Urban LandMark

working towards improving access to land and property rights

TENURE SECURITY FACILITY SOUTHERN AFRICA PROJECT

Incrementally securing tenure in informal settlements / slum upgrading in Southern Africa

Advisory Support Services – Technical Report

Incrementally securing tenure in urban Huambo, Angola

June 2013

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, and 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 in 2012 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 since 2006. This work has made a significant contribution to recognising the need for incremental tenure in the slum upgrading process and thinking about how this should occur.

The Tenure Security Facility partnered with **Development Workshop** for the work in Angola.

Lauren Royston managed the advisory support services which were provided by **Development Workshop** in Angola. This Technical Report was written by Allan Cain. The legal study was carried out by Pedro Ramao with Moise Festo in collaboration with the Municipal Administration of Huambo and the Huambo Provincial Government.

About Development Workshop

Development Workshop has been working in Angola on human settlements issues for more than three decades and is a long-time partner of Urban LandMark. Development Workshop has engaged the Government on land tenure policy reform and is building municipal capacity in local land management and titling.

Acknowledgements

Improving Land Tenure Security in Huambo, Angola

Table of Contents

Contents

1. Background

With support from the Cities Alliance and co-funding from UKaid, the Tenure Security Facility Southern Africa project provides small-scale, targeted advisory services on incrementally securing tenure in slum upgrading initiatives in the region. The project aims to contribute to improved access to land for poorer people that, in turn, contributes to improved livelihoods, active citizenship and asset creation. The Tenure Security Facility extends and expands on the work done by Urban LandMark over the past six years. This work is making a significant impact on highlighting the need for incremental tenure in the slum upgrading process and on the thinking around how this should occur.

The advisory work investigates appropriate mechanisms to incrementally increase tenure security for households living in slums/ informal settlements by providing advisory services in five sites in Southern Africa where the Tenure Security Facility project has developed partnerships. All five sites address some element of official recognition of tenure along the continuum from insecure to more secure tenure.

Development Workshop has been working in Angola on human settlements issues for more than three decades and is a long-time partner of Urban LandMark. Development Workshop has engaged the Government on land tenure policy reform and is building municipal capacity in local land management and titling. Development Workshop was invited by the Huambo Provincial Government to assist them with land and settlement management issues after the end of the civil conflict in 2002. This involved piloting two demonstration *land readjustment (pooling)* projects between 2005 and 2008 and assisting the Administration of Huambo construct Angola's first comprehensive *municipal cadastre*. Development Workshop is keen on deepening its knowledge in this area to inform and guide its work on advocacy, training of civil servants, land management and urban and housing development. It operates a social housing project and understanding the legal and institutional issues is important for the success of this project.

2. The Huambo case

Angola was affected by a protracted conflict: the struggle for independence in from 1961 to 1975 and post-independence civil conflict from 1975 until 2002. During this period, much of the population fled from the insecure rural areas to cities like Huambo where the conflict was most intense. Since peace in 2002, significant numbers have returned to Huambo from coastal areas that were relatively safer during the war. By comparison, the return to rural areas has been slow.

2.1. Legal and institutional context for land management

The Portuguese primarily created the colonial land management system in Angola to legalize the appropriation of African peasant lands for settler-farmers' use. When the colonial period ended in 1974, the colonial land cadastre project had been implemented in most urban areas and in the western half of the country where populations and Portuguese settlements were more concentrated.

2.1.1. Post-independence and civil war period

After independence l in 1975, the new Angolan government affirmed the constitutional role of the state as the owner of all land. The Confiscation Law of 1976 permitted the state to confiscate land and real estate that had been abandoned for more than 45 days by the departing colonialists. The state thus became the single largest owner of land and housing stock in the country. However, independence and the flight of many Portuguese civil servants also meant that management of the formal colonial land cadastre ceased. The colonial technicians who had mapped out and administered the cadastre left and, in some cases, destroyed or took maps and registry information with them.

Following independence, peri-urban, informal housing settlements grew rapidly as the civil war continued but legal and administrative procedures for managing these areas were not developed. The existing land

management institutions were weakened by the lack of technical staff and the low priority given to these settlements during the conflict. A major constraint to urban land management in Angola was the absence of up-to-date municipal land cadastres and a registry of housing and real estate. The lack of adequate documentation on land is among the principal factors that inhibit access to credit for housing and the development of a mortgage market.

In the Land Law of 1991, the state restored the framework for offering concessions to state-owned land and property, principally in the rural areas and in a few specifically designated urban areas. A framework was also set up to allow occupants of state-owned rental housing to purchase their houses and flats.[1] However, the revenues collected by the state from rents and from the sale of its housing patrimony were so low that little income was generated to invest in upgrading or maintaining the infrastructure. At the same time, the civil war resulted in increased population migration to the cities, lack of new formal urban construction, planning and maintenance, and growing" informalization" of the land and housing market. The conditions of buildings, urban infrastructure and services became severely deteriorated during this period.

The end of the war in 2002 increased demand for housing. A private real estate market emerged, aptly responding to the increased demand from foreign companies and expatriate workers. This demand turned these same buildings, as well as land, into very valuable assets and important sources of rent-seeking in an increasingly informalized rental and real estate market.

2.1.2.   Post-conflict period (2002) to the present

In the post-2002 period the government turned its attention to the addressing social issues, such as housing, and the rebuilding of institutions for land management. Since 2004, a growing number of laws and regulations related to land, housing and urban development have been adopted with a particular focus on Luanda. While these legislations articulate the principles for citizens to exercise their right to information and participation in land access and management, these are not regulated or reflected in practice. An established tradition to facilitate public consultation processes before the adoption of these laws does not exist yet. When consultation does occur, there is no guarantee that contributions will be taken into account. Upon approval of the laws, there is often a lack of information dissemination and of a timely and systematic follow up. As a result, not all necessary by-laws are in place to facilitate the implementation of the new legislation. The lack of technical and financial capacity of state administrations, especially at the local level, further limits implementation of new legislation. While many laws have been published, overall, the government still lacks the capacity to deliver and follow through on implementation.

In 2004, a new Land Law (Law 9/04) and a Territorial Planning Law (Law 3/04) were adopted. Under the land law, informally-occupied land needs to be regularized within three years (Article 7, Law 9/04). Land may only be expropriated by the state for specific public use, the purpose of this use must be declared and just compensation provided (Article 12, Law 9/04 and Article 20, Law 3/04). The territorial planning law provides for the restoration or rehabilitation of degraded urban or illegally-occupied areas (Article 4(d), Law 3/04). The process of elaboration, execution and revision of urban plans should contain mechanisms for citizens to exercise their right to information and participation (Article 21, Law 3/04). Municipal and provincial territorial plans are subject to central government approval, which, by law should be assisted by an Inter-ministerial Commission for Territorial Planning (Article 45-46, Law 3/04).

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[1]   Law for the Sale of State Patrimony 1992

Article 34 of the Land Law stipulates that the state can grant: (a) private property rights to urban land; (b) useful customary domain to rural communities; (c) useful civic domain; (d) surface rights; and (e) precarious (temporary) occupation rights.

The concession of urban land of up to 1,000 m² may be authorized by the Municipal Administration, while land between 1,000 m² and 20,000 m² need the approval of the Provincial Governor. Urban land in suburban areas of up to 1,000 m² may also be authorized by the Municipal Administration, while the approval of the Provincial Governor is needed for land with areas of up to 50,000 m². Concession of areas greater than 50,000 m² may only be authorized by the Minister of Urbanism and Construction.

In 2010, the government estimated the formal housing deficit to be 1.9 million units. As much as 90.9 percent of the urban population lives in inappropriate conditions according to the National Statistics Institute.[2] An official Housing Policy was approved in 2006 (Resolution 60/06) with a view to guaranteeing the universal right to housing. The subsequently adopted Framework Law for Housing (Law 03/07) seeks to promote public and private housing policies through the:

- definition of new criteria of human settlement and the construction of new *bairros* (neighbourhoods) and cities,

- regulation of a system of fiscal incentives,

- regulation of a system of credit for housing

- promotion of raising public or private funds for housing

- promotion of public or private partnerships in the field of housing

- the guarantee of urban security, access and infrastructures

- consolidation of the urban and rural identity of the country

In 2007, the President decreed the creation of state reserves for the construction of 'new cities' within the capital metropolitan region. In 2008, state land reserves were identified in the provinces of Cunene, Uíge, Zaire, Namibe, Bié, Luanda, Benguela, Cabinda, Kuando Kubango, Huíla, Lunda Norte, Lunda Sul, Kuanza Sul, Kuanza Norte and Huambo (Decrees 80-112/08). Some of these reserves were allocated to the respective Provincial Governments, others to the GRN (*Gabinete de Reconstrução Nacional* or Office for National Reconstruction).

Following legislative elections of September 2008, the governing political party MPLA (*Movimento Popular de Libertação de Angola or* Popular Movement for the Liberation of Angola) announced a plan to build one million houses throughout the country by 2012. The National Urbanism and Housing Programme was officially approved in 2009 through Resolution 20/09. The Programme aims to benefit an estimated 6 million people across the country (based on an average of six people per household).

To date there is no legislation to regulate the Angolan rental and real estate markets. However, four laws are currently under review by the National Assembly with a view to addressing nonexistent or outdated legislation on real estate mediation, urban rental, construction and housing cooperatives, and social housing. The government has announced the opening of a one-stop shop (*Guiché Único*) for registration of

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[2]   IBEP (2010)

properties similar to the already existing *Guiché* for registration of companies. This would locate diverse services within one entity and facilitate the rapid acquisition of title deeds with a view to simplifying procedures and reducing the transaction costs for users. It was announced that in early 2011, the National Assembly would vote on the necessary changes to the country's Civil Code, the Land Registry Code and the Notary Code in order to enable the creation of this *Guiché*. At the end of 2010, it was unclear to what extent the revised legislation anticipates any actions to strengthen the financial, technical and human capacity of the relevant state entities, which are the main constraints to efficient land management.

The stated policy of the State (and in particular of Municipal administrations) is to rebuild institutions so as to decrease the risk of conflict and to create a source of tax revenues. The latter is part of the policy of local revenue generation and diversification from oil revenues and top-down financing of state expenditure that is the currently the main source of income. This can only happen when secure land titles are issued. The stated policy is to incrementally upgrade sub-standard housing areas and tenure security.

As the population of the city grows, residential areas are becoming more densely populated and the distance between housing, economic activities and social services become greater. Housing is expanding onto areas of environmental risk. It appears that many processes continue to run informally, ignoring the law, and that building the necessary institutions is occurring only slowly. This appears to apply even to areas that are considered to be formal housing areas in which, nominally, the correct procedures have always applied. As the competition for suitable, accessible land increases but appropriate procedures are only partially applied, the potential for conflict is high.

After more than a decade of peace in which attempts have been made to build institutions and to provide intermediate forms of 'recognition' of land rights and official acceptance of informal settlements in general, Development Workshop is seeking up-to-date information about the existing local land management arrangements. It is also seeking insights into the process of official institution building and any potential constraints and barriers that may be hindering the development of viable land management institutions.

2.2. Development Workshop's engagement in land management in Huambo

Development Workshop (DW) is a human settlement NGO that has worked in partnership with the Angolan Government and poor rural and urban communities for more than three decades. On the completion of a series of land tenure and market studies[3] in Luanda, Huambo and several of Angola's urban centres, DW made a number of policy recommendations to Government[4] and proposed a series of pilot projects in order to demonstrate them in practice and test their viability.

In Huambo most urban growth is taking place at the periphery without any formal planning. The Huambo municipal administration had made provision for the distribution of land for self-help housing. However,

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[3] Development Workshop and Centre for Environment and Human Settlements (2005). "Terra—Urban Land Reform in Post-War Angola: Research, Advocacy & Policy Development," Luanda Development Workshop, Occasional Paper No.5.

[4] Development Workshop (2012), "Angolan Urban Land Policies, Strengthening Citizenship through Upgrading Informal Settlements," World Bank Land Conference, April 26–28, 2012, Washington, D.C. http://www.landandpoverty.com/agenda/pdfs/ppt/cain_powerpoint.pdf

landowners who lost their agricultural plots in the urbanization process were not compensated, nor were the housing areas provided with basic infrastructure, and nor were the norms of urban planning respected. Conscious of these challenges, the local government administration invited Development Workshop (DW) to coordinate the implementation of the two pilot-demonstration projects in Huambo. The projects were implemented at a time when important decentralisation reforms were underway through the creation of municipal administrations that were assigned new powers for managing land. The first case study was completed before the reforms, at a time when provincial urban planning officers could be engaged in the pilot projects and the weight of Government could legitimise the land transactions. The second pilot project was implemented after the publication of the "decentralisation reform law". Municipal administrators had been given the responsibility of managing land for housing but were inexperienced and did not have the authority to take over the financial aspects of the programme.

The projects[5] demonstrated how a *land readjustment* model could reduce land-conflicts and by regularising tenure status (see Annex ??). It showed how market mechanisms created land value that benefited former occupants, new owner-builders, financial intermediaries and the State. The projects demonstrated an opportunity to mobilise the land market to "create value" for urban infrastructure investment. Through the progressive regularisation of land tenure Municipalities showed the possibility to generate their own financial resources through transaction fees and taxes. It was argued that income from the regularisation of land tenure could be one of the ways that municipalities will be able to sustain themselves in the future.

3. Preliminary hypotheses

The study's preliminary hypotheses that were used as entry points to investigate current land management practices and the progress of institution-building in this area are the following:

- that management practices in the city of Huambo were weakened by the lack of technical staff and the low priority given to this area during the years of conflict (1975 – 2002) as well as the lack of institutions and procedures for managing informal, peri-urban areas in the colonial period;

- that local administrations (such as municipalities) have an interest in developing proper procedures as this would be the basis for eventually generating local tax revenue but that progress has been uneven in the last 11 years since peace was achieved;

- that as yet the level of knowledge of, and application of, the correct procedures is low and that this leads to confusion of institutional roles and competencies and a reversion to former informal processes;

- that support from central government (through periodic supervision and appropriate, incremental introduction of procedures) for building the necessary local institutions has been inadequate.

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[5] Cain, Weber & Festo (2012) "Participatory & Inclusive Land Readjustment the case of Huambo, Angola", presented to the Urban Research and Knowledge Symposium - Cities of Tomorrow, 9th October, 2012, World Bank, Barcelona, Spain.

4. Methodology

The project has two components: a legal study and a household survey on domestic land acquisition. The main methods in the legal study included interviews with front-line actors in the land management institutions in Huambo city along with those who supervise them and those who have developed the procedures that front-line actors should implement. This was accompanied by research on legislation, regulations and by-laws that should be used to guide the work of the relevant land management institutions. The analysis identified the discrepancies between the procedures as actually practiced, those perceived by higher levels of management and those stipulated by law. Further analysis identified the reasons why there are these discrepancies, whether written procedures should be adapted so that they can in practice be implemented or whether further support is required to front-line land administrators to implement procedures.

The household survey on domestic land acquisition utilized a questionnaire on existing land access mechanisms and practices in the city of Huambo. The survey, carried out in 2012, includes questions on how land was acquired and tenure secured. Issues were addressed on how which types of documentation were employed and the how security is perceived depending on housing type and length of occupation (ie whether recent institution-building has had an impact on procedures and tenure security). This analysis was carried out using the knowledge of the context held by the Development Workshop researchers and by a national legal consultant.

5. Components of the research

Development Workshop has implemented two main research activities. The first is a legal study that was carried out by an Angolan lawyer who is an expert in the area of land rights in Angola. The second is an analysis of existing land access mechanisms and practices in the city of Huambo based on household questionnaire research carried out in 2012 by DW's research team; the analysis was lead by one of Development Workshop's senior consultants supported by DW's geographic information system unit and Urban LandMark's statistician.

5.1. Legal study

The study involved the following:

1. Examination and description of the existing legislation in this area

2. Analysis of the way legislation is implemented in practice in the city of Huambo, through interviews with staff of the Municipal Administration of Huambo city. It examined and described the current practices of the Municipal Administration and analysed why and how the legislation was implemented. It analysed why the Municipal Administration does not follow the processes stipulated in legislation and why it does not issue the documents that the law provides for.

3. Interviews with higher authorities who supervise the work of Municipal Administrations focusing on the instructions that these higher authorities give to Municipal Administrations. The analysis examined and described the differences between the processes set out in the law and why Municipal Administrations do not follow the correct procedures or have difficulty in doing so.

4. Interviews with the Municipal Administration and the higher authorities who supervise the work of Municipal Administrations, and a description of the institutional framework for the work of Municipal Administrations in this area. This description particularly focused on overlaps or gaps in the

responsibilities in the institutional framework, noting any differences between the institutional framework set out in legislation and the institutional framework in practice. It also noted any differences between the city of Huambo and other administrative districts if these were apparent.

5. Evaluation of whether the laws, practices and processes might change in the next two years and how they might change based on views expressed in the interviews with Municipal Administration and higher authorities.
6. Evaluation of the support to Municipal Administrations that might be necessary for them to carry out the procedures as provided for in the law.
7. Evaluation of the role that Development Workshop might play in supporting the various authorities in implementing clear processes and practices that are consistent with the law and that provide improved security of tenure for poorer people in peri-urban areas of Huambo.

5.2. Household land acquisition survey

The analysis of existing land access mechanisms and practices in the city of Huambo were based on a household survey conducted in September 2012 by Development Workshop's research team. The questionnaire was about land access mechanisms and security of tenure. The sample size was 200 households. A sampling frame was developed based on a GIS-based settlement typology analysis, which identified three geographically distinct housing types:

- Formal areas including the old colonial city and some new condominium-type developments;

- Semi-Formal areas where housing has been built informally but aligned for future infrastructure;

- Informal settlements or *musseques* where urban infrastructure has not been planned.

Development Workshop's research team had carried out similar household surveys in Huambo in 2004 and 2010 and is able to do a comparative data analysis.

The analysis of the survey results focused on getting a better understanding of what documentation households have for their plots and houses and their perception of security of tenure. It looked in particular at whether those who obtained plots recently have obtained the documentation stipulated by current legislation and whether this provides more security of tenure. The specific aspects investigated included:

1. The delineation of houses and neighbourhoods where they are located into specific settlement typologies, classified as "urbanised," "informal settlements" and "intermediate (upgradeable) settlements" and the production of a map of these areas
2. Type of documentation households possess for their plot, how this varies between different settlement typologies (i.e., urbanised areas, informal settlements, and newer intermediate housing types), how documentation varies with the year when households obtained their plot, with the value of the plot, and with the services that are available in different areas.
3. The costs of occupying a housing plot, and how this varies with the year when households obtained their plot, the value of the plot, the services in an area and the different settlement typologies of the city.
4. Length of time it tool to obtain a plot and how this varies with the year when they obtained their plot, the type of documentation obtained, the value of the plot, the services in an area and the different settlement typologies of the city.

5. The security that people feel in their occupation of a plot, and how this varies with the year when they obtained their plot, the type of documentation they hold, the value of the plot, the services in an area and the different settlement typologies of the city.
6. Any problems or conflicts experienced and how this varies with the year when they obtained their plot and the type of documentation they hold.

How households mobilised funds to paying the costs of occupation of their plot (whether from their salaries, from informal trading, through credit or from other sources) and how this varies between different types of housing, the value of the plot and the year when they obtained their plot.
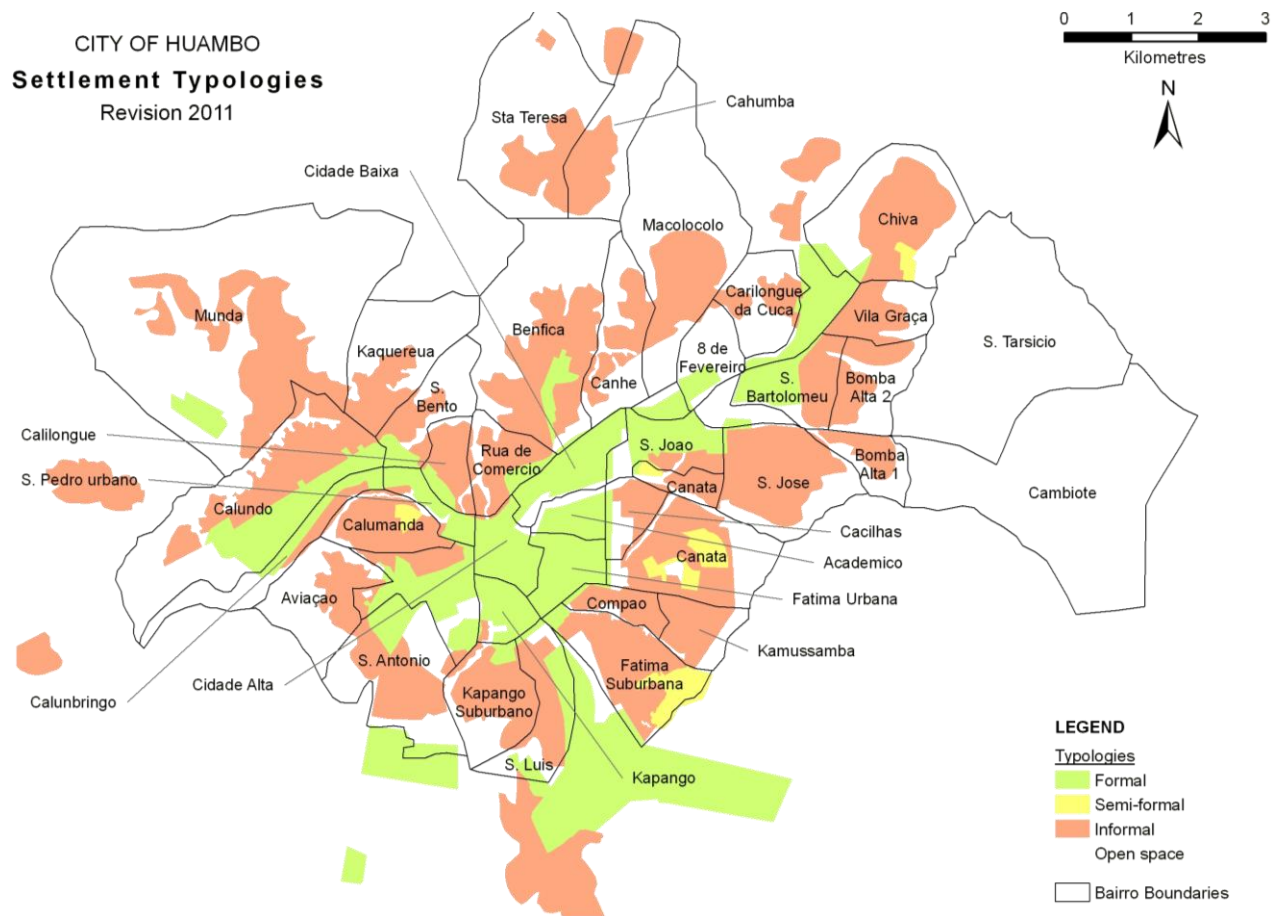
Figure 1 Map of Huambo Showing Settlement Typologies

6. Findings: legal research

6.1. Legal basis for the recognition of land tenure rights in Angola

The existing land tenure legislation stipulates the following:

6.1.1. Rules related to land rights set out in the Constitution of the Republic of Angola

1. <u>Land</u>. Article 15 of the Constitution states that land ownership is derived from the State and can be transmitted to natural or legal persons, with a view to their rational and effective use, in accordance with the Constitution and the law. The Constitution recognizes local communities' access and use of the land, in accordance with the law but this does not preclude the possibility of expropriation in the public interest, subject to fair compensation, in accordance with the law.

