ACCESSING HOLDING AND, TRADING LAND IN' TWO INFORMAL SETTLEMENTS IN LILONGWE MALAWI,

MTANDIRE AND CHINSAPO

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ABOUT URBAN LANDMARK

Established in 2006 with funding from the UK's Department for International Development (DFID), Urban LandMark works to find remedies to the problems that have made urban land markets dysfunctional and habitable land unaffordable.

Our initiatives aim to shift policies and practice to improve access to well-located urban land by making markets, as well as land planning and management systems, work better for poorer people, giving meaning to the right to land.

Urban LandMark plays a catalytic role by using research to inform policy, and by promoting dialogue between key stakeholders – government, the private sector and civil society – to find effective solutions to prevailing obstacles in accessing urban land markets.

ABOUT THE TENURE SECURITY FACILITY SOUTHERN AFRICA PROJECT

Urban LandMark established the Tenure Security Facility Southern Africa project to provide specialist technical assistance and advisory services on tenure security within slum upgrading initiatives in Southern Africa, and share lessons learnt with others in the region. The work aims to contribute to improved access to land for poorer people, which in turn contributes to improved livelihoods, active citizenship and asset creation.

The Tenure Security Facility extends and expands on work Urban LandMark has undertaken over seven years since 2006. This work is making a significant impact in changing the profile of the need for incremental tenure in the slum upgrading process and thinking around how this should occur. This booklet comprises one of a range of activities Urban LandMark has undertaken as part of the Tenure Security Facility.

ACKNOWLEDGEMENTS

PHOTO CREDITS

All photos were taken by Cornelius Monkwe and Motlalepule Tsepe from Progressus.

CONTENTS

PREFACE

This booklet sets out the findings of research undertaken in two settlements, **Mtandire and Chinsapo,** which are in **Lilongwe, Malawi**. The purpose of the research was to understand how land is accessed, held and traded in these settlements.

This research formed part of a larger research programme being undertaken by Urban LandMark which includes similar studies in Maputo and Tete (Mozambique), Luanda (Angolo) and Durban, Cape Town and Ekurhuleni (South Africa). A more detailed report on the research in Malawi and reports on the other research projects can be seen on www.urbanlandmark.org.za.

This booklet outlines:

- Introduction – why is this issue important?
- How the research was undertaken
- Background on Malawi and the settlements
- Key findings from the research
- Conclusions and policy recommendations
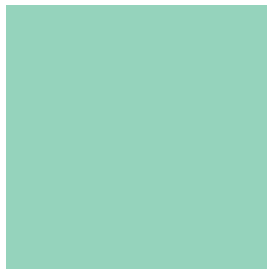
INTRODUCTION – WHY IS THIS ISSUE IMPORTANT?

Southern Africa is experiencing extremely high levels of urbanization. The rate of urbanisation increased from 54 to 59% between 2000 and 2010. By 2025 it is estimated that three quarters of the people in the region will be living in urban areas, mostly in large and medium sized cities[1].

The process of urbanization in Southern Africa has been referred to as the 'urbanisation of poverty', as it generally leads to extremely poor living conditions, mostly in slums (informal settlements). About 62% of people living in towns and cities in sub-Saharan Africa today live in such informal settlements[2].

These informal settlements are generally located in peri-urban environments and are characterized by very poor infrastructure. **Land transactions are informal and it is not certain as to whether the people living in informal settlements have security of tenure.**

The Global Land Tool Network (GLTN) in their guide Secure Land Rights for All (2008)[3] defines **land tenure** as '*the way land is held or owned by individuals and groups, or the set of relationships legally or customarily defined amongst people with respect to land. In other words, tenure reflects relationships between people and land directly, and between individuals and groups of people in their dealings in lan*d'. The guide further defines **land tenure systems** as '*the sets of formal or informal rules and institutions which determine access to, and control over, land and natural resources*'.

GLTN (2008) defines **land tenure security** as being:

- The degree of confidence that land users will not be arbitrarily deprived of the rights they enjoy over land and the economic benefits that flow from it;
- the certainty that an individual's rights to land will be recognized by others and protected in cases of specific challenges; or
- the right of all individuals and groups to effective government protection against forced evictions.

Other important aspects of tenure security include plot users' freedom to bequeath land to heirs, and to lease, lend or grant land to others on a temporary or long-term basis with reasonable guarantees of being able to recover the land (GLTN, 2008). According to GLTN tenure security is partly a matter of perception, and can be safeguarded under various forms, provided the rights of land users and owners are clear. In addition to formal titles, security can be achieved through clear, long-term rental contracts, or formal recognition of customary rights and informal settlements, with accessible and effective dispute mechanisms.

