



The struggle for property ownership in New Crossroads

The 'tandpyn' that won't go away

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EXECUTIVE SUMMARY

This document explores the intended and unintended consequences of home ownership for poor citizens living in formal settlements in post-apartheid South Africa, focusing on New Crossroads in Cape Town, a relatively small, urban community of 20 000 people.

Using a case study approach, the document explores issues related to tenure security, the process and influence of an uneven registration of tenure or 'titting', the nature and value of property (rights and obligations) for the City of Cape Town and local residents, and what 'ownership' means for the community's largely poor residents.

New Crossroads was the first formal housing settlement for people classified as African built in the Western Cape since the 1960s. A negotiated settlement between government and residents in 1979 promised the upgrade of Old Crossroads and the establishment of a nearby formal township, but only the first phase of the development was completed. This was followed by a series of internal conflicts and power struggles, leaving New Crossroads a traumatised and frustrated community.

The Mandlovu Development Initiative (now a Trust) is an NGO focusing on social and community development. It pioneered its own approach to development in New Crossroads through a pilot project it ran between 2001 and 2006 called Mayenzeke (meaning Let's Make it Happen). The tenure and housing research began during this period.

In 2003/4, at the request of the New Crossroads branch of the South African National Civic Organisation (Sanco), the Mandlovu Development Initiative produced a socio-economic baseline study of the community. Findings pointed to an uneven 'titting' and transfer process, resulting in confusion and insecure rights, a poorly-developed link between place and belonging or citizenship and considerable confusion as to who takes responsibility for what when it comes to repairs and maintenance of council-owned or transferred council housing.

In addition, the study identified residents' confusion over how houses were valued and rates calculated in the 2000 property valuation as a critical and continuing problem. Services and rental arrears and a less-than-enabling institutional and political environment completed the dismal picture.

Despite persistent efforts by the New Crossroads residents supported by Mandlovu to find answers to their questions, housing and tenure challenges continued to be overshadowed by other municipal priorities and concerns throughout 2004/5.

After the new Municipal Property Rates Act came into effect, the City of Cape Town undertook an extensive re-valuation of properties across the city in 2006 and notified all rate-paying households, including homeowners in New Crossroads, that the city's new property valuation roll was open for public inspection. A 2008 investigation by Mandlovu showed that residents of New Crossroads failed to participate in this process.

Mandlovu's study showed that residents living in low-income housing settlements like New Crossroads do not fully comprehend, and as a consequence do not identify with or relate to, complex property-related concepts such as 'rates' and accompanying homeownership rights and obligations. As a consequence they do not actively communicate with municipalities regarding property-related matters.

The study also revealed that this lack of engagement on property valuations was not limited to New Crossroads but extended to other low-income areas.

Individual case studies of rates, rental and services issues formed part of Mandlovu's 2008 investigation. These highlight how much time, energy and money poor people spend trying to understand existing ownership and occupational rights as well as municipal debt.



The study found that municipal accounts, as the City of Cape Town now presents them, obscure rather than explain amounts owing for arrears and current costs, leading to increased confusion among residents.

The report concludes with a section on challenges, lessons learnt and the route ahead. It highlights the fact that a community's settlement history during the apartheid years has an influence on, and informs how, residents view housing rights and relate to changing government administrations, especially local government.

The report also points out that an asset (land or housing) cannot simply be delivered from 'above' without educating the recipients about the consequences arising from owning these assets. Simply put, the way in which assets are transferred is as important as what is delivered.

The document also highlights how institutional instability and uncooperative governance have a negative influence on residents' ability to resolve civic issues and challenges. In addition the study identifies the need for municipalities to communicate policy instruments on offer and engage at local level in order to ensure that policies become more widely known.

As part of the route ahead, the report suggests the development of a community-based programme of action for New Crossroads and identifies some priority issues to be tackled.



INTRODUCTION

According to the 2008 *Presidential Review*, 9,9 million South African citizens gained access to housing through 2 353 999 government housing subsidies totalling R48,5 billion, and 1,4 million citizens gained access to land at a cost of R12,5 billion between 1994 and 2008.¹ The review also tells us that government is not able to demonstrate, with any precision, qualitative changes (negative or positive) arising out of its policy and macro-level interventions aimed at improving the access of poor citizens to basic services, land, housing, education or healthcare.

Trends and patterns in this direction are often best captured by micro-level studies such as this, which explore the consequences and uneven impact of housing and 'tenure' delivered 'from above', a messy local government transitional process, and a period of sustained institutional instability and uncooperative governance between the various spheres of government in the Western Cape since 1994.²



1 For a comprehensive overview on government's performance and outcomes since 1994 see *Towards a Fifteen Year Review* (2008), Office of the Presidency.

2 The case study draws on a range of historical and contemporary information which includes a vast archive on Crossroads which the Mandlovu Development Institute has direct access to, and has used, to undertake action-research and community-based projects in New Crossroads and the surrounding settlements; the results of an extensive community-based survey undertaken between 2003 and 2004 on housing and tenure challenges at the time; primary and secondary data captured in maps, documents, reports, and briefing documents produced and circulated by Mandlovu to various government officials in the City of Cape Town, Province and Deeds Office; minutes of meetings held with a range of role-players; and findings from a second research phase funded by Urban LandMark, aimed at updating, expanding and deepening earlier findings and, where appropriate, identifying trends, dynamics and potential solutions.

NEW CROSSROADS

The establishment of New Crossroads in 1980 was a watershed. It was the first formal housing settlement built for people classified as African since the 1960s, in a province that denied them a right to permanent residence in terms of the Coloured Labour Preference Policy. The settlement, bounded by Gugulethu, Nyanga East, and KTC, is a direct offshoot of the once infamous (Old) Crossroads community.³

New Crossroads has its genesis in a negotiated settlement – brokered between Dr Piet Koornhof and community leaders – that would divide Crossroads into two spaces that became popularly known as Old and New Crossroads. The settlement was founded on the promise of a three-phased development – the upgrade of Old Crossroads and establishment of a nearby formal township anticipated to take place in two phases.

But things did not go according to plan. Only Phase 1, consisting of 1 731 houses, was built and none of the additional community facilities Koornhof had promised to lure residents to leave (Old) Crossroads materialised.

The ability of New Crossroads residents to challenge any breaches of the 1979 Koornhof ‘deal’ was overtaken by external political events. For example, Phase 2 was scuttled by a land invasion that took place on the vacant piece of land between Terminus Road and NY5 that was earmarked for the New Crossroads

development in 1983, eventually becoming KTC. In the same year, the government announced a new urban strategy – the resettlement of all African residents in a new township – Khayelitsha.

