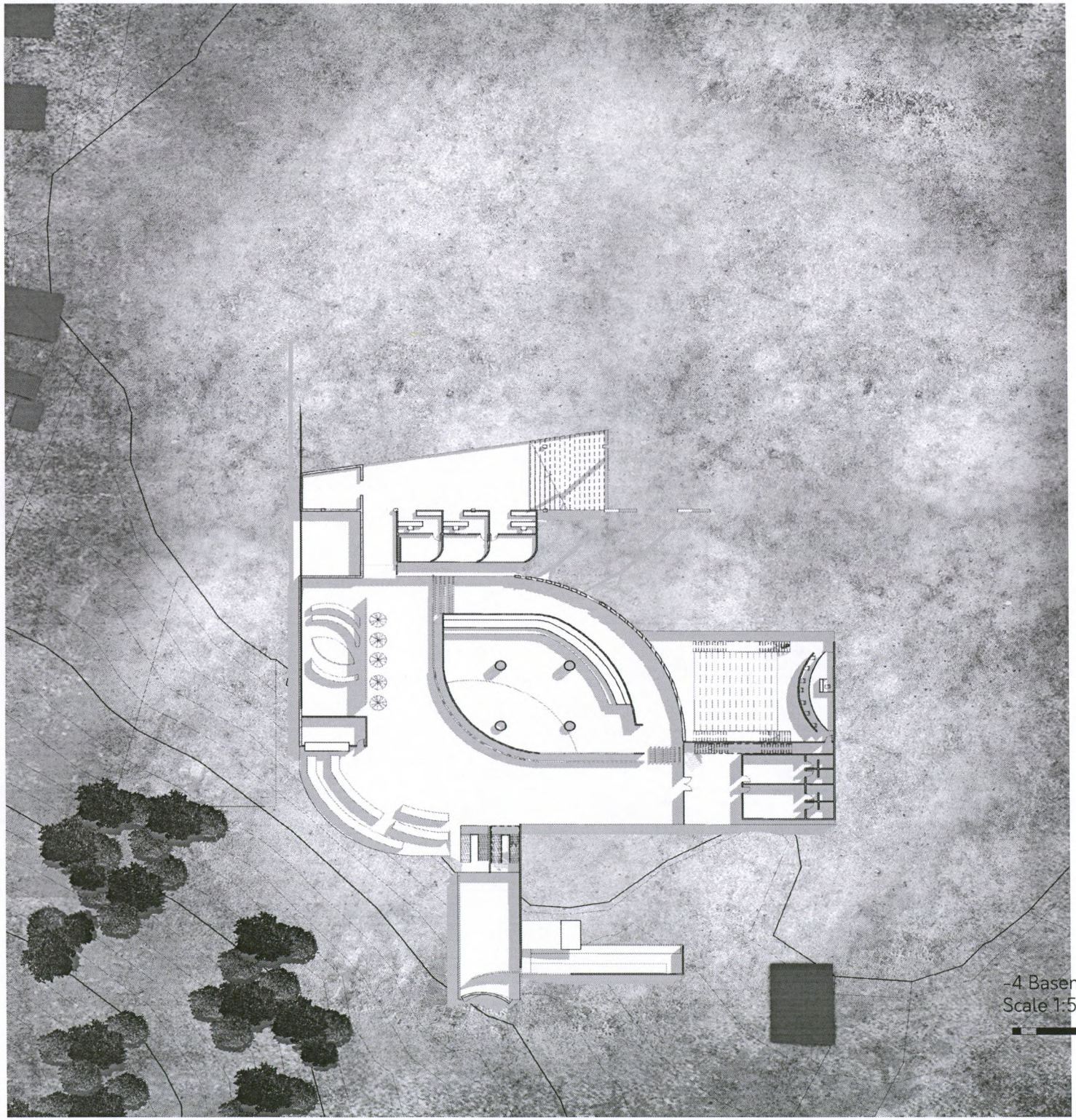
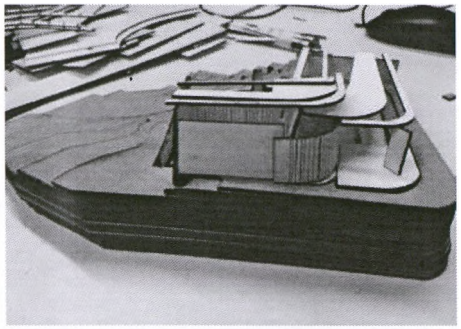
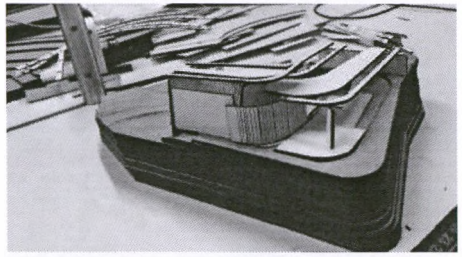
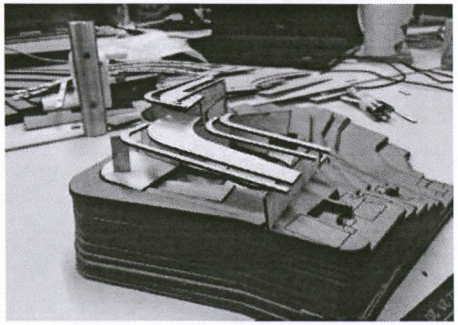