GLTN argues that the reason why security of tenure is important is that it generates individual, household and community benefits; it does so by encouraging savings and investments in the improvement of land, homes and neighbourhoods. This, in turn, improves livelihoods and living standards. Securing land and property rights for all supports economic growth, reduces poverty and provides opportunities for empowerment. Secure land rights are a firm springboard for economic, productive activity.

In order to increase security of tenure of households living in informal settlements it is critical to understand the local land management processes for how land is being accessed, held and traded in these areas.

[1] UN Habitat (2008). The State of African Cities 2010 Report. Nairobi, UN Habitat
[2] UN Habitat (2008). The State of African Cities 2008 Report. Nairobi, UN Habitat.
[3] Secure Land Rights for All. The Global Land Tool Network, 2008

HOW THE RESEARCH WAS UNDERTAKEN

The research was undertaken as follows:

- **Phase 1: Literature review:** A literature review was undertaken of land legislation and policy in Malawi, as well as various land-related aspects. In addition a review was undertaken of the study area namely Lilongwe and the two selected settlements (Mtandire and Chinsapo). Interviews were also held with eight key stakeholders on land issues.

- **Phase 2: Field research:** The field research comprised 543 survey interviews in the two settlements including 268 in Mtandire and 275 in Chinsapo. The head of household or his or her partner/spouse were interviewed. A survey instrument (questionnaire) used previously by Urban LandMark was used. The questionnaire was discussed and adapted to be relevant to Malawi and the study area based on the findings from Phase One. Twenty two local interviewers were trained and deployed to undertake the survey.

- **Phase 3: Data entry and analysis:** The data from the survey was entered and analysed.

- **Phase 4: Community Feedback:** A feedback workshop was held in each of the studied settlements using a poster-printed Power Point Presentation, where relevant key people and community members were invited to review the results and comment on it.

- **Phase 5: Research report:** A final report was developed incorporating feedback from the workshops in each settlement (see http://www.urbanlandmark.org.za/research/x63.php)

The research was implemented with the assistance of the Centre for Community Organisation and Development (CCODE).

BACKGROUND

MALAWI

Malawi is one of the poorest countries in the world. It has a population of 13.1 million (2008) which is growing at 2.8% per annum. It is the least urbanised country in Africa, but has one of the highest urbanisation rates (6.3%). Of the total population 5.3% live in urban areas. In 2005, 1.86 million people or close to 90% of Malawians in urban areas live under slum conditions.

> **FAST FACT:**
>
> Malawi's GDP per capita at US$290 in 2009. Poverty levels are high. In 2009 the proportion of the population living below the poverty line was estimated at 39%.
>
> NSO. (2009). *Welfare monitoring survey 2009.* Zomba: NSO.

LAND IN MALAWI

> **FAST FACT:**
>
> **Freehold tenure:** Freehold tenure is private land which the owner can use and sell. In Malawi the 1965 Land Act and the 1967 Registered Land Act regulate the use and management of this type of land.
>
> **Leasehold:** Leasehold tenure is the same as rental, whereby the tenure allows only use of the land for a specified period. An estimated 8% of Malawi's land is under leaseholds governed by the Land Act. Lease terms vary by use, including 21-year leases on agricultural land and 22- to 99-year leases for property and infrastructure development.
>
> **Customary:** Land held under customary tenure is held by a group as a whole, usually administered by a traditional leader on behalf of the community. Customary land may be individualized in the names of families and individuals. Land that has been individualized is generally assumed to be for forever and the family or individual can lease the land or bequeath it. The land usually cannot be sold and if abandoned returns to the community.
>
> Malawi Land Act of 1965 and the Malawi National Land Policy, 2002, Government of Malawi.

The main tenure types in Malawi include: freehold, leasehold and customary (see box). There are three categories of land: public land which makes up 15 to 20% of all land in the country, private land which makes up 10 to 15% of all land in the country and customary land which makes up 65% to 75% of all land in the country.