2. <u>Right of ownership, Requisition and Expropriation.</u> Article 37 of the Constitution guarantees the right to private property and its transmission, in accordance with the Constitution and the Law. The State respects and protects the ownership and other real [property] rights of natural persons, legal entities and local communities, only being allowed to request temporary civil and expropriation in the public interest, subject to fair and prompt compensation, in accordance with the Constitution and the Law. The payment of compensation referred to in the preceding paragraph and condition of effectiveness of expropriation.

3. <u>Right to Housing</u>. Article 85 of the Constitution states that every citizen has the right to housing and the quality of life.

4. <u>Tenure</u>. Article 85 of the Constitution states that the land and property originating in State and integrated in its private domain, with a view to granting and protection of land rights to natural or legal persons and the rural communities, in accordance with the Constitution and the law. The State recognizes and guarantees the right to private property of land, defined in the law. The award by the State of private land ownership and its transfer is only allowed to Angolan nationals.

6.1.2. Land legislation under the Angolan Civil Code and the Land Law of 2005

1. <u>National Land Policy</u>. Angola does not have a comprehensive, written statement of its national land policy and accordingly has no clear, overarching principles to guide land-related legislation and regulations, or to prioritize plans for economic growth and development with issues relating to land access, tenure security, land use, and land administration.

2. <u>Civil Code.</u> The Angolan Civil Code is based on the Portuguese Civil Code and is the fundamental source of civil law in the country. The Civil Code contains sections on private obligations and contract rights, commercial law, debtor-creditor relations, property rights, and succession. The Civil Code continues to govern many land issues – either because they fall outside the ambit of the Land Law or because the Land Law and Proposed Regulations specifically defer to the Civil Code as the governing law.[6] However,

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[6] ARD & DW pg 9

while the Civil Code used to provide for some protection for those occupying land informally for long periods, the 2004 Land Law removed those provisions, thus subjecting those with informal rights to eviction if they fail to apply for a legal concession within three years provisioned by law.

3. <u>Angola's 2004 Land Law</u>[7] Article 4 states that the Angolan Government owns and exercises ultimate authority over all land and natural resources, and has an irreversible right to expropriate land. The law expresses the government's desire to adopt a territory organization policy with objectives of well-being, economic and social development, and preservation of areas in which traditional ways of using the land are protected.

4. <u>Surface Rights.</u> Under Article 55 of the Land Law the state can grant surface rights to rural and urban land to individuals and legal entities for the purpose of construction of buildings or for agricultural use. Surface rights can be mortgaged and purchased without public auction. Surface rights are granted for 70-year periods, subject to renewal. Regulations require surface rights initially to be granted provisionally, for a period of no more than five years. The right will be extended only after proof that the holder of the right has met the obligation of effective use and the land is demarcated.

6.1.3.   Rules relating to the regulation of licensing of operations for the subdivision of land, urban infrastructural works and building construction (Decree 80/06)

1. <u>Principle of Licensing.</u> Article 4 of the Decree 80/06 provides provisions for the licensing of allotment (sub-division) operations of land suitable for private urban property development, or the granting of surface domain rights to private persons. However land to be licensed must fall within the perimeters defined as "urban" as contained in approved urban master plans. The operations of construction of buildings in these same land or lots, but must respect the rules of the General Regulations on urban and rural territories on planning.

2. <u>Principle of successive development</u>. Article 6 of the Decree 80/06 requires that for the licensing of a given for an urban development (construction) it is necessary to have previously or simultaneously licensed operations that must precede in the logical sequence of the urbanization process.

3. <u>Urban operations and works subject to planning permission</u>. The Decree 80/06 states that private initiatives require permits to carry out the following urban operations: allotment or sub-division; construction or building in general. The operations of allotment or sub-division can only be licensed when focusing on areas of land classified as urban or "*brownfield*" developments or contained within in urban perimeters already defined or covered by new urban centers under urban development plans.

4. <u>Definition of allotment</u>. Article 9 of the Decree 80/06 states that allotment (or subdivision) is the operation of restructuring urban land that involves the division, simultaneous or subsequent, of one or more plots of land situated within urban perimeters, into standalone units or lots intended for the construction of buildings and other urban related use, with the corresponding change in the rights of use. Allotment must be made in accordance with the directives of urban development plans, or in the absence of a plan, with the directives issued by the competent municipal administrations.

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[7] Ibid pg 11

5. Title. Article 52 of the Decree 80/06 states that a *Título* represents planning permission that is guaranteed by license. The guarantee of the title permit and of validity of the license depends on the payment to the planning authority of the fees due by the applicant.

6. Property Registry. Article 52 of the Decree 80/06 also states that the title constitutes proof of authorization of the allotment for the purpose of construction, and must be recorded in the Property Registry *Registo Predia.*

6.1.4.   Legal Instruments used to Define Tenure Rights

1. The legal framework and the relationship between Land Surface Rights and the Registry of Property. Article 98 of the Angolan Constitution enshrines*, ipis verbis*, the right to private ownership of the land along with other land rights, including customary use of land, surface use rights and the civil right under Article 34 to precarious or temporary occupancy of land. Although not clearly articulated, the regulation of surface rights appears to contradict and does not fully incorporate other property rights that are enshrined in law.

2. The State's almost exclusive use of the Law of Surface Rights. The current practice and the preferred option of the Angolan State has been – and continues to be almost exclusively – to use the constitutional provision of granting surface rights. The choice of this option is understandable because it gives the State the sole responsibility for developing a strategic vision, policy management of urban planning and land management that protects the private domain of the State. However by restricting the recognition of land rights to this single application, the wider framework of rights guaranteed under the Constitution are excluded.

3. Surface rights have legitimacy through the Civil Code. In addition to the constitutional justification under Article 89, the provision of Surface Rights is also enshrined in the Civil Code, in Articles 1524 and 1527. The Civil Code states that "surface rights may be conferred by the State to individual and public legal persons in the form of private domain rights subject to special legislation (the Land Law).

4. Obligation to construct a building. On the basis of Article 1524 of the Civil Code, the true right to surface is defined as the "faculty to build, either permanently or temporarily a work on the land." It is understood, therefore, in the social interest, beyond the law, the right to surface, serves to encourage the construction of buildings on land occupied by a person in order to maintain their rights to that land even if that person does not want to or cannot afford to build.

5. Surface rights as a tool for urban management. The granting of surface rights is a legal instrument that can be used by cities and other urban centres to facilitate the construction of buildings for housing, industrial or commercial uses by individuals and the private sector. Income for local authorities can be derived from the granting and transfer of surface rights by subjecting the issue of titles to lump sum or periodic payments.[8]

6. Local Authorities ability to grant Surface Rights. Article 39 of the Land Law accords local municipal authorities the responsibility to grant surface rights for rural and urban land to individuals or to national or foreign legal entities.

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[8] Mendes, Armindo Ribeiro, (1967) O Direito de Superfície.

6.1.5. Land Management and Registration of Tenure Rights

1. <u>Licensing real estate.</u>[9] Real estate represents property that by law should be documented with a public deed.[10] However a public deed is not enough, given that it represents real property, it should also be the subject of a land register[11] open and available to public scrutiny. In the past, there was no publicly available land registry in Huambo.

2. <u>Surface Rights and the right to build.</u> Surface rights as defined by Article 1524 of the Civil Code and Article 39 of the Land Law do not automatically confer the right to build. The right to build does not derive directly from the surface right. It is, rather, a power that must be additionally granted to the holder, according to the terms and conditions defined by (i) legal urban standards and (ii) by plans of the proposed construction. However, it is the State that is responsible for assessing and deciding (granting a license), prior to construction, if the conditions in which the person wishes to do so conform to the legal standards and the urban plans.

3. <u>The Land Register and Surface Rights.</u> In order to secure full legal tenure the "title to surface rights" must be duly registered with the Land Registry. The Registry must also show that the holder has an approved your project, whose technical construction aspects should take into account the "General Regulation of Urban Buildings", the "General Regulation of Territorial Planning and an "Environmental

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[9] Real estate rights can be defined as the direct and immediate power over a thing that the legal order assigns a person to satisfy the interests legal-private in accordance with the terms and limits specified therein. It is a domain or of sovereignty that the holder exercises directly and immediately on a sure thing and determined without the interference of any person, the person who corresponds to the obligation of *non an injunction* Beside the expression *real*, and used the expression "law of things". The latin word *real* means something, hence real rights, right of things generalize the same branch of law. Inherence is not legally possible to transmit the same real right of one thing for another.

[10] Public deed is intended to give legal effect to a given document, and is carried out and supervised by competent notary public entity. After this act (contract) should immediately proceed with final registration in Land Registry. Act, by which transmits the well from one owner to another through a written document and signed by both parties before a notary or his representative.

[11] Land register is intended primarily to give publicity to the legal situation of the buildings, with a view to the safety of real estate legal trade. Through the information provided by the registry (with interest in particular to those who will buy a house) one can get to know the composition of a given building, to whom it belongs and what type of charges (mortgages, liens, etc) related to it.

Impact Assessment." The approval should result in the issuance of an allotment license, a construction license, and an approval of the environmental impact assessment.

4. <u>The License for Construction</u>. The construction permit, once issued, gives the citizen the legal certainty that the work is authorized as to technical aspects and is in compliance with the urban development plans, the rules of hygiene and safety, the urban aesthetics, the technical conditions of the foundations of the structure of the walls, the sanitary facilities and sewage, the layout of the interior spaces and free, the respect for minimum areas of set-backs and the rules relating to the building standards for floors and roofs, etc. It is on the basis of the construction permit that, once the work has been completed, it may be surveyed before the approval of a license of habitability. Therefore, non-compliance with the conditions dictated in the construction license can result in the non-issuance of the Title to Surface Rights, the crucial document representing the public property deed, and can lead to own whole or partial demolition of the building that was built.

5. <u>The License for Allotment (sub-division)</u>. The *allotment license* approves the division, simultaneous or subsequent, of one or more land situated in urban perimeters, to stand-alone units or lots intended for the construction of buildings. The issuance of an *allotment license* corresponds to the amendment of rights in accordance with the directives of urban development plans, or in their absence, with the directives issued by the competent local authorities. Based on the *allotment license*, the plot of land on which a particular or real estate developer had only the "right of surface", will be divided "legally" in batches for urban uses, with the consequent amendment of rights attributed to each plot allowing them to be incorporated as individual plots in the Land Registry. In accordance with the law (Article 9 of the Decree 80/06), the *allotment license* constitutes proof of authorization for land sub-division for construction purposes. The *allotment licenses* for each of the sub-divided plots provide the legal guarantee for those who are buying a property for construction purposes.

6.2. Legal and administrative procedures related to land rights as practiced in Huambo

This section summarizes and reflects on the finding s from the in-depth interviews with key informants who are key management authorities involved in the administration of land in the Province of Huambo. Interviewees included senior persons from the Municipal Administrations of Huambo and Caala Municipalities and from the Provincial Government of Huambo who have specific responsibilities in land administration.

6.2.1.   Summary of Interviews

 Informal occupation is a common occurring pattern in Huambo Municipality. Many citizens already have a plot of land that they occupy. The plot of land is acquired by various means, normally not official. After the occupation or purchase of a plot of land, the citizen builds his/her house and only later investigates the options for legalizing their possession. A question that arises is that before the occupation is regularized/legalized, what is the occupant's tenure status and what guarantees does the citizen have to safeguard their occupation?

6.2.2.   How is the land/plot/lot acquired?

 The acquisition process occurs in various ways, namely:

- The citizen acquires / purchases, own resources, through third parties (sometimes people connected to the Municipal Administration) a lot;

- The citizen has possession by simply, "occupying" a lot or a portion,

- The citizen claims to be an heir of aging parents, grandparents, or of land claims being offered by relatives, in which case the Administration requires a document showing this information. This document must be reviewed by the *Soba* and the Commission of the District;

- The citizen acquires land through a process initiated in Municipal Administration itself (this process is described in section below).

6.2.3.   Is the transfer of plot(s) managed?

As a rule, the transfer of plot(s) is usually initiated by the Municipal Administration itself sometimes as partnership initiatives with other institutions, as is the case with Development Workshop. The process starts with identification of areas where plots are available or have pending claims for acquisition. Typically, there are numerous requests "pending", i.e., people, claiming a lot, but was not granted because it was not available. A claim is made in order of seniority, as there are areas with available plots allotted.

 To this end, the citizen files an application to request a lot to the Municipal Administration. Then, a confirmation is made in the database, to monitor that same citizen is not already a beneficiary of lot granted by the Administration. When confirmed that the citizen petitioner was not previously a beneficiary or holder, then he/she is considered "eligible" to benefit a lot. However, the fact be considered "eligible" does not mean that automatic benefits. The citizen must make another request with the Division of Planning and Urbanism of Municipal Administration, that he/she intended this a lot as soon there is available area

6.2.4.   What is the process for regularization of a lot?

- The regularization process is a lot different depending on whether it is a lot acquired "ab initio" from the administration, or acquired by other means and on it has been previously constructed.

- When the batch has been granted by the Administration, the "culmination" of the Administration process results in the emission of licenses by the Administration itself.

- Ie the citizen submits the applications and joins copy of Identity. Having available batch are issued guides for citizens pay the fees due, and the fees once paid are issued licenses for auction, fencing and construction. Note here that, most citizen just with these licenses, although we are not here, strictly speaking, the culmination of the process of legalizing a lot, since legal certainty is not yet solid.

- The second part of the question c) brings us to the next question below.

6.2.5.   Regularization of a lot with previously unauthorized construction

- The regularization of a lot on which there was previously "illegal" construction, ie, unauthorized, the runs the same way in which it handles the situations in which citizens already holds a lot (not yet built), with a variant, which we will explain:

- The first variant is when the citizen gets Administration with a lot - who claims to be his - but where not built yet. In this case, they submit the (i) Application with (ii) Copy of Identity Card (iii) Declaration of Soba - traditional chief (iv) Request for Subdivision of Lot and (v) Location map.

- Then the Administration will assess whether it is an urban area with infrastructure and allotted (if this is the case, follow the route described above, when it comes to areas allotted and issued by the Directors).

- If, on the contrary, based on visits of technicians Rotua and concrete assessment, concluding that it is not possible, then the licenses are not issued.

- The reasons may be the cause of a negative opinion and thus are not issuing licenses in the first place, building or lot to be in risk areas (ravines, for example) or do not meet the required clearances to the law requires (rivers, streams, etc..) or building completion not obeyed the requirements of building works and urbanism, which makes it impossible to fix that infrastructure estrutruras be incorporated in the future.

- It follows that one determines "illegal" construction can be "legalized", while not respecting certain criteria referred to above, provided that you can make adjustments.

- Moreover, if the house built "illegally" being a plot "legalizável" before being issued the licenses to regularize urban acts committed, citizens must pay the fines. The fines have been reduced, often more than half, so as not to discourage citizens from seeking municipal services in order to regularize their situation.

6.2.6.   Summary Analysis of the Interviews

Interviews with the key political and administrative actors at the Provincial and Municipal levels in Huambo demonstrate that in-spite of weak, unclear and unenforceable national legislation on land tenure that local solutions have been developed to respond, in practice, to the urgent territorial settlement issues that Huambo confronted at the end of the armed conflict. These administrative procedures have gained widespread legitimacy in practice in Huambo and have been increasingly been employed by the Municipal Administration who have the responsibility for domestic-scale[12] land management. While the 2004 Land Law provides the provision for granting titles to surface rights, the regulations of how these titles can be applied in peri-urban areas has not yet been approved. In most Angolan cities, the vast majority of families live in informal settlements where land titles cannot yet be issued. In Huambo 80% of the population, live in settlements that have not yet been formally planned, and lack roads and infrastructure. The Huambo provincial and Municipal authorities have therefore developed administrative procedures to manage land

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[12] Law 07/02 governing decentralisation gives municipalities the responsibility to manage land parcels under 1000 square meters.

and owner-initiated housing that is based on the principals of verifiable evidence-of-occupation and the logical distribution of new urban land through seniority and waiting lists.

Huambo's provincial and municipal authorities have welcomed the collaboration with Development Workshop over the last several years in piloting demonstration projects in participatory inclusive land readjustment. These projects have contributed to the development of the set of administrative tools by the Municipal Administration that have allowed them to tackle the challenges of land management without resorting to large-scale forced removals that have attracted unfavorable media attention and accusations of human-rights violations in many other provinces in Angola. The Municipal Administrator of Huambo, when interviewed for this current study, stated that; "So far, we haven't demolished any house that was already built".

However in the same interview the Administrator admitted that; "There is a huge confusion between what is *administrative*, what is *judicial*, and I have had several problems because of that". Thanks to open-minded and innovative local leadership, urban land conflicts remain rather rare in Huambo to date. There have been few disputes that have been taken to the courts. Because legal land-documents in the form of *Surface Rights Titles* are almost never issued and the procedural regulations for dealing with the vast informal settlements have not been published by the executive branch of Government, the current strategy of employing local administrative tools seems to be appropriate. However it remains to be explored, how these tried-and-tested administrative procedures, which incorporate many of the good-practice principals of incremental land tenure, can be progressively legalized?

The possibility of employing the authority of the Provincial Government to pass and publish their own "by-laws" in the form of *posturas* or *Governorial Decrees* for application within the Huambo's geographic jurisdiction remains to be explored. After municipal elections are held in 2015, it is anticipated that the elected councils "*autarquias*" will have the authority to create local by-lays and create legal regulations within the constitutional division of powers between different levels of governance. Domestic-scale land-management for housing is within the realm of municipal authority,

7. Findings: Huambo household survey on land and housing

The objectives of this household survey are to understand the dynamics of urban land markets in Huambo city. Land is an active ingredient in the economic strategies of poor people. All urban dwellers need secure access to land on which to live and be productive. For poor families, housing, and the land they occupy, can represent their accumulated savings and assets. Thus there is a need to look at how urban land markets in Huambo function and meet the needs of different groups, and in particular how poor people access, trade, and hold urban land. This involves understanding better the volume of transactions, prices, the informality of land and housing markets, and the roles of brokers, intermediaries and agents, and government. A sound information base of urban land access through formal and informal land markets will is needed to facilitate the development of urban policy and land use management practice in the urban and peri-urban areas of Angola. The need to understand the formal and informal land markets in Luanda is an essential step in developing urban land management systems which would promote social and economic inclusion.

7.1. Population Density (indicator of overcrowding)

Population density was ranked according to the following table[13]:

Population per km^2	Density pop/Ha.	Description
Low density	< 100	Peri-Rural, New Peripheral Settlements, Sub-Urban & Condominiums, Social Housing, Self Built Planned Settlements
Medium density	100 – 300	Very high density areas located close to the city centre: Organized & Transitional Musseques
High density	300 >	Some Old Inner-City Musseques which include areas with a population density of more than 500 people per hectare

There are certain complications linked with measuring population density. For instance "in order to accurately measure population density for each typology, it is necessary to take on the arduous task of defining all open spaces, vacant lots and commercial or industrial areas. This has yet to be done. However, specific areas within certain typologies can be identified with a density of over 500 people per hectare, which has been defined as overcrowding[14]. No typology has been identified as overcrowded in its entirety."

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[13] It should be emphasized that low density is not necessarily the most desirable form of settlement, since residents of such areas often need to travel long distances in order to reach services such as water, schools and grocery stores. On the contrary, most sparsely populated European and North-American cities are striving to increase population density. Medium to high density zones are often located close to city centres with access to a large range of services and are therefore popular areas to live in. However, when settlements have reached population density which can be considered as overcrowding, the advantages linked to high density are diminished by factors such as competition for scarce resources and health risks due to a lack of sanitation facilities and services.

[14] UN Habitat defines "overcrowding" as the "proportion of households with more than three persons per room," including "bedrooms, dining rooms, living rooms, studies, habitable attics, servant rooms, kitchens and other separate spaces intended for dwelling purposes." Therefore, this measurement was used for this study.
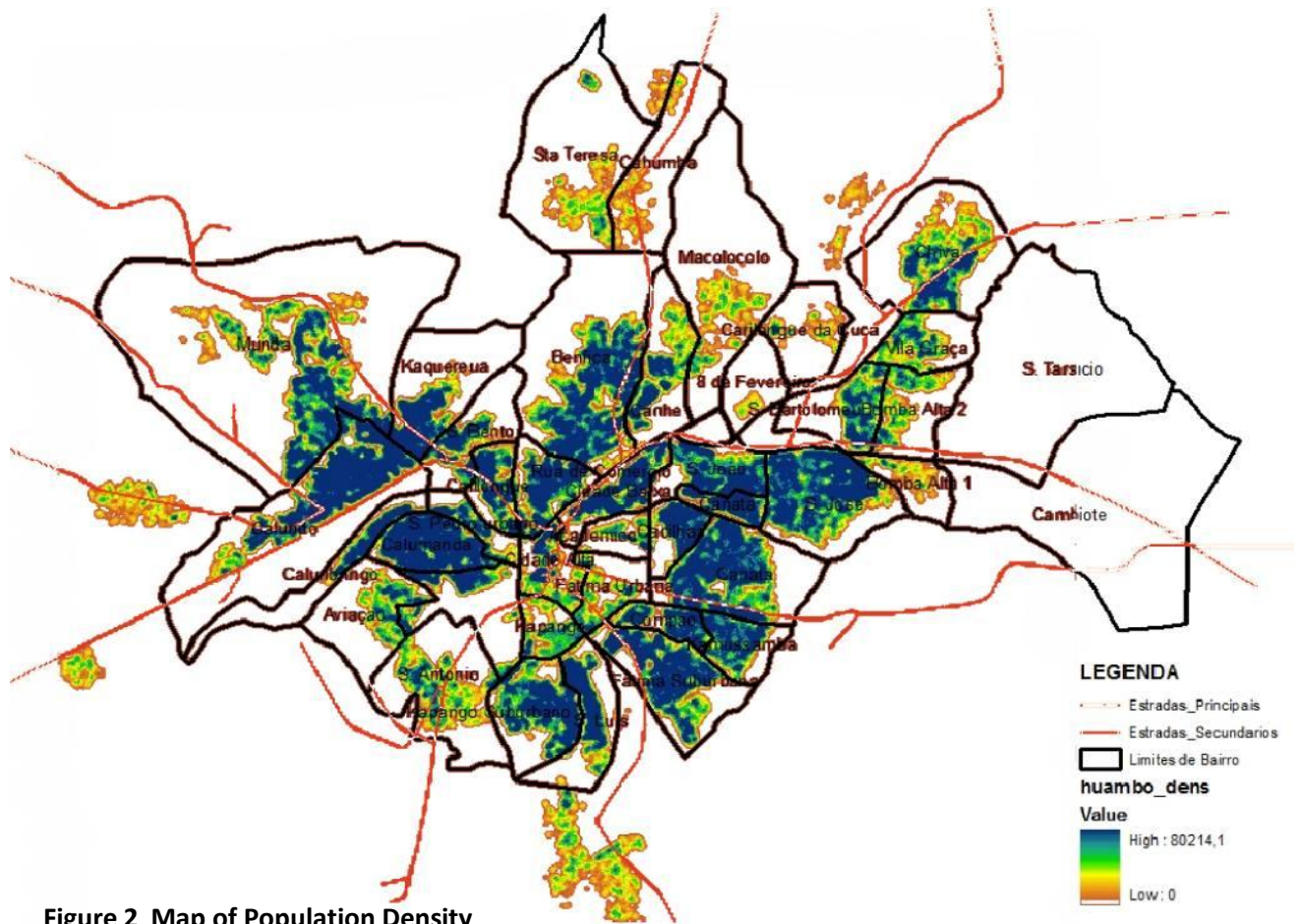
Figure 2 Map of Population Density

The following graph shows the results of the household surveys for this indicator:

7.2. Average number of persons occupying each room
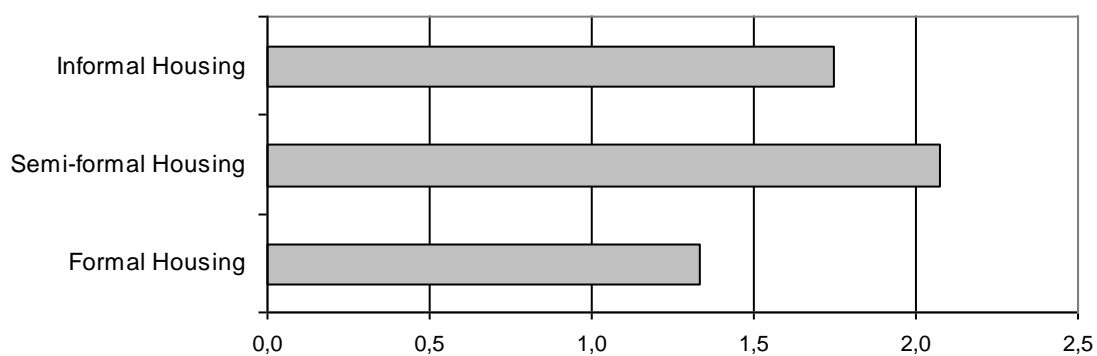
People per room is not necessarily a good indicator of poverty since there are no signs of overcrowding in any typology (more than 3 people per room). When number of people per room does not surpass 3 it is not appropriate to use this as an indicator of poverty. However, the population density maps illustrate areas which are currently particularly dense and may be areas that will be the source of inner-urban migration in case of the gentrification of some bairros.