Figure 01.103 Levels









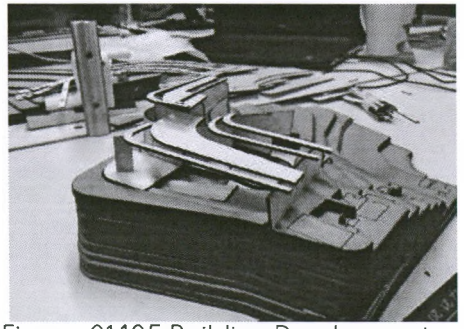
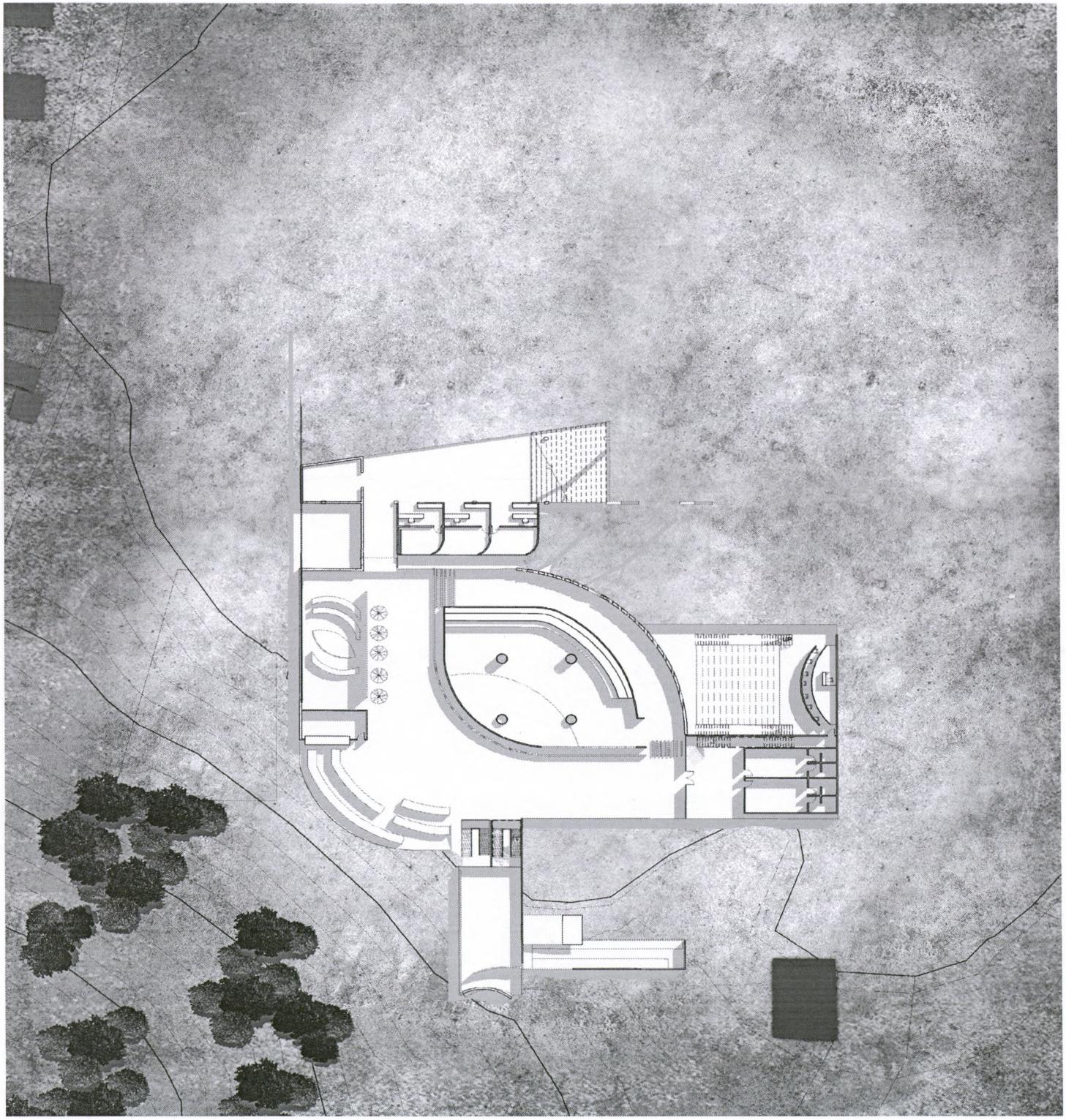
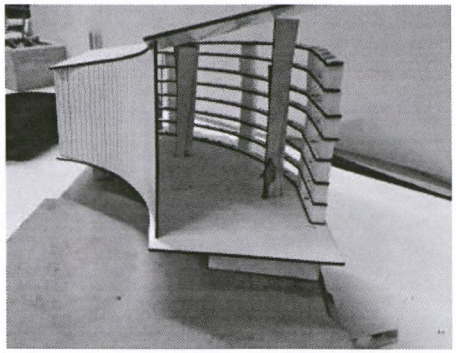
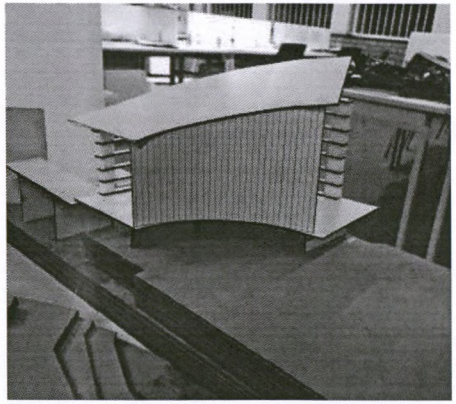


