

Pre-empting the need for unauthorised land occupation

Presentation by Ronald Eglin
from Afesis-corplan
at Public Interest Law Gathering
30 August 2016
Gauteng



Afesis-corplan

- Developmental NGO based in East London
- Promoting active citizenship and good governance (with emphasis on land for settlement)
- www.afesis.org.za



Dealing with unauthorised land occupation

Adopt a three prong approach*

1. Acquire and develop land so occupation does not happen in *future*
2. Deal with occupation that happened in the *past*
3. Respond lawfully to occupation that is happening in the *present*

*Drawing on research done by the Housing Development Agency on 'Managing and Curbing Unauthorised Land Occupation'

3

The challenge

- The housing backlog grew from 1.5 million in 1994 to 2.1 million in 2014.
- The state housing delivery rate has been slowing from around 200,000 houses/year in the 1990's to just over 100,000 houses/year in 2013/4.
- **At current delivery rates it will take more than 20 years to just address the housing backlog** (excluding new household formation and urbanisation).

South Africa's Housing Conundrum, SAIRR, @liberty, No 4, 2015/6
October 2015/Issue 20

<http://iir.org.za/reports-and-publications/atLiberty/files/liberty-2013-south-africas-housing-conundrum>



- The existing approach got us here.
 - We have to try something new if we are to make serious in-roads into our housing challenge
- It is therefore proposed we shift:
 - away from the RDP (depth) approach housing
 - towards an incremental settlement (width) approach

5

The Bill of Rights

- Before unpacking the width and depth approaches lets remind ourselves of what the Bill of Rights says.
- The state must take reasonable legislative and other measures, within its available resources, to:
 - (S25.5) foster conditions which enable citizens to gain access to land on an equitable basis.
 - (S26.3) achieve the progressive realisation of [the right of everyone to have access to adequate housing].
 - (s27.1) achieve the progressive realisation of [the right to have access to sufficient water].
 - (s24.b.1) prevent pollution
- In other words, government must balance multiple rights, including land, housing, water and sanitation

Depth vs. Width: explanation

Depth

- Few people get more product now (e.g. RDP house)
- Rest get more product later
- In mean time the rest have to wait in informal settlements

Width

- More people get less product now (e.g. basic serviced plot)
- These people get more product later
- In mean time they can improve their own houses

Depth vs. Width: diagramme

depth

	Period 1		
Full			
Mid			
Basic	😊	😞	😞
	Period 2		
Full			
Mid			
Basic			😞
	Period 3		
Full			
Mid			
basic	😊	😊	😊
	Area 1	Area 2	Area 3

width

	Period 1		
Full			
Mid			
Basic	😊	😊	😊
	Period 2		
Full			
Mid			
Basic			
	Period 3		
Full			
Mid			
basic	😊	😊	😊
	Area 1	Area 2	Area 3

Depth vs. Width: examples

- The state provides the following products at the start:

Depth	Width
Services per site	Basic services (at least) per community
Erf with title deeds	Plot with tenure recognition (at least)
40 m2 top structure	Housing support (e.g. building advice, bulk buying support, etc.)
Total = > R160 000/ site	Total < R40 000/ site

- With available resources, the width approach can provide at least 3 times more people with land and basic services each year .

Depth vs. Width: Comparison

- Both depth and width approaches achieve progressive realisation of right to adequate housing
- But width more:
 - equitable** in that more people at least have access to land earlier in process
 - dignified** in that more people (for example) don't have to use bush for toilet
- Width also reduces 'pressure' for households to occupy land without authorisation.

Moving back to Width?

- It can be argued that the original RDP housing approach was more of a width approach, but over time – as housing standards increased - it shifted to become more of a depth approach
- The new pre-draft Human Settlement white paper can be interpreted as a shift back to a more width approach – with its emphasis on serviced sites for people younger than 65

11

Taking width to its logical conclusion

- Shift resources away from depth (RDP) approach and focus more on width (incremental settlement – MLS and UISP), while:
 - still providing for mixed responses so as to address multiple objectives
 - top structures for destitute (aged, special needs housing)
 - higher densities in restructuring zones (social housing)
 - rural development

Implications of adopting width approach

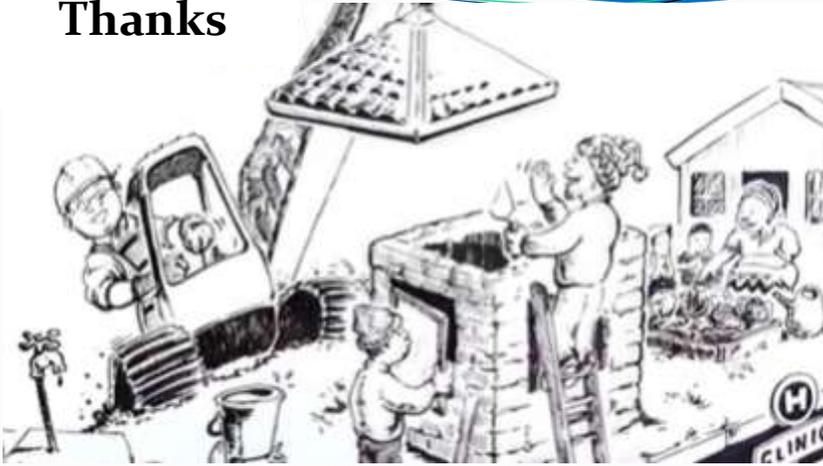
1. Needs government to start with 'basic' tenure and services as part of **incremental settlement** (Managed Land Settlement & Upgrading Informal Settlement) approach
2. Needs much more **land** to be made available in shorter period of time to accommodate all these incremental settlement areas
3. Needs land and housing subsidy **allocation system** to be reviewed so allocation to incremental settlement areas is fair
4. Needs government to provide **development support** to help people to help themselves so government can show its progressively helping people achieve adequate housing
5. Needs more **targeted interventions** to address:
 - Destitute and special needs (e.g. special need housing)
 - Spatial restructuring (e.g. social housing in restructuring zones)

13

Do we need to establish legal precedent?

- *Grootboom* case 'forced' government to introduce emergency housing programme
 - Evicted community living in terrible conditions asked government to provide them with temporary housing
- Do we need a new, as yet unidentified future case to 'force' government to follow a more equitable and dignified width approach?
 - An as yet unidentified group of people who have been living for years in intolerable conditions asks government to allow them to settle in an incremental settlement

Thanks



Ronald Eglin
ronald@afesis.org.za