

Informal Transactions of Low Income Houses in South Africa: A Case Study of eThekweni Municipality

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Abstract

Zwischen 1994 und 2016 hat das südafrikanische Wohnungsbauprogramm RDP (Reconstruction and Development Programme) etwa 2,68 Millionen subventionierte Häuser für die einkommensschwache Gesellschaftsschicht bereitgestellt. Die Umsetzung steht in einem komplexen Spannungsfeld, welches von einer Vielzahl von Richtlinien sowie einem komplexen institutionellen und sozioökonomischen Kontext bestimmt wird. Die Grundsätze des Wohnungsbauprogramms sind stark beeinflusst vom internationalen Diskurs zur Neoliberalisierung der Wohnpolitik, die eingebettet ist in die Neubestimmung der Rolle des Staates in der Bereitstellung subventionierten Wohnungsbaus. Das staatliche Wohnungsbauprogramm ist folglich von neoliberalen Idealen bestimmt. Nach neoliberalen Vorbild ist Wohnbau eine Kapitalanlage, in die ein Mensch bereit ist zu investieren und dabei das Ziel verfolgt, diese Anlage zu einem angemessenen späteren Zeitpunkt gewinnbringend zu veräußern. Der Profit wird folglich für die Finanzierung einer neuen Kapitalanlage eingesetzt und der Eigentümer somit auf der Leiter der Wohnbedürfnisse („housing ladder“) eine Stufe aufsteigen. Seit dem Jahr 2000 besteht vermehrt die Vermutung, dass diese vom Staat subventionierten Häuser informell von ihren Eigentümern verkauft werden und diese zurück in informelle Siedlungsgebiete ziehen. Die Reaktion seitens des Staates bestand in der Einführung einer Sperrklausel mit dem Ziel, informelle Kauf- und Verkaufsprozesse vor Ablauf eines Zeitraums von acht Jahren zu verbieten. Diese Verbotsmaßnahme steht jedoch in Widerspruch zu den neoliberalen Idealen der staatlichen Wohnungsbaupolitik.

Die vorliegende Arbeit basiert auf der Behauptung, dass informelle Transaktionsprozesse und –praktiken im internationalen Diskurs zur Wohnraumversorgung bislang unzureichend behandelt und verstanden wurden. Bestehende Literatur liefert nur bedingt Aufschluss über den Aufbau und das Ausmaß von Transaktionsprozessen und –praktiken sowie deren Einflussfaktoren. Die Forschung konzentriert sich auf zwei Fallbeispiele von Siedlungen für einkommensschwache Haushalte innerhalb der südafrikanischen Metropole eThekweni Municipality und hat zum Ziel ein tiefergehendes Verständnis a) zum Einfluss von Politik und Recht auf informelle Transaktionsprozesse und b) zum Aufbau und der Verbreitung informeller Transaktionsprozesse zu geben; sowie c) den Erkenntnisstand der Eigentümer bezüglich gesetzlicher Regelungen für Kauf und Verkauf von RDP Häusern zu untersuchen; d) allgemeine Implikationen informeller Transaktionsprozesse für sozialwirtschaftliche, politische und kulturelle Zusammenhänge im Kontext der post-Apartheid Stadtregierung nachzuvollziehen und schließlich e) zu untersuchen, ob informelle Transaktionen mit Faktoren

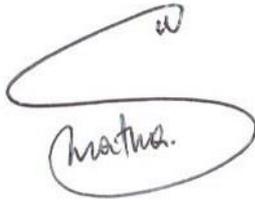
verbunden sind, die über das Konzept des freien Marktes hinausgehen. Eine Reihe von Interviews, Haushaltsumfragen, Gruppendiskussionen sowie Beobachtungen wurden zur empirischen Datenerhebung durchgeführt. Methodisch basiert der Forschungsprozess auf einem “Grounded Theory“ Ansatz. Die Forschung setzt sich mit konzeptionellen und theoretischen Grundlagen auseinander, die die Bereitstellung subventionierter Häuser sowie den Diskurs zur Wohnraumversorgung beeinflussen und gestalten.

Forschungsergebnisse belegen, dass eine Reihe von Faktoren Einfluss auf das Auftreten von informellen Transaktionen haben. Die Ergebnisse heben die widersprüchlichen Auffassungen seitens des Staates und dessen Rolle in Transaktionsprozessen und -praktiken kritisch hervor. Darüber hinaus haben unzureichende und widersprüchliche Vorgaben starken Einfluss auf das Auftreten von informellen Transaktionsprozessen. Desweiteren belegt die Forschung, dass Empfänger von subventionierten Häusern über mangelnde Informationen bezüglich formeller Transaktionsprozesse verfügen, weshalb ihre Teilnahme am formellen Immobilienmarkt nur eingeschränkt möglich ist.

Informelle Transaktionen finden innerhalb eines Kontexts statt, in dem eine Vielzahl von Stakeholdern involviert ist. Jeder Stakeholder verfolgt dabei eigene Interessen, den Ausgang des Transaktionsprozesses zu gestalten. Eine Stakeholder-Landkarte zeigt auf, wie Interaktionen zwischen einzelnen Stakeholdern informelle Transaktionen fördern und verhindern. Die Forschungsergebnisse belegen zudem, dass informelle Transaktionsprozesse nicht so weit verbreitet sind wie eingangs angenommen. Viel mehr finden sie sporadisch statt und sind überwiegend abhängig von individuellen Umständen. Während eines Transaktionsprozesses scheinen Empfänger staatlicher Wohnbauförderung auf Praktiken zurückzugreifen, die eine Verstrickung staatlich anerkannter westlicher Formen von Eigentumsrechten und Gewohnheitsrecht bedeuten. Diese Verwicklung zeigt auf, wie die Eigentümer von subventionierten Häusern das vorherrschende Verständnis von Eigentumsverhältnissen unterlaufen.

Declaration

I declare that unless otherwise acknowledged in the text, this thesis is my own original unaided work, and has not been submitted in whole or in part, to any other University.

A handwritten signature in black ink, consisting of a large, stylized 'S' shape with the name 'Mbatha.' written inside the lower loop.

.....
Sandile Mbatha

27 February 2018

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Abbreviations and acronyms

ANC	African National Congress
BNG	Breaking New Ground
CBD	Central Business District
HWP	Housing White Paper
IMF	International Monetary Fund
KZN	KwaZulu-Natal
MDGs	Millennium Development Goals
NCA	National Credit Act
NCR	National Credit Regulator
QH	Quarry Heights
RDP	Reconstruction and Development Programme
SA	South Africa
SDGs	Sustainable Development Goals
UNDP	United Nations Development Programme
UN	United Nations
UN-Habitat	United Nations Human Settlements Programme
WB	World Bank
WL	Waterloo

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1. Chapter One: Introduction and background

Housing or shelter is one of humanity's basic needs and a cornerstone of dignity. It is tied up with a host of other social services and infrastructure such as water, sanitation, energy, economic opportunities and social amenities. Effectively, lack of access to housing may place any human being into a state of poverty in very fundamental terms.

In recognition of housing as a significant facilitator of human dignity, there is global consensus that housing is a basic human right. Through various international initiatives, housing has become entrenched in the human development objectives of global governance. Since housing took centre stage in the human development agenda, progressive policy and institutional frameworks have been established by national governments, particularly those in the Global South (Bredenoord & van Lindert, 2010). The primary focus of these policies and institutional frameworks has been to facilitate the provision of low income housing to the poorest populations of the developing world.

The late 1990s saw more focus on the sustainability of housing as a facilitator of economic livelihoods in the Global South. However, many housing policies focused mainly on the speed of delivery and innovation. Long-term sustainability of housing has largely been secondary. This resulted in slow progress towards achieving sustainable livelihoods through housing provision. However, the recent adoption of the Sustainable Development Goals (SDGs) in 2015 gave fresh impetus to housing and its role in supporting the development of cities that are inclusive, safe, resilient and sustainable (UN, 2015). Housing has been positioned as a catalyst in achieving Goal 11 of the SDGs¹. In fact, it is at the centre of the SDGs and the New Urban Agenda adopted at the 2016 Habitat III conference in Quito. The realisation that urbanisation and the provision of adequate housing is a collective responsibility that requires effort and commitment from multiple stakeholders is also at the core of the 2030 SDGs (UN, 2015). The SDGs and the New Urban Agenda have shifted the focus from a policy and institutional development process towards a stakeholder-driven implementation process.

¹ Making cities safe and sustainable means ensuring access to safe and affordable housing, and upgrading slum settlements. It also involves investment in public transport, creating green public spaces, and improving urban planning and management in a way that is both participatory and inclusive (UNDP).

South Africa, like many other developing nations has a strong policy and institutional framework designed to facilitate access to housing for the poor. This is supported by the inclusion of housing as a basic human right in the Constitution. The right to access to housing incrementally and within the state's available resources is further translated into policy and legislative frameworks.

Reconstruction and Development Programme or 'RDP'² settlements are government subsidised low income housing informed by the RDP transition policy document of the African National Congress (ANC)³, introduced in 1994. The primary objective of the RDP was to inform and drive development and service delivery in the post-transition period (Polity org.za, 1994). Water, sanitation and housing policies, amongst others, reflect the principles of the RDP document with regards to facilitating access to basic services for previously disenfranchised, Black⁴ South Africans.

The RDP's most notable influence is reflected in the housing landscape through the key product of the Housing White Paper (HWP) - low income subsidised houses for the 'poorest of the poor'⁵ (Housing White Paper, 1994, Subsection 5.3.2). As a result of this influence, these starter houses have evolved from 24 to 40 square meters since 1994, and are largely homogeneous structures that became known as 'RDP'. They are a visible landmark of the post-apartheid housing policy (Adebayo, 2010; Bond & Tait, 1997). Despite their often peripheral nature and sometimes inferior structure, they provide shelter to millions of low income beneficiaries⁶ (SA government online, 2014). Many are located in the outskirts of cities; far away from basic infrastructure and social amenities (Huchzermeyer, 2003). Access to RDP houses is a much contested space and publicly debated issue. Speculation about mismanaged waiting lists and corruption have characterised access to RDP housing (Rubin, 2011). Notwithstanding the government's debatable achievement of building one million houses during the first five years of democracy (Housing White Paper, 1994), RDP houses have come under scrutiny for their well-documented lack of quality; peripheral location; and inadequate

² A colloquial name given to government subsidised, low income housing in South Africa. They get this name from the transition document of the African National Congress, the Reconstruction and Development Programme.

³ The ANC is South Africa's ruling party since the inception of democracy in 1994.

⁴ Black is a term used in socially-based racial classification to describe South Africans of African origin. It was also used by the apartheid regime to classify people of colour from other ethnic groups, such as Indians and coloured.

⁵ A phrase used in the Housing White Paper policy document of 1997. It is not well articulated in the policy but has become clearer through subsidy bands that the government established to identify beneficiaries.

⁶ Refers to people who are granted and/or benefiting from government housing subsidies. These are people who meet the criteria set out by government in the housing policy

access to basic social and economic amenities (Huchzermeyer, 2003; Rubin, 2011; Lemanski, 2014). These factors have arguably contributed to a lack of integration of RDP settlements into the larger urban fabric, hence forfeiting benefits associated with being part of a vibrant urban environment. It should be stated, however, that not all RDP settlements are located on the periphery. Some do enjoy proximity to the city and have access to urban amenities, although these are negligible.

Despite mass delivery of low income RDP houses, the demand is persistent and increasing. According to the Financial and Fiscal Commission as cited by Tomlinson (2015), South Africa requires approximately R800 billion and a miracle to clear the current housing backlog of 2.1 million houses by 2020. The delivery process is characterised by various challenges, as argued above. These include longer and more complex beneficiary waiting lists that are difficult to manage, which subsequently lead to dysfunctional and often corrupt allocation processes (Rubin, 2011; Community Law Centre and Socio-Economic Rights Institute, 2013); and lack of institutional capacity to adequately and innovatively respond to the demands of beneficiaries (Bradlow, et al., 2011). These challenges have further contributed to the ever-increasing housing backlog. The backlog is exacerbated by, among other factors, the increasing rate of urbanisation in South African cities (Rust, 2013), rural-urban migration and population growth. The influx of rural migrants seeking employment opportunities and a promise of a better life puts additional pressure on government (Roux, 2009) to deliver housing.

The post-apartheid period marked a vigorous policy development process that gave birth to the HWP (1994), followed ten years later by the Comprehensive Plan for the Development of Sustainable Human Settlements (2004), and popularly referred to as the Breaking New Ground (BNG) policy. Both these policies are shaped by a socio-economic policy direction adopted by the ANC's post-apartheid government and are in line with international housing policy discourse. The South African housing policy programme reflects neoliberal principles adopted during the 1992 National Housing Forum⁷. The significant step taken during these negotiations was that low income housing would be delivered through the market. The negotiation process, it is argued, was largely skewed towards the interests of business represented (Lalloo, 1999). The outcome of this bias is reflected in a largely neoliberal

⁷ These were multi-party negotiations that paved the way for the current housing policy framework in South Africa. The negotiations included political parties, civil society and business. The very strong business representation in the negotiations meant that the policy adopted reflected a very biased business interest.

economic view taken by the housing policy. It is, however, important to note that while a neoliberal paradigm of housing policy was adopted, the delivery process did not necessarily reflect the same paradigm at implementation level. This is despite the agreement that the state was to play a facilitator role, while business would actively participate in implementation through the market process. However, current delivery processes are heavily state-driven and the role of the private sector has largely been limited. The adopted neoliberal paradigm has been heavily diluted by a welfarist model of delivery. Largely, policy articulation has been neoliberalist while implementation has been predominantly welfarist in practice (Bond and Tait, 1997; Adebayo, 2010).

Hidden in this attempt to balance the neoliberal and welfarist paradigms in South Africa's housing delivery programme is the idea of housing as an asset capable of being activated as collateral for accessing finance. This idea is based on a number of assumptions, for instance, that the RDP housing product is bankable; beneficiaries aspire to using their properties as collateral; the banks have appetite to take RDP houses as collateral; the banks view the poor as bankable; and that beneficiaries have aspirations to climb the housing ladder. The state had envisaged that the beneficiaries of RDP housing, upon taking ownership of their starter houses, would increment and then sell at a market value that would allow them to move up to the next rung of the property ladder. This idea gave rise to 'incremental housing policy' where beneficiaries would invest in their starter houses with the long-term idea to use their properties to access finance or sell them and move up the housing ladder (Bond & Tait, 1997; Wilkinson, 1998; Huchzermeyer, 2001).

Additionally, the state had an objective to ensure that, firstly, the low income housing sector is self-sustainable, and secondly, that it would absorb a large number of the unhoused population thereby making a dent in the housing backlog. This ideal was premised on a number of assumptions, correctly or incorrectly so:

1. That beneficiaries of the subsidised, low income houses have economic means to participate in the housing market;
2. That they can meaningfully participate in market activities considering all its complexities;
3. That RDP housing as a product will have sufficient structural integrity to be tradable in the market;

4. That beneficiaries view their RDP housing as an economic asset hence understand its market value;
5. That the market would accept the RDP product as a financially tradable asset and therefore could be collateralised

These assumptions are fundamental in understanding the idea of the housing ladder. There are various critical aspects that speak against these assumptions that have emerged since the early years of the housing delivery programme. It is now common knowledge that the quality of the RDP housing product delivered between 1994 and 2004 lacked structural quality (Charlton & Kihato, 2006; Zunguzane, et al., 2013). It is also public knowledge that the economic fundamentals of RDP beneficiaries does not allow them to meaningfully participate in the formal housing market. There is also a consensus that the market, particularly the banking sector, has not fully accepted the RDP housing product as a financially tradable asset (Jones & Datta, 2000; Charlton, 2003; Kingwill, et al., 2006; Lemanski, 2011). In fact, the business sector—particularly the financial sector—does not view government subsidised, low income housing as financially viable. The banks, as confirmed by the findings of this study, find RDP houses to be too complex and risky for collateralisation.

1.1. Contextualising the problem statement

Since 2000, there has been growing speculation that the government's subsidised low-income housing is being sold informally. The speculation has subsequently attracted the attention of researchers, practitioners and the state. The main assumptions have been that government subsidised, low income houses are being sold by beneficiaries for amounts lower than their market value and the capital used to construct them. The state assumes that RDP beneficiaries, after selling their properties, move back to informal settlements and subsequently re-join the housing waiting list, thus contributing to the perpetual challenge of informal settlements (Huchzermeyer, 2011). In 2015, the housing backlog was estimated at 2.1 million and the number of informal settlements is said to have increased from 300 to 2,226 (Tomlinson, 2015). The allegations of beneficiaries returning to informal settlements are unsubstantiated and there is not enough empirical evidence to prove that this claim is indeed true. However, research does confirm that RDP beneficiaries transact their properties informally.

Informal housing transactions come on the back of massive government rollout of state subsidised housing. The state housing programme has reportedly delivered over 2.68 million housing opportunities and another 1.2 million serviced sites since 1994 (SAnews, 2015; Tomlinson, 2015). It is due to this investment that the state has reacted with disappointment to what it views as an abuse of its generosity by RDP beneficiaries. The general perception from the state is that informal transactions are an indication of the beneficiaries' lack of gratitude and a demonstration of 'irresponsible behaviour'. These sentiments are exemplified by a number of official and political statement Low-cost Housing Not For Sales communicated by the state and are also supported by state respondents during the research. For instance, in 2012, then Mayor of eThekweni Municipality, Mr James Nxumalo, claimed:

While we are trying to end informal settlements we have people on the side moving out of the houses that we provide them with and making business out of it by renting them out, while others sell them for a far less amount than the actual value (Ezasegagasini, 2012, p. 3).

Sentiments like these are frequent and dominate the government sector; indicative of the discomfort the state has about informal transactions in RDP housing. Charlton (2013) argues that the state's irritation with informal transactions is due to a feeling of having lost control of what is happening in the RDP housing sector. She claimed that this was as a result of the disjuncture between State policy and legislative ambitions versus the reality of RDP beneficiaries. Due to this disjuncture, there is a mismatch between state expectations and the de facto practices of beneficiaries. For instance, the manner in which RDP beneficiaries decide to realise equity in their properties is contrary to what the state expects them to do.

Various other studies have explored the subject of informal transactions from different angles. The majority of these studies have focused on what Fukuyama (2000) would refer to as "Wall Street Journal deterministic materialism" which discounts (not intentionally in most cases) the importance of ideology and culture and sees humans as essentially rational, profit-maximising individuals. Many scholars have explored the performance of RDP housing in the market with the suggestive view that there is an existing RDP property market and that beneficiaries have an intention to maximise profit and accumulate wealth. These include studies by the FinMark Trust (2011) and Rust (2006). Other studies have focused on the *mythical* climb up the housing ladder as an aspiration of RDP beneficiaries. This view overlooks the very problematic barriers to market entry and cultural factors that prohibit economic calculativeness. There are other fundamental factors that limit beneficiaries' ability

to climb this mythical ladder. For instance, as Lemanski (2011) points out, low selling prices prohibit beneficiaries from climbing the housing ladder. She further argues that values in RDP transactions (both formal and informal) are too low to allow for RDP sellers to move to the next level of the property market. Her study is premised on the economic idealism that housing is predominantly a financial asset tradeable in the market and thus should be able to facilitate the climb up the housing ladder. This view, as it will be argued later, ignores the concept of housing as a cultural asset and therefore holding, transfer and ownership are embedded in cultural norms and traditions which aren't always based on economic calculativeness.

Furthermore, studies (see Rust, 2004, 2011, 2013; Marx and Rubin, 2008; Marx and Royston, 2008 and Urban LandMark, 2011) of the functioning of urban land markets begin to unpack the relationship between security of tenure and RDP housing transactions. They outline very intricate processes that the poor employ to access urban land through informal practices. Royston (2009) in particular, focuses on the relationship between security of tenure and access to economic opportunities. She argues that tenure secure properties are a catalyst for economic participation for the poor. Marx's 2008 study focuses on the potential of informal land markets to reduce poverty in low income communities. He deals with informal transactions in housing indirectly but outlines very the useful relationship between informal land markets and poverty reduction. He advocates for an independent enquiry into informal land markets. Other studies by Rust (2006) and FinMark Trust (2011) explore informal transactions from the angle of housing as an asset within the framework of property markets.

These studies make important contributions towards the understanding of informal transactions and broaden the existing body of literature on informality, housing, misalignment between state and beneficiary expectations, the relationship between security of tenure and poverty reduction, land markets and poverty. They inform policy interventions as to how the economic potential of RDP housing could be unlocked in order to achieve the state's broad objectives of improving the lives of the poor.

International studies have focused on tenure regularisation as a catalyst for housing investment and economic emancipation for the poor. World Bank and UN-Habitat studies have focused heavily on unlocking the economic potential of informal assets for the poor. These are informed by De Soto's (1989) popular thesis of unlocking the 'dead capital' assets held by the poor through tenure regularisation. De Soto's message has influenced many housing policies

in the developing world, including South Africa. The asset conceptualising of low income housing in South Africa is a direct influence of De Soto's thesis. However, it is important to note that an overwhelming number of practitioners and researchers have rejected De Soto's thesis as impractical for the South African context. For instance, a colloquium⁸ held in 2006 debated the relevance of De Soto's ideas for the South African housing context. The consensus was that they are not necessarily relevant as they ignore complexities of local contexts and intricate vulnerabilities of the poor. However, authors such as Mooya and Cloete (2007) have argued in line with De Soto stating that informal properties form part of significant national wealth but remain dormant or underutilised in most developing countries; these need to be unlocked through informed policy interventions that recognise the economic potential of these assets.

The gap in the literature is in understanding the intricate practices and processes the poor follow in informally transacting their properties. It remains unclear how the state-subsidised formal properties are informalised through transaction practices. While numerous studies make mention of practices of the poor as mainly driven through social networks and informed by their complex circumstances, they do not provide detailed analysis of the extent, nature and character of these informal transactions. Existing literature seems to assume a dichotomy between formal and informal practices. In reality, however the relationship seems to be more opaque; this research seeks to explore this opacity. Useful contradictions between state ambitions about RDP housing and actual beneficiary practices have been explored (Charlton, 2003), however there is limited understanding of the relationship between socio-cultural factors, the state's material processes and transaction practices.

This research explores the relationship between state processes and practices, and beneficiary practices in informal housing transactions. The first objective was to determine the effect of policy and legislative inadequacies on informal housing transactions. The current housing process is an outcome of policy and legislative framework. Therefore the aim of this objective was to first identify policy and legislative inadequacies that have contributed to informal housing transactions and to ascertain how they have affected the current state of informal transactions. The second objective was to explore the prevalence and nature of

⁸ The colloquium was organised by the Graduate School of Public and Development Management and the Development Bank of Southern Africa, and held at the University of Witwatersrand. It consisted of a number of stakeholders and practitioners from both the public and private sectors.

informal housing transactions. The aim here was to measure whether informal transactions occur frequently or are mainly sporadic occurrences. The research also assessed whether these transactions were prevalent enough to constitute a market. In order to respond to this objective, the study engaged with the role of calculative competence as a useful measure of market existence among RDP beneficiaries. This objective is also concerned with unpacking the nature of informal transactions as being either an outcome of market forces or merely reactions to social shocks and ever-changing socio-economic dynamics of the poor. In this regard, the study raises the argument that informal transactions are not driven by the ideals of climbing the housing ladder but are merely a reaction to the poor's precarious social circumstances. The third objective was to assess beneficiaries' awareness about legislative limitations on the transaction of their RDP housing assets. The study assessed the levels of knowledge and awareness on the pre-emptive clause. Fourth objective was aimed at identifying the broader implications of informal housing transactions for socio-economic, political and cultural issues in the post-apartheid urban governance context. The aim here was to assess how issues such as urban citizenship, property relations and access to basic amenities are impacted by informal transactions. The fifth objective was aimed at exploring whether informal transactions are linked to factors beyond market conceptualization. This objective was informed by the hypothesis that studies of informal transactions have tended to use predominantly market conceptualization to understand the phenomenon of informal transactions. In this way, these studies have missed an opportunity to explore other factors beyond market conceptualization such as sociological and anthropological factors.

State sentiments discouraging RDP beneficiaries from transacting their properties have been dominant since the introduction of the pre-emptive clause in the Housing Amendment Act of 2001. Section 10 A of the Act places a restriction on the selling of RDP houses before the period of 8 years (see footnote 9). Although these sentiments are not based on empirical evidence, they have been taken as the truth. Inadvertently, these sentiments suggest that RDP houses should not be sold at all, even beyond the eight year restriction⁹. On many occasions

⁹ The Housing Amendment Act of 2001 introduced a restriction on involuntary sale of state-subsidized housing. The Act states that *'it shall be a condition of every housing subsidy, as defined in the Code, granted to a natural person in terms of any national housing subsidy programme for the construction or purchase of a dwelling or serviced site, that such person's successors in title or creditors in law, other than creditors in respect of credit-linked subsidies, shall not sell or otherwise alienate his or her dwelling or site unless the dwelling or site has first been offered to the relevant provincial housing department at a price not greater than the subsidy which the person received for the property'* (Section 10A)

there has been no reference to what the legislation permits (particularly the pre-emptive clause) and what it doesn't. Instead, a very stern warning that law enforcement would deal with those who sell their RDP houses was communicated. Political statements and media reports are an integral part of how policy and legislation is communicated to the general public. Based on previous studies, there is a general fear that selling an RDP house is 'illegal' (see Annex C). This is incorrect as both the policy and legislation allows for RDP houses to be transacted after the eight year restriction expires. The backlog in issuing title deeds means that many beneficiaries take occupation of their properties without titles. It remains unclear whether the pre-emptive clause takes effect from the date of the title deed's issue or the date beneficiaries actually occupy their properties.

Amid these assumptions, there is a need to understand how much informal transactions are practiced, how they occur and why. Some research, as indicated earlier, has been done to understand both formal and informal transactions in RDP housing. These studies have contributed significantly to confirm that informal transactions exist and need to be given attention in both policy discourse and practice. However, there has been negligible data on whether these transactions are a permanent feature or rather sporadic occurrences; how they occur and what their nature is. These are aspects that this study is particularly concerned with. Moreover, this study is premised on the idea that in order to understand informal transactions practices, the research must go beyond market analysis and instead focus on the socio-economic and institutional factors that contribute to them.

1.2. Research motivation

The current research has largely focused on confirming that informal RDP housing transactions are indeed occurring. As outlined earlier, the literature has broadly explored the factors that inform these transactions and debated the relationship between informal transactions and poverty. Other contributing factors, such as the backlog in title deeds and complex formal transaction processes, have been dealt with in other studies (see for example Durand-Lasserve, 2006; Jones & Datta, 2000; Urban LandMark, 2011; Sishaka Development Management Services, 2011; Rust, 2011, 2013). Evidence on the extent, nature and character of informal transactions has largely been negligible. The existing body of literature doesn't explore in detail the practices RDP beneficiaries follow in transacting their properties

informally and the relationship between their practices and broader socio-economic, cultural and institutional issues.

What is also notable is that the methodologies used have struggled to capture accurate data on informal housing transactions in the RDP sector. This is primarily due to the sensitivity associated with transacting informally. As indicated in the study commissioned by FinMark Trust¹⁰ in 2011, researchers struggled to get adequate information from those involved in informal transactions in the RDP housing sector. According to the report, those who had purchased or sold their RDP houses informally were reluctant to participate in the interview process or to answer any questions related to the research. This study, as outlined in Chapter Two, has explored a methodology and process of data collection and stakeholder engagement that is suitable for dealing with the sensitivities associated with informal housing transactions. The researcher used personal networks and understandings of low income communities to build an intimate relationship of trust. The methods and processes employed were aimed at removing the fear of prosecution for admitting to selling RDP properties informally.

Understanding informal transactions from conceptual, theoretical and practical perspectives is complex and often daunting. Various attempts to conceptualise informal transactions while also placing them within conventional theoretical frameworks have been undertaken. While the conceptualisation of informal transactions has yielded interesting academic discussions, its theorisation has failed to articulate precisely the factors that inform these transactions within the context of post-apartheid South Africa. This research has endeavoured to explore these and create linkages between practice and context.

South Africa's adoption of a neoliberal approach to housing delivery, whereby housing is linked to economic benefits and is positioned as a facilitator of access to property markets, places it as a relevant case study for studying informal transactions. The complex historical role of informality as a primary means for the Black majority to access the city makes South Africa an ideal place to study informal transactions in the context of low income housing. The research is therefore motivated by historical factors and the government's heavy investment in RDP housing as a facilitator of access to property markets for the previously marginalised. The

¹⁰ *Housing subsidy assets: Exploring the Performance of Government Subsidised Housing in South Africa*; A research initiative sponsored by the FinMark Trust, Urban LandMark, the National Department of Human Settlements, Western Cape Department of Human Settlements, the South African Cities Network and the FB Heron Foundation.

neoliberal-welfarist approach to housing delivery further presents a rich context for unpacking informal transactions in low income housing.

1.3. Research objectives and questions

The objectives of this research are informed by the need to contribute to limited academic knowledge about the extent, nature and character of informal transaction practices in the RDP housing sector. It remains unknown how the state-subsidised assets become informalised through the transaction practices that the poor engage in. The study has engaged with informalisation phenomenon by unpacking the processes and practices beneficiaries follow in transacting their properties. This points to the existence of a continuum between formality and informality. The study indicates that formality is as transmutable as informality. Contrary to popular belief that formality has less fluidity, informal transactions point towards greater transmutability of formality. While there are studies that suggest that informal transactions are taking place in the RDP sector, there is not enough data detailing how they occur.

Therefore, the primary objectives of this study were to:

1. determine the effect of policy and legislative inadequacies on informal housing transactions;
2. explore the prevalence and nature of informal housing transactions;
3. assess beneficiaries' awareness about legislative limitations on the transaction of their RDP housing assets;
4. identify the broader implications of informal housing transactions for socio-economic, political and cultural issues in the post-apartheid urban governance context;
5. Explore whether informal housing transactions are linked to factors beyond market conceptualisation.

The research is designed to answer the following questions:

1. What are the effects of policy and legislative inadequacies on informal transactions?
2. What is the nature, extent and character of informal housing transactions?
3. How do informal transactions occur and what factors influence them?

4. Are informal transactions a permanent phenomenon or a sporadic occurrence?
5. What are implications of informal housing transactions on post-apartheid urban governance context with regards to socio-economic, political and cultural dynamics?
6. Who are the actors and stakeholders in the transaction process and what are their interests?

1.4. Structure of the dissertation

This dissertation consists of ten chapters.

Chapter Two analyses key housing discourses that have shaped contemporary understanding of housing and has underpinned the policy development process. Housing discourse has largely been centred on the dichotomy of state-driven housing delivery versus market-driven approach. Each of these approaches are shaped by key discourses in housing. This chapter engages with each discourse and influence on housing need conceptualization.

Chapter Three reviews how the housing need has been framed within the South African context. It explores how the state, in particular, has responded to the housing challenge through the housing policy development process. Housing delivery occurs within a complex institutional framework that has shaped the housing programme in South Africa. These frameworks are important in understanding the trajectory the housing programme has taken since 1994.

Chapter Four engages with conceptual and theoretical frameworks that inform how informal transactions are understood. The housing process is embedded in nuanced and complex conceptual and theoretical constructs. The chapter reviews literature that lays foundation for the current understanding of low income housing as shaped by intricate relationships between the state institutions, private sector and housing consumers. These relationships are embedded in conceptual and theoretical frameworks that have influenced international housing delivery interventions.

Chapter Five sets a methodological framework upon which the research process is undertaken. It acknowledges the methodological process as both challenging and dilemmatic in that there is no one perfect methodology but a set of compromises. The selected methodology takes into account the complexity of the subject within its context with the aim of yielding nuanced research findings.

Chapter Six introduces the study context and key elements that have influenced the decision to conduct research in eThekweni Municipality. The objective of the chapter is to provide a setting upon which the empirical data can be understood. EThekweni Municipality provides a complex environment for understanding informal transactions due to its socio-cultural diversity and rich history of customary authority. Entanglement between Western governance systems and customary systems play itself more prominently in eThekweni Municipality than anywhere else in South Africa. This makes for an interesting context for investigating informal transaction processes and practices.

Chapter Seven presents empirical findings of the research that relate to the perspectives of state actors, practitioners and academics on informal transactions. The chapter outlines how these powerful actors view informal transactions and factors that contribute to them. They provide a viewpoint from above. A detailed stakeholder map is outlined with the view to unpack the role of each actor in the transaction process.

Chapter Eight presents findings from the perspective of beneficiaries and community actors who are directly involved in informal housing transactions processes and practices. The chapter outlines a detailed account of how informal transactions processes occur and identifies practice that beneficiaries engage on.

Chapter Nine provides interpretation of findings. The objective of the chapter is to link key findings to important housing discourses. It unpacks key issues raised by the findings and provide an opportunity for the research to make claims on the nature, extent and character of informal transaction processes and practices that the poor engage on.

Chapter Ten concludes the study by highlighting key contributions of the research. It links research findings to broader discourses in housing. The chapter also makes recommendations for both practice and future research.

2. Chapter Two: Housing discourse

2.1. Introduction

The purpose of this chapter is to explore key housing debates that have shaped responses to the housing challenge. The chapter highlights how the housing discourse has shaped housing policy conceptualization and the policy development process. Responses to housing need have largely been shaped by international housing discourse, which has mainly been centred on the dichotomy of state-driven housing delivery versus market-driven approaches. This dichotomy has produced complex discourses that have informed current policy debates and interventions.

2.2. Acknowledging challenges in terminology and concepts

Various scholars have acknowledged that there is a challenge in the terminology used to describe practices of the poor and this has thus created a problem in how informal practices are conceptualised. Royston (2006, p. 4) argues that,

[t]he challenge of understanding informal practices is due to our limited knowledge and our inability to identify concepts required to recognise, describe and assess the local practices or the reality on the ground.

She further argues that the lack of accurate conceptualisation severely constrains the ability to name the practices and reference them to a comparative body of evidence. This, she argues, is particularly critical in a context where these practices are varied and complex. Royston's assertions are supported by Herrle and Fokdal (2011), who argue that informality as a concept has undergone dynamic changes characterised by a new level of complexity and an increase in meanings and contexts. These changes have raised the need to build a nuanced understanding of informality that captures this complexity and embraces the importance of connection between sectors, levels and actors. They further argue that the concept of informality is embedded in power relations between these actors and institutions. The term informality displays signs of fluidity as a result of "negotiation and readjustment of boundaries between what is acceptable and what is non-acceptable, legal and non-legal" (Herrle & Fokdal, 2011, p. 3).

2.3. Setting the conceptual context

Informal housing transactions as both a practice and a concept are embedded in a web of complex conceptual underpinnings. Scholars and practitioners alike have used various conceptual foundations in their attempt to make sense of poor communities' practices that often fall outside conventional, institutionalised practices. While housing transactions are a normal occurrence in the main, informal housing transactions are a subject of academic and professional enquiry. On one hand, informal housing as a concept has been subjected to thorough conceptual scrutiny (Bouman, 1989; Durand-Lasserve, 2006; Royston, 2006; Huchzermeyer, 2011). On the other hand, housing transactions as a process within the low income, subsidised sector have not yet been sufficiently researched. The concept of informality in housing transactions has largely been discussed in the context of informal settlements, shacks and slums. Very negligible research has been conducted on the informalisation of formal assets. The focus has mainly been on informal transactions within the self-built assets by the poor in their attempt to activate their latent housing demand and as a reaction to housing undersupply. Therefore, the prevailing conceptual framework is saturated by scholarship that seeks to understand how the poor informally build and transact their assets outside of the mainstream economy. On the contrary, this thesis attempts to understand how and why formally created assets become a subject of informal practices.

Informal housing transactions are a global phenomenon, recognised as the means by which the poor access land and housing in the city and also realise equity in their assets. Roy (2005) argues that informality as a concept, although once associated with poor squatter settlements, is now seen as a generalised mode of metropolitan urbanisation. There are a number of reported cases of property markets facilitated through informal housing transactions in the Global South (see for example, Alston, et al., 1999; De Souza, 2001; Mooya & Cloete, 2007; Toulmin, 2009;). Therefore, informal housing transactions are not unique to the South African context but rather part of a global system of urbanisation used by the poor to access property markets.

In the South African context RDP houses are subsidised and built by the state. As a result, informal transactions in this sector are complex and attract attention from the state primarily because of the massive investment of public funds in the housing programme. The

highly politicised nature of the housing delivery programme in South Africa has also contributed immensely to the attention informal transactions are receiving. From the onset, housing delivery was used as a tool by the ruling party to display its ability to deliver to the Black majority. The massive political will to deliver housing in South Africa was attached to political benefits, whereby the beneficiaries of the housing programme would in turn vote in favour of the ruling party. The past decade of housing delivery has seen a manipulation of the housing process by political forces.

In the context of this conceptual section, the study will discuss fundamental issues that inform the imbalance between the demand and supply of housing for low income people. The section begins by reflecting on the housing need as central to the issues of demand and supply. The research explores how the housing need has been conceptualised by the state and the market. The section also unpacks the relationship between a person and a house and what informs this relationship. Delivery approaches used by government institutions and other housing delivery institutions are explored, with the aim of understanding how these influence the relationship between people and housing.

2.4. Setting international precedence

Housing is one of humanity's basic needs and a cornerstone of dignity. It is a facilitator of access to basic services and infrastructure such as land, water, sanitation, energy, economic opportunities and social amenities. Effectively, lack of access to housing puts any human into a state of poverty in its very fundamental terms.

In recognition of housing as a significant facilitator of human dignity, there is global consensus that housing is a basic human right. Through various international initiatives, housing has become entrenched in the human development objectives of global governance. Since housing took centre stage in the human development agenda, admirable policy and institutional frameworks have been established by governments of the Global South. The primary focus of these policies and institutional frameworks has been the supply of low income housing to the poorest populations of the developing world, particularly in urban areas. Amid these initiatives, it is estimated that approximately a quarter of the urban population lived in slums in 2013 (UN-Habitat, 2014). The state of the World Cities report (2012/13) estimated

the number of people living in slums of the developing world regions at approximately 863 million, in contrast to 760 million in 2000, and 650 in 1990 (UN-Habitat, 2014). In Africa alone, it was estimated that over half of the urban population lives in slums. This is primarily due to rapid urbanisation that has seen more than half (62%) of the global population living in urban areas (UN, 2014). Most of this urban population increase has taken place in developing world cities. The Millennium Development Goals (MDGs) set at the turn of the 21st century in Johannesburg to “improve the lives of at least 100 million slums dwellers by 2015” have been met. However, the number of slum dwellers is growing fast in line with rapid urbanisation, thus reinforcing the perpetual challenge of slums (Huchzermeyer, 2011).

The highlighted scale of the housing challenge demanded swift action from governments of the developing countries. The quantitative nature of how the housing challenge is conceptualised and communicated has forced governments of the Global South to set policy targets that seek to respond to the quantitative nature of housing need (Tomlinson, 2006). These have included highly quantitative policy targets that mainly supply housing to as many people as possible. These have been seen as ‘width’ heavy policies as opposed to the balance between depth and width aspects of housing (Gilbert, 2002; Charlton, 2004; Tomlinson, 2006). On one hand, width of housing refers to a policy approach that focuses on spreading limited resources widely to provide some housing benefits for as many people as possible. In this instance, the housing policy objectives are to respond to a predetermined housing backlog. Often, housing backlogs are calculated in terms of people deemed to be living under inadequate housing conditions. As highlighted earlier, housing adequacy is, in itself, inefficiently conceptualised. On the other hand, depth of housing refers to a policy approach that focuses on qualitative aspects of housing. It sets broader objectives of housing policy as responsible for improving the social, health and economic wellbeing of the poor. The primary target thus becomes outcome of housing rather than output. Housing is seen as a means to an end rather than an end in itself. However, housing is a product of a political process and serves multiple objectives in different societies. Therefore, policy choices on whether to focus on the width or depth aspect of housing is influenced by the role of housing in a particular context.

2.5. Background to the housing need

The concept of the housing need is complex and often depends on the role housing plays in a particular society. While housing can be a tool for integration in the context of economically, racially and politically unequal societies, and a catalyst for economic development and social upliftment, it is also embedded in a political process (Bond & Tait, 1997; Huchzermeyer, 2001; Huchzermeyer, 2010). Housing is, in itself, a process and product of a political environment. Defining and thus conceptualising and theorising housing need is part of both a political and economic process used to outline both the role of the state and the market respectively in housing delivery process. Whatever the agreed definition and conceptualisation of housing need is, it informs the nature of state interventions in housing. Housing delivery approaches are a product of housing need conceptualisation. Ultimately they inform the relationship between the housing product and the housing consumer (Turner, 1976). Conceptualisation of the housing need is particularly important in transitioning societies, especially where the role of the state and the market is unclear with regards to housing delivery (Harrison, 1992). The state and the market define the housing need in two distinct ways, which are discussed below.