7.3. Quality of Construction

Housing quality was ranked according to the following two tables[15]:

Building material	Description
Tijolos (ceramic bricks)	The most expensive building material, traditionally used in high-rise buildings in the city centre
Cement blocks	The most common new building material which provides adequate protection from wind and rain
Adobe (un-burnt clay bricks)	A common building material in the provinces outside of Luanda, which, if used in the right way, provides sufficient protection from wind and rain
Wood	An uncommon building except in old musseque houses, material that varies in quality depending on timber resistance to termites.
Pau-a-pique	A traditional mixture of wood and clay, which, if properly maintained, provides sufficient protection from wind and rain, but rarely used in recent construction due to the lack of resistant wood.
Corrugated iron	Low quality building material that is not durable and does not provide sufficient protection from wind and rain.

[15] It should be emphasized that low density is not necessarily the most desirable form of settlement, since residents of such areas often need to travel long distances in order to reach services such as water, schools and grocery stores. On the contrary, most sparsely populated European and North-American cities are striving to increase population density. Medium to high density zones are often located close to city centres with access to a large range of services and are therefore popular areas to live in. However, when settlements have reached population density which can be considered as overcrowding, the advantages linked to high density are diminished by factors such as competition for scarce resources and health risks due to a lack of sanitation facilities and services.

Roof material	Description
Ceramic tiles (telhas)	The most expensive roof material, traditionally used in high-rise buildings in the city centre
Corruagated iron (chapas de zinco ou de lausalite)	The most common roof material in Luanda, which, if well maintained, provides moderate protection from wind and rain. Asbestos cement sheets are known to be a health risk.
Thatch roofs (capim)	Low quality roof material that is not durable and does not provide sufficient protection from wind and rain unless it is maintained very regularly. Thatch roofs are a clear indicator of limited financial means and are rarely used in Luanda

There is a substantial number of houses made of adobe in Huambo although there do not seem to be any houses made of chapa (sheeting) in Huambo.

The following graphs show the results of the household surveys for wall construction materials
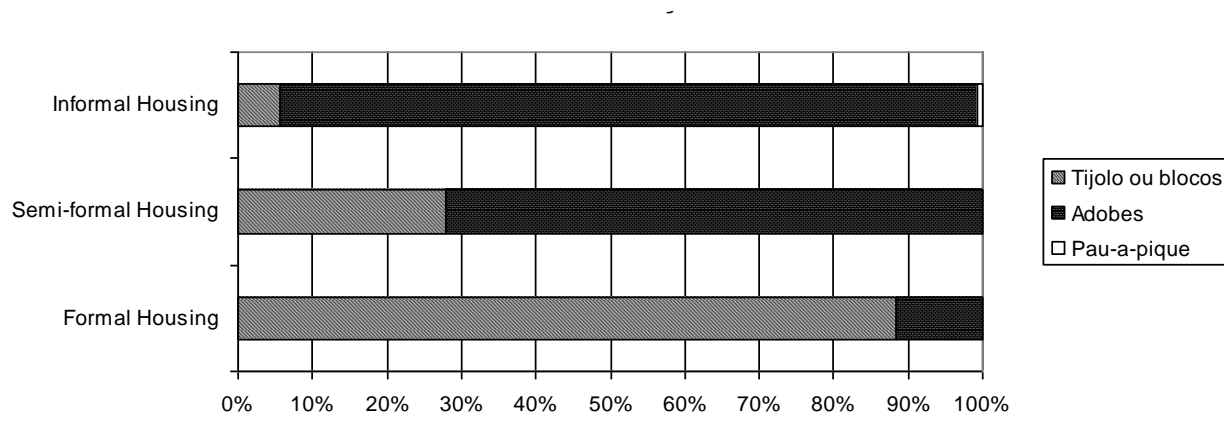
Roof Construction Materials

27
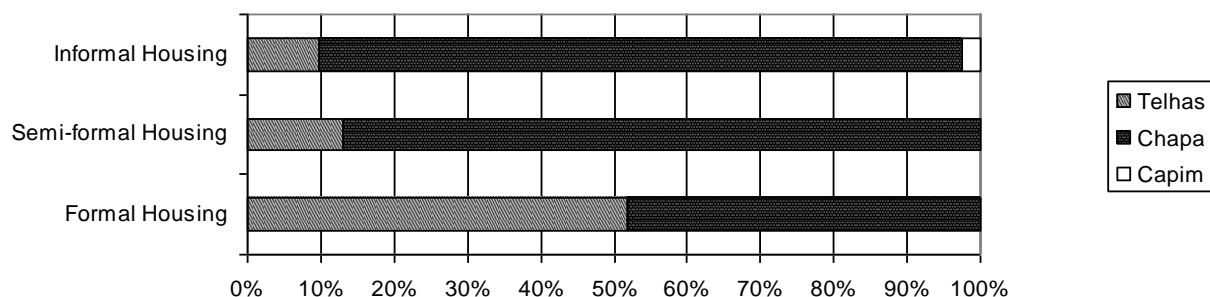
7.4. Road Access to Housing

It is difficult to measure the importance of location, for example the time it takes to get to work, because people who live on the periphery often have informal jobs selling merchandise on the street etc. and therefore choose to work close to their home. Therefore, the indicators shown in the graph above were used from the household survey. These indicators focus more on accessibility than location, but are considered good indicators for ranking land value for housing.

Type of road	Description
Asphalt	Most roads in urban areas and the main access roads to the musseques are made of asphalt.
Improved dirt road	Some major roads in the musseques are improved dirt roads
Bumpy dirt road	Most of the streets inside the musseques are bumpy dirt roads. Some of the access roads are made of old and worn asphalt with large holes in it.

Accessibility is significantly better in the formal housing areas than the semi- and informal areas. The following ranking tables were prepared for this indicator:

Road conditions	Description
Good	Most of the streets in the city centre are made of asphalt and have proper drainage systems which keep the streets accessible even after heavy rainfalls..
Bad	The dirt roads do not have a drainage system, but some of them are graded and are still passable after a regular rainy season rainfall.
Inacceptable	Most of the bumpy dirt roads in the musseques become impassable each time it rains.

What kind of road access do you have to your home?
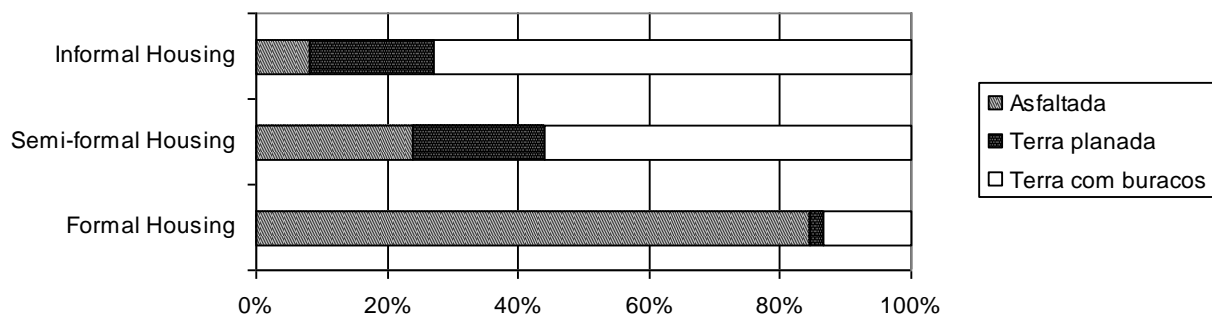
After a rain storm what is the road access like to your home?
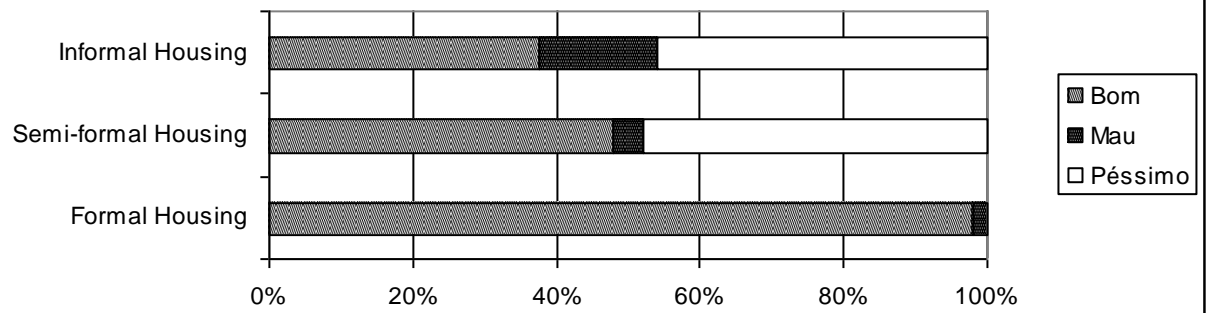
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Figure 3 Map of Average Household Income

Average Household Income
City of Huambo
Huambo, Angola
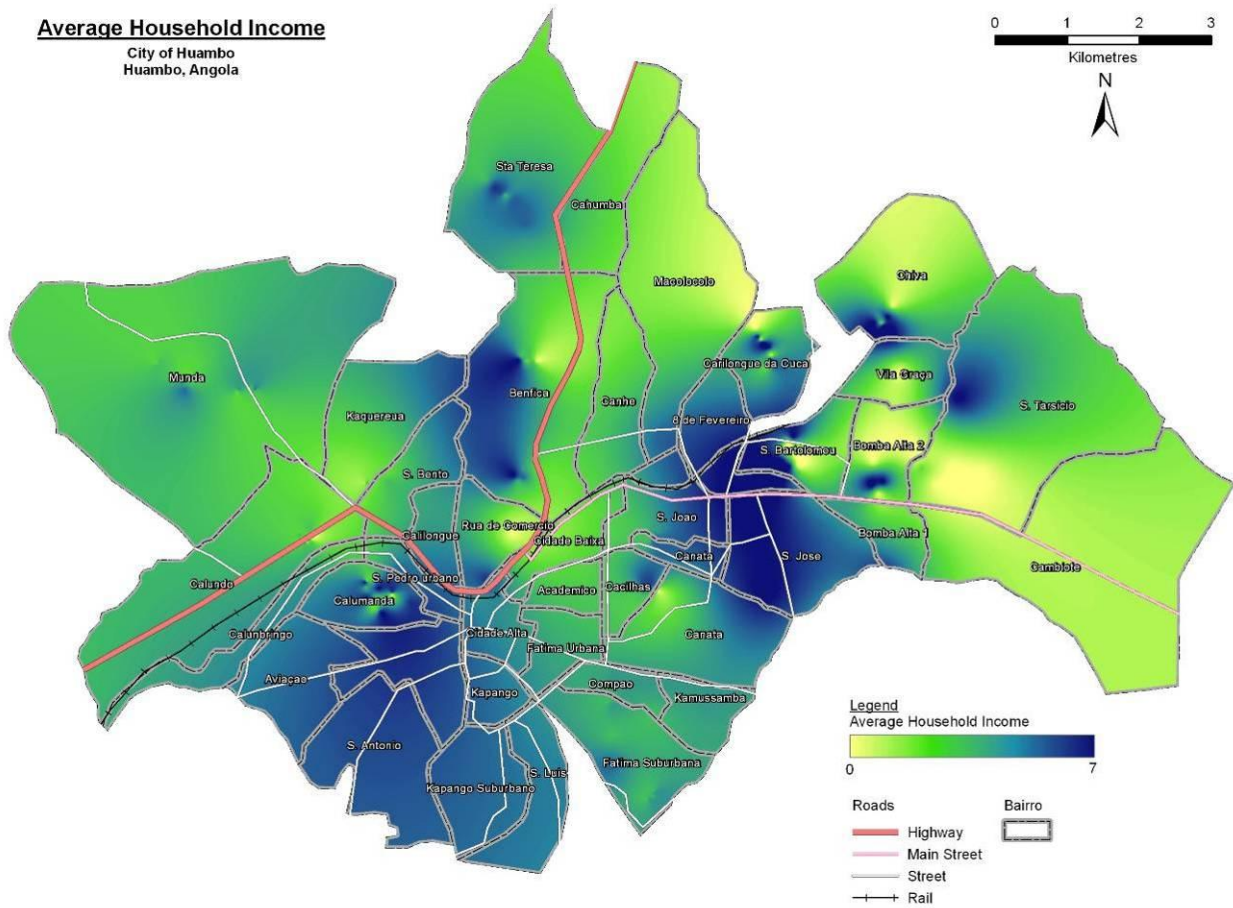
7.5. Acquiring the occupation of a house or plot of land

How did you acquire this house or plot of land?

Huambo
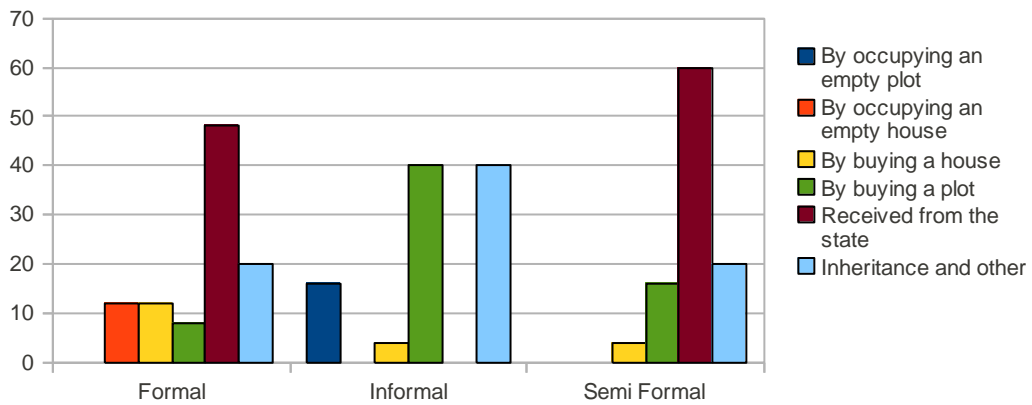
In the surveys, respondents were asked how they gained access to their house or a plot of land. Generally, "occupying an empty plot of land" does not feature very strongly as a means of land access and is only mentioned by people in informal areas who occupied land several years ago. Occupying empty houses is similarly rarely mentioned: where it occurs, in formal housing areas, it refers to occupation of a house in the 1970s or 1980s. It is therefore important to note that contrary to the common notion that many people are squatters, the findings of this study show that most people are not occupying or "squatting" on land and houses that they have not paid for.

In formal housing areas of Huambo, the most frequently mentioned means of access to land or a house is reception of a house from the State - "*cedência do estado*". This refers to the process by which the State divested itself of its housing stock in the 1980s and 1990s to those who at the time were its tenants. Inheritance is the next most important way in which respondents had gained access to property in formal housing areas. Buying a house (or a plot) only accounts for about a total of 20% of cases though these have become more important in recent years.

In informal housing areas the most frequently mentioned ways of acquiring land or a house are through purchase of a plot of land on which a house has been built by the owner subsequently, and through inheritance. Purchase of a house is quite rare.

In semi-formal housing areas the most frequently mentioned means of access to land or a house is reception of a plot of land from the State - "*cedência do estado*". Semi-formal housing areas in Huambo now include new areas that have been divided into plots in the past 5 years and on which people usually have to build their own houses, as well as the old semi-formal areas from the colonial era. For example in Santa Iria about 600 plots of 15 x 25 metres (375 square metres) have been provided by the Provincial Directorate of Urbanism since 2006. Those who were subscribed to receive a plot, and were accepted, had to pay 100 kwanzas per square metre for a *licenca de arrematacao*, (licence to fence off a plot) and then pay 60,000 Kwanzas for a *planta tipo* (a standard plan of the type of house that should be constructed). In theory it is necessary to also have a *licenca de construcao* (construction licence) but in practice no-one has one and this has not been enforced. The *licenca de arrematacao* would have cost about 37500 kwanzas, which was about 450 Dollars at the time. Many people consider that they have bought the land from the State, and it is reported that some of those who have received lots have been able to sell them for about 30 US Dollars per square metre as there are signs that road access to the area is to be improved and electricity is to be provided (see later).

There is no specific stipulation that a plot-holder has to stay for a certain period of time, because in theory all selling of land is illegal. The responsibility for this type of land distribution activity has passed to the Municipal Administration from Provincial Directorate of Urbanism, and there are now similar processes going on at Sassonde, Cambiota and Chiva. There is strong demand as building on such a plot as seen as a good investment: there is a risk that services may not be provided later leaving the plot-holder with lower value land and poorer living conditions but in current conditions the belief is that these areas will benefit from services within a year or two.

Thus a market in land does exist, though it is most visible in informal areas: in other areas obtaining land from the State is more important, though the market has become more important in recent years. In formal

housing areas, most purchases or occupation is of a house that has already been constructed. In informal and semi-formal areas most residents have obtained a plot and built their own house on this.

Did you occupy (or buy) a house or an empty plot of land?
Huambo
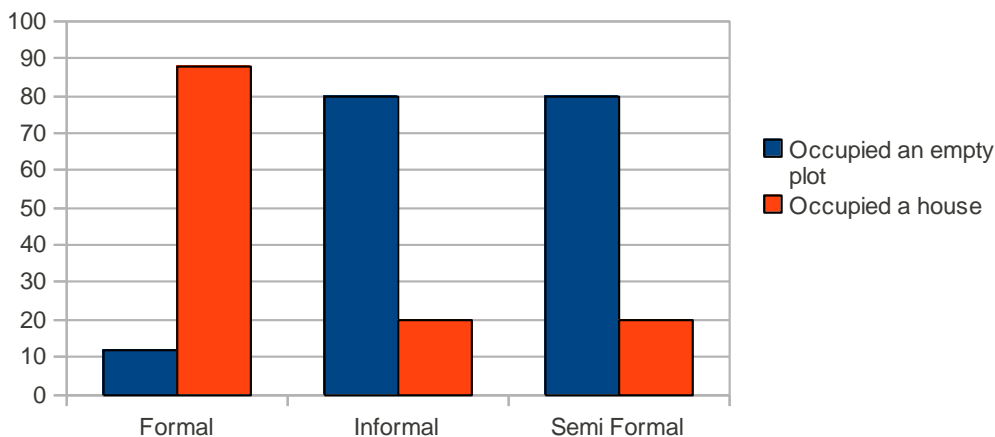
When did you start to occupy this house or plot of land?
Huambo
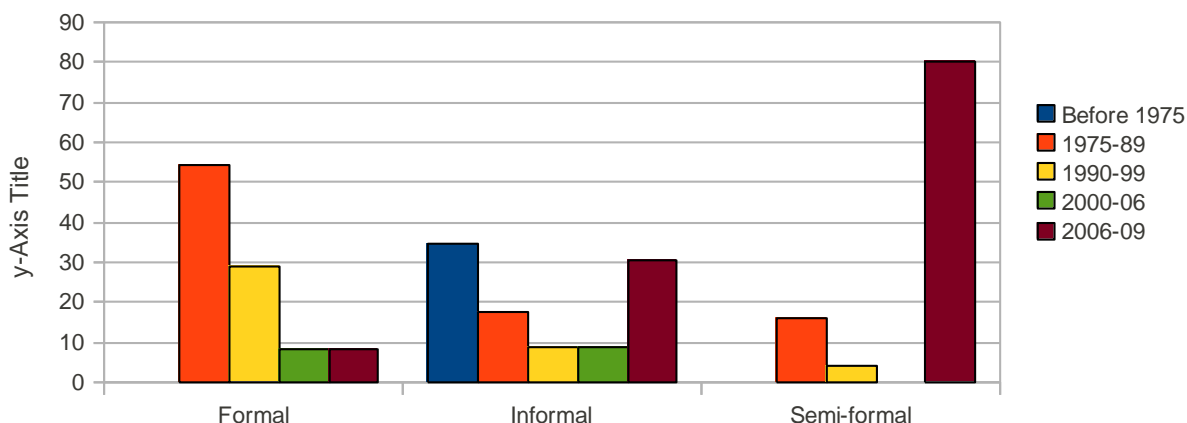
h[...]
1[...]
the last five years, meaning that informal housing areas are a mix of long-term and relatively new residents. In formal housing areas, 80% of residents moved there between 1975 and 1999. In semi-formal areas, most residents moved to their present location since 2006, when the State began to make available plots for building in some areas of Huambo city.