Throughout the 1980s the community found itself caught up in continuing internal power struggles and conflicts that dovetailed with and fuelled the turbulent unrest and civil war that characterised 1980s township life in and around the city.

By the time South Africa’s democratic transition arrived in 1994, New Crossroads had become a traumatised and divided community, with memories of unfulfilled aspirations and broken dreams lingering on in the hearts and minds of local residents. This is the historical lens that pervades and underpins how New Crossroads’ residents interact with government on housing-related and local administration issues.



³ Crossroads is well remembered for its courageous women who spearheaded the struggle of ‘illegal’ African residents living in Cape Town for the right to live and work in the Western Cape in the late 1970s, and for spawning male vigilantes (witdoeke) who, in collusion with state security forces, forcibly removed thousands of residents living on its periphery in 1986.

A BENCHMARK STUDY: 2003 TO 2004

A new phase in housing and tenure challenges began in 2002 when the New Crossroads branch of Sanco approached the Mandlovu Development Initiative to assist them to unravel the causes behind continuing housing evictions and basic service delivery problems bedevilling residents. This situation was compounded by the fact that the nearby Nyanga Housing Office had no data at hand to assist residents or Sanco to resolve these problems.

In response, Mandlovu created an action-research study as part of its continuing community-based Mayenzeke eNew Crossroads Project.⁴ The study had three components: a review of existing housing policy (city and provincial); an overview of the community's settlement and housing history; and a community-based household survey capturing demographic, housing, tenure and social infrastructure data.

Given the sensitive and highly politicised nature of housing in the settlement, Mandlovu adopted a voluntary and transparent approach, with data collected from residents at a number of local and well-publicised venues (crèches

and the local Youth Centre) across the settlement's three sections.⁵

The outcome of the three-month process was an invaluable socio-economic baseline study on the community as well as case files for each interviewee, a series of maps spatially capturing key information (high valuations, title deeds), produced with the assistance of University of Cape Town (UCT) students and a series of reports (English and Xhosa) on key findings, trends, and challenges.

Results of the overall study were presented to residents and debated at extensively publicised and well attended report-back workshops held in all three sections in New Crossroads in 2003.⁶



⁴ Mayenzeke eNew Crossroads was an integrated and interactive pilot project designed and facilitated by Mandlovu between 2001 and 2006. Its outcomes and lessons became the basis for the Mandlovu overall approach and key focal areas for its community and social development programmes.

⁵ This approach was based on the assumption that housing, ownership and occupation were 'hot' issues in the community and that a voluntary approach placed the right to choose to give or withhold information squarely in the hands of local residents.

⁶ There was a high level of community participation, with data collected from 910 out of a total of 1 731 households (53%), a clear indicator that local residents were more than keen to make their voices heard on housing and related issues.



KEY FINDINGS

An uneven 'titting' and transfer process

Between 1996 and 2001 residents from New Crossroads were given three macro-level opportunities facilitated by different local government administrations to transfer public rental property into individually registered 'titles'.

Some households did not take up the titling opportunity, because they were not sure about what was being offered, were out of town at the time, could not afford transfer costs (the original 'Nikezela' transfer in 1996 was free) or, in the case of a small neighbourhood in New Crossroads (Section 11), were excluded from the township register, leaving residents confused and excluded from ownership rights.⁷

Residents who transferred rental houses into their names in 1996 were issued with a Certificate of Registered Grant of Leasehold as seen in Figure 1. These certificates were issued by the then Central Substructure in terms of Section 57b of Act 4 of 1984 and registered by the Registrar of Deeds. Aspirant homeowners who applied in 1998 received a different document, a Deed of Transfer, issued under The Upgrading of Land Tenure Rights Act No 112 of 1991, also registered by the Registrar of Deeds.

A third large-scale titling process took place in 2001 when the City of Cape Town's Unicity Administration (Housing Directorate) informed Nyanga residents that those who qualified would be assisted to obtain ownership of houses they were presently occupying as tenants (see Figure 2 on p13).

The manner in which the transfer and registration process took place in the former Black Local Authorities (BLAs)

as well as different pieces of legislation implemented by three different local government administrations, left many residents confused and uncertain about the exact status of rights conferred and delivered to them.⁸ This lack of certainty left them with a weak sense of tenure security, with no guarantees against eviction.

Tenure security and a sense of belonging

The inclusion and exclusion of groups of citizens to rights that regulate access, occupation and ownership of physical space (land and housing) lies at the heart of South Africa's highly contested colonial, apartheid and post-apartheid history. Although the new South African Constitution of 1996 creates a direct link between the concept of citizenship and rights in a post-apartheid context, the link between place and belonging (citizenship) remains poorly developed in South African development discourse and practice.


Many New Crossroads residents have spent many years struggling for the right to live and work in the Western Cape. For them a clear link exists between access to place and a sense of belonging. In other words, having an unambiguous sense of security of tenure enshrined in a piece of paper that is exactly the same as the title deed of the homeowner who lives in Constantia, becomes an important indicator of equal rights to citizenship and belonging in the Western Cape.

In addition, because New Crossroads was built out of local struggle, this community has a strong and widely-held popular belief that although the land and houses in question may be formally administered by various city administrations, the houses actually belong to New Crossroads residents.⁹

⁷ Nikezela took the form of a written notice circulated by the Nyanga Township Manager on 28 August 1996. The notice, written in English, invited occupants and owners of houses in the area to come to the Housing Office on 5 September 1996 between 09:00 and 13:00 'where [they would] receive full details of how [a] unique offer [a discount of up to R7 500 to purchase a house] could change [their] life'. This is how the titling process began that would catapult residents from New Crossroads into a top-down government home-ownership scheme in 1996.

⁸ A notice to this effect, issued by the city in July 2001, sets out terms, procedures and costs involved – R165 for the legal and transfer costs. The notice informed residents that Arcus Gibb had been appointed as the company to facilitate the process, in close liaison with the Nyanga Housing Office.

⁹ In New Crossroads, where having a 'title deed' symbolises a right of belonging and citizenship for African citizens in the city and in the Western Cape, having or not having a formally registered 'title deed' is a highly politicised and emotive issue. This scenario is overlaid by another social reality in the city – the way in which residents who relocated to the city from the deep rural villages of the Eastern Cape have been historically viewed (and stigmatised) by more urbanised residents (Langa and Gugulethu) as amagaduka – migrants or outsiders in the city.