The market defines housing need using supply-demand parameters. In a very basic sense, these parameters are considered on the basis of housing stock available (through the market) against the number of housing consumers with active housing demand (Hulchanski, 1995). Housing need can therefore be defined as housing stock available to meet the needs of active housing consumers in the market (Bramley, et al., 2010). In this regard, housing consumers are those whose financial resources afford them an opportunity to activate their housing demand using market mechanisms of supply and demand. The market produces the housing stock against the active housing demand. In this way, housing need can be defined as quantity of housing stock in supply against active demand (Gilbert, 2002). In this instance, consumers determine the nature of demand and the market responds to it with appropriate housing stock. Under this market paradigm housing consumers determine the nature of their housing need and then coerce the market to respond to their demand. In turn, the market produces a stock that is relatively close to the needs of housing consumers. Therefore, the housing need, under the market paradigm, can be conceptualised as an interactive process

between the housing market and housing consumers. Consumers have the power to define the nature of their need and thus determine their own responses to the housing need.

Table 1: Market vs state needs paradigm (Source: Author)

Market paradigm	State paradigm
Consumer determines the nature of need	The state determines the nature of need
Consumer dictates responses to their housing need	State drives responses to the housing need
Interactive process	Top down process
Supply-demand driven (consumers)	Provider driven (beneficiaries)
Affordability determines access	Subsidies (State investment)

Under the state paradigm, housing need is defined by a number of people without access to adequate housing (Huchzermeyer, 2011). In this instance, the state retains the right to define the housing need using state-developed adequacy indicators. Those in need of housing are seen as passive beneficiaries rather than active housing consumers. Activeness or passiveness of their housing demand is not necessarily taken into consideration. There is an automatic assumption that, based on their living conditions, people in slums, overcrowded buildings and informal settlements have an active demand for housing. They are seen as unable to meet their housing need and thus require state intervention. Their circumstances are used as indicators of their inability to meet their own housing need and it is routinely presumed that they have an active demand for housing.

Consequently, the state defines the nature and the extent of housing need. Those who are identified as being in need of housing are seen as passive and lacking in ability to define the nature of their housing need. The state’s definition of the housing need is motivated by various factors such as availability of resources and sometimes the desire to collect ‘political brownie points’, where housing is used to garner political support or votes during elections.

General characteristics of housing need entail both qualitative and quantitative aspects. The former are difficult to measure and require time investment; while quantitative aspects are easier to measure over a shorter period of time, thus providing quicker wins for government.

The distinction between state conceptualisation of housing need and that of the market outlines two dominant aspects of housing delivery (see Table 1). Under state conceptualisation, the nature of housing need is defined using a heteronomous approach while the market paradigm uses an autonomous approach. Turner (1976) defines heteronomous approaches as centrally-administered, bureaucratic systems of housing delivery where the state takes control over decision-making. Under these systems, users are mere passive recipients and have no contribution towards the housing product. Autonomous approaches are defined as locally-controlled systems where end-users make decisions based on value and need. Another distinctive aspect in both the state and market paradigms of housing need conceptualisation is that those in need of housing are defined as beneficiaries under the state paradigm and consumers under the market paradigm. Ultimately, this distinction limits the level of autonomy that housing beneficiaries have in determining the nature of their housing need and thus the approaches used to meet the need.

2.6. The extent of the housing need

Developing countries have adopted a predominantly quantitative approach to housing need conceptualisation. Intergovernmental organisations such as the United Nation (UN) and the World Bank have persistently, albeit indirectly, conceptualised the housing need using quantitative indicators (Ramsamy, 2006). In its basic form, housing need has been defined by a number of people without access to adequate housing. Predominant narratives on the housing need focus largely on a number of people without access to a particular level of housing. In this case, housing is seen more as a product and less as a process. This is contrary to Turner's (1976) characterisation of housing as more than just a shelter. In this regard, housing is given physical features that are measurable against the expectations of those attempting to define and conceptualise it. These physical features include the materials used to build a house, quality of building materials, location of a house, proximity and access to infrastructure and services (Turner, 1976). These, among others, serve as key indicators for measuring the adequacy of housing. In turn, adequacy of housing becomes an important aspect of conceptualising housing need. While housing adequacy itself lacks conceptual clarity, it does form the basis for how housing need is conceptualised. As a result, qualitative aspects of housing, such as housing satisfaction, becomes secondary to the process of conceptualising housing need. As mentioned earlier, this is primarily because qualitative aspects of housing are often complicated, if not

difficult, to measure over a shorter period of time. They require time investment and often do not provide quick wins for governments and housing providers.

In a broader perspective, conceptualisation of housing need is informed by global dynamics such as population growth, rapid rates of urbanisation and decreasing income levels (at both household and individual levels), which are all quantitatively measured. These dynamics have contributed to how the housing need is framed.

As a result, the general conceptualisation of housing need entails a predominantly quantitative approach. For example, UN-Habitat (2008) estimated that about 2.8 billion people would be without shelter in 2030 given the current rate of urbanisation. Predominantly, the conceptualisation of housing need has thus been based on such quantitative indicators.

2.7. Nature of responses to housing need

The manner in which housing need is conceptualised informs the nature of responses to the housing need. Developing nations are confronted with immense quantitative and qualitative housing shortages (UN-Habitat, 2014). Increasing numbers of urban populations in these countries mean that national governments, metropolitan authorities and city administrations are confronted with the major task of providing adequate housing for their citizens (Bredenoord & van Lindert, 2010).

Much of the contemporary debate on low income housing in South Africa is centred on the viability of 'free housing' and the perceived entitlement it reinforces (Bradlow, et al., 2011; Huchzermeyer, 2003). The general argument is that while this approach to housing is not economically sustainable, it also does not create a sense of ownership and user value. It is assumed that beneficiaries of the subsidised low income housing are unappreciative of their assets and have no understanding of its value (Marx, et al., 2007; Lemanski, 2011). This debate has two schools of thought: one that asserts that housing should be delivered by the market and argues that the role of the state should be limited to that of an enabler, and a second one that argues that the state has both a moral obligation and a political responsibility to deliver housing to the poor to redress historical injustices of apartheid and its disenfranchisement of the Black majority (Mabin, 1992). The nature of housing as a highly politicised process does not help

either sides of the debate. It has largely been argued that low income housing has often been used to score political votes (Rubin, 2011). The relationship between housing and politics is not new. There has always been an intrinsic connection between housing and politics. In the words of Turner (1978), housing is a political *and* a physical, economic and social activity.

These arguments raise questions around approaches to assessing housing need and how they contribute to the relationship between beneficiaries and a house. The primary question is therefore concerned with how housing delivery approaches inform the relationship between beneficiaries and their housing. In turn, how does this relationship impact on both user value and market value of housing? Many governments of the developing world have grappled with the dilemma of their role in housing delivery over the past three decades. While the World Bank and other intergovernmental institutions have attempted to provide policy guidance for adequate approaches to housing delivery, it is evident that each country has its unique set of circumstances. Therefore housing policy responses are linked to the broader political economy of each country.

2.8. Neoliberal housing policies

Neoliberalism, in general, has been a key driver of the South African transition and rebuilding process. The post-apartheid project has seen overwhelming adoption of neoliberal principles across government policy - from economic policies to service delivery policies (Bond & Tait, 1997; Lalloo, 1999; Bond, 2003). The need to redress economic, spatial and social inequalities of the past were heavily bestowed on market mechanisms which are a predominant pillar of neoliberalism (Bond & Tait, 1997). Critical issues of the post-apartheid project, such as land reform and housing delivery, have not escaped this neoliberal influence. Therefore, neoliberalism has become a vital theoretical construct to unpack in the context of housing in South Africa.

The neoliberalisation of housing policies is embedded in broader ideological changes to the role of the state in the economy and service delivery in general. Kadi (2011) argues that the 1970s saw a shift from the state as the main actor in housing delivery to increasing reliance on market-driven housing approaches. The period of the 1970s saw a revival of the liberal economic principles of the late 19th century that considered the triad of private property, free

markets, and individual responsibility as key to societal progress (Harvey, 2005 cited in Kadi, 2011). This is the period where allocation of resources was seen to be better placed in the hands of the market rather than the state. It is also a period that saw the reconfiguration of the role of the state in resource allocation. The state was largely seen as incapable of efficiently and effectively allocating resources to the public, thus the reintroduction of market principles in previously de-commodified sectors (Kadi, 2011). Housing was seen as a politically strategic sector, ideal and necessary in the project of reconfiguring the role of the state. Subsequent housing policies have since been shaped by this shift towards market principles. This is evident in the World Bank and UN policies of the early 1990s. An example of this neoliberalisation of housing is the enabling approaches advocated for by the World Bank that saw the role of the state being shifted to that of an enabler. Enablement approaches as elements of neoliberalisation of housing policies followed closely on the footsteps of structural adjustment programmes. This supports the claim that the neoliberalisation of housing policies is embedded in ideological transformations.

Governments of the Global South responded to this shift by minimising the role of the state in their housing policies. For many of these states the shift was not optional but rather their only means to continue accessing international financial support from the International Monetary Fund (IMF) and the World Bank. The attachment of neoliberalisation of housing policy to international aid was aimed at coercing those governments that rejected privatisation and other market principles.

Housing policy approaches of the developing world have predominantly been influenced, if not directly shaped, by international precedence, which has been driven by the World Bank. This influence is also evident throughout the lifecycle of South African housing policy processes. While the World Bank's influence has been dominant in South Africa's housing policy, implementation has taken a different route. As will be demonstrated in subsequent sections, housing policy implementation in South Africa has not always followed policy prescripts. Instead, it has taken a more organic route, shaped by the political aspirations of the ruling party.

In the South African context the period of housing policy neoliberalisation coincided with the transition period from apartheid to new democratic dispensation (Lalloo, 1999). As a result, the adoption of neoliberal housing policy principles was more complex. Authors such

as Lalloo (1999) and Bond (1997, 2003) are critical of this coincidence. They argue that the adoption of neoliberal housing policy principles were ill-informed and took away the potential gains the housing process would have achieved. Their arguments take into consideration socio-economic imbalances that had been perpetuated by the apartheid state. They claim that in the absence of blatant state intervention, it is almost impossible for the previously marginalised to meaningfully access housing through the state. Neoliberalisation of housing policy did not seem to adequately take into account the systematic exclusion of the Black majority from meaningfully participating in economic activities. To counter this inadequacy, the state introduced subsidies as a form of uplifting members of the population who could not access housing through the market without state assistance. There are documented shortcomings of this intervention which indicate complexity in merging market principles and welfarist approaches (see Bond, 1997, 2003). This notion finds expression in the South African housing policy context, where housing policy neoliberalism is entangled with the welfarist attitudes of the state. While housing policies have largely adopted market principles—due in part to the timing of policy negotiations which coincided with political transition (Lalloo, 1999)—implementation has been biased towards distributive socialist tendencies. This neoliberal-socialist confusion is largely influenced by the economic and political context. In turn, it has influenced how the state has responded to the housing need.

The main constructs of the neoliberal housing policy shifts are premised on deregulation and reduction of the role of the state and heavy market reliance (Adebayo, 2008; Peck & Tickell, 2007). These constructs build from Hayek (1960) and Friedman's (1962) three core neoliberal assertions that:

1. The individual is the normative centre of society and should be as unencumbered by rules and collective responsibilities as possible;
2. The market is the most effective means through which individuals can maximise their own utility functions;
3. State actions that interfere with either individual autonomy or market relations lead to autocratic society, regardless of their intentions.

The adoption of neoliberal principles in housing policy promotes individual freedoms and embraces the commodification of housing. In theorising about the neoliberalisation of housing policies, Harvey (2005, p. 165) posited that “to presume that markets and market

signals can best determine all allocative decisions is to presume that everything can be, in principle, be treated as a commodity”. He saw “commodification as a presumption of existence of property rights over processes, things, and social relations, that a price can be put on them, and that they can be traded subject to legal contract” (Harvey, 2005, p. 165). As a result, the developing world has seen a wide commodification of basic amenities such as housing (see Smith, 2007). This view ignores cultural environments and practices where basic amenities are managed through social processes and their distribution influenced by horizontal and vertical philanthropic approaches. South Africa embodies diverse cultural and social practices which make it even more complex to incorporate into the mainstream commodification of market-driven practices. It is a context that exemplifies a perverted version of commodification of housing entangled in the state’s welfarist attitude which has created more confusion than clarity. Adoption of neoliberal ideals has mainly been influenced by the desire to align the post-apartheid reconstruction and redevelopment project with international approaches promoted by the World Bank and UN. Jessop (2002, p. 462) refers to this paradigm as *neostatism*, which he described as involving a “market-conforming but state-sponsored approach to economic and social restructuring whereby the state seeks to guide market forces in support of a national economic strategy”. As argued earlier, market enablement approaches of the World Bank have predominantly informed South Africa’s housing programme (Jones & Datta, 2000). The World Bank has embraced a strong position in the imposing of neoliberal principles in housing policies in the Global South (see World Bank, 1993).

The state’s adoption of neoliberal principles has largely been criticised in South Africa on the basis that it ignores fundamental structural issues of economic exclusion which have resulted in high unemployment levels, economic inequalities and low household incomes (Bond & Tait, 1997; Lalloo, 1999). The grand ideals of delivering housing through the market were conceived under the assumption that the economic fundamentals of the poor will drastically improve as economic liberalisation took off. This did not happen. Instead, the poor became more and more alienated from the mainstream economy and economic inequalities widened.

Influence of neoliberalism on housing policy

The adoption of neoliberal principles in housing policy has largely been viewed as a downfall of the post-apartheid objectives of redressing spatial and economic inequalities (Bond

& Tait, 1997; Lalloo, 1999). As argued by Lalloo (1999), the adoption of neoliberal principles in housing has largely been blamed on the timing of the housing policy negotiation process in 1992, which coincided with a sensitive political transition. Lalloo (1999) further claims that due to inappropriate timing, the National Housing Forum (NHF) policy negotiations were manipulated by forces opposed to change. As a result, the housing policy programme has instead entrenched and reinforced apartheid inequalities (Smith, 1992; Bond & Tait, 1997; Lalloo, 1999). The ideological belief of neoliberalism, as posited by Brenner and Theodore (2002), is that open, competitive and unregulated markets, liberated from all forms of state interference, represent the optimal mechanisms for economic development. This is critiqued by Bourdieu (1998, p. 65) as a “utopia of unlimited exploitation”. Bourdieu (1998) in hindsight envisaged an unprecedented level of commodification of human life to the extent that inequality gaps would become unbearable.

2.9. Conceptual framing of the housing need

Housing need is understood in terms of the political economy framework of production and supply of housing (Rakodi, 1992). In South Africa low income housing production is determined through explicit neoliberal macroeconomic frameworks of the post-apartheid government. As such, the debate between neoliberals and Marxists on housing delivery approaches inform understandings of contemporary delivery mechanisms adopted by governments of the Global South today. Their debates were centred on state-driven and market-driven housing delivery processes. On one hand, the neoliberals were of the view that the state should play a very minimal role in housing delivery. They assert that the poor were capable of activating their latent housing demand on their own. This school of thought discouraged the state’s active participation in housing delivery. Rather, the role of the state was viewed as an enabler; an approach later adopted by the World Bank and imposed on developing countries as a policy paradigm. Due to a perceived relationship between housing delivery and macroeconomics, neoliberals insisted that the state should create conducive economic conditions and stabilisation of the entire housing value chain—housing finance, building materials supply and construction (Adebayo, 2008; Ley, 2009; Lemanski, 2011). Furthermore, the neoliberals claimed that the state was too detached from the realities of dwellers, hence ill-equipped to comprehend the varied and complex housing needs. Due to the dynamic nature of housing needs as a result of the changing circumstances of the dweller family cycle and

migrants' urban life, the state is poorly placed to respond adequately (Nientied & Linden, 1988). The standardised nature of state interventions that entail prescriptive procedures and predefined products means they are unable to cater to a variety of needs and priorities of dwellers. The Marxists criticised this neoliberal view to housing, contending that it exempted the state from its duties. The Marxist thesis argues that the state is responsible for its citizens and thus should ensure that housing delivery is done equitably (Barton, 2016). Marxists consider housing to be too important a role to be left to the market alone. They insisted that the market perpetuated class divisions and inequalities, and therefore the state had the responsibility to bridge this class gap.

Housing delivery approaches in low income housing are informed by prevailing macroeconomic policies in a specific country context. The current understanding of housing delivery approaches has been influenced by the classical scholarly debates that ensued between two University College London professors, John Turner and Rod Burgess, between the 1960s and 1980s. Their scholarship on low income housing approaches informs the housing policy thinking of the World Bank and the UN. Turner was the first to spark the debate by conceptualising housing as more than just a shelter but as a process. He argued that housing, particularly informal settlements, is an expression of need and the poor's reaction to the failure of the state to deliver. He insisted that housing should not merely be seen in terms of its physical characteristics but rather in terms of the relationship between the consumer and use. Simply put, the value of the house should not be based on 'what it is' but rather on 'what it does' (Turner, 1967; 1976).

What shapes the relationship between use and value is facilitated by the process and approach used in the delivery of housing. Turner (1967, cited in Burgess, 1978) argued that the value of a house must be determined by the extent to which it satisfies or frustrates the needs of its user.

In other words if housing is perceived as functions of what housing does in the lives of its users – of the roles which the processes play in their life-history and not in the material qualities of the physical products, then the material worth of the objects and the manner of their production are entirely dependent on their highly variable uses. These uses in turn vary with the changing demands imposed by changes in the context, or in the location of the processes in the same context (Turner & Fichter, 1972, p. 159).

Turner's (1972) arguments place housing as a means to an end and not an end in itself. He positions a house within a lifecycle of a user and over a variety of changing contexts. For instance, the use value of a house for a young, unmarried couple changes drastically over a period of time as their lifecycle changes from being unmarried to married, without kids, married with kids and later retired. Over this period, the use value of a house will change radically. Economic circumstances and other factors will contribute to this changing value.

Moreover, Turner (1967, cited in Burgess, 1978) argued that the value of a house is shaped by the system of delivery. In his arguments he engaged extensively with the autonomous and heteronomous approaches as systems of housing delivery. He describes heteronomous approaches as bureaucratic and based on a centralised system of hierarchy that uses capital intensive technology to produce products of high quality and at high cost (Burgess, 1978). He argues that organisations or the state are incapable of producing a product that can cater for the complex and variable needs of diverse dwellers. Heteronomous responses to housing are primarily capable of responding to quantity and physical quality, and not use-value. As a result, the housing outcomes of heteronomous approaches are saturated with mismatches (Turner, 1967) where individual user needs are compromised in an attempt to produce a standardised product. Frequently, the housing product is poorly located in relation to work opportunities and other social amenities. Turner argues that while the physical quality of the product is often admirable, its use-value is at best dubious. At the end, housing activity is stifled by a centralised process that is overburdened by stringent procedures that are budget-driven and technologically intensive. Turner (1967, p. 49) furthermore asserted that "as a result the product is an aesthetically hideous, socially alienating and technically incompetent architecture."

Conversely, Turner described autonomous approaches as locally self-governing, utilising social capital to produce houses of low cost and high value. He argued that the final housing product is admirably attuned to the complex and variable needs of the user. The autonomous approach allows for an end-product that is not socially alienating and is capable of responding progressively to the user's economic needs over a period of time income is generated for the user. Autonomous approaches allow the housing process to unfold and for ripple effects to take place. Turner's assertion about housing as a process were directed to the production and post-production processes. As argued earlier, Turner (1976) viewed a house as embedded into the user's lifecycle over changing contexts. During production, a house can

facilitate an opportunity for skills development and support microeconomic activities. In completion, it can serve as shelter and facilitator of access to basic services such as water and sanitation. At a later stage, it can serve as an income generating product. The autonomous approach takes into consideration the lifecycle of a house from conception until occupation.

Furthermore, Turner (1976) argued that the resultant outcome of any housing delivery approach is the nature of value placed on the house by the end-user. In his arguments, he engages with the concept of market-value and contrasts it with use-value. He established that the material standards of the goods and services a house embodies attribute to it a market-value (Turner, 1976). He argued that utility of a house cannot ascribe it a market-value. While Turner sees value in both concepts, he warns against mixing them and their meaning. Both terms are key elements of housing value but each deal only partially with housing value in its totality. Use-value of a house is determined by the end-user based on the house's responsiveness to their needs, which are not static but change over time in correlation with their lifecycle. Hence, use-value is embedded to the user's lifecycle over time.

Turner's (1967) thesis on the housing production process and how it informs the relationship between the house and end-user exemplifies his concept of self-help housing. Although the scope of this research does not allow space and time to deal with self-help housing as a concept, it highlights key arguments raised in the debate. The documented discussions on self-help housing and other related concepts strengthens Turner's debate on people and process-driven housing approaches. His concepts of a 'supportive shack' and an 'oppressive house' (see Table 2) illustrate the dichotomy between two paradigms of delivery approaches—supporter and provider. According to Turner, the supporter paradigm results in a supportive shack which has positive attributes while the provider paradigm results in what he calls an oppressive house. Both these paradigms are rooted in the delivery processes discussed earlier.

In both paradigms, the housing need is predefined by the system of delivery. The supporter paradigm allows beneficiaries to dictate the nature of their housing against the need. The state plays a role as a facilitator and enabler. This approach allows housing consumers to make decisions on the nature of housing they desire, delivery mechanisms, building materials, location and building timeframes suitable to their socio-economic circumstances. Self-help housing is one example of this approach where the end-users control their housing delivery process. This approach allows them to take into consideration access to resources, economic

circumstances and to utilise their social capital. Resource constraints and economic circumstances are often primary considerations, but other factors such as proximity to areas of employment opportunities, social services and social networks are contributing factors.

In direct contrast to the supporter paradigm, the provider paradigm entails a process where the state conceptualises, plans and executes housing delivery with no or minimal participation by the beneficiaries. In this instance, the value of a house is based on what it is in terms of structure, capital investment and aesthetics; not the use. The state assumes total control of the entire construction process and beneficiaries are seen as passive recipients. For the most part, the state sees its role as an absolute necessity and justified by its perceived ‘welfarist’ responsibility. In the process, the needs of housing beneficiaries are compromised. The costs of construction are relatively high while the use-value is low. These housing projects are often not suitably located in terms of areas of employment opportunities. This deprives prospective dwellers access to employment opportunities. The use of advanced technology during construction means relatively high costs and less employment.

Housing delivery paradigms have a lasting impact on building beneficiaries’ use value and informing general attitudes towards their housing. It is widely agreed that where beneficiaries play an active role in the housing delivery process, they take ownership and place higher value in their house (see for example, Charlton, 2003; Charlton, 2004; Adebayo, 2008; Lemanski, 2011).

Table 2: Supporter vs provider paradigm (Source: Turner, 1976:58-63)

Supportive shack	Oppressive house
Provides shelter at relatively minimal cost	Provides shelter at relatively high cost
High use-value (people are very positive about the house)	Low use-value (people experience the house in a negative way)
Usually well located in terms of employment	Not well located in terms of employment
Low rentals or tax	High rentals
Cheap labour (dweller uses their skills)	Machinery used (advanced technology)
Usually matches the users’ needs as they are in control of the construction process	Frustrates the needs of its users as they have little say during planning and construction

2.10. Marxist theory and housing interventions

Marxist theory holds that the state perpetuates class inequalities in the way it interacts with peasants and proletariat society (Adebayo, 2010). The theory argues that the state is an instrument for protecting the interests of the dominant class by continuously oppressing the working class. Marxists disapprove of the state's role in supporting the capitalist class over the working class by ignoring difference between classes in the society. Therefore, Marxist theory suggest that housing production is a process of a class struggle which largely serves the interests of the dominant class. The working class may occasionally win certain struggles through mass action and resistance (Adebayo, 2008). The state's welfarist interventions in housing production in South African can be viewed as one such victory.

However, the state's insistence on highly legalistic and exclusive transaction processes can be seen as favouring the dominant class in society. Current institutional arrangements and practices in housing transactions demand some level of legal and economic literacy. They also require that transacting agents have flexibility in terms of time and access to finance. It is generally acknowledged that the poor do not necessarily have luxury of time and resources to meaningfully participate in the formal property market. It is therefore safe to claim that without resources, the poor are automatically excluded from this market. This exclusion, according to Marxists, is seen as being facilitated by the state's position as an instrument and expression of the capitalist mode of production that acts in the interest of dominant classes in their inherently hostile relationship with subordinate classes (see Harvey, 1981; Burgess, 1985; Gill, u.d, as cited in Adebayo, 2008).

2.10.1. The Marxist approach to the housing need

Turner's most vocal critique was Burgess, who maintained that Turner's ideas on housing need were confusing and overly polarised (Burgess, 1978). He argued that Turner's attempt to detach the housing process from commodification was futile as it ignored the fact that key aspects of the housing process were directly and indirectly impacted upon by commodities. Materials and labour used in housing construction were a subject of commodification embedded in capitalist practices that drive modes of production and labour hierarchies. Therefore, for Turner to argue that autonomous processes where users utilised their labour and resources to produce a house were outside capitalist commodity processes, is

incorrect. Marxist critiques argue that the process of housing cannot take place outside the commodity market, as materials and labour are part of the commodity process. They argue that Turner's ideas attempt to depoliticise the housing problem and the state (Nientied & Linden, 1988). Turner ignores the fact that housing is as much a political problem as it is a market problem.

Turner's arguments on use-value as detached from market-value and supposedly more important is also dismissed by Marxists. Burgess, using Marxists arguments, asserts that use-value and market-value are intertwined and should not be separated or one identified as more important than the other (Burgess, 1978; Nientied & Linden, 1988). He argues that use-value is a natural state of any product that has the capacity to satisfy human need. Use-value has value only in use and is realised in the process of consumption, therefore cannot be a unit of measurement in political economy (Marx, 1859; Burgess, 1978).

As established above, housing is subject to competing theoretical paradigms that determine the response to housing need. These paradigms inform how the state or market ought to intervene in housing delivery. The concept of enablement comes as a result of two contrasting schools of thought pertaining to the role of the state in housing delivery, as underpinned in both Marxist and neoliberal theorisations. Those who perceive the state as incapable of providing housing on its own and those who assert that housing delivery is a responsibility of the market. The inherent inequalities that have gripped humankind for centuries since the introduction of capitalism imply that market participation is not universal but exclusive to those who hold sufficient economic power. The power relations in the market context dictate an inevitable outcome that produces losers and winners. The commodification of basic goods and services meant that the market orders access to resources such as housing on the basis of economic wellbeing (Harvey, 2005). Rapid population growth and urbanisation has increased competition for access to basic services and resources. Housing is a critical urban resource, access to which is dictated by the market. As a result of prevailing inequalities in many cities of the developing world, access to housing has been limited to those who have economic means. A large majority of urban citizens have been unable to access housing, and as a result are also excluded from accessing the benefits of urban life.

At the turn of the 20th century, it was becoming clear that the governments of developing nations were unsuccessful in their role to deliver housing to meet demand. Amongst

others, Turner (1967) was one of the strongest critics of the policy of governments delivering housing. He argued that they should cease doing what they did badly, that is, building and managing housing, and proposed that instead of central institutions providing housing, users should be one of the principal actors.

Turner's ideas on how housing should be delivered influenced a paradigm shift towards enablement policies. His writing convinced the World Bank and UN to advocate for an enabling approach towards housing delivery in the developing world. The enablement policies were considered an ideal approach to deliver housing (Adebayo, 2010). Enablement was seen as a tool for addressing the housing system, not just projects. Enablement approaches hold that it is not government's job to provide housing but to facilitate a conducive environment which enables the housing market to function effectively and equitably. Hassan (2011) argued that the enabling approach was likely to include a combination of factors that are both complex and challenging for the state. They may involve "both decentralisation and centralisation; both privatisation and public investment; both deregulation and regulation; and both demand-driven and supply-driven development" (Hassan, 2011, p. 423). While this indicated a more sophisticated role of the state in housing delivery, Hassan (2011) contended that it is necessary for providing institutional support for well-functioning property markets. It also positions the state strategically for leveraging on the opportunities provided by the high value property markets. The influence of such ideas is evident in South African housing policy development process.

The majority of the countries in Africa, Asia and Latin America cannot cope with massive quantitative and qualitative housing deficits. As numbers of urban population in the developing world will continue to increase dramatically, national governments, metropolitan authorities and city administrations are confronted with a major task of accommodating their citizens (Bredenoord & van Lindert, 2010).

2.10.2. Enablement approach through the market

The enablement policies of the World Bank have, since the 1980s, advocated for a market approach to housing delivery. They deemed housing delivery to be too important to be left to the state alone. This perspective was informed by the failure of site-and-services programmes driven by developing countries in the 1980s (Ley, 2009). The shift was therefore for the state to provide an enabling environment for markets to deliver housing. Housing

delivery through the market was deemed a viable option as it was assumed it would create competitiveness which would in turn lower the cost of housing production, thus enabling the poor to access housing through the market (Ley, 2009). This was considered to be a better alternative to the state-driven housing delivery programme. Many governments of developing countries adopted this approach, including South Africa.

The enablement approach had a significant influence on the outcomes of the 1992 Housing Forum negotiations that set in place South Africa's housing policy process. The resolutions of this forum, which culminated in the formulation of the HWP, favoured the market-driven approach to housing delivery (see Lalloo, 1999; Bond & Tait, 1997; Bond, 2003; Adebayo, 2008; 2010). Despite this approach being adopted, the implementation process took a different route to what was agreed. Primarily, it was agreed that the new democratic government would create an enabling environment for the private sector to deliver housing through the market (Wilkinson, 1998; Ley, 2009). Evident in the South African HWP is government's intention to provide an enabling environment. The seven key strategies in the HWP of 1997 indicated an intention by the new democratic government to overhaul the housing environment while redressing the injustices of the past. The state set itself a target to: stabilise the housing environment; mobilise the housing credit; provide subsidy assistance; support the enhanced people's housing process; rationalise institutional capacities; facilitate the speedy release and servicing of land; and coordinate government investment in development (see Housing White Paper, 1997). These are discussed in more detail in the South African housing policy review section.

As argued earlier, the market approach to housing delivery was to be facilitated by making housing finance available to the poor and through titling programmes (Cousins, et al., 2005). Making finance available was largely seen as a responsibility of the banking sector. Banks, in their private sector role, were envisaged as making housing finance available to the poor so they can access housing through the market. Government on the other hand, as part of its enabling responsibility, was to provide subsidies to facilitate entry to market for the poor. This was envisaged to be a mitigating approach to the affordability question. While this approach gained favour in many developing countries, there were challenges pertaining to the banking sector's unwillingness to participate in this market in other countries. In South Africa particularly, the banking sector has deep-seated reluctance and scepticism of the low income sector (Bond & Tait, 1997; Pillay & Naude, 2006). In fact Pillay and Naude (2006, p. 884)

argue that “there is little or no evidence to suggest that banking institutions have taken innovative steps to develop new lending products or to try service the larger population of South Africa”. Instead, they view the low income sector as risky and thus not worth investing in. This is despite many efforts by government to encourage the banking sector’s investment in low-income housing. Over the past two decades, their response has been minimal and slow. Of course, in the South African context, there are historical reasons for the banking sector’s scepticism above their nature as risk averse. The 1990s rent boycotts and subsequent ‘red-lining’ that ensued created a relationship of mistrust between the banking sector and low-income communities, particularly Black townships (Bond, 1995; Glaser, 1997; Sapire, 2013). To this day, the role of banks in low income housing development in South Africa is a contentiously debated issue. A later section on housing finance deals with some of the fundamental issues of access to housing finance in South Africa and the position of the banks (Chapter Three).

The ideals of the market approach to housing delivery were embedded in classical property rights principles that assume that a titled property can be used as collateral for accessing capital from financial institutions. While this may hold true for those with access to the mainstream market, it is daunting for those in the low income housing sector. The critiqued arguments of De Soto (2000; 2002) are the foundation of the assumption that titling provides an opportunity for the poor to leverage their assets by using them as collateral for bank loans (Ley, 2009). De Soto’s argument is that the poor have in their possession assets that are inactive which, with legal titles, would become an asset that they could use to improve their housing situation and thus their economic wellbeing. Although not explicitly argued, De Soto’s arguments assumed that housing need could be addressed through integration of the poor into the mainstream market (Ley, 2009). Various scholars (Gilbert, 2002; Calderon, 2004; Cousins, et al., 2005; Kingwill, et al., 2006; Lemanski, 2011) have disputed De Soto’s assumption as problematic and largely speculative. Some argue that titling programmes, by their very nature, are likely to contribute to speculation, displacement and social differentiation (Cousins, et al., 2005; Durand-Lasserve, 2006). The danger of De Soto’s thesis is that it is likely to create an impression that governments have to offer title deeds and leave the market to its own devices in the hope that it can provide infrastructure and services, whilst also facilitating access to finance (Staastad & Cousins, 2008; Ley, 2009). There is very little evidence that confirms that titling contributes to market formation and facilitates access to finance. Calderon (2004, cited in Staastad & Cousins, 2008) found only minute effects of titling. Titled owners remained

unwilling to borrow from banks in fear of losing their only asset should they fail to meet repayment terms, and banks remained reluctant to lend as well. According to Staastad and Cousin (2008), there is evidence of the “non-effects” of formalisation, which have been recorded by those such as Larmour (2002) in the Solomon Islands.

In the context of South Africa, for instance, legal titles have not contributed to the poor’s ability to transform their RDP houses into bankable assets (see Brown-Lutango, 2007; Lemanski, 2011). There are various contributing factors to this failure. Firstly, the lack of a viable sub-property market where these subsidised, low income housing products can be transacted (Lemanski, 2011). Secondly, the very problematic and costly title registration system. The relationship between the deeds process and RDP housing has been characterised by massive backlogs (Rust, 2011). Although in recent times the location of this backlog has not been known, there is evidence that suggests the implementation process has contributed to this backlog. Thirdly, as highlighted earlier, the selling prices are too low to allow for sellers to move up to the next housing rung (Lemanski, 2011).

De Soto’s ideas have been criticised in South Africa for being irrelevant for the local housing environment (see Gilbert, 2002; Cousins, et al., 2005). Internationally, the general critique of De Soto is that his ideas are based on a broad generalisation that the poor want to formalise their informal assets. He is accused of placing too much value in a formal legal system as a pinnacle of land tenure holding. In doing so, he undermines the very intricate nature of various land tenure holding practices in the developing world. Formal titles are not a universal proof of ownership. There are traditional land housing systems where a title deed is not applicable (von Benda-Beckmann & von Benda-Beckmann, 1999).

Therefore, what is clear is that market approaches to housing delivery are fraught with conceptual and practical challenges. Evidently, market approaches to housing development cannot necessarily be the only means of responding to housing need. Enablement approaches to meeting housing need are indeed fundamental and have contributed significantly. However, the assumption that enabling housing markets to function will sufficiently respond to housing need is inaccurate. The assumption misses the point that access to the housing market for the poor has numerous barriers, which making housing finance available and formal titling is unlikely to break (Landman & Napier, 2009). The complex nature of housing need is unique across various countries and therefore requires an innovative approach to meeting it.

Furthermore, the universal approach to meeting the housing need negates the fact that each country has a unique set of socio-political and economic circumstances that inform the nature of its housing need. Unless the nature of housing need is interrogated at country level and takes into account various internal and external factors, housing need cannot be met.

International discourse on housing delivery has seen a shift from a state delivery approach to a market-based approach. This was necessitated by the observation that developing country governments were unable to drive efficient housing provision and that the private sector was better positioned for this role (Sivam & Karuppanan, 2002; Bond & Tait, 1997). The World Bank and the IMF played a significant role in advocating for market-driven approaches to housing delivery. This saw an increased promotion of neoliberal policies towards housing delivery. The role of the state was reduced to that of enablement. It was envisaged that the state would create conducive economic and market conditions for housing provision to occur (Adebayo, 2008). International debates have disputed this approach as unrealistic and detached from the complex realities of low income people in developing countries (Bond & Tait, 1997; Bond, 2003; Charlton & Kihato, 2006). The debate raises questions around the precarious nature of economic environments under which the poor are expected to activate their housing demand. Their economic fundamentals do not allow them to access housing through the market. Indeed, the market itself lacks understanding of the poor's circumstances. The South African debate centres on a market versus state housing delivery approach. It acknowledges that housing is too important a resource to be left to the devices of the state, while also acknowledging the distortions in the market which prevent it from being a viable vehicle for housing delivery. Perhaps the stronger debate is one that aligns with international discourse on the state's incapacity to delivery housing efficiently.

3. Chapter Three: Institutional responses to the housing need

3.1. Introduction

This chapter provides a review of South Africa's institutional responses to housing need. It begins by highlighting the international precedence on extent of housing need globally. Intergovernmental institutions such as the World Bank and UN-Habitat have been instrumental in placing housing at the heart of the global development agenda. In their efforts, they have highlighted housing as a cornerstone of human dignity and a facilitator of various basic services. International precedence on housing as a human right and a cornerstone of human dignity has informed how governments of the developing world respond to housing need. South African housing policy is informed by this precedence but shaped by very intricate socio-political and economic circumstances. As a result, a very unique set of responses to housing need has emerged through the housing policy process.

3.2. South Africa's institutional responses to housing need

Housing literature in South Africa is vast and provides an in-depth look into the housing sector. Much of the literature has concentrated on government-subsidised, low income housing. Firstly, there is an exhaustive body of literature that provides a timeline account of policy and legislative development processes, from the post-apartheid period onwards (Rust, 2004; Lemanski, 2011; FinMark Trust, 2012). These accounts include critiques of the policy options and delivery mechanisms adopted by the post-apartheid government (Bond & Tait, 1997; Bond, 2008). Policy challenges are clearly mapped out and demonstrate some key shortcomings in the housing policy process with regards to implementation in particular.

Secondly, there is vast literature covering a spectrum of issues from both the width and depth aspects of the RDP housing product (Bond & Tait, 1997; Charlon, 2004; Tomlinson, 2006; Adebayo, 2008). From the width perspective, the literature covers the persistent backlog that prevails, and the demand thereof. From the depth perspective, there are two critical aspects—that of the RDP product itself and that of beneficiaries. The literature covers a critique of the physical quality of the RDP product and the spatial location of the settlements in the urban context (Huchzermeyer, 2003; Tomlinson, 2006). It explores the depth aspects relating

to the socio-economic improvements the RDP housing product provides for beneficiaries. The literature begins to contrast the socio-economic objectives of the housing policy against the outcomes of the delivery process. It asks questions of envisaged economic contribution that RDP housing was supposed play as an economic and social catalyst, and further interrogates the ideals of a ‘better life for all¹¹’ and those of housing as an economic development catalyst.

The final section of this chapter highlights the literature that deals directly with RDP housing as a product of economic and social transaction. Here, the literature is concerned with the performance of RDP housing as an economic asset. There are a number of studies conducted that attempt to unpack the performance of RDP houses as an asset (Lemanski, 2011; Urban LandMark, 2011). The argument raised by this research is whether it makes sense to measure the performance of the RDP product without understanding the dynamics of the market first.

3.3. The policy framework

The housing delivery process is guided by a negotiated set of principles and objectives informed by the socio-political and economic philosophy of a country. Effectively, these principles and objectives are carried through a housing policy. Guided by the Constitution, a housing policy provides a framework for the housing delivery process in line with the human settlement development objectives of the government and political objectives to redress the inequalities of the past. As exemplified by the current policy environment, South African housing policy is a result of this negotiated process and informed by the economic policies, the Constitution and political aspirations.

3.4. South African housing policy process and ‘big expectations’—the review

The Housing White Paper (HWP) of 1994 is a cornerstone of the current housing delivery process and the resultant housing product. Its principles are centred on a neoliberal approach that was adopted through the National Housing Forum negotiation process of 1992. Needless

¹¹ ‘Better life for all’ was an ANC slogan during the election campaign for the first democratic election in 1994. It has since appeared in many policy documents as a broad objective of the ANC-led government of national unity.

to say, the RDP contributed its Socialist genetics into the current housing process. In its limited way, it contributed towards the neoliberal-socialist confusion. In classic neoliberal principles, the state is too inadequate to deliver housing. Any interference is considered to be toxic and unsustainable. As a result, the role of the state is to facilitate an enabling environment for the housing market to function. The ideals of enablement policies are that the state would create a conducive environment for the private sector to participate in housing delivery. To this effect, the state would provide necessary policy, legislative and institutional arrangements that would attract private sector participation. In turn, the private sector would contribute to a vibrant housing market that creates competitiveness, thus lowering market prices. In this regard, the poor would be able to afford housing through the market. The consequent of this is that the role of the state would be limited to the creation of an enabling environment. Subsequently, the country's first post-apartheid housing needed to reflect this intention. It was through the HWP of 1994 that this intention was cemented through seven key strategies:

1. Stabilising the housing environment;
2. Mobilising the housing credit;
3. Providing the subsidy assistance;
4. Supporting the enhanced people's housing process;
5. Rationalising institutional capacities;
6. Facilitating the speedy release and servicing of land;
7. Coordinating government investment in development.

These strategies are a cornerstone of post-apartheid housing policy implementation. Their primary objective was to create a conducive environment that would facilitate private sector participation in housing development. As argued by Ley (2009), the underlying assumption was that this would create market competitiveness in housing development, which would in turn lower housing prices, thus allowing low income people to access housing through the market. What has transpired during the policy implementation process has been somewhat contrary to the initially envisaged state role of creating an enabling housing environment.

Figure 1: 40m2 RDP house in Waterloo (Source: Author)



Since 1994, government subsidies have increased and the size of what was envisaged to be a starter house grew larger. Tomlinson (2015) notes that the housing subsidy

has increased from R12, 500 per household to some R160, 500. The size of the RDP house has increased from 12 to 40 square metres since 1994.