Malawi's land legislation dates primarily from the post-Independence era and includes:
1 The 1965 Land Act, which sets out the classifications of land and recognizes types of land (i.e. public, private and customary land).
2 The 1967 Customary Land (Development) Act, which provides for the conversion of customary land for agricultural development and establishes the means for adjudicating disputes over customary land.
3 The 1987 Deeds Registration Act, which supports a system of deed registration.
4 The 1967 Registered Land Act which provides the legislative foundation for the transfer from a deed registration system of land administration to a title registration system.
5 The 2003 Land (Amendment) Act, which prospectively prohibits non-citizens from purchasing land in Malawi.
6 The 1989 Control of Land (Agricultural Leases) Order (amended in 1996), which introduced a prohibition on conversion of customary land to leaseholds. Implementation of the Customary Land (Development) Act and the Registered Land Act has been limited to Lilongwe West.
7 The Local Government Act and Decentralisation policy which places responsibility on City Councils to provide basic services, land and housing, water and sanitation and roads networks in their areas of jurisdiction.
8 The 1988 Town and Country Planning Act which guides the Department of Physical Planning on planning areas.

In 2002, a National Land Policy was published as an initial step in revising the legal framework governing land rights. The Land Policy expressed the goals of ensuring tenure security and equitable access to land, and facilitating the attainment of social harmony and broad-based social and economic development through optimum and ecologically balanced use of land and land-based resources. The Land Policy's objectives are to:

- promote tenure reforms that guarantee security and instil confidence and fairness in all land transactions
- guarantee secure tenure and equitable access to land to all citizens of Malawi without any gender bias or discrimination
- instil order and discipline into land allocation and land market transactions to curb land encroachment, unapproved development, land speculation and racketeering
- promote decentralized and transparent land administration
- extend land-use planning strategies to all urban and rural areas
- establish a modern land registration system for delivering land services to all
- enhance conservation and community management of local resources
- promote research and capacity-building in land surveying and land management[4].

LILONGWE

Lilongwe is the largest city in Malawi and is the capital and administrative centre since 1975. Lilongwe has witnessed a high urbanisation rate since that date, accelerated by the relocation of all government head offices from Blantyre in 2005. The growth rate of the city averages 4% per annum and it is the fastest growing city in the country.

The city is divided into four sectors (Old town, Capital Hill, Kanengo, and Lumbadzi). Approximately 76% of the city population (669,021) in 2008 lived in informal settlements. Poverty stands at about 5% with unemployment at 16%. The civil service employs about 27% of the city's work force. The private sector employs about 40% and 24% are self-employed.

CHINSAPO AND MTANDIRE

Chinsapo has 64,000 residents (2008). The settlement is in Area 57 and extends to Area 58 bordering Lilongwe City. It lies six kilometers northwest of Lilongwe City Centre. In the settlement there are 14,700 houses of which 32% are owned and 65% are rented. The type of tenure is freehold. The settlement is governed by two village headman and 25 chiefs. Water is provided mainly through water kiosks (3MK per bucket). There is limited access to electricity.

Mtandire has 37,000 residents (2008). It is located on the North Western side of Lilongwe City. It is on public land with a zone number (area 56). There are 4,260 houses of which 37% are owned and 61% are rented. The settlement is governed by three village headman assisted by chiefs. Most houses are either an unburned brick house, a brick or cement house or a burned brick house. Water is provided mainly through water kiosks (3MK, which is 1US cent, per 20liter bucket). There is limited access to electricity.

Both Mtandire and Chinsapo fall outside the city boundaries which creates uncertainty in respect of tenure security and a reluctance by the municipality to provide services.

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4   GOM 2002
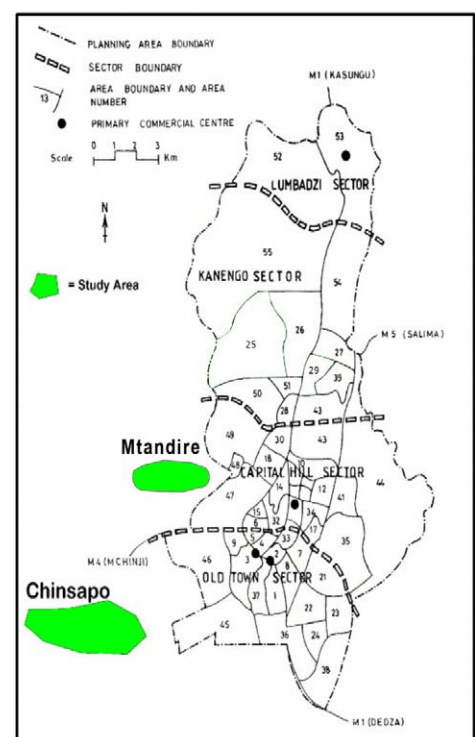
KEY FINDINGS FROM THE RESEARCH

WHO LIVES IN THE SETTLEMENTS

The two settlements comprise a community that is made up predominantly of married couples or couples living together as a nuclear family (84% overall). There are some single parents (7% overall). The communities in the two settlements are stable, with households living in them for a considerable amount of time. Households that own have lived in Mtandire and Chinsapo for 16 to 17 years, about double the time that households who rent have lived in these settlements (7 to 8 years).

