Tenure Security Facility Southern Africa Regional Learning Event

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29th July 2013
Pretoria, Maputo, Lilongwe and Luanda

Outline

- **Project Purpose**
- **Components of Work**
- **Partners**
- Context
- TSFSA Approach
- Reflections from practice in the TSFSA
- Materials

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Project Purpose

To provide **specialist technical assistance and advisory services** on tenure security within slum upgrading initiatives in the Southern African region and **share lessons learnt** with others in the region.

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Components of work

1. **2 diagnostic studies** on urban land markets in Lilongwe, Malawi and in Tete, Mozambique;

Lilongwe, Mtandire and Chinsapo

Tete, Sansao Muthemba and Matundo

Components of work

2. **Specialist advisory services** on tenure to Huambo, Angola and Mozambique in the development and implementation of appropriate mechanisms and approaches to increase tenure security for households living in informal settings in the cities;

Components of work

2. **Specialist advisory services** in Malawi – Talking about Tenure: workshop with HPF & Tenure Security Dialogue in Lilongwe

LAND TENURE SECURITY DIALOGUE
18th FEB.2013, BRIDGEVIEW HOTEL, LILONGWE.

Malawi Homeless People's Federation

CCODE

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Components of work

3. **Technical assistance** on security of tenure to slum upgrading projects in South Africa in three identified sites - Johannesburg, Cape Town, and eMalahleni
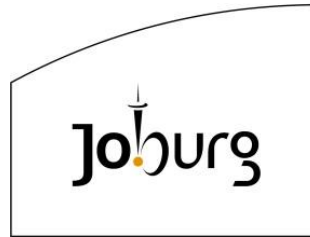
INCREMENTALLY SECURING TENURE

Promising practices in informal settlement upgrading in southern Africa

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working towards improving access to land and property rights

Cities Alliance
Cities Without Slums

4. **Practical guide** for use in the region on incrementally securing tenure in slum upgrading

- Practice Notes

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Context

- About 50 % of the global population lives in cities
  - Likely to increase to 70 % by the middle of this century
- Developing countries account for over 95 % of global urban population growth.
  - Between 2000 and 2030 urban populations are expected to double
  - The built-up area of these countries is projected to treble.
- About 62 % of people today in towns and cities in sub-Saharan Africa live in informal settlements
  - peri-urban environments
  - insecurity of tenure
  - very poor infrastructure

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Context

- Southern Africa is the most urbanised region on the continent
  - urbanisation rate increasing from 53.8 to 58.7 % between 2000 and 2010.
- By 2025 it is estimated that three quarters of the people in the region will be living in urban areas, mostly in large and medium sized cities
- The urban population will be growing almost twice as fast as the general population, increasing by more than half a billion from 1990 levels

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Approach

- Efforts to secure tenure among the urban poor are dominated by the paradigm of individual title implemented through large-scale titling schemes.