This is contrary to what the World Bank had envisaged; that the state provides as few housing subsidies as possible (Adebayo, 2008; Bond, 2003). In the instance that the state was providing housing subsidies, the World Bank envisioned it would slowly withdraw from providing subsidies. Another aspect of sustainable housing subsidies, as envisioned by the World Bank, was that governments would, at the very least, set payback mechanisms (Sivam & Karuppanan, 2002; Bond, 2003). The South African government did attempt to promote a payback option but it never really worked. The contribution from beneficiaries was eliminated when it became clear most beneficiaries were unable to afford the amount proposed by the state (Huchzermeyer, 2001).

The policy process and implementation has largely been diluted by political assertions. “Free houses for all” are some of the dominant political utterances. These have become the basis of how housing policy is understood by the poor. By the same token, they have become a contradiction of what the policy intends to achieve. For instance, the HWP had not envisaged to build houses for people. It had envisaged that a starter house would be provided to beneficiaries who would incrementally build on their starter house (Adebayo, 2008; Bradlow, et al., 2011). Hence the incremental policy, as the HWP has often been referred to. However, the expectations, due to political utterances that have driven housing policy understanding, have been that of a complete house. The early years of policy implementation were saturated with complaints about the size of houses being too small. Some beneficiaries even referred to them as ‘matchboxes’ and ‘toilets’, similar to how the ANC referred to township houses built

by the apartheid regime (Gusler, 2000; Beall, et al., 2003; Miraftab, 2003; Makhulu, 2010; Desai, 2011).

The location of RDP houses has been a source of contention. Many developments have been located on the periphery of post-apartheid cities (Bond, 2003; Huchzermeyer, 2003). Primarily this has been influenced by the inaccessibility of well-located urban land. This has largely been due to the high prices of land in urban areas (Watson, 2009). Urban land markets have not been favourable to low income housing in South Africa. As a result, government has struggled to secure well-located urban land for RDP houses (Marx & Royson, 2007; Durand-Lasserve & Royston, 2002). Key challenges that have subsequently emerged are that low income RDP housing beneficiaries have found their homes to be too far from work opportunities (Huchzermeyer, 2003), and therefore must extend already stretched incomes to cover travelling costs to work opportunities in the inner cities. Access to social amenities was also cited as a big challenge as most RDP settlements were built on the outskirts of cities where these are unavailable (Huchzermeyer, 2001; 2011).

The structural quality of RDP housing has also been questioned. About R2 billion has been set aside to rectify the structural inadequacies of the housing stock built between 1994 and 1999 (Makatile, 2015; Tomlinson, 2015). A number of RDP houses were reported to have inferior physical quality (Charlton & Kihato, 2006). Structural defects are a result of South Africa's multi-objectives of empowerment and service delivery. The housing process was earmarked as a sector that would contribute to empowering the Black business sector, specifically Black construction businesses, to participate in housing development. This sector consisted of largely inexperienced businessmen and women who had been excluded from the mainstream economy during the apartheid era. As a result, many houses constructed between the 1994-1999 period consisted of low structural quality and demonstrated a lack of experience by the Black construction sector. Some of the fundamental structural challenges of the RDP housing sector that emerged are a result of this lack of experience, and others were a result of poor workmanship (Tomlinson, 2006).

Ten years post-implementation of the HWP, a policy evaluation was imminent (Charlton & Kihato, 2006). The then Minister of Human Settlements, Sankie Mthembu-Mahanyele, tasked her Department to provide a review of housing policy within ninety days. This policy review acknowledged that while policy implementation had achieved an

unprecedented housing delivery milestone, there were still critical challenges in the process. The backlog was increasing and RDP housing stock was isolated from the mainstream housing market (Bond & Tait, 1997). The role of low income housing in the South African housing market was unclear. RDP housing stock was not contributing to economic development as envisaged. The new housing plan was supposed to provide a holistic view of housing as a catalyst in human settlements, rather than just a shelter. Again, it indicated a need to shift from housing as shelter to housing as human settlements in line with international policy direction (Adebayo, 2010).

The review resulted in the introduction of *The New Comprehensive Plan for Development of Human Settlements* in 2004—which became known as the Breaking New Ground (BNG) policy. Key objectives of this plan were to:

1. accelerate the delivery of housing as a key strategy for poverty alleviation;
2. utilise the provision of housing as a major job creation strategy;
3. ensure property can be accessed by all as an asset for wealth creation and empowerment;
4. leverage growth in the economy;
5. combat crime, promoting social cohesion and improving quality of life for the poor;
6. support the functioning of the entire single residential property market to reduce duality within the sector by breaking the barriers between the first economy residential property boom and the second economy slump;
7. Utilise housing as an instrument for the development of sustainable human settlements, in support of spatial restructuring.

One of the key objectives of the BNG was to stimulate the housing market to create a secondary housing market, wherein housing is valued in terms of its asset value rather than its use-value (RSA, 2004; Adebayo, 2010). Again, in line with international paradigm shifts, the BNG earmarked enhancing access to title as one of its five priority programs (Brown-Lutango, 2007). The aim was that this would stimulate the housing market along with four other programs: 1) removal of barriers to housing trade; 2) improved market information and transactional support; 3) enhanced access to housing finance and improved financial literacy; and 4) support the efficiency of the entire housing delivery chain and its various components (RSA, 2004). These programs are fundamental in the context of this research. Firstly, access to title has not been achieved primarily because of the title deeds backlog that prevails as a

result of implementation challenges (Cousins, et al., 2005). The pre-emptive clause has in fact discouraged transactions in the low income housing sector. Beneficiaries of RDP housing have been discouraged from transacting their houses before the period of eight years. Housing Act 107 of 1997, as amended by the Housing Amendment Act 4 of 2001, sets out that a subsidy beneficiary “shall not sell or otherwise alienate his or her dwelling or site within a period of eight years” (NDHS, 2001). This time limit has hindered beneficiaries from transacting their houses and, in the process, cast a cloud of perpetual illegality in transacting RDP housing assets. Predominant messages from state institutions is that transacting RDP houses is illegal and as a result, should be discouraged. The 2015 Budget Vote speech¹² of the Minister of Human Settlements, Ms Lindiwe Sisulu, confirms the state’s position with regards to the transaction of RDP houses:

Houses are an asset, which can be leveraged to take even the poorest out of their poverty debt trap. This of course depends on people who are given free housing, the indigent, understanding that they may not sell a house before they have lived in it for at least 8 years, and thereafter the first buyer should be government. However, it has been very heartening to learn from research done by the Department that the fastest growing property market in South Africa has been from the sector that we provide our people. Our hope is that the owner selling his house is doing it legally and that his circumstances have changed for the better.

This statement is resonant of the policy’s confusing stance on housing as an asset. While ideals of RDP housing as an asset are clearly stipulated in policy, government action and practice, along with political utterances, have continuously contradicted it.

Furthermore, access to housing finance remains a pipe dream and has not been achieved as banks remain reluctant to participate in the low income housing sector (Bradlow, et al., 2011; Lemanski, 2011). Partly, this is due to the lack of policy direction with regards to RDP housing transactions. There are also questions around the willingness of beneficiaries to utilise their only assets as collateral for accessing a bank loan. The risk of losing their only asset far outweighs their need for a loan. There is a historical relationship of mistrust between low income populations and South African banking institutions (Landman & Napier, 2009; Lemanski, 2011; Kingwill, et al., 2006). This contributes significantly to the poor’s banking attitudes and vice versa to the banking institutions’ attitudes towards the poor (Jones & Datta, 2000). It was this reason and more that the South African government set itself the objective to

¹² Speech delivered by Minister Lindiwe Sisulu of the National Department of Human Settlements; 7 May 2015; National Assembly Chamber, Parliament.

improve the relationship between banking institutions and the poor by providing a risk sharing mechanism. The historical dynamics of this relationship are discussed under the access to housing finance section.

3.5. The width and depth of housing provision

Width aspects of housing, as defined earlier, refers to an approach that focuses on the quantitative aspects of housing. In this instance, housing delivery is focused on reaching as many beneficiaries as possible (Tomlinson, 2006). Width-orientated policies tend to focus on pursuing quantitative aspects of housing, as defined by perceived housing backlogs. In most cases, qualitative aspects of housing are compromised. These are outcome-based and focus primarily on the role of housing as transformative and developmental. Under this policy prescript, housing plays a catalytic role in the social and economic development of beneficiaries.

According to the government's website (2016), "By May 2016, government had delivered more than 4.3 million houses and subsidies since 1994, benefiting more than 20 million South Africans". It is a remarkable accomplishment and no government in the world has been able to achieve as much. However, in 2010, then Minister, Mr Tokyo Sexwale, announced that government would spend R2 billion to rectify poorly-built RDP houses (SAnews.gov.za, 2010; Tomlinson, 2015). This clearly indicated challenges with the structural quality of RDP houses, which were reported to be uninhabitable and posed a threat to the wellbeing of inhabitants. Roofs were leaky, walls were cracked and the interior had high moisture content. These houses have ultimately been declared as uninhabitable, thus have not contributed to improving the social and economic wellbeing of beneficiaries.

The ideals of the BNG suggested that the government intended RDP houses to be an asset and thus contribute to the economic upliftment of housing beneficiaries. In order to do this, RDP housing product had to be an economic catalyst in the market. Expectations were that RDP houses would be traded in the market and thus provide an opportunity for beneficiaries to climb the social ladder (Ley, 2009; Lemanski, 2011). The performance of RDP housing asset in this perceived market has been a subject of interrogation (see Matthew, 2011).

3.6. RDP housing performance

Extensive research has been conducted in an attempt to measure the performance of RDP houses in the market (Matthew, 2011; Rust, 2013). These are profoundly presumptive attempts that assume that a sub-property market exists and its environment is understood. Although the studies conducted serve as a foundation for understanding the challenges of RDP housing as assets, they are premature. It is a daunting task to assess the performance of a product in a market whose dynamics are not adequately understood. The dynamics of RDP housing transactions are not adequately studied, hence insufficiently understood. Studies such as the FinMark Trust's *Housing Subsidy Assets* report (Sishaka Development Management Services, 2011) revealed the complexities of RDP housing transactions. They also demonstrated how difficult it is to conduct research into RDP housing transaction practices due to the illegality stigma as a result of the pre-emptive clause imposed on RDP housing.

It is therefore misleading to assess the performance of any market product without understanding the dynamics of the market itself. To assess the market performance of RDP housing there needs to be a consensus that such a market exists. The existence of a market is indicated by the availability of institutional frameworks (formal or informal), and active supply and demand mechanisms that facilitate transaction processes. The nature and character of how supply and demand is practiced is critical in ascertaining whether or not a market exists. Understanding the processes, steps and stakeholders involved in the transaction market are pivotal. Even further, unpacking the socio-cultural dynamics that influence these transactions is important in understanding the impact of the prevailing policy and legal framework that informs the housing policy context. It is almost impossible to assess the performance of any product without understanding the context where they are expected to perform. To a large extent, informal housing transactions are understudied; very little understanding of their dynamics exists.

Indeed, whether the perceived market exists is still questioned. It is unknown whether the apparent transactions are a sporadic occurrence or a phenomenon. There are assertions that a secondary market has not developed in the RDP housing sub-market as anticipated due to various policy-related factors (Adebayo, 2010; Brown-Lutango 2007; Rust 2004). Adebayo (2010, p. 6) identifies these policy-related factors as: “1) lack of bank landing; 2) significant

time-lag in issuing title deeds for RDP properties which prohibited formal transactions (resulting in informal transactions under which market value was not realised); 3) the presence of a pre-emptive clause in the policy, which was intended to ensure that sales decisions by recipients were well-considered and not impulsive, and therefore prohibited sales decisions by recipients within the first eight years of occupation; and 4) a generally depressed township market.”

Finally, policy aspirations are that RDP housing is transacted in the market and thereby contributes to the economic empowerment of its beneficiaries. However, access to housing finance remains a vital catalyst in transforming the RDP housing asset into a market product that has the capacity to drive economic growth.

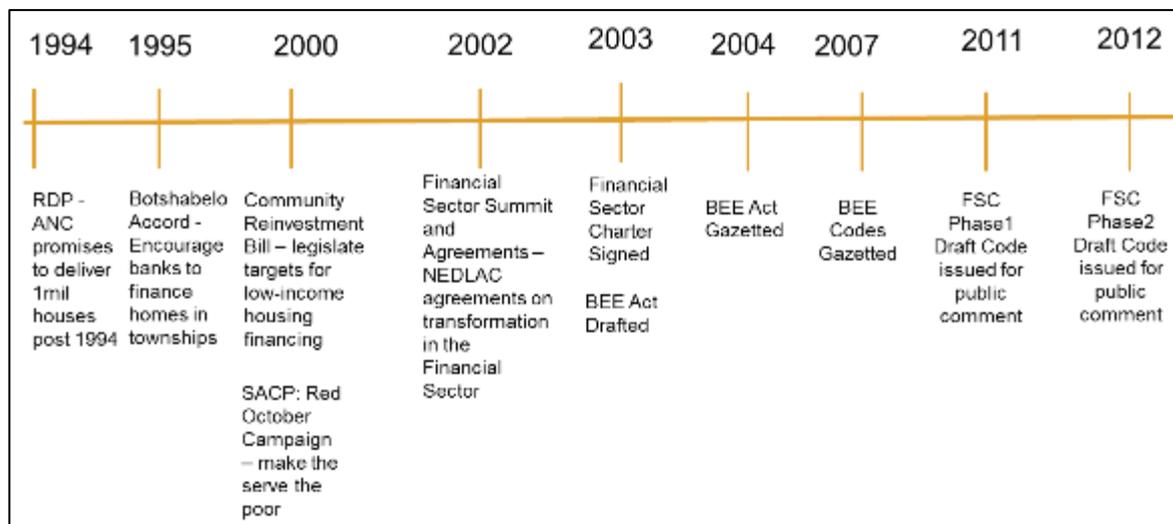
3.7. Access to housing finance

Access to credit is the cornerstone of an efficient housing delivery process and competitive property markets. Without finance, property markets are impossible and the market mechanisms of supply and demand are stifled. However, access to housing finance is beyond the competency of the state. In most neoliberal economies, the role of the state in financing housing markets is limited. The only role the state can play is providing a policy and regulatory framework, thus creating an enabling environment. However, the economic and political context in South Africa was unique in the periods leading to transition and during the post-transition period. The apartheid state had created almost parallel societies segregated primarily by race. Economic institutions served a certain part of the society and not the other. As a result, market access based on affordability was almost impossible. Financial institutions primarily served the white population as they had means of market access.

The situation was exacerbated by rent boycotts in the early 1990s, where the townships, as part of the liberation resistance, boycotted rents and payments for any services offered by the apartheid state (Bond, 1995; Glaser, 1997; Sapire, 2013). As a result, the relationship between banks and Black townships was compromised. There was mutual lack of trust, which is persistent to this day (Huchzermeyer, 2001).

Since 1992, there has been extensive engagement between government and the financial sector as part of efforts to mobilise housing credit and increase the overall participation of the financial sector in housing provision. It became clear during the National Housing Forum of that year, that the state did not have enough resources to deliver housing on its own. Delivery through the market was a policy compromise that had been agreed, therefore there was an immediate realisation that in order to ensure the market principles of supply and demand are effective, the financial sector had to be part of the housing delivery process. Engagements between the state and the financial sector culminated in various non-binding agreements (see Figure 2), such as a Botshabelo Accord, also known as the Housing Accord of 1995. This was an attempt to remove the red-lining that banks had imposed on townships as a result of the rent boycotts. Banking institutions had suffered severely from these boycotts, which were part of nationwide rebellion against the apartheid state, and had decided not to lend to the township market. Therefore, the Botshabelo Accord was a non-binding instrument meant to encourage banks to shift this position and lend to the township market (Pillay, et al., 2006).

Figure 2: Background to the financial sector charter (Source: the Banking Association of South Africa, 2013)



In 2005, the government, through the National Credit Act (NCA), established the National Credit Regulator (NCR). With this Act, the government envisaged that the poor would be protected from irresponsible lending by financial institutions. According to the Presidency (RSA, 2005), the NCR would promote and support the development, where needed, of a fair, transparent, competitive, sustainable, responsible, efficient, effective and accessible credit market and industry to serve the needs of 1) historically disadvantaged persons; 2) low income

persons and communities; and 3) remote, isolated or low density populations and communities, in a manner consistent with the purposes of the Act (RSA(b), 2007).

While the legal framework demonstrated a democratic criteria, it gives freedom to financial institutions to make independent decisions as to whether to provide financial assistance to a particular sector or not. The fate of low income persons are left to a democratic criteria and assessment. The risk adverse nature of financial institutions guarantees that the poor would be excluded in the process.

Chapter 4 of the NCA provides that: a credit provider may determine for itself any scoring or other evaluative mechanism or model to be used in managing, underwriting and pricing credit risk, provided that any such mechanism or model is not founded or structured upon a statistical or other analysis in which the basis of risk categorisation, differentiation or assessment is a grounds of unfair discrimination prohibited in section 9(3) of the Constitution.

The sovereignty afforded to financial institutions gives no comfort to the poor. Financial institutions can determine, as they will, how and who they provide credit to. It must be noted that a majority of low income persons do not have access to regular or formal incomes. They do not have payslips or any form of proof of formal employment required to prove access to regular incomes. The majority of RDP housing beneficiaries do not have access to regular income. As a result, many fall within the subsidy threshold of between R0-3500 per month.

3.8. Perceptions and attitudes towards informal housing transactions

There is a widely-communicated assumption, particularly by government, that RDP housing beneficiaries are selling their houses informally (see Ezasegagasini - Ethekewini Newsletter, 2012; Sisulu, 2014) at values below the capital amount used to build them. It is also assumed that beneficiaries return to informal settlements after they have sold their RDP houses. However, there is no evidence to support this claim. These perceptions have led to assertions, particularly from academic and practitioner perspectives, suggesting there is an informal housing market that operates within the RDP housing sector. Other studies have gone as far as assessing the performance of RDP housing assets in this perceived informal market (see for example, Sishaka Development Management Services, 2011). Other studies have

provided a more nuanced understanding of state ambitions versus beneficiary practices in the RDP housing sector (see Charlton, 2003), and insight into how the urban poor access, hold and transact land and housing (see Marx, et al., 2007). These studies have attempted to close the knowledge gap in understanding informal transactions in the RDP housing sector. The current study is part of this contribution towards providing a more nuanced understanding of the dynamics, nature, character and extent of informal housing transactions in the RDP sector.

While previous studies have contributed to building a consensus that there is indeed a need to study the position of RDP housing in the property market, there are varying opinions on what influences informal transactions. There is a general argument that informal markets are a result of both market and state failure (see for example, North, 1990; Royston, 2006; Jenkins, 2006). Briefly, market failure refers to the inability of the housing market to respond effectively and adequately to the demand for low income housing (Datta-Chaudhuri, 1990). Indications of market failure include excessive barriers to entry such as rigidity in market processes of access to finance and suitable properties. State failure refers, among other things, to its inability to create conducive conditions for the poor to access low income housing (Durand-Lasserve, 2003).

Charlton (2003) suggests that there is a mismatch between state ambitions and beneficiary practices; the manner in which people interact with their RDP properties are contrary to what the state expects them to do. On the other hand, Vorster and Tolken (2008 cited in Lemanski, 2011) indicate that the reasons for the poor to opt for informal property transactions is ignorance, the pre-emptive clause, speed and ease of transfer, and the excessive bureaucracy of the registration of sale.

The South African housing policy process entails a complex trajectory that demonstrates an attempt to align with international paradigm shifts while also contextualising the response to housing need. The nature of South Africa's housing challenge demanded an innovative response that is both politically sensitive and economically realistic. The features of HWP and the BNG demonstrate an attempt to balance political and economic policy objectives. However, there is evidence that there has been a dominant focus on achieving the political objectives of the housing policy instead of its economic objectives.

4. Chapter Four: Conceptual and theoretical framework

4.1. Introduction

The subject of informality in low income housing is saturated with composite conceptual nuances and theoretical assumptions. Both the subject of informality and low income housing transactions involve a web of elaborate relationships between human practices and behaviour—institutional processes and assumptions. In attempts to make sense of these relationships, one runs into conceptual and theoretical challenges that require careful contemplation. This chapter is divided into two sections—conceptual and theoretical. The first, on conceptual framework, is aimed at placing the study within relevant conceptual frameworks upon which the empirical data is analysed and key discussions on informal practices are grounded. The second section deals with theoretical assumptions that have been utilised to engage with the phenomenon of informality in low income housing. It explores how theoretical assumptions inform the relationships between people, institutions and practices, particularly in the context of housing.

4.2. Customary-Western practices in land management in Africa

Land management practices are complicated by Africa's colonial history and the co-existence of multiple and diverse landholding systems. The manipulation of customary authority over land in Africa further complicated an already complicated land situation. The result of this manipulation in the post-colonial context has contributed to entanglement between customary and Western land management systems. Instances of this entanglement are recorded in many parts of Africa (see Delville, 1999 for Francophone West African examples; Ubink & Quan, 2008; Ubink, 2008; for Anglophone West African examples; Peters, 2004, 2006 for East and Southern African examples). Entanglements between customary-Western land management practices have resulted in land conflicts and landlessness for many Africans (Peters, 2004).

Mamdani (2005) provides historical accounts of how the colonial system manipulated customary authority and how this influenced the incorporation of customary law and practices in post-colonial governance in Africa. Mamdani (2005) argues that the colonial system created

a singular customary law and authority for Africans for ease of administrative control. He asserts that pre-colonial Africa did not have a single customary authority but several. The colonial power sought to construct native custom as unchanging and singular by sanctifying the authoritarian version of custom as “genuine” over various others (Mamdani, 2005). What is known today of customary institutions, laws and practice is a result of this manipulation of native customary governance by colonial rule. The post-colonial period saw an unreflective adoption of this singular form of customary governance (law and authority), which has led to various post-colonial problems in Africa. Mamdani’s thesis discusses how customary land practices are now understood in most parts of the African continent. While there have been concerted efforts to incorporate customary institutions into democratic constitutions, the historical nature of how customary laws were understood continues to create many challenges. The unknown nature of customary practices and their unwritten laws makes it difficult to incorporate them into Western systems of governance. As a result, there are endless frictions between customary and Western practices. The entanglement between customary and Western practices plays itself out more significantly in urban contexts. Sithole (2005) observes that the process of economic and political transformation from a colonial to a post-colonial order is infested with social mis-fits between two or more systems of *traditional and Western systems of governance*. She argues that this mis-fit is characterised by urban-rural political imbalances and prevailing conditions where traditional leadership is merely a structural appendix in modern democratic governance systems.

Critiques of Mamdani’s thesis argue that he belittles the role of customary authority in pre- and post-colonial times. By mainly painting a gloomy picture of manipulation of customary authority under colonial rule, Mamdani takes away the moral and social responsibility customary authority had, and still has, in many parts of Africa (Oomen, 2005; Sithole, 2005; Beall, et al., 2015;).

The land question is both sensitive and complex in South Africa due to its history as a tool for disenfranchisement of the Black population and its nature as a scarce resource. Land dispossession is a product of the colonial and apartheid systems. Both these systems oversaw systematic dispossession of land from Africans over decades. Most notorious of the two systems was the apartheid regime due to its racialized dispossession and deprivation of land ownership rights by Africans (Mabin, 1992; Hall, 2004). The dispossession was one project. Another project was to create dual land acquisition, holding, and transfer systems. One was

based on Roman and Dutch Law, which promoted private ownership by the white minority and was administered through Western governance practices (McAuslan, 1998), the other was based on what was perceived to be customary traditions of African people and managed through traditional governance practices (Cousins & Claassens, 2004). The land question is therefore embedded in the political economy of how customary and Western authority have interacted in the post-colonial period (Ntsebeza, 2004).

The relationship between customary authority and the state has been complex in South Africa. The reasons argued above by Mamdani (2005) exacerbate this complexity. Incorporation of the customary system into the new democratic governance has been particularly challenging. The politicised nature of traditional authority, particularly in the former Bantustan¹³ of KwaZulu, where there was a thin line between traditional leadership and the Inkatha Freedom Party (IFP) of Mangosuthu Buthelezi, did not help the incorporation process. The level of complexity was demonstrated by the IFP's refusal to participate in the first general elections unless traditional authority, particularly the chieftaincy of the Zulu monarchy, was recognised. The Congress of Traditional Leaders of South Africa (CONTRALESA) further lobbied for recognition of traditional leadership. This has since been recognised through legal frameworks, including the Constitution Act 108 of 1996. This process was an attempt by the post-apartheid government to recreate the relationship between traditional governance systems and the new democratic state (Beall & Ngonyama, 2009). It was also largely part of the nation-building reconciliatory project. According to Beall et al. (2005) and Beall and Ngonyama (2009), South Africa was not atypical in accommodating customary governance into democratic systems. Countries as diverse as Australia, India, Canada and Ghana have grappled with accommodating indigenous institutions into their democratic governance systems (Beall & Ngonyama, 2009). Therefore, this phenomenon is not unique to South Africa. However, traditional practices have been the most challenging to accommodate as they are dynamic and embedded in local contexts.

Emanating from the recognition of traditional leadership in the Constitution of South Africa was the enactment of various legal instruments to deal with land and service delivery in traditional areas. These legal instruments included the Communal Land Rights Act of 2004, which provided legal recognition of communal land rights and the role of traditional leadership

¹³ Self-governing territories allocated to various African ethnic groups during apartheid.

in the acquisition, holding and transferring of those rights. The Act attempted to align communal land systems with Western notions of land-holding, registration and transfer. The state also recognised traditional institutions and chieftaincy through the establishment of bodies such as houses of traditional leadership.

The process of accommodating traditional leadership into the post-apartheid democratic system was not without challenges. Demands to actively control development and service delivery in rural areas and scrap municipalities in rural areas in favour of traditional authorities were made (Ntsebeza, 2004). More significantly however, is that this legal recognition of traditional leadership and authority did not culminate in the incorporation of traditional practices in land transactions. Instead, the state insisted on Western systems of land transactions. However, land tenure practices are still predominantly influenced by customary practices. This is particularly common in traditional areas where customary law is still prevalent. As a result, many new urban residents who originate from these traditional areas prefer customary practices in land transactions. They derive their land transaction practices from traditional rural customs of land management (Durand-Lasserve, 2006). Therefore customary practices influence how some Africans acquire, hold and dispose of land. In this regard, land tenure practices are embedded in geographies of practice that are informed by tradition. Smith (1989), writing about nations, argued that nationalism and, by extension, tradition succeeds because it is socially fertile. Smith (1986, 1991, 1995) held the view that culture is not created *ex nihilo* but is historically constituted. Hobsbawn (2012), on the contrary, held that tradition is actually invented, constructed and formally instituted. This research takes the view that tradition is informed by historical contexts and, while it is subject to evolution, it keeps its roots in particular geographies of origin. These geographies of traditional practice inform the entanglement between Western and customary land transactions in urban areas in the context of post-apartheid cities.

Customary land management systems have been recorded in most countries in the Sub-Saharan African region (Durand-Lasserve, 2006). They represent a vast majority of urban dwellers who are excluded by formal land systems. Informal transactions derived from traditional rural customs are often dismissed by government while they are accepted as legitimate by the social context in which they are practiced (Durand-Lasserve, 2006; Royston, 2006). Neo-colonial systems adapt pre-colonial traditional land management systems and processes with Western systems (Durand-Lasserve, 2006). In the process, they create socially

legitimated procedures and actors in land management practice. In this way, they respond to their land demand which the formal, government-legitimated systems fail to do.

4.3. The concept of tenure security and the asset debate

Security of tenure refers to a form of protection to hold or possess a resource. There are various contentions on what security of tenure actually entails (van Gelder, 2009; Gelder, 2007). Some argue that secure tenure is about providing legal property rights in the form of property titles (De Soto, 1989; van Gelder, 2009; Porio & Crisol, 2013), while others argue that secure tenure gives recognition to informal processes the urban poor use to hold and transact their assets (van Gelder, 2009; Kombe & Kreibich, 2000). Although these contentions exist, there is consensus that security of tenure is indeed an important tool, no matter the shape or form it takes, for protecting urban, informal citizens from evictions (van Gelder, 2009; Payne & Durand-Lasserve, 2012). Furthermore, there is debate on the role of secure tenure in promoting and encouraging housing investment, stimulating economic growth, poverty alleviation and facilitating access to finance (van Gelder, 2009; De Soto, 2000; Deininger, 2003; Jimenez, 1984; Demsetz, 1967). It is a disputed assumption that has however made its way into the housing policies of developing countries, including South Africa. It has also contributed largely to tilting programmes supported by the World Bank (see World Bank, 2003; 1993) and pioneered by De Soto. This assumption was informed by the observation of the 1970s, which deduced that based on the poor conditions of informal houses, the urban poor were reluctant to invest in their housing assets because of uncertainty as a result of insecure tenure. This marked the birth of the notion of asset as connected to legal and financial systems. De Soto's thesis was that providing secure tenure through titling programmes would strengthen the poor's ability to utilise their housing as an assets. He based the asset debate on formalisation of informal assets through the provision of legal titles. Authors such as Durand-Lasserve (2006); Marx and Rubin, (2007) and Marx and Royston, (2007) rebuke the connection of low income housing assets to financial and legal systems as dangerous in that it supports the illegitimization of the systems created by the poor. To some degree this was seen as undermining the practices of the poor.

Further arguments against this assumption assert that formalising informal properties and providing legal title to the urban informal does not necessarily provide secure tenure and

neither does it encourage investment in housing assets nor does it facilitate access to housing finance through collateralisation of these assets (see for example, Marx & Royson, 2007; Marx & Rubin, 2008). Instead, it puts the urban poor in precarious conditions of being eroded by unforgiving market forces. There is evidence that formalisation has achieved limited results (Durand-Lasserve, 2006; Payne, 2000; Leap, 2005; Marx & Rubin, 2008). Some of the unintended outcomes of formalisation are that the poor are unlikely to be able to hold on to their informal property assets once formalised as more affluent urban citizens are likely to purchase these assets. Moreover, Durand-Lesserve (2006) argues that increasing security of tenure does not necessarily require issuing formal individual titles, but more humble measures to improve tenure security can contribute to major changes at lower costs.

The biggest challenge of the formalisation process is that it is premised on legality-illegality and formal-informal categorisations. It negates the existence of a broad range of complex tenure systems which render it overly simplistic and rather naïve to think of tenure as legal or illegal in a particular land and housing market (Payne, 2000). Payne argues that in one country there may even be more than one legally accepted tenure system in operation. Evidence is that there is greater fluidity in the formal-informal and legal-illegality continuum (Herrle & Fokdal, 2011). This is exemplified by instances where the application of tenure systems may be such that if migrants move from customary areas to urban centres they may be considered to be behaving illegally simply because they are operating in accordance with systems which are not acceptable in their new location (Payne, 2000). What Payne refers to here are geographies of tenure legitimacy. In other circumstances, contrary to Payne's arguments, two or more systems may exist but only one would be legitimised through formal legal frameworks while the other may be legitimated through local, undocumented values and principles.

In the South African context, the relationship between secure tenure and housing asset is intimate and complex. The policy shifts that occurred with the introduction of the BNG saw a transition from housing as shelter to housing as an asset (Kingwill, et al., 2006). The vision of the BNG policy was to “ensure property can be accessed by all as an asset for wealth creation and empowerment”. This policy direction has since created expectations for RDP housing assets to perform within the perceived market. This has led to various studies into the performance of RDP housing assets in the market which were highlighted at the beginning of this thesis.

Much of the contestation within the South African housing context has been about whether RDP housing should be viewed as financial, economic or social assets. This can be linked directly to the asset legalisation/formalisation and titling thesis of De Soto. The asset debate has sparked discussions on the appropriateness of conceptualising RDP houses as assets and whether they are financial, economic or social assets. Notable studies by the FinMark Trust and the Centre for Affordable Housing Finance in Africa (CAHF) conducted between 2006 and 2008 (Matthew, 2011) outlined the three most important ways to conceptualise housing as an asset and how to think about the value of housing: 1) housing as a *Social Asset*—it ensures one's place in the settlement, provides an address and gives legitimacy to one's citizenship, link households with the local government system for ease of access to basic services and other social benefits; 2) housing as a *Financial Asset*—a house can be traded or exchanged for monetary value; it can be used as security against a loan; and 3) housing as *Economic Asset*—it can be used as part of a household's economic strategy for income generating opportunities. Expanding from this asset triangle, CAHF provides that housing asset can be broken down into two categories: 1) housing as an individual asset; and 2) housing as a public asset. On one hand, housing as an individual asset concerns job creation through new income opportunities in housing construction or home-based entrepreneurs. On the other hand, housing as a public asset pertains to the creation of sustainable human settlements that support local economies. Housing as a public asset contributes to economic growth through backward and forward linkages (CAHF, 2013).

It is argued that beneficiaries of low income housing primarily understand their houses as social and familial assets (Lemanski, 2011). The importance of a house to many low income households is valued for its physical aspect of shelter provision and symbolic aspect of emotional attachment, instead of primarily a financial asset (Varley, 2002; Cousins, 2007, cited by Lemanski, 2011). The field of property economics has utilised economic theories to understand and conceptualise housing as a financial asset. This has seen the commodification of housing at all levels. As a result, the very basic function of housing as a shelter is undermined. The traditional and most basic function of a house as both social and cultural asset is argued from the viewpoint of housing as cultural and natural capital (Bourdieu, 2011; Chiesura & de Groot, 2002; Bridge, 2006).

The context of low income housing in South Africa, informed by the historical conditions of disenfranchisement of the Black majority, carries an important socio-cultural function (Lemanski, 2011). As a result, many low income housing beneficiaries do not

necessarily see their houses as exclusively financial assets but ascribe social and cultural value to them. Lemanski's study demonstrated the non-financial asset of RDP properties. However this does not preclude housing beneficiaries from equally demonstrating financial attachment, which she argues is not exclusively demonstrated through the desire to sell. Her assertion highlights the problematic conceptualisation of RDP housing asset as directly connected to ideals of ownership and collateralisation linked to accessing credit, which is assumed to ultimately facilitate the climbing of the socio-economic ladder. Therefore, she argues, housing can be viewed as a physical asset, a financial asset and an emotional asset. In this regard, non-market conceptualisations of RDP housing and market conceptualisations can coexist. They are not necessarily parallel or in competition.

The challenge with the manner in which the low income housing asset has been conceptualised is embedded in the assumptions that asset building is an instrument for wealth accumulation directly linked to secure tenure. This ignores the non-market asset conceptualisation of low income housing. It also disregards the fact that market phenomenon is saturated with complex barriers to entry for the poor. Beyond theoretical discussions on how poor people can utilise these assets for economic gain, lies a fundamental reality that participation in economic activities is governed by rigid practices and prohibitive legal frameworks that limit the poor's participation. Formal markets are governed and controlled by a set of inflexible legal principles and practices that are not necessarily accommodative of the poor's circumstances (Smets, 2003). Therefore, while it is acknowledged that the poor have at their disposal an asset that may or may not be tradable in the formal market, complex conditions dictate whether they can participate or not.

4.4. Beyond informal housing markets

The term 'informal' is considered problematic in that it implies negativity towards any activity that is considered informal (Durand-Lasserve, 2006; Royston, 2006). It is a term considered,

[s]uggestive of a disorganised, even chaotic or anarchic "other", which is at odds with what is often complex, well organised and regulated set of rules and procedures characterised more appropriately in the plural – heterogeneous systems which vary from people to place, context to context (Royston, 2006, p. 13).

Furthermore, Royston decries the duality and dichotomy that exists between formal and informal as it assumes false polarisation and draws abstract parallels between the two systems. The reference to practices of the urban poor as ‘informal’ raises fundamental definitional challenges for housing as it does for economic activities and employment (Durand-Lasserve, 2006). It is a definition suggestive of a desire for the so-called ‘informal’ activities to graduate to ‘formal’. Attempts to replace informal with more politically correct terminology have not erased the polarisation between formal and informal. It has instead allowed those with aspirations to formalise what they refer to as “extra-legal” activities, suggesting that formalisation would create more secure and economically favourable environments for the poor.

With these contentions, informal property markets are faced with the daunting task of overcoming negative conceptions of how the urban poor transact their properties using socially defined and locally accepted rules and principles (De Souza, 2001). In the South African context, Royston (2006) reports that formal, low income property markets do not function properly largely due to apartheid urban patterns, the emergence of a gap in the housing market, lack of access to appropriate credit, lack of low income estate agents and expensive and complex property transfer procedures. Therefore, many low income people find informal property markets to be an adequate platform for participating in the property transactions.

In the context of the informal selling of RDP houses, there is an assertion that a process of re-informalisation where RDP beneficiaries are re-informalised when they sell their RDP properties and move back into informal housing (Robins, 2002, cited in Lemanski 2011). These assertions are indicative of a failure of formal processes to accommodate the needs of the urban poor. There are well-documented reasons why the poor choose to instead transact informally rather than follow formal processes that are largely alien to their local practices. These primarily include the rigidity and complex nature of the formal process, which are often highly legalistic. Also, formal processes are Universalist and therefore consist of a ‘one size fits all’ approach (De Souza, 2001; Marx & Rubin, 2008) which often excludes the poor. Whereas, informal processes are largely inclusive and offer flexibility (De Souza, 1998).

Furthermore, the re-informalisation argument is labelled as statist in that it adopts dual stratification of formal and informal markets. This view is contested as contradictory to empirical evidence that suggests that boundaries between the formal and informal are not so

distinct but often blurred in the urban poor's everyday practices (Varley 2002; Marx, 2007; Marx, et al., 2007). The distinction between formal and informal therefore exists only in the corridors of state bureaucracy and detached academic debates. There is no evidence to suggest that the urban poor define their processes as informal. It is only outsiders, using their personal and professional frameworks, who define what informal is. There is an indication that the processes of the poor shift between the so-called informal and formal spaces of practices without necessarily realising the boundaries. Therefore, to suggest that there is a process of re-informalisation is to suggest an existence of abstract boundaries between formal and informal.

Informal practices of the poor are often defined along legality and illegality stratifications. Attempts to provide alternatives to the legal-illegal stratification include a more constructive, yet still problematic, alternative in the form of "extra-legal" (Royston, 2006). Extra-legal implies practices that are outside the law. It is different than "illegal" which implies subversion of the law. Royston (2006) argues that despite the exercise to find more constructive terminology, there is still a continued challenge in the language that implies that legalisation is a solution to extra-legal practices.

There is generally a problem in conceptualising and thus understanding practices of the poor. The framework used by the state and practitioners alike are based on personal and professional biases supported by mainstream legislative and institutional frameworks. These are 'one size fits all' and are part of the larger governance system which seeks to homogenise citizens' practices in order to maintain some level of order and equality. While there are valid reasons for this governance thinking, there are indications that it lacks flexibility to accommodate practices that do not have their origins in mainstream legislative frameworks. As a result, practices in the mainstream framework of 'one size fits all' are exclusive, rigid and non-responsive to the changing socio-economic conditions of urban populations.

"Illegality" is another term used to refer to informal practices. "References to illegality in human settlements refers mainly to conformity with planning and construction norms and, more importantly, to tenure situations" (Durand-Lasserve, 2006, p. 1). Durand-Lasserve (2006) finds the term carries more repressive connotations and by its nature reveals a clear repressive intention or attitude towards a danger.

This repressive expression is commonly used by state institutions as a justification for strong interventions against those considered to be ‘breaking’ the law. In human settlements, evictions are a common reaction to practices considered informal and therefore illegal. The intricacies of informal practices as part of a socially determined and socially legitimate set of rules and principles are often inadequately understood by the state.

The debate on legality and illegality narrative within the context of informality lands itself in the arena of the relationship between law and society. Therefore, the position of the state as a custodian of law and order reinforces the need to judge harshly those who are seen not to operate within the conduits of the law. The prescriptive nature of law is partly what contributes to the ‘black and white’ stratification of human practices. Any practices considered to be outside legal prescripts, although not necessarily contravening the law, are seen as illegal, while the practices regarded as conforming to legal prescripts are seen as legal. Research indicates that there are many grey areas in human practices that are neither black nor white. Informality falls under these grey area practices which, while they do not conform to legal prescripts, also do not contravene the law.

The danger in this legality-illegality narrative towards informality is its assumption that there is only one ‘highway’ of practices and all other practices that are not ‘in the lanes’ of this ‘highway’ either need to be brought closer or halted entirely. There is an assumption that legal frameworks are designed to work for everyone, irrespective of circumstances.

These attitudes negate the very simple idea of the law as meaning many things to many people. Law, by its very nature, as a specialised set of rules and principles, is likely to exclude those without a certain level of literacy to interpret and understand it. It is therefore important to understand how law can be interpreted in various ways by different people. There is no one single understanding of law. “Proposition of law can be very abstract and general” (Dworkin, 1982, p. 179). Literature on social theory of law provides an interesting debate on the relationship between law and society (see for example, Teubner, 1992; Trubek, 1972; Dupret, 2007). This debate is important in understanding how law is interpreted by those citizens practicing informal activities (see study by Winn, 1994). A discussion on legal centralism and legal pluralism further enriches this debate on the interpretation of law by various actors in society.