Both settlements have a relatively young population (mean age of respondents is 34). There are about 5,673 and 21,332 children in Mtandire and Chinsapo respectively most of whom are very young i.e. either not yet at school or at primary school. This is in accordance with national averages in Malawi.

Levels of education of the respondents interviewed are low, in both settlements (of all respondents 26% did not attend school and 40% achieved primary school only). While there appear to be high levels of employment either in a formal job (46% overall) or a business (40% overall) the amount of income earned is very low (see Figure1), indicating high levels of poverty within the two settlements. Approximately 15% overall of households are living below the poverty line as defined by the United States Government for developing countries.

Figure 1: Usual household's monthly income by settlement (%)
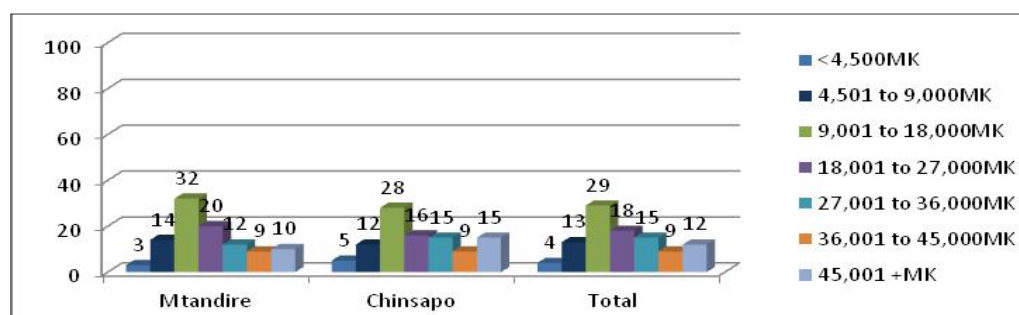
TIME AND COST OF FINDING A HOUSE

The most common reason for a household moving to either Mtandire or Chinsapo whether owning or renting, is due to a life change (approximately two thirds), and to a lesser extent a change in economic conditions (i.e. job loss or decline in income) (approximately one third). The life change refers to getting married (39% overall) and to a lesser extent becoming an adult (6% overall). Most people found a house in the settlement through their informal network of friends and family (83% overall).

Finding a house took on average 3,5 months in Mtandire and 6 months in Chinsapo. To secure the house took on average 3 months in Mtandire and 6 months in Chinsapo. The costs of finding a house were for owners $5 in Mtandire to $10 in Chinsapo and for renters $5 in Mtandire and $5 in Chinsapo. (See Table 1 on page 11).

Table 1: Time and cost of finding a house

	Tenure	Time spent in finding the house (Days)		Days passed between hearing about and getting the house		Mean amount spent in finding the house
		Mean*	Median*	Mean	Median	
Mtandire	**Own**	106	8	92	7	$5
	Rent	24	3	18	2	$5
Chinsapo	**Own**	174	60	177	60	$10
	Rent	24	4	31	2	$5

*Mean defines the average, while Median indicates the mid point in the data.

In Mtandire the reason for choosing the house is similar in terms of households who own and rent. The most significant reasons are that it is close to jobs (40% own and 41% rent), close to schools (34% own and 22% rent) and there is access to water (28% own and 32% rent). In Chinsapo there is a difference between households who own and rent. Households who own valued that the place was for free (29%), that it was safer (25%) and that it was affordable to live there (24%). Households who rent, said that what they valued was that it more affordable to live there (29%) and that there was access to water (26%).

SECURING A PROPERTY

More than a third of households own their property in both settlements (36% overall) and just below two thirds of households rent their property in both settlements (64% overall).

For households who own the property, most own the property themselves (94% in Mtandire and 80% in Chinsapo) or their spouse owns it (33% in Mtandire and 45% in Chinsapo). Joint ownership is also indicated. Most of these respondents bought their property (91% in Mtandire and 71% in Chinsapo). A lesser number of respondents inherited the property (8% in Mtandire and 26% in Chinsapo).