Eighty per cent of residents of formal and semi-formal areas had paid something to occupy their present house or plot of land, while only 48% of residents of informal areas had paid. In formal housing areas the payment was made to a government department (reflecting the fact that houses were acquired when the State divested itself of its housing stock. In informal housing areas payments were made to the previous proprietor. Few payments are made to intermediaries, even though contacts for sales are made through intermediaries. Intermediaries act as agents to find properties but do not get involved in payments. Few real estate agents involve themselves in the actual transfer of property. Their activities are mostly limited to

bringing the seller and buyer together and in the high-end market this is a highly lucrative business in itself. Usually the commission consists of one month's rent, which at the peak of the real estate boom, could range between US$ 10,000 and US$ 20,000. Agents are often not certified or capacitated to confirm the legitimacy of sellers and buyers. Existing studies indicate that the real estate sector is still in an incipient stage. It lacks structured financial products, partly due to the inefficiency of cadastre and land registration, and the lack of legislation on 'horizontal property' to provide for warranties. This inhibits access to credit for housing and the development of a mortgage market.

Figure 4 Map showing length of residency

In all housing areas more than half of respondents were born in Huambo city and most of the rest were born in the Province. In informal housing areas about 15% of residents were born in other nearby provinces. Similarly the previous house of most respondents was in Huambo city or Huambo province. This is in marked contrast to Luanda where residents have come from many parts of the country.

Where were you born?
Huambo

Where did you live before living in this house?

What do you value about this area?
Huambo
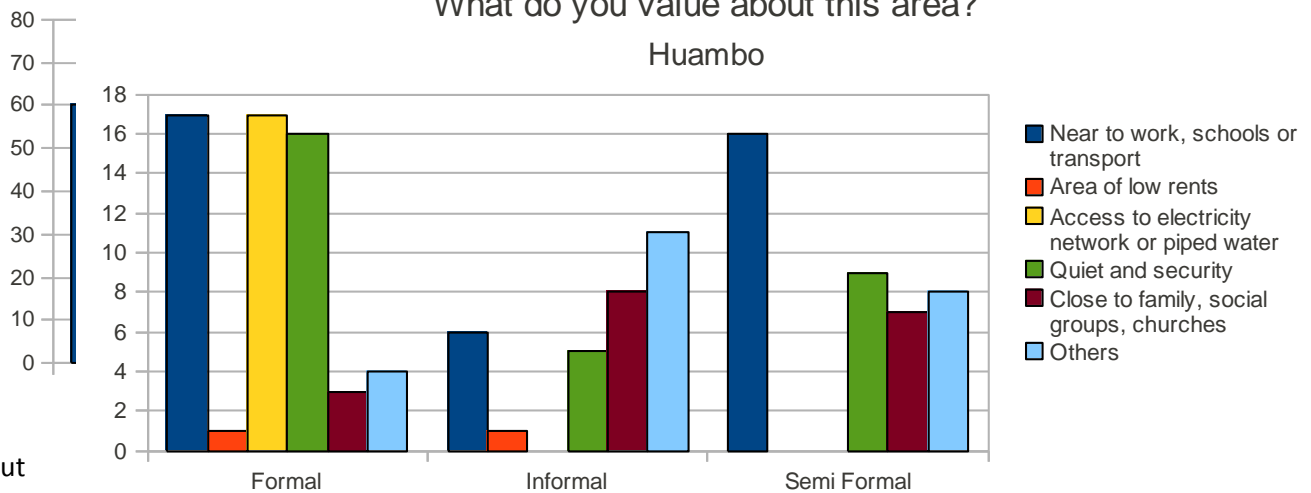
In about half of cases respondents said that conditions improved when they moved to their present location and half said that conditions stayed the same. More respondents said that conditions had improved in informal and semi-formal housing areas. In semi-formal housing areas the improved conditions are due to a reduction in the cost of living and better access to services: many residents of these areas appear to be those who lived in formal housing areas but found the costs to be too high. Reduction in living costs is also mentioned by some residents of informal housing areas. There do therefore appear to be some people who are moving location within the city because of the increasing land values near to the city centre.

In formal housing areas, the main reason that the move produced better conditions is better services and better access and transport.

In formal housing areas, the main features that are valued are access to work, schools and transport, quiet and security and access to water and electricity. Nearness to work, schools and transport are also important in semi-formal areas but are less important in informal housing areas.

7.6. Documents and safeguarding of rights

In an earlier study in 2003, respondents were asked about what from of document they had to show their occupation rights, and only 39% had some form of document. In 2010, the number with documents in informal housing areas is similar but the number with documents in semi-formal and formal housing areas has grown. The 2012 study demonstrated that 34% of all interviewed had some form of documentation however only 2% can be considered an official form of legal tenure.
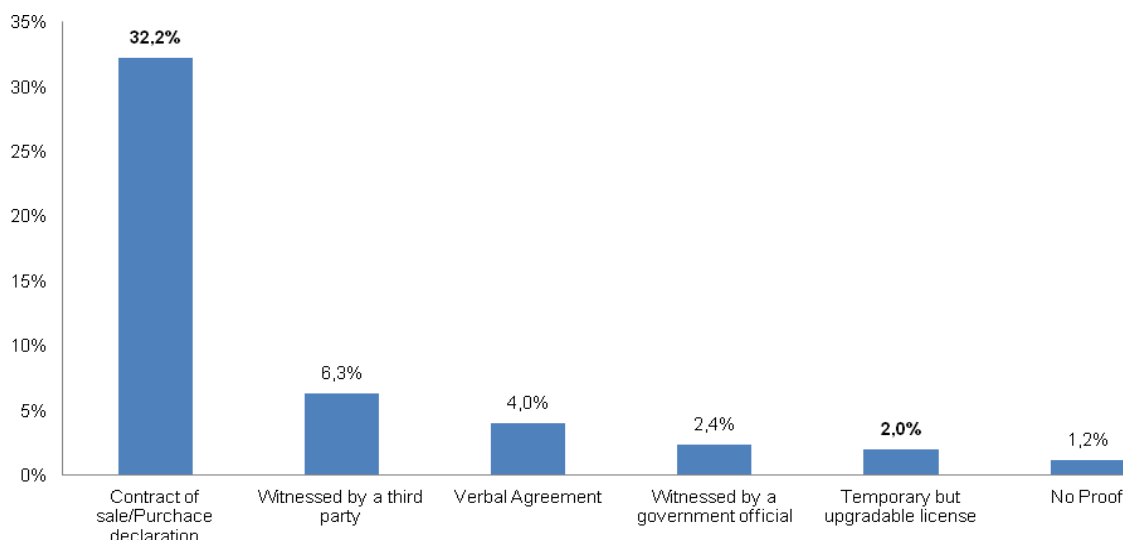
7.7. Proof of right of occupation

In addition to the above-mentioned documentary forms of evidence, the respondents also mentioned the use of verbal agreements and witnesses by a third party ("*o acordo foi verbal e testemunhado por terceiros*") as proof of occupation, these make up 13% of the responses, of which around 2% was witnessed by a government official.

We can also see that from those that answered this question only 1% admitted having no way to prove their right of occupancy (all of these responses came from people leaving within the Informal settlement). However the high percentage of no responses (52%), can also be used as an indication that many more do not have a way to proof the legitimacy of their occupancy, thus they can easily be removed from the area

The main reason for declining proportion of households holding legal tenure documents is the weak capacity of municipal and provincial authorities in processing requests for the legalisation of their housing. Data from the Provincial Government of Huambo's Urbanism Department shows that only 250 construction licences were issued between the years 2005 and 2010. During those years many thousands of houses were constructed informally without the benefit of legal approval.

The weight of practice therefore, demonstrates the significance of the declaration and contract of sale as proof of tenure, or evidence that back up people's claims to occupancy rights. These two documents were cited by most of the respondents in the question (67%). Although this finding is by no means unexpected, it is important for two reasons. The first concerns the legal status of these documents -- although they involve official actors, these documents are not legally defendable, especially in a context of "requalification", massive-scale new town development, or large-scale demolitions. The notaries who act as witnesses to the declarations and contracts of sale are not validating the transfers themselves, although they are testifying

that the parties are legitimate. When we consider people's perceptions about their security of tenure, it shows that people are not aware of this (see discussion on this issue below). Secondly, it tells us something significant about the character of the market in the different settlements. As seen from figure 6 these markets are dominated by dominated by sales, or financial transactions. The findings concerning documented evidence show that far from being anarchic, disorganised or informal, transfers in informal settlements are backed up by evidence, a large portion of which is documented. As a result, these markets cannot accurately be described as "informal". The percentage of documented transactions is even higher in the informal (31%) settlement than in the semi-formal (27%).

Proof of right of occupation by typology
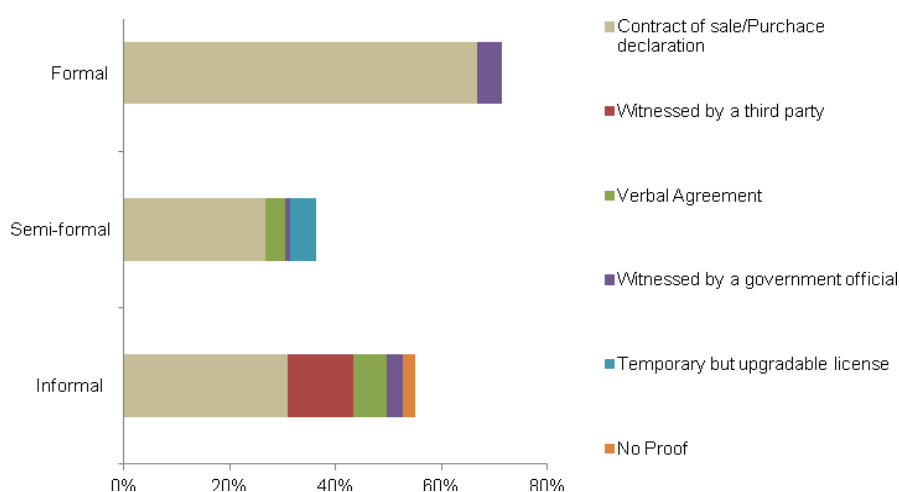
In informal housing areas over half of respondents rely on verbal agreements to show their acquisition of the house or plot (some of them witnessed by third parties). About a quarter have a written declaration that they have bought their plot or house. Just over 10% have a contract or any other form of official document.

In semi-formal housing areas, more than half of respondents say that they have the *licenca de arrematacao* which gave them permission to fence in the plot before building. In theory they should have other documents as well but in practice it appears to have been accepted that the *licenca de arrematacao* is sufficient. The *licença de arrematação* is a temporary but upgradable license, the first license issued by the municipal authorities after the concession is made for a plot of land. With this license, further licenses can be obtained for the eventual construction on the land. On its own it does not legally provide full security of tenure.

In formal housing areas about a quarter of respondents have a contract of sale and purchase (*contrato de compra e venda,* a document that stipulates the value and terms of purchase of the property and is signed by both parties. The notaries who act as witnesses to the declarations and contracts of sale are not validating the transfers themselves, although they are testifying that the parties are legitimate. When we consider people's perceptions about their security of tenure, it shows that people are not aware of this (see the discussion on this issue below).

About a third of respondents have some other documents. These include *croquis de Localização* (location sketch), which defines the location of land or property and is issued by the municipal administration. It is one of the required documents that have to be submitted to legalize property ownership. Another document is the *titulo de ocupação precária* (precarious occupation title) issued by the provincial authorities to establish temporary occupation for up to one year, subject to renewal. None of these documents on their own provide full, legal security of tenure.

Thus while local practice seems to be that these documents on their own are sufficient to show occupation rights, they do not represent the legal position. It may be however difficult to fulfill the full legal requirements and at present are generally accepted as proof of occupation by the Municipal Administration. The risk is that in future local practice may change as competition for land becomes sharper, or if official upgrading projects require compulsory purchase of land and property. This is not the case at present in Huambo, where land is not yet scarce, but may be an issue in future.

Do you think that your occupation rights are safeguarded?
Huambo
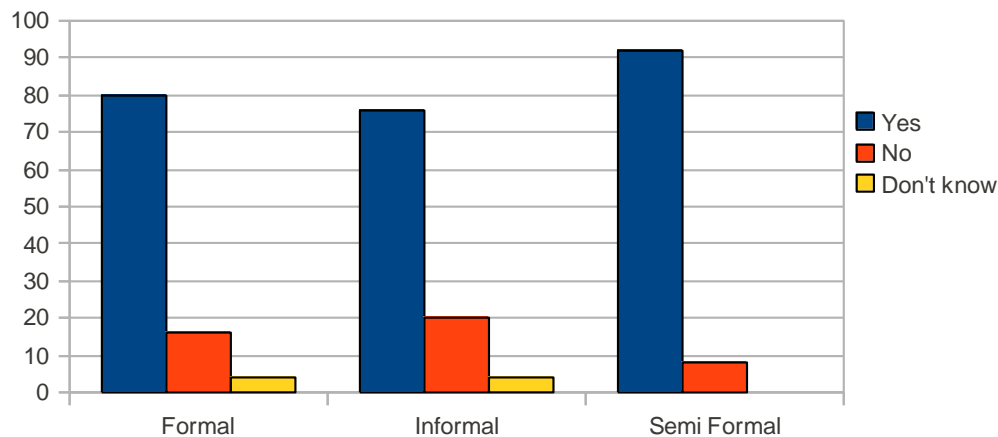
Despite not having the full set of documents legally required, respondents overwhelmingly felt that their occupation rights are safeguarded. Those who are least confident about their occupation rights are those with a verbal agreement or one witnessed by other parties.

In formal housing areas, the main reason for feeling confident about occupation rights is the possession of some sort of document or documents (even if the documents held are not the full documents legally required). The fact that the house was paid for and that verbal permission was received from a government department or a bairro coordinator are additional reasons cited for faith in the occupation rights. In informal areas the main reason for feeling confident about occupation rights is that neighbours can testify that the house or plot of land belongs to the occupier. The numbering of the house by the bairro coordinator and the fact that the house or land was paid for are additional reasons cited for faith in the occupation rights. In semi-formal housing areas, the possession of documents, the fact that a payment was made and permission from the local administration are given as reasons for feeling confident about occupation rights.

In formal and semi-formal housing areas, the main reason for not feeling confident about occupation rights is doubt about the documents that are held. In informal housing areas the main reason for not feeling confident about occupation rights is the awareness that people are being forcibly removed in some areas of the country.

In Huambo Province the official forms of documentation that provide security of tenure are:

1) - Surface right *(Direito de Superfície)*:- this title is granted by the provincial authorities. It constitutes a concession, usually for 60 years, attributing rights and obligations to own and build on land. This land may only be used to construct one's own house or to carry out basic economic activities. When the purpose of the use of the land is defined, information on the land must be requested from the municipal or provincial authorities with regard to the ownership of the land and viability of the project.

2) Land/property registry *(Registo Predial)*: - this document refers to a declaration issued by the Conservatory (local Ministry of Justice office) as proof of property registration

3) Precarious occupation title *(Título de ocupação precária)*:- this title is issued by the provincial authorities to establish precarious (temporary) occupation for up to one year, and is subject to renewal[16]

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[16] The right to precarious occupation is stipulated in Article 40 of the Land Law. The state can grant temporary occupation rights to rural and urban land for up to one year in duration (subject to renewal) to individuals and entities for purposes of construction, mining, scientific investigation, and other activities permitted by the relevant regulations. Leases can be terminated by either party with a 60-day notice. Rights regarding installations and improvements by lessees are subject to applicable provisions of the Civil Code. Where possible, concessions shall be granted by public auction (with exemptions noted).Under the proposed regulations, leaseholds may not exceed one hectare for quarries and one-half a hectare for other uses. Annual lease rates are calculated based on Ministry tables, subject to annual revision. Disputes regarding lease rates are subject to mandatory arbitration. See ARD DW (2007), p. 17.

4) Temporary but upgradable license *(Licença de arrematação)*: - this *Occupation License* is the first license issued by the municipal authorities after the concession is made for a plot of land. With this license, further licenses can be obtained for the eventual construction on the land.

The first three forms of legal land tenure documentation are embedded in the Land Law and/or the Civil Code. The fourth Occupation Licence is an administrative procedure that allows the occupant three years in order to obtain legal title documents. In practice however Occupation Licenses are issued by both Municipal and Provincial Government authorities. In fact they are effectively the only land-tenure documents issued in the Province of Huambo and have gained the weight of a full legal title in practice.

When considering the weight attached to different forms of evidence there are two perspectives that are brought to bear. The first concerns local practice, and the other concerns the official government position. The results of this study show that local practice has more weight, as shown by the graphs (Figure 5 and Figure.7) Although only 48% of all respondents answered this question, here we can see the disparity between the legally acceptable documents with the documents that in reality give people a sense of security.Below is a list of documents cited by respondents of this study:

1) Declaração de compra e venda (purchase and sales declaration)

- this is a declaration signed by both parties to prove transfer of real estate ownership; this declaration can be signed by witnesses as well, and/or legalized by a notary

2) Contrato de compra e venda (contract of sale) - this document stipulates the value and terms of purchase of the property and is signed by both parties

3) Licença de arrematação (temporary but upgradable occuption license)

- this license is the first license issued by the municipal authorities after the concession is made for a plot of land. With this license, further licenses can be obtained for the eventual construction on the land.

The second perspective on the weight of evidence question, over and above the weight of current practice reported until now, concerns the official status of different forms of evidence. The official forms of evidence obviously carry the most legal weight, but their use in practice is negligible. One of the critical issues that emerge from these findings is about how the process of acquiring the status of official tenure should incorporate the validation of declarations, contracts of sale and other widely used proofs of property transfer made in good faith. While currently not formally defensible in law, government policy makers should reconsider how this evidence can be accommodated in the future. In fact, the provincial government of Luanda has, in practice, used the abovementioned proofs as evidence of legitimate occupation in recent cadastre processes.[17]

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[17] Contributions from Provincial Government representatives at the Roundtable discussion held at the World Bank Luanda office, 28 January 2011.

7.8. Overall reasons for believing they have security of tenure
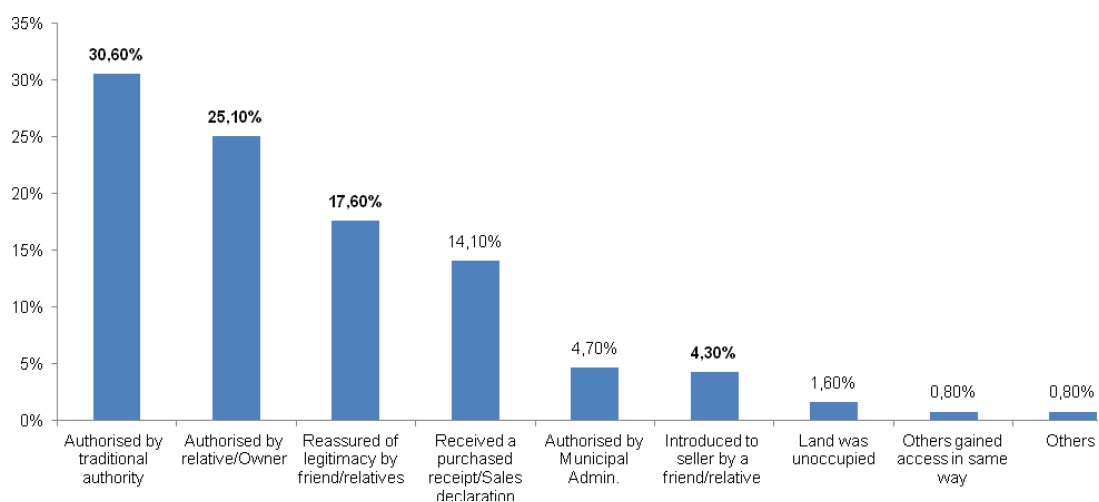
Reasons for believing they have security of tenure by typology	Typology		
	Informal	**Semi-Formal**	**Formal**
Authorised by traditional authority	28,70%	36,20%	14,30%
Authorised by relative/Owner	22,50%	32,40%	4,80%
Reassured of legitimacy by friend/relatives	25,60%	10,50%	4,80%
Received a purchased receipt/Sales declaration	8,50%	14,30%	47,60%
Authorised by Municipal Admin.	3,10%	2,90%	23,80%
Introduced to seller by a friend/relative	6,20%	1,90%	4,80%
Land was unoccupied	3,10%		
Others gained access in same way	1,60%		
Others	0,80%	1,00%	
N/A		1,00%	

When respondents were asked what reassures them of their rights of occupation or legitimacy the results are very different. From the 99.6% response rate for this question, 78% (figure 5) point to reliance on social relations. These include traditional authorities, family and friends. However, these types of assurance are normally verbal and thus carry no weight legally. The only assurances that would carry some sort of weight (if any), are documented authorisations by the Municipal Administration and the purchase receipt/sales declarations and combined this amount only to 19% of assurance. This result combined with the low response rate on the question regarding "proof of right of occupation" discussed above, show that people are unaware of the importance of having documentary evidence to support their claim to occupancy rights, as well the importance of having these documents to facilitate and legitimize real estate transaction processes.

This kind of reliance on social relations in property markets in developing cities is not uncommon, even in the absence of customary tenure. In the Huambo as in other provincial centers where much of the urban population has migrated from rural areas the respect is still strong for traditional authorities who were historically were the manages and arbiters of land rights. Neighborhood-level leadership, sometimes appropriated by the ruling political party and transformed into Bairro Coordinators has assumed some of the authority of the *soba* or traditional chief.

In the absence of higher-level physical plans, and the knowledge of national-level legislation, local officials from municipalities, including traditional authorities made rational decisions on land allocation that made sense to them in practice. With the publication of the decentralization law of 2007 the perception would have been widespread that land management was within their competence to make such decisions, even though the Law did not provide clear guidelines on how this was to be done.

Figure 5 Map indicating strength of tenure rights

7.9. Land Conflicts

No respondents reported having experienced any conflict over land or housing issues. A previous survey in 2003 showed that a few respondents had had conflicts. It would appear that there are now even fewer reasons for disputes. Respondents were asked how disputes would be, if there were any, and by whom. In formal housing areas respondents mentioned the municipal administration (nearly 50%) and then other official bodies. In semi-formal housing areas, the municipal administration was again the main expected source of help, followed by neighbours, friends and family. In informal housing areas, on the other hand, the bairro coordinator would be the main source of help, followed by neighbours, friends and family. Nobody mentioned the police and nobody mentioned the media (as there is no newspaper in Huambo and readership of the national newspapers is low). Media monitoring work does suggest that this is indeed an issue taken up in the press in Luanda, but coverage in Huambo is low.

The findings of the study in 2003 showed that family and neighbours would likely be asked to resolve issues on tenure. This suggests a shift in the values and attitudes with greater preference for a more formal approach to conflict resolution, as opposed to seven years ago, when the preference seemed to be a more interpersonal and informal process of dispute resolution.

If there were a dispute, who would you seek help from?

Huambo
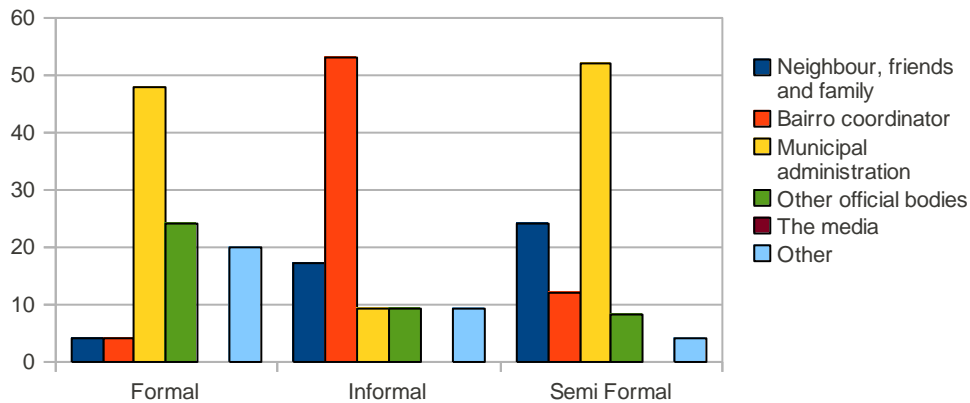
7.10. Land prices

There has been little previous research on land prices in Angola[18]. Research on land prices was carried out in a number of ways: through survey questions, by visiting land and houses that were for sale and through group discussions with NGO staff involved in land tenure upgrading projects.

The surveys included a question about how much had been paid for the property that the respondent was living in. This was found not to be useful, because respondents had moved into their present property in different years in the past and land prices have varied considerably: the number of respondents who had moved in in the last few years did not provide enough cases for analysis.

The surveys also included a question asking how much a plot of land in that area would cost now. This was found to provide useful information: almost all respondents were able to reply to the question without difficulty. (Respondents were also asked how much a house in their area would cost to buy but this provided less useful information because of the difficulty of analysing the variation due to the differences in type of house. Given the availability of consistent information about land values from respondents, because in most areas empty plots are still available and the usual cost is widely known, information about house prices was not used.)

 The cost of land in formal areas of the city of Huambo is just under 70 US Dollars per square metre. In the areas of Cidade Alta and Kapango, with high quality houses close to the city centre and with a high level of service provision, the average price of land is 110 US Dollars per square metre (with a range from 75 to 150 US Dollars per square metre). In other formal areas of the city (with smaller houses and a perception of a lower level of service provision) the average price of land is 32 US Dollars per square metre.

In semi-formal areas of the city of Huambo, the average price of land is 20 US Dollars per square metre. In the newly-designated sites-and-services areas of Cacilhas and Santa Iria the price of land is between 20 and 35 US Dollars per square metre) than in the older semi-formal area of Calomanda (where the price of land is

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[18] Development Workshop carried out Angola's first Land Market Study in Luanda in 2011 with support from the World Bank.

less than 10 US Dollars per square metre). This is despite the newly designated sites and services areas being further from the city centre and having poor road conditions. The difference in price appears to be due to a perception that the newly-designated sites-and-services areas of Cacilhas and Santa Iria are received attention from the State and that their roads will be upgraded in the future along with water supply and electricity supply, while the perception is that older semi-formal areas will not receive attention from the State.

The average price of land in informal areas is between 2 and 3 US Dollars per square metre. This reflects the fact that these areas have a much lower level of service provision and are further from the city centre. Along the main tarred roads leading into the city centre the price of land in informal areas is about 10 US Dollars per square metre while it is less than 2 US Dollars per square metre away from main roads. Higher prices along the main roads reflects the easier access to employment and to services along main roads, while road conditions inside the bairros are uniformly poor, especially after rain. Property along main roads can also be put to some commercial use, such as selling to passers-by or those waiting for public transport.

Average land value USD per square metre
Huambo

Figure 6 Map of Land Values in the City of Huambo

There are no newspapers in Huambo so houses and land for sale are not advertised in that way (as they are in Luanda). There are also few wall poster advertisements. There are however people who act as informal agents, and most people know how to find them. Members of the research team posed as prospective buyers and visited thirty properties for sale (both land and houses) to measure land area, note the locations, and note down other relevant information such as vehicle access and service infrastructure. Where it was a house for sale, the seller or agent was asked how much a plot in that area would cost without buildings, and this provided consistent information. The information from this analysis indicated that the average price of land in formal areas of the city is 50 US Dollars per square metre. In the parts of the formal areas closer to the city centre the price was 100 to 150 US Dollars per square metre while on the edges of the formal areas the price was between 30 and 70 US Dollars per square metre.

In informal areas of the city, the houses and plots visited tended to be relatively close to the city and main roads: the informal agents do not involve themselves in sale of land or houses on the edge of the city or more remote parts of bairros where land is sold through personal contacts. The average price of land in the more accessible parts of informal areas is 9 US Dollars per square metre, with a range between 4 and 13 US Dollars per square metre.

DW staff involved in land tenure upgrading projects gave consistent information about land prices. A plot in the formal area of Huambo city in an attractive environment , where travel is easy and there are various services would cost now about 50,000 US Dollars. If a plot is 25 metres squared, the price is 80 US Dollars per square metre. On the edge of the formal areas, where there is at present land available and a

45

considerable volume of transactions taking place, a plot probably costs 30,000 US Dollars, or about 48 US Dollars per square metre.

A reasonable peri-urban plot (with good access) probably costs 3000 to 5000 US Dollars: this comes to about 10 US Dollars per square metre (4000 US Dollars for a plot of 20 x 20 metres). A peri-urban plot in a poor location probably costs 500 to 1500 US Dollars: this comes to about 2.50 US Dollars per square metre (1000 US Dollars for a plot of 20 x 20 metres).

The various methods for researching land prices in Huambo city give similar results. In the parts of formal areas with a high quality environment, land prices are 80 US Dollars per square metre or above (up to 150 US Dollars per square metre). In more peripheral formal areas they are between 40 and 70 US Dollars per square metre. In better located informal areas (such as along main roads) the price of land is about 10 US Dollars per square metre while it is less than 5 Dollars per square metre. In semi-formal areas the price of land is linked to the expectation of what level of access and services might be available in the future. Where there is an expectation that road access and services might improve because the State is giving attention to those areas, the price of land is 20 to 40 US Dollars per square metre, while in areas which consider themselves forgotten the price of land is about 10 US Dollars per square metre (similar to that in better-located informal housing areas).

All informants for this research agreed that house and land prices are increasing rapidly in Huambo at present, and some informants spoke about land prices increasing by a factor of three in three years. Huambo city did have unoccupied plots (and houses) but these are being occupied and land and housing in the better locations is becoming scarce. In the last 10 years, roads have been repaired and water and electric supply have become more regular: there is a perception that these services will extend to previously unserved areas in future. Economic activity is increasing, particularly as high schools and university departments are re-opened and Huambo is seen as a city in which it is possible to study without the high costs associated with living in Huambo.

Land prices are closely related to access to a good road. This access means access to economic activities, to informal markets, to taxis, to motorcycle taxis, and to rubbish collection. At present electricity access is closely related to access to a good road.

Access declines rapidly away from a good road. After rain, conditions are very difficult away from a good road. In Huambo, travel is relatively easy once you are on a good road; there is no traffic congestion and there is a good supply of transport (mainly by motorcycle taxi) so travel between different parts of the city that have good roads is a minor constraint. The price of a plot depends very strongly on these factors.

Water supply is not a strong constraint because of access to water through shallow wells in most parts of the city. Richer people may desire piped water at home which is mainly available in the formal housing area and this is one of the factors that pushes up land prices in the formal housing area. However not all households in this area have paid to be connected to the piped water system. The fact that water is only available in the northern part of Huambo through boreholes (and a few standposts) may be one of the factors that makes this part of the city less attractive.

Have you ever been contacted to rent/sell/abandon this house/plot?

Huambo
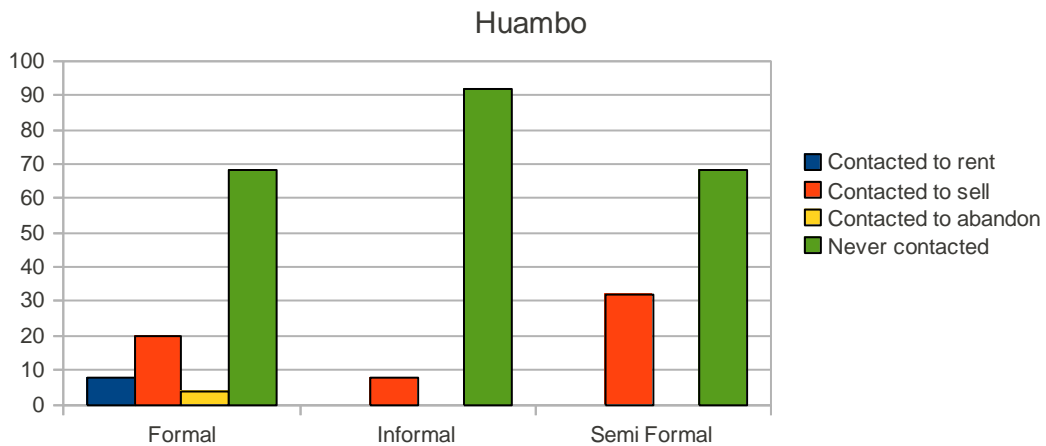
7.11. Market turnover

Less than 10% of residents of informal housing areas have been contacted about selling their house or plot. In formal housing areas twenty per cent of residents have been contacted to sell their house and 10% to rent their house. In semi-formal housing areas thirty per cent of residents have been approached to sell their house or plot. This suggests that there is a developing housing market in formal and semi-formal housing areas though not yet a strong one in informal housing areas. In general respondents would consider moving out of their present house only if another house with better conditions was available, or if they were forcibly removed.

7.12. Summary of Findings on Land Acquisition from the Huambo Household Study:

7.12.1. Occupant obtained an empty plot or a plot with a house?

- In formal areas, 60% of occupation was of a plot with a house.
- In semi-formal areas, 47% was of a plot with a house.
- In informal areas, 36% was of a plot with a house.
- (So even in formal areas, a significant number if people are building their own homes on empty plots)

7.12.2. Type of documentation and proof of access.

- In formal housing areas 30% of occupants have no proof of access in 70% have a written contract.
- In semi-formal areas 51% have no proof of access, 5% consider they have a verbal agreement, 37% have a written contract and 7% have a licence de arremetação. This is the only housing type where this document is found and even here is rare.
- It should be noted that more occupants in semi-formal area consider they have no proof of access than in informal areas because in informal areas verbal, informal proof is more common.

- In informal housing areas, 45% have no proof of access, 7% have a verbal agreement, 13% have a verbal agreement with witnesses, 3% have a verbal agreement witnessed by officials and 31% have a written contract.

7.12.3. Why people think that their occupation is valid?

- The most common reason (29% of cases overall) is that the Soba or bairro coordinator gave permission. (ie a very low level official) This applies across all housing types.: 30% of formal housing occupants, 25% of semi-formal housing occupants, 31% of informal housing occupants. This is not a reason that just applies to informal housing areas).

- Only 5% of respondents say that they felt their occupation is valid because of permission from the Municipal Government or a Municipal Government official). This is mainly in formal housing areas (40% of cases in formal housing areas: in other housing types there are few who feel this.)

- There are few occupants who say that their occupation is valid because the land was empty or other people were occupying the land at the same time. They are all in informal housing areas and amount to 5% of cases in informal housing areas.

- Only 13% of all cases feel their occupation is valid in because they have a document. This is a much less common reason in informal housing areas (95) than in other areas (20%).

- 21% of occupants in informal housing areas feel their occupation is valid because the owner gave them permission to stay. 35% of occupants in semi-formal housing areas feel their occupation is valid because the owner gave them permission to stay. There are no cases of this in formal housing areas.

- 24% of occupants in informal housing areas feel their occupation is valid because they received an assurance that it was valid from a friend or family member. 14% of occupants in semi-formal housing areas feel their occupation is valid because they received an assurance that it was valid. from a friend or family member. Even 10% of occupants in formal housing areas feel their occupation is valid because they received an assurance that it was valid from a friend or family member.

7.12.4. Who would call on if required assistance with issues about validity of occupation.

- In formal housing areas, half of occupants would call on the soba or bairro coordinator about such issues (ie a very low level official). The other half would call on the Municipal Government.

- In informal housing areas 39% would call on their family, 35% would call on their bairro coordinator, 9% on the soba, 8% on the municipal government, and 5% of neighbours.

- In semi-formal housing areas, 59% of occupants would call on their family, 22% on the coordinator of the bairro, 7% on the soba, and 5% on neighbours.

- Overall only 1 person mentioned tribunals, and overall only 5% mentioned the Municipal Government.

- The most commonly mentioned institution was the bairro coordinator, mentioned in all housing types.

7.12.5. Cost of occupation

- Mean in semi-formal areas lower than in informal areas, possibly because of subsidised access in semi-formal areas while there has always been a market in formal areas.

- There is some free access in informal and semi-formal areas but there is (and has always been) a cost in formal areas.

- The range of costs within each housing type is high, partly depending on when access occurred.

7.12.6. Type of road surface

- All formal housing has asphalted roads.

- 31% of semi-formal housing has asphalted roads, 15% has maintained earth roads and   53% has unmaintained earth roads

- 7% of informal housing has asphalted roads,   13% has maintained earth roads and 80% has unmaintained earth roads.

7.12.7. State of roads after rains

- All roads in formal housing areas are in good condition after rains, 31% in semi-formal areas and 8% in informal areas.

- All asphalted roads are in god condition after rains.

- All earth roads, whether maintained or not, are in bad condition after rains. .

7.12.8. Perceived value of the zones

- There are not large differences between informal, semi-formal and formal housing areas in the perceived value of the zones. The only notable difference is that only 3% of residents of semi-fromal housing areas consider that they are convenient for public transport compared to 8% in informasl areas and 10% in formal areas.

- Recent laid-out housing plots may not be in places convenient for public transport.

7.12.9. General comments

There does not seem to be a great difference between the typologies on any of the indicators, especially between semi-formal and informal housing

8. Conclusions on Land Tenure in Huambo

There is a market in land and plots of land in Huambo city and the scale of this appears to be increasing. Many of the transactions go unrecorded in informal housing areas though in other areas they are usually recorded with sales and purchase documents. The transactions are perceived as secure by an overwhelming majority of actors, but in fact are based on rights which are legally uncertain as few transfers can be backed up by legally-defensible documents to secure people's tenure. Even where the State has been involved in land and house distribution, it is arguable whether the documentation is complete and legally defensible. Many of the middle class and elite not have full legal titles to the land and housing they occupy.

Land prices in the centre of Huambo have been rising rapidly in the last five years. The area of formal housing in Huambo was defined, when the city was constituted almost 100 years ago, as covering a large area which was never completely built up in the colonial period. This means that there is still some land to meet demand adjacent to the urban core. However there is some evidence that some residents of the formal housing areas have moved out because of rising costs. They have mainly been able to acquire land in areas where the State has made land available for self-build housing. This has led to longer travel times to work and to poorer access to basic services, though there appears to be an expectation that better roads and services will be eventually provided to these areas.

There are few cases of spontaneous occupations or attempts to legitimize the "*squatting*" of vacant land: spontaneous occupation happened in the past (conflict period) but has now been overtaken by sales of land and plots. In future, uncertainty regarding property rights might create constraints from a market perspective as eventually transfers will need to be backed up by claims that can be legally defended. If it is proving too cumbersome to operate the system as defined under the law, acceptable procedures to verify occupancy, based on what does function, need to be formalised.

9. Recommendations

Recommendation 1: Recognize the right of occupation in 'good faith'

There will need to be recognition of the *de facto* rights of occupation of urban land, with appropriate simple procedures to adjudicate this. Otherwise, the majority of urban residents who, in good faith, purchased or acquired their land through some other legitimate mechanism will be excluded, and the law will be largely seen as illegitimate. The legal basis, regulation and administrative application of this, however, need to also be the basis for avoidance of continuing speculation in land occupation (whether by "formal" or "informal" means). Recognition of the right of occupation in good faith will need to address the question of a cut off date for eligibility. Typically fear in government is fairly widespread that recognizing the right of occupation may send a signal that encourages more rural to urban migration. Both of these issues will need to be addressed in taking this recommendation into more practical application.

The most common forms of proofs of ownership that families currently use need to be incorporated into new legal practice. The most common documentation held by occupants are deeds of sale and declarations of transfer of property. Documents witnessed by local administrations and recognised traditional authorities

also are commonly considered to be legitimate proofs of occupation. The process of granting legal tenure should also be linked with the building of a land information system or cadastre which involves the geographic mapping of occupations together with recording and archiving of the legal documentary proofs.

The current land legislation will need to be revised in order to accommodate the principal of occupation in good faith. Bye-laws and regulations of the law will need to define the above mentioned proofs that can be used to validate this occupation and the procedures that will be used to register these claims. Once these rights of occupation are defined legally, mechanisms will also need to be established to adjudicate conflicting claims. The strengthening of municipal courts in order for them to deal with local land-claims will also be essential.

Recommendation 2: Introduce the principle of incremental tenure into current regulations and practice

By removing long-term occupation as a basis for tenure, recent land legislation has reduced the opportunities for individuals to acquire legal titles. An intermediate solution needs to be found to provide tenure security for those who are likely to wait for a considerable period of time before they can receive a full title. An incremental approach should permit the distinction between land rights and land titles, with the gradual progression from rights to titles, using intermediate forms of land management mechanisms. This gradual approach should also permit the provision of improved urban services and general urban upgrading.

In Angola the *Lei de Terras* does not recognise scalable or incremental tenure rights as a policy, but the law does not prohibit it either. The range of existing land tenure options permitted by the Land Law can be adapted to an incremental approach. Article 34 stipulates that the state can grant:

(a) precarious (temporary) occupation rights

(b) surface rights

(c) useful customary domain to rural communities

(d) useful civic domain, and

(e) private property rights to urban land

The law does not, however, articulate a relationship between these rights and does not specify the conditions by which one can transform one form of tenure into another. A specific addenda or regulation of the existing law that maps out the principles and scaling mechanisms for incremental rights needs to be developed.

The essential aspects of a regulation on incremental land rights are that they are:

Intermediate between full land rights such as freehold or surface rights to land on one hand, and on the other, legally unrecognized rights or the basic property rights enshrined in the Civil Code

Evolutive in that they permit the possibility – given certain circumstances – to evolve through manifestations of these rights to the full rights;

Defined to permit the clarification of what these rights entail, as opposed to the generality of full rights or basic property rights – with respect to such issues as transferability, compensation and limitations

51

Recommendation 3: Incorporate the right to information into effective practice

Under existing legislation[19] the obligation exists for the government and its partners to publicly disclose their plans, interventions, land concessions and urban upgrading programs. However, these policies are not regulated under the law and are therefore not widely practiced. There needs to be a responsibility for information dissemination, information sharing and public forums.

The Housing Policy (2006) identifies the need to clarify the roles and responsibilities of central and local governments. Capacity building is required for the preceding recommendations to be applied and to implement the land and housing laws. There is evidence of issues related to land that are specific to certain settlement types, which suggests that there is a need for appropriate urban policy and system of management that allows for a differential approach to these settlement types. This requires better knowledge of such specific issues, as well as adequate institutional capacity to address these at the local level.

Recommendation 4: Advocate learning by doing through pilot projects

An important aspect of the incremental approach is learning from experience. Of particular importance is learning from new practice, and the refinement of new approaches and actions. This process of "learning by doing" is recommended in establishing urban land rights and in urban land titling. Pilot projects on establishing urban land rights should be focussed on refining the nature of occupation rights and the limits to these, including the widespread mobilisation against continued informal occupation without adequate process. These should also establish the mechanisms for gradual evolution of these rights to titles. The pilot projects should be established in peri-urban and peripheral urban situations: the former being generally currently dominated by informal market activity with limited local administrative capacity.

Recommendation 5: Build municipal land information systems (cadastres)

Municipal authorities have been given the responsibility for managing domestic and commercial-scale land allocation (up to 1,000 m^2)[20]. The efficient functioning of land management requires efficient and updated land registration and information systems which clearly record legal ownership and occupation of land. The market attaches great importance to legal titles to land. This is evident from the fact that land without legal titles, with disputed titles, or land in informal settlements are priced much lower than that of land with titles. Land registration is also important to the government for the purpose of collecting property taxes. Without knowing who owns the land and what that land is being used for, governments cannot levy property taxes[21].

An efficient land registration system (juridical cadastre) consists of two parts: The first is a written record or register with information on each land parcel, such as the name of the owner and the rights of the land, while the second part includes a detailed description of the land parcel in the form of a map or survey measurements. The second part is normally cross-referenced with the first. When the records and

[19] The preambles to the Planning and Land Laws contain a reference to the right to information and public consultation.

[20] Law No. 06/2

[21] UNESCAP (2011). Urban Land Policies for the Uninitiated, http://www.unescap.org/hueset/land_policies/

descriptions are combined, then the land registration system provides considerable benefits. Some of the major benefits are:

a) Security of ownership and tenure rights: This is the most important impact. It reduces the amount of land disputes which is currently a major issue in developing countries. The security of ownership also stimulates land development.

b) More efficient land transfers: The costs of delays in obtaining permits is a serious constraint in most developing countries; an efficient registration system makes transfers easier, less expensive and more secure.

c) Security for loans: The land title can be used as collateral for loans. This security has a positive impact on the productivity of the land since it enables the release of major financial resources for investment in the land.

d) Support for the land taxation system: The expenses for improving the cadastral system would, in actual fact, quickly be covered by increased property tax revenues. The issue of local resource mobilisation through the application of taxes and registration fees warrants further investigation. While the decentralisation reforms[22] allow municipal authorities to generate local financing through these mechanisms and by the application of utility fees, a recent modification of legislation[23] announced in January 2011, reverses some key aspects of the 2006 law and obliges all locally generated financial resources to be deposited in the central state treasury. The new regulation removes any incentive for municipalities to introduce these local income generation measures because they are not permitted to retain the income. A reversal of this fiscal centralisation policy is recommended.

e) Improved land use and management: It can directly provide better information on land ownership and rights for physical planning as well as facilitate the development of other planning tools such as information banks covering land use, land values, population, etc. It can also provide a tool to restrict certain land uses with a negative environmental impact.

Land information systems are time consuming to develop and may encounter problems where some information and data may be non-existent or conflicting. Systems should be developed incrementally in order to train staff to utilize it to its maximum capacity. Local municipal administrations should develop progressive land information systems. This means that when a new cadastral/land registration system is introduced, or an old one improved, its design should be such that, although technically simple, it can be upgraded easily and is readily adaptable. Data from different sources need to be collected to build a cadastre where each land parcel has a unique identifier. With the advances in information technology, it is becoming increasingly cheaper to develop and maintain land information systems.

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[22] Law No. 06/2

[23] Presidential Decree N° 307/10 on receipts form community service fees

Recommendation 6: Secure the land rights of women

This study provides new evidence concerning the proportion of women-headed households (40%). With this in mind, we recommend that women's land rights be reinforced and for legislation to be made compatible with the Family Code (1989).

There is a need to eliminate sources of legal discrimination against women, ethnic and religious minorities, and other disadvantaged groups in economic matters. This includes *de facto*, as well as, *de jure* discrimination; this includes efforts to ensure equal rights for women in key economic areas such as land ownership and inheritance. The following issues identified in the succeeding paragraphs need to be addressed.

It must be kept in mind that the equal rights of men and women to assets and resources, as supported by the Constitution of the Republic of Angola and the Family Code of Angola, extend to rights of land access and land tenure security (the Family Code, 1989).

Marriage is defined in the Family Code and includes registered unions and *de facto* unions as set forth in Titles III-IV of the Family Code. Pursuant to the principles contained in the Constitution and Family Code, spouses in a marriage, whether a registered or in a *de facto* union, are presumed to have equal rights to the land and any buildings that they occupy, and the burden is on the spouse claiming otherwise to provide evidence of the claim.

Where the property rights adversely impacted are held by a married couple, whether in a registered or *de facto* union, payment of cash compensation shall be made jointly to the wife and husband. If the couple elects in-kind compensation, the title to the property transferred shall be in the names of both spouses.

Recommendations to improve women's land rights in Angola include: implementing legislative and policy reform to remove legal constraints on women's rights to land, promoting public information and awareness on women's constraints and opportunities to land access, ensuring the participation of women in the land rights formalization and adjudication processes, and putting in place monitoring and enforcement systems to ensure that land rights formalization efforts successfully recognize and document women's land rights, as well as enforce those rights.

10. Potential for Securing Tenure Rights through Incremental Approaches in Huambo

The current Municipal Administration in Huambo has demonstrated a willingness to innovate in the practice of land management and use their administrative authority to deal with some of the shortcomings of Angola's land legislation. The creation of the flexible administrative tool *Licença de Arrematação* (temporary but upgradeable occupation license) to fill the gaps left in the Angolan Land Law illustrates this clearly. Huambo remains one of the few Municipalities in the country where the new powers of the Municipality to manage land has been put into practice.

The Municipal Administration and the Huambo Provincial Government has collaborated fully with this current study and are open to consider the recommendations that the study produces. The Municipality has welcomed Development Workshop's partnership in confronting the backlog of decades of accumulated land

management problems. Having been the principal hot-spot during Angola's decades of conflict, the leadership is sensitive to the need to mitigate against potential conflicts related to land tenure. The Municipality has engaged DW to help set up the first comprehensive *Cadastre* which aims to map and record land occupation and tenure claims of all of the municipality's residents. DW is training local administrations in Huambo and neighbouring provinces in using Open Title an open-source public access land tenure mapping and recording tool built on the Social Tenure Domain Model[24].

The current study will make an important contribution to the process of incrementally improving land management practice and securing tenure rights for the significant majority of residents who are excluded today.

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[24] The STDM describes relationships between people and land in that it tackles land administration needs in hitherto neglected communities such as people in informal settlements and customary areas. It supports development and maintenance of records in areas where regular or formal registration of land rights is not the rule. It focuses on land and property rights, which are neither registered nor registerable, as well as overlapping claims, that may have to be adjudicated both in terms of the 'who', the 'where' and the 'what' right.

Annex A:

Key Informant Interviews (English transcriptions from Portuguese originals)

Interview Moises Festo & colleagues - Development Workshop

09 May 2013 - Duration: 1h-22min:23sec

Person 1 (P1) : Pedro Ramao

Person 2 (P2) : Moises Festo, Carlos Figueiredo, Allan Cain

P2 : Generally in order to get a plot of land the candidates need to write an application letter to the municipal administrator. This document is turned in the secretary of the administration and once the municipal administrator gets it he registers the name of the applicant in a database that he has created.

After consulting the database, if the administrator notices that the applicant has already received a plot from the municipal administration then he rejects the application, otherwise he accepts and sends the process to the repartition of territory planning of the municipal administration, called ROTUA. Once the documentation is there, and if they have an available allotted plot then they concede it to the applicant; if there isn't available allotted plot then the candidate must wait.

 P1 : Is it legal to confine one's application into only one plot? Is there a law that establishes that one person must only have one allotted plot?

P2 : Yes it is legal. We are supported by the law in the principle of opportunity of the access to the land. Notice that a citizen may have more than one plot in the same administration but they must be for different purposes. For example, an person can have an allotted plot for commerce, another for industry, for housing and so on. In this case it is acceptable because we recognize that they are being used for different purposes.

P1 : What if one want to have two buildings, or hotels, for example?

P2 : Well, here we are dealing with commercial purposes. In these cases everyone is free to acquire as much land as they want by buying from other one and so on. However, as an administration, the law allows us to provide only one house to one family. And, by conceding a plot for housing we are fulfilling the right of habitation which is a fundamental right that the constitution guarantees for every citizen, but of course it should be exactly one per family, not more.

P1 : Okay, thanks for the explanation. Now, after the ROTUA gives the approval and the allotted plot to the applicant, what are the next steps?

P2 : After the plot is given the owner now is advised to start with the process of legalization. They must write another letter of application to the municipal administration asking for the land Occupation. This letter should be accompanied by the "croquis"[25] or geographic sketches of the plot as well as a copy of the owner's ID. We highly recommend the owner to get their "croquis" elsewhere (not here in the administration) because otherwise they may think that the "croquis" is a legal documentation of the land since it is passed

by someone who works in the administration, so to avoid it we are trying to ban our workers to be involved in this practices.

After all this process, the administration gives the license which often is the longest step due to the lack of personnel compared with the high demand we face daily. Notice that if all the previous steps were followed the process involving the municipal administration "ends" after the license is given. However, if the person already has a plot and wants to legalize it then if verified that that plot was not owned by anyone else then the administrator sends the application directly to ROTUA who analyzes the plot by sending personnel to the field in order to evaluate that the plot is well located and is not in a risky area. Sometimes, it is possible to make correction if there are minor irregularities.

An important aspect to point out is that we also have presence cases of people who come to legalize their plot or house even though they are in non-urban areas or even in suburbs. In this cases, we look a long term process of development of the area and if it is located in good place then we do it.

P1 : After the ROTUA approves a given plot, why can't the administration automatically process the license without having to ask the candidate to again having to write a new application letter, for the license?

P2 : I understand your point. The problem however is that, in the first case we needed to certify that the candidate hasn't actually be given a plot for the same purpose. Then the ROTUA needs to know the availability of the space. Sometimes, even though the person by the governor, the ROTUA may not have allotted plot for the candidate and so it may take some time until they do which makes it difficult for the administration to keep track of all these process. Thus, we find it convenient that the candidate, after being given the plot by the ROTUA, to write another letter of application for the license so thatwe know he now has been given and thus, we do not accept him twice if he applies again. What I think is abnormal is that even after the license of Occupation is given, the candidate still have to apply for a license of construction. Perhaps it would be ideal to have just one single process for construction and for Occupationing.

Now, the scenario is obviously different on those cases where a person already has a plot or house but acquired them illegally and now wants to legalize them. In either case we legalize them, but we treat each one differently. A common feature in both, however, is that they are both fined for not following the normal procedure. Nonetheless, here, in Huambo, the fines we charge are lower than that established in the constitution.

P1 – not a question - : Our first aim is really to know within the actual legal procedures what can one do in order to benefit from their own right of having a plot through the process of Open-Title. Secondly we would like to find a simplified way to obtain plot, so that we save money and time.

P1 : When the administration notices a given candidate applies to acquire an allotted plot for housing, for example, why can't they also accept that in case there is available land they can start building their houses without having to return back twice for the letter of Occupationing and then again for the license of construction.

P2 : Actually, according to the law the candidate should only write one letter to the administration (the very first one before the ROTUA gives them the plot) and this letter should be approved, analyzed and passed through the different authorities internally. We were the ones who opt to have the candidate applying twice, however we should look into that in order to understand why this has happened and perhaps making this process simpler but still efficient. We think with the Open-Title this bureaucracy will be greatly reduced because with the approval of the administrator we could immediately place the name of the candidate into the available allotted plot and so with only one step those three requirements would be met.

P1 : Now, between the *License of Occupation* and that of construction is there another license?

P2 : Yes there is. It is the *License of Fencing* the plot. This license is not compulsory if the candidate used the allotted plot within three years of approval of their *License of Occupation*. So, unlike the *License for Construction* which is compulsory because the administration needs to analyze what type of house is being built according with the location and dimensions of the plot, the administration does not oblige the candidate to fence the plot within the first three years. However, they are required to delimitate it with no more than 2 meters fence if they do not want to get the *License of Fencing*.

P1 : One of the question we would like to talk about is the procedure of dividing legally allotted plots. For example, a person who has a large allotted plot can share or divide as they wish or is there some observances that need to be met?

P2 : Yes there are some rules about that; and, I am happy you asked this because the municipal administration learned a lot from our experience especially in cases such as the following: for example there are communities that occupy huge extensions of unclaimed land and ask the local administration to allot them. Normally what happens is that the municipal administration negotiates with them and let them know that there are many candidates awaiting for a plot and so they share the space, allotting them but also keeping some for those in the administration's list – the famous process of Mandume[26].

P1 : Can a private person do the same without the local administration monitoring it?

P2 : In this case we submit the project to the Direction of the Administration and Territorial Planning.

This is similar to a very common phenomenon that is happening in Luanda. For example, a real estate company buys 10 000 hectares for building a condominium for habitation, then what they must to is to make a project of allotment, respecting the law requires that establishes the minimum area for green spaces, streets, public spaces for an area of such dimensions as well as allotting plots for housing. They should submit the documents about the project such as the plan of allotment and the descriptive memory, a document in which one describes with details the limitations of each allotment, as well the right of superficies that must be registered. All these documents must be signed by the provincial governor and, after this process, it must go to the juridical bureau where it gets the necessary visas and from then the owner must go ahead and the register each fraction of allotted plot so that when each plot is sold then they get all the documents of the house.

P1 : Has it been done? I know, for example that most people in the Project Nova Vida and in Kilamba do not have a document of their allotted plot and that is one of the main reason they cannot borrow money from the banks, for example.

P2 : Well, in theory they should. If they don't it is because of their luck on interest because I have benn legalizing several allotments in several places in Luanda such as in Maianga, Caala

Interview Huambo Municipal Administrator

10 May 2013 - Duration: 1h-22min:23sec

Person 1 (P1) : Interviewer consultant lawyer

Person 2 (P2) : Huambo Municipal Administrator Eng. Jose Marcelino

P1: First of all, I'd like to thank you, Mr. Administrator, for your time and for this opportunity. After the law of acquisition of land, the allotment law and all the other remaining land laws were approved, the administration of the government at the provincial, municipal and communal level have tried to adjust their practices and procedures according to this new law. Now, with the implementation of new public urban projects, there are more concerns about the improvements of the new constructions that are being built in urban areas. However, an area to which the administration has paid less attention is, in our opinion, that of the illegal occupation of land for housing, anarchic construction and informal markets. Hence, our study aims to make a diagnosis of the legal framework of how the central government and its branches at provincial and municipal level have dealt with such issues; to identify the procedures into action, analyze their effectiveness and, based on these analysis, recommend how they can be strengthened, simplified or modified in order to become even more effective. Another aim of our project is to structure software that can speed up the procedure of land acquisition and/or construction of houses to avoid errors involving the double allocation of the same land to different families, for example, and allow a clearer gauge of the land already allocated and that yet to be allocated. Finally, we would like to help the citizens by providing them with necessary information regarding the process of land allocation and construction, so that they know what documents they need to get a plot of land, how to legalize a house, where to obtain such documents, etc.

(First question from P1): Mr. Administrator, from your personal experience, could you tell us how the process of getting a plot of land. And land, for those who have acquired illegally, has the administration been legalizing their land and/or houses?

P2: Our main job is to deal with the legal part of this process. We legalize the land of the citizens before they build anything on it. For those who have built without a license, we apply fines establish by the constitution. However, we do take into consideration the income of each person, so that the fine is proportional to their income and not a fixed amount so that it becomes fair for everyone.

P1: Hence, there has been legalization of lands that were acquired illegally?

P2: Yes, we have legalized them but only for those that we can.

P1: Why don't you legalize all of them? What are the criteria you use to know which of the houses acquired illegally can be legalized and which ones cannot?

P2: We look into a series of factors such as, whether the land or house is intercepting a road, if it is not in a risky area, etc. Sometimes it happens that half of the land or house is too near to the road or intercepting a road. In those cases we ask the owner to be confined on the safe zone only and, if they accept, we legalize their houses. For those in risky areas, if they are in an eminent risk zone, then we cannot do anything, but if there is no eminent risk then we give them a *Provisional License*. That is, to avoid them becoming homeless, we give them a *Provisional License* stating that in case we need to remove them from that area then we will reimburse them. We do that so that they can be more aware of their situation and more responsible about

59

future plans with the land and avoid, for example that they carry out further or more intense construction in that land.

P1: The *Provisional License* does not entitles them to get a definitive license?

P2: No, it doesn't because a *Provisional License* indicates that they will not have a definitive license in that land. The *Provisional License* is not a pass to definitive license, because those areas are areas near to ravines, railways or of a course of water, etc.

One big problem we face here is the fact that we are increasingly having less and less free land in our city. Most of the remaining free land belongs to the company that controls the railways, which is a state company. This land should not belong to the company as they are not being used. I have proposed to the minister and the governor but this is a political decision and I can only wait. Theoretically, the buildings are supposed to be at least 150 meters from the railways. However, in urban areas, there are building, hotels, for example, that are 10 meters from the railway and, if we look at colonial constructions, it was perfectly okay since the law then allowed the buildings to be 10 to 15 meters away from the railway. Hence, since there are no urban plans, we allow this to happen and follow what is already done because these things are not yet well defined- the master plan is still being made.

A well-known Portuguese architect is developing the master plan and most of it I approve most of it. However, one of the points that I do not support is the plan of vertical construction, which is based on occupying free space with huge buildings, and there are a few examples of this already. I have fought against this project but nobody has supported me. I think this plan is flawed because the city of Huambo does not have domestic sewers. We cannot build huge towers without an appropriate sewer drainage system. Personally, I think, if there are no technical limitations, then a way to fix some of the drainage problems of existing huge building is to deviate the domestic sewer into storm-water sewer and implementing a siphon system in the sink so that at the end of the storm-water sewer so that we can carry out the necessary treatment of the waste.

P1: What is response that the administration gives to the people who built their houses but unable to legalize them even though they tried?

P2: So far, we haven't demolished any house that was already built. I tried to impose an embargo on a house of a resident and I went to jail because he was a judge. So, the houses we have embargoed were at the very early stage of construction. And whenever we want to develop an area we send there some personnel with relevant justification so that they can negotiate with the residents and make a survey of the number of residents and the houses affected in order to avoid free riders who often come to get free land or house, whenever these events occur.

P1: Which documents are required for those who have already built their houses and still want to legalize the houses?

P2: Generally we ask for an authorization of the traditional authority (soba) and another from the administration of the village or *bairro residents' commission* as well as their personal documents such as ID. Then they have to write the application letter and then we issue a binding document which is the *License of Occupation* signed by the municipal administrator or by the provincial direction of urbanism, which now is signed only with our authorization and only when the land is vast (over 1000 meters square).

P1: What happens if the citizen acquired the land from a third part or inherited it?

P2: If the new owner brings the necessary documentation such as a license of sale then it is okay. In case of traditional succession, theoretically it is impossible for people to inherit land here because this land was empty due to the war and so, almost everyone here arrived recently and thus they need to have the documentation.

P1: What is the reason the administration never ends with the process of legalization, i.e., the emission of the *Title of Surface Right* in the limits that they can concede? That is of 1000 meters square.

P2: We have conceded some, for those who qualify legally, but they don't always come to get them. If a person has the *License of Occupation* then it is almost like the definite title. From there they can get the authorization and move on with their desired project with the land. However, this is only for the land, because before we approve their *License of Construction* we require them to send us the project design drawings either for construction or for repairs in the building, as we have had experience with people who required repairs but ended up building a small canteen and so on.

P1: What are the documents needed in order to get a certificate of residence

P2: Copies of the ID or another document of identification are needed.

P1: Is the *Certificate of Residence* necessary for the legalization of the land.

P2: No, it isn't necessary at all. Especially because more than 50% of *Certificate of Residence* are false, so it is more important and safer to have an identification card or a testimony of a person confirming the identity of the candidate than the certificate of residence.

P1: Amidst all this process for acquired the necessary documentation to legally own a land or house, and based on your extensive experience dealing with it, do you see any areas that should be improved and any positive aspect that should be emphasized?

P2: I have participated in several encounters and personally, I think in terms of the concession of land we should do the same as we did with our *"kingilas"* (the ladies who informally exchange dollars into kwanza and vice-verse). If we stop persecuting those who acquire land illegally and try to formalize the informal market, then we will actually be able to contain the problem of musseques. I think it is better to stop all the bureaucracy and perhaps create the figure of a mediator who can facilitate the liberation of the housing market. With more supply and freedom I think there will be less bureaucracy and eventually the existing gap between the demand and supply will cease to exist.

P1*: What is the power of the administration in establishing fines and deliberation? Do you have any freedom of choice or legal support in determining what fines or penalties to apply?

P2: Yes we do because I have a certain support of the governor. The governor was absent for eight months and if we depended only on him for the amount of work we have, nothing would be done. In addition, there is a huge confusion between what is administrative and what is judicial and I have had several problems because of that. An example of that is the fact that I was condemned for two years of suspended sentence because I embargoed the house of a resident who happened to be a lawyer.

Interview Chief of the Planning Division of Huambo Municipality

11 May 2013 -

Person 1 (P1) : Pedro Ramao & Moise Festo

Person 2 (P2) : Chefe de Repartição do Rotua do Município do Huambo

P1: The aim of this inquiry is to collaborate both with the government of Huambo and with that of the national level in order to understand their policies. We want to understand how the government managed the illegal occupation of the land; what are the plans of the provincial and/or municipal government for those people and whether there is an intention of incorporating them into the legal system so that the local government can raise revenue through urban property taxes, which would become a vital source of revenue inflow when the financial independence of local authorities is implemented. To start, we first want to understand the mechanism used by the provincial authorities; second we want to analyze with you how can we maximize this aim of the government and finally we intend to produce a document with recommendation and training to standardize this process nationally.

So, what are the steps that a citizen (who does not have land) ought to follow in order to acquire a lot for housing? What about a company wanting a large plot of land to develop for housing?

P2: A company came and asked the governor for allotted plot of land for forty houses and we gave them. However, after they came with a well-designed plan we realized they didn't want allotted plot of land but instead a parcel of land for forty houses. Unfortunately at that time there wasn't enough left and so we decided to change the zone in which to concede their house, this zone was in Caala. In Caala, they could do the project in the way they want, however they needed to present a plan of urbanization that agrees with the area given and bring someone with better knowledge in the issue.

P2: He first ought to submit a letter of intention (a requirement in the administration he would like to have the land) and specify the purpose he wants to give to such a land.

P1: What are the titles that have been conceded by the provincial government of Huambo and what are those given by the municipal administrations?

P2: The highest title given is the *Title of Surface Rights* [27] that is acquired often by big entities, those that acquire large quantity of land.

P1: Have you, in the Municipal Administration, ever issued the *Title of Surface Rights* within the dimensions established by the law of land, such as 1000 meter square for the municipal administration, 1000 ha for the provincial administration and 10.000 the central government?

P2: Yes, we have. However, often those who go until the limits are those who have big investments.

P1: Are there cases in which people start building their houses without the emission of the *Title of Surface Rights*?

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[27] Portuguese: Direito de Superficie

P2: Yes there have been a lot of cases like that.

P1: The excess of bureaucracy and lack of information from the citizens has significantly increased the delay in acquiring land or constructing legally. Would the provincial government be willing to train its workers in order to adequate the practices and procedure and avoid these problems?

P2: Absolutely! Together with the point already mentioned of the Open Title Software, we would definitely be willing to do it.

Interview with Chief Architect of Caala Municipality – Huambo – 12 May 2013

Person 1 (P1) : Pedro Ramao & Moise Festo

Person 2 (P2) : Chief architect of the Municipality of Caála

P2: We have the list of the 4 000 houses and everyone wants to buy these houses since they are in better condition, however it depends on how much people are willing to pay.

P1 : Okay, just to clarify, are you talking about the new centrality?

P2 : Yes, I am talking about the 4 000 houses in there. There are three models: the apartments and houses with one and two floors respectively. We recommend people buy these houses soon so that they can give us some time and we can manage the situation better.

P1 : How much do the houses cost?

P2: They will start up a process of fixing new definite prices soon. So far the price of any house of any model is 55.000 USD. I do not think this price is fair because if a person who lives in an apartment and that who lives in a house pay the same amount, they obviously will not have the same comfort in their houses despite the fact that the houses have the same dimension (of 100 square meters each). Hence, I do not think it is right for the three models to be priced the same. There is an order that will come from Luanda to change the prices (it comes from Luanda because the headquarters of the company that built the centrality is situated there). SONIP, the group Cora and some banks interested in the centrality are scheduling a meeting to fix it because in other provinces things are more advanced. Hence, this meeting is to prevent the same thing that happened in Kilamba (centrality of Kilamba, in Luanda) from occurring again. In this phase that we have almost 2500 houses ready, it is important that we open up the prices so that people can consult the banks and be ready. The process so far is very slow; we are still dependent on the authorization from Luanda. Someone mentioned (without authorization from a responsible entity) that in June they would start giving away houses, but without water and electricity I do not think it will be possible to do that.

P1: if people want to borrow from the banks to buy the houses, they will need documentation of the houses. Has the process of legalization of the houses taken place?

P2: No, the process is very slow. We are very far behind. Even the land in which the project is done has not been legalized. And, because of the dimension of the project, the provincial administration is in charge of its legalization, but it is very slow. Now, for those who are interested in the plots and want to legalize it, we are making their application as smooth and as fast as possible. We simply need a letter of application, a copy of ID and their phone number. If the person is interested in a plot (the plot we sell here are those of 20 X 30 meters square or of 20 X 25 meter square) then it is even simpler. They apply and the documents stay with us until we have an allotted plot available because we only concede plots when they are already allotted.

We are doing this process as fast as we can and attending to the demand and preferences of the applicants, i.e., in terms of where they would like to be allocated. Nonetheless, we still have here some applications that were submitted in 2008, but those are applications that I found when I started to work here and we are still considering and working on them. There are several requests and the area where most people wanted to go is becoming less popular and so they are requesting other areas. Because of that we are trying to even it up by allocating 20 X 30 meter squares to the less competitive areas and 20 X 25 to the most competitive ones.

Now, for those who want to legalize a plot where they have already built a house, the process is different because generally they construct in areas where there is no urban plan, however, it still differs from case to case. If, despite the auto-construction, their construction obeys the rules, such as allowing space for roads, streets and so on, we legalize it. Otherwise we can either reject the application or suggest they make the necessary adjustments.

P1: In the application process, what are you responsible for?

P2: When the application is turned in, it is verified by the head of the section ("chefe de seccao"), who analyzes two main issues: housing and environment. The application is submitted internally to me and then we see the process and we go to the land and see how it is. When we are dealing with land that is in the process of re-qualification, my presence on the field (to observe it) is necessary.

P1: Does the municipal administration concede the *title of surface rights*?

P2: No, this is responsibility of the provincial government. The last document that we emit is the *occupation license*[28] (in portuguse, quitacao). After that, they go to the notary for another document or validation and then they go to the provincial administration for the *title of surface rights*. There has been a bad interpretation of what the *occupation license* is. Some think *occupation license* is the same as the *title of surface rights*. They apply for that and once they receive it, they think that nobody can take away the land from them if they do not build anything on it within three years. However, according to the land law, even with the *occupation license*, if they do not build anything on the land within that period then they still can lose the land unless they have the *title of surface rights*.