Figure 01.105 Building Development







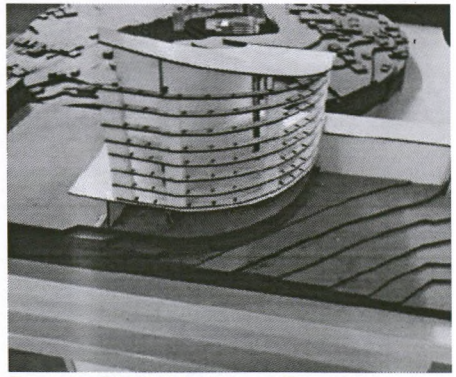
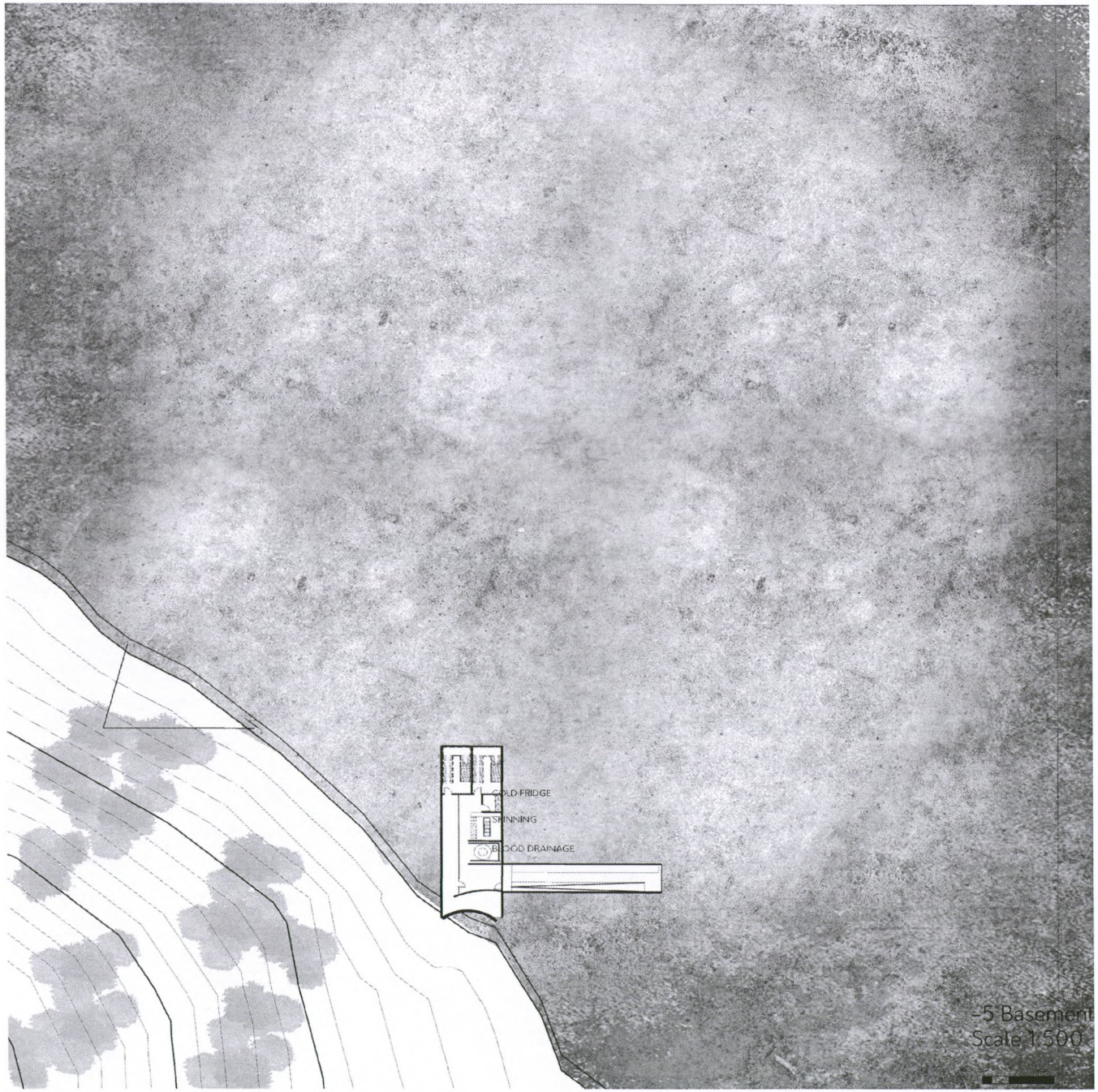


Figure 01.106 Building Farcade



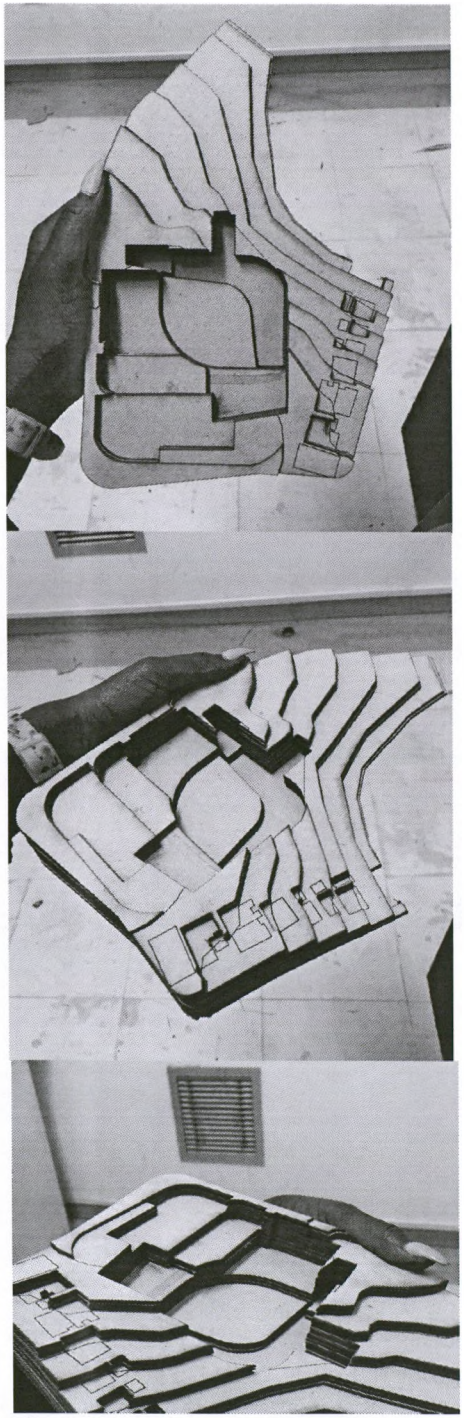
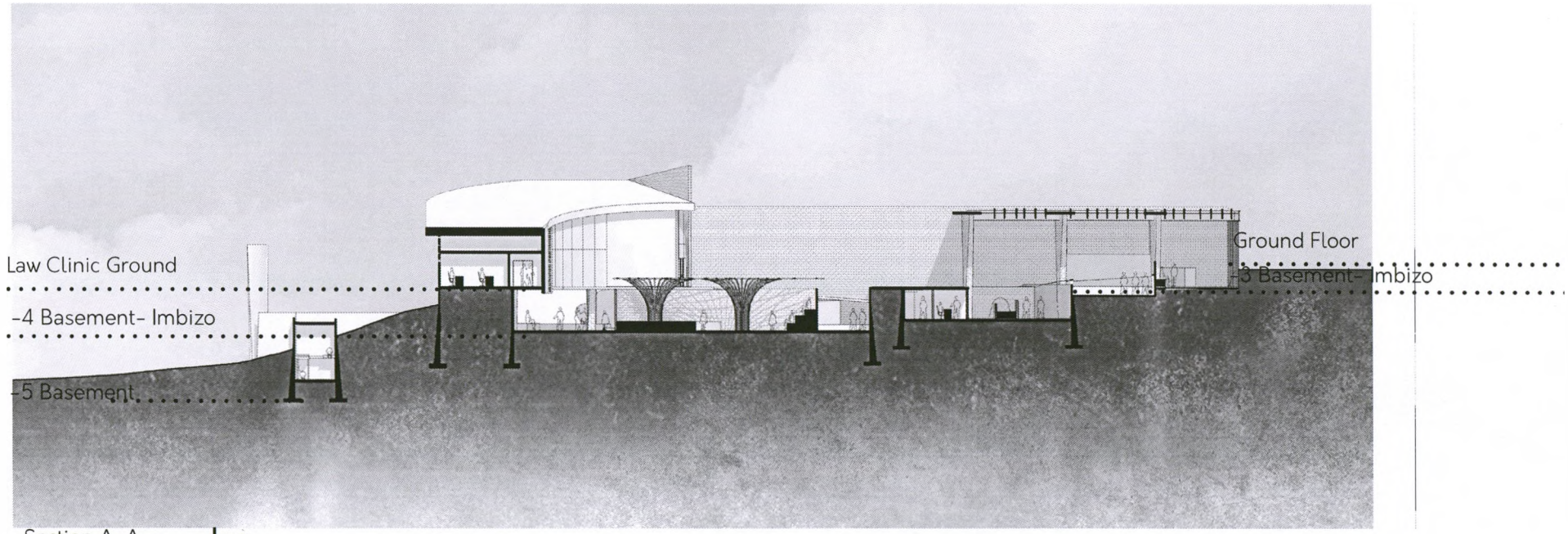