4.5. Property rights

The concept of property is an ancient one, and far from being of a size or shape incapable of entering the human mind, it was actually formed there. It belongs not to physics, but to metaphysics: it is altogether a creature of the mind (Bowen, 1925, p. 41).

The concept of property is often used carelessly in research and practice (Gray & Gray, 1998). Most everyday references to property are unreflective, naïve and relatively meaningless (Gray & Gray, 1998). The usual mistake is to refer to an object as property, whereas property refers to a relationship to an object that excludes others. More precisely, property can be defined as “the right which one man has to hold or dispose of certain lands or possessions as he may see fit, to the exclusion of all other persons” (Bowen, 1925, p. 41). Property can also be defined as a right to “possess something, control it, determine its use, receive benefits from its use and dispose of it” (Kotz, 2006, p. 1). According to von Benda-Beckmann, et al. (2006) property concerns the organisation and legitimation of rights and obligations with respect to goods regarded as valuable. In this way, they make a connection between property and rights. They conceptualise property as a legitimate cloth of wealth accumulation in that property systems structure the ways in which wealth can be acquired, used and transferred. By the same token, while von Benda-Beckmann, et.al. agree that property is of fundamental importance to economies, they dismiss the notion that it can be reduced to ‘the economic’. Instead they argue that property is multifunctional. Like Locke (1967), they posit that property plays a major role in constituting the identity of individuals and groups.

Gray and Gray (1998) assert that property as a fact departs from the idea that property in land is more about *de facto* possessory control other than abstract theories of ownership. To claim property in land is an outcome of human behaviour resulting from raw organic facts. According to Gray and Gray (1998), this view is embedded in common law tradition driven by crude empiricism which dispels legalistic and paper-based rights to property. This notion of property is based on behavioural sciences of human practices which are more concerned about the personal connection and autonomy that one has with land.

Some authors (see for example, Royston, 2006) in the South African context have been uneasy with the use of the word property when dealing with low income housing, as it is bound up in a particular notion of what property is in performing a predetermined role in the

perspective of the law and financial institutions. Very often these notions negate the role of property as multifunctional (von Benda-Beckmann et al., 2006).

Property relationships are shaped by various actors and guided by a set of societal principles and rules. Actors include communities, individuals, the state and private institutions. Interactions between these actors is always complex and is embedded in power struggles. As argued by von Benda-Beckmann, et. al. (2006), property is the focus of struggles at all levels of social organisation, within and between families, communities, classes and states. Due to this fact, a set of legislative and institutional frameworks have been deemed necessary for managing power relations between these actors. This is not only during property-related interactions but overall governance-related interactions. However, von Benda-Beckmann, et. al. (2006) warn that property cannot be captured in one-dimensional political, economic or legal models.

While property is older than incorporation, marriage, contract and religion, being humans' oldest institutions (Bowen, 1925), the manner in which it is handled, shared and transferred constantly evolves. The nature of property is such that it is transferrable in a form of rights. Transfer of property rights means that one individual who holds a right to property and enjoys it to the exclusion of others also has a right to transfer those rights to another individual or institution. It is at the point of transfer that property rights become a source of contention. The commodified nature of property rights compounds the already complex and often contentious relations between actors. Property relationships are transferred or exchanged between actors in both market and non-market environments in a form of property rights.

As property rights become part and parcel of the commodity sector, they become even more complex, therefore calling for the state to provide a legal framework under which property rights can and should be transferred. Through legislative framework, the state sets parameters on how property rights are transferred or exchanged between various actors, including the state itself (von Benda-Beckmann & von Benda-Beckmann, 1999; von Benda-Beckmann, et al., 2006).

Property rights are in a state of constant evolution as they are challenged by human practices, economic and political changes. The presumption of exclusive, transferable, alienable and enforceable [property] rights is frequently inaccurate and potentially misleading

(Feder & David, 1991). Property rights and the laws that govern their transfer and exchange are continuously being challenged. The study of property has generally been perceived as a competence of economists. Consequently, a lot of effort has been made by economists to study property and its behaviour under various circumstances. Very little work has been done on the social dynamics of property. Property is a social catalyst and informs social hierarchies (von Benda-Beckmann, et al., 2006). Those who have a better grasp and articulation of the legal frameworks that control the transfer or exchange of property rights hold an advantage in property relationships (von Benda-Beckmann & von Benda-Beckmann, 1999; von Benda-Beckmann, et al., 2006), whereas those with limited or no understanding of legal frameworks are disadvantaged. The imbalances in power relations between the legally disadvantaged and the legally advantaged creates an unequal property rights environment. It is under these conditions that property relations are challenged and subsequently evolve.

Gray and Gray (1998, p. 3) argue that the idea of “property in land oscillates ambivalently between the behavioural, conceptual and obligational, between competing models of property as a fact, property as a right and property as a responsibility”. The world of law has not yet been able to resolve whether property in land is to be understood in terms of empirical facts, artificially-defined rights or duty-laden allocations of social utility (Gray & Gray, 1998). Informal rules and principles indicate that understanding property in land in terms of empirical facts is more equitable because of its socially defined and localised context. It does not disadvantage those with limited understanding of mainstream legal constructs. Instead, property is recognised collectively and defined by social utility, guided by social principles. Although, according to Gray and Gray (1998), these three perspectives sometimes intersect and overlap, it is unclear whether property to land is based on adopted universal claims of entitlements based on legal frameworks, or resides in raw human practice or socially-directed control of land use.

In the context of RDP housing, a property relationship is defined by state-influenced views and beneficiary practices. On the one hand, the state uses legal frameworks to define the property relationship the poor ought to have with their RDP houses. RDP beneficiaries are seen as having a responsibility to have an emotional property relationship with their houses. The fact that RDP beneficiaries did not pay for their houses is seen as an obligatory responsibility on their end to at least have an emotional property relationship. On the other hand, the property relationship that RDP beneficiaries have with their houses is informed by socially-directed

factors and practices. Their dynamic social circumstances inform the nature of property relationships.

4.5.1. Transferring property rights

Property rights become more complex when they are transferred. The manner in which property rights are partitioned is usually not problematic. In a context where property rights are freely transferrable without transaction costs there is usually minimal complexity. The complexity emerges when transaction costs are involved. Coase (1960) posits that the initial partitioning of property rights by the state has important consequences for the output of an economy where transfer costs threaten to block reassignment of property in a transaction process. He argues that the property rights approach is not complete without a theory of the state. More significantly, the state can impose laws that restrict or limit rights of property ownership. Put differently, the right of property ownership is an exclusive right that ends where explicit restrictions of the law begin (Furubotn & Pejovich, 1972). Therefore, it is argued that the attenuation of private property rights in an asset, through the imposition of restrictive measures, affects the owner's expectations about the uses to which they can put the asset, the value of the asset to the owner and to others, and consequently, the terms of trade. Therefore, there is always some level of restriction on the owner's right to 1) change the form, place, or substance of an asset; or 2) transfer all rights to an asset to others at a mutually agreed upon price (Furubotn & Pejovich, 1972).

4.5.2. Property rights and markets

There is an intrinsic relationship between property rights and markets. There is often an assumption that property rights are transferred within an environment of markets with clearly defined rules, regulations and standards. This view negates the diverse ways in which low income people engage and transfer their property rights outside the market environment. The assumption that informal transaction processes are informed by the poor's calculative agencies aimed at economic maximisation is challenged. The purpose of this sub-section is to argue that the transfer of property rights in the context of low income household is not always informed by market principles. In order to advance this argument, a discussion on what constitutes a market is highlighted. The purpose for discussing the market discourse is to demonstrate shortcomings in assuming that the poor transfer their property rights within the market environment. The argument being advanced is that the market discourse is too limited to adequately explain the informal transfer of property rights. Another argument is that

calculative agency of RDP beneficiaries is linked to their cultural and social environment, which the idea of market fails to take into account. The discussion on transfer of property rights as embedded in socio-cultural backgrounds is important.

In order to determine whether informal transfer of property rights in RDP housing is driven by the market mechanisms, one must understand what a market is and what its key features are. In that way it can be postulated whether transfer of property rights informally with RDP housing is indeed informed by market principles or are they merely sporadic occurrences outside the market paradigm. According to Callon (1998, p. 1), a “market denotes the abstract mechanisms whereby supply and demand confront each other and adjust themselves in search of a compromise”. Abolafia (1998) argues that encyclopaedic descriptions of forces of supply and demand are not sufficient in themselves. He advances the argument that the process of economic transaction and exchange is socially embedded in a network of important social relations and culturally entrenched in a system of norms, rules and cognitive scripts. This view argues for the conceptualisation of *market as cultures* (Abolafia, 1998). The phrase ‘market as cultures’ is captured as an essence of repeated interactions/transactions. The approach is premised in three areas of constitutive rules and roles; local rationalities; and the dynamics of power and change.

Callon (1998) highlights important features of the market. He postulates that in order for participants to engage in the market, they must have calculative agency. The concept of calculative agency presupposes that economic actors are capable of mental calculation.

In order to write and conclude calculated contracts – that is to say, to go into the content of goods and their prices – the agents need to have information on the possible state of the world (Callon, 1998, p. 4).

The question arising from this assertion is whether RDP beneficiaries have access to sufficient information on the ‘possible state of the world’ in order for them to make calculative decisions. An essential point here is that for an economic agent to calculate, that is, rank their decisions, they must at least be able to draw up a list of actions on the world in which they are situated (Callon, 1998). This leads to the question of whether RDP beneficiaries are culturally and socially calculative beings capable of engaging in the transfer of property rights. Another question perhaps is, are there calculative conditions in the RDP housing sector? These questions are fundamental in determining whether the informal transfer of property rights in

RDP housing sector is happening through the market. The question of calculative competence has an interesting cultural dynamic. DiMaggio (1994) and Callon (1998) argue that while the ability to calculate is an intrinsic property of *homo sapiens*, the culturally and socially constructed dimension is particularly important. Callon (1998, p. 5) asserts that “in all cases certain social structures or cultural forms favour calculation and selfish interests while others induce agents to be altruistic, disinterested, generous and even to give freely”.

DiMaggio (1994) as cited in Callon (1998, p. 11) engages with the role of culture in the constitution of market societies. He argues that culture is often used as a tool to “explain the appearance of rational actors, the atoms of the market economic, primarily because agents, in their behaviour and calculative capacities, differ from one society to the next”. He further hypothesises that in the social contexts where agency and individuality are valued, persons are likely to render themselves better equipped to participate in the market than others. Here, there is a direct link to transfer of property rights and socio-cultural background. The degree of equipment with agency competence differs from one context to another. DiMaggio (1994) argues that people’s ability to resist or embrace calculative rationality and subsequently the market, are informed by social or cultural frames upon which their practices are embedded.

Furthermore, DiMaggio raises the aspect of market culture as continually reproduced exchange relationships. In this context, he argues that the outcome of repeated transactions is a formation of institutionalised relationships and systems of meaning. The process of repetition allows for market participants to develop expectations about appropriate behaviour and scripts for the performance of roles. It is through these rules and roles that participants constitute the market. Constitutive rules and roles are produced through repeated interaction of powerful interests competing for control (DiMaggio, 1994). The market is an outcome of this competition; it is itself moulded by the political, economic and regulatory environments.

The dynamics of the informal transfer of property rights as embedded in social practices and shaped by social rules land themselves within the realm of social transactions. Property rights transfers occur within a certain social space where sellers and buyers live and are guided by mechanisms acceptable and legitimate in that particular context. These mechanisms include a context-specific social order negotiated by both sellers and buyers. This social order entails the identification of validating processes for property rights transfer and conflict resolution institutions. Some work has been done to understand these mechanisms and

how they shape the transfer of property rights. What is notable is that these mechanisms are intertwined with those in the formal sector. Informal and formal do not necessarily run parallel to each but rather converge and diverge at various levels.

4.5.3. Informal property rights

Informal property rights are defined as socially recognised rights of action (Alchian & Demsetz, 1973; Demsetz, 1967; 2002; Anderson & Hill, 1975, cited by Munshiftwa, 2013) which legitimises extra-legal (De Soto, 2000) tenure security. Property rights are sanctioned behavioural relationships among humans (Anderson & Hill, 1975; Jagannathan, 1987) or “a set of rules and sanctions” (Mitchell, 2003, p. 11) but they all denote rules and constraints on human behaviour. Informal property rights are a set of socially shared rules, usually unwritten and not designed or enforced by government (Munshiftwa, 2013; Helmke & Levitsky 2004). They are a result of spontaneous actions informed by human interaction and the need to share and exchange resources (Jagannathan, 1987). However, power relations in this sector could also render these informal property rights extremely exploitative and skewed towards powerful players. De Soto (2000) argues that informal property rights, by their unfixed nature and uncertainty, leave too much room for misunderstanding, faulty recollection and reversal of agreements. They can therefore be exploitative, whether intentionally so or by their very construction. Indeed, an opposing view to this is that formal property rights also consist of exploitative hierarchies driven by power relations. The arguments that informal property rights are exploitative and filled with uncertainties are used to justify formalisation of informal property rights. It is an argument entrenched in an effort to belittle the sophisticated processes of informality which the poor engage in.

Informal property rights are sets of socially-determined rules and principles; practices which facilitate acquisition and disposal of resources (De Soto, 1989). These sets of rules and principles are constantly challenged, negotiated and renegotiated by stakeholders involved in the practice. External factors, such as changes in economic circumstances, impact on the nature of informal property rights. Although undocumented, informal property rights are a respected set of localised guidelines on how property is held and transacted. They are based on socially-accepted and locally-determined sets of rules.

The criticism of informal property rights is that they are based on rules that are not codified or standardised, hence are not applicable outside their area of origin. While this

contention is valid, it is problematic when used to justify formalisation of informal property rights. De Soto's views on re-engineering informal property rights into one national, formal property social contract have been critiqued as irresponsible. In his famous book, *Mystery of Capital*, he argues that capitalism can be made to work for the poor by formalising their property rights in houses, land and small business (Kingwill, et al., 2006). De Soto's thesis asserts that capitalising the poor requires that their extra-legal properties are legalised and incorporated into the mainstream legal framework. It is a view strongly opposed by many (see Gilbert, 2002; Durand-Lasserve, 2005; Mitchell, 2004) in the academic world. Kingwill, et al., (2006) contest De Soto's views as an oversimplification and mystification of capitalism, the informal economy and associated property and power relations. They dismiss his thesis that economic growth is fuelled by formalised property rights which enable the release of credit. It is not a plausible response to global poverty. Mitchell (2004) further argues that, instead of empowering the poor, formalisation of property and associated rights is instead a machinery for transferring property from small owners and concentrating it into larger and larger hands. It is a contention that titling programmes and other interventions intended to empower the poor by formalising informal property rights become 'market-driven displacements', and in rural areas, such programmes allow traditional elites to get richer by selling land for development (Durand-Lasserve, 2005; Staastad & Cousins, 2008). Furthermore, Kingwill, et al. (2006), Durand-Lasserve (2005) and Mitchell (2004) dismiss the notion that the formalisation of property rights promotes lending to the poor. Instead, it is further argued that rather than turning property rights into 'capital', formalisation could increase the rate of homelessness. While there are reasons to agree with the idea that the reform of existing legal and administrative systems to accommodate 'extra-legal' property is imperative, it is contentious to argue for the creation of a single, integrated regulatory framework. This is contested on the basis that the circumstances of the poor in informal settings are entirely different to the affluent in formal settings. Therefore, creating a single, integrated regulatory framework is more than likely to exclude the poor. The question which should be asked is, why do the poor practice informality in the first place? The answer to this question reveals the complex, rigid and exclusive nature of formal practices.

4.5.4. Affording housing finance

It is well documented that the lending criteria used by banking institutions are rigid and often exclude the poor (see UN-Habitat, 2011; Kingwill, et al., 2006). Loan products and repayment terms are also not suitable for the circumstances of the poor. Frequently, repayment

terms are very high and the poor often cannot afford them (UN-habitat, 2011). To apply for loan products, banks require proof of income (payslips), which the poor often do not have due to their reliance on informal employment. The majority of the poor, African, urban population cannot meet the conditions set by banking institutions. Often, low and irregular incomes from informal economic activities drastically reduce the poor's ability to afford housing finance. These circumstances therefore make it difficult for finance institutions to determine the incomes of poor urban residents. As a result, they are unlikely to lend to them.

4.5.5. Property ladder vs social ladder

There is a debate on whether the provision of low income housing should include an objective to facilitate a climb up the property or social ladders. There is a distinction between the two concepts. This section debates the appropriateness and implications of using either of them in conceptualising improvement in beneficiary housing conditions. It provides definitions of both concepts, and then debates whether it is appropriate for policy to assume that low income beneficiaries have aspirations to climb the property ladder. It questions whether facilitating a climb up the social ladder is an appropriate policy objective that embraces various aspects of human development beyond market-related improvements.

'Property ladder' refers to a series of stages in the house ownership lifecycle in which a person buys a smaller apartment or house which suits their current economic circumstances and housing need, and then buys either a bigger apartment or house when their economic circumstances and housing needs change. This abstract ladder indicates an upward progression in the property ownership lifecycle. It assumes there is aspiration from beneficiaries to climb this ladder as and when their circumstances change. This assumption negates various roles of housing in society that are embedded in cultural and social practices. The role of housing in various cultural and social contexts differs greatly. Often, it is detached from financial or market-related practices. The idea that the poor have aspirations to climb the property ladder are mostly imposed by those external from these cultural and social contexts. It has been noted in various studies (Ross, 2002; Peters, 2006) that housing consumption is influenced by cultural and social contexts. Therefore, assumptions that all low income beneficiaries aspire to climb the property ladder are both mythical and detached from the realities of low income people and their socio-cultural contexts.

Furthermore, the conceptualisation of the property ladder in the low income housing sector is underdeveloped and, as a result, lacks an in-depth analysis of the key fundamentals which influence upwards movement in the property ladder. It therefore can be argued that the use of the concept of property ladder within the low income housing sector is both inappropriate and limited.

On the other hand, ‘social ladder’ refers to a gradual upwards mobility in access to various livelihood resources. This upward movement does not necessarily entail physical relocation from one house to another, but indicates an improvement in the social wellbeing of a particular individual. In this instance, a house serves as a catalyst in this social mobility. It is an aspiration that goes beyond improvements in housing conditions but embraces aspects of quality of life and livelihood conditions.

Even on the basis of the assumptions that the poor indeed have aspirations to climb the housing ladder, there are still challenges in how this can be achieved. A focus on pursuing aspirations to climb the housing ladder have failed, indicating the inappropriateness of this policy ambition. According to Lemanski (2011), although RDP houses are financially tradeable assets, at least in theory, transaction values are too low for low income vendors to reach the next rung on the property ladder. The gap between different segments of the housing property market is too large for low income housing beneficiaries to ever be able to climb up the ladder (Rust, 2006a, cited by Lemanski, 2011). Economic fundamentals, such as low employment levels and household incomes, are some of the significant factors that work against the housing ladder ambition. Other anthropological aspects of housing as a cultural asset speak against the aspirations of the housing ladder.

It is therefore important to revisit the appropriateness of using the arguments of the property ladder in measuring the performance of RDP housing. On the balance of existing studies, climbing the property ladder is not an aspiration of the majority of RDP beneficiaries. It is therefore a misleading argument that RDP houses have not facilitated the climb up the housing ladder as if when barriers to climb the ladder were removed, RDP beneficiaries would indeed aspire to climb this mythical ladder. There is no evidence that indicates that RDP beneficiaries indeed have a latent demand to climb up the property ladder.

Moreover, there is a general lack of clarity on what the state would like beneficiaries to do with their houses. Charlton (2003) argues that there are contrasting views between the state and beneficiaries in what can be done with RDP houses. The state has its own ambitions on how RDP houses should be utilised by beneficiaries while beneficiaries, in practice, have a different view. Therefore, the assumptions about beneficiary aspirations to climb the property ladder comes as a result of this confusion.

Engaging and discussing the above conceptual foundations has helped the study sharpen its understanding of relevant concepts important in answering the research questions. The understanding of informal practices is embedded in complex conceptual challenges that require unpacking. This chapter unpacked these complexities with the view to understand how informal practices are shaped by, and are sometimes an outcome of, this conceptualisation. What this conceptual literature has revealed is that informal housing transactions are entrenched in a complex web of social interactions, state-sanctioned institutional behaviour, neoliberal institutions and their economics, property rights, legality and illegality of informality and cultural aspects of housing. The conclusion from this engagement is that informal transactions, whether perceived informally or formally, have been dominated by an economic understanding of transactions. However, the literature and empirical evidence, as it will be presented in later chapters, shows a more sociological (embeddedness) and cultural approach (markets as culture). Purely economic analysis of the informal transactions negates these aspects of housing and is premised on a narrow conceptualisation of housing as an economic asset. It is the conceptualisation that is far removed from the intricacies of informal practices.

4.6. Theoretical framework

But the ‘theory’ is merely an extremely complex and inflated restatement of what many others have put very simply, and without any pretence that anything deep is involved (Noam Chomsky, 1995, unpublished).

The purpose of this section is to raise arguments about the importance of theory in this study and the dilemmas of engaging with grand theories. The first sub-section highlights the sensitivities of using grand theories to understand culturally and socially-embedded behaviours of people. The second sub-section reiterates the discussion on grounded theory as a suitable methodological choice which provides an alternative to heavy dependence on grand theories in constructing meaning about social and economic behaviour. The third sub-section

acknowledges the universal aspects of social life that can be theorised using grand theories, and consists of sub-sections on the relationship between law and society, property and citizenship and property rights theory. Engaging with these theoretical constructs is by no means a contradiction to previous assertions about grand theories, but rather an acknowledgement that certain social behaviours can indeed be generalised and theorised about as they entail some degree of universality on them. It is this reason why it is important to engage with theory of law, property rights and citizenship in this context.

4.6.1. Theory, culture and society

The study of microeconomic behaviour and the factors that inform it pose theoretical tensions. North (1990) argues that the traditional behavioural assumptions of orthodox microeconomic theory prevent economists (and other practitioners) from coming to grips with some fundamental issues that have impeded progress in the social sciences. He states that the motivation of actors is more complicated (and their preferences less stable) than assumed in the received wisdom. Similarly, Mahoney (2004) maintains that microeconomic theory implicitly assumes that actors possess cognitive systems of agency that provide true models of the worlds about which they make choices. He argues that actors make choices based on subjectively derived models that diverge among individuals, and the information of actors is so incomplete that in most cases these divergent subjective models show no tendency to converge. As noted by DiMaggio (1994), and discussed earlier, in order for economic actors to participate in a market for instance, they must have information about the state of the world. North (1990) also argues that many cases of economic transactions are not necessarily of wealth-maximising behaviours but of altruism and self-imposed constraints. Similar to DiMaggio's assertions on the relationship between culture and market behaviour, North (1990) asserts that people decipher the environment by processing information through pre-existing mental constructs through which they understand and solve the problems they confront (Mahoney, 2004).

However, a meaningful attempt has been made to engage with the dominant theories that influence how the subject of informal housing is understood internationally and locally. It is a very cautious attempt, aimed at demonstrating theoretical grounding without conformity to prevailing classical theories.

4.6.2. Law and society—framework for understanding informality in RDP transactions

The relationship between law and society is complex and requires a nuanced understanding of both sociology of law and legal philosophy. Von Benda-Beckmann, et al. (2006) claim that property regimes and rights have been a central theme historically in law and philosophy. Their claims are part of the ensuing debate between legal sociologists and legal philosophers as to how the relationship between law and society should be understood. The argument is centred on the idea that law is part of social life (see Cotterrell, 1998) and therefore should be understood using sociological premise. According to Cotterrell (1998, p. 368), “‘the social’ can be taken to mean the patterns of human connections and interactions in relation to which law exists and which in some way it expresses and regulates”.

If law is an expression of society’s ideals, its meaning should therefore be universally accessible and not exclusive to one part of society. There are two schools of thought regarding societies’ varied interpretation of law. One considers law to be a central law of the state and its institutions. This school of thought argues that there should be a singular interpretation of the law. This understanding informs the theory of legal centralism. The second school of thought considers law to have multiple interpretations, that various people, depending on their backgrounds (social, economic and political) and socio-economic status, have varying interpretations of the law. It is not only the interpretation of the law that is contested, it is also the nature of law. The following subsections discuss both legal centralism and legal pluralism in theory and practice.

Legal centralism in theory and practice

Legal centralism is defined as the law of “an exclusive, systematic and unified hierarchical ordering of normative propositions, which can be looked at either from the top downwards as depending on a sovereign command” (Griffiths, 1986, p. 3). Griffiths’ (1986) theory is rooted in what scholars like Bondin (1576); Hobbes (1651) and Austin, (1832) had earlier articulated. This perspective views the state as the primary custodian of law. It is the law of universalist aspirations (Teubner, 1992; van Niekerk, 2001), uniform for all persons and exclusive of all other laws (van Niekerk, 2001) which lay claim to law as an object of the state aimed to achieve conformity (Walby, 2007). Legal centralism has its foundations in classical Greek, Dutch and English laws designed to serve what were perceived as culturally homogenous societies.

The colonial era saw widespread acceptance of this perception of law. Countries of the developing world, under colonial rule, experienced nullification of local traditional manifestations of law. Post-colonial periods have seen sustained universalisation of Western laws and its centralist attitudes. Under these contexts, an empirical state of legal interpretation in society is not acknowledged. Instead, the central state has the ultimate power to acknowledge or refuse the existence of multiple bodies of law (Griffiths, 1986). Therefore, any interpretation of law that falls outside the conduits of what the central state considers as law is dismissed.

Legal pluralism in theory and practice

Legal pluralism is seen as representative of the empirical interpretation of law. This perspective of law places value on the ‘local’, the ‘plural’ and the ‘subversive’ (Teubner, 1992, p. 1443). It acknowledges the “asphalt law of the Brazilian favelas, the informal counter-rulers of the patchwork of minorities, the quasi-laws of dispersed ethnic, religious, and cultural groups, the disciplinary techniques of the private justice” (Teubner, 1992, p. 1443). The main argument here is that legal plurality is limited to situations where people explicitly orient themselves to the fragmented spectrum of law. Vanderlinden (1989) raises a point of contention in stating that the existence of the gap between legal practices and formal textual legal provision should not necessarily be seen as inefficiency of law but instead be read as the positive manifestation of conformity to other legal orderings. The relationship between these alternative legal orderings and the state law is contentious. Vanderlinden (1989) argues that some scholars see these legal orderings as totally independent from state law. He further states that, according to others, the state remains the gravity point of these practices. According to Vanderlinden (1989) these legal orderings converge to challenge the legitimacy of state law. It is debateable whether these practices are consciously aimed at challenging the legitimacy of state law or not. It is also unclear whether there is calculative agency from low income people for challenging state law.

Understanding legal pluralism is important in constructing an understanding of how low income people navigate state law and create their own undocumented legal orderings in informal transaction systems. This understanding helps highlight the complex relationship between legality and informality, particularly in informal housing transactions.

Legality and informality in context

De Soto (1989, p. 105) argues that the relationship between legal institutions and informality is precarious. He observed that in Peru, legal institutions were in “crisis partly due to gradual loss of social relevance in the face of the incursions of informality into all areas of everyday life”. Based on this, it can therefore be argued that legality or illegality of informality is a direct outcome of the relationship between legal institutions and peoples’ attempts to live outside of the legalistic provisions of these institutions. In fact, De Soto in his books, *The Other Path* and *Mystery of Capital* argues that the potential of informality to benefit the poor positively is diminished by the lack of a clearly defined legal framework. Evident in his description of ‘dead capital’ is his sentiments that ownership of resources in the informal sector is difficult to trace and validate, and is governed by no legally recognised frameworks. The lack of a legally defined framework means that the assets’ potential economic attributes are not adequately described and organised, hence they cannot be used to take advantage of surplus value through multiple transactions (Mooya & Cloete, 2007). Furthermore, De Soto argues that the inadequately defined nature of property rights contributes to high transaction costs, in the process obstructing the development of exchange systems that operate outside the social networks for the creation of surplus value. In essence, De Soto argues that legality is a tool and a vehicle through which ‘dead assets’ in the informal property market can be transformed into active assets that take advantage of surplus value. His legalistic thesis views formalisation of property rights in the ‘extra-legal’ sector as a critical strategy in ensuring that the economic benefits of ‘dead capital’ are leveraged.

Critics argue that de Soto has failed to provide empirical evidence for his claims about the relationship between property rights and prosperity in the developed world, while others contest the validity of his arguments about the poor’s aspirations to possess property titles (Payne,2002; Jones, 2003; Smith, 2003; Mooya & Cloete, 2007).

Saladhine (1991) argues that the relationship between a people and its laws—a people’s concept of legality—is the crucial factor in determining the contours of the informal sector. Most developing countries struggle to deal with the issue of legality of informality due to challenges encountered in gathering precise information on activities that, from the state perspective, are important primarily because they have escaped social accountability and state control (Saladhine, 1991). The selling of RDP housing in the South African context is only an

assumed phenomenon. The literature reviewed suggests that the state does not have precise information on this occurrence.

Informality and illegality are generally characteristics of low-income settlements and are key to access cheap shelter and land for the poor (Coit, 2001). The concept of legality and illegality of informality in the context of this research will pertain mainly to informal transactions in RDP housing against the legislative environment that underpins subsidised housing. It is important to note that concepts of informality and illegality are neither interchangeable nor intertwined. They are independent and reflect diverse contexts and therefore should be understood in that manner.

4.7. Property and citizenship

There is a relationship between property and citizenship. Citizenship is a process of self-actualisation facilitated by having property in land or things. This section discusses the relationship between property and citizenship using the theoretical formulations of both Hegel (1820) and Locke (1690). Both schools of thought agree on the direct relationship between what could be called self-property and property in land/things and between properties and (in both senses) citizenship (Holston, 2008). The thesis advanced in this section is that, as a result of deprivation of property of Black South Africans during apartheid, their citizenship was prohibited. It is then argued that the current nature of property for low income housing beneficiaries perpetuates inequalities and thus prohibits full access to urban citizenship. The historical disenfranchisement of the Black population in South African cities contributes to this deprivation of urban citizenship. The remodelling of apartheid cities post-transition largely concentrated on political rights and a replacement of institutions of the previous regime with those of the new dispensation. While political rights to vote were important for nation-building project, they have had a limited contribution in integrating low income population into urban citizenship.

Various scholars offer diverse definitions of citizenship. The common thread is that citizenship entails an interaction between people amongst themselves and with the state within the framework of political, civil and social (Marshall, 1950; Heater, 1990; Robinson, 1997; Lalloo, 1999). Citizenship confers on individuals certain duties, rights and obligations, and

privileges of being a member of a spatial entity—be it state or city (Lalloo, 1999; Brown, et al., 2010). Cities are a strategic arena for formulation of citizenship. Therefore, this strand of citizenship is referred to as ‘urban citizenship’. This has been boosted by the desire to shift from notions of citizenship based on membership of nation-states, and expand its political limits to include decision-making control of citizens (Purcell, 2003). Urban citizenship is being defined, redefined and contested through daily practices and actions of citizens, by interactions with each other, whether as individuals or as organised entities, and with state institutions at their various forms (Grest, 2002; Holston, 2008). Cities are a hub of citizen interaction and complex exchanges between state and citizens. In these interactions there are bound to be conflicts arising from freedoms to express one’s rights and perform obligations. In the complex context of the post-apartheid urban environment, interaction between citizens with each other and with the state has always produced friction. In turn, these abrasions produce diverse forms of citizenship patterns. On one hand, there is a struggle between what Holston (2008, 2009) refers to as the entrenched citizenship and the insurgent citizenship. Citizenship has always laid down boundaries between those who are included and those who are excluded (Kofman, 1995). In the South African context, these citizenship patterns are illuminated and driven by the past racial segregationist urban policies of the apartheid regime. Thus, entrenched citizenship refers to that enjoyed by predominantly white population, whose right to urban citizenship was enforced through legislated privileges. Historically, this section of the population view urban citizenship as their natural right. They see themselves as holding power to either accept or reject others who seek urban citizenship. On the other hand, insurgent citizens are relatively ‘new’ urban residents whose right to the city was restricted through segregationist apartheid laws. Their urban citizenship was prohibited, as was their national citizenship. It is only in the post-apartheid period that they can lawfully lay claim to urban citizenship. This claim is dependent on their ability to own property and that ability was severely dented by historical disenfranchisement.

According to Hegel (1820), property plays an integral role in personal and social development. It gives an individual a sense of belonging and self-actualisation. His theory tells us that for an individual to secure a possibility of developing into their full potential they must have property. Only then can an individual progress from their own personal world into the external world of nature and society by claiming things as property (Hegel, 1820). Property rights empower and validate an individual’s citizenship. To climb hierarchies of social standing and economic emancipation, one must have property in him/herself and in land or things.

According to Hegel (1820), individuals without property lose the possibility of fully developing their own person, which is also the basis of their standing in the social world (cited by Holston, 2008). Holston (2008) further attests that in Locke's theory, individuals without property in land or things on which to disburse their labour, lose the full ownership of their own person that is the basis of their equality. Power distribution in society is highly driven by the amount or size of property held. Based on Hegel's formulation of property rights, without access to property, low income people cannot lay claim to citizenship (Laloo, 1999). Both Lockean and Hegelian (cited by Holston, 2008, p. 115) "lineages of property right claim a close connection between property and the fundamental qualifications of citizenship: freedom (economic and intellectual independence), capacity (agency, mastery, and responsibility), dignity, respect, and self-possession". Locke further argues that the propertyless cease to be active citizens and their citizenship becomes differentiated from those with property in land and their rights unequal (Laloo, 1999). Hegel agrees with this assertion by stating that the propertyless not only lose their inner person but also their active citizenship. Both Hegel and Locke see these individuals as unfit to contribute to political decisions. They see them as adolescents incapable of citizenship comprehension.

What can be deduced from these theoretical perspectives is that a meaningful attempt to redress inequalities and create a sense of citizenship must be attached to realistic ideals of facilitating ownership of property. There are fundamental questions raised of the South African housing programme and whether it has been able to move the previously disenfranchised population towards egalitarian citizenship (Laloo, 1999). Instead, it is argued, the housing programme has entrenched and reinforced inequalities and thus failed to realise the goal of equal citizenship. Laloo (1999) attributes this to a failure of policy to address the broader issues of property and place as it instead focused on a uniform and monetarist approach. There are various issues that point towards this policy failure. The first pertains largely to the location of low income housing on the periphery of post-apartheid cities, far from economic opportunities and social amenities. The second is the state's inability to facilitate secure property rights through the timely issuing of title deeds to low income housing beneficiaries. The third refers to the legal frameworks guiding the acquisition and transfer of property by low income housing beneficiaries. Restrictions on when to sell RDP houses are prohibitive to the exercise of freedoms of what beneficiaries can do with their property. This restriction comes in the form of a pre-emptive clause, which is a civil prohibition on the selling of RDP houses before a period of eight-years. As a result, RDP beneficiaries can only enjoy differentiated

property rights. Fourth, legislative recognition of customary land tenure has not translated to acceptance of customary practices in land transactions. There is evidence that suggests the state adopted Western practices of land transactions in the understanding that these would create equality of treatment. Consequently, these factors have contributed to the reinforcement of unequal rights to property and differentiated citizenship for low income RDP beneficiaries.

4.8. Property rights theory

Property rights develop to internalize externalities when the gains of internalization become greater than the cost of internalization (Demsetz 1967, p. 350).

It is important to begin by acknowledging that much of the political philosophy on property rights is informed by the early thoughts of scholars such as Locke (1690), Hobbes (1651), Hume (1739) and Rousseau (1762). Much of their theoretical thesis advocated for individual rights to property and saw protection of private property as intrinsic for investment and productivity. Their ideas have shaped much of the contemporary thought on property relations in transitional societies such as those found in countries in Africa. This section is as much concerned with the philosophical constructions of property rights as it is with how property rights theory shapes our contemporary understandings of property relations, particularly in transitioning societies of the global South. Von Benda-Beckmann et al. (2006, p. 2) argue in this regard that the

outcome of the current theorization of property has resulted in property models that purport to be universal but are in fact largely based on Western legal categories, the most important of these being the notion of private individual ownership, often regarded as the apex of legal and economic evolution as well as a precondition for efficient market economies. This has led to a misunderstanding of property both in Third World societies and in the Western industrialised states, encouraging property policies that have unintended and deleterious consequences.

The centre of this argument is that private property rights are alien in the context of Africa and other transitioning societies of the developing world. As a result, they often clash with local traditional systems and practices. Von Benda-Beckmann, et al. (2006) captures the complexity of Western-influenced property regimes when applied in the developing world context where other property systems are entrenched.

Private ownership of resources may involve a variety of property rights, including the right to exclude non-owners from access, the right to appropriate the stream of economic rents

from use of and investments in the resource, and the rights to sell or otherwise transfer the resource to others. To this effect, property rights offer the basic economic incentive system that shapes resource allocation (Furubotn & Pejovich, 1972; Gray & Gray, 1998). Property rights are formed and enforced by political entities and reflect the conflicting economic interests and bargaining strength of those affected (Libecap, 1989). Property is the focus of struggles at all levels of social [and economic] organisation between families, communities, classes and states (von Benda-Beckmann & von Benda-Beckmann, 1999). According to Eggertsson (1990), a system of property rights is a method of assigning to particular individuals the authority to select, for specific goods, any use from an un-prohibited class of uses. He further attests that the rights of individuals to the use of resources in any society are supported by the forces of etiquette, social custom, ostracism, and formal laws backed up by the state's powers of coercion.

Rights to a resource can vary as determined by a legal authority that controls how privilege over a resource is exercised. According to Eggertsson (1990), it is common to distinguish three categories of property rights: 1) the rights to use a resource, including the right to transform physically a resource; 2) the right to earn income from a resource and contract over the terms with other individuals; 3) the right to transfer permanently to another party ownership over a resource—that is, to alienate or sell a resource. The property rights terms for RDP housing beneficiaries are mostly undefined and unclear. The state, through media statements, often refers to RDP houses as the state's property. Again, political statements and media statements indicate a sense that the state feels responsible for RDP houses and how beneficiaries engage with this asset. This creates further confusion as to the right to these properties. While the state insists that these houses are meant to provide beneficiaries with a foothold into the property market and help them create an asset base, the authority that controls how the privilege over this resource is exercised still largely remains with the state.

More importantly, property rights are effective under clear market conditions and policy guidance. Clearly defined asset prices are needed to reflect underlying demand and supply conditions and facilitate socially valuable exchange among economic agents (Callon, 1998). Without the more complete market signals possible when property rights are well-defined, resources may not flow smoothly to the higher valued uses as economic conditions change (Libecap, 1993). It is a point of contention whether these conditions prevail in the context of RDP housing. Arguably, there are no clearly defined asset prices that underlie

demand and supply conditions in the RDP housing sector. This is despite the state's claims that RDP beneficiaries transact their RDP houses below 'market value'.

There is an emphasis that property rights do not refer to relations between people and things but, rather, to the sanctioned behavioural relations among people that arise from the existence of things and pertain to their use (Furubotn & Pejovich, 1972). In this regard, they are the social institutions that define or delimit the range of privileges granted to individuals of specific resources, such as parcels of land or water (Libecap, 1993). Property rights institutions range from formal arrangements, including constitutional provisions, statutes and judicial rulings, to informal conventions and customs regarding the allocations and uses of property. Such institutions critically affect decision-making regarding resource use and hence affect economic behaviour and economic performance. There are two fundamental reasons why and how the nature in which property rights are defined and enforced influences the performance of a commodity in an economy (Libecap, 1993). First, property rights institutions determine economic behaviour in society by ascribing ownership to value resources and designating who bears the economic rewards and costs of resource-use decisions. Second, the hierarchy of actors in the economic system is determined by prevailing property rights arrangements based on how decision-making authority is allocated. The state is at the centre of how property rights are managed and protected. Geisler (2006) sees the role of the state as having always been fundamental to Western thought on property and playing a role to guarantee property rights, in turn deriving a major portion of its legitimacy from performing this function. A contrary view is that "the connection between property and the state is not a universal relationship but is contingent on particular historical conditions, that is, the rise of the nation state and capitalism in Europe" (MacPherson, 1978; Peters, 1994 cited in Sikor & Müller, 2009). This is supported by the current role of states in property rights changes in Africa and other transitioning societies in the global South. More important is the manner in which the state engages with other non-state institutions, such as traditional and market actors, in its quest to shape property relations in society.

There are two important theoretical conceptions of property rights. Anthropological and economic conceptions of theorising on property rights are fundamental in understanding property relations, particularly in transitioning societies. Ensminger (1997) argues that anthropological and economic theorising on property, although different, both indicate property relations are influenced by changing socio-political and economic contexts.

Ensminger's thesis is centred on the idea that property rights are a reflection of societal norms and economic behavioural relations—of both institutions and people. Therefore, property relations are contextual and not necessarily as universal as widely believed. Hence Ensminger's conception of "contextual fit" finds expression in this anthropological idea of property rights as part of societal relations.