What we do here is try to remove a lot of the bureaucracy. Often when people have to wait for six months or more to get a plot, they complain.

---

[28] Portuguese term in brackets.

Interview with the Provincial Vice-Governor for Technical Issues for Huambo

Person 1 (P1) :

Person 2 (P2) : Vice Gov Tecnica

P1: The aim of this inquiry is to collaborate both with the government of Huambo and with that of Luanda in order to understand their policies. We want to understand how the government managed the illegal occupation of the land; what are the plans of the provincial and/or municipal government for those people and whether there is an intention of incorporating them into the legal system so that the local government can raise revenue through urban property taxes, which would become a vital source of revenue inflow when the financial independence of local authorities is implemented. To start, we first want to understand the mechanism used by the provincial authorities; second we want to analyze with you how we can best achieve this aim of the government and finally we intend to produce a document with recommendation and training to standardize this process nationally.

So, what are the steps that a citizen (who does not have land) ought to follow in order to acquire a lot for housing?

P2: They came and asked the governor for an allotted plot of land for forty houses and we gave it to them. However, after they came with a well-designed plan we realized they didn't want an allotted plot of land but instead a parcel of land for forty houses instead. Unfortunately, at that time, there wasn't enough left and so we decided to change the zone in which to concede their house. This zone was in Caala. In Caala, they could do the project the way they wanted, however they needed to present a plan of urbanization that agrees with the area given and to bring someone with better knowledge of the issue.

P2: One ought to submit a letter of intention first (an application letter submitted to the administration responsible for the plot one intends to acquire) and specify the purpose he wants to give to such a land.

P1: What are the titles that have been conceded by the provincial government of Huambo and what are those given by the municipal administrations?

P1: The highest title given is the right of superficies[29] which is often acquired by big entities, those that acquire large quantities of land.

P1: Do you, in the administration, always emit the right of superficies within the dimensions established by the law of land, such as 1000 meter square for the municipal administration, 1000 he for the provincial administration and 10.000 for the central government?

P2: Yes, we have. However, often those who go until the limits are those who have big investments.

P1: Are there cases in which people start building their houses without the having of the right of superficies?

P2: Yes there have been a lot of cases like that.

---

[29]   Literally: direito de superficie, I am not sure if it makes much sense in English as I have not heard of an equivalent type of right in English, but I will keep using this term.

P1: The excess of bureaucracy and lack of information from citizens have significantly increased the delay in acquiring land or constructing legally. Would the provincial government be willing to train its workers in order to adequate the practices and procedure and avoid these problems?

P2: Absolutely! Together with the point about the Software mentioned previously, we will definitely be willing to do it.

Annex B: Mapping the Regularization of Tenure for Formal and Informal Land Occupations

Registering Land for Formal Housing
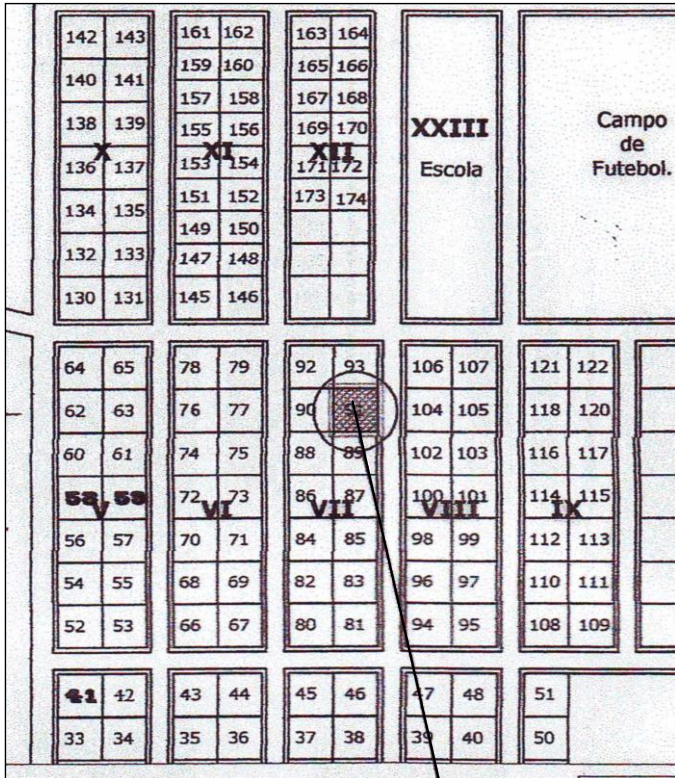
Regularising Informal Land Occupation
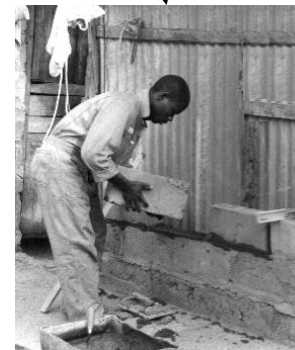
Case A

Case B

Mapping Case A of Regularization of Tenure for Formal Land Occupation

+ 33 days

Total 33 days to begin construction

$ 370

18 May 2011

20 June 2011
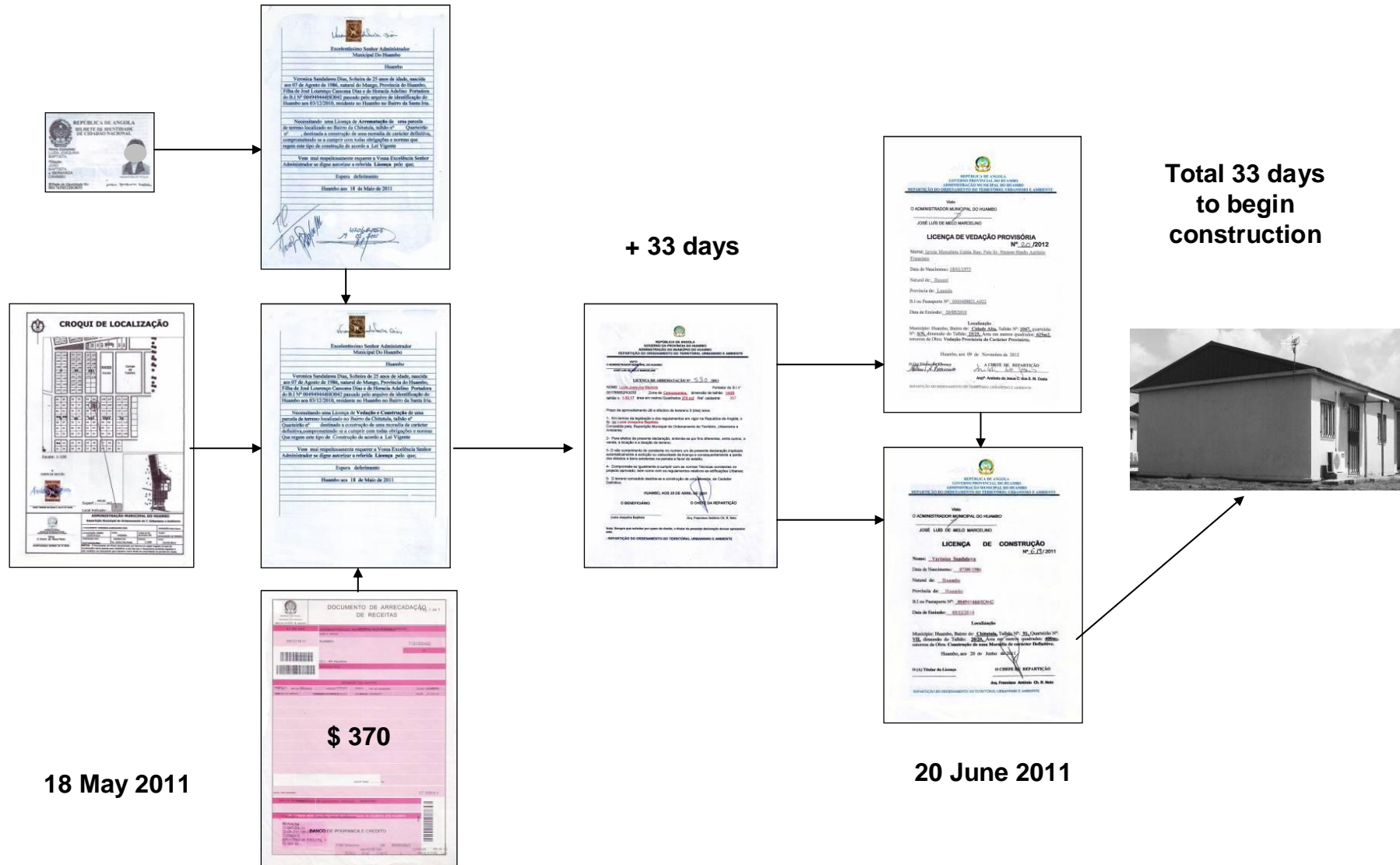
Mapping Case B of Regularization of Tenure for Informal Formal Land

+ 391 days

+ 11 days

+ 89 days

Total 415 days

+ 24 days

19 Oct 2010

14 Nov 2011

25 Nov 2011

22 Feb 2012

18 March 2012
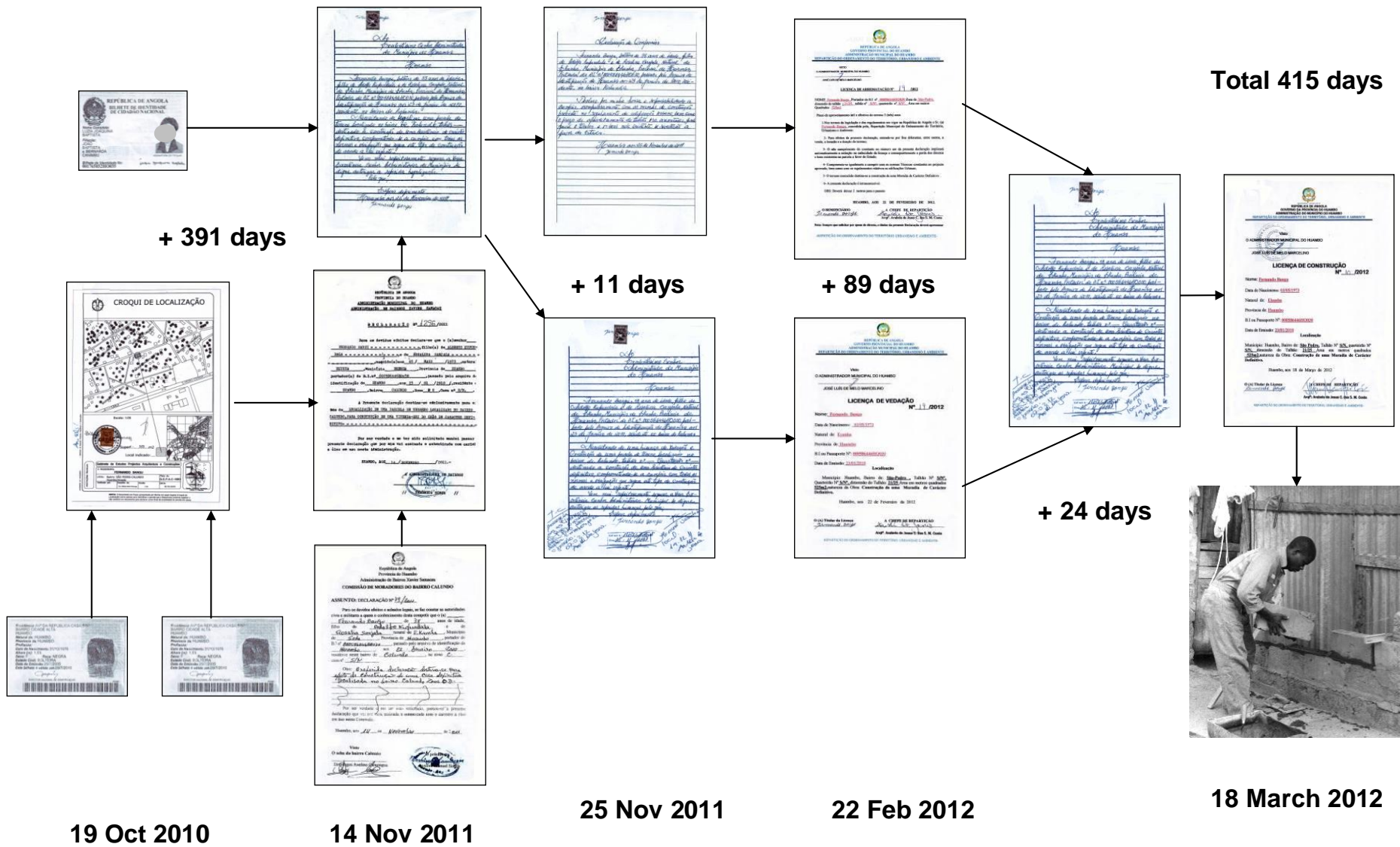
Annex C:

Administrative Land Tenure Documents in use in the Province of Huambo

Testament of Residence

REPUBLICA DE ANGOLA
GOVERNO PROVÍNCIAL DO HUAMBO
ADMINISTRAÇÃO MUNICIPAL DO HUAMBO

ATESTADO Nº : .... /2013

Atesta-se que, o cidadäo cujo cadastro consta em nosso sistema com os dados a seguir;

Sobrenome: ....

Nome: ....

Estado civil .... , de .... anos de idade,

Filho de: ....

e de: ....

Natural da província de/o   Huambo

comuna de   Sede   ,Municipio de   Huambo

portador do Bilhete de Indentidade Nº ....

passado pelo arquivo de identificação de/o ....

Emitido aos   .... ,residente na província de/o   Huambo

Bairro ....

Rua ....

Casa Nº .... , desde ....

Este atestado destina-se exclusivamente a

....

Por ser verdade e por ter sido solicitada, mandei passar o presente atestado que vai por mim assinado e autenticado com selo branco em uso nesta Administração Municipal.

Huambo aos,

-feira, . de   de 2013

O Administrador Municipal

_____

Declaration of Bairro or Comuna Administration

REPÚBLICA DE ANGOLA
PROVINCIA DO HUAMBO
ADMINISTRAÇÃO MUNICIPAL DO HUAMBO
ADMINISTRAÇÃO DE BAIRROS XAVIER SAMACAU

D E C L A R A Ç Ã O Nº_____/201_

Para os devidos efeitos declara-se que o (a)senhor_____
_____ = = = = = = = = = = = = =,filho(a) de_____
_____ = = =!= = = =,e de_____ = = = = = = =
_____,nascido(a)aos____/_____/_____,natura:
_____,Município_____,Província de___HUAMBO___
portador(a) do B.I.nº_____,passado pelo arquivo d(
identificação de___HUAMBO___,aos___/___/____/,residênte (
___HUAMBO___,Bairro_____,Zona_____,Casa nº_____.

A Presente declaração destina-se exclusivamente para e:
tôs de___LEGALIZAÇÃO DE UMA PARCELA DE TERRENO LOCALIZADO NO BAIRRO_
_____,PARA CONSTRUÇÃO DE UMA VIVENDA-REI DO CHÃO DE CARACTER DEFI-
NITIVO= =

Por ser verdade e me ter sido solicitado mandei passar
presente declaração que por mim vai assinada e autenticada com carim!
a óleo em uso nesta Administração.

HUAMBO, AOS____/_____/201_

A ADMINISTRADORA DE BAIRROS

// VERÓNICA GINGA //

Authorization of the Residents Commission and Soba (traditional chief)

República de Angola
Província do Huambo
Administração de Bairros Xavier Samacau
COMISSÃO DE MORADORES DO BAIRRO CALUNDO

ASSUNTO: DECLARAÇÃO Nº _____/201_

Para os devidos efeitos e achados legais, se faz constar as autoridades civis e militares a quem o conhecimento desta competir que o (a) _____ _____ de _____ anos de idade, filho de _____ e de _____ natural de _____, Município de _____, Província de _Huambo_, portador do B.I nº _____, passado pelo arquivo de identificação de _Huambo_ aos _____/_____ residente neste bairro de _____, na zona _____ casa nº _____

Obs: A referida declaração destina-se para efeito de construção de uma casa definitiva localizada no bairro _____ Zona _____

Por ser verdade e me ter sido solicitado, passou-se a presente declaração que vai por mim assinada e autenticada com o carimbo à óleo em úso nesta Comissão.

Huambo, aos _____ de _____ de 2 _01_

Visto
O soba do bairro Calundo

Domingos Avelino Camongua

O presidente

Avelino Manuel Simão

Locational Plan

CROQUI DE LOCALIZAÇÃO

BAIRRO DO CALUNDO
BAIRRO DO CALUNDO
BAIRRO DO CALUNDO
BAIRRO DO CALUNDO
BAIRRO DO CALUNDO
BAIRRO DO CALUNDO

S.PEDRO-CIDADE

CAALA

Escala: 1:08

Superf.:..........525.....m2

Local indicado: ___

Gabinete de Estudos Projectos Arquitectura e Construções

O REQUERENTE:

LOCAL: Bairro:
Huambo/Angola

Plano de:
G.E.P.A.C-HBO

Verificado por:

Desenho de:
Tec. ___

Escala:
1/08

DATA:
/ /201

ANOTAÇÕES TÉCNICAS

processado por computador; - Gabinete de Estudos Projectos Arquitetura e Construções.

G.E.P

NOTA: O Documento em Posse apresentado por Norma em papel Vegetal (Croquís de Localização) serve apenas para identificar a parcela que o Requerente pretende legalizar e não constitui um documento para declarar como título de propriedade da parcela em causa.

Request to Legalize a Plot of Land

Ao

Excelentíssimo Senhor Administrador

do Município do Huambo

Huambo

___ de ___ anos de idade, filho de ___ e de ___ Natural de ___, Município de ___, Província do Huambo, Portador do BI nº ___ passado pelo Arquivo de Identificação de Huambo aos ___ de ___ de 2010, residente no bairro de ___.

Necessitando de legalizar uma parcela de terreno localizado no bairro de ___ / talhão ___ destinado à construção de uma Residência de carácter definitivo, comprometendo-se a cumprir com todas as normas e obrigações que regem este tipo de construção de acordo a lei vigente.

Vem mui respeitosamente requerer a Vossa Excelência Senhor Administrador do Município se digne autorizar a referida legalização.

Pelo que,

Espero deferimento

Huambo aos ___ de ___ de 201__

Occupation License

REPÚBLICA DE ANGOLA
GOVERNO PROVINCIAL DO HUAMBO
ADMINISTRAÇÃO MUNICIPAL DO HUAMBO
REPARTIÇÃO DO ORDENAMENTO DO TERRITÓRIO, URBANISMO E AMBIENTE

VISTO
O ADMINISTRADOR MUNICIPAL DO HUAMBO

JOSÉ LUÍS DE MELO MARCELINO

LICENÇA DE ARREMATAÇÃO Nº_____ /201.

NOME_____, Portador do B.I nº _____ Zona de:_____
dimensão de talhão : _____ talhão nº __/Nº. quarteirão nº __/Nº. Área em metros
Quadrados 525m2

Prazo de aproveitamento útil e efectivo do terreno 3 (três) anos.

1-Nos termos da legislação e dos regulamentos em vigor na República de Angola o Sr. (a) _____ concedida pela, Repartição Municipal do Ordenamento do Território, Urbanismo e Ambiente;

2- Para efeitos da presente declaração, entende-se por fins diferentes, entre outros, a venda, a locação e a doação do terreno;

3- O não cumprimento do constante no número um da presente declaração implicará automaticamente a extinção ou caducidade da licença e consequentemente a perda dos directos e bens existentes na parcela a favor do Estado;

4- Compromete-se igualmente a cumprir com as normas Técnicas constantes no projecto aprovado, bem como com os regulamentos relativos as edificações Urbanas;

5- O terreno concedido destina-se a construção de uma Moradia de Carácter Definitivo .

6- A presente declaração é intransmissível.

OBS: Deverá deixar 2 metros para o passeio

HUAMBO, AOS _____ DE _____ DE 201

O BENEFICIÁRIO   A CHEFE DE REPARTIÇÃO
_____   Arqtª. Arabela de Jesus C. dos S. M. Costa

Nota: Sempre que solicitar por quem de directo, o titular da presente Declaração deverá apresentar

-REPRTIÇÃO DO ORDENAMENTO DO TERRITÓRIO URBANISMO E AMBIENTE-

Request for Permission to Construct a Wall and a House

República de Angola
Kz 50,00
ESTAMPILHA FISCAL

Ao

Excelentíssimo Senhor

Administrador do Município

do Huambo

Huambo

_____, anos de idade, filho de _____

e de _____, Natural

de _____, Município de _____, Província de

Huambo, Portador do BI nº _____, pas-

sado pelo Arquivo de Identificação do Huambo aos

_____ de 201__, residente no bairro do _____

Necessitando de uma licença de Vedação e

Construção de uma parcela de terreno, localizado no

bairro de _____, talhão nº ____ Quarteirão nº ____

destinado a construção de uma Residência de Caráter

definitivo, comprometendo-se a cumprir com todas as

normas e obrigações que regem este tipo de construção

de acordo a lei vigente.

Vem mui respeitosamente requerer a Vossa Ex-

celência Senhor Administrador Municipal se digne

autorizar as referidas licenças, pelo que;

Espera deferimento

Entrada n. 1456/08-0040
Data _____ 201__
Assinatura _____

Declaração de Compromisso

_____ de _____ anos de idade, filho
de _____ e de _____ Natural de
_____ Município de _____ Província de Huambo,
Portador do BI nº _____, passado pelo Arquivo de
Identificação do Huambo aos _____ de _____ de 201, resi-
dente no bairro _____.

Declaro por minha honra e responsabilidade a
cumprir escrupulosamente com as normas de construção
previstas no regulamento de edificações urbano, bem como
o prazo de aproveitamento do talhão ora arrematado, findo
qual o terreno e os bens nele existente se reverterão a
favor do Estado.