Figure 05.104 Levels 1



Section A-A
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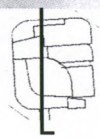

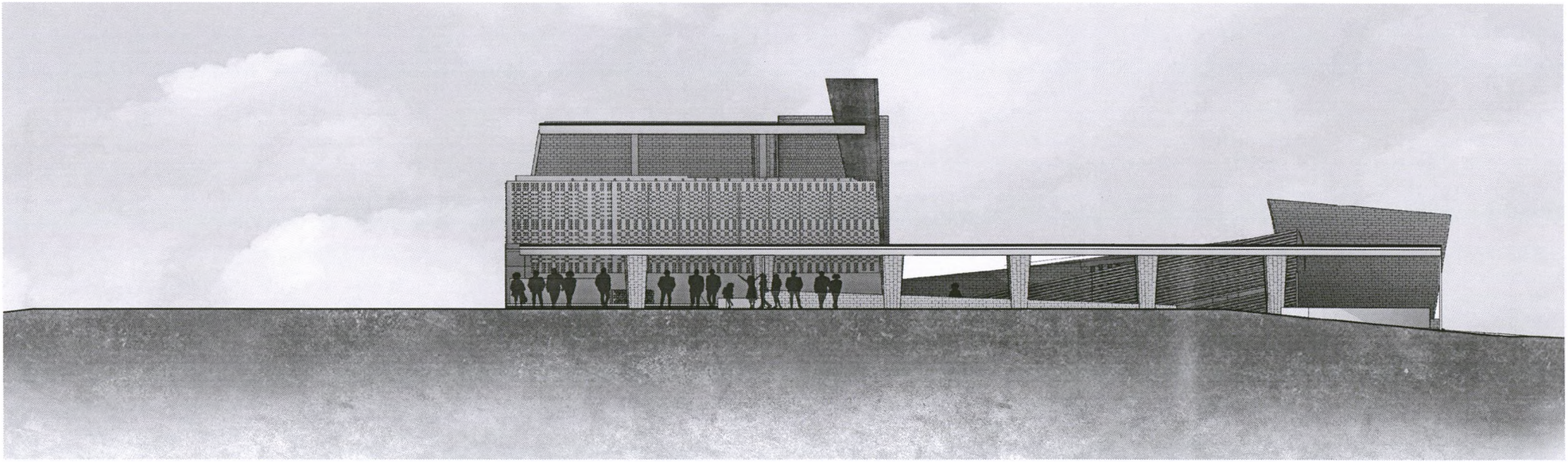

North Elevation
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Section B-B
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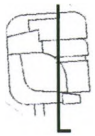

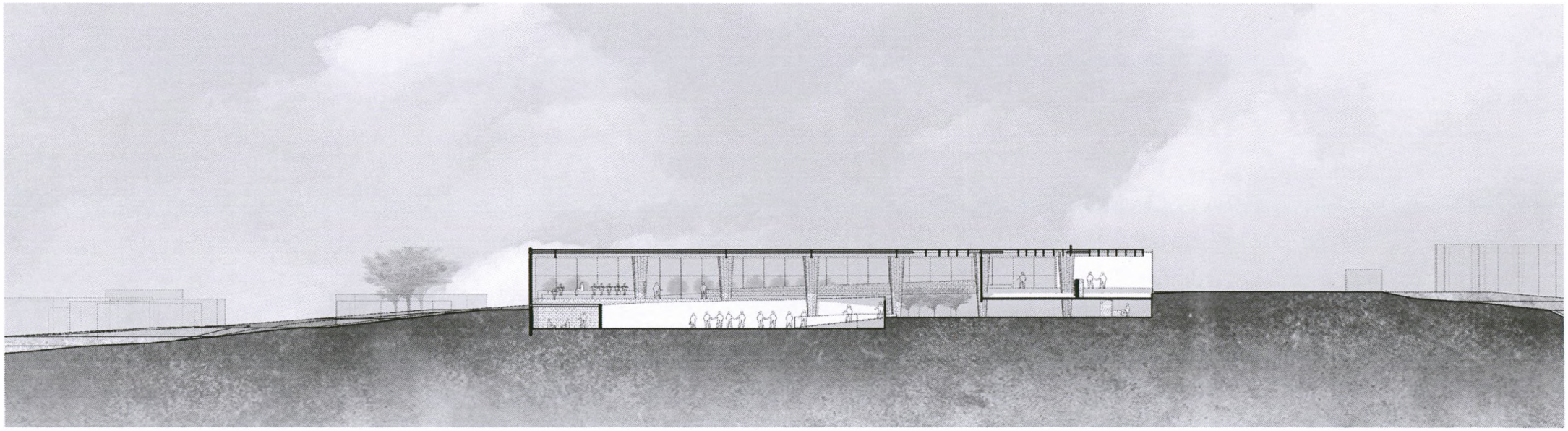

Section C-C
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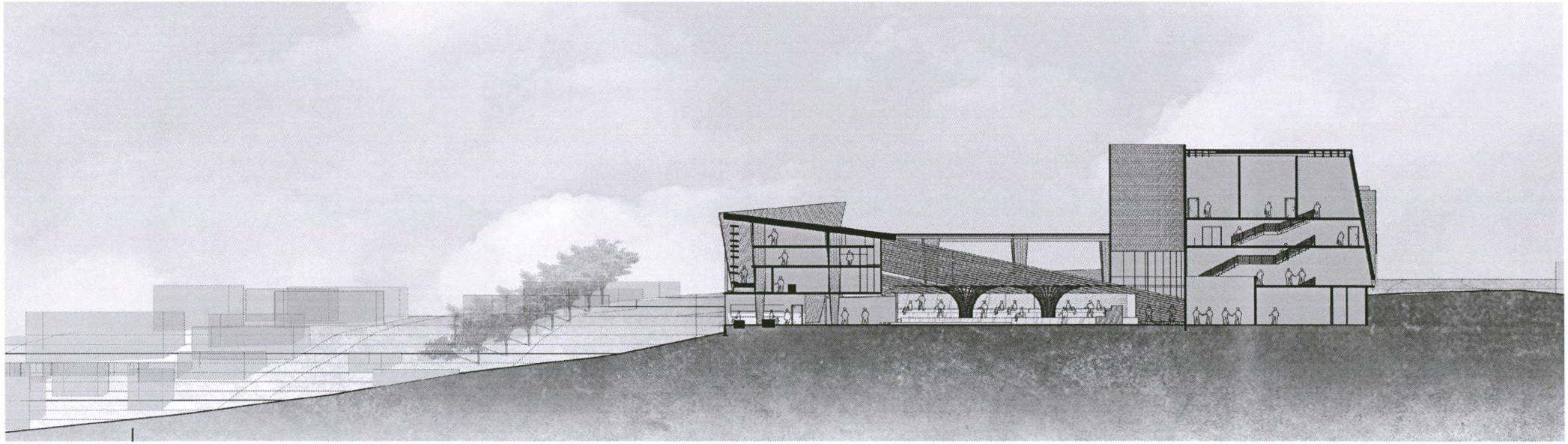

Section D-D
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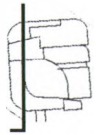
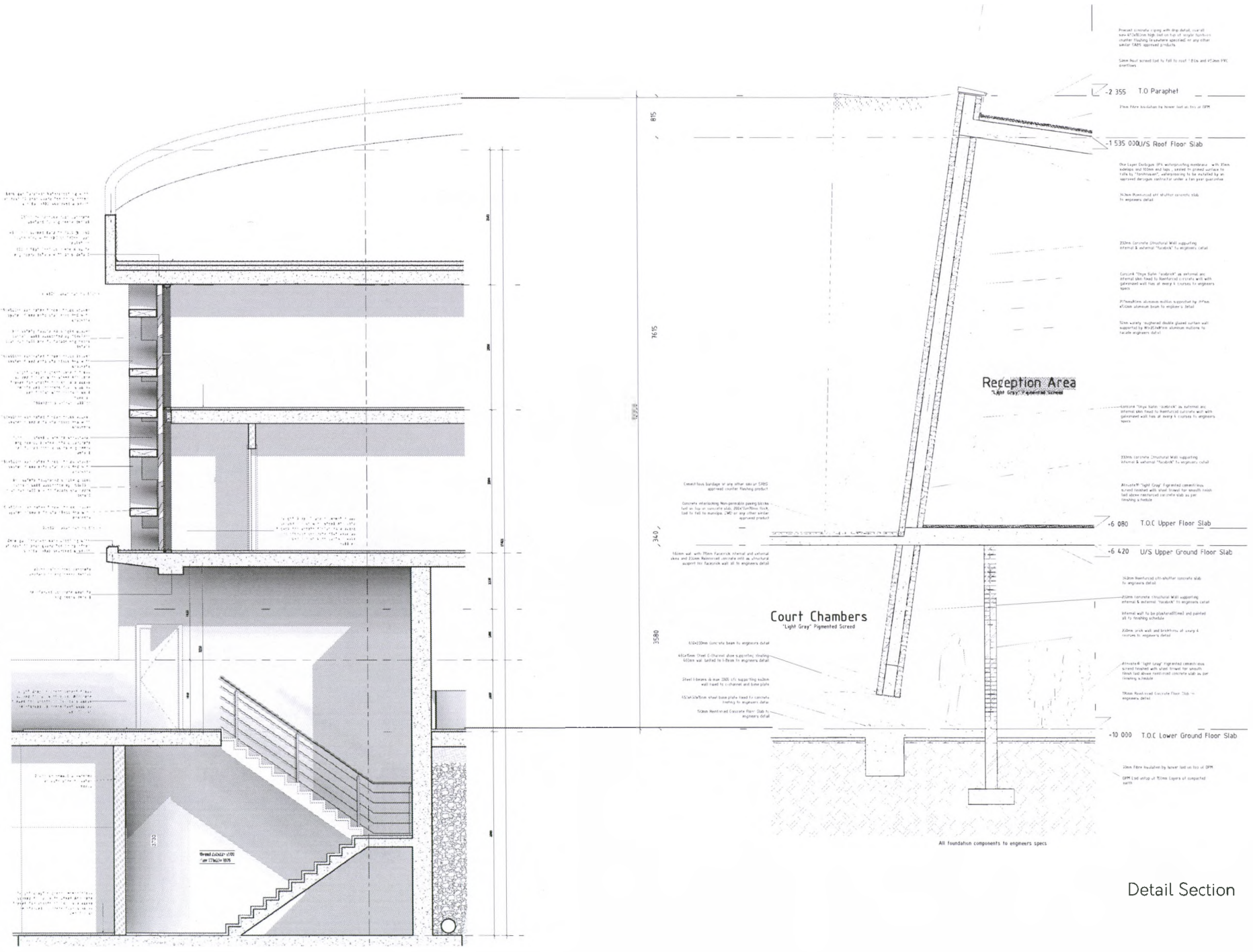
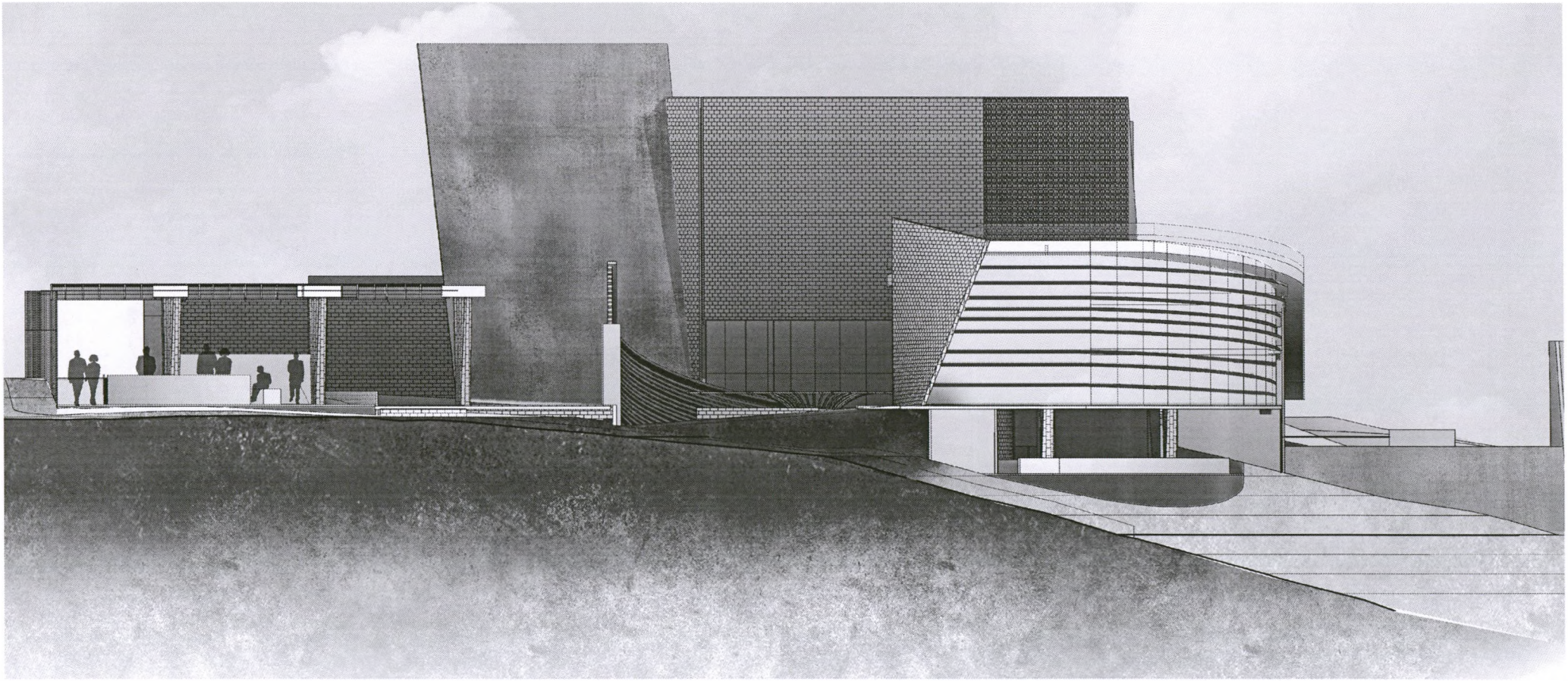




Detail Section



East Elevation
Scale 1:500

Section A-A
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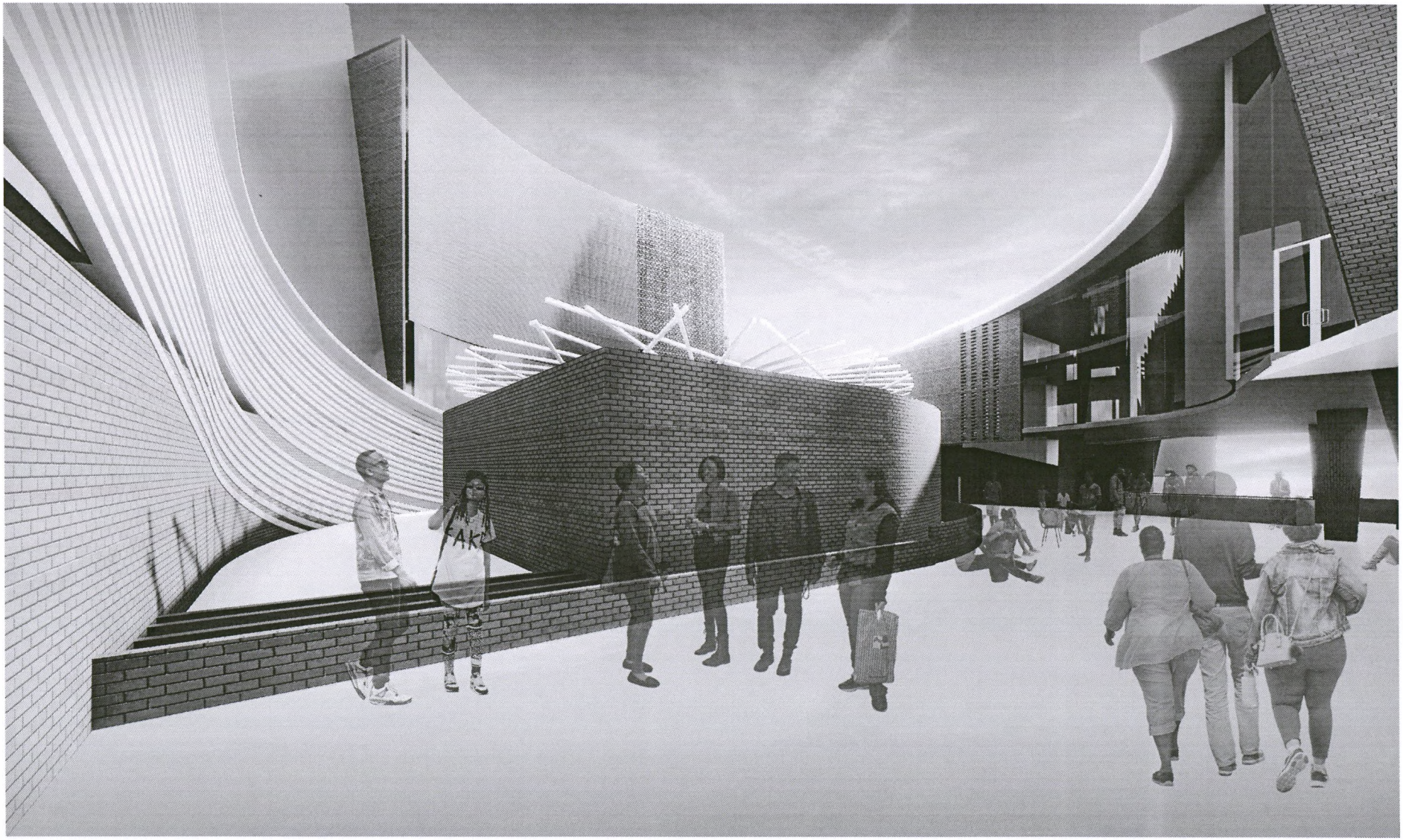

Inkantolo yomhlaba
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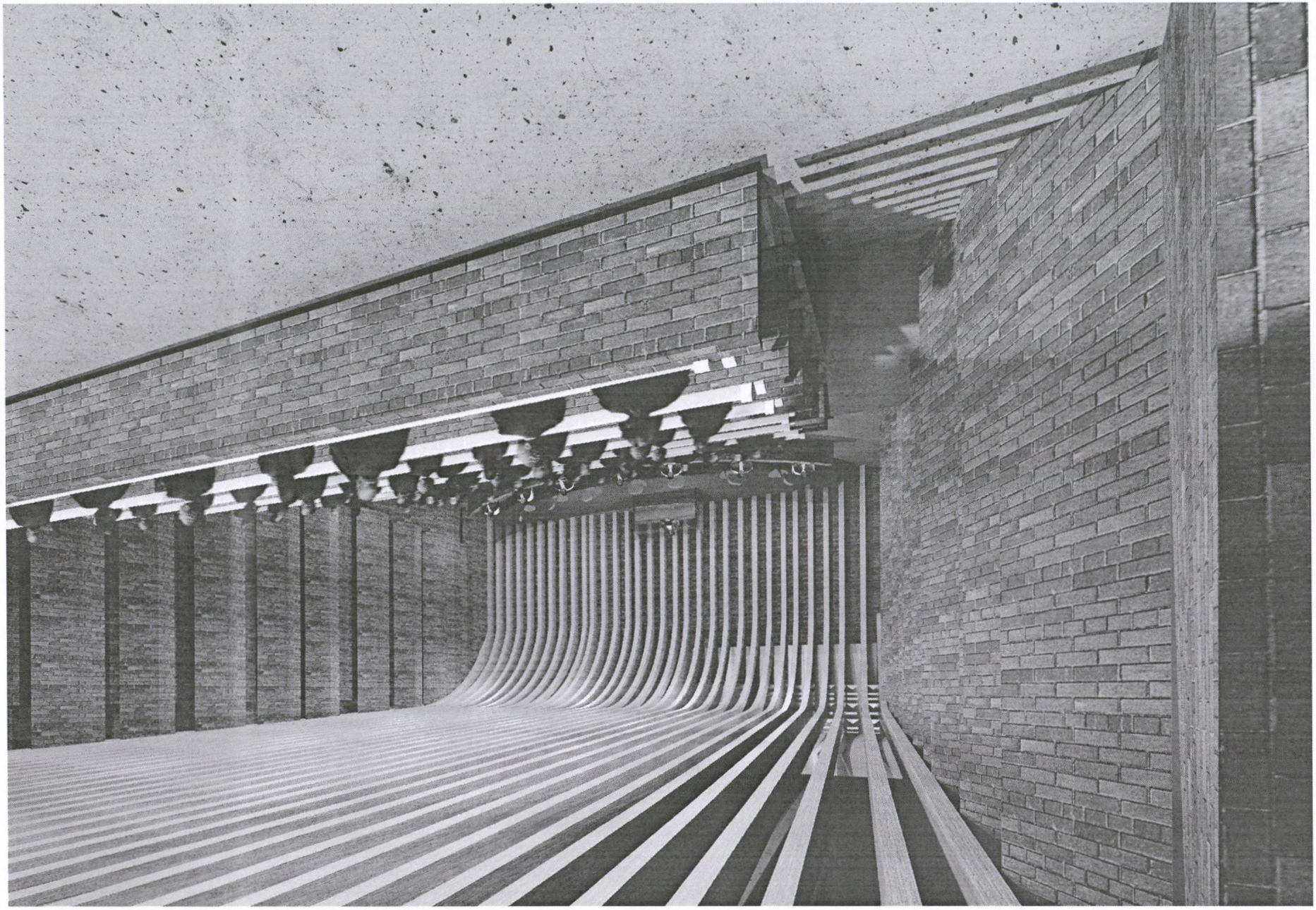

The research report was a challenge especially as I was attempting to create architecture from a sensitive subject such as land in the current political climate.

I struggled to let my participants understand that this research was purely for academic purposes as they felt that their issues should be published in the media.

I learnt that I speak of politics from a point of privilege because for many of the people in Cato Manor, the ANC is their bread and butter and they were patient with the land claims process as they were patient with the party. I, Nqobile am a masters student moved by this story but at the end of the day, I go home to Parktown, Wits Junction and go on twitter daily to see what the politics effecting South Africans are. It effects me economically but not at the level at which most of these claimants experience. Its politics that gave the claimants their houses, its a truck organised by the ANC every Thursday that provides them without enough bread for the week. Its a system that they abide by willingly because at grass root level, it works.

Furthermore there is a need for such investigations in the world of Architecture. African tectonics are relevant and unexplored adequately. I hope to contribute further in this discussion.

Speaking to open minded academics fueled the research process, Scholars such as Debbie Whelan, who had bridged the gap between politics and space in the province of Kwa Zulu Natal lead me to understand the importance of my research. It was important that I did not stray from the purpose of this degree, at that is to design a building.

The critical question I asked my supervisor was what do these spaces look like. That was the crux of the design development. That was the building. A merger that gave people hope and understanding of a system that was designed for them but not necessarily by them.

My interest is in spaces that accommodate people like my grandmothers,uncles,aunts,smart people with a wealth of knowledge but who loathe going to public municipal spaces because they are consistently misunderstood and upset because they are undermined in a system that they do not holistically live by but must abide to.



Figure 00.0 Cato Manor by Author , 2017

Figure 01.1 Cato Manor to Durban by Author, 2017

Figure 01.2 Prologue

Figure 01.3 Cato Street in Durban by Author,2017

Figure 01.4 Durban geographic information system (2017). Durban. [image] Available at: http://gis.durban.gov.za/GIS_Website/PublicViewer/ [Accessed 20 Apr.2017].

Figure 01. 5Authors Own adapted from Durban geographic information system (2017). Durban. [image]

Available at: http://gis.durban.gov.za/GIS_Website/PublicViewer/ [Accessed 20 Feb. 2017]

Figure 01: 6 Badsha, O. (1981). Street perfomance Durban. [image] Available at: https://www.google.co.za [Accessed on: 22 April 2017]

Figure 01:7 Authors Own adapted from Durban geographic information system (2017). Durban. [image] Available at: http://gis.durban.gov.za/GIS_Website/PublicViewer/ [Accessed 20 Apr. 2017].4

Figure 01:8 A Zulu woman and space by Author, 2017

Figure 01.9 Investigations on how the court touches the land in Cato Manor by Author, 2017

Figure 01.10 Ted Talk by Alejandro Aravena (2017). Chile.[image] Avaliable at: https://www.ted.com/talks/alejandro_aravena_my_architectural_philosophy_bring_the_community_into_the_process

Figure 01.11 Nelspruit Leglisature by author, 2017

Figure 01.12 Red Location by author, 2017

Figure 01.13 Red Location External View by author, 2017

Figure 01.13 Red Location External View by author, 2017

Figure 01.14 Red Location External View by author, 2017

Figure 01.15 Mhlongo, S. (2016). Site Plan. Final History Con Hill (2016). Johannesburg. [sketch]

Figure 01.16 Mhlongo,S. (2016). Axis from Hillbrow and Braamfontein.Final History Con Hill Johannesburg. [sketch]

Figure 01.16 Mhlongo, S. (2016). Visual Acc18ess. Final History Con Hill (2016). Johannesburg. [sketch]

Figure 01.17 Mhlongo, S. (2016). Visual Access 2. Final History Con Hill (2016). Johannesburg. [sketch]

Figure 01.18 Mhlongo, S. (2016). Form. Final History Con Hill (2016). Johannesburg. [sketch]

Figure 01.19 Mhlongo, S. (2016). Section through Constitutional Court. Final History Con Hill (2016). Johannesburg. [sketch]

Figure 01.19 Mhlongo, S. (2016). Elevation of Constitutional Court. Final History Con Hill (2016). Johannesburg. [sketch]'

Figure 01.20Mhlongo, S. (2016). Elevation of Constitutional Court. Final History Con Hill (2016). Johannesburg. [sketch]

Figure 01.21Mhlongo, S. (2016). Elevation of Constitutional Court. Final History Con Hill (2016). Johannesburg. [sketch]

Figure 01.22 Exterior view of the Land claims court by author, 2017

Figure 01.23 Interior view of the land claims court by author, 2017 (sketch]

Figure 01.24: Exterior view of the Land Claims Commission by author, 2017 [photograph]

Figure 01.25 Interior view of the Land Claims Commission by author, 2017. [photograph]

Figure 01.26 Interior view of the Land Claims Commission by author, 2017. [photograph]

Figure 01.27 Mhlaba, Dumisani. 2009. "The Indigenous Architecture of KwaZulu-Natal in the Late 20th Century." Thesis. http://researchspace.ukzn.ac.za/handle/10413/2646

Figure 01.28 Amazimtoti Induna's court by author, 2017

Figure 01.29 Mhlaba, Dumisani. 2009. "The Indigenous Architecture of KwaZulu-Natal in the Late 20th Century." Thesis. http://researchspace.ukzn.ac.za/handle/10413/2646.

Chapter 2

Figure 02.30 Dispossed authors own, images taken from Johannesburg Art Gallery, A Labour of Love, 2017. [photographs]

Figure 02.31

Figure 02.32 Mhlaba, Dumisani. 2009. "The Indigenous Architecture of KwaZulu-Natal in the Late 20th Century." Thesis. http://researchspace.ukzn.ac.za/handle/10413/2646.

Figure 02.33 Weinberg, Paul. 1984. Travelling light. South Africa. Avaliable at: http://www.sahistory.org.za/article/forced-removals-south-africa

Figure 02.34: George Cato Residence, 2003, exhibition, Cato Manor Heritage Centre, Durban, Kwa Zulu Natal.

F Figure 02.35 . (1982). S. St Bouruin papers. Newspaper Clipping] Killie Campbel Library, 99/42. urban.Figure 01.36 Bourquin, S. (1970). S. St Bouruin papers. [photographs] Killie Campbel

Figure 02.37 Bourquin, S. (1982). S. St Bourquin papers. Newspaper Clipping] Killie Campbel Library, 99/42. urban.

Figure 02.38 Bourquin, S. (1982). S. St Bourquin papers. Newspaper Clipping] Killie Campbel Library, 99/42. urban.

Figure 02.40 Footprints by author, 2017 (collage)

Chapter 3

Figure 03.43: Whose land is it anyway, authors own, 2017 (collage)

Figure 03.44 Seekers of land (2017)Johannesburg. [image] Avaliable at: Seekers of land/facebook.

Figure 03.45 No more shacks in Umkhumbane.(1982). S. St Bourquin papers. photographss] Killie Campbel Library, 99/42. urban.

Figure 03.46:Cato Manor Development Agency. Durban geographic information system (2017). Durban. [image] Available at: http://gis.durban.gov.za/GIS_Website/PublicViewer/ [Accessed 13 Apr. 2017].

Chapter 4

Figure 04.47 Cato Manor by author, 2017

Figure 04.48 Cato Manor Land ownership

Figure 04.49 Land Claims Cato Manor

Figure 04.50 Mathe, M. New Dunbar (2017) Durban. [photograph]

Figure 04.51 Mathe, M. New Dunbar (2017) Durban. [photograph]

Figure 04.53 Mathe, M. New Dunbar (2017) Durban. [photograph]

Figure 04.54 Mathe, M. New Dunbar (2017) Durban. [photograph]

Figure 04.55 Mathe, M. New Dunbar (2017) Durban. [photograph]

Fig 04.56: Site model beginning by author, 2017

Fig 04.57: Site model beginning by author, 2017

Fig 04.58: Site 3 by author, 2017

Figure 04.58-05.70 Mathe, M. New Dunbar (2017) Durban. [photograph]

Figure 05.70 Cato Manor Housing, authors own, 2017 (photograph)

Figure 05.71 Cato Manor Public Buildings, authors own, 2017 (collage)

Figure 05.72 Journey, authors own, 2017 (model)

Figure 05.73 Form, authors own,2017 (model)

Figure 05.75 Flow chart, authors own, 2017(collage)

Figure 05.76 (1994)Newspaper excerpt, Election Attitudes(Durban Daily News, 1994) uMkhumbane Archives.

Figure 05.77 The proposed manner in which the land claims court would run, author own, 2017 (diagram)

Figure 05.78 Site 3, authors own, 2017

Figure 05.79 Form , authors own, 2017

Figure 05.80 The form , authors own, 2017

Figure 05.81 Access, authors own, 2017

Figure 05.82 Circulation, authors own, 2017

Figure 0582 Circulation, authors own, 2017

Figure 05.83 Circulation, authors own, 2017

Figure 05.85 Digging into the earth, authors own, 2017

Figure 05.86 Digging through the earth , authors own, 2017

Figure 05.87 Building on the earth, authors own, 2017

Figure 05.88 Building for the earth, authors own, 2017

Figure 0589 Building for the earth, authors own, 2017

Figure 05.90 Site model complete , authors own, 2017

Figure 05.91 Site model complete , authors own, 2017

Figure 05.92 Site model complete, authors own, 2017

Figure 05.93 Concept Model, authors own, 2017

Figure 05.94 Taxi main Route, authors own,2017 (site)

Figure 05.95 Movement Intensity, authors own, 2017(site)

Figure05.96 Site – Form , authors own , 2017(site)

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152