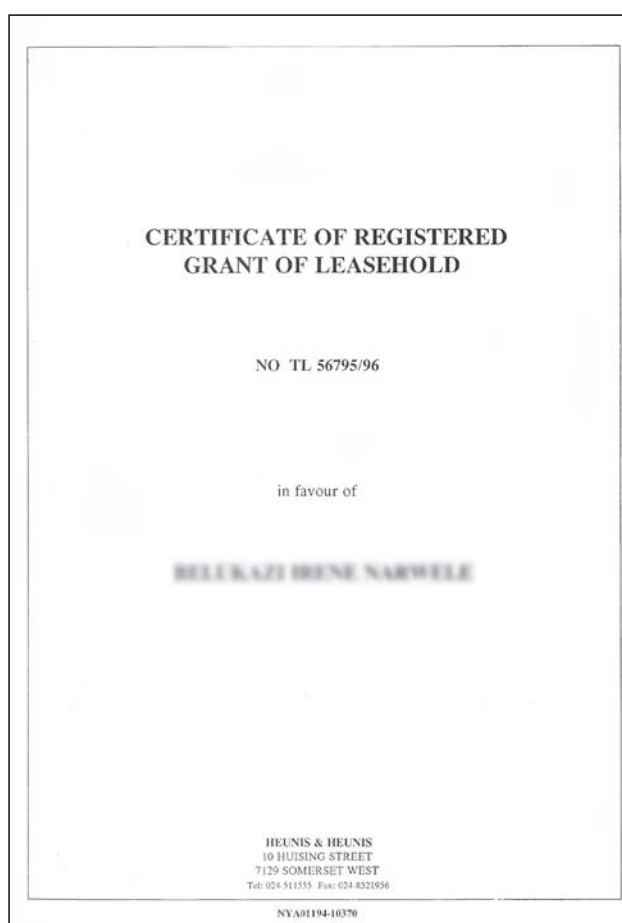


Figure 1: An example of the 1996 Grant of Leasehold issued to some residents.



Making improvements to homes

The survey highlighted considerable confusion then (as now) as to who takes responsibility for repairs and maintenance of council-owned or transferred council housing. Many residents interviewed at the time reported maintenance problems, with little evidence that houses had been routinely maintained or repaired by the city's various administrations post-1980.

There was clearly no evidence of houses being repaired by the iKapa administration before the first round of housing transfers took place in the late 1990s. In some cases, house owners who knew they were responsible for doing the repairs themselves often did not do repairs, either because they didn't have the necessary funds, or because they lacked the documents (title deeds) to prove that they were the legitimate property owners.

In a community like New Crossroads, investing in repairing and maintaining property, including renovations, is directly linked to clarity on the status of rights related to occupation and ownership.¹⁰

Property valuations and the housing market

In South Africa, where the formal township housing market is often described as inactive or 'dysfunctional', very little is known about informal housing markets, although growing anecdotal evidence indicates that the latter is functioning and that 'RDP houses' are often sold informally at prices well

below what it costs to build them – an issue highly relevant to the study.¹¹

The baseline study captured anecdotal evidence, rather than factual data, on housing transfers taking place, usually within families. This included allegations from residents that some houses had been 'taken' from insecure 'owners' and occupants and were being 'illegally' occupied by more powerful individuals in the community – a highly contentious and as yet unresolved issue for this community.

Confusion concerning how houses were valued and rates calculated in the 2000 property valuation was identified as a critical and continuing problem. In some cases rates (not rental) were being charged to residents who did not legally own their houses, which is a continuing problem and, in other cases, households were receiving two accounts – one for rates and another for rental. Questions were also asked about how valuations had been determined.¹²

Services and rental arrears

Non-payment for basic services and rental arrears has bedevilled the post-apartheid government from the onset of democracy. At the time of the original survey most households had services and rental arrears, many of which were high water bills of between R5 000 and R7 000.¹³

¹⁰ Some residents in the community argue that they were 'fooled' (perhaps by the people doing the transfer in 1996/7) into believing that the council was still coming to repair their houses after the transfer deal was completed. The end result was an entire community whose houses were in disrepair and, unless they could find their own funds to maintain them, had become the owners of a slowly depreciating asset. Houses belonging to council at the time were no better off. About 110 respondents living in rented houses complained that their houses needed urgent repairs (for example, leaking roofs and pipes).

¹¹ A benchmark study on the township market in South Africa (FinMark Trust 2005) revealed critical findings that confirmed the existence of a 'dysfunctional' township market. The study showed that the vast majority of home-owners interviewed at the time had a limited interest in a formal sale because their incomes were too low to facilitate their climb up the housing ladder. Others interviewed tended to view their homes as non-tradable social and cultural assets (Cousins et al, 2005). The general picture painted by the FinMark study is one of a dysfunctional housing market with insecure tenure, poor information, and limited [formal] transaction experience on the part of residents in the old townships.

¹² Some houses were valued at between R50 000 and R80 000, while other similar properties on the same street were valued for more or for less. Many residents interviewed were consistently in arrears with their rates or rent and, as a result, could not get their houses transferred into their names until arrears were paid off.

¹³ During this period the council would not hand over title deeds until arrears were paid (nor would they fix houses until arrears were paid in rental situations). The survey revealed a Catch-22 situation in which lack of maintenance by the council (e.g. of leaking water pipes and roofs where they existed) may, in turn, have contributed to what appeared to be unrealistic water accounts that clients could not afford to pay. In some instances, according to our calculations, the council may have owed local residents money for accounts incorrectly charged and paid.



COMMUNITY DEVELOPMENT
Housing *11250*

NOTICE TO ALL NYANGA RESIDENTS

The City of Cape Town Housing Directorate will begin a process of assisting the qualifying residents of Nyanga in obtaining ownership of the properties that they currently occupy. Each successful applicant will be granted a Title Deed over the property to enable them to become homeowners.

In terms of Section 118 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000), each applicant is required to pay all outstanding amounts (arrears) on charged rates and services before a Rate Clearance Certificate can be issued by the City of Cape Town. The Rates Clearance Certificate forms part of the documentation needed to register a title deed at the Deeds Office. Each applicant is required to pay a fee of R25.00 for the issuing of such a certificate.

In terms of the applicable housing policy, each applicant is also required to pay a total of R165.00 for the registration of the Title Deed. This money is needed to pay the lawyers (for conveyancing fees - R110.00) and the government (for transfers duty - R55.00).