For households who rent in most cases the landlord owns the property (97% in Mtandire and 98% in Chinsapo) and the respondent acquired the property on the basis of a rental agreement.

FAST FACT:

A participant at the Community Feedback Forum in Chinsapo noted that there are high levels of nepotism when renting out properties. The participant noted that '*Landlords will always give priority to family members when renting out space. This translates to unfair treatment of tenants in one plot where some are related to the owner and others not. It is also evident in cases where a landlord will evict a tenant if a family member is in need of accommodation*'.

Figure 2: How the respondent obtained the property/house (by settlement and tenure) (%)
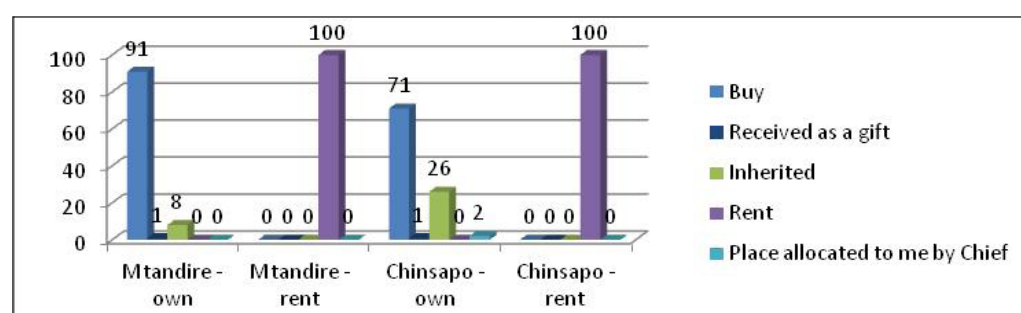
CONTRACTING ARRANGEMENTS

For owners, rights to the property were obtained for most through an agreement witnessed by the chief or a document given to them by the chief (98% in Mtandire and 90% in Chinsapo). For most respondents the agreement gave them the rights to both the dwelling and the site (65% in Mtandire and 52% in Chinsapo). Confidence that the agreement would be valid was obtained through the chief and the respondent's social network (family and friends) that could vouch for the trustworthiness of the seller.

For renters, rights to the property were secured through being given a document from the owner (49% in Mtandire and 58% in Chinsapo) and to a lesser extent rights were secured through an agreement that was made in public (26% in Mtandire and 11% in Chinsapo). For most respondents the agreement gave them the rights to a dwelling only (73% in both settlements). Confidence that the agreement would be valid was obtained through the respondent's social network (family and friends) who confirmed the trustworthiness of the contracting party.

TIME TAKEN TO SECURE A PLACE

It took owners in Mtandire and Chinsapo about one month to secure a place (32 and 34 days respectively). Renters were able to secure a place in 6 days in Mtandire and in Chinsao in 4 days.

PROBLEMS IN THE CONTRACTING PROCESS

The prevalence of problems in the contracting process was very low, 10% in Mtandire to 12% in Chinsapo of respondents experienced problems. The types of problem varied but were predominantly disputes over the boundaries of the property (86% in Mtandire and 80% in Chinsapo).

Figure 3: Types of problems experienced after the agreement was made by settlement and type) (%)
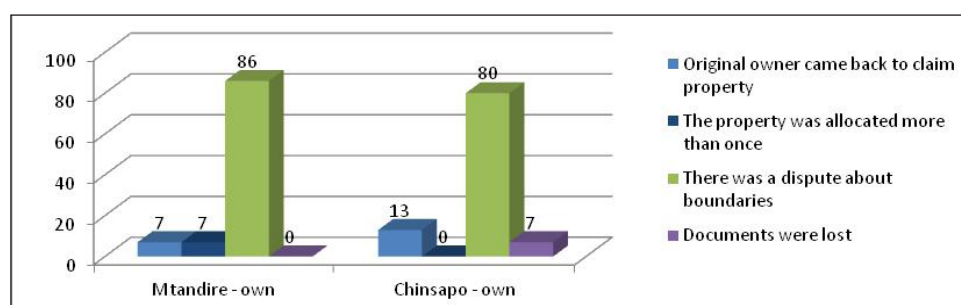
The Community Feedback Forums (where the research results were presented to the community) identified a number of problems that renters experience which are less reflected in the data, namely eviction without notice, rentals being increased in an unpredictable and frequent manner, the lack of standard rentals, poor maintenance of houses by landlords and refusal by landlords to let the tenant bring guests onto the property.

BUYING A PROPERTY

The average amount paid for a property in Mtandire is 54,600MK ($140) and in Chinsapo 44,429MK ($122), although the range is significant. On average a property costs almost two to two and a half times the average household income.

> **FAST FACT:**
>
> Participants in both Mtandire and Chinsapo at the Community Feedback Forums indicated that land is very expensive and difficult for poor people to afford. It was noted that 'Land is in high demand, especially land that is well located (close to roads, water kiosks, amenities etc.) and the price of land continues to go up.' It was further noted that raising funds to purchase the land is a problem, as banks do not provide loans for houses on customary land.

Most respondents bought from a stranger introduced by a family member or friend (43% in Mtandire and 32% in Chinsapo), a stranger introduced by the chief (23% in Mtandire and 31% in Chinsapo) or someone known by the family or a friend (19% in Mtandire and 30% in Chinsapo).

RENTING A PROPERTY

In both Mtandire and Chinsapo the main reason why respondents rent rather than own is that they do not have enough money to purchase a property (88% in Mtandire and 90% in Chinsapo). For just under half of respondents the landlord lived on the property (41% in Mtandire and 44% in Chinsapo). For about a quarter the landlord lives in Lilongwe (25% in Mtandire and 23% in Chinsapo). The rental amount was prescribed by the landlord for most respondents (93% in Mtandire and 97% in Chinsapo).

FAST FACT:

A participant at the Community Feedback Forum indicated that it is hard to 'feel free when the landlord also lives in the same place'.

INVOLVEMENT OF CHIEF IN LAND PROCESSES

Most respondents who own gave the chief a gift (89% overall). Very few respondents who rent gave the chief a gift (2% overall). The value of the gift to the chief is higher from respondents that own than rent. Most respondents who own gave the chief a gift once only, but there are renters who give the chief a gift more often when needed (see table 2 below).

Table 2: Involvement of the chief

		% where chief validated agreement to occupy	Median	Value of Gift MEAN	Value of Gift MEDIAN
Mtandire	**Own**	98	90	$5	$2
	Rent	1	30	$0.5	$0.3
Chinsapo	**Own**	86	91	$6	$3
	Rent	3	43	$2	$2

FAST FACT:

Participants at the Community Feedback Workshop in Chinsapo explained that 'when you buy land, both the buyer and the seller need to pay cash to the chief. This money is a gift and ensures that your rights are recorded correctly in the chief's register. This payment can be a burden to new buyers. When you build a house to let to tenants, you should also pay a gift to the chief when a tenant moves in. This is a once off payment, but also can place a burden on the owner'.

IMPROVEMENTS MADE TO THE HOUSE

For those respondents who own, most (82% in both Mtandire and Chinsapo) have made improvements to their properties. For those respondents who rent fewer have made improvements (15% in Mtandire and 12% in Chinsapo).

All of the respondents paid by using their own savings. The average time taken was 18 to 22 months. The cost was as follows:

- Owners: Median* - $229 to $575 (Mean*: $1,388 / $1,886) (Chinsapo/ Mtandire)
- Renters: Median* - $7 to $9 (Mean*: $37 / $59) (Chinsapo/ Mtandire)

The costs of the improvements made, far exceeds monthly household income. The combined value of the improvements, are on average 18 times the monthly household income which makes it a substantial investment from these households

* Mean refers to the average, while the Median indicates the midpoint in the data.

Table 3: Improvements made to house

		Average time for making improvements (days)	Median cost $
Mtandire	**Own**	712	575
	Rent	290	9
Chinsapo	**Own**	598	229
	Rent	26	7

FAST FACT:

Participants at the Forum indicated that mortgages are not available for communal land but micro loans are, if a letter from the chief is provided in respect of some micro financiers. Despite this most people finance improvements through savings.

TENURE SECURITY AND WHETHER THE SITUATION AND RIGHTS IMPROVED

All respondents in both settlements have never had a title deed (100%). Despite this most respondents in both Mtandire and Chinsapo feel that now that they have lived in the settlements for a while, that their rights are stronger (see table 4 below). The reason for this is that they have built social networks in the area and have become part of the community.

In addition to the above most respondents also felt that their situation and wealth had improved having lived in the settlement for a while (see table 4 below). What improved in terms of their situation included reduced living costs, access to water, having a place to pass on to their family and having a place to rent out.

Table 4: Whether situation and rights improved

		% whose rights grew stronger since they moved here	% whose wealth increased since moving here	% who feel their situation has improved since moving here
Mtandire	**Own**	89	73	81
	Rent	72	43	62
Chinsapo	**Own**	73	54	64
	Rent	63	40	43
Total	**Own**	**77**	**59**	**68**
	Rent	**65**	**40**	**47**

FAST FACT:

The Community Feedback Forum indicated that households who rent have more challenges than owners in respect of holding land. Participants indicated that late payment or non-payment of rent can lead to eviction. The landlord may remove your belongings from the house if you don't pay rent. Some are removed after the first month and others after 2 months. Some are even removed in the middle of the month. Landlords are scared of tenants who get sick, and will evict a tenant if the landlord suspects that he will die, as he does not want to end up with the responsibility of the burial of tenants.

EXTENT OF DISPUTES

The process of acquiring and holding land in Mtandire and Chinsapo appears to be effective and there are very few respondents who have experienced problems. Only 13% of respondents in Mtandire and 14% in Chinsapo reported a conflict or disagreement over the property. This comprised in total 1,060 occupants or 6% of the total population, of which the majority (912) were owners.

If problems did occur respondents who own would seek assistance from the chief (88% in Mtandire and 90% in Chinsapo), whereas respondents who rent would seek assistance from their social network (70% Mtandire and 17% in Chinsapo).

> **FAST FACT:**
>
> The Community Feedback Forums supported this in respect of owning a property in that it was indicated in the Forum in Chinsapo that boundaries or the demarcation of land is problematic. It was also noted that a piece of land can be sold to two different people. This was felt to be partly because of the lack of boundaries and partly due to fraudulent activities.

PERCEPTIONS ON THE PROCESS OF ACCESSING AND HOLDING LAND

The majority of respondents found the different activities pertaining to the process of accessing and holding land to be easy.

Table 5: Perceptions on the process of accessing and holding land

		Finding a place	Checking trustworthiness of seller/ landlord	Deciding on a price	Negotiation of an agreement	Protecting rights of the property	Deciding what to do with the property when moving
Mtandire	**Own**	●	●	●	●	●	●
	Rent	●	●	●	●	●	●
Chinsapo	**Own**	●	●	●	●	●	●
	Rent	●	●	●	●	●	●

●   Majority of respondents (over 70%) found the activity easy
●   Majority of respondents (over 70%) found the activity difficult
●   Majority of respondents (over 70%) found the activity moderate

CONCLUSIONS, RESEARCH AND POLICY RECOMMENDATIONS

This study outlines how households access land in the Mtandire and Chinsapo settlements and how land management occurs in these areas. In particular it provides in-depth, statistically relevant information about existing land management arrangements. It supplements these with more qualitative reflections from community feedback forums. This study therefore provides insights and lessons that can be applied in the urban policy and the slum upgrading programmes that are currently being developed in Malawi and for a slum upgrading programme in the two settlements. The key lessons and policy implications for informal settlement upgrading based on the findings from the study are set out below.

A LAND MARKET EXISTS

The data shows that the majority of occupants are not the original land owners, with indications that rental and ownership markets are functioning. The system that the community implements to access, hold and trade land seems to work effectively with the following aspects of this system contributing to its effectiveness:

- The land access arrangements are known in the community and the majority of people find it easy to use the processes and procedures.
- The role players are locally based and therefore accessible to most in the community.
- The local arrangements to access, hold and trade land are affordable.
- The arrangements are trusted by the community and allow for dispute resolution.
- The arrangements are participatory and allow for ordinary members of the community to act as witnesses and become part of the land system.
- The absence of strict building regulations allows poor households to access land and also to build and improve incrementally according to their own needs and abilities.

Although the local land management arrangements work fairly well, there are weaknesses as follows:

- **Boundary demarcation** is a source of conflict and should be addressed in upgrading.
- Although the lack of building regulations holds many benefits for the poor, the absence of **building guidelines** does not enhance neighbourhood development or functionality.
- The complex layout of land complicates **infrastructure development**.
- The **authority vested in an individual** (the local village headman, referred to as the chief) , means that there is little recourse if things go wrong, especially in peri-urban circumstances where customary leadership is under pressure and the customary system is being adapted. This might affect women, children and more vulnerable community members in particular.

An informal settlement upgrading programme should recognise and build on the existing informal system with necessary adaptations. This needs to be carefully structured so as to retain the strengths of the existing system as detailed above, while addressing some of its inherent weaknesses.

LEGAL AUTHORITY OVER THE LAND NEEDS TO BE RESOLVED

A key issue in both settlements is the legal status of the land. Neither settlement falls under municipal authority which constrains the provision of basic services. Chinsapo falls under the district authority and Mtandire is on public land (although there are some disputes about this). Debate about whether the areas are "informal settlements" or "villages" is underpinned by the issue of the authority of traditional leaders. The legal status of the land in respect of both settlements needs to be resolved in a manner that will build on and adapt the existing land management arrangements, in order to increase accountability and inclusivity, while at the same time ensuring that the settlements are able to access basic services from the municipal authority.

CUSTOMARY NORMS AND INFORMAL SETTLEMENT UPGRADING

Currently local land administration in the settlements draws on customary norms. Upgrading will bring official or formal system norms and approaches. The interface between the official system and the local arrangements will need to be clarified in a workable and cost effective manner, especially the issue of who has authority for land management. This is a complex question with vested interests in its outcomes. This research provides evidence to suggest that the existing local arrangements should not be discarded. Adaptation will be required. Strengthening the internal, community accountability of local leaders will be an important place to start, as will ensuring external recourse in the case of disputes.

ACCOMMODATING RENTERS

A significant feature of the two settlements surveyed is the high number of households that are renting houses. The ability of a landowner to rent out property is beneficial and stimulates economic activity amongst the poor. Even though the data did not show a large presence of tenant – landlord disputes, qualitative feedback did indicate discordance in the relationship between tenants and landlords. Accordingly a slum upgrading programme should ensure that the high number of renters are recognised and incorporated and are not marginalised in the process. The landlord's ability to rent out property should be recognised, as this is an important economic system for the poor. At the same time landlords should be encouraged to provide safe accommodation for tenants with access to basic services. The value of written rental agreements between landlords and tenants in the peri-urban Lilongwe context should be further explored on the basis that tenure security increases when there is more clarity about roles and responsibilities of each party and recourse should either party not fulfil their responsibilities. A simple landlord tenant agreement that is easy to understand could be made available free of charge to potential landlords, depending on the outcome of the investigation.

EVIDENCE USED TO PROVE TENURE SECURITY

In both settlements the evidence to prove tenure is a document from the chief and the transaction being recorded in the chief's records. This evidence is trusted by the communities and should therefore become the cornerstone of the evidence base used in the slum upgrading programme. However this system, while functional at the local level, has its limits. The data shows that some respondents are worried about inheritance and what would happen in the event of the death of the chief whom they know and trust. People also expressed concern about what will happen in an upgrading process. There needs to be clarity about the protection of existing rights.

BUILDING ON THE SOCIAL NETWORK

The key basis by which an individual will identify a house to live (either for ownership or rental) and undertake the transaction is through using his/her social network, i.e. family and friends. While this is effective, it is also limiting, in that the choices that individuals have are restricted by the extent of knowledge within their social network, as well as their position within it. A key element of an effective property market is information, both in respect of how the market operates, i.e. how to purchase or rent a property, the roles and responsibilities of different stakeholders, as well as in relation to providing a platform for sellers and landlords to offer their stock. Currently this information dissemination process is socially determined, with customary or neo-customary dimensions. An investigation of how to improve access to information in a manner that is open and non-discriminatory should be undertaken. Both the municipality and the chiefs will have an important role to play.

BOUNDARY DEMARCATION

While property disputes in terms of the process of purchasing a property are limited, the one area that seemed to be contentious is the boundary of the property. Accordingly there does seem to be a need, as part of an upgrading programme, to find a cost effective process to demarcate plots. This should be undertaken in a manner that does not significantly increase costs or undermine the existing decision making processes. Individual plot demarcation need not occur immediately. It is possible to find ways to secure the tenure of residents within a settlement with some kind of blanket or block recognition. This may provide time to accommodate local processes of boundary clarification inside the blocks, in advance of individual plot demarcation. Individual plot demarcation will require a process of engagement with residents and neighbours, and a clear and legitimate recourse for making representation and resolving disputes.

FORMAL STRUCTURES AND LAYOUT PLANNING

The structures in the settlement are predominantly formal, as opposed to temporary shacks. This has implications for the type of services offered in respect of an informal settlement upgrading programme which should focus on improving access to basic services and supporting the upgrading of existing structures. Minimum building guidelines should be developed that promote the development of safe structures and the functional layout of houses on a stand.

The evidence suggests that an incremental approach can be applied to increasing tenure security of people living in informal circumstances in Malawi. If informal settlement upgrading is to be effective and meaningful it should recognise and adapt the existing land management practices in an area.

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