Huambo aos _____ de _____ de 201

License to Fence Property

REPÚBLICA DE ANGOLA
GOVERNO PROVINCIAL DO HUAMBO
ADMINISTRAÇÃO MUNICIPAL DO HUAMBO
REPARTIÇÃO DO ORDENAMENTO DO TERRITÓRIO, URBANISMO E AMBIENTE

Visto

O ADMINISTRADOR MUNICIPAL DO HUAMBO

JOSÉ LUÍS DE MELO MARCELINO

LICENÇA DE VEDAÇÃO

Nº_____/201_

Nome:_____

Data de Nascimento: _____

Natural de: _____

Província de: Huambo
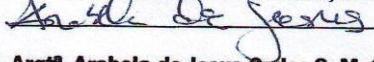
B.I ou Passaporte Nº: _____

Data de Emissão:_____

Localização

Município: Huambo, Bairro de: _____, Talhão Nº ___, Quarteirão Nº____, dimensão do Talhão: 21/25 Área em metros quadrados 525m2, natureza da Obra: **Construção de uma Moradia de Carácter Definitivo.**

Huambo, aos ___ de ___ de 201_

O (A) Titular da Licença
_____

A CHEFE DE REPARTIÇÃO
_____
Arqtª. Arabela de Jesus C. dos S. M. Costa

REPARTIÇÃO DO ORDENAMENTO DO TERRITÓRIO, URBANISMO E AMBIENTE-

License to Construct a House

REPÚBLICA DE ANGOLA
GOVERNO DA PROVÍNCIA DO HUAMBO
ADMINISTRAÇÃO DO MUNICÍPIO DO HUAMBO
REPARTIÇÃO DO ORDENAMENTO DO TERRITÓRIO, URBANISMO E AMBIENTE

Visto
O ADMINISTRADOR MUNICIPAL DO HUAMBO

JOSÉ LUÍS DE MELO MARCELINO

LICENÇA DE CONSTRUÇÃO
Nº_____/201_

Nome: _____

Data de Nascimento: _____

Natural de: _____

Província de: **Huambo**

B.I ou Passaporte Nº: _____

Data de Emissão: _____

Localização

Município: Huambo, Bairro de: _____, Talhão Nº ___, quarteirão Nº ___, dimensão do Talhão: **21/25** Área em metros quadrados **525m2,**natureza da Obra: **Construção de uma Moradia de Carácter Definitivo.**

Huambo, aos ___ de ___ de 201_

O (A) Titular da Licença   A CHEFE DE REPARTIÇÃO
_____   _____

Arqtª Arabela de Jesus C. dos S. M. Costa

REPARTIÇÃO DO ORDENAMENTO DO TERRITÓRIO, URBANISMO E AMBIENTE-

Municipal Cadastre building in Huambo using Open Title Software

The components of the caadastre are; mapping, deliniation of parcel, registering, licencing & archiving.

A. Mapping
   a)   Satelite images
   b)   Topográfical maps

B. Deliniating parcels
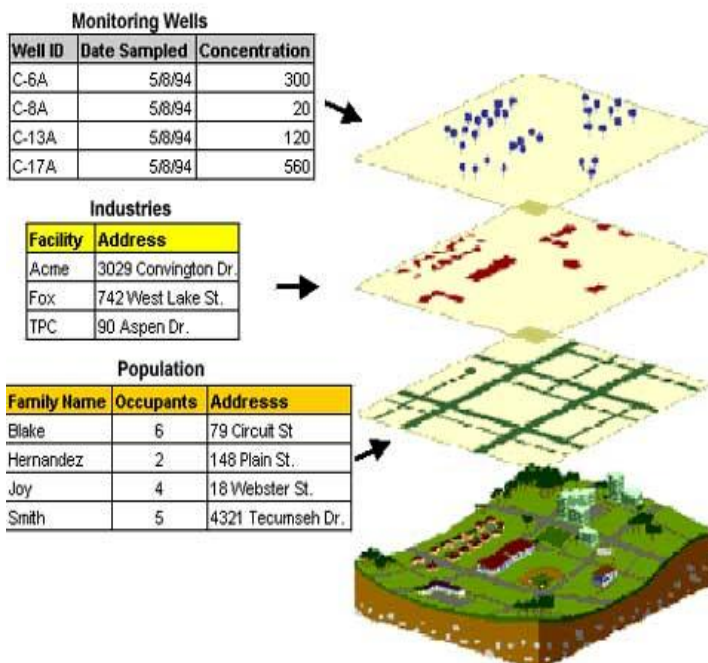
C. Registering

D. Licencing

E. Arquiving

Geographical Information Systems

Annex E:

Land pooling case study: land pooling and participatory planning in Huambo

From 2005 Development Workshop has partnered with the Huambo Provincial Government, local administration and the community to develop a series of participatory planning projects in the periphery of Huambo city. The preparation process of the project started in 2004, when several staff of DW and the provincial government of Huambo participated in a training course in Luanda, on participatory planning. In the course of the training, the participants developed a proposal to implement, or put into practice, what had been learned during the training (i.e., land pooling and other participatory land management techniques). A pilot project was initiated in *Bairro* Fatima, located south of Huambo city. The Provincial Direction of Urbanism in Huambo (DPUA) and the Institute for Territorial Planning and Urban Development (INOTU) were actively involved in this project. Two staff members from DW and the directors of DPUA and INOTU met regularly during the implementation phase of the project, making all major decisions together.

The concept of land pooling or land readjustment has been used in various countries for at least 200 years.[30] It has been most successfully used in a number of Southeast Asian countries in recent years. It is an appropriate solution to the problem of land distribution in areas located on the margins of existing urban areas, and where there is scattered settlement, and where large tracts of land are unavailable for private sector subdivision-type land development. Since many of peripheral settlement plots are not for sale, it is often difficult to find a sufficient number of plots next to each other to develop a rational building development plan. It is also appropriate in older urban settlement areas that need to be reorganized in order to provide access to infrastructure and services.

The concept of land readjustment is to assemble small peri-urban or peri-rural land parcels into a large land parcel, provide it with infrastructure in a planned manner, and return a portion of the reconstituted land to the owners, after deducting the cost of the provision of infrastructure and public spaces from the sale of some of the now-serviced land. In Angola, where small landholders on the urban periphery rarely have title documents and are often considered as informal occupiers, the 'model' that was developed recognizes their occupation in 'good-faith' and employs the land pooling process as a way to help formalize occupation and provide them with tenure security.

Land pooling provides an opportunity for a planned development of land and infrastructure installation where plots in the urban fringe are small, irregularly shaped, and lack access to public roads. Land pooling is an attractive alternative to 'forced' acquisition of land which is becoming increasingly difficult to obtain public support for. The method has proven to be attractive to land-occupiers or claimant-owners since they can gain some considerable advantages and even profit by participating in land-pooling projects. Contrary to the obvious alternative methods for city development, land reserves and expropriation, it also avoids the costly and unpopular government procedure of forcibly acquiring land. Unlike expropriation, land pooling will return a significant part of the land to the original occupants. Ideally, a partnership for development should be formed between the public sector and the previous occupants and claimants. It is therefore very important that close links are established during the project through a process of community consultation and participatory planning.

A land pooling scheme is typically initiated when a municipality or government department designates an area as one which is about to be converted from agricultural to urban land use. A subdivision plan is developed as a unified plan for the area. Provision of infrastructure and services is financed through the sale of some of the plots within the area, with the plots being sold having been designated for commercial

---

[30] UN-ESCAP (1998). Urban Land Policies for the Uninitiated

activities. The original landowners are provided with plots of land within the redimensioned area which, although smaller in size, now have provisions for infrastructure and services, but most importantly, now have formal and legal documents that provide tenure security.

The costs of basic infrastructure and services are recovered by selling surplus plots created through the land redistribution plan. Creation of these new plots provides an opportunity for distributing land more equitably and at the same time providing access to land for low-income housing. Land pooling requires that the land ownership situation be clarified and an accurate land cadastre registration system implemented. In registering land, gender issues can more easily be addressed, bringing women's rights to co-ownership of family property into the legal domain.

In Huambo, the project team's first step in December 2005 was to create a mobilization team that mounted an information campaign in *Bairro* Fátima, to explain the objectives of the project to the community leaders and the population. This information campaign proved to be very important because land was a very sensitive issue. People were aware of forced removals in other parts of the country and many were afraid of losing their land and homes. After the public awareness campaign, the project team then registered all households (more than 1,300) in the project area, and facilitated the issuance of provisional land tenure documents. Those who received these documents gained confidence in, and soon became advocates of the project.

Maria, a woman living in the southern part of Bairro Fatima for example explained that:

"Never before have I had a document for my land and house. With the document I have received I feel more secure and should ever anybody attempt to take my land, I will have the right to proper compensation."

At the same time, the project team also initiated discussions about the planning of an as yet unoccupied area to the south of *Bairro* Fátima. This land was used for agriculture by different families who had established user-claims by virtue of their occupation of the respective farms over several years. These peasant occupiers would stand to lose the use of the land they were currently occupying if a new *bairro* was to be created. While these peasants had no documents nor registered claims on the lands they used, it was considered necessary and just to compensate them. For this purpose, all agricultural land were mapped using the GPS and were registered under the name of the users. After the physical plan for the new *bairro* was created, these previous users/claimants also received land parcels in proportion to the land they contributed to the pool. Those who had previously occupied larger areas of agricultural land received more parcels; those with smaller agricultural plots received only one or two. In the beginning, not all owners were happy with this form and system of compensation, but once they received their parcels of land in the new *bairro*, along with legal tenure documents, they realized that they could sell the title to a small urbanized parcel of land for a higher price compared to the value of the original, larger piece of unregistered land.

The project received positive feedback from those being compensated. For example João, who received three parcels as compensation, explained that:*"With the money I made by selling my parcels I managed to buy a motorbike and I'm now working as a motorbike taxi driver in the city. With this new job, my life and that of my family improved a lot, I'm earning enough now to sustain our household."*

A first draft of an urbanization plan was discussed with the local community in *Bairro* Fátima. The plan for the new *bairro* was developed in collaboration with DPUA, INOTU and the local administration. Through this broad participation of important government stakeholders and through the process of community consultation, the project team was able to ensure that the plan was accepted by all main stakeholders and that there would be no objections at a later stage of the process. Professional help was needed for the efficient planning of a rational infrastructure layout. However, it became clear that such physical planning could be implemented without sophisticated materials and software, but by merely using very basic planning techniques, the use of inexpensive hand-held GPS units, and satellite imagery.

By January 2007, the project had issued the first 150 land tenure documents to existing occupants and created the new *bairro* consisting of 230 land parcels. Ninety of these parcels (i.e., about 40%) were redistributed as compensation to the former occupants of the lands, and the remaining 140 were sold by the project to create a fund to be invested into basic infrastructures such as roads and community collective water points. Some of the money was set aside to fund an expansion of the project in the adjacent area.

Moises Festo, the Development Workshop project coordinator explained that *"the government became very interested in this kind of project because it avoids land conflicts* and *takes a lot of pressure from them. There are so many people looking for land but so little titled land for people to buy or receive officially."*

For all partners involved in this planning process, it was an eye-opening learning experience. It showed a simple and effective way to issue land tenure documents and to prevent the creation of new slums and informal settlements. Much of the success of the project was due to the close partnership with the relevant government institutions and the participation of, and consultation with the population of *Bairro* Fatima.

Following the successful completion of the *Bairro* Fatima pilot project, DW implemented three other demonstration projects using the same principles. After the launch of the National Land Reserve program in 2009, DW was requested to assist with the implementation of the first social housing reserve in Huambo province -- a 300 hectare area that DW had surveyed and parceled in early 2010. The principles of land pooling were also employed, engaging existing occupants and local land claimants in a scheme of in-kind compensation (i.e., titled, urbanised plots of land). To date, the social housing reserve program in Huambo has been implemented without encountering the serious land conflicts and forced removals that have

captured media attention in several other provinces. Land pooling pilot and demonstration projects have given credibility to the principles of participatory planning and community consultation at the local, provincial and national government levels.

The application of the land pooling technique is based on private-public cooperation and negotiation; it requires a significant investment in human resources and training of local administrators and technicians. In particular, skilled negotiators and valuers must be trained.

While land pooling provides an opportunity for both formal and informal land owners and occupiers to develop their land that are located on the urban periphery, the system is not necessarily conducive for large-scale master plans that impose strategic visions for the development of large land tracts or legislatively-designated changes in land use. It is common for large-scale formal or informal landowners/occupiers to use their land as a savings and investment instrument, and this has contributed to increases in land values and land speculation. There is therefore little incentive for large-scale landowners to participate in land pooling schemes. They have no incentives to maintain low prices of land and support the provision of inexpensive social housing.

The land pool model and accompanying methodologies of participatory planning are appropriate today for many peri-urban and urban-perimeter situations around Angola's cities. In these city-margin situations, the growth of informal *musseque* settlements is the dominant pattern. The conversion of peasant agricultural plots into scattered owner-built homesteads is common. Land pooling provides a market-framework for regularizing these informal settlements, and providing sustainable and affordable infrastructure and services while enhancing the land tenure rights and protecting the property assets of the poor.

Annex F

Key Informant Questionnaire

1. What is normative legal framework that has been based on the issuance of land titles in the province of law / administration? Sets, one by one, the laws that have been the basis for the action taken by the Municipal Administration?

2. Describe the procedure, ie the administrative steps that citizens must follow to acquire a plot of land for housing.

3. What aspects judge positive or negative in those "administrative steps"?

4. Are there procedures practiced that do not fit precisely to existing law?

5. What documents must the citizens gather to begin the process of acquiring a lot?

6. When a citizen wants to build, you can go to the Municipal Administration and requires a lot / plot unknown, without the prior has in his possession?

7. When a citizen has (already) seen in a lot / plot, ie, (now) is in possession of "fact" that procedures must be observed to legalize?

8. Once granted a lot, legally, by the Municipal Administration, which are the "steps" that the citizen must follow in order to see the work licensed / authorized and which documents should be together?

9. What happens to citizens who have already built their dwellings on lots that have never been "legalized", they can apply for legalization? This legalization focuses only on the lot or includes improvements (ie, the residence located on the lot)? What are the steps and documents that must be observed?

10. The "regularization" of homes already built depends on the same incorporarm is a redevelopment project, or is it independent?

11. Practices and procedures that result follows Municipal Administration directive, instructions and procedures established by the Provincial Government or the Executive? If yes, what is the basis of these instructions?

12. What are the titles that have been granted by the Provincial Government of Huambo and the Municipal Administrations?

13. Do the procedures and the titles that have been granted are the result of an orientation of the Central Government, Provincial Government or both?

14. What is the difficulty that the City Administration did not issue the bonds of surface rights within the limits defined by the Land Law and its Regulations?

15. Already someday Municipal Administration issued a title right to the surface?

16. Once granted a title of the surface rights, the citizen can transmit to third parties for consideration (ie, sell, for example)?

17. Or can the citizen be burden on the consignment (ie, provide guarantees to a bank, for example, to receive funding)?

18. The Municipal Administration will open and interest in processes of formation and training in order to adjust their procedures to the best practices implemented by the Provincial Government by the Directors of other provinces?

19. Whose depend ultimately approve the change / adjustment procedures in order to put them in accordance with the rules and regulations?

Annex G

Estudo sobre o Mercado de Terras – Huambo - Questionário

1. Control da entrevista:	2. Nome do Inquiridor:		
	2.1.1. Verificado por:		
	Correcções à fazer:		
			Monitor Rechecked

2.1.1.

2.1.2.

Nº do Questionário _____ Data: _____

2.1.3.

2.1.4.   Tipologia do Local de Entrevista: _____

Área de estudo:

Município:_____ Comuna:_____

Bairro:_____ Sector: _____

Coordenadas Geográficas/Tamanho do talhão:

Ponto_____ Lat_____ Long_____ Alti_____ Tamanho do talhão_____

    A. Informação básica do Entrevistado:

1. Género:

Masculino	1
Feminino	2

2. Idade: _____

18-30	1
31-50	2
>51	3

3. Estado Civil:

Solteiro	1
Casado	2
União de facto	3
Viuvo	4
Divorciado	5

4. Chefe do agregado familiar:

	Sim	1
	Não	0

B. Informação básica do Agregado Familiar:

5. Sexo do Chefe:

	Masculino	1
	Feminino	2

6. Nível académico do chefe:

	Nunca estudou	1
	1ª - 4ª classe	2
	4ª - 8ª classe	3
	8ª classe em diante	4

7. Nº de divisões da casa principal? _____

8. Quantos metros quadrados tem o quarto principal da casa?_____(Calcular da distância das 2 divisões principais)

9. Quantas pessoas vivem na sua casa? _____

10. Quantos dependentes menores de 18 anos (casa principal)? _____

11. Quantas familias vivem dentro do talhão/ terreno? _____

12. Número de pessoas no agregado familiar (casa principal) com algum rendimento monetário (sector formal ou informal)._____

13. Qual é o rendimento médio mensal do agregado familiar (casa principal)?

Menos de 5000 Kz por mês	1
De 5600Kz a 10000Kz por mês	2
De 11000kz a 20000Kz por mês	3
De 21000Kz a 40000Kz por mês	4
De 41000Kz a 60000Kz por mês	5
Mais de 60000Kz por mês	6
Não sabe / Não responde	0

C. *Origens e Motivação*

14. **Onde morava antes:**

País	1
Província	2
Município	3
Comuna	4
Bairro	5
Nunca/Não mudou de residência	0

15. **O que o levou a mudar-se para esta zona? Motivos Familiares, Económicos, Políticos (Anote os pontos principais da resposta) (Qualitativa)**

_____.

D. *Direito e Segurança de Posse*
16. Ocupou um espaço de terreno vazio ou uma casa?

Talhão/Terreno	1
Casa	2

17. **Desde a descoberta do local/terreno, quanto tempo levou para ter o aceso (sentir-se dono ou habitante apropriado/a)?**

Dias_____ Meses_____ Anos_____

18. **Em que ano que a familia teve accesso a este talhão/terreno?** _____

19. **Tem alguma prova dos direitos de ocupação? (Descreve e enquadra na lista abaixo)**

_____

O acordo foi verbal	1
O acordo foi testemunhado por terceiros	2
O acordo foi testemunhado por membros do governo	3
Contrato de compra e venda ou arrendamento	4
Recibo (multas, água, luz)	5
Direito de Surperfice	6
Licença precária	7
Licença de arrematação	8
Não tenho nenhum documento	9
Outros, Especifice	10

20. **Que é que lhe deu confiança que a ocupação de terreno/casa seria válida (uma espécie de prova de segurança)?**

_____.

Um amigo/parente apresentou-me	1
Um amigo/parente assegurou que a pessoa com quem fiz o acordo é de confiança	2
Recebi um recibo/documento	3
A familia/dono deu permissão para eu ficar	4
A casa foi numerada pelo governo Municipal	5
A casa foi numerada pela governação do bairro	6
O terreno/talhão estava vazio	7

Outros estavam a fazer o mesmo	8
O governo Municipal permitiu	9
Submeti o meu bilhete	10
O soba/coordenador do bairro disse que eu podia	11
Um oficial do governo Municipal disse que eu podia	12
Eu tive de assinar papéis oficiais	13
Eu recebi papéis oficiais	14
Adicionar/modificar	15
Outros, Especifique	

21. **A que pessoa ou instituição recorreria em caso de conflíto (explicar o conceito conflito)?**

Vizinhos	1
Amigos	2
Família	3
Coordenador / Coordenação do Bairro	4
Governo Municipal	5
Governo Provincial	6
Polícia	7
Tribunais	8
Mídia	9
ONGs	10
Soba/autoridade tradicional	11
Outros, Especificar	12

E. **Valor e Custo**

22. **Como é a estrada de acesso a casa?**

Asfaltada	1
Terra planada/batida	2
Terra com buracos	3
Não tem estrada de acesso a casa	4

23. **Depois da chuva como é o estado das ruas do bairro em geral?**

Bom	1
Mau	2
Péssimo	3

24. **O que você valoriza nesta zona? (Qualitativa)**

_____ (Piloto para construir as opções)

Perto do serviço	1
Perto das escolas frequentadas por mim ou meus encarregados	2
Facilidades de transporte Público ou Privado	3
Área de baixa renda/ custo de vida	4
Aceso a água da rede na torneira	5
Electricidade da rede	6
Independência	7
Mais proximo da familia/ Grupos sociais/Igreja etc	8
Melhor segurança	9
Outros, Especificar	10

25. **Quanto Pagou por esta acupação?**

Casa	USD
Terreno/Talhão	USD
Renda mensal	USD
Custos administrativos (Advogado, aceleração do processo)	USD

26. Como mobilizou fundos para adquirir ou construir a sua casa? _____

F. **Perspectivas Futuras**

27. **Se eu quizesse comprar um terreno ou casa igual ao seu/sua neste bairro quanto deve-me custar?**

Terreno_____USD

Casa_____USD

DW Poverty Score Card – Informação adicional

1. O chão da habitação é de .... ?

Madeira ou taco	☐ 1
Mármore	☐ 2
Granulite	☐ 3
Cimento	☐ 4
Tijolo	☐ 5
Adobe	☐ 6
Terra batida	☐ 7
Outros	☐ 8 (especificar) ....

2. O material de construção da casa é ..?

Tijolos	☐ 1
Blocos	☐ 2
Adobes	☐ 3
Pau-a-pique	☐ 4
Capim	☐ 5
Outro	☐ 6 (especificar) ....

3. Que tipo de combustível utiliza para cozinhar?

Electricidade	☐ 1
Gás	☐ 2
Petróleo	☐ 3
Carvão	☐ 4
Lenha	☐ 5
Bosta animal	☐ 6
Restos de cultivo de agric.	☐ 7
Outros	☐ 8
Não cozinha	☐ 9

4. No agregado familiar tem uma ventoinha?

Sim	☐ 1
Não	☐ 2

5. No agregado familiar tem um telefone?

Sim	☐ 1 (fixo ou móvel?)......................................
Não	☐ 2

6. **No agregado familiar tem um rádio?**

                    Sim   ☐ 1

                    Não   ☐ 2

7. **No agregado familiar tem um televisor?**

                    Sim   ☐ 1

                    Não   ☐ 2

8. **No agregado familiar tem uma bicicleta?**

                    Sim   ☐ 1

                    Não   ☐ 2

9. **No agregado familiar tem uma motorizada?**

                    Sim   ☐ 1

                    Não   ☐ 2

10. Onde os membros do agregado fazem habitualmente as suas necessidades?

    Para o sistema dos esgotos (pia, sanita)   ☐ 1

    Com fossa séptica e poço roto   ☐ 2

    Latrina seca ou com descarga manual   ☐ 3

    Vala negra, aberta   ☐ 4

    Poço roto somente   ☐ 5

    Directamente no rio ou no lago   ☐ 6

    Balde   ☐ 7

    Capim, mato ou ar livre   ☐ 8

    Outro (especifique)   ☐ 9

11. Quando foi última vez que um membro do agregado familiar leu um jornal?

    Hoje ou ontem   ☐ 1

    Durante os últimos 7 dias   ☐ 2

    Durante o último mês   ☐ 3

    Durante o último ano   ☐ 4

12. Para beber, o agregado usa principalmente água de:

    Torneira na residência ligada à rede   ☐ 1

    Torneira do prédio ou vizinho   ☐ 2

Tanque do vizinho	☐ 3
Chafariz público	☐ 4
Furo com bomba	☐ 5
Cacimba protegida	☐ 6
Cacimba desprotegida	☐ 7
Nascente protegida	☐ 8
Nascente desprotegida	☐ 9
Água da chuva; chimpacas	☐ 10
Charco; rio; riacho	☐ 11
Camião de água	☐ 12
Água mineral em garafa	☐ 13
Outro (especifique)	☐ 14

28. Acesso a serviços sociais e económicos na zona (Inq. faça a sua avaliação)[31] Grupo focal

Escola (primária, secundária)	1
Centro Médico	1
Creche	1
Esquadra de polícia	
Serviços bombeiros	
Centro de acolhimento de idosos	
Recolha e tratamento de lixo	1
Padaria	
Cantina	
Praça/Mercado	
Banco	

Note: The data set only shows the existence of the 4 basic social services (value 1), so that their absence is indicated by the value 0

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[31]   Muito bom = ter acesso a escola secundária e hospital perto; muito pobre, significa não ter escolas, postos de saúde ou igual perto.