When making payment, please indicate to the cashier that the fees for the rates clearance certificate (R25) are to be paid into account number: 707-660-002 and that the registration fees (R165) are to be paid into account number: 713-050-333.

The City of Cape Town has appointed Arcus Gibb to facilitate the project working closely with the Housing Office in Nyanga. A team of fieldworkers (Housing officials) will be visiting your home in Nyanga to assist with the transfer process.

You are kindly requested to co-operate with these fieldworkers as the success of the project depends on your full co-operation.

Please supply the cashier with the following information when making your payment:

1. Erf Number
2. Initial and Surname of the person for whom the payment is made.
3. Identity number if available

Should you have any queries with this notice or the suggested process, please feel free to contact your Housing Office.

Issued by : Acting Director : Housing
(City of Cape Town Administration)

Date : 03 July 2001

Figure 2: A further call from the City of Cape Town requesting Nyanga residents to obtain ownership of their properties.



A less-than-enabling institutional and political environment

Many of the obstacles residents faced in their quest to resolve these tenure, housing, and service delivery issues in New Crossroads are directly linked to the continuing political and institutional instability of local government administration, lack of cooperative governance across the three spheres of government in the Western Cape post-1994, and a general mismatch between the aspirations of local citizens and priorities identified and implemented by public officials and politicians.

Between 1996 and 2001 the Cape Metropolitan area was administered by six metro local councils, and one overarching metropolitan council, with only the City of Cape Town controlled by the African National Congress (ANC). This created a situation of ongoing contestation between the councils, resulting in a lack of metro-wide coordination around issues of social, economic and spatial planning.

In late 1999 the separate municipalities formed the Cape Town Unicity Commission (Unicom). The Unicom was mandated to attend to immediate problems created by the lack of coordination and, more importantly, prepare for the eventual amalgamation of the separate councils by developing a comprehensive management and development plan for a new Unicity administration scheduled to be established after the December 2000 elections.¹⁴

In Cape Town, the elections were won by the Democratic Alliance (DA) which immediately dismissed all work undertaken in the name of the Unicity Committee as activities promoting the interests of the ANC.

The impact of this institutional paralysis was profound and by 2002 the housing backlog in the Western Cape Province was estimated at 310 000 houses. According to officials interviewed, a major problem facing the city at the time was non-payment of services such as water, rates, refuse collection and sewerage.

¹⁴ A political changeover in the City of Cape Town's administration ushered in a level of uncertainty with very little taking place except planning and the development of a comprehensive management and development plan for the newly elected council aimed at enabling it to 'hit the ground running' immediately after the December 2000 local government elections. The focus of this planning was on developing systems and structures for municipal service delivery and economic development, with very little emphasis on establishing systems and structures to promote sustainable services and economic development for the poor.

GOING NOWHERE SLOWLY: 2004 TO 2007



Institutional paralysis had a negative and direct impact on the ability of New Crossroads residents to find solutions to their tenure, housing and service delivery challenges. This was compounded by the fact that issues were inter-linked, requiring intervention and cooperation across various city and provincial departments.

The result was ongoing frustration, as Mandlovu and individual residents struggled to obtain or verify information with officials in various departments who were either not keen to engage on the issues, did not respond to telephonic or written email requests, had other priorities.¹⁵

The Deeds Office becomes involved

A series of briefing meetings took place with community representatives, Mandlovu, the Surveyor General and relevant Deeds Office staff, resulting in two community-based workshops (2004). The workshops aimed to provide Deeds Office staff with an opportunity to explain their role and housing transfer procedures to local residents. Although well-attended and lively occasions, staff from the Deeds Office were unable to relate the substance of their work to a New Crossroads housing context, assuming levels of knowledge about property concepts and systems that did not exist.

Some dedicated Deeds Office staff kept in touch regularly, expressing continued frustration with internal bottle-necks and lack of cooperative governance between the Deeds Office and city with respect to rates and title deed challenges.

Deepening understanding on underlying issues

Discussions within the research team revealed knowledge gaps, one of which was the way in which housing and

property rights were or were not allocated during the BLA era. This prompted University of Cape Town Master's student Patricia Zweig to focus her thesis topic on the role of iKapa in housing allocation and tenure in the city, specifically in New Crossroads.

The thesis confirmed the fact that many of the tenure and land administration conundrums still bedevilling the city and province emanated from this messy period of local government administration, including the informal transfer of homes.¹⁶

The city listens, yet there are no results

After months of trying to meet with someone higher up in the echelons of the city, a New Crossroads delegation comprising community delegates, representatives from Mandlovu, and lawyers from the Legal Resource Centre, met with the then City Manager Wallace Mgoqi in July 2004. After a briefing in which he assured delegates he was 'in their corner', Mgoqi instructed his Director of Strategic Support to establish a task team to resolve the issue.

Although two briefing meetings were held between August and September 2004 at which the role and composition of the task team were clarified, the task team was never established. New Crossroads' housing and tenure challenges were once again overtaken by other municipal priorities and concerns, as well as political mud-slinging between the ANC-led city and the DA-led province.¹⁷

¹⁵ Some officials questioned Mandlovu's mandate to solicit information on behalf of the community. Following months of frustration, this was countered by obtaining a broad mandate in the form of signed proxy letters from as many households interviewed as possible. These households were spatially mapped to indicate the scale of community support across the three New Crossroads zones.

¹⁶ The research, produced as a report for Mandlovu and finalised as a Master's thesis in 2005, has become an invaluable resource and fountain of information on how iKapa was structured, how it operated, and how it eventually became dysfunctional in the city.

¹⁷ While the tenure issue was kept alive by local residents, there was no public interest or support for a deeper investigation into issues raised, with the priority in 2005/6 for national, provincial and local government being housing delivery (quantifiable indicators). This applied particularly to the Western Cape, where debate on the proposed N2 Gateway housing project dominated the housing delivery discourse.



A SPIRIT OF NO SURRENDER: 2007 TO 2008

The April 2006 local government elections ushered in a DA-led municipality characterised by a highly adversarial approach to the ANC-led provincial government, and vice versa, that undermined the principle of cooperative governance enshrined in the South African Constitution. This political inertia was compounded in New Crossroads by the fact that the local ANC ward councillor displayed little interest in championing the housing and tenure concerns of local residents.

At a broader level, significant changes were taking place on the legal front, one of which was a new Municipal Property Rates Act (MPRA).

The Municipal Property Rates Act

The MPRA¹⁷, which was operative from July 2005, is a national law regulating the power of a municipality to value and rate immovable properties (that is, land and buildings) located within its boundaries. Implementation includes the municipality undertaking a general valuation 'of all properties' and satisfactorily dealing with all legal or statutory requirements. This includes a community participation process.¹⁷

In line with this, the City of Cape Town undertook an extensive re-valuation of properties across the city, including formal houses in the BLAs in 2006. The implications of the city's valuation exercise for New Crossroads was a significant increase in overall property values, discussed in more detail in the next section.

Revisiting property and tenure in New Crossroads

In January 2007 the New Crossroads Residents Association (NCRA) recommitted themselves to taking forward tenure and housing challenges and establishing a small sub-committee

with an initial focus on resolving the 'title deeds' issue.

Mandlovu was invited to participate in a meeting to reflect on achievements to date and discuss dealing with lack of progress on the issue. The renewed push from below was fuelled by many factors. These included the fact that many of the original owners, now elderly, were worried that lack of certainty on ownership status could lead to confusion and potential family conflict upon their deaths, a trend already present in the community. In addition, many residents were constantly approaching the NCRA to ask for assistance because of escalating and unfathomable rental, services, and rates arrears.

There was also a general level of stress in the community, based on increasing levels of debt owed by households to the municipality, with little understanding of complicated municipal accounts. In some cases people were charged rates when they did not own the houses, or were being charged rent when they should have been paying rates.

Mandlovu finally organised a meeting with the new mayor, Helen Zille in October 2007, which unfortunately did little to advance the cause of New Crossroads residents. The meeting took place in the midst of the political mud-slinging that characterised most of Zille's tenure as

¹⁷ Chapter 4 of the Municipal Systems Act requires the development of a culture of community participation in the municipality affairs. Ratepayers are responsible for engaging with their municipalities when they invite public comments/submissions/inputs on their proposed rates policies and budgets. The rates policies deal with issues such as the cent amount in the rand that the municipal council proposes imposing, relief measures to ratepayers such as granting of exemptions, rebates, and reductions in respect of owners of categories of properties, for example to indigent owners; owners dependent on pensions or social grants for their livelihood; owners temporarily without income; owners of property situated within an area affected by a disaster within the meaning of the Disaster Management Act (2002); or any other serious adverse social or economic conditions. Ratepayers should comply with municipal requests within the stipulated time frames that municipalities will publicly announce regarding inspections of property valuation rolls and if necessary lodging objections in respect of market values of specific individual properties. Raising concerns after municipal councils have already approved municipal rates policies and budgets or after expiry of the objections period will naturally not achieve meaningful results. The Act assumes the need for communities to communicate constructively with their municipalities on valuation and rating issues.

City Mayor in the ANC-led province. While she expressed interest in tackling the tenure issue, the mayor indicated she did not have the power to bring all the role-players around the same table.¹⁸

Six months later, in 2008, the issue was back on the agenda, with a second meeting scheduled with the mayor, this one brokered by New Crossroads residents who took the opportunity to approach Zille at a memorial service in the city. This time she listened more attentively, and was taken aback when her officials confirmed that the level of confusion around title deeds in New Crossroads was a generalised problem across the city.

The mayor gave the delegation her support, in principle, for efforts made to get to the bottom of insecure tenure in the city, delegating one of her councillors, Dan Plato, (now mayor) to liaise with New Crossroads on the issue. But, while the issue was on the city's agenda in principle, in practice no-one from the city took a lead in finding solutions to the problems. This was left up to New Crossroads residents and resource-poor civil society organisations such as Mandlovu.

The lesson was clear – civil society needed to take the initiative, and needed to strengthen its hand by updating, expanding, and democratising the existing knowledge-base on tenure and housing challenges facing New Crossroads. So began a new series of meetings between Mandlovu and members of the New Crossroads sub-committee, led by delegates who attended the meeting with the mayor.

Over time a more coherent picture of the current status quo was developed, using committee members' municipal accounts as a basis for analysing current problems and discerning trends and patterns.

This investigation unearthed some critical insights. Firstly, none of the committee members understood the difference between rental or rates. Secondly, all residents living in Section 3 in houses beginning with 1100 upwards (referred to by local residents as Section 11) were still paying rent to the city that was higher than rates, because of city rebates for houses valued less than R88 000. Thirdly, in households paying rates, most houses were valued above R88 000, which is above the zero-rating rebate pegged at R88 000 in the city since July 2007. Property valuations ranged between R80 000 and R249 999, with little indication as to what criteria were used to arrive at these valuations. Fourthly, all accounts reviewed indicated an 'arrears' amount, with some accounts reflecting escalating arrears over a six-month period.

A general trend was that members who previously paid their municipal accounts at the Nyanga Housing Office had switched to paying accounts at the Civic Centre, arguing that they no longer trusted the township-based Housing Office because the amount they owed never decreased, irrespective of how much they paid each month.

This rapid assessment signalled a huge need to deepen understanding of the causes of continuing challenges in New Crossroads and the yawning gap that still existed between local civics and city's understanding of rights and responsibilities attached to land and housing occupation, ownership and local government administration. As it turned out, a new opportunity arose to revisit, analyse and update earlier findings, and explore emerging issues such as property valuations and rates, when Urban LandMark commissioned Mandlovu to write up this work as a case study in late 2008.

¹⁸ The period was particularly adversarial, with accusations being directed back and forth between the ANC and DA in the city and province about alleged covert listening devices being used by the other party and security breaches.



THE SECOND PHASE OF RESEARCH: NEW FINDINGS AND INSIGHTS

Rates and the city

Homeowners across the city, including those living in areas like New Crossroads, are formally viewed as 'ratepayers' by the City of Cape Town, irrespective of where they live, whether or not they receive rebates from the city or, whether they qualify for subsidies as part of the city's Indigent Policy.

The Cape Town Municipality has embarked on three property valuation exercises since the advent of democracy – in 1996, 2000, and 2006. In line with the regulations of the Municipal Property Rates Act No. 6 of 2004 (MPRA), the city sends notices out to all rate-paying households, including homeowners in New Crossroads, who were informed by the city via a circular letter dated February 2007 that the city's new property valuation roll was going to be open for public inspection between 21 February and 24 March 2007.¹⁹

Mandlovu's investigation shows that not one of the committee members responded or engaged with the city on the property valuations issue. In fact, no-one could remember any community participation taking place in relation to the valuation process – no-one had inspected the valuation roll and no-one had checked their valuation for validity, or objected to current property valuations.