The anthropological view to property holds that property is a reflection of broader social arrangements and therefore reacts to any changes within this context. Therefore, property rights evolve as social relations change. However, according to Demsetz (1967) property rights evolution must justify the cost of change. This means that gains from property rights changes must be greater than the cost of change in order to justify change. "Property rights develop to internalize externalities when the gains of internalization become greater than the cost of internalization" (Demsetz, 1967, p. 350). In the conditions where this does not occur, property rights changes either fail or are rejected by society. Whether gains from property rights changes are greater than the cost of change is determined by society through a legitimation process and are dependent on whether new conditions are culturally and socially acceptable (Sikor & Müller, 2009; Eggertsson, 1990). Berry (1993) and Verdery (2003) (cited by Sikor & Müller, 2009) reiterate this point by stating that changes in property relations are in accordance with patterned shifts in property practices, and these make, modify, and unmake property relations in a process of constant negotiation. In this perspective, property rights are constantly challenged by society through every action. It is therefore argued that property relations are dynamic and often responsive to renegotiations through social action in reaction to socio-political and economic changes (von Benda-Beckmann & von Benda-Beckmann, 1999; von Benda-Beckmann, et al., 2006).

Economic conceptions of property rights theory contend that property rights evolve in response to changes in technological and economic conditions in society (Demsetz, 1967; Deininger, 2003; Platteau, 1996; Sikor & Müller, 2009). This thinking aligns with earlier theorising on property rights by the likes of Locke, Hobbes and Hegel. This view to property has informed much of contemporary thought on property relations as purely economic. To a large degree, it is a view that has shaped state interventions in property rights through privatisation, land registration and titling programmes. This has subsequently informed the conceptualisation that sees property rights as embedded in cost-benefit relations of production.

Finally, these various theoretical constructs indicate that there is a complex relationship between anthropological and economic conceptualisations of property rights. However, the convergence between anthropological and economic theorisation is necessary for the successful implementation of property rights that are a ‘contextual fit’. Property rights theory is at the centre of how various actors in property relations interact and what informs the terms of reference against which they interact. It also provides explanation on what has shaped the nature of property rights in transitioning societies of the global South. Maybe more important, is how property rights theory has contributed to the conflict between socially-driven, traditional property relations and state-sanctioned, Western forms of property relations. In the same vein, there is a positive engagement with property relations outside the classical theorisation of property rights, which are exclusively based on Western thought and practice.

5. Chapter Five: Methodological framework

5.1. Introduction

This chapter presents the methodological processes used to answer the research questions. This methodologic framework is merely a reconstructed logic developed from the logic-in-use (Kaplan, 1964) of the research process that ensued. Due to the dynamic nature of the study, it would have been impossible to follow precisely a particular research process. A number of changes occurred during the research process that forced the researcher to alter the primary research plan. Therefore, the following narrative is based on what occurred as opposed to what had been planned. For the sake of methodological lessons, the next paragraph details the original study plan which was later adapted to changing local dynamics.

Initially it was envisaged that the data collection process would be conducted in the latter part of 2015. This was changed due to the scheduling of local government elections in South Africa. During the political season, communities become volatile and difficult to access. This is particularly exacerbated in relation to the sensitive subject of housing. The relationship between housing and politics is a well-known one in South Africa. As indicated in the literature review chapter, housing delivery is often used as means for scoring political points and ensuring re-election by local councillors and political parties. Therefore, to conduct a survey of this nature during the election period would have been futile and counterproductive. Subsequently the study was moved to earlier in the year to allow sufficient time between the study period and the election campaign phase.

The main concern of the study was to develop an understanding of the dynamics of informal housing transactions in government-subsidised, low income housing. The exercise to develop the context was aimed at identifying key stakeholders, actors, processes, factors and perceptions influencing informal housing transactions. To unpack the contradictions in processes of the state and practices of beneficiaries, the study planned to contrast state assumptions with beneficiary practices to better understand the points of divergence. Therefore, the methodological process needed to take into consideration the nature of low income housing as a space of interaction between institutions, policy and legal frameworks; the practices and assumptions of those providing low income housing (practitioners, policymakers, government

officials, the private sector, etc.) and those consuming low income housing (beneficiaries, informal buyers and informal sellers).

The design and implementation of this methodological framework included a selection of key elements. These consisted of methods, methodology, theoretical perspective and epistemology. The process of selecting these key elements was informed by the nature of data and the analysis process required to answer the research question. It therefore took into account the qualitative nature of the study and its socio-political complexity and sensitivity. Informed by the researcher's awareness that various studies of a similar nature which had been previously undertaken but not yielded sufficient responses, the following methodological frame was adopted. It is premised on the four pillars proposed by Grix (2002):

1. Methodology: Grounded theory
2. Research methods: Interviews, household surveys and focus group discussions
3. Theoretical perspective: Pragmatism
4. Epistemology: Subjectivity.

These four pillars are interconnected and interdependent. As a collective, they constituted a methodological framework deemed adequate for answering this particular research question. They allowed for flexibility during the research process and are not prescriptive. Prescriptive methods are often unable to respond adequately to drastically changing dynamics in the research context.

As reiterated earlier, the methodological frame selected was aimed at providing an understanding of the context, stakeholders, actors and processes in informal transactions within the government-subsidised, low income housing sector. The main aim was to yield an answer to the following research question: *What is the extent, nature and character of informal housing transactions in government-subsidised, low income housing in eThekweni Municipality?* Answering this question would allow the study to unpack the process through which formal properties become informalised through informal transaction processes. It would also provide analytical details as to what factors one should consider when researching informal housing transactions. The nature of this enquiry was informed by the gap in literature that deals with contextual understandings of processes in informal housing transactions. It is the researcher's position that many studies conducted have tended to focus on the performance of the housing

product and limited attention has been paid to the dynamics (both practical and theoretical) of the informal housing sector. This focus on product performance instead of the overall informal housing sector has resulted in limited understandings of the factors influencing practices and processes of informal housing transactions. As a result, this has contributed significantly to numerous assumptions being interpreted as the reality. These assumptions were aimed at providing an explanation as to why the RDP asset has not performed in the market. It was the researcher's primary concern that this obsession with product performance ignored the fact that, unless there is an adequate understanding of the conditions and dynamics of the context, it is almost impossible to measure performance. Measuring the performance of RDP housing also assumes that there is a developed market whose dynamics are understood.

Therefore, the study design was intended to shift this emphasis from the prevailing focus on market analysis towards a more encompassing approach where the dynamics of informal transactions are investigated beyond the narrow confines of the market. The intention was to bring the dynamics of housing as entangled in socio-cultural and traditional geographies of practice into the post-apartheid context.

Various sub-sections of this chapter outline the step-by-step process through which the study was undertaken. It is important to state that the study employed grounded theory as a philosophical position. Therefore, the building blocks of this methodology chapter are premised on the grounded theory framework. The section on methods provides a detailed justification of selecting this theory as the guiding methodological frame and places the study within its underpinnings.

5.2. Setting methodology context

The study attempts to understand a complex web of social interactions and practices of low income housing beneficiaries within the context of prevailing institutional and legal frameworks. It contrasts policy and legislative assumptions, as seen from the perspective of practitioners and policymakers, against the practices that housing beneficiaries employ within the informal housing transaction environment. The study further contrasts institutional behaviour with beneficiary practices and perceptions, with the aim of understanding

misalignments in policy and practice, and thereby building a contextual understanding of the informal housing transaction environment.

There are a number of aspects that the study pays attention to—social networks, socio-cultural practices, economic practices, state assumptions, institutional practices and policy communication. These inform the nature of the study as a multidimensional inquiry.

Methodological consideration took into account the nature of the study as outlined above. Key to designing an efficient research methodology was putting into perspective the various building blocks of the research problem. One important deliberation, based on the lessons from other research studies in a similar context, was the complexity and sensitivity of the subject of informal housing transactions in South Africa. It has been argued that many households or individuals involved in transacting RDP houses informally are reluctant to share information (see studies by Rust, 2006, Lemanski, 2011; Sishaka Development Management Services, 2011). This is largely due to fear of prosecution as the practice is perceived to be ‘illegal’. Therefore, data collection was likely to be challenging under these circumstances. In order to mitigate these factors, the methodology required the development of a relationship of trust between the researcher and respondents. Multiple methods were used. Before data collection commenced, the researcher spent time in the study areas familiarising himself with the context and listening to general housing concerns of residents. Meetings to introduce the study were critical in the process of creating a mutual relationship. The researcher took opportunities to briefly explain the objectives of the study and how it will contribute to improving their housing concerns relating to informal transactions. The research subjects within the study areas were also given the opportunity to ask questions of clarity and share their general opinions on the subject matter.

McGrath (1981) describes the process of making methodological choices as ‘dilemmatics’, in that there are no ideal solutions, only a series of compromises. There is an overlap and convergence between various research methodologies. Although each methodology has its unique primary focus, at the point of convergence they often yield positive outcomes if harmonised. Therefore, in a study of this nature, some consideration was needed to harmonise the different research strategies employed. It was a decision premised on the researcher’s belief that communities are not homogeneous and their various socio-economic practices are informed by a unique set of values and principles that, at times, are not covered

by any theoretical frameworks. Often, many economic studies theorise how low income communities behave under certain conditions. Socio-political and cultural issues are often left out. Additionally, various research methodologies do not consider issues of socio-political sensitivities that cannot be mitigated by ethical clearances and consent forms. The pre-process entailed establishing relationships of trust that would allow the researcher to enter communities and engage with respondents to provide factual responses which a process often omitted in contemporary research methodologies. As indicated above, this study embarked on the pre-process of creating relationships of trust with target communities as an important part of the methodology. The research methodology employed by this study was informed by the socio-political context and took into account the political governance of each target community.

As stated earlier, the housing context in low income communities is a highly politicised and contentious space (see for example, Gibson, 2009; Cirolia, et al., 2015). It involves a composite network of interactions between community governance structures (both political and social), civil society and administrative structures. Processes that govern these interactions are very dynamic and often do not follow a predetermined pattern. While there are existing formal processes of engagement, these are frequently overtaken by unstructured and more flexible forms of engagement which are often informal in nature. Therefore, it is imperative for a researcher or practitioner who intends to undertake a research project in this context to consider these issues. Consequently, the researcher has made scientific considerations whilst also observing social structures not often recognised by scientific methodological approaches.

5.3. Research perspective

The ontological position of this research is that the nature of demand and supply of basic services, particularly housing, in low income communities consists of complex interactions between beneficiaries and institutions. These interactions are governed by a set of rules and principles—written and unwritten. Through these interactions, new practices and patterns of behaviour are formed. Very often, they are formed as a result of rigidity of the prevailing structures of communication. New unstructured patterns of communication and practice emerge from these interactions. Based on these new patterns and practices, institutions form assumptions about the behaviour and attitudes of beneficiaries they serve and beneficiaries reciprocate this gesture by either resisting or conforming. As a result, a set of

assumptions emerge that inform the behavioural patterns and attitudes of each party involved in these interactions. In turn, beneficiaries on one hand develop their own rules and principles of practice to navigate the challenges resulting from institutional behaviour and attitudes, while institutions on the other hand develop procedures and certain behavioural attitudes towards beneficiaries as a result of the challenges emanating from these interactions. At the end, the entire process of housing delivery is about a social reality of interactions between beneficiaries and institutions and the subsequent formation of new behavioural patterns and practices.

5.4. Theoretical and epistemological consideration

This study is underpinned by constructionist grounded theory epistemology. The primary objective of this section is to highlight some key fundamentals of this theory. The reasons for selecting the constructionist version of grounded theory is because the researcher intended to do more than just understand research participants' social constructions but also to construct a research methodology throughout inquiry. This was in recognition of the complex and dynamic environment of informal housing transactions in low income communities. The researcher's awareness of the complex and dynamic nature of low income communities and the general sensitivities around informal housing transactions informed the choice of method. This sentiment is well captured by Corbin and Strauss:

The first principle [of grounded theory] pertains to change. Since phenomena are not conceived as static but as continually changing in response to prevailing conditions, an important component of the method is to build change, through process, into the method (1990, p. 5).

Due to the nature of the study as qualitative, behavioural and embedded in socially-constructed perceptions of reality (Wells, 1995) and practices, it landed itself within the scope of the constructionist grounded theory approach.

While the strategies adopted focused on balancing the simultaneous processes of data collection and analysis, the *what, how and why* questions were answered through interaction with the research environment, data, research colleagues and participants and post-fieldwork reflections. Of particular importance was answering the *why* question. With guidance from Charmaz (2008a), who asserts that the social constructionist approach to grounded theory should allow the *why* question to be addressed while the complexity of social life is preserved,

this research managed to do that. Additionally, constructionist grounded theory is said to allow researchers to attend to *what* and *how* questions by placing emphasis on abstract understandings of empirical phenomena while ensuring that this understanding is located in the studied specific circumstances of the research process (Charmaz, 2008a; Glaser & Strauss, 1967).

5.5. The research design

The primary aim of the methodology applied was to ascertain the nature, character and extent of informal housing transactions within the RDP housing sector. Various important factors were identified and interrogated. The initial consideration was the context of the RDP housing sector. The pre-emptive clause that prohibits the selling of RDP houses within the period of eight-years¹⁴ from handover informed the selection of projects to be investigated. Therefore, in selecting the projects to be investigated, project lifespan had to be considered. The study intended to assess the unintended impact of the pre-emptive clause on future housing transactions. This meant the projects selected had to predate the pre-emptive clause and also fall within the time of the clause was introduced. Case study areas therefore fall within what can be called a legislative grey area. The second factor was that a reasonable perception or evidence of property transactions, both formally and informally, had to be established. Projects that demonstrated a great deal of property exchange were selected for investigation. This was on the basis of areas the Municipality perceived as experiencing a high prevalence of informal transactions. In the initial stages, only formal property transactions could be detected, although it must be noted that there is no proof that the change of ownership identified through the city's valuation report necessarily indicated a transactional exchange. As a result, ownership change was instead investigated through a deeds search to confirm the change and ascertain when it occurred. It was envisaged that during community surveys a further investigation of whether the changes of ownerships were transactional or not would be conducted.

The low income housing sector consists of a variety of stakeholders that shape and inform its characteristics and define its context. Part of the methodological approach of this study involved the development of a stakeholder analysis map. Stakeholder analysis as a

¹⁴ The initial period of the pre-emptive clause is eight years according to the legislation. It has since changed to five years in housing policy documents, though this has not been effected in legislation.

methodological tool helps analyse the relationship between key role players in the low income housing sector and how their interactions influence informal housing transactions.

The methodology consisted of various processes and steps that were followed in answering the research question. These processes and steps were undertaken in no certain order. Most of them were undertaken concurrently as per grounded theory principles:

1. Review of secondary data from policy and legislative documents, academic articles, newspaper articles and books.
2. Pre-case study analysis and preparation. Various characteristics of the study areas were analysed against the research objectives. This included analysing the political context and existing ownership patterns based on existing secondary data.
3. Preliminary stakeholder engagement process that involved communicating with government officials, community leadership and bank officials. This was aimed at creating rapport and introducing the study. Preliminary interviews with political leadership were conducted.
4. Phased household survey using a research questionnaire administered in Quarry Heights and Waterloo.
5. Interviews with councillors, industry experts, government officials and bank officials.
6. Data analysis and presentation of findings.

5.6. Methodology

The study uses grounded theory method (GTM) as a philosophical position. There is an imperative need to close the gap between theory and research and improving social scientists' capacity to generating theory (LaRossa, 2005). GTM provided the research with a flexible tool to conduct investigation into a complex social phenomenon. The basic premise is to generate theory from data collected inductively through a series of observations and/or interviews and data analysis. It is a methodology aimed at developing theory rather than verifying existing theory (Glaser & Strauss, 1967; Charmaz, 2008a). It is also a method that attempts to dispel the fable of clean separation between the two processes of data collection and data analysis. As noted by Suddaby (2006), grounded theory is a method that involves "constant comparison," where data is collected and analysed simultaneously, and "theoretical sampling," where

decisions about what data should be collected next are determined by the theory being constructed.

While GTM is considered a flexible method and a breakaway from classical methodologies that are rigid and overly prescriptive, many have warned against the incorrect use of GTM in qualitative research. They dispel misconceptions about the use of GTM as a scapegoat for ignoring existing literature (Suddaby, 2006). For instance, there is a perception that grounded theory asks researchers to approach a research subject with a ‘clean’ mind that is not contaminated by literature. According to Charmaz (2008a), constructionists argue that GTM should not be a *tabula rasa*, instead it should recognise prior knowledge and theoretical preconceptions, and subject them to rigorous scrutiny. It is an almost impossible exercise for any researcher to approach a research subject without prior knowledge. In the context of this research, the investigator was aware of the subject in general and had an understanding of the assumptions around informal housing markets.

5.6.1. Methods

According to Bernard (2012, p. 534), the mechanics of grounded theory are deceptively simple and consist of the following process:

1. “Produce transcripts of interviews and read through a small sample of text;
2. Identify potential analytical categories - that is, potential themes - that arise;
3. As the categories emerge, pull all the data from those categories together and compare them;
4. Think about how categories are linked together;
5. Use the relations among categories to build theoretical models, constantly checking the models against the data - particularly against negative cases;
6. Present the results of the analysis using exemplars - that is, quotes from interviews that illuminate the theory.”

The above steps were modified and adapted to the needs of the study in accordance with the view held by Charmaz (2008b). The researcher added new dimensions to the study that comprised contextual analysis to include informal interactions with key stakeholders from the community and the local state. This was part of the initial process to understand the political context and socio-cultural environment in which the study was to be undertaken. The

researcher consulted members of the community who had in-depth contextual knowledge, that included- community caregivers, social workers and members of political structures such as councillors and ward committee members. This informal exercise provided an understanding of the context in the community, such as political stability, security and acceptability of external investigators. These are important preconditions for entering a community. Low income communities are generally perceived to be hostile to external investigations and are often volatile. The hostility and volatility are familiar characteristics in low income urban settlements in South Africa. Most of this has been recorded during service delivery protests that have taken place in the past ten years (Barbara, 2013; Alan & Heese, n.d.; Karamoko & Jain, 2011; Managa, 2012). Many service delivery protests have been violent and demonstrate how volatile low income communities can be. Furthermore, the researcher's personal experience as a data collector and research assistant in many service delivery projects over the years has informed his understanding of the importance of adequate stakeholder engagement as a research process.

Informal engagement with officials of the eThekweni Municipality allowed the researcher to understand general perceptions of the subject of informal transactions. Although these do not represent the position of the municipality, they are critical and inform the attitudes of officials towards beneficiary communities. The consideration is that officials have their own 'unofficial¹⁵' understanding of informal transactions that inform their attitudes and perceptions. It is the researcher's theory that these attitudes and perceptions contribute to shaping the relationship between beneficiaries and government institutions. This is based on the understanding that institutions are not only systems but a community of officials and therefore susceptible to human behavioural issues. Although policy and legislative practices and organisational systems inform institutional behaviour, human factors almost always play a significant role in the relationship between government institutions and beneficiary communities. Furthermore, these informal interactions with government officials assisted in identifying relevant key informants for the interview process. They also played an important part in informing the case study selection process, as indicated later in this chapter. Therefore, it was against this reasoning that the researcher considered informal interactions with government officials as part of the primary research process. These informal interactions were a precursor to the formal data collection process. They informed the nature of data collection

¹⁵ *Unofficial* positions refer to personal attitudes and perceptions of officials that are not bound by institutional practices, policies and legislative frameworks.

methods to be used. These methods included case study selection, semi-structured interviews, surveys, community meetings, observations and focus group discussions.

5.6.2. Interviews

Twenty six (26) in-depth interviews were conducted with key informants and eleven (11) with households using a semi-structured interviewing method. All interviews were recorded with consent from the interviewees. The recordings were transcribed and safely stored as word documents.

Key informants consisted of government officials and policymakers, political leadership, academics, banking professionals responsible for housing finance and private sector practitioners (see Annex L). Informants were selected based on their involvement in the low income housing sector. Their selection was purposive and based the researcher's knowledge of their involvement. Others were referred by other informants. In this regard, there was some degree of a snowballing process in the identification of key informants. Interview questions were designed to assess a particular aspect of the research project. For instance, interview questions for banking officials were different from those of government officials (refer to Annex A, B, C, D and E). Each interview schedule was tailor-made to assess a specific aspect of the study. Government officials dealing with policy and legislative matters were asked questions that relate to the impact of policy and the legislative framework on informal housing transactions, whereas those responsible for capacity building and information distribution were asked questions related to beneficiary education and consumer knowledge. Political leadership were asked very broad questions around process and procedure in housing allocation, policy communication and overall perceptions on the phenomenon under investigation.

The interviewing process was semi-structured to allow key interviewees to contribute to theme development. Semi-structured interviewing is seen as an efficient tool where a researcher is dealing with managers, bureaucrats, and elite members of the community—people who are accustomed to efficient use of their time (Bernard & Bernard, 2012). 'Trigger' questions were designed as part of the interview guide with the purpose of stimulating engagement that would likely culminate in a new theme being introduced. According to Bernard (2012), this type of interviewing demonstrates to the interviewee that you are fully in control of what you want from the interview process but allows both the interviewer and respondent to follow new leads. It also demonstrates preparation and competence from the side

of the researcher as opposed to trying to exercise excessive control over the respondent's responses (Bernard & Bernard, 2012). For example, interviews with banking officials involved asking them very generic questions about their thoughts on low income housing performance in the property market. Here, the research was seeking to allow interviewees to provide their diagnosis of the perceived challenge. Information already in the public domain, such as the existence of informal housing markets in RDP settlements, was utilised for such 'trigger' questions. Diagnosis and assessment of the perceived problems were done against the institutions' contribution or potential contribution in the low income housing market. The strategy was to place the interviewee and their institution at the centre of the phenomenon. In this regard, interviewees would also propose solutions based on their service or product offering. This worked particularly with the banking institutions. The researcher was careful not to allow interviewees to respond in their personal capacity but as representatives of their institution. This was mainly mitigated by referring to the interviewee via the name of the institution. For example, As '*First National Bank*', *what do you think is your role in low income housing delivery?* Additionally, the fact that all interviews were being recorded (with their consent) may have contributed to more professional responses. Although this may theoretically deter honest and critical responses, in this case, none of this was noted.

The first couple of interviews were critical as they shaped subsequent interviews. While they provided a structure and direction for the theme development process, consideration was taken so as not to influence other interviewees and thereby blocking the introduction of new themes.

The interview process with government officials was theme-specific and as mentioned earlier, focused on their areas of specialisation (see Annex D). For instance, provincial officials in the Department of Human Settlements responsible for capacity-building were asked questions specific to this aspect of housing, relating to programme assessments and problem diagnosis for example. The primary responsibility of the unit within the Department, amongst others, is to train and educate housing beneficiaries about various aspects of property ownership. Policy officials on the other hand, were asked specific trigger questions around the policy positions of their respective institutions.

In-depth interviews were conducted with eleven selected household members. These households were chosen from a sampling frame of 328 households in which household surveys

had been conducted. The eleven households were identified during the survey process. Selected households were all part of the original RDP beneficiaries who had been moved from an informal settlement nearby. It was from the survey process that a list of households which had purchased or sold their properties was compiled. Approximately four of the eleven households volunteered to be interviewed on the subject because of their experience in the informal transaction processes. Their decision to volunteer was informed by the belief that they would get clarity or help during the interview process. As a result, most of them referred to personal experiences or those of close family members. Some reflected on the experiences of close community members and neighbours. The interviewees included one woman who was an active community member involved in numerous community activities in the area, thus had intimate knowledge of the community. The households provided a detailed perspective on the issues, factors and challenges they faced transacting their properties. Many recalled how problematic the allocation process was and how, as a result, they were allocated incorrect properties that they occupy to this day. They also highlighted how certain members in the study areas had been exploited during the transaction process and how the community reacted to that exploitation.

Lastly, the hierarchy that the interview process took served as a strategic evaluation process. Commencing with private sector interviews was as an exercise meant to provide an external diagnosis of what was perceived to be happening in the low income housing market. Private institutions are ‘outsiders’ to the housing delivery process of low income housing in South Africa. Their perceptions are important for reflection, although they also have a particular interest in the housing process. They offer some important policy diagnostics and critical analysis of the current state of the housing environment. The interview process also offered an opportunity for the research to gain an understanding of factors informing the private sector’s involvement in low income housing delivery, or lack thereof.

5.6.3. Surveys

Two sets of surveys were conducted in two case study communities. The questionnaire design process was informed by the preliminary results of the interviews with key informants. Primary themes were extrapolated from the interview process in order to inform survey questionnaire design (see Annex A). This was done as part of the GTM process that entailed a simultaneous collection and analysis of data. During this process, key themes were identified. Survey questions were then developed from these themes as they emerged. The main aim of

conducting household surveys was to contrast professional and policy assumptions of professionals with the practices and perceptions of beneficiaries. Three hundred and twenty six (328) households were targeted for the survey. This consisted of one hundred and seven (107) households in Waterloo and two hundred and nineteen (219) households in Quarry Heights. The section on primary data sources provides the justification for sampling size and sampling method.

The purpose of the household surveys was to gather as quantitative information on the number of extent of informal transaction practices, knowledge and awareness, assumptions and perceptions. Household surveys were aimed at gathering quantitative data on RDP beneficiaries with purpose to triangulate this statistical data with qualitative data from key informants and institutions. Survey questions were themed and divided into sections. Each dealt with a specific theme related to the research question. For instance, the importance and value placed on title deeds by professionals and institutions as fundamental documents critical in facilitating property transactions is measured against the perceptions of beneficiaries. The survey assessed whether beneficiaries place the same level of importance and value on title deeds as do professionals and institutions. Another example is that of education and training program provided by the KwaZulu-Natal Department of Human Settlements to beneficiaries. The survey assessed beneficiaries' 'property literacy'¹⁶ to measure the impact of this program.

Furthermore, respondents' personal data was collected using the survey. The survey process was used to establish the practices and processes beneficiaries use in conducting informal transactions. It was also designed with the purpose of providing a process flow of informal housing transactions. Details on the sampling processes and motivation for selecting the case study areas is outlined in the next section.

5.7. Case study selection

Yin (1994) claims that case studies are rich, empirical descriptions of particular instances of a phenomenon typically based on a variety of data sources. This study therefore employs the case study method to explore descriptive instances of the process of informal transactions in RDP housing.

¹⁶ Property literacy is a term that refers to knowledge about what property is and how it can be transacted in a formal market.

As a starting point, both the Municipality of eThekweni and the KwaZulu-Natal Human Settlements Department were consulted about the study and its objectives. The purpose of these consultations was to garner support and seek guidance on appropriate project areas that met the study criteria. The guiding principle here was that informal housing transactions was much a concern for the state as much as it was a curious, academic subject for researchers.

The study objectives set characteristics for the nature and type of settlement that would be used as a case study. EThekweni Municipality as a study area was a natural choice due to the researcher's knowledge and familiarity with the context. The two case study areas of Waterloo and Quarry Heights were selected using the following criteria: Both were low income RDP settlements, well-located and older than eight years, and all properties were registered with the Deeds Office. This criteria was guided by the objectives of the research to investigate nature, character and extent of informal housing transactions in government-subsidised, low income housing.

The case study areas of Waterloo Ext 5 and Quarry Heights Phase 1 (see Chapter Seven) were selected using the abovementioned criteria. The former is an RDP settlement completed in 1999 (although many beneficiaries were only allocated houses between 1999 and 2001) and the latter was built in 1997. Both these areas were built and handed to beneficiaries between 1997 and 2001. Waterloo Ext 5 has an allocation process that predates the pre-emptive clause and falls within the grey area of the introduction of the clause. One is fifteen years old and the other seventeen years old. They both presented the basis for the examination and assessment of informal housing transactions as one predate the pre-emptive clause and exceed the eight-year restriction period while the other falls within the period during when the clause was introduced.

5.7.1. Motivation for selecting Waterloo as a case study

The motivation to select Waterloo Ext 5 as a subject of research was primarily due to indications that a number of properties had changed ownership. Based on information provided by both eThekweni Municipality and the KwaZulu-Natal Provincial Human Settlements Department, there are a number of properties in Waterloo Ext 5 which have changed ownership. Properties labelled in red are those which have changed ownership (refer to Map 2). The ones in green are still under the ownership of original beneficiaries according to the records of both the Municipality and Provincial Departments. In line with the argument raised

earlier, while the red properties are recorded as having changed ownership, it was unclear whether these were transactional. Both the Municipality and provincial government could not provide clarity on whether these recorded ownership changes are a result of formal transactions or part of the regularisation process conducted by the Municipality. The study could not confirm any official records of formal transactions having taken place. According to the city, regularisation is the process used to rectify ownership. The process entails visits to properties to ascertain whether current occupants were original beneficiaries. Where original beneficiaries could not be located, ownership was given to the people occupying properties at that particular time. It is a complex process the city is proposing to implement at scale.

5.7.2. Motivation for selecting Quarry Heights as a case study

According to Municipal data, Quarry Heights demonstrated a high number of RDP housing transactions (refer to Map 3). Both the provincial government of KZN and the local government of eThekweni indicated that the area would be an appropriate case study for understanding RDP informal transactions. Map 3 indicates the number of houses that have changed ownership. It is not clear whether the recorded ownership changes are as a result of monetary transactions or municipal regularisation. The data indicates that these changes have been done formally, therefore the assumption is that these are formal transactions instituted by RDP recipients.

5.8. Sampling

The study utilised theoretical sampling. Glaser (1978, p. 98) defines this as,

the process of data collection generating theory whereby the analyst jointly collects, codes, and analyses his data and decides which data to collect next and where to find them, in order to develop his theory as it emerges.

5.9. Community meetings

Two community meetings were held - one in each case study community. The primary objective was to introduce the study whilst also establishing a relationship of trust with households. The researcher took into account the sensitivity of the study resulting from a prevailing myth of illegality of housing transactions and the subsequent fear that ensues. The secondary purpose was to desensitise the research subjects, thereby paving the way for honest

participation from sampled households. It also gave assurance of anonymity and that results would not be used against the respondents under any circumstances. Although this was covered in the consent form, this was considered an insufficient tool for adequately addressing the many questions respondents usually have. It was mainly used a supplementary tool and to fulfil ethical requirements. The researcher was also of the view that consent forms do not give respondents a reasonable opportunity to read and absorb their rights and responsibilities. Often, data collectors do not have enough time to take respondents through consent forms, therefore community meetings are an adequate tool to address questions and lay a foundation for fieldwork, allowing secure mobility for fieldworkers in communities.

Community meetings were organised in collaboration with the councillors and community workers (see Annex M). They were end-products of lengthy formal and informal processes between the researcher and respective councillors. This method took into account the political context of each community and navigated the complex structures of leadership hierarchy and governance. While the local political context was an important consideration, the provincial and national political calendar was also a critical contemplation. The researcher had established that local government elections were scheduled for August 2016. Through interactions with political leadership, it was established that the ruling party—African National Congress¹⁷ (ANC) —and other political organisations were to commence their political campaign in June 2016. Based on the researcher’s observation, the norm was that during a political period, ANC representatives would conduct door-to-door campaigns in preparation for local government elections. It became clear that twelve months of research would be lost during the campaign and possibly another additional eight months for the change of leadership to take effect. Based on the researcher’s knowledge of South Africa’s political environment, it was further noted that many communities are volatile during an election period. Therefore, conducting fieldwork during this period was risky and daunting. As indicated earlier in this chapter, issues of housing delivery are highly politicised and often contentious. Hence, the research process had to take considerable precaution in its research schedule.

¹⁷ The ANC is the country’s ruling party and also in the Province of KwaZulu-Natal. Both case studies are under the political leadership of the ANC.

5.10. Focus group discussions

A sets of focus group discussions (FGDs) were conducted in Quarry Heights and Waterloo. Participants were selected randomly from beneficiary households and community leaders who had attended the community meetings. The primary purpose of using FGDs was to provide space for vigorous engagement on issues of informal housing transactions, thereby providing detailed qualitative accounts of processes and practices. It was envisaged that the FGDs would provide a platform for beneficiaries to engage comprehensively with key issues that inform their perceptions and practice.

This method was an acknowledgement that most of the prevailing assumptions and perceptions about informal housing transactions are based on the viewpoints of professionals, practitioners and institutions. Therefore, the purpose was to provide an opportunity for beneficiaries to give their detailed perspective on the practice.

According to Morgan and Spanish (1984) focus groups not only give access to certain kinds of qualitative phenomena that are poorly studied with other methods, but also represent an important tool for breaking down narrow methodological barriers. The focus of most methodologies is on interviews and surveys.

Key considerations on how to conduct successful FGDs were taken into account, including strategies such as research leadership style, structure of FGD, order of questions, setting of FGD (Rook, et al., 2007) and type of participants. The researcher served as moderator and provided leadership and guidance for the discussions. The setting in which FGDs took place provided a conducive and non-threatening environment where participants could participate freely, without fear of judgement. Like many social conversations, focus groups have a tendency to take up a certain form and individuals dominate over others. A concerted effort was put into managing group dynamics and providing direction to the discussions. The objective was to ensure that particular views and personalities did not domineer over others within a group.

FGD were recorded with the consent of all participants and notes taken by research assistants. These were transcribed as part of raw data.

5.11. Observation

Observation was also used as a method of data collection. The primary purpose for using this method was to enable the researcher to study the target group's interaction with their properties and capture the physical state of their properties in the natural context. Kawulich (2005) states that observation enables the researcher to describe existing situations using the five senses, providing a "written photograph" of the situation under study. In the context of this study, observation was used to capture aspects of the subjects which would otherwise not be captured using the questionnaire survey. These aspects included the physical state of some RDP houses within both case study areas and the attitudes of some RDP beneficiaries.

5.12. Field notes and memos

Field notes and memos are an important part of the GTM process (Corbin & Strauss, 1990, p. 5). They supplement interview transcripts and survey responses by adding observations that could otherwise not be captured by research questions. In this research study, field notes captured observations and informal conversation with community members, as well as additional comments and questions respondents had during interviews.

Research assistants conducting surveys also produced field notes and observations. At the end of each fieldwork day, research assistants presented their field notes to the researcher and short discussions were held at the end of each day to discuss events and progress. At the end of fieldwork process, each research assistant produced a summary of their field notes.

The researcher produced memos that were developed during and immediately after interviews and in the course of the data analysis process. These contained the researcher's reflections on each interview and highlighted key issues raised by each interviewee. They served to remind the researcher of interesting debates and discussions, highlight trends, theorise about various statements from interviewees, and compare and contrast concepts developing from the interview process. During the data analysis process, the memos helped capture ideas and emerging themes from transcripts. They also linked emerging themes and ideas to literature.

5.13. Research sponging

‘Research sponging¹⁸’ is a process of data extraction from research assistants and data collectors. According to GTM, the researcher is embedded into the research. Therefore, if the researcher is embedded in the research process his or her research assistants and fieldworkers are an extension of the researcher. They absorb information by being part of the research process. They also bring with them perceptions and attitudes that shape the data collection process and thus the nature of the data collected.

A research sponging process was conducted in the form of an in-depth FGD with all fieldworkers and research assistants. This was in addition to the briefing sessions held at the end of each fieldwork day, and aimed to get the research team’s overall perceptions about the data collection process and the study itself.

5.14. Secondary data sources

There is a significant body of international literature that places informal housing transactions in low income housing at the centre of academic research and discourse. This literature was reviewed to place the study within this discourse and understand international dynamics in the sector. The literature focused on contemporary debates around informality in low income housing markets. The review highlighted how the South African low income housing market has been influenced by international precedence. Literature specific to the South African low income housing environment was also reviewed to understand prevailing debates on informal housing markets and explore the key dynamics that inform this market. While the primary objective was for the researcher to immerse himself in contemporary academic debates around the subject of informal housing markets in government-subsidised low income housing, it was also an important exercise for exploring gaps in existing literature. Additionally, there is an immense body of scholarly literature that provides conceptual and theoretical frameworks that inform our understanding of informal housing markets. This literature is explored to place the study within conceptual and theoretical underpinnings. A number of scholars have written widely about informal housing markets. The literature review

¹⁸ This is the author’s term referring to the process of collecting data from research assistants and fieldworkers about the study. Often research assistants and fieldworkers absorb responses beyond what the research tools are capable of doing. They are therefore an important part of the data collection process and are embedded in the process.

reveals a wide-ranging debate on the legality and illegality of informality in housing. These were considered particularly critical debates for the study as they provided a conceptual foundation for understanding informal housing markets.

Furthermore, low income housing delivery in South Africa is underpinned by a fundamental policy and legislative framework. The current policy and legislative framework is a result of a post-apartheid negotiated policy process that culminated in the predominantly neoliberal approach mixed with socialist principles. The HWP (1994) set the tone for this mixed delivery approach, which was predominantly market-oriented. At its onset, it was envisaged that low income housing would be delivered through market mechanisms, while the state role would be limited to that of supporter as part of the localised market enablement debate proposed by the World Bank. While this changed drastically over the period of implementation, the market sentiments persevered. The ideals of the housing ladder were upheld and later strengthened in the BNG's asset development epitomes of 2004. Above this, the housing legislation played a significant part in providing a legal context under which low income houses were viewed and treated. The pre-emptive clause that prohibits any transactions in government-subsidised, low income houses before a period of eight-years is particularly significant for this research. Although policy shifts have occurred that begin to conceptual RDP housing as an asset, the transactions prohibition has not been removed. The impact of the lack of legal clarity for beneficiaries is explored.

Therefore, the housing policy and legislative framework was explored to guide understandings of the government-subsidised, low income housing sector. The review follows a thread that begins to emerge from the HWP to the BNG with regards to the role of RDP housing in the broader economic space. In this thread, a significant shift from housing as shelter to housing as human settlement is observed. This is informed by international consensus that housing is more than just 'shelter' but an integrated housing product that encapsulates economic, social and environmental aspects. This shift indicates a swing from housing as humanitarian product to housing as an economic asset within a broader context of sustainable human settlements. These trends are in line with the international literature of the World Bank and the UN.

Political sentiments condemning the selling of RDP houses have been widely reported in local newspapers. A review of newspaper articles has demonstrated that these sentiments, as

much as they are political statements, reinforces the perceptions of ‘illegality’ of the practice. As a result, informal transactions in RDP housing are considered illegal and most beneficiaries are sceptical to openly talk about their participation. Therefore, a review of newspaper articles provided a political context in which the informal housing transactions are perceived and practiced. The review explores articles of the past three years with an objective to understand the context that informs informal transactions in RDP housing.

Banking institutions are critical stakeholders in the South African housing market. As bond originators and credit providers, they offer access to a range of housing finance options such as personal loans, mortgages and home improvement finance. Their role in the low income housing sector is complex and informed by a historical relationship with low income settlements and townships. It is important to note that key assumptions in the housing policy and the delivery approach adopted were based on an envisaged active participation of banking institutions in the housing delivery process. Consequently, banking institutions were identified as key informants in the study of informal housing markets in government-subsidised housing. Therefore, a review of the legislative framework guiding their practice and participation in the housing sector was imperative. These include, but were not limited to, the National Credit Act (NCA), the Financial Sector Charter and the Code of Banking Practice.

5.15. Data analysis

The data analysis process was undertaken during the data collection. Coding was used as a primary tool for analysing the data. A set of themes were coded from the data transcripts. The key characteristic of grounded theory is identifying themes in the text and coding texts for the presence or absence of those themes. Free-flowing text from interview transcripts was coded and subsequently turned into a set of nominal variables.

The researcher used inductive coding as a tool to ensuring he was grounded in the data. Close reading of the data allowed the understanding of various aspects of the research to emerge. Inductive coding allowed for the departure from prescriptive data analysis tools, which are often limiting.

Descriptive theme frequencies

Descriptive theme frequency is a process of isolating descriptive narratives and themes from raw data. From field notes, memos and interview transcripts, a colony of descriptive themes emerged. Each theme addressed a particular aspect of the study. The frequency was measured by how many times key informants mentioned a particular theme in their interviews. If one key informant mentions a theme more than once, it is only counted once. For instance, it was found that policy contradiction was mentioned more than fifteen times during the interview process. Therefore policy contradiction has a higher frequency.

Once these descriptive themes were isolated, areas of convergence in terms of their descriptive elements were identified. For example, policy contradiction and policy limitation have similar descriptive elements. Therefore they were merged into one theme.

Each theme covers a specific aspect of the study that has a significant contribution towards meeting the study objectives. Subsequently, these themes form part of the analysis process that provides the narrative of how challenges identified by a particular theme contributed or impacted on extent, nature and character of informal transactions in RDP housing sector.

5.16. Research limitations

While research methodologies require that a researcher identifies limitations and their mitigation in the process, they negate the impact this manoeuvring has on research findings. Researchers play a significant part in shaping the research process through the design of research tools and how those tools are implemented. Additional research assistants and fieldworkers further complicate interactions with communities. Cultural and political sensitivities in research designs present a critical limitation. Without prior understanding of these aspects of the research context, the study is likely to be limited.