- Despite well intentioned policies, however, individual ownership is far removed from the realities of urban slum dwellers.
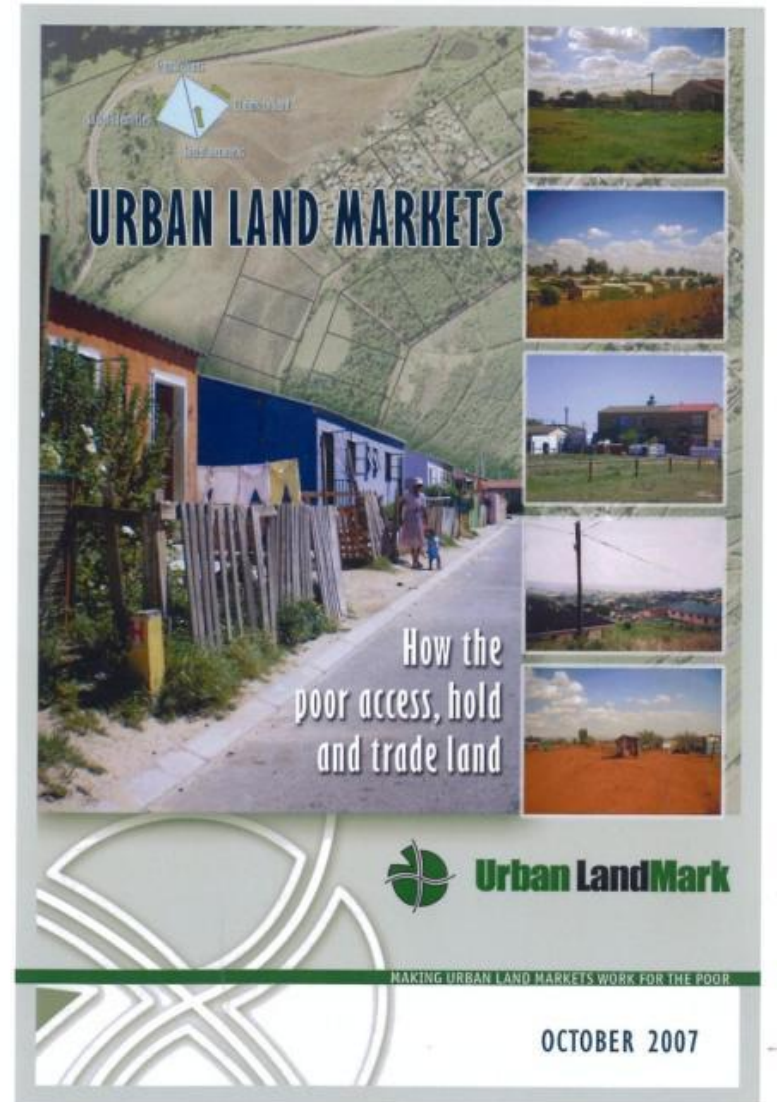
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Approach

- Research has confirmed there is evidence of locally managed processes in informal settlements that are in place for accessing land, and that such transactions occur even in countries where the land is nationalised or where land cannot be legally sold without the authority of the state.

- While government authorities generally frame the acquisition of individual title as the ultimate goal, the evidence shows that in poor communities there are limited routes to ownership and they take a very long time to achieve.

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Approach

- How the poor access hold and trade land
  - 3 South African cities
  - Luanda with DW
  - Maputo
  - Tete
  - Lilongwe

Approach

- Do the land management practices in informal settlements offer a foundation on which to strengthen community agency and progress towards tenure security?

- Is it possible for state structures to work with and ultimately recognise local land management practices that are used by residents in informal settlements?

- Is it possible to side-step the debate about individual title and work towards achieving more immediate upgrading and tenure security benefits in poor communities?

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Approach

- We explored an alternative approach, which focuses on the progressive, or incremental, achievement of tenure security.

Diagram   The tenure security continuum

Lack of official recognition increases insecurity of tenure

Progression towards more tenure security

Official recognition increases tenure security

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Approach

- Practical alternatives to large-scale titling schemes by exploring context-specific approaches to land management and tenure security.

- Incremental **progression** towards more security and official **recognition** of existing land management practices.

Diagram The tenure security continuum

Lack of official recognition increases insecurity of tenure

Progression towards more tenure security

Official recognition increases tenure security

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Approach

- Can tenure rights be secured by taking different routes in advance of, or even instead of, official titling interventions, so that informal settlement residents can themselves improve their lives without the risk of eviction?

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Routes to Tenure Security

Route **1**: Resisting eviction
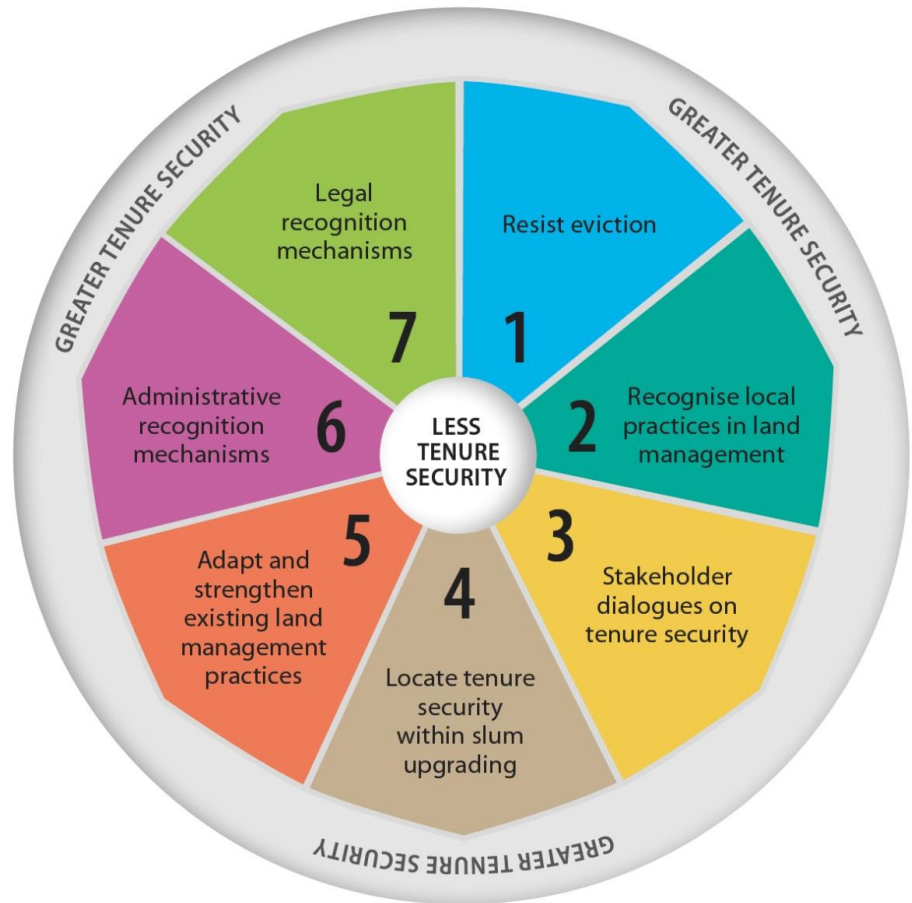
Route **2**: Local practices in land management

Route **3**: Stakeholder dialogues on tenure security

Route **4**: Locating tenure security within slum upgrading

Route **5**: Adapting and strengthening existing land management practices

Route **6**: Administrative recognition

Route **7**: Legal recognition

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INCREMENTALLY SECURING TENURE

Promising practices in informal settlement upgrading in southern Africa

Urban LandMark Cities Alliance — Cities Without Slums

- Promising practices that have emerged through the work of the Tenure Security Facility

- Signal new approaches to securing tenure in informal settlements

- Provides guidance to practitioners, officials and communities who see the value of finding more routes into tenure security than the dominance of the ownership paradigm allows

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Promising Practices

Route **1**: Resisting eviction

Route **2**: Local practices in land management

Route **3**: Stakeholder dialogues on tenure security

Route **4**: Locating tenure security within slum upgrading

Route **5**: Adapting and strengthening existing land management practices

Route **6**: Administrative recognition

Route **7**: Legal recognition

Route **1**: Resisting eviction

- **Publicise:** local talk radio shows on the subject of housing rights; Springvalley Development Committee created publicity around the threatened evictions

The Springvalley experience shows that the community is well organised and that established community structures have the credibility and legitimacy necessary for unified community action against eviction.

- **Network:** links with various advocacy and socio-economic rights institutions,

- **Litigate:** used legal recourse to resist evictions and have sued the municipality to compel them to provide

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Route **2**: Local practices in land management

With more insight into how things currently work in local practice, it becomes possible to look at how these arrangements can be officially recognised.

The local land management arrangements introduce some kind of security and legitimacy at the local level that agencies of the state are generally unable to create.

Urban LandMark's operation of the markets studies show that over many years informal settlements have developed a body of land management practices that are not officially recognised..
•Existence of a market
•Organised local processes
•Verbal and written evidence of occupation
•Local leadership and authority
•Perceptions about tenure security

www.urbanlandmark.org.za/research/secure_tenure.php.

Route **3**: Stakeholder dialogues on tenure security

Tenure is often a difficult concept to discuss with communities and officials, but it is an important element of a wider upgrading a pproach in informal settlements. It is also one that is usually overlooked by authorities and does not feature explicitly in incremental processes.

In Malawi we spoke about customary leadership: With urban expansion, what happens to customary land, and what will be the role of chiefs and customary leaders in the future?

Route **3**: Stakeholder dialogues on tenure security

Because of the dominance of the individual title paradigm, there is limited scope for engaging stakeholders and interest groups on alternatives, especially for officials whose capacity is stretched by rolling out large scale titling schemes. Considering an alternative way of doing things is very often beyond their mandate.

In Maputo participants raised the issue of the different sources of land tenure threats, which were seen to include private investors as well as threats from government and community leaders.

Route **4**: Locating tenure security within slum upgrading

Tenure is seldom conceptualised as something that can be incrementally provided. For this reason, it is important to locate tenure within an upgrading project as a 'stream' or element to be specifically addressed.

The Springvalley community's route to advancing tenure security by resisting eviction includes creating ongoing publicity, knowledge exchanges with NGOs and other civil society players, and pursuing litigation.

SUN Development produced a route map for incrementally securing tenure in Monwabisi Park. With advice from the Tenure Security Facility Southern Africa, SUN and the community focused on both the administrative and legal routes to gain official recognition.
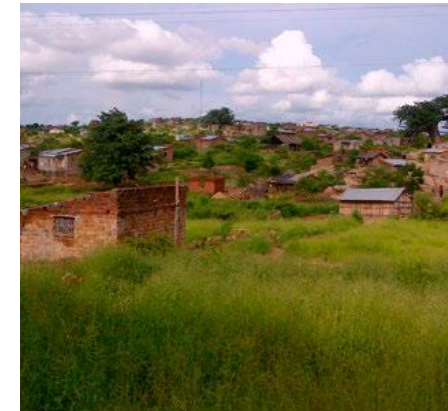

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Route 5: Adapting and strengthening existing land management practices

In Mozambique, alongside the current emphasis on individual titling, the adaptation and official recognition of local practice will produce more options for increasing tenure security in these areas.

- Improving accountability of local leaders
- Providing local forms of evidence more widely
- External recourse
- Community based planning

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Route **5**: Adapting and strengthening existing land management practices

The challenge for the Springvalley community is to work towards greater administrative recognition from the municipality by performing actions that are geared at incrementally securing tenure.

Strengthen community structures
Update the enumeration.
Develop an enumeration data management system updated by the community as land rights evolve and changes occur.
Undertake a community mapping process
Document local land management

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Route **6**: Administrative recognition

The experience of Monwabisi Park shows that a range of community actions and administrative tenure recognition mechanisms are vital in providing 'building blocks' for legal recognition through the formal land use application.

•CAP – endorsed by Mayor
• Enumeration and survey
• Community register
• GPS, spatially linked data
• City of Cape Town basic service provision (sandpipes, toilets)
• Eskom electricity to parts of the settlement
• Spatial Reconfiguration Plan
• Draft Occupation Agreements

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Route **6**: Administrative recognition

In Huambo the municipal administration demonstrated willingness to innovate & created a number of administrative mechanisms., including the temporary upgradeable Licence of Occupation. It is not embedded in law but has currency in practice and has therefore gained widespread legitimacy

Route **7**: Legal recognition

In Monwabisi Park the land will be zoned Single Residential Zone 2 (SR2): Incremental Housing. This zone is especially designed to apply in an informal settlement and to blocks within settlements.

Through the formal Land Use Management Application, there has been a 'natural' progression from the process of administrative recognition towards legal recognition mechanisms for the settlement.