This is not surprising in a context in which residents, including active committee members, displayed limited understanding of how the property system actually works. Residents living in low-income housing settlements like New Crossroads do not fully understand, and therefore do not identify with or relate to, complex property-related concepts like 'rates' and the accompanying home-ownership rights and obligations.

As a consequence, residents living in such communities do not use formal procedures to communicate constructively with members of municipalities. This means that they end up not exercising their *de jure* property rights.

Tenure and valuations in Old Crossroads

While the second phase of research did not offer sufficient time or resources for a deep comparative analysis on tenure and property issues affecting surrounding settlements, a quick review of data captured by the Human Sciences Research Council (HSRC) as part of the *Presidential Review* (2003) on Crossroads confirms that formal housing delivery in this area has consistently been at the centre of internal community conflicts.

In fact, the HSRC study (2000) argues that overly high valuations and unfathomable arrears accounts have bedevilled this community since the first formal housing was built in the late 1980s, arguing that the messy situation inherited from the previous city administration was a key impetus for the city's eventual Indigent Policy.

The HSRC study on high RDP housing valuations concluded that 'it [was] doubtful [whether] in market terms the Old Crossroads house-holding families actually own an asset whose potential price is anywhere near the official valuation'.²⁰

¹⁹ City Manager, 19 February 2007, Valuation Office Notice, City of Cape Town.

²⁰ Most houses valued in 2000 fell into the R50 000 to R100 000 range, with a median value of R78 000 and 25% valued above R91 000. However, construction costs per dwelling at the time were between R17 000 and R18 000 per unit, with 'selling' of houses largely unrecorded. At the time, RDP houses in other nearby areas were reported to be selling informally at R10 000.



Figure 3: Letter from the city valuation office to the Mandlovu Initiative advising them of the steps needed to precede action to be taken.

Limited objections to property valuations in former BLA areas

To ascertain whether or not New Crossroads was a special case when it came to understanding or engaging with the city on property valuations, data was obtained from the City of Cape Town Property Valuations Office on objections received from a number of former BLAs (Nyanga, Gugulethu, Khayelitsha, and Mfuleni) to the 2006 valuation roll. The data confirms a more widespread lack of engagement on the issue across settlements, with only 106 formal objections lodged, compared to thousands of objections from ratepayers elsewhere in the city. Most (49.82%) emanated from more established townships such as Gugulethu.

Revisiting rates, rental and services in New Crossroads: Mr T and Mrs S

Municipal debt is vast, widespread and endemic in South Africa. The general belief is that service, rental and rates arrears and defaulting reflect a culture of non-payment inherited from the anti-apartheid years. But a deeper investigation into the lives and experiences of two New Crossroads residents, Mr T and Mrs S, who have tried to understand and resolve their housing and service-related problems for years, challenges this belief.

In fact, evidence shows that many poor people are willing to pay for services and make every effort to pay their accounts within their limited household incomes. But they remain frustrated by accounts they do not understand and accounts that consistently escalate, even if they make monthly payments.

The individual case studies highlight and confirm some critical issues. Firstly, residents do not understand the origins of their debt. Secondly, municipal accounts as set out by the City of Cape Town obscure rather than clearly explain amounts owing for arrears and current costs, leaving poor people with limited (if any) financial literacy confused as to why arrear amounts go upwards irrespective of monthly payments into accounts.

Some residents, like Mrs S, who do not understand that a dash (–) before an amount on an account means a credit balance, end up paying what little money they have from a monthly pension into current accounts that are in credit, instead of prioritising payments into the arrears account – with no-one in the city explaining this to her when payments are made.

Furthermore, many citizens, especially those who are poor, do not necessarily understand compound interest. This leads to arrears escalating no matter how long they try to pay off debt.²¹



²¹ At the time of the study, early 2009, Mrs S, who is a pensioner and registered as 'indigent' by the City, owed more than R70 000 in municipal arrears (rent, water, sewerage).

Property - Counter Enquiry

Land Information System
RATEPAYERS DATA -

User: [] Page 1 of 1
Date: 2005-08-17

Ward: 38 Map: 097 Valuation Status: [] SG: C01600640001034700000

Erf/Ptn No: [] Allotment Area/Farm: NYANGA

Prop ref/ Parcel Id: EAD046B020 Valued under: EAD046B020 V Extent: 207 Use: A01

Situation: []

Sale Price: R [] Purchase Date: [] BP Number: []

Deed No: [] Registration Date: [] LIS Key: 287662

Owner: []

Valuation Year: 2000 Postal Address: []

Site Value: 10,000
Improvement Value: 19,000
Improved Value: 29,000

NEW CROSSROADS

IF NO SITE OR BUILDING DATA, PROPERTY IS NOT SEPARATELY VALUED. 7750

Figure 4: Maladministration: Mr T's name appears on a ratepayers data form, proving him to be a ratepayer.

Civic Centre,
12 Hertzog Boulevard, 8001
PO Box 655, Cape Town, 8000
Registration number
4500193497

TAX INVOICE NUMBER
280001154976

CUSTOMER VAT
REGISTRATION NUMBER

Page 1 of 2

ACCOUNT NUMBER []
DISTRIBUTION CODE []
BUSINESS PARTNER NUMBER []

ACCOUNT SUMMARY as at 04/03/2008 DUE DATE 31/03/2008

	R	C	R	C
Previous Account Balance			1 705.56	-
Less Payments			0.00	
CREDIT (A)			1 705.56	
Latest account (See Reverse For Details)			0.00	
Arrangement On Arrears Of	9 602.88			
Current Instalment		50.00		
		9 552.88		
CURRENT AMOUNT DUE (B)			50.00	
TOTAL (A) + (B)			1 655.56	
TOTAL LIABILITY				
Total (A) + (B) Above	1 655.56			
Arrangement On Arrears Of		9 552.88		
GRAND TOTAL			7 897.32	

Payable By 31/03/2008

Contract Details
Telephone Enquiries 086 010 3089
Fax Number 086 010 3090
E-mail Address accounts@capetown.gov.za
Address correspondence to:
Director Revenue
P O Box 655
Cape Town 8000
For counter enquiries, please call at your nearest local municipal office.