It must be acknowledged that communities play a significant role in shaping the nature of research findings. Their political, economic and social fragility contributes to how they receive outsiders in general and researchers in particular. The state of South African communities, in the main, demands a high level of political, social and cultural sensitivity from

the side of the researcher. Their collective memory as a social institution influences how they react to being researched. This insight is based on personal communication with a colleague who described the challenges accessing a particular community in eThekweni, where the community indicated they were not willing to participate in the research because they felt they had been ‘inspected from all angles and all this research had not changed their situation’. For many years, this community had been the subject of numerous research projects and pilot interventions, which came in more frequently than actual changes as far as their situation was concerned. As a result, they had ‘research fatigue’. Way (2013) and Clark (2008) engage with the concept of research fatigue and the over-researching of subjects. Clark defines research fatigue as occurring,

when individuals and groups become tired of engaging with research and it can be identified by a demonstration of reluctance toward continuing engagement with an existing project, or a refusal to engage with any further research (2008, p. 956).

Many communities have been waiting for service delivery for a long time since transition to democratic dispensation. Their collective feeling is that either politicians use them for gurning political votes leading up to elections or researchers use them as data ‘mines’.

6. Chapter Six: Context of state of housing in low-income settlements in eThekweni Municipality

6.1. Setting the context

eThekweni Municipality is the third largest metropolitan in South Africa with a population of approximately 3.5 million inhabitants (Census, 2011). It is located within the province of KwaZulu-Natal on the eastern seaboard (see Map 1). The Municipality covers a total land mass of approximately 2,297 km². Like most post-apartheid cities in South Africa, Durban continuously grapples with various social, economic, environmental and governance challenges. Its economically and culturally diverse society does not make the task of meeting the needs of its population any easier. Making matters more complex, is the Municipality’s segregated character and economic inequalities reflected in its spatial geography. The majority

of eThekweni residents are located in townships, informal settlements, peri-urban and rural areas.

6.2. Bankability of RDP housing in context

In accepting that RDP houses are a tradeable asset, another conundrum of their bankability in the South African context emerges. The fact that their bankability is a subject of debate indicates deeper challenges between banking institutions and the low income housing sector. The historical context of South Africa indicates a reluctance of the banking industry to actively participate in the low income sector in general. This is despite numerous attempts by the state to ease the relationship between banks and low income sector. This has resulted in a number of non-binding agreements (see Figure 1) between the state and the banking sector. Despite these, banks have arguably not been open enough to the low income sector.

Various studies (see for example, Varley, 2002; Durand-Lasserve, 2006; Cousins, 2007; Marx & Rubin, 2007; Marx & Royston, 2007) indicate that while RDP houses have financial value and thus are financially tradeable, banks have been reluctant to take them as collateral or mortgage them in general due to a number of factors (Lemanski, 2011). Other studies indicate banks are reluctant to provide loans to low income homeowners and other low income groups in general on the basis of their properties serving as collateral (Gilbert, 2002; Kingwill, et al., 2006). Although this reluctance is not explicitly directed to low income people, the lending criteria used by banks excludes them. The risk averse nature of banks prohibits any creativity that may facilitate lending to low income people. Kingwill, et al., (2006) state that banks do not lend to the poor because of the high risk of non-payment, low value of their assets, and relatively high transaction costs (Cousins, et al., 2005; UN-Habitat, 2011). The risk is not one-sided however. Low income people also understand the risk of using their properties as collateral (Mitchell, 2004; Royston, 2006; Rust, 2011) and are often conservative thus reluctant to use their only asset as security.

There are various other factors that contribute to the banks' unwillingness to take RDP houses as collateral. The physical quality of RDP houses, location and community stability are three factors that contribute to the banks' lack of appreciation of these houses as collateralisable

assets, and it is well documented that the majority of RDP houses are of poor structural quality (see Bond & Tait, 1997; Zunguzane, et al., 2013).

There is a realisation in the literature that lack of access to formal credit through banks has forced the poor to depend largely on informal credit mechanisms. Previous studies have found that many low income people rely heavily on savings clubs, family and friends and micro-finance as sources of housing finance (Bouman, 1989; Varley, 2002; Kingwill, et al., 2006; Garg & Pandey, 2007; Lemanski, 2011). This vibrant practice by the poor has been overlooked in literature as the focus on more formal credit institutions has been preferred (Mitlin, 2007). The lack of attention afforded the processes the poor engage in to access housing finance has contributed to a lack of literature on low income borrowers. It must also be noted however, that the poor are very reluctant to collateralise their asset (Mitchell, 2004; Kingwill, et al., 2006; Lemanski, 2011; Marx & Rubin, 2007; Marx & Royson, 2007; Royston, 2006; DID, 2014). They understand the risks of foreclosures of loans that may likely result in them losing their only asset (Cousins, et al., 2005).

6.3. The state of housing in eThekweni Municipality

According to the Municipal IDP¹⁹ 2016/17, informal settlements contributed 28% of the total 945,910 dwellings in eThekweni (see Table 4). This translates to 265,542 dwellings and is an indication of the dire housing situation in the Municipality. The housing backlog is estimated at 450,000 (IOL, 2015). It is further projected that it would take the city another forty years to eradicate the housing backlog at the current construction rate of 9000 houses per year (IOL, 2015).

¹⁹ Intergrated Development Plan (IDP) is a budget-linked five-year plan which is a legislative requirement for local government to compile in determining the development needs of the municipality.

Table 3: Number and type of dwelling -based on dwelling count from 2014 Aerial photography, eThekweni Municipality, Human Settlements and Infrastructure Cluster (Source: eThekweni IDP 2016/17)

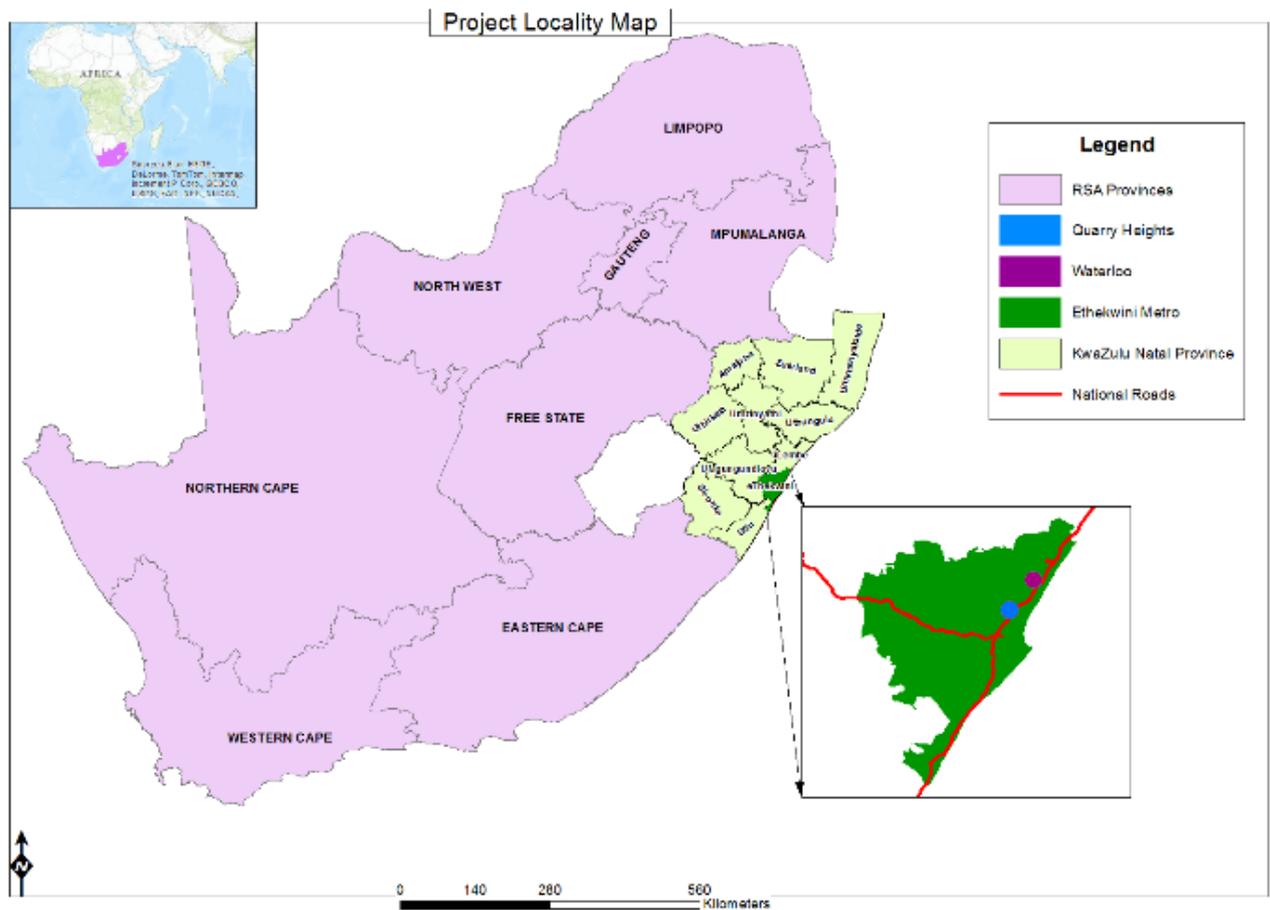
Type	Sub type	Dwellings
Formal	Houses	414,357
Flats	110,225	
Subtotal	524,582	
Informal	Single Dwelling ("Shack")	265,542
Backyard	48,975	
Formal informal (formal dwellings in informal areas)	3,096	
Subtotal	317,613	
Rural	Cluster ('Umuzi')	70,317
Single dwelling	26,949	
Formal informal (Formal dwellings in rural areas)	6,449	
Subtotal	103,715	
Total	945,910	

Despite the current backlog, the Municipality's housing delivery history in the past ten years has been impressive in comparison to other Municipalities (see Table 5). For instance, the Municipality delivered over 90,000 houses from 2004 to 2015 and 2500 housing units were planned for rural areas, as well as 15,000 units currently being delivered through the Cornubia housing development. The Cornubia housing project is a joint venture between the Municipality and private sector institutions. It is believed to be the largest sustainable human settlements project in KwaZulu-Natal (eThekweni, 2015). The project cost is estimated at R25 billion. The project indicates the Municipality's attempt to combat its housing backlog.

Table 4: EThekwini housing delivery history from 2004 until 2015 (Source: EThekwini)

Houses constructed since 2004/5	
Year	No. per annum
2004\5	15 172
2005\6	11 552
2006\7	16 253
2007\8	18 149
2008\9	16 515
2009\10	9 387
2010\11	4 752
2011\12	3 389
2012\13	4 181
2013\14	6 823
2014\15	5 450

Map 1: Study Locality_eThekwini Municipality (Source: Author)



Unlike many RDP settlements, both case studies are well-located and in proximity to transport and economic infrastructure. Waterloo is about 30km from Durban's central business district (CBD) while Quarry Heights is about 15km away (see map 1).

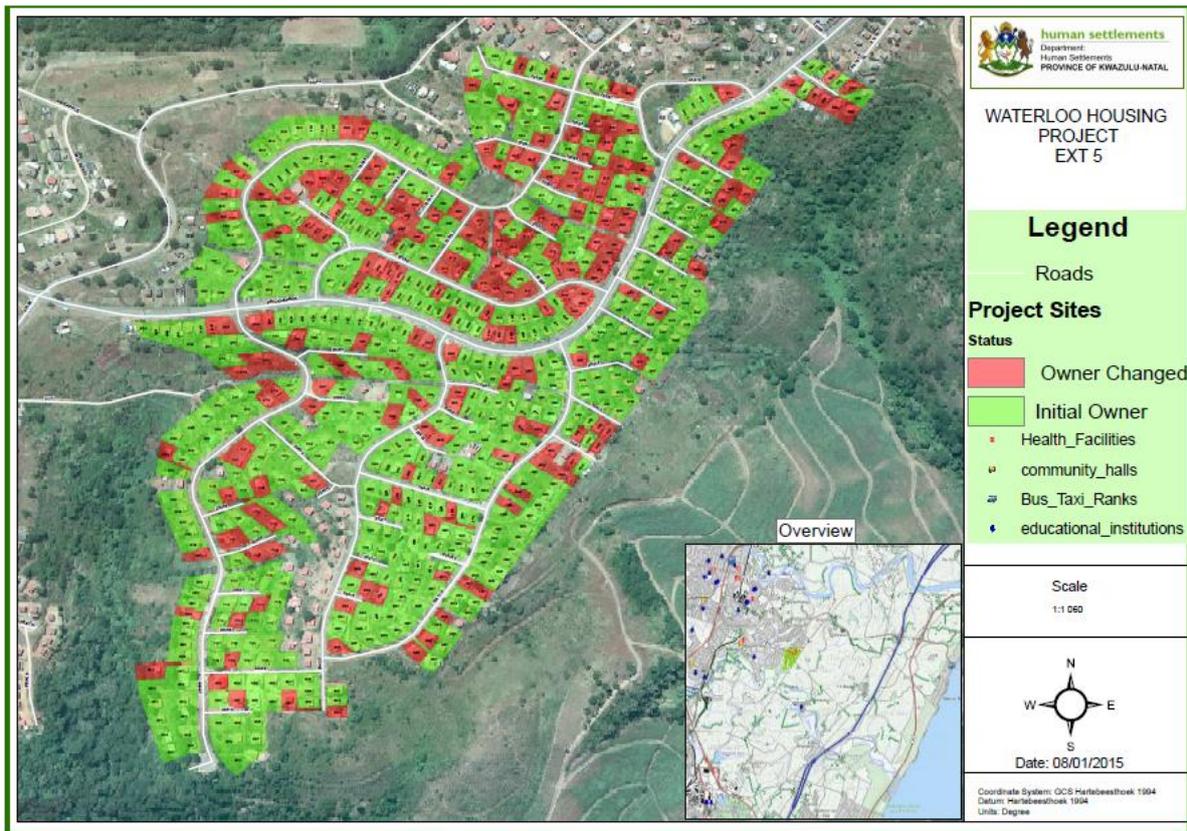
An interesting trend in both case studies was the high rate of recorded ownership change (see maps 2 and 3 in Chapter Seven). Due to this fact, the Municipality assumed there was a possibility of informal transactions taking place. It is for this reason that both the eThekweni Municipality and KwaZulu-Natal Provincial Human Settlements Department suggested the two case studies.

eThekweni Municipality is an administrative and political boundary within which the city of Durban is located. Durban CBD serves as the main landmark and focal point of the Municipality. Very often, eThekweni and Durban are used interchangeably as if they refer to one specific geographical area. It is important to make a distinction between the two. Durban is the city defined by its CBD but with abstract boundaries, while eThekweni Municipality consists of clearly demarcated administrative and political boundaries. The demarcation process of the post-apartheid government saw the old Unicity of Durban expanded to incorporate various other smaller municipalities and rural communities. The current Municipality of eThekweni is the resultant geographical representation of the demarcation process.

6.4. Waterloo Ext 5

Waterloo Ext 5 is situated approximately 30km north of Durban and less than 10km from King Shaka International Airport. It is one part of a larger low income urban settlement predominated by RDP housing settlements. Waterloo as whole was built over a number of year in a phased approach. It predates the establishment of eThekweni Municipality. Waterloo Ext 5 was constructed between the period of 2000 and 2002 with initial beneficiaries taking occupation of their RDP houses between 2002 and 2003. Other phases of the settlement are still being constructed. A block of flats was completed during the time of data collection and were not officially allocated. A number of attempts to illegally occupy these flats were observed during fieldwork.

Map 2: Owner change map_Waterloo Ext 5



Socio-economic background

Stats SA data indicated low levels of unemployment in the area, close to 16.5%, which is the Municipal figure. More households have at least one person employed and generating an income. An average household income in Waterloo was more or less at the same level as that of the Municipality, which is between R20,000 and R40,000 (Census, 2011). Employment comes from various sectors, namely private, public, social and informal sectors. Sector distribution is also similar to that of the Municipality. A sense of economic vibrancy was observed as spaza shops and informal businesses thrive on almost every street corner. The area has a number of business activities, both formal and informal (field observation).

The level of education is also higher compared to Quarry Heights Ext 5. According to Stats SA data, most households have at least one person with a matric qualification²⁰.

²⁰ This refers to a final year of high school which grants learners entrance to tertiary institution (i.e. university)

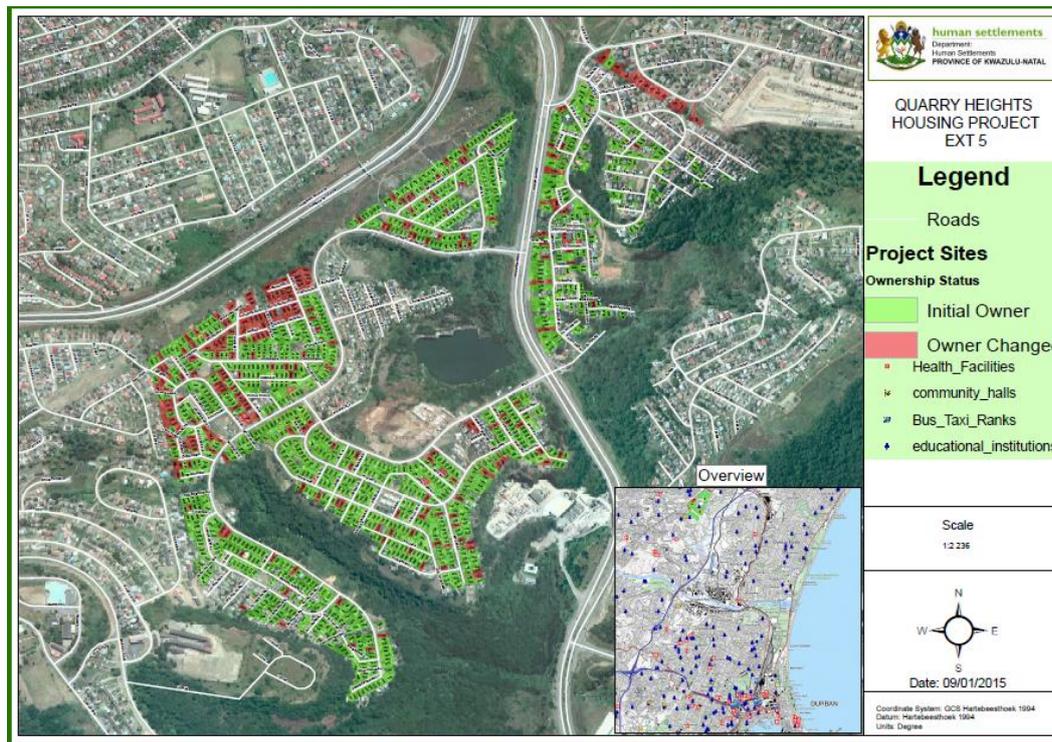
6.5. Quarry Heights Ext 5

Quarry Heights Ext 5 is part of a larger low income settlement. It is located approximately 15km north-west of Durban CBD. It sits adjacent to the N2 North highway connecting Durban to the northern part of KwaZulu-Natal province and the neighbouring countries of Swaziland and Mozambique. Like Waterloo, Quarry Heights consists of various phases built over a period of approximately ten years. The initial building process commenced around 1998. The allocation process followed over several years, post-project completion. Beneficiaries took occupation of their houses in phases.

More significantly, the project was conceptualised and implemented prior to the Municipal boundary demarcation in 2000. The demarcation process saw an expansion of smaller adjacent municipalities into a larger eThekweni metropolitan. This process was guided by the Municipal Demarcation Act No. 27 of 1998²¹. In the post-demarcation period, the newly established eThekweni Unicity adopted many housing projects initiated under previous local governance structures. Much of the allocation process occurred under the previous municipal authority. The process of incorporating old housing projects into the new municipal governance meant that allocation challenges will be inherited into the new dispensation, as seen in Quarry Heights. Most of the allocation challenges are attributed to this change.

²¹ A Local government Act aimed at providing for criteria and procedures for the determination of municipal boundaries by an independent authority; and to provide for matters connected thereto.

Map 3: Owner change map_Quarry Heights Phase 5 (Source: KZN Dept. of Human Settlements)



Socio-economic background

According to the 2015 Stats SA data, Quarry Heights is characterised by high rates of unemployment, low household incomes and low levels of education. Unemployment levels sit at approximately 37%, equivalent to the national average (see Table 5).

Table 5: Official employment status in Quarry Heights (Source: Stats SA, 2015)

Official employment status	
Employed	3412
Unemployed	2294
Discouraged work-seeker	425
Other, not economically active	1916
Age, less than 15 years	-
Not applicable	3270
Total	11316

Those who are employed are predominantly employed in the informal sector as domestic workers and temporary labourers. As a result, their income levels are inconsistent and irregular. Some form of semi-formal employment is provided by the quarry mining factory adjacent to the settlement. Many young people in the community either work or have worked at the factory on an *ad hoc* basis. The Riverhorse Valley Industrial Park, which is approximately 7km from the settlement, also provides employment for this community. There are some pockets of formally-employed individuals in the community. The majority of formal employment comes from the public sector, such as teaching, municipal and local government public service employment.

Table 6: Type of sector of employment in Quarry Heights (Source: StatsSA, 2015)

Type of sector	
In the formal sector	2815
In the informal sector	393
Private household	183
Do not know	32
Unspecified	-
Not applicable	7893
Total	11316

The dominant source of household income is government social grants. The majority of households researched were headed by elderly people on government pensions. Their incomes were supplemented by social grants they claimed for their grandchildren.

Subsequently, levels of housing investments were low and there was a visible sense of poverty in the area. Based on the households visited, very few had improved on their properties. Many, if not most, of the houses were still in their original state and no improvements had been done; some were not even plastered and painted.

7. Chapter Seven: Perspectives on informal housing transactions from above: State actors, practitioners and academics

7.1. Introduction

In order to respond adequately to the research questions and fulfil the research objectives, the study looked at two sides of the housing spectrum, which are not necessarily opposing but hold different perspectives of the informal housing transaction phenomenon. Key stakeholders from the official and professional sectors were identified as government officials, industry experts, academics and local politicians. RDP housing beneficiaries residing within the two study communities were identified as community stakeholders representing social voices and perspectives on the subject of informal housing transactions.

Therefore, the presentation of these research findings will be done in two chapters. The first presents the official perspective and learned opinion on the dynamics of informal housing transactions. Each set of key informants provides a very specific subset of their understanding of what informs informal transaction practices. They reflect on their position in this phenomenon and thus provide a retrospective view of their role in the practice and understanding of informal housing transactions.

Findings of the community survey present a practical perspective from beneficiaries on informal housing transactions—their perceptions, understanding of legislative and policy frameworks and practices. They provide an in-depth understanding of the dynamics of informal transactions in RDP houses based on their experiences and lived realities.

7.2. Perceptions of the local state on informal transactions

The state's perception on informal transactions is important as it impacts on policy interventions. Findings indicate that the state perceives informal transactions as predominantly negative and suspicious. The claim is that informal transactions are illegal and are an attempt to intentionally defraud the state (respondent BM²²). For instance, respondents from the

²² Interview with senior Municipal official (BM) conducted on 16/02/15.

Municipality strongly believe that there is a ‘criminal syndicate’ operating within eThekweni Municipality targeting RDP properties. This criminal syndicate is believed to be targeting desperate RDP beneficiaries, particularly the elderly, and persuading them to sell their houses (respondent BM). It is claimed that this criminal syndicate purchases houses at a very low cost and resell at inflated rates. A senior Municipal official reiterated that the Municipality is dealing with a number of cases where this criminal behaviour was suspected:

We have picked that [...] the scam has grown bigger and more sophisticated. [...] We have got a couple of cases that we are investigating where there are estate agencies [involved in the process] [...] If they are registered or not it’s something that we have to establish, but it’s people that are established as estate agencies and their specializing market is low income housing. [...] People are being deceived now it is not an issue of a person realizing that I am sitting here now and I need to move, they are being promoted to actually release their houses for people that probably will not even qualify for that house (respondent BM).

Furthermore, there was a claim that RDP houses are appearing in auctions around eThekweni area (respondents BM, RP). This claim is based on personal observations by the respondent who had visited various auctions around the Municipality. Respondent BM indicated that they had followed up on the auctioned houses and noticed that they were part of the “municipal housing assets”. According to respondent BM, there is currently a criminal investigation being conducted by the Municipality into the existence of the a criminal syndicate targeting RDP houses. Although the case is ongoing, the Municipality is convinced that this criminal syndicate does exist. The state’s claim is also informed by an observation that there are a number of unregistered estate agents that operate in eThekweni. This observation is confirmed by the findings of this study. However, the findings reveal a different view from that of the state with regards to the role of these unregistered estate agents and agencies. It was discovered that their operations are informal, but not necessarily illegal. The processes and activities of these unregistered agencies is discussed in detail in Chapter Ten. Furthermore, the research found that the role of councillors as political representatives for their communities and their role as local state representative is blurry. Although much closer to their communities, councillors shared the similar views and perceptions as Municipal officials that there are people with criminal intentions who persuade desperate RDP housing beneficiaries to sell their houses. Councillors from both case study areas insisted that informal transactions are illegal and that those who are involved in the practice should be prosecuted.

Respondents BS²³, RP²⁴ and M&K²⁵ argued that informal transactions are a function of poverty:

[...] People are poor and their needs are more than what they have. Eventually they look at this asset and say ‘maybe I can get money here’ and then they begin selling their houses even though they do not have other forms of alternative accommodation and then that leads to them going back to informal settlements which is not the government’s objective (respondent BS).

Although there is no proof that beneficiaries who sell their houses do return to informal settlements, the state and local leadership insist that this is the case. State respondents believe that increasing backlog and proliferation of informal settlements is an indication that beneficiaries who had sold their houses do return to informal settlements.

Furthermore, the state viewed beneficiaries who transact their RDP houses as ‘desperate and somewhat naïve’. Respondent MN argued that potential buyers target unemployed owners because they know they are desperate and vulnerable:

A buyer would come maybe with R20 000 and a person without a job thinks that the amount is more than enough and agrees to the offer. People who buy houses mostly choose the ones without jobs to gain property at a much cheaper value than market price.

Respondent MN further claimed that:

[...] More than 15% of people put up their RDP houses for sale or rent them out. Most of our African people are not responsible; when they are given houses they cannot keep them, only a few keep their houses.

It is important to note that the 15% figure was purely speculative and is not supported by any empirical evidence. However it demonstrates the state’s attitude and discomfort with informal transactions. This is discussed in detail in Chapter Ten.

Informal transactions are viewed as illegal by state respondents:

We say illegal because people are selling these houses before they have the rightful form of tenure. As you know that amongst other things there is a massive backlog in the issuing of

²³ Interview with Provincial Government official conducted 15/02/15.

²⁴ Interview with Provincial MEC conducted 12/06/15.

²⁵ Interview with two senior FNB officials responsible for affordable housing conducted telephonically 25/02/15.

tenure or finalization of title deeds to the people that have been given those houses (respondent BM).

Some state respondents and councillors view informal transactions as immoral. For instance, respondent MN contended that:

[...] It is illegal because the government spends tax payers' money building houses for the poor and they decide to sell those houses, which is like betrayal to the government, as the money spent building those houses might have been spent in other important things for the country; like building more schools and creating job opportunities.

The state respondents also indicated that informal transactions are a result of poorly targeted provision of low income houses.

I think we have to take a fresh look at who are we giving the houses to. Because I honestly believe that a 60 year old lady who has got two grand kids without a mother will not sell that house. [...] They have got no reason to (respondent BM).

The state claimed that due to this perceived deficiency in qualifying criteria, beneficiaries have higher propensity to sell their houses. The assumption was that those who end up receiving houses from the state are undeserving and as a result do not value their assets. This sentiment is also shared at national government level and in 2014 it was articulated by Ms Lindiwe Sisulu, Minister of Human Settlement's statements:

Anybody below the age of 40 will need to understand that they are not our priority unless they are special needs or are heads of child-headed households. Our intention in giving free houses was to right the wrongs of the past and make sure that we can give our people dignity. And that group of people is not the people below the age of 40 (SAPA, 2014).

It appears that there is some degree of admission from the state that the manner in which low income housing provision has been conducted has not been adequately targeted and therefore cannot be sustained.

Regarding the perceived extent of informal transactions in eThekweni Municipality, respondent MB²⁶ indicated that these may be overstated. They noted that a couple of years prior, the city conducted a survey in Quarry Heights to ascertain whether original beneficiaries were still occupying their houses in order to issue them with title deeds. According to the

²⁶ Interview with senior housing official of eThekweni Municipality conducted 17/02/15.

respondent MB, the developer could not get hold of at least 130 beneficiaries. When an in-depth investigation was conducted, it was discovered that occupants of the properties were either family members or relatives of original beneficiaries. In the end, only a handful admitted to having purchased the houses. Based on this, respondent MB was of the opinion that there is not sufficient evidence to suggest that informal transactions are a phenomenon; rather a sporadic occurrence. He argued that instead inheritance and exchanges between family members are more prevalent. These assertions are supported by empirical evidence found by this research and are discussed in detail in the interpretative section of Chapter Nine. In Chapter Nine the research, in support of this point of view, advances the argument that the current practice in eThekweni indicates social transactions rather than market transactions.

To briefly conclude this section, state sentiments suggest that RDP beneficiaries are naïve and incapable of making informed decisions about the property bestowed on them by the state. The state seem to perceive beneficiaries as gullible and desperate, thus easy prey for criminal syndicates. This perspective dismisses the existence of systematic informal transaction processes within the RDP housing sector. It takes away the agency of RDP beneficiaries as citizens capable of making their own, informed decisions about their housing assets. Such a perspective is oblivious to factors that influence informal processes which RDP beneficiaries engage in when transacting their RDP properties, such as socio-economic pressures. The state's dismissive behaviour and attitude towards informal processes of the poor is not particularly new, but rather recurring. It shows little awareness and lack of acceptance of the factors that inform socio-economic behaviour of RDP beneficiaries. Seemingly the state's attitude indicates an overly negative conceptualisation of informality within the housing sector.

7.3. Policy and legislative inadequacies as contributing to informal transactions

Empirical evidence suggests that there is a policy conundrum that contributes to beneficiaries transacting their RDP houses informally. State and academic respondents agreed that the current policy construct impacts how beneficiaries interact with their houses. There is some degree of acknowledgement from the state that policy and legislation impacts how RDP beneficiaries hold and transact their properties. An introspective view is that there are policy weaknesses that have contributed to the entire housing value chain resulting in the proliferation

of informal transaction practices. The state also acknowledges that there are significant contradictions in both policy and legislation that makes it difficult for beneficiaries to know what to do with their RDP houses. Each of these factors is discussed in the following subsections.

Policy weakness as a factor

Policy weakness is cited as a key factor contributing to the current manner in which RDP beneficiaries deal with their properties. The state admitted that initial policy implementation processes are weak and as a result contribute to delays in issuing title deeds and the misallocation of some properties. Title deed backlog has been cited as a contributing factor to beneficiaries choosing to transact informally. Findings indicate that policy weaknesses have contributed to various aspects of housing challenge. Respondents pointed out a number of these weaknesses as having contributed to the factors discussed on the following subsections.

The root cause of title deeds backlog

It was noted that “there is a significant time lag between allocation of RDP houses and issuing of title deeds” (respondent RP), which is an outcome of the perceived policy weakness in the allocation process. This time lag has subsequently culminated into what has been termed a ‘title deeds backlog’. The indication is that this time lag is a result of policy weaknesses at implementation level. For instance, respondent RP highlighted that the manner in which the payment system and milestones were designed for RDP housing projects contributed to the title deeds backlog. According to respondent RP, the lodgement of deeds of transfer was the responsibility of the constructor appointed to implement a project. The lodgement process itself was attached to the final payment referred to as ‘P5’. This payment phase had an insignificant disbursement amount and constructors could afford not to claim for it. As a result, many constructors did not lodge deeds of transfer with the Deeds Office.

Implementing agents took that as a serious issue, so they inevitably were happy to ignore that and move on to their next project because there was not enough money for them in completing that phase of things (respondent RP).

As a result, many projects were left open and beneficiaries left without title deeds. Many housing beneficiaries allocated houses built between 1994 and 2004 still do not have title deeds (respondent RP).

Furthermore, it was highlighted that the majority of constructors appointed by government to build RDP housing at the time were relatively new and inexperienced (respondents BM, RP, SC and MR). While this had a major impact on the lack of physical quality, as demonstrated by many studies (see for instance, Adebayo, 2010; Zunguzane, et al., 2013; Parliament, 2014) it also contributed to the time lag between allocation and issuing of title deeds. It was recently reported that the National Department of Human Settlements set aside a R1.3 billion budget to rectify all poorly-built RDP houses between 1994 and 2004 (Parliament, 2014). There is an admission from the state that these challenges are unintended consequences of government's attempt to meet the multiple objectives of the housing delivery process. These being the utilisation of the housing delivery process to empower Black²⁷ construction companies and thereby creating economic opportunities (respondent RP). According to respondent RP, while this is acknowledged as a policy weakness, government feels that it is a moral obligation for every state policy to balance empowerment ideals with delivery objectives.

Allocation process as a policy weakness

Allocation of RDP houses to beneficiaries is also identified as a key policy weakness that contributed to distortions in the property registration system. It is a process fraught with administrative inadequacies and corruption (respondents RP, BM and MR). According to respondents RP and MR, the policy is unclear on the allocation process, hence the lack of a systematic and structured allocation process. The housing allocation process is said to be too broad and hence open to abuse (respondents RP, MR and SC). According to respondent RP, it also lacks checks and balances and as a result is susceptible to abuse.

State respondents declared that they are aware of the numerous allegations of corruption and lack of fairness in the allocation process. While the state respondents acknowledged that there are officials involved in corrupt allocation activities, they also claimed that allegations against councillors for taking bribes for houses and allocating houses to their friends and family members are disconcerting (respondents BM and RP). In the South African context, councillors are important stakeholders in the housing delivery process (respondent BM). Their role in the

²⁷ Black is an acceptable term used to refer to people of African origin in South Africa who were excluded from participating in economic activities under the apartheid government. Black construction companies therefore refer to companies owned by this previously disadvantaged group of South Africans.

allocation process is critical primarily because of the politicised nature of housing delivery (respondent MR). It is claimed that there is a toxic link between the re-election process and housing delivery (respondent MR), with councillors distorting the housing allocation process to benefit themselves politically (respondents MR, BM, MB and RP).

The challenge of allocation is compounded by the complex and inadequate waiting list system (respondents MR and MB). While local government has its own waiting list, it acknowledged that this list often gets distorted by officials responsible for the allocation process, constructors and councillors (respondents RP and BM). The highly politicised nature of waiting list compilation compounds the challenge for the state (respondent BM). It is a general assumption that there are ‘two’ housing waiting lists—the political waiting list compiled by councillors and the administrative waiting list compiled as per the beneficiary system (respondents MB and BM). The assumption is that the interface between these two waiting list leads to misallocations and a subsequently distorts beneficiary registration system.

Findings from the community surveys indicate that there are beneficiaries who had been allocated a different house to that in the ‘happy letter’²⁸. Other beneficiaries claimed they had not initially been allocated a house but a councillor allocated them a house at a later stage. The survey could not ascertain the nature of the relationship between these beneficiaries and the councillor. In other instances, a beneficiary had found out that another person had moved into the house allocated to them, and to rectify that, the councillor re-allocated them another house. Subsequently, when title deeds were eventually provided, they had the ‘incorrect’ details.

According to state responses, there is currently no policy reaction to this allocation problem. However ad-hoc measures are being undertaken at Municipal level to respond to this challenge. For instance, respondent BM indicated that eThekweni Municipality has attempted to be proactive by implementing what they refer to as ‘regularisation’:

What we have done is that we have taken samples; I think Quarry Heights was amongst them and some phases in Waterloo I don’t know which phase you are looking at. So we have said we need to do a door to door survey and check who is in this house, you find a lot of responses because people do not tell same stories. Someone would say the owner is in the farm and you come back 2 months later they are still in the farm, the council took a decision to say for us to be able to roll out title deeds and not to be held because we are still responsible for those houses we still pay insurance for all the houses that are not registered the insurance is still in our name

²⁸ An initial letter giving permission for a beneficiary to occupy their allocated house.

if anything happens it's still our stock our assets. So we have to release these assets from the burden of the city so we regularize, we go and take the names that are there but again it's subject to them qualifying in line with the criteria. We take people that are already in the houses because if we have got a title deed that has a name on it and we go to the house and find someone else then that means you probably had an informal transaction with that person.

Policy interpretation

There was a consensus from both state and non-state respondents that housing policy is always open to multiple interpretations. The nature of policy as a high-level document demands that efforts are made to refine and simplify it for consumption by the general public and particularly housing beneficiaries. There was a general sentiment that the state at all levels did little to achieve this. It was claimed that, more often than not, political structures at community level, such as Ward Committees, are often left with the responsibility of interpreting policy for its constituency. Therefore, councillors and Ward Committees in this context are seen as the main agents of policy interpretation and dissemination. Their responsibility is to cascade policy messages down to their constituencies at the community level. According to respondent MR, they are often minimally trained on policy interpretation and communication. As a result, they interpret policy based on their understanding of what a particular policy entails which appears to not be often accurate.

Results from surveys and interviews with councillors indicate that councillors have their own interpretation of policy and legislation relating to housing that is contrary to actual policy prescripts. For instance, the pre-emptive clause that prohibits beneficiaries from selling their RDP houses before the period of eight years seemed to be inadequately interpreted. Respondent MN noted, "as government we are totally against selling of RDP houses". In this interpretation, key exceptions are omitted. There was no mention of the eight-year period, which is the key exclusion in the clause. The pre-emptive clause makes exclusions in instances where the state is given the right of refusal. There are dangerous consequences resulting from this limited interpretation of the pre-emptive clause. It was noted that many beneficiaries, as a result of this, consider transacting their properties to be perpetually illegal. Important to note is that the two case study areas both predate the pre-emptive clause as they were built before 2001, yet the claim of illegality on the basis of this prohibition clause are still applicable. However, it is also important to note that allocation took place between 2001 and 2002- this means the allocation process does fall within what can be called a policy grey area. Beneficiaries allocated housing during 2002 are affected by the limitations of the pre-emptive

clause. Councillors from both communities claimed that selling RDP houses, whether formally or informally, is an ‘illegal and irresponsible’ practice on the part of the beneficiaries. According to respondent MN,

[...] most of our people are irresponsible. They sell their houses immediately after receiving them. They do this without any alternative accommodation. Their children are bound to suffer again.

Such sentiments are widespread and reflective of a rather hostile attitude towards informal housing transactions, contrary to what the policy and legislation stipulates. EThekwini Mayor Councillor James Nxumalo in 2012 reiterated these sentiments:

While we are trying to end informal settlements we have people on the side moving out of the houses that we provide them with and making business out of it by renting them out, while others sell them for a far less amount than the actual value (Ezasegagasini - eThekwini Newsletter, 2012, p. 3).

Such statements seem to reflect the state’s general sentiments towards informal transactions and its general discomfort. The impact of such sentiments is that they hinder any future development of a sub-property market for RDP houses. Instead they build an illegality stigma around transacting RDP houses. This leads to a contradiction in terms of the broader ideals of RDP housing acting as a catalyst for economic development through their asset value, as envisaged by the BNG. Responded RP reiterated this point:

[...] you must remember there is another contradiction because beyond the 8 year period you actually want people to move up the social ladder. Your social objective must be like anywhere else in the world.

Local government respondent BM agreed that the manner in which policy is communicated is inadequate. She indicated that eThekwini Municipality used to hold structured workshops and information sessions to educate RDP beneficiaries about what it means to have an ‘RDP asset’ and the privileges associated with owning an asset in general. She further noted that these structures have since broken down, “There is a serious lack of stakeholder management, engagement and communication” (respondent BM). This is a contributing factor to the challenge of policy misinterpretation at the community level. This aspect of policy misinterpretation is influenced by RDP beneficiaries’ lack of access to adequate information. As will be discussed in later sections, it appears there is an information

gap between government and RDP beneficiaries. In their limited way, councillors have attempted to close this gap.

Another aspect alluded to is that the policy message itself is unclear and confusing. The state's message on what it wants to achieve through housing provision is distorted. As a result, the state transmits mixed messages, which are at best confusing and at worst contradictory. Respondent MR reiterated:

[...] I am not sure that even the state knows what a policy message is. I do not think that they are clear in their own mind around what a house is or how it should be used. I think on the one hand their high modernist ideas around order and around efficiency and around markets and on the other hand housing is there to redress and housing is there for economic development and housing is there as a way of getting votes and there is everything in between. I think they are just confused [...].

Non-state actors seem to agree that the state is not articulating its objectives clearly around RDP housing assets. They claimed that it is stuck between 'welfarist attitudes and capitalist ideals' of what a house is. They stated that on the one hand, the state wants RDP beneficiaries to be grateful for their houses and keep them as socio-cultural assets. On the other hand, the state wants beneficiaries to utilise their houses as assets for accessing bank loans and eventually use them to enter the property residential market. It appears therefore, that the state has not harmonised its ideas around what should be done with RDP housing stock. It also raises questions as to whether the state has a right or obligation to determine what happens with these assets, considering that RDP beneficiaries are owners of these properties. In a conventional capitalist environment, property ownership means that an individual has a right to determine how they utilise their assets. The nature of private property is such that a property owner has an exclusive right to the exclusion of others. The state's attitude is therefore contradictory to the system of property rights as a method of assigning to particular individuals the authority to select, for specific goods, any use from an unprohibited class of uses (Eggertsson, 1990).