Route **7**: Legal recognition

In Johannesburg an amendment to the zoning scheme – Transitional Residential Settlement Areas - a legally-based intervention. It has the potential to 'lock' a range of interventions into a legal instrument - a basic layout plan, occupant permit, a register and enumeration become a legal requirement for the municipality once an area is declared a TRSA. It also enables an area to be serviced, because the legal status can unlock bigger municipal budgets.


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Reflections on practice

- The work of the TSFSA shows that it is possible to work on opening up alternative or additional routes into tenure security

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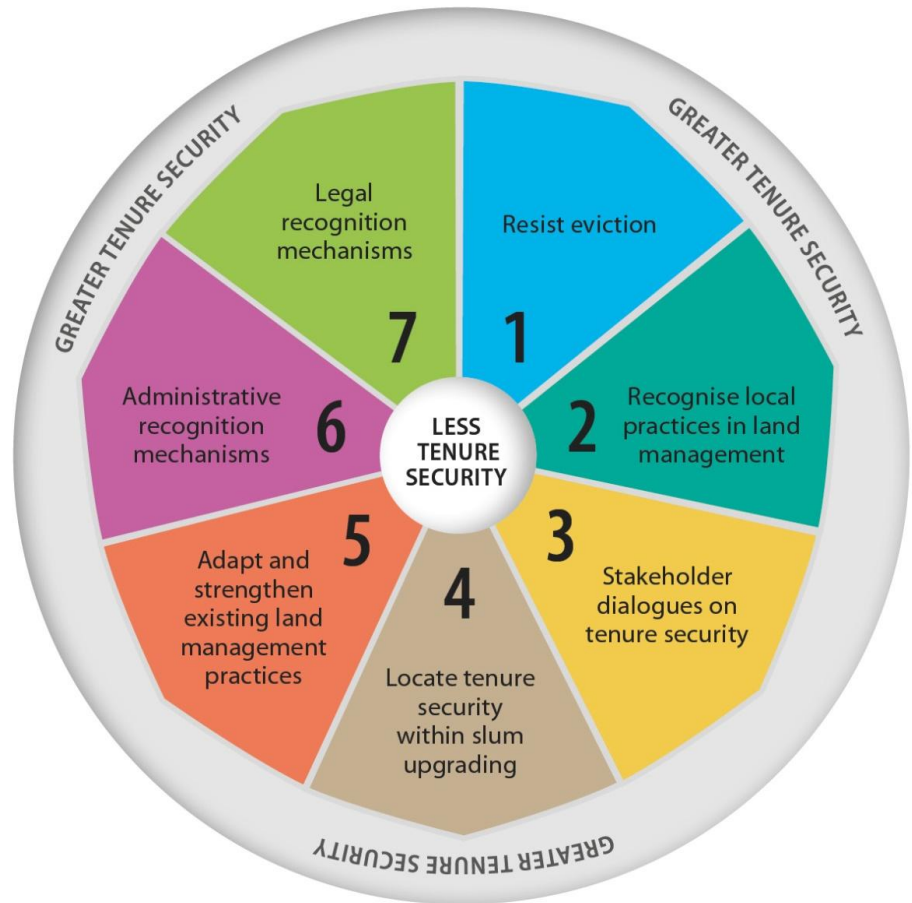
Reflections on practice

- It makes pragmatic sense to work with what currently exists – both in law and in local practice – in order to achieve more immediate upgrading and tenure security results.