The fourth draft of the City of Cape Town Zoning Scheme and zoning maps are available for viewing and comments at your nearest district planning office. www.capetown.gov.za

IMPORTANT NOTES

- Cheques must be made payable to the City of Cape Town. Post-dated cheques will not be accepted.
- Interest will be charged on all amounts outstanding after the due date.
- Failure to pay could result in your water and/or electricity supply being disconnected/restricted. Immediate reconnection of the supply after payment cannot be guaranteed. A disconnection fee will be charged and the amount of your deposit may be increased.
- Even if you are engaged in a dispute with the Council concerning this account, you may not withhold payment.
- Do not send cash by post or deposit it in boxes marked "For cheque payments". Council will not accept responsibility for any loss you may incur.
- A convenient debit order facility is available. For further details please phone 086 010 3089.
- Bank charges on payment amounts in excess of R3 000.00 made by credit/debit card will be debited to your account.
- When making a direct deposit at ABSA Bank, please state your account no. 113925825.
- Register at your bank for internet payments. Log onto your bank's website and select "City of Cape Town Municipality" and insert your nine digit municipal account number in the beneficiary reference field. Kindly ensure that there are no spaces between the numbers.
- VAT on property rates is calculated at zero percent.

PAYMENT SLIP - PLEASE RETURN THIS SLIP WITH YOUR PAYMENT

Account Number []

R	1 705.56
R	50.00
TOTAL R	1 655.56

Amount tendered R []

Amount Due 31/03/2008 R []

TOTAL R 1 655.56

Figure 5: The discrepancy is revealed. Mr T has a leaseout number, showing him to be a tenant on the same property at which he receives rates.

Mr T's case study reflects the tenacity of citizens living in New Crossroads in trying to resolve challenges related to insecure tenure and confusion regarding rental, rates and service charges in the community.

Mr T seen in the photograph below, is one of a number of residents who receives rental accounts from the city, as well as monthly rates accounts based on the value of his house (building and site) less a rebate.

The valuation of his one-bedroomed house has tripled since it was first valued in 2000 (R29 000). In 2009 it was valued at R92 000, R4 000 above the zero-rated valuation amount of R88 000. Documentation supplied for the study shows that Mr T has been actively trying to resolve this confusion since August 2005 when he first visited the city's Valuations Branch to obtain details on his property. He was given a document that showed that his property was listed in the city's database as a property owned by him, but he was not given any details in the notice regarding the purchase date, title deed number or date of registration with the city.

Since 2005 Mr T had been visiting the Civic Centre regularly to try to get to the bottom of his dual accounts and understand the origins of his continued arrears owed to the city, without success.

The individual case studies, described in some detail in the longer report, graphically highlight how much time, energy, and money poor people spend trying to clarify existing ownership and occupational rights, and municipal debt. There is evidence of ongoing and high levels of stress caused by debt that cannot be explained and never seems to decrease.

The cases of Mrs S and Mr T reflect the plight of countless other poor people across the city who find themselves caught up in bureaucratic and mystifying housing and property-related processes (see Figure 4 and 5) and procedures that have a direct and often negative impact on their quality of life and health. There is clear evidence that, instead of a formal house being an asset for the poor, as anticipated by policy makers in post-apartheid South Africa, it has turned into a liability for many poor citizens.



CHALLENGES AND LESSONS LEARNT

The report shows that New Crossroads' engagement with housing delivery on offer – as a housing beneficiary under the discount benefit scheme, or as a resident excluded from accessing the benefit (Section 11) – was highly complex and messy. It also highlights that post-1996 thousands of newly aspirant and largely 'indigent' home-owning citizens have been left to their own devices to find their way through a poorly understood maze of property-related laws, procedures, processes, and practices employed by bureaucratic municipalities and institutions like the Deeds Office.

The study teases out a number of generic and community-specific lessons and insights for policy makers, urban development practitioners, and municipalities like the City of Cape Town to reflect upon and consider.

In a South African context, history matters

The study reminds us that a community's settlement history prior to post-apartheid government housing interventions matters, especially communities like New Crossroads who fought for the housing they own or occupy, and that this influences and informs how residents view housing rights and relate to changing government administrations, especially local government.

The case study also reminds us that, in a city like Cape Town and a province like the Western Cape, where African citizens were specifically denied access to housing for decades, because of the Coloured Labour Preference Policy, painful memories and meanings are attached to home ownership that go way beyond current government definitions or a development discourse that narrowly views a house as an economic asset for poor people.

Because housing in South Africa is highly politicised, its delivery, transfer and registration needs to be treated sensitively by officials and politicians alike, and must be aimed at contributing to a sense of social justice and citizen equality.

An asset needs to be accompanied with education

Transferring an asset to poor people without an accompanying educational process can turn the asset into a liability. The case study vividly shows the limitations of the delivery of assets, such as land and housing, by government 'from above' (see Figure 6) to large numbers of uneducated and poor people, in the absence of frequent and appropriate educational programmes to raise awareness and consciousness among them of the rights and responsibilities that come with owning the asset.

The individual case studies tell us that poor people sometimes end up paying a lot more of their disposable income than they can afford for the housing asset – largely because they do not understand how housing or property finance and systems work. This lack of understanding means that they often do not communicate meaningfully with municipalities and are unable to contest property-related systems, procedures or complicated municipal accounts when problems arise.²²

²² Little attention is given to expand citizen knowledge and, where forms like those related to accessing the Indigent Policy are given to destitute 'homeowners' and tenants, these are often not completed in full or explained to citizens, even though they bind individuals to a range of obligations to the city if they default on arrears arrangements or no longer comply with the agreed-upon terms of the Indigent Policy.



NIKEZELA

PROPERTY INITIATIVE

INVITATION

To : **NYANGA** Date : 28/08/96

At : **NYANGA**

Treasury Account No. : **NYANGA**

HERE IS GOOD NEWS FOR YOU !

YOU COULD BECOME THE PROUD OWNER OF THE HOUSE / SITE WHICH YOU OCCUPY !

IF YOU HAVE ALREADY BOUGHT IT ON TERMS, YOU MIGHT NOW GET IT MUCH CHEAPER OR EVEN FOR FREE !

YOU CAN NOW GET A DISCOUNT OF UP TO R7 500,00 ON THE PRICE OF THE PROPERTY.

You are invited to visit the local Housing Office of the Ikapa TMSS in NYANGA on Thursday 05/09/96 between 09h00 and 13h00 where you will receive full details of how this unique offer could change your life.

Bring any documents in your possession which can prove that you are the legal tenant or occupier of the premises such as your residence permit or your purchase agreement.

You should also bring the following documents with you if you have them :

- 1 If you are NOT Married : Your Identity Document
- 2 If you are Married : Your Identity Document
Your Spouse's Identity Document
Your Marriage Certificate
- 3 If you are Divorced/Widowed : Your Identity Document
Your Divorce Certificate/Late Spouse's Death Certificate


If you are MARRIED you must please bring your spouse with you when you come to the Housing Office.