Policy and legislative contradiction

The 2004 BNG policy, as part of its new housing vision, set a government commitment:

Ensuring property can be accessed by all as an asset for wealth creation and empowerment' and 'supporting the functioning of the entire single residential property market to reduce duality within the sector by breaking the barriers between the first economy residential property boom and the second economy slump.

Despite these commitments set by government, the civil prohibition on the selling of RDP houses before the expiry of a period of eight years is contradictory. According to government, the pre-emptive clause was aimed at achieving the objectives of 1) preventing abuse of state resources; and 2) protecting vulnerable RDP beneficiaries (respondent RP). There is an argument that the pre-emptive clause has instead achieved the opposite.

According to respondent MR, to have both the pre-emptive clause and the idea of using a house as an asset is contradictory and confusing. The contention here is that the pre-emptive clause hinders any upwards social mobility of RDP beneficiaries by placing a restriction on when they can transact their assets (respondent RP). As noted,

[...] you must remember there is another contradiction because beyond the 8 year period you actually want people to move up the social ladder. Your social objective must be like anywhere else in the world. [...] So surely it should be a good thing to say if it happens like that to say look now my two children are working [...] and I just got a job or a promotion I can afford to move to a better place or better area. You would want people like that to move up and sell their properties in a normal and natural way. [...] A person starts out small and as they progress they move to better areas therefore selling their houses. And if a person can do it within 8 years there is nothing wrong about that. And you want to develop the market as a whole where these houses actually become part of the housing market which is important in the economic sphere (respondent RP).

There is a sharp critique of this perspective from academic actors, too:

I think you give somebody an asset in the value of expecting them to be able to sell and to be able to rent it out or you expect them to put a hold onto it. The housing policy itself is contradictory it seems to be [...] there is this idea that housing is a right and housing should be provided by the state, but on the other hand there is also [...] and I am sure you have heard this that people should be grateful for what is being provided for them and then they should not sell it. Well which one is it? Either people can do what they want with what they have been given or you doing them a favour. You cannot be doing both (respondent MR²⁹).

The pre-emptive clause is seen as a hindrance that contradicts what government says it wants to achieve. State ambitions are contradictory and thus cause confusion for beneficiaries and other housing stakeholders. Charlton (2009) reiterates this contradiction between state ambitions and beneficiary practices. This contradiction also reflects misalignment of state ambitions with neoliberal ideals of private property ownership. Instead it suggests the state's hangover with welfarist-neoliberalist confusion, as articulated by Bond (2003) and Adebayo (2010).

²⁹ Interview with a senior academic from the University of Witwatersrand (SA) conducted 27/05/15.

Respondent SC³⁰ asserted that there is a contradiction in the way the housing policy deals with the pre-emptive clause and the notion of the house and land as capable of performing as a financial asset in the future. That kind of expectation is there from the early policy documents (respondent SC). The pre-emptive clause is then introduced as a mechanism to deal with what is perceived to be a sort of problem (respondent SC). There is this dual face of the state on the paternalistic side, wanting to protect by saying to people:

I do not think you are responsible enough to make a decision to sell your property now, it is not in your best interest. I need to protect you from yourself by stopping you from selling it [...]. Thereafter, yes we want you to perform in the property market etc., it is a contradiction against both and I think it is reflecting different facades of the desire of the state and the state's perception of what its own role is in people's lives (respondent SC).

Lack of policy direction

Both local and provincial government respondents indicated a lack of policy direction with regards to how RDP housing transactions should be dealt with. The contradictions discussed above are an indication of this lack of policy direction. The state shares a sentiment that the banking sector is not actively participating in the RDP housing sector as envisaged. The banking sector raise a counter-argument that the state does not provide adequate policy direction as to the role of RDP housing in the market. Respondent MR argued that:

It seems like we have gone too far ahead of ourselves to expect the banks to provide financial products to support the low income property market while the policy does not clarify what role it wants banks to play.

The sentiments from banks is that this lack of policy direction is confusing for the lending market. According to one bank respondent NN, “the pre-emptive clause and the lack of policy direction sends wrong signals to banking institutions”. This point is further reiterated by one state respondent:

[...] we always point fingers at the banks maybe there is something we need to do as government to create that safety net for the banks to actually participate in this beyond what they are currently doing (respondent BM).

³⁰ Interview with senior academic from University of Witwatersrand (SA) conducted 27/05/15.

There are other issues raised by the banks that contribute to their reluctance to participate in this sector. These are discussed in the section on access to housing finance and include risk factors associated with the socio-economic dynamics of the poor and general consumer fundamentals.

There is a strong sentiment that in relation to the role of RDP housing in the sub-property market, the policy is unclear on how it envisages this to happen. Aside from the grand ideas of housing as an asset which the poor can leverage to access loans from banks (an assertion debated by other non-government respondents), there is no clear plan to ensure that the poor use their assets to climb the social ladder.

The deeds process as state-sanctioned choice of property transaction

According to the Department of Human Settlement's *Strategic and Annual Plan* (2016), title deeds backlog is estimated to be approximately 900,000. The state has set itself a target to clear this backlog by 2020 (Steyn, 2016). Backlogs in issuing title deeds have undermined the state's objectives of providing ownership to low income beneficiaries. The backlog is attributed to shortcomings in the deeds process. What was unclear before the commencement of this study was the location of the backlog within government. It was widely believed in some circles that it sat at the Deeds Office. The responses from the Deeds Office have provided clarity as to the nature and location of the backlog. In light of the estimated backlog and the fact that more than 50% of beneficiaries in both Quarry Heights and Waterloo did not have title deeds, it was imperative to investigate the mystery around title deeds in RDP housing (see the process in Figure 3). As indicated earlier, lodgement of deeds of transfers was the responsibility of constructors, municipalities and provincial governments. According to the Deeds Office, title deeds backlog can be attributed to the abovementioned stakeholders not following due process or adhering adequately to processes at implementation level:

What we do, we wait for either municipality or maybe provincial government to lodge the relevant documents with the deeds registry. [...] So if they themselves have not started the process there is no way that there would be titles to those RDP houses. Because the process should be started by them, remember they are the ones who own the land and know how these developments take place (respondent DO).

As discussed in earlier sections, the title deeds backlog can also be attributed to the initial implementation process where contractors did not close the projects. As explained earlier, this

is related to the deeds of transfer lodgement being attached to an insignificant final payment structure.

According to KwaZulu-Natal Department of Human Settlements, there are attempts to rectify this challenge by internalising the conveyancing process to accelerate the transfers of deeds to beneficiaries. The target is to complete 6000 transfers in the 2015/16 financial year (respondent RP). Respondent PR lambasted the significant inefficiencies that exists when state attorneys are tasked with the transferring of deeds. As a result, the function has since been retained by the Department of Human Settlements. However, according to respondent RP, the Department reported facing challenges regarding the cost of conveyancing, which is estimated to be R6500 per transfer. The Department was engaging with conveyancers to charge at least R1000 per transfer. The hope is that conveyancers would be enticed by volumes to take up the project even at lower rates. While this process is ongoing, the key challenge seem to be related to those properties that have already been transacted informally without title deeds. According to the Deeds Office, to rectify the situation where a single house has been transferred informally several times would require a court process as per section 33 of the Deeds Registry Act 37 of 1937 or a ministerial intervention between the two Ministers of the Departments of Human Settlements and Rural Development and Land Reform (respondent DO).

Furthermore, the deeds process has been criticised for being overly rigid (respondent MB and MR) and extremely eurocentric. This argument is advanced in light of the context of KwaZulu-Natal, where there is a complex intersection between customary land tenure practices and Western forms of land tenure systems. The assertion is that land practices in KwaZulu-Natal are predominantly traditional, hence processes of land allocation and administration are largely driven by traditional practices. Traditional systems of land allocation and ownership are based on a set of rules and principles that are accessible to everyone involved in the land process. Above all, traditional land allocation systems have localised solutions for dispute resolutions and are responsive to the needs of local communities. It is argued that under traditional systems, there are minimal boundary disputes between neighbours (respondent RP). In unusual circumstances where these disputes arise, there are internal systems that deal with such disputes harmoniously and decisively. Of course, the disadvantage with traditional systems of land allocation and communal ownership is that the concept of private property is not applicable. As a result, there are challenges utilising land or housing built under the jurisdiction of traditional systems to leverage economic development objectives.

The current deeds process is accused of being embedded in highly legalistic and inaccessible practices that are challenging for low income people (respondents MR, MB and SC). It is a process tied to Western notions of property allocation and transfer whose sole pinnacle is a title deed whose importance has been challenged, at least for RDP housing beneficiaries, as being exaggerated (respondent MR). The link between the notion of title deeds and economic evolution is informed by what von Benda-Beckmann, et al. (2006) argue is an outcome of private property models that purport to be universal but are in fact largely based on Western legal categories. The most important of these being the notion of private individual ownership, often regarded as the apex of legal and economic evolution as well as a precondition for efficient market economies (von Benda-Beckmann, et al., 2006).

Deeds registration is argued as consisting of composite stakeholder arrangements that are costly and often inaccessible. According to respondent DO, the Deeds Office deals with the public through an intermediary recorder which is the conveyancer. The conveyancer is responsible for lodging the deeds of transfer documents with the Deeds Office. It is a service they render at cost. A member of the public is unable to approach the Deeds Office directly to lodge the deeds of transfer. It has been argued, from non-state sectors, that the cost of this service is a deterrent for low income people, hence they opt to transact informally. The counterarguments by the Deeds Office are that the conveyancing process and associated costs are minimal and guided by regulation 84 of Deeds Registry Act of 1037. This Act stipulates that for properties below R750, 000, there are no duties payable by the purchaser. However, if there is an estate agent involved, they would charge approximately 7.5% of the purchase price under the Estate Agency Act 112 of 1976. The conveyancer would charge approximately 1.5% of the purchase price. There is no regulation that guides how much the conveyancer should charge. The registration fee chargeable by the Deeds Office is approximately R70. According to the Deeds Office respondents, these amounts are small and should be affordable. This demonstrates the complex nature of the deeds process for low income people. It is a lengthy and costly process, contrary to the arguments by the Deeds Office that the amounts payable are minimal and insignificant. The economic realities of low income people is that an amount of R70 can be relatively high. In totality, the costs of transacting formally are high in terms of accessibility, time and money.

What these arguments raise are deep-seated misunderstandings of the socio-economic dynamics of the poor by government institutions. At the same time, it challenges the notion that government, in general, understands the economic fundamentals of the poor. It further demonstrates that calls for formalisation of the poor's informal processes is blind to the potential negative impacts. According to one academic respondent MR, "state intervention lacks the sensitivity and compassion to understand informal dynamics of the poor's practices". More broadly, these aspects further demonstrate how misplaced De Soto's claims were that formalisation would change the fortunes of the poor. These findings demonstrate that formalisation processes have a negative impact on the poor as much as they have perceived long-term positive impacts.

7.4. The value the state puts on title deeds

Respondent MR referred to the overemphasised value of title deeds as a 'de Soto hangover'. According to respondent MR, the Peruvian's ideals that giving title to the poor would suddenly lift them out of poverty by making their assets active and thus enable the poor to use them as collateral in accessing credit are mostly misplaced. These neoliberal ideals are mostly informed by De Soto and the World Bank, as indicated in the literature review. Criticism of these ideals are well-documented (see Bond & Tait, 1997; Bond, 2003). The data confirms these already-known critiques of De Soto's ideas and their contribution to current policy contradictions.

Respondents MR and SC were critical of the misconceptions of the benefits of title deeds. They argued that this misconception is driven by inaccurate assumptions that on the basis of having a title deed, housing beneficiaries could leverage their houses as an asset. It is a view they dismissed as unfounded and nonsensical, "the idea that somehow without a title deed you are missing out on grand scheme of being able to leverage money is nonsense" (respondent MR). This debate is expanded upon in the 'RDP Housing Asset' section of the analysis. Findings from community surveys indicate that while beneficiaries view title deeds as important, they do not necessarily understand or relate this value to economic benefits. Based on these findings, it does not seem that beneficiaries make a link between having a title deed and being able to access finance or leverage their assets. It can therefore be argued that title deed value attribution and the link to economic benefits is a creation of both practitioners

and the state. At a practical level, beneficiaries do not seem to attribute similar value to title deeds.

Another respondent contended that much of the fixation with the idea of formally recognised land registration mechanisms is informed by South Africa's historical context of dispossession under apartheid (see Lalloo, 1999). While there was recognition of peoples' claim to land, there was also very specific legal dispossession of land. Taking into account this history, one can understand the desire by the state to reverse the status quo through utilisation of the land registry mechanism, which tries to empower people with property ownership. According to respondent SC,

[t]here is no doubt that property ownership in the South African context is an incredibly powerful tool that is being used by the elite to reshape society in a way they want it to be.

The influence of De Soto's powerful message cannot be discounted. It has contributed significantly in the adoption of this land registry-driven property ownership agenda.

On the contrary, the state attributes very high value on title deeds. According to respondent BS,

[w]e do train them and say look this document [title deed] is a very important document. It is a document that gives evidence that you are the owner; it is ownership documents keep it in a very safe place. This document is of value to you [...] you can actually go to the bank and borrow money with this document and the bank will lend you money based on the NCA whether you qualify or not. And also when you die this document can be passed on to your children, so it is a very valuable document [...] [P]eople should actually recognize it.

This resonates very strongly with the sentiments of the state and that of De Soto. However, it is a sentiment disputed by various scholars (see Varley, 2002; Rust, 2004; Cousins, et al., 2005; (Kingwill, et al., 2006) and the non-state respondents interviewed. They find this ideal problematic as it is based on an assumption that title deeds support collateralisation of properties, that banks are willing to lend to the poor, and the poor themselves are willing to collateralise their only asset. Literature indicates that is not necessarily true (Smets, 2003; Royston, 2006; Kingwill, et al., 2006). Tenure regularisation does not always support collateralisation and the climb up the housing ladder. It also does not activate appetite for banks to lend to the poor. More importantly, the poor themselves are not prepared to risk their only asset in the case of repossession (Kingwill, et al., 2006; Lemanski, 2011). Findings of this

research also indicate a similar trend with regards to beneficiaries' unwillingness to risk their only asset.

7.5. Capacity-building and consumer education

Informal transactions in RDP housing have been attributed to a perceived lack of consumer education and beneficiary knowledge about various aspects of housing and related transaction practices. This perspective is particularly held by provincial and local governments. Banking institutions also reiterated that consumer literacy played a significant role in determining whether RDP beneficiaries are able to participate meaningfully in property transactions. It seems that RDP beneficiaries do not have access to adequate information that allows them to make sense of the economic world around them (Callon, 1998). As a result, RDP beneficiaries cannot be expected to have the calculative agency to participate in the market. Given the lack of access to information they would also be unlikely to engage on contracts about prices.

Government acknowledges that RDP housing beneficiaries are a large section of the population that has never owned a house in their lives. As a result, being suddenly bestowed with a house is overwhelming and requires state intervention to build capacity and consumer education. Government respondents recognise that, while in theory the policy suggests consumer education should be provided to RDP housing beneficiaries, very limited budget is set aside for this function during implementation. According to respondent BS, there is some level of social facilitation, which in itself is inadequate. It is also distinctly different to capacity-building and consumer education. Rather, social facilitation is part of stakeholder engagement during implementation that includes potential beneficiaries and the general community where the project is being implemented. Capacity-building and consumer education should ideally be targeted to RDP housing beneficiaries at the post-occupation stage. Based on the information from the Municipality and the provincial Department, this has not been the case. Due to the nature of government's response to the housing need, delivery at scale has taken priority over the depth aspect. It is under these circumstances that the width versus depth aspect of housing provision takes centre stage. As highlighted in the literature, the width aspect of housing provision prioritises quantity, while the depth aspect prioritises socio-economic improvements resulting from housing provision.

Both eThekweni Municipality and the KwaZulu-Natal Department of Human Settlements reported that they had conducted capacity-building and consumer education programs. However, they admitted that these are inadequately designed and under-resourced, thus the quality of information provided is insufficient. The number of beneficiaries allocated RDP houses per year made it impossible for government to reach all of them during the first few years of occupation. The other challenge is that local and provincial governments' housing performance is measured on quantity and not necessarily long-term socio-economic impact. As a result, aspects such as consumer training are neglected.

Moreover, local government respondents BM and MB criticised the broken structures of communication between the Municipality and communities. A serious lack of stakeholder management, engagement and communication was cited as a contributing factor to the failure to provide capacity-building and consumer education. State respondents argued that there is an information gap between government and RDP beneficiaries. This is attributed to the change in structures of communication from very intimate Development Committees to very detached and highly politicised Ward Committees. Development committees were not based on political representation, whereas Ward Committees are political structures with political interests. Additionally, wards, particularly in eThekweni Municipality, are too large and hence do not allow for intimate representation and engagement.

According to state respondents BS and MB, consumer education programs conducted by the Municipality and provincial Department focuses on empowering beneficiaries with human settlements information such as policy, housing processes and implementation. They do not include property education and financial literacy. Frequency of training is irregular hence the impact is low. The respondents also added that consumer education programs are inadequately designed and targeted, as stated earlier, and therefore have high propensity to fail.

A comparison between state-provided consumer training and that provided by the banking industry was conducted. There is a sharp contrast in the quality of consumer education offered by banking institutions to that offered by government. Banks consider providing consumer education essential to their risk mitigation strategy. They also view consumer training as an obligatory responsibility of the banks (respondents NN, JL, TP and M&K). They invest in consumer education to enable them to make informed product choices. Out of the four

interviewed banks, one has an advanced consumer program. They focus more on property fundamentals, home ownership, budgeting, payment of bills and basic financial management. This focus differs completely to that of the state. The state's consumer training seems more like a policy information session rather than consumer training. The state program concentrates on providing information on what beneficiaries are allowed or not allowed to do with their RDP properties. Key information regarding property consumption is lacking. As a result, beneficiaries do not have adequate information to make informed decisions about market participation.

One banking respondent lambasted the fact that financial literacy was taught too late to most Black South Africans, arguing that there is a significant consumer education deficit. Deficiencies such as a lack of savings culture are attributed to inadequate consumer education (respondent NN). This seems to point to the link between housing and economic fundamentals, as argued by banking respondents. The role of housing in the economy as presumed by the state requires investment in consumer education and targeted upliftment of economic fundamentals of low income people (respondent NN and MR).

There is contrary argument to the lack of education as a contributing factor to RDP beneficiaries engaging in informal transactions. Respondent MR, counter-argues that “[t]he narrative on lack of education assumes that the poor engage in informality because they are ignorant about the official system”. They advance the argument that irrespective of whether the poor have knowledge about formal processes, they are unlikely to apply it in their circumstances. It is a practical mismatch that even with education is unlikely to appeal to their dynamics (respondent MR). However, respondent SC supports the view by the state that lack of information and inadequate consumer education is a primary cause of people transacting informally. While lack of knowledge may contribute to a limited degree to people transacting informally, there are larger forces at play. Respondent SC notes that some people may have knowledge and a sense of how the formal process works, but are deterred by the costs associated with transacting through the formal route. They contend that there is a whole set of permutations on why people choose to transact informally. For instance, some people may lack knowledge while others may have knowledge but choose not to explore the formal process; opting for an easier process that is more convenient. There is an assertion that time and costs are key factors determining whether people transact formally or informally. Respondent SC argues that some people may not see benefit of transacting formally thus opt not to. This

instance does not seem to be congruent with Demsetz's (1967) theory of property rights where property rights development is meant to internalise externalities thus ensuring that gains of internalisation become greater than the cost of internalisation. Instead, cost of internalisation are greater than the gains of internalisation in terms of time and money. Of course long-term gains may be higher if the market develops and private property ownership is contextualised.

Finally, the arguments presented by the data seem to indicate that while consumer education and capacity-building are important empowerment tools for RDP beneficiaries, they are not necessarily a solution to the phenomenon of informal transactions. There is an indication that, with or without consumer education, RDP beneficiaries are likely to opt for informal transactions due to various push and pull factors relating to their socio-economic circumstances. What comes out clearly is the state's lack of understanding of the poor's informal practices and what informs them.

7.6. RDP housing asset

[...] [T]his is a myth and this drives me crazy. RDP units are not leverageable in the first place (respondent MR).

The idea of RDP housing as an asset is much contested and brings forth interesting debates around policy ideals that seem to position RDP houses within the asset framework. The debate seems to be framed by the state in terms of RPD houses as collateral for leveraging bank loans and being traded in the property market. This view is dismissed as based on unfounded and inaccurate assumptions that they are resalable: "Banks are already sitting with a significant number of properties that they are struggling to sell. Why then would they take properties that are complex, if not impossible, to repossess?" (respondent MR). The argument being advanced against the view that RDP houses are an economic or financial asset is that the poor tend to be very conservative and hence unlikely to borrow against their only property (Durand-Lasserve, 2006; Lemanski, 2011).

The idea of RDP housing as an asset is attributed to international discourse introduced by De Soto (respondent MR). One respondent criticised how South African housing policy tended to adopt what she referred to as 'undigested' international ideas and implement them without adapting them to the local context. Respondent MR in particular, insists that the

housing asset debate has been found to be a myth and not applicable in the South African context.

Academic respondents (MR and SC) argue against the assertion that RDP housing is a catalyst for low income people to climb the housing ladder. Ideals of the housing ladder are based on assumptions that the poor actually want to move up the housing ladder. It negates the fact that the poor often have very low incomes that are unable to facilitate the ‘mythical climb’ up the property ladder (respondent MR). Lemanski (2011) argues that the gap between the bottom rung and the next rung of the property ladder is too big for RDP housing beneficiaries. Instead of aiming for the ladder, “[t]he poor people should be given freedoms to utilize their houses in ways that are supportive of their livelihoods. They must be allowed to make their own choices” (respondent MR). This argument is in line with Turner’s (1967; 1976) debate on housing as what it does rather than what it is. Notably, and beyond this argument, the anthropological role of housing is ill-considered by this view of the housing ladder. Therefore, the argument being advanced here is that the asset debate needs to be nuanced and aligned to the socio-economic fundamentals of the poor instead of being an idealistic objective adapted from grand international discourses.

The perspective from state respondent RP was that government should strive for the ‘social ladder’ instead of the property ladder. The argument is that climbing the social ladder covers the depth aspects of housing instead of only the economic aspects. Using the concept of social asset acknowledges that not every low income person has desires to climb the property ladder. This argument dispels the myth of the property ladder as a desirable outcome of the housing process. Respondent RP further argued that the property ladder is a complex process that demands a certain level of consumer attitude backed by healthy economic standing. Additionally, climbing the property ladder for low income people requires them to participate in a formal property market. The formal market, it has been argued, is saturated with barriers to entry for the poor. Therefore, the neoliberal view of housing as an asset is challenged by the empirical data. Callon (1998) argues that for economic agents to engage in property contracts and make informed decisions about prices, they need to have access to adequate information and have calculative agency. Climbing the property ladder requires some level of calculative agency from economic actors.

7.7. Appreciation of the housing asset by beneficiaries

There is a prevailing perception that RDP beneficiaries sell their houses informally because they do not fully appreciate their asset value. There are contrasting views to this argument. One respondent argued that this lack of appreciation is a function of poverty and that informal transactions should be seen as an outcome of poverty rather than a lack of appreciation (respondent RP). The contrary argument is that beneficiaries actually do appreciate their RDP houses but more as a social asset which they use to facilitate their livelihoods in a variety of creative ways within an informal setting (respondent MR).

The perception that RDP beneficiaries do not appreciate their asset is perhaps informed by what Charlton (2008) refers to as a conflict between state ambitions and beneficiary practices. While the state sees value in RDP properties as an economic asset that can be collateralised for bank loans, beneficiaries engage with their assets as a means to facilitate a variety of their livelihoods. According to Lemanski (2011), RDP beneficiaries highly value their homes as social and symbolic assets that represent the end of problematic tenure in the city. The manner in which they engage with their properties is contrary to what the state expects, hence the discomfort (respondents SC and MR). Respondent MR argues that the state lacks the sensitivity and understanding of the poor's practices. Instead it is uncomfortable with the idea of not being in control of what is happening in the RDP housing sector, hence the concern with informal practices (respondent MR).

Previous studies (see Charlton, 2003; Royston, 2006; Marx & Royson, 2007; Lemanski, 2011) indicate that RDP beneficiaries do appreciate their properties. They demonstrate their appreciation for their properties in various ways often unrecognised by the state. It appears that the state often insinuates that appreciation can be measured by whether or not beneficiaries hold on to their properties. If a beneficiary sells or rents out their house, this is perceived by the state as indicative of a lack of appreciation. Therefore, those who hold on to their properties are considered to be more appreciative. This negates various pressures the poor succumb to in attempts to sustain their livelihoods. The state's measure of appreciation seems ignorant of the poor's precarious economic and social conditions. These conditions mean the poor do not have a choice of location but rather are dictated to by their circumstances (respondents MR and SC).

7.8. Bank lending and access to housing finance—conflicting views from the state and the banks

There is a general feeling that banks have been reluctant to lend downmarket but have merely paid ‘lip service’ without any action (respondent RP). This is despite a long history of negotiations between the state and the banking industry to reach an agreement that would see banking institutions participate actively and meaningfully in the low income housing process (see Chapter Three). Amid these negotiations, there is still a feeling that banks have not fully applied themselves to the low income housing sector (respondents MR and RP). On the one hand, the state believes that banks have not committed themselves to participating in the low income housing market. On the other hand, the banks argue that lending downmarket is risky, particularly in the current economic climate where household incomes are extremely low and unemployment is rife (respondent NN). These opposing views are made complex by the well-documented negative historical relationship between banks and the poor in South Africa. As a result, banks have high risk aversion attitudes towards low income people (respondents MR and SC).

The only form of finance banks are comfortable making available under current circumstances is low risk finance products such as personal loans (respondent NN). This is echoed by respondent DM:

I think the risk factor is more related to if the bank wants to do a mortgage product where they take a bond over the property but in reality a lot of people getting involved in those transactions get personal loans from the bank they do not get a mortgage.

They do not offer mortgage finance for RDP housing for a variety of reasons, including what they refer to as ‘non-improving consumer fundamentals’ and general issues around unemployment (respondents NN, M&K, TP and JL).

The state sees the role of banking institutions as critical to ensuring that RDP housing assets contribute to economic upliftment for beneficiaries. They argue that banks are too rigid in their lending attitudes and practices (respondents BM and RP). As a result, they disadvantage the poor, thus making it difficult for them to access housing finance.

While banks do agree that there is still a sense of ‘risk hangover’ perceptions, they also claim that there are valid reasons for their reluctance to offer mortgage finance to RDP beneficiaries. These reasons, as mentioned earlier, include consumer fundamentals that have not improved, and rising unemployment that reduces access to disposable incomes. The general sentiment from the banks is that the entire economic environment is unstable and therefore makes banks very uncomfortable with downmarket lending. Meagre household incomes indicate that households do not have access to the disposable income sufficient for servicing bank loans (respondent NN). They also argue that housing, at least in the low income sector, competes with a variety of basic amenities. High debt levels are also considered a risk factor by the banks:

When we talk about the debt levels, I mean in South Africa we are sitting at about 70% closely going towards 80% debt ratio that doesn’t help when we are trying to rock up the mountain (respondent NN).

Therefore, the entire market economics of the poor are affected by the economic performance of the country (respondent M&K). Additionally, banks point out that there is a need to stabilise the unstable property environment. They perceive the volatile economic and political situation in RDP settlements as a big concern. The current situation makes foreclosure processes difficult and therefore risky for banks to engage with in this market segment, reiterated respondent NN. According to respondent MR,

[...] because the banks are sitting with whole lot of properties anywhere, we have had a decline in the property market on a regular basis. So if you speak to the big banks they have a lot of properties that they are battling to sell right now and then you want them to take on the risk of a whole lot of other properties which are even less saleable. Because the only reason you would be able to use them as collateral is because the bank is able to resale them and get their money back and if you cannot do that the whole system breaks down. So the bank is not willing to take risks on properties that it sees ([...] to a large degree) as unsalable (and in some cases not in all cases the properties are unsalable).

Moreover,

[b]anks at the minute are extremely conservatively lending. They are not lending to broke people that is a general rule. They are doing a small personal loan that is really where they are sitting at right now. The second thing is poor people do not want to leverage their one asset because poor people tend to be extremely conservative around using their assets that they could potentially lose (respondent MR).

According to bank respondent JL, bank lending is strictly governed by legislation and the regulatory environment in South Africa and in terms of the National Credit Act (NCA). There is very little space for flexibility in lending. The onus is on banks to ensure that the client can afford a loan and is credit worthy.

You have to be part of formal economy and everything requires proof of income, proof of employment, proof of identity, proof of residence and all you know and we strictly adhere to the requirements (respondent JL).

This point is reiterated by another bank respondent MD, “[f]rankly nobody who earns R3500 and below is ever going to be able to prove to a bank that they have got affordability to have finance in place to buy that unit”. Regarding the NCA, respondent NN claimed that,

[o]ur regulation and legislation is quite well meaning and has grates of intensions but when you start to translate it into everyday there’s a mismatch into practicality so it’s those things where I think we have a mismatch.

It appears that there is a great degree of rigidity in the lending criteria used by the banks. Although this criteria is not reserved for the poor it does tend to disadvantage and constrain the poor’s access to finance.

Furthermore, banks argue that uncertainty with regards to the ownership of RDP houses is contributing to the reluctance to accept them as collateral (respondents NN and MD). It is widely accepted that most RDP houses do not have title deeds. As a result, banks are unable to prove ownership and therefore cannot accept them as collateral (respondents NN, JL and TP). Above and beyond this, it is generally argued that most RDP houses have inferior structural qualities (see Figure 2) and hence do not meet the standard that would provide banks with comfort to accept them as collateral. According to bank respondents M&K, “[t]here is really issues of the quality of the housing structure as some of them were not built to the highest standard”. The lack of quality of the RDP housing product was also observed and documented during the research process, with evidence of poor structural quality in many of the RDP houses. Another argument raised by the banking sector is that RDP beneficiaries lack a general understanding of their properties as financial assets and adequate information about how property markets work. This, coupled with their poor economic fundamentals, contributes to the banks’ reluctance to engage in this market segment. The indication is that banks are unlikely to intentionally target RDP housing as a sector where they will invest. According to respondent

NN, “[...] the fact that one cannot say okay we can realise collateral from an RDP asset and we would also not have an issue providing ownership”, makes it extremely difficult for the banking sector. The current political and economic climate does not allow banks that freedom. According to most bank respondents, the only time they would take an RDP house as collateral would be if a beneficiary was trying to leverage equity. For instance, if a beneficiary wants to access a loan for home improvement so as to raise the value of the property and thus leverage on equity.

Figure 3: Poorly constructed RDP house in Waterloo (Source: Author)



7.9. Conclusion

There are contrasting perspectives and attitudes towards informal housing transactions from the state, private sector practitioners and academics. The findings presented reveal the state’s discomfort with informal transactions. This is informed by a perceived lack of appreciation by the beneficiaries. The assumption that there are syndicates targeting beneficiaries with an intention to lure them into selling their properties adds to the state’s discomfort.

8. Chapter Eight: Perspective on informal housing transaction from below: beneficiaries and community actors

8.1. Introduction

The first section of this chapter is aimed at ascertaining the extent of housing improvements in RDP housing; providing a background to the geographical origins of beneficiary households, ascertain their economic situation, the length of time they have occupied their RDP houses, their banking practice and which banks they predominantly used.

The primary objectives of the surveys used in the research process were to assess and contrast consumer literacy with regards to various aspects of policy and legislation that relate to the selling of RDP houses against programs government officials claimed were provided to beneficiaries. It had become evident during the interview process with key informants that access to information and consumer literacy were contributing factors to beneficiaries first, selling their houses; second, selling them informally and third, selling them below the capital amount used to construct them. Both provincial and government officials interviewed claimed that consumer literacy programs were provided to beneficiaries during the allocation process.

The third section of the survey was aimed at ascertaining consumer perceptions and practice with regards to housing transactions in general, and informal transactions in particular. This section was meant to contrast the assertions of policy and legislation against beneficiary perceptions and practices. This was particularly important considering that interviews with political leaders in both communities indicated they held rather rigid understandings of policy and legislation. Particularly with regards to the pre-emptive clause, a civil prohibition that prevents the selling of RDP houses before a period of eight years. In the case of both Quarry Heights and Waterloo this prohibition was not applicable as both communities were older than eight years. Therefore, this section is aimed at ascertaining the impact of this clause in housing transactions.

The fourth section of the survey was aimed at identifying and understanding the transaction processes beneficiaries followed in selling their RDP houses in both communities.

The final section was aimed at providing a forecast of what housing beneficiaries were likely to do with their houses in the future.

8.2. The extent of housing transactions

Out of the total of 328 households surveyed in both areas, only 38 (11.5%) were not original owners and 290 (88.5%) were still occupied by the original beneficiaries. The study revealed that the 11.5% of houses occupied by non-original owners had been acquired in four various ways: bought (37%), inherited from family members or relatives (33%), allocated by the councillor (12%) and others declined to answer (28%). It appeared that of the 28% that declined to answer, some were caretakers and some had acquired their houses fraudulently. The research found that caretakers had initially been tenants in a house and stopped paying when the owner passed away and no-one from their family took over responsibility for the house. The processes used to acquire RDP houses took various forms and this is dealt with in later sections.

Based on the case studies conducted, the extent of informal transactions seemed minimal and largely sporadic. Considering that both settlements pre-dated the pre-emptive clause and the low number of transactions recorded, it will be difficult to claim that transactions were a phenomenon. Indeed, these findings cannot be generalised or compared with trends in cities like Johannesburg, as the sample size does not allow for this. A rule of thumb is that the extent of informal transactions is likely to be high in Johannesburg considering its economic dynamics. A desktop search indicated that a number of RDP houses were advertised openly in various platforms such as Gumtree and OLX within the Gauteng area. Phone enquiries were made to ascertain the availability of properties advertised in Johannesburg. Most of them had been sold. This indicated a clear trend of supply and demand and therefore a visible extent of informal transactions in comparison to eThekweni.

8.3. The nature of informal transaction practices and processes in low income housing

Transaction processes occurred under varied institutional arrangements (see Figure 7). The intention to sell an RDP is communicated through various social channels such as relatives,

neighbours and friends. Once the intention has been communicated, it would generally spread through community networks and social institutions, such as ward councillors' offices, churches and other social spaces and gatherings (i.e. taxi ranks, funerals and traditional ceremonies). There seems to be no indication of mainstream methods, such as the direct advertising of properties as observed in Gauteng. In one community, an informal estate agent was identified. He served as a middleman between the seller and potential purchasers. He noted that his primary market was serviced stands and self-built houses. He also pointed out that he did not use conventional advertising methods to publicise his properties but utilised his social networks and social reference system. Customers who he had previously assisted with either selling their properties or who had purchased properties from him referred others. Generally, various socially-embedded networks of communication and reference systems based on trust and word of mouth publicised properties on offer. Most of the properties sold and purchased informally went through these systems.

It was noted that transaction processes took various forms and were not necessarily linear. They demonstrated a coexistence and interdependence between formal and informal practices. Other transaction processes took a partially formal route but ended up as an informal transaction. This demonstrates the interdependency between formal and informal. To a large degree, it dispels the notion that formality and informality run parallel to each other. For instance, purchasers wanted to transact formally and went through the first steps of the formal process, but were prohibited by the costs and time it would have taken to transact in this way. They ended up transacting informally but utilising formal documents, such as deeds of transfers initially prepared by a conveyancer. They used this document to validate their informal agreement. In two cases identified, a purchaser and a seller both had a copy of the deeds of transfer as proof of their agreement.

It was ascertained that some informal transactions followed various validation methods and processes. Predominant processes of validation included obtaining affidavits from police stations, verbal agreements in the presence of Ward Committee members or councillors, and the use of witnesses (usually elders in the community and family members). With regards to the use of affidavits, the seller and the purchaser would both co-sign the affidavit stating the nature of their transaction and how much the agreed selling price was, how much had been paid and how much was outstanding. Police officers signed the affidavits as commissioners of oath (see Figure 3 for an example). Police stations serve as the RDP beneficiaries' first point of

access to a legal system and government institution. This is discussed in-depth in later sections. Affidavits did not indicate precise timeframes of instalments expected by the seller. It only indicated outstanding amounts owed to the seller by the purchaser.

Figure 4: Police affidavit as proof of transaction (Source: Author)

STATE UNDER OATH IN ENGLISH :

I DECLARE THAT THE FOLLOWING STATEMENT IS TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT I MAKE THIS AFFIDAVIT KNOWING IF IT IS TENDERED IN EVIDENCE THAT I WOULD BE LIABLE TO PROSECUTION IF I WILLFULLY STATE ANYTHING I KNOW TO BE FALSE WHICH I DO BELIEVE TO BE TRUE.

I am an adult, South African male whose partner was mentioned above and the seller who is selling the house 236 the amount is R15,500 - Rands the amount selling it to Dumile the amount of R13,000 - Rands the Buyer only paid Balance is R.2,500 - Rands

This is the statement under oath made at SAPS Central SAPS

If anything occurred to the seller I am entitled to sue the Buyer for not the relative of the seller mentioned above

SOUTH AFRICAN POLICE SERVICE
COMMUNITY SERVICE CENTRE
2009-11-25
DURBAN CENTRAL
KWAZULU-NATAL

KNOW AND UNDERSTAND THE CONTENTS OF THIS DECLARATION HAVE NO OBJECTION TO TAKING THE PRESCRIBED OATH. CONSIDER THIS OATH TO BE BINDING ON MY CONSCIENCE.

DATE: *26/11/2009*
TIME: *11:40*
PLACE: *SAPS*

ND JOBE
SIGNATURE OF DEPONENT X

Buyer D.T. (P) X

HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT HE/SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS DECLARATION WHICH WAS SWORN TO BEFORE ME AND THAT THE DEPONENT'S SIGNATURE WAS PLACED THEREON IN MY PRESENCE

ON (DATE): *26/11/09* (TIME): *11:40* (PLACE): *SAPS*

MANGAHOISI
COMMISSIONER OF OATH
DURBAN CENTRAL SAPS

Ward councillor offices were a less popular form of validation. Only one transaction was reported to have been validated through this channel. This might have to do with the perceived role of councillors as part of the local state/municipality rather than being part of the community. As a result, the relationship of trust did not necessarily exist. In the case of Waterloo and Quarry Heights, both ward councillors were very vocal against any form of RDP housing transactions. As indicated earlier, they considered informal transactions to be illegal

and something that had to be prohibited. It could be this reason that many sellers in both communities were reluctant to use ward councillor offices as an institution of validation. However, they still served as an institution for resolving conflicts, as per the example highlighted later in this chapter.

The use of witnesses as a method of validating a transaction agreement was particularly popular in both communities. This pattern of validation process resembled that used in traditional land transaction processes common in customary areas of KwaZulu-Natal and the Eastern Cape. Both the seller and purchaser would bring a set of witnesses, usually consisting of relatives, community elders, neighbours or friends. A verbal agreement would be observed by both sets of witnesses. This process usually includes the negotiation of the instalment price and timeframes over which the total price would be paid in full. These methods were common in both areas and widely accepted as a socially effective form of agreement validation. A number of respondents interviewed asserted that they found this form of validation effective and transparent. To most, an effective form of validation was that which is socially accepted and known by as many people as possible. One respondent claimed that a transaction known by as many people as possible in the community was more secure and offered a better sense of security for the purchaser. In the event of a dispute between the seller and purchaser or between the purchaser and seller's family where the seller is deceased, the community was likely to act in solidarity with the purchaser if their transaction was known. An example of such a case is when community members randomly complained about another community member who had, in their eyes, tried to sell a property that wasn't hers. An elderly man had been living with his grandchildren and passed away. The neighbour was then given temporary 'custody' of the house and was allowed to use it to repay the deceased's debt. This was done in front of witnesses. The children were taken by extended family back to their rural village in the Eastern Cape. The neighbour offered to take care of the property and lease it out to recover the monies owed by the diseased. She ended up taking over the property and the word went around that she intended to sell it. The community stopped her from selling it by telling any potential purchaser that they 'would not have peace' if they purchased that property. The property has not been sold and remains in the name of the diseased. This demonstrates the effectiveness of socially-recognised agreements.

8.4. Customary-Western entanglement in validation processes

The methods for validating informal transaction agreements demonstrated a degree of entanglement between customary and Western land transaction practices. This process and concept of customary-Western entanglement is discussed in detail in Chapter Ten. The transactions identified as informal all displayed elements of customary-Western entanglement. Transaction processes followed the same patterns of land transactions practices as in the customary land context. These included verbal agreements between a seller and a purchaser made in the presence of either relatives, neighbours or community members serving as witnesses during a transaction. In a number of identified cases, the transaction process was done in front of family witnesses and relatives. The verbal agreements were supplemented by a manual amendment of the title deed using a pen to scratch off the name of the seller and insert that of the purchaser. In other instances, an attempt to complete a deed of transfer was done at least initially but no submission was made. In these instances, both parties (the seller and the buyer) would keep a copy of the amended deed of transfer document as proof of agreement. The more popular agreement was done using police affidavits (see Figure 3) as discussed earlier. Local police stations serviced as institutions for validating a transaction. The proximity of police stations within many local communities positions them as a first legal entry point and serves as legitimate representation of the state legal entity.