- The work of the TSFSA found evidence of co-existing official and local systems of land management and governance. ADAPTATION

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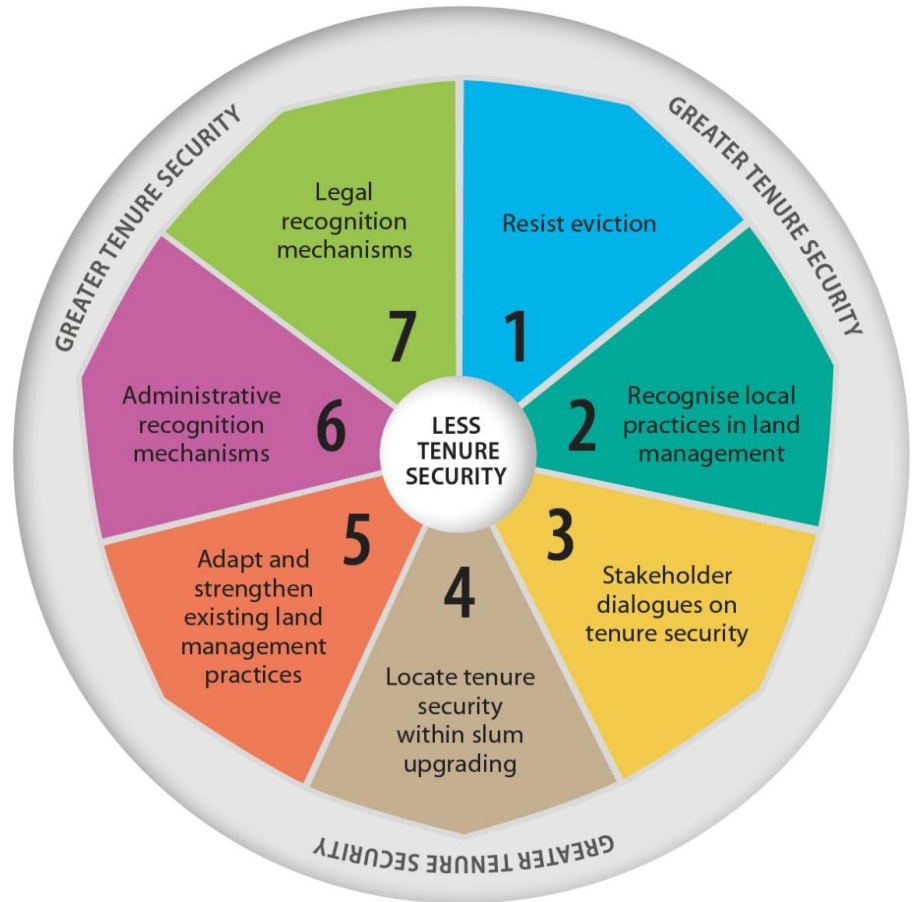
Reflections on practice

- Local practitioners – land managers, community authorities, advisors and representatives – should actively negotiate processes of reform to adapt policy and law, and achieve a better fit with the body of local practices in informal settlements.

- Official practitioners - in municipalities and local political representatives - need to support innovation and actively engage with and adapt local practice.

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Reflections on practice

- More work is required to identify and implement strategies for official recognition and to build up a significant body of alternative practice that could form the basis of widespread advocacy.

  - start by understanding existing local practices for securing tenure and managing land

  - build from existing local land management practices, especially the local evidence being used

  - adapt and strengthen the local practices, especially the figures of authority and the access they give more vulnerable groups that are likely to include women and children

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Reflections on practice

- recognise the agency of residents and local structures in managing land
- promote the roles of NGOs in supporting organisations of the poor to resist evictions and adapt and strengthen local practices in land management
- promote the roles of NGOs in building alliances with municipalities to find and demonstrate context-specific means for administrative and legal innovation to secure tenure through different forms of official recognition
- support municipalities to apply existing laws in innovative ways to serve tenure security objectives
- advocate more widely for increasing routes to tenure security.

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Materials

http://www.urbanlandmark.org.za/research/x63.php

Tenure Security Facility Southern Africa
project: 'Operation of the Market' study -
findings from research in Malawi and
Mozambique
2013

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Materials

- Technical reports
- Practice Notes

http://www.urbanlandmark.org.za/research/x66.php

Tenure Security Facility Southern
Africa Project: Practice Notes
2013

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Materials

http://www.urbanlandmark.org.za/research/x67.php

Promising Practices: A Guide on
Incrementally Securing Tenure in
Southern Africa
2013

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