PLEASE DO NOT MISS THIS OPPORTUNITY !

Bring this Invitation Notice with you when you come to visit us.

[Signature]

Figure 6: An 'invitation' to Nyanga residents to become owners of their properties.



The way assets are transferred is as important as the asset delivered

In the case of New Crossroads, homes were transferred and registered with the Deeds Office under different pieces of legislation by different local government administrations. This created an understandable level of uncertainty among residents regarding the exact status of tenure rights delivered over time. As residents grow older, their levels of anxiety rise in relation to tenure certainty as they aim to avoid messy housing wrangles for their families to unravel when they pass away.

The case study shows that no administration has systematically tracked or monitored what was clearly a messy housing transfer and registration process in the former BLA areas since 1996, with significant social and economic implications for owners, tenants and local government administration. The Section 11 story highlights glitches in land administration that derive from an overlay of poor land administration.

The negative impact of an unstable institutional and political environment

The political and institutional public sector environment in Cape Town (city and provincial) has been unstable since the dawn of democracy in 1994. Following the contours of New Crossroads' tenure and housing challenges illustrates how institutional instability and uncooperative governance, compounded by the presence of a less-than-empathetic local councillor, negatively influenced residents' ability to resolve civic issues and challenges they faced.

This holds important lessons for all levels of government, especially local government. The current context, one characterised by ongoing and escalating housing and service delivery protests across the country, shows that for many frustrated citizens there is no middle ground - no space between citizen passivity and civic protest.

'Indigent' homeowners in the city and South Africa

Owning or renting a home in the absence of a regular income places an enormous emotional and psychological burden on poor people. This is not sufficiently recognised or internalised by policymakers and legislators who persistently argue that the answer lies in building and delivering more formal housing and eradicating 'slums' or informal settlements. The reality is that for many poor citizens, living in an informal settlement is more affordable.

While policy instruments such as the city's Indigent Policy, municipal rebates for pensioners, and zero-rating of properties valued under R88 000 go a long way towards dealing with this reality, accessing relief and taking advantage of rebates on offer assumes knowledge, with the onus on the poor to access relief.

The study highlights a need for a much more active role on the part of municipalities to communicate what policy instruments are on offer and engage at local level, to ensure that policies become more widely known, as well as create diverse ways to access them.

A diverse range of ratepayers across the city

The study graphically demonstrates that residents in New Crossroads have not taken on board and internalised the fact that they are ratepayers, largely because they do not understand what this means.

The city, on the other hand sends out the same notices to Nyanga as it sends to Constantia, based on the assumption that all homeowners understand municipal laws and procedures. The findings from the New Crossroads study challenge this assumption. The reality is that even though valuations in the former BLA areas appear to be incorrect in some cases, ratepayers from these areas are not engaging with the city on the issue.



Civic Centre 12 Harding Boulevard P.O. Box 655, Cape Town 8000 Ask for: Tel: Fax: Ref:	Joke Is Luthi 12 Harding Boulevard P.O. Box 655, Cape Town 8000 Cell: Umtshaba: Ref:	Bergendorn Harting - Boulevard 12 P.O. Box 8000 Postbus 655, Kaapstad 8000 Via wir: Tel: Fax: Vm:
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18 April 2009

Dear Mr/Mrs/Miss: [Name]

ARREAR RENTALS: LEASE OUT [Name] / BUSINESS PARTNER: [Name]

LETTER OF DEMAND


Until date hereof, 07.04.2009, Council has not received payment of your current rental account and an amount towards the arrear debt, to the amount of **R 15560.28**, as previously requested.

You are herewith notified that payment must be made within 30 days of date of hereof, to rectify the default on your account. Should you fail to comply with the aforementioned, Council will have no option but to proceed with legal action against you, in terms of Council's Credit Control Policy.

Such legal action will include, inter alia, cancelling the lease agreement and evicting all occupants from the premises. **Please note that you will be held liable to pay all such legal costs**, including the Sheriff's eviction fee, and other damages Council may suffer as a result of your default.

Council trusts that you will immediately attend to this matter through your Local Housing Office, to avoid further action being taken.

Yours faithfully



for Executive Director: Housing

Figure 7: A letter of demand addressed to an Nyanga resident for non-payment of services.

The scale of the challenge

The fact that millions of poor South African citizens have been brought into the property system since 1996, whether in formal or informal housing and tenure arrangements, challenges policy- and decision-makers to take the findings of the study seriously. The study points to the potential existence of a much wider and far-reaching set of tenure and property-related challenges facing poor and vulnerable groups in South Africa, especially those living in former BLA areas and former Bantustans.

This raises serious challenges for government as it searches for ways to address insecure tenure, the delivery of new housing for the poor, and upgrading informal settlements. The study raises specific questions and challenges that face millions of poor South African citizens, by 2009 numbering more than nine million, who are now part of the property system as owners of RDP houses or, as is the case in New Crossroads, the uneven beneficiaries of former public rental housing stock.



CONCLUSION

Unravelling and understanding the origins and causes of issues bedevilling a community like New Crossroads is important. But, as important is finding relevant, affordable, and sustainable solutions that mitigate against citizens believing that they have no alternative other than to engage with local government in adversarial ways as is now the case across South Africa.

Appealing to government to listen, prioritise, and respond quickly to housing and service delivery challenges on the ground – before they flare up into violent protest – is an essential and overarching lesson arising from the study, along with the need for ongoing cooperative governance across and within all spheres of government.

The need for citizen education on home ownership, especially for the millions who have become largely indigent homeowners post-1994, as well as finding ways to understand and reduce the municipal debt, remain huge and pressing challenges.

As a step in this direction, the study aimed to develop a community-based programme of action. At a June 2009 workshop co-hosted by Urban LandMark and Mandlovu, participants proposed the establishment of a number of small task teams composed of relevant strategic partners and resource people to tackle priority issues:

- Resolving challenges faced by Section 11 residents in New Crossroads regarding unsurveyed and unregistered land in the area;
- Clarifying existing rights of occupation in New Crossroads – status of ownership or leasehold – with the assistance of the city and Deeds Office;
- Tackling the more complex issue of municipal debt by clarifying the basis for disputes regarding property rates and billing arrears in New Crossroads;
- Mobilising resources and taking forward the Mandlovu concept and proposal for an active citizenship pilot project using tenure, housing and municipal service delivery as key entry points.





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