8.5. Character of informal transactions as social rather than market-based

The findings indicate that the nature of informal transactions in RDP housing is complex. It was discovered that a number of transactions did not seem market-related but rather of a social nature. They did not seem to be informed by the basic principles of supply and demand or calculative agencies aimed at profit maximisation. Instead the majority of informal transactions identified seemed to be social transactions of inheritance and ‘petty social fraud’ in some accounts (see example in earlier sections).

With regards to inheritance, there were at least five youth respondents who had inherited properties from their parents. Most had been unable to change title to their name due to family and cultural factors. There are fundamental cultural complexities relating to children of unmarried couples and this is compounded in circumstances where one partner is deceased,

as noted in two instances where orphaned youth were struggling to get personal documentation of their deceased parents from their stepfathers, and thus were unable to formally change property titles to their names. The other main problem was that most parents did not have a will. As a result, the children did not have legal proof that they were rightful claimants to the property. In these circumstances, properties were either claimed by living step-parents, community members or relatives.

A number of fraudulent activities reported in Quarry Heights. Factors contributing to these were primarily the fact that most RDP beneficiaries did not have written wills, making it difficult for their children or family members to claim inheritance. This was aggravated by the absence of title deeds in most cases. The research recorded approximately three cases where the original owners of RDP houses had died and their children were unable to claim rights to the properties. It appeared that the common traditional practice is that when one or both parents die, the child will be taken by the extended family or relatives in rural villages where their parents are originally from. Usually, the children would return to claim the property in the urban area when they are old enough to work or study. In other circumstances, where two parents were not legally married and a stepchild lived with both parents, the property would be sold. Once the biological parent dies, the stepfather or stepmother would lay claim to the property and sell it without knowledge of the child. In most cases, the living step-parent is usually not the owner of the house. Due to the lack of inheritance proof, children are unable to claim their right to the property. In this regard, many orphaned youth were left destitute and homeless.

Furthermore, various cases were identified where a neighbour would assist a poor family to bury a family member and then take over the property as repayment for the burial loan. Due to the cultural significance of burials in African communities, particularly in the Zulu tradition (see Ngubane, 2012 on death and burial practices in contemporary Zulu culture), this occasion is usually costly and unaffordable for many families. The costs of transporting the deceased back to rural areas are particularly high and unaffordable for poor families. As a result, the burial ceremony becomes an added burden for these families. Therefore, in the event of death, most poor families are forced to sell or offer their only asset in order to cover the costs. In this case, it can be argued that RDP properties serve to fulfil cultural obligations. It is in this unorthodox way that some beneficiaries realise equity from their properties. This supports the notion that RDP houses are a cultural asset. Contrary to the ideas of those who

Fukuyama (2000, p. 165) refers to as the “Wall Street Journal school of deterministic materialism that discounts the importance of ideology and culture and sees man as essentially a rational, profit-maximising individual”, it seems that informal transactions are subject to cultural motivations aimed at upholding traditional practices. They do not necessarily see their RDP houses as profit-maximising assets. Instead, this indicates another innovative use of an RDP housing asset beyond the popular narrative by the state. The phenomenon is not unique to the poor but common within middle and higher income populations as well. When a family or individual is under distress, the last asset they resort to selling is a house. What the findings of this study indicate is that the poor do not have enough insulation from unexpected occurrences and thus are vulnerable to drastic changes in their socio-economic situations. The main difference between poor and middle and high income households is that the latter have other assets (such as investments and other liquid assets) instead of their properties to sell in times of distress.

8.6. Unregistered and registered estate agents as catalysts for social transactions

The research discovered that unregistered estate agents operate in the low income housing sector in eThekweni Municipality. While many focused on selling RDP houses as a primary market, others specialised in site and services plots allocated through the site and services program of the mid-1990s that were never developed. The research identified registered estate agents through advertisements on Gumtree. Only three were identified in eThekweni who had advertised RDP houses, and only one was willing to be interviewed. Two unregistered estate agents were identified in Waterloo Ext 5 through reference from the councillor’s office, but only one was available for interview. The second one was sceptical and did not respond to an interview request. The councillor had already indicated that he might not respond to the request for interview considering his reputation in the community. According to the councillor, there had been reports that he had tried to defraud a number of people. As a result, he was unwilling to engage with anyone who might expose his indiscretions, claimed respondent MN.

The registered estate agent had offices located in Durban CBD. The agency seemed coy on whether they actively sold RDP houses, although a Gumtree search indicated that they did

in fact offer RDP properties for sale. However, the agency did indicate that a few people had requested their services to sell RDP houses on their behalf without confirming that they indeed sold RDP properties. The biggest challenge the agency claimed to have is that most clients failed to prove ownership. As a result, it was difficult to sell the properties. Instead, they preferred to concentrate on the township residential market as it did not have to deal with issues of ownership. The agency admitted to have been able to sell some RDP houses, although as a historical fact, it reported them to be very minimal. The agency could not provide records of how many RDP houses it had been able to sell. However, it indicated that if the restriction (pre-emptive clause) to sell RDP houses wasn't there and proof of ownership wasn't burdensome, they would be interested in actively participating in this market. In the agency's view, the market was lucrative but government had made it difficult by placing restrictions on selling.

In Waterloo Ext 5, an unregistered estate agent was interviewed. The interview revealed that unregistered estate agents play a significant role as catalyst in low income housing transactions. They offer innovative ways to cater for low income residents who are not catered for by the mainstream property market and banks.

Mr Xulu³¹ runs his unregistered estate agency from home in collaboration with his wife Mrs Xulu³². Their business started in 2002. For a number of years, Mr Xulu had been working as both a security guard and a bricklayer in Waterloo. Realising that he was earning too little to meet the basic needs of his family, he tried various business ideas. Many were unsuccessful. Using his knowledge of the building sector and the fact that many people had previously enquired of him where they could purchase a house or a plot, he started his estate agency business. He is very well-known in the community. The reference to interview him was provided by the councillor, who insisted Mr Xulu would provide a better picture of the extent of RDP housing transactions in the community. It was discovered that Mr Xulu offers a variety of services to his clients, including selling serviced sites, houses he built himself and RDP houses. On further investigation, it was discovered that the serviced sites he was referring to were leftover sites from the site and services program rolled out by the state in the mid-1990s. The sites were left undeveloped and their owners were now selling them due to demand for land and property in the area. Mr Xulu indicated he had either purchased these sites from

³¹ Alias name to protect the identity of the respondent.

³² Alias name given to the respondent to protect their identity.

owners or built houses on these plots that he then sells to his clients. On other occasions, he sells only serviced sites. He mentioned that selling RDP houses was a challenge for him because of the time he had to spend assisting sellers to find proof of ownership. In the event that the seller does not have a title deed or it is missing for whatever reason, he would offer to take them to the Deeds Office in Pietermaritzburg³³ to obtain a copy.

Payment processes

Mr Xulu claimed to cater for a variety of clients. Those who are in informal business, pensioners and those who are formally employed but earn too little to get a mortgage from the banks. He indicated that one of his biggest challenges was that most of his potential clients who wanted to purchase houses or plots from him were rejected by banks for mortgage and personal loans. He found this to be particularly disconcerting because, he argued, some of his clients were formally employed. Realising that this was a big challenge, he decided to be innovative in how he deals with his clients, and started allowing clients to purchase plots and houses in instalments. He does not have any written agreement with any of his them, but keeps a register of all his clients and payment records. He treats each client differently based on their personal and financial circumstances. At the beginning of the transaction, he asks the purchaser to indicate how much they are able to afford in instalments. He advises his clients to at least put down a deposit to indicate intent, and to build a relationship of trust.

Due to his flexible terms of payment, Mr Xulu indicated that he has not had any defaulters. These terms are grounded in his understanding of the community, their socio-economic circumstances and sometimes the very personal circumstances of the clients he is dealing with. For instance, in the event that a client had a tragedy or any family emergency, he would offer them payment leave until their situation was resolved. He would ask how much time they needed and an agreement would be reached. He claims that as a result of this flexibility, none of his clients have defaulted on payments.

8.7. Selling price and contributing factors

Findings indicate that purchase prices range from R5000 to R100, 000. There are four factors reported to contribute to the selling price, namely level of improvements, level of

³³ A town approximately 70 km from Durban where the Provincial Deeds Registry Office is located.

education, circumstances of the seller and location. There was a correlation between the price demanded and the level of housing improvements. Those who had made improvements in their houses could demand a higher price. Another factor related to the level of education. The more educated the seller, the higher the selling price, irrespective of house improvements. The more educated and informed the purchaser, the lower the price. The findings indicate that the more educated the seller, the higher the value they would place in the property. For instance, an educated seller made the link between the proximity of the airport and Waterloo. On this basis, they asked for a higher selling price. It was also noted that purchasers who were educated could negotiate the selling price and bring it down. They mostly picked up on the circumstances of the seller and offered more cash upfront to entice them. It was also discovered that personal circumstances contributed to the selling price. The more desperate the personal circumstances of the seller, the lower the selling price demanded. It appeared that purchasers were often aware of the personal circumstances of the seller and could exploit their desperation in the negotiation process.

Location also played a particularly important role in determining the selling price. Properties in Waterloo sold for higher prices compared to Quarry Heights. The strategic location of Waterloo next to the airport and other major developments seems to have contributed to higher selling prices. More educated and informed sellers seem to make a link between the location of the settlement and their properties, hence raised the selling price. The average price range was between R20, 000 and R65, 000 in Waterloo. In Quarry Heights properties sold for much lower prices, that is, between R5000 and R30, 000 on average. It did not seem that good location was used as a variable in value attribution and thus price determination.

8.8. Economic context

In Waterloo, only 21% of respondents were formally employed and received payslips from their work. The remaining 79% were either informally employed or self-employed, hence had no proof of income or payslips. In Quarry Heights however, 72% are formally employed and get payslips, while 28% are informally employed. In both communities, formal employment consists of work as a domestic worker, contractor, and labourer and so on. Those who are self-employed consider themselves informally employed due to the nature of their

business and the inconsistency of their business incomes. What was noticeable was that those who were unemployed and running home-based businesses considered themselves informally employed as well.

8.9. Levels of house improvement in houses surveyed

In Waterloo, it was observed that 54% of the total sample of 219 houses had not been improved. Of the remaining houses, 21% had minor improvements, such as an additional room or backyard extension, and 25% had major improvements. In Quarry Heights, 31% of the sampled houses had no physical improvements. Only 44% had minor improvements and 25% had major improvements. This is indicative of low household incomes in RDP settlements. It also disputes the arguments that title deeds increase the level of housing investment in low income housing. Amid the security of tenure provided through the provision of title deeds to RDP beneficiaries, very low housing investment was detected in the case of both communities. Instead, the data supports the claim that the economic fundamentals of low income populations are important for realising housing investment. Insufficient household incomes as a result of unemployment limits the ability of households to invest in housing improvements.

8.10. Knowledge and awareness

8.10.1. Consumer training

Only 6% of respondents had received consumer training before and after they occupied their RDP houses in Waterloo. This training was received after they had purchased their houses was given privately and not by the state.

The data indicates the inadequacy of the state's consumer training. It particularly highlights the inadequacy of the state-provided consumer training program in terms of both its width and depth aspects. The state consumer training does not seem to have reached as many beneficiaries as possible.

8.10.2. Importance and value of title deeds

In Quarry Heights, 98% had not received consumer training. The 2% that had were part of those who had bought or were not original beneficiaries of RDP houses.

Asked whether respondents were aware of the value and importance of title deeds in Waterloo, 91% responded affirmatively while the other 9% were not aware. In Quarry Heights, 80% were aware of the importance of title deeds and 20% were not aware, so the majority in both communities understood the importance of title deeds as proof of ownership. Yet, almost all those who indicated they understood the importance of title deeds did not seem to understand the value and link to collateralisation. According to one respondent, the importance and value of title deed meant, “You are a rightful owner”³⁴. None of the respondents understood the value of title deeds to mean access to finance and mortgage. They were not aware they could use their houses as collateral. In fact, they did not understand what ‘collateral’ meant. When explained, they rejected the idea as ‘crazy’ and something they would not consider doing. Most respondents considered collateralising their properties as risky and irresponsible.

8.10.3. Conveyancing

Asked whether respondents were aware of what a conveyancer does in general and their importance in the housing transaction process, in Waterloo, 44% answered yes and 56% answered no. Only 2% of the 44% had utilised the services of the conveyancer. Although the other 42% knew what a conveyancer was, they had not used one. In Quarry Heights, only 24% of respondents knew what a conveyancer was, while 76% had not heard of it.

This data indicates that actors in the formal transaction process were not known to RDP beneficiaries. Those who knew did not seem to trust the actors as they were not part of their immediate social circle. Therefore, many RDP beneficiaries viewed actors in the formal process as outsiders and the formal system of transaction to be too alien.

8.10.4. RDP properties and value attribution

In Waterloo, only 26% of respondents claimed to have been trained on property value. The other 76% claimed to have never been trained on property value. As a result, not surprisingly, only 23% claimed to know the value of their properties; 77% did not know the value of their properties.

³⁴ Respondents in Quarry Heights, directly quoted from the research survey conducted in 2015.

In Quarry Heights, only 14% claimed to have been taught what property value is and how it is calculated, while the remaining 86% claimed to have never been trained on property value. In this regards, only 25% claimed to know the value of their properties while 85% claimed not to be aware. The 25% that claimed to be aware thought that property value is determined by the level of improvements made to the house and cost of materials and labour.

Beneficiaries attributed value to their houses based on the structural quality and functionality of the housing. There was also a correlation between the time it took to finally get the house and value. In this regard, it was more emotional value. Most respondents who had waited for several years (usually between five and ten years) for their RDP house attributed high emotional value to their properties. Structural aspects of the house were considered to be one of the main factors in value attribution. Houses with structural defects were seen as being of low emotional and economic value. For instance, one disgruntled beneficiary claimed that the value of her house must be one rand (R1.00 as to indicate value-lessness) because it leaks. Although sarcastic, she was very adamant that the value of her house was very low considering its structural defects.

Value attribution was not necessarily considered in economic terms. Many respondents did not think of their houses in economic terms. Instead, they attributed emotional and social value to their houses; it was of value because they will leave the house for their children as inheritance.

8.10.5. Awareness about property transactions

In Waterloo, only 11% claimed to have been taught about property transactions while 89% claimed to have never been taught anything on this topic. In Quarry Heights, only 3% were aware of what property transactions meant and what processes to follow if they ever needed to transact formally. The remaining 97% were not aware. The findings indicate low levels of knowledge about formal property transaction processes. Many respondents seemed to choose not to use formal transactions processes. Data indicates that some do at least try to conduct their transactions in the formal process but due to the various factors discussed earlier, they opt for informal processes as they are more accessible and flexible. It is also important to note that many beneficiaries did not seem to make a distinction between formal and informal

practices. In order for them to understand the distinction, field researchers had to explain the concepts.

Although high levels of ‘property illiteracy’ were identified, this did not seem to influence how people transacted their properties. A lot of beneficiaries who transacted their houses did not do so because they lacked knowledge about property, instead their decision was informed by personal and family circumstances.

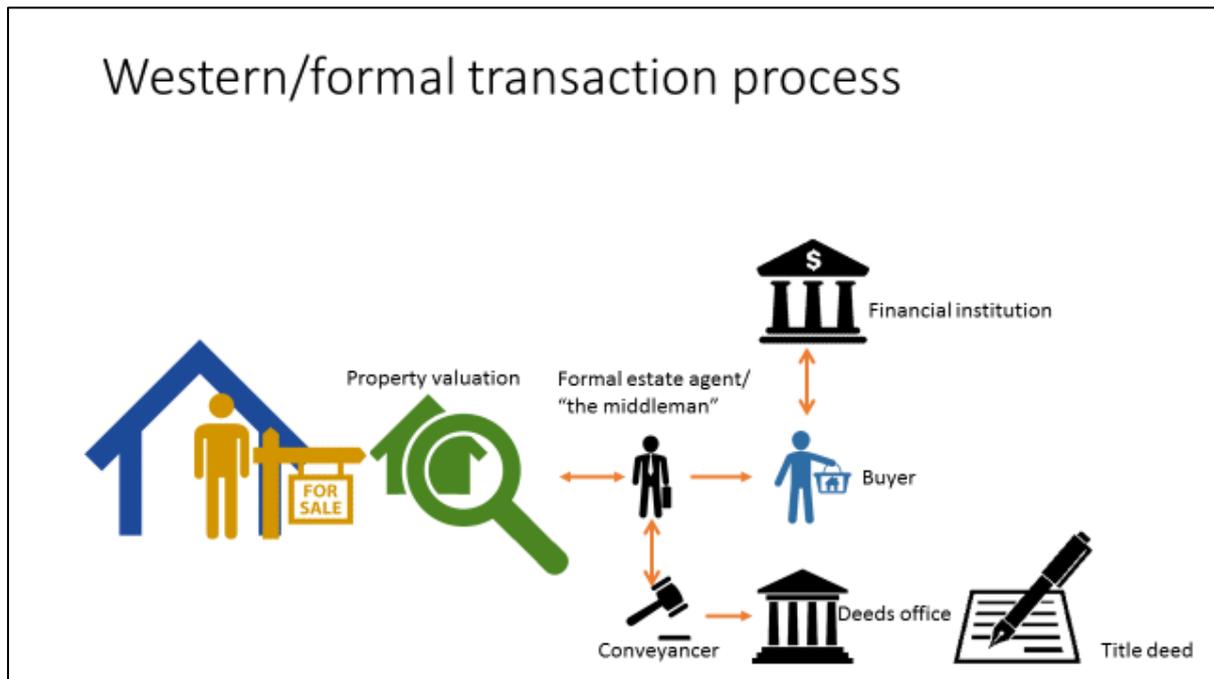
8.10.6. The pre-emptive clause

In Waterloo, 54% had not heard of the pre-emptive clause and hence did not understand its significance. The other 46% had a basic knowledge of what the clause was about, and generally understood it as a law “that makes selling of RDP houses illegal” (community respondent).

In Quarry Heights, only 32% knew what the pre-emptive clause was. Like the respondents in Waterloo, these respondents only understood it as a law that prohibits the selling or renting of RDP houses. The data suggests that there is no clear understanding of the purpose of the pre-emptive clause. While the state has valid reasons for introducing the pre-emptive clause into policy, beneficiaries do not seem to understand its purpose. Instead, the pre-emptive clause seem to have created a sense of illegality around transactions of RDP housing. More than half of the respondents thought that it was illegal to sell or rent an RDP house, irrespective of whether the beneficiary had owned the house for more than the stipulated eight-year period. It appeared that there was no awareness of the eight-year period restriction. Effectively, RDP housing transactions (formal or informal) were seen as perpetually illegal.

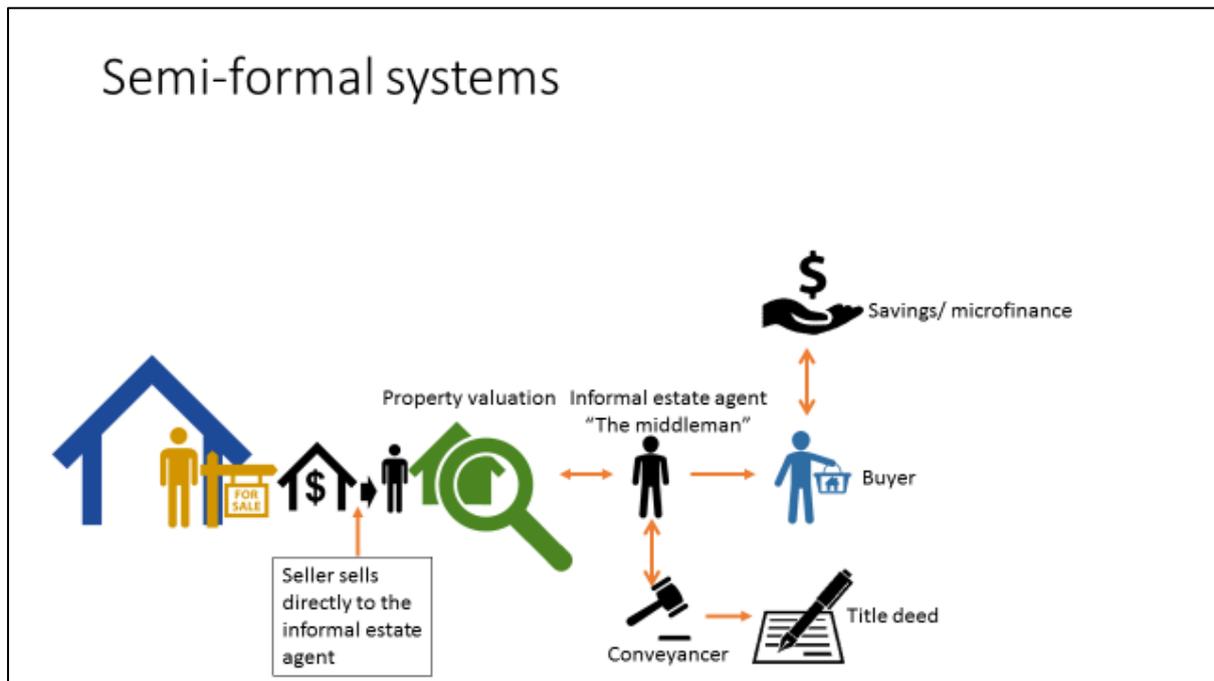
8.10.7. Typologies of housing transaction processes

Figure 5: Formal transaction process (Source: Author)



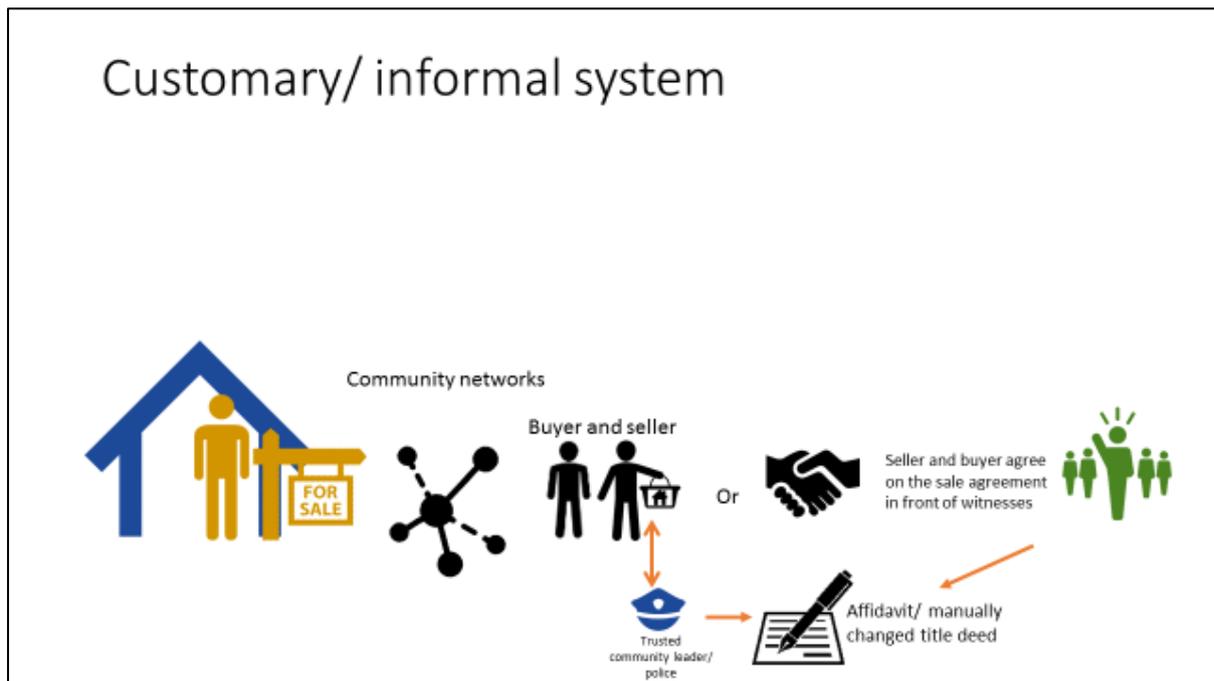
Western/formal transaction processes (see Figure 4) consist of multi-stakeholder and institutional relationships. The seller's intention to sell is communicated via an estate agent or agency. The seller agrees with the estate agent on the amount they expect from the sale. The estate agent then assists the seller to evaluate the property in order to assess whether the asking price is in line with the market. Once the asking price is agreed, the estate agent advertises the property using a combination of traditional and social media. The estate agent takes over the selling process. They become the 'middleman' between the seller and potential buyers. Amongst their duties is to arrange for viewings, sign an offer to purchase between the seller and buyer, and ultimately coordinate the transfer process. The process is clearly defined and guided by strict regulations embedded in the prevailing legal and property context. The role of each stakeholder is clearly defined and incentives laid out beforehand. The process is often linear and lengthy. Key stakeholders in this process include seller, estate agent, conveyancer, banking institution and the deeds office. The relationship between these stakeholders is often impersonal and purely transactional. Expectations of all parties are predefined and known to each stakeholder.

Figure 6: Semi-formal process (Source: Author)



The semi-formal process is comprised of a combination of both formal and informal practices. In this case, as explained earlier, the transaction process either partially follows a formal process but ends up as informal, or begins as an informal process but ends up with a formal document such as a title deed. This is often a more complex and confusing process. It was discovered that in a semi-formal process, there is an entanglement of formal and informal processes and stakeholders may also be formal or informal. It is not as linear or as predefined as the formal process. The incentives system is not predefined or known to stakeholders beforehand; it is an outcome of an ongoing negotiation process. Rules are not necessary predefined or are negotiated during the process. The process is partially guided by a combination of socially-determined norms and formal regulations. As per findings, stakeholders include a seller, informal estate agents, councillors/elders/police stations, conveyancers and micro-lenders.

Figure 7: Informal transaction process (Source: Author)



Neo-customary or informal processes are characterised by a lack of adherence to formal rules. They function outside formal rules and regulatory systems, and are governed by a socially-determined set of rules and validation processes. Actors engage in an entangled process of transaction that is embedded in customary practices informed by traditional norms. It seems there is often a direct or indirect pre-existing relationship between actors. The role of actors does not seem predetermined or known before the transaction, but are defined during the transaction process. Incentives are not known beforehand either; they are an outcome of a negotiated process and power struggles between actors.

8.10.8. Stakeholder map in transaction processes

Data reveals that informal transactions are facilitated by various institutions and stakeholders who serve as intermediaries and drivers of the process (see Figure 7). This section identifies these institutions and stakeholders and their role in facilitating and shaping the transaction processes. It is an attempt to locate each stakeholder in the transaction spectrum. The nature of the role played by these institutions and stakeholders is both direct and indirect. This map is by no means exhaustive but instead reflects key stakeholders identified in the context of Ethekewini Municipality.

selling process later becomes a subject of negotiation between the seller and other stakeholders, the seller defines terms based on their needs. There is an indication that the terms of reference of who gets involved in the transaction process is also largely influenced by the seller. In this regard, the seller communicates the desire to sell. They choose the medium of communication. Often neighbours, family members, relatives and, at times, ward councillor's offices are chosen as medium of communicating the intention to sell. Subsequently, potential buyers get to know about the proposed sale through these mediums.

Ward councillors

Ward councillors were identified as playing a pivotal role in the informal transaction process. They are either facilitators of transactions or intermediaries in the process. Although they do not dictate the terms and conditions of sale, in most recorded cases they become a link between the seller and potential buyers. In other circumstances, they validate the transaction agreement between the seller and buyer. Ward councillors are seen as security for the transaction should any conflict arise. In other instances, ward councillors or their office staff actively facilitate transactions by finding buyers for the seller who is looking for a property or finding a property for a potential buyer who has alerted the office of their active demand.

Contrary to the role of facilitator and intermediary, in some instances, ward councillors prevent transactions from happening. Depending on the ward councillor's position in the RDP transaction continuum, many potential sellers or buyers exclude them or their office from the transaction process. Some councillors are known to be against the selling of RDP houses as they consider it 'illegal'. However, one of the councillors reported that when disputes arise due to a perceived breach of agreement between the parties, they are often requested to mediate. Therefore, they still play a role in the process, whether they were part of initial negotiations and agreements or not. Under these circumstances, their role is purely mediation and conflict resolution. For instance, in Waterloo Ext 5, it was reported that the councillor's office has had to preside over a number of conflict cases between the seller and buyer. The councillor indicated that in one case, the seller, after selling his property, had changed his mind and decided to retrieve the property. It is claimed that the reason for changing his mind was because another buyer had placed a higher offer and he thus realised he had under-priced his property. The first buyer refused to accept the refund and vacate the property. Instead he was threatening

violence against the seller. The first buyer decided to take the case to the councillor for dispute resolution:

A person came to the office and told us that he was going to kill another person. [...] We asked why: He told us that he had bought a house from someone at the value of R50 000. The person who sold the house told him to move out of the house and he was going to give back the buyers money because someone has bought the house at a better amount which was R80 000. The person who bought the house first was very angry and ended up involving us at a later stage although we were never consulted at the beginning of the transaction (respondent MN³⁵).

This appears to cause severe challenges for the ward councillor because he is not trained on dispute resolution. Often the ward councillor uses conventional wisdom and common sense to resolve such conflicts. In most cases they are never resolved and remain pending.

The state

a) Police stations

The role of the state as an intermediary increases the complexity of how the state engages with RDP houses. It appears that some beneficiaries obtained affidavits as a form of proof and validation of their transaction agreements. In this manner, the state served to validate the transaction process. Although other institutions of the state (i.e. housing departments and housing units within the Municipality) condemn informal transactions in RDP houses (see Sisulu 2014 and eGagagasini 2012), another state institution inadvertently supports the transactional process. One respondent argued that police stations, for many low income urban residents, are seen as the authority and face of the state (respondent MR). Their location within the community presents them as first legal entry points. The research finds that obtaining affidavits is an RDP beneficiaries' attempt to comply with legal processes of the state. In many African settlements in both rural and urban contexts, police stations are loosely referred to as 'legal institutions'. Therefore, using an affidavit to validate informal sales indicates a pluralistic understanding of the law and what legality entails. It appears that various strands of the legal systems are understood differently by low income RDP beneficiaries. Therefore, the conclusion is that the state inadvertently facilitates and validates informal transaction processes through its institutions.

³⁵ Interview with Waterloo councillor MN, conducted 28/01/15.

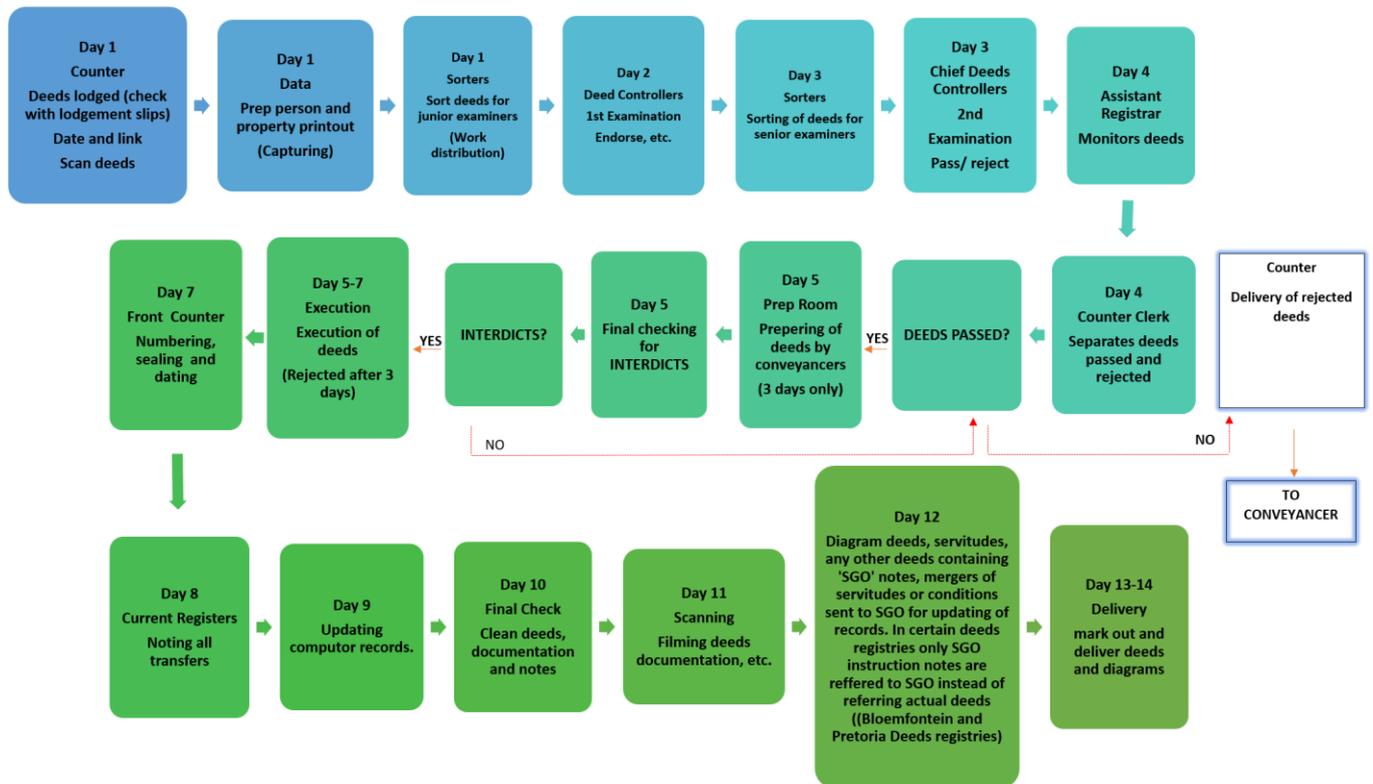
However, state departments directly responsible for housing delivery condemn informal transactions. The role of the state in the transaction process increases the complexity of informal transactions and creates confusion amongst RDP beneficiaries as to what is acceptable and what isn't due to the contradictory role of the state.

b) Deeds Office

The Deeds Office is an institution located within the Department of Rural Development and Land Reform. Its mandate is to register property according to the Deeds Registry Act 47 of 1937. The Deeds Office receives, processes and approves or rejects deeds lodged through the general provisions of the Act.

The hierarchy of engagement within the deeds process inadvertently contributes to RDP beneficiaries transacting informally (see Figure 3). Later sections argue that the inaccessibility of the deeds process to low income people contributes significantly to the decision to transact informally. The costs related to transacting through the deeds registry process are too high for low income residents. The time it takes to register transactions through this process is also lengthy and therefore constraining for RDP beneficiaries.

Figure 9: Workflow of Deeds through the Deeds Registry (Source: Adapted from Revisions Service 7, 2013)



c) Provincial and local Departments of Human Settlements

These two governmental institutions are custodians of housing policy implementation and are mandated with directly engaging RDP housing beneficiaries. They play a significant role in the informal transaction process in that their interpretation and communication of housing policy and legislation informs the relationship RDP beneficiaries have with their properties and how they can utilise them.

Extra-legal institutions: Estate agents

As indicated in previous sub-sections, the research discovered the presence of unregistered estate agents in at least one of the case study areas. They seem to play an active role as intermediaries between sellers and buyers. In some instances, they also act as developers. For example, an unregistered estate agent in Waterloo Ext 5 buys undeveloped land left over from the site and services program and develops it. He then sells houses to buyers within the low income sector. He also buys RDP houses from sellers and holds them until he

gets a buyer. According to him, RDP houses are not his main market because of the complexity of proving ownership. He has sold very few RDP houses since he started his business in 2002.

Unregistered estate agents play a vital role in advertising RDP properties for sellers and helping potential buyers search for properties. A Gumtree.co.za³⁶ and OLX.co.za³⁷ search indicates that estate agents do operate within the RDP housing sector in other places such as the greater Gauteng province. The practices, based on the desktop search, seemed to be more prevalent in Gauteng than anywhere else. There is evidence that these unregistered estate agents are used as platforms to advertise RDP properties. But an attempt to make contact with these estate agents proved futile. The use of these platforms is perhaps more common in Gauteng (see Figure 9) rather than KwaZulu-Natal. Exhibit 1 in Figure 9 is an example of an advert for RDP houses. Unregistered estate agents interviewed in KwaZulu-Natal were sceptical of advertising openly. Very few adverts were as explicit as the one shown below.

Figure 10: House for sale advert (Source: Gumtree.co.za)

Exhibit 1: Gumtree.co.za advert
House for sale RDP Another bargain by Intercall Business Group, RDP house for R115 000.00 not negotiable with enough space, RDP size stand.... R 115,000 5 May Published in: Houses & Flats for Sale, Benoni

Furthermore, the research discovered that some unregistered estate agents also facilitated formal transactions. In this instance, they would use lawyers to register the transaction. Mr Xulu from Waterloo Ext 5 indicated that he only sells or buys properties with title deeds. He avoids properties without title deeds because he is unsure of ownership and hence does not want to “get into trouble by helping a thief sell someone else’s property”.

It is therefore safe to claim that unregistered estate agents play a pivotal role in facilitating informal transactions. They utilise their knowledge of the community and personal

³⁶ Gumtree.co.za is a South African version of a British classifieds and community website.

³⁷ OLX.co.za is a South African classifieds and community website.

relationships to facilitate transactions. They offer flexible terms which allow buyers and sellers to bypass banking institutions by offering alternative payment arrangements. Unlike conventional estate agents, unregistered estate agents are not dependent on the hierarchies of formal property transactions. They are often embedded in social structures and are accessible by any member of the community irrespective of their level of education.

Private and formal institutions

a) Banks

Banking institutions are indirectly involved in informal transaction processes. They are a source of finance for those who can afford and meet the banking criteria. Banks offer micro-loans in the form of personal loans and revolving credit for their clients as insecure lending. Although these loans are usually very small with high interest rates, they offer capital for buyers in the RDP housing sector. A few of those who had bought their properties through an informal process indicated that they utilised personal loans to put up a deposit for the RDP house. The sale price also seem to determine whether the buyer can use a personal loan or not. In the situation where the seller only requires a small amount as a deposit, the buyer would utilise a personal loan.

b) Micro lenders

Micro lenders or ‘loan sharks’ (*omashonisa* as they are popularly referred to in isiZulu) play an important role in informal transactions. They offer insecure lending to low income people, particularly those ineligible for bank loans. Often these micro lenders use unorthodox arrangements to ensure they get their loan repayments. For instance, if the borrower is a pensioner they would keep the pension payment card to ensure they pay back the monies loaned. For those with bank cards, they would also keep their bank cards as security. Whether this a legal way of lending or not, it seems that many beneficiaries took the risk to borrow in this manner.

Putting aside their unorthodox procedures, micro lenders offer potential buyers who are not catered for by banking institutions access to capital which enables them to activate their latent housing demand.

8.10.9. Contradictory role of the state in informal transactions

According to the research findings, the State, through its various institutions, plays a contradictory role in informal housing transactions. It was found that the state as an actor and stakeholder in the housing program plays vastly diverse roles in the manner in which it promotes/prohibits, facilitates/hinders and legitimize/illegitimize informal transactions. These contradictions were perceived to demonstrate a lack of coordination between state institutions. As a result, they were considered to contribute to the confusion for non-state actors and stakeholders, particularly housing beneficiaries. Respondents perceive these contradictions as informative of the nature and character of informal transactions as highlighted below.

State as an important political actor in housing transactions

At a political level, the state informs the relationship between housing, beneficiaries and politics. The housing delivery process occurs in a highly political environment, therefore housing is a political product. According to respondents, this has largely informed how beneficiaries view access to housing as a reward for political loyalty to the party they vote for. Housing as a political product has reshaped socio-housing relations in low income communities (respondent SC). The state has inadvertently reconfigured how low income people relate to their houses. This has had two significant impacts: 1) this politicisation of housing has informed the state's expectations of how beneficiaries should relate to their RDP houses; and 2) beneficiaries' inability to comply with state expectation has created a conflict between their practices and state ambitions. This conflict is substantially argued by Charlton's (2008) study where she demonstrated that state ambitions and people's practices were significantly misaligned. The outcome of this misalignment is the state's total rejection and condemnation of beneficiaries' informal practices. According to respondents, the state feels betrayed by the manner in which beneficiaries interact with their RDP housing stock. It is on this basis that the state claims that RDP beneficiaries are ungrateful and undeserving of its generosity.

The role of housing departments as actors and stakeholders in transaction processes

According to the empirical evidence, various state departments have played diverse roles in informal housing transactions. National, provincial and local housing departments are custodians of the housing program. They inform housing policy and legislative development and facilitate the housing implementation process. They view housing provision as their primary mandate, and see management of the existing housing stock as their secondary

mandate. As perceived by academic respondents, the state feels responsible for the housing stock that has already been handed over to beneficiaries, hence its concern with RDP housing transactions. According to primary data, the state concern in this regard is informed by the perception that those who sell their houses either return to informal settlements or re-enter the housing waiting list thus becoming the state's perpetual burden.

According to policy, as a reaction to perceived informal transactions, the state has illegitimated and discouraged housing transaction activities in the RDP housing sector before the expiry of the stipulated eight-year period. This was done through the introduction of the pre-emptive clause in 2001. As perceived by respondents, the manner in which the clause is communicated seems to have stigmatised RDP housing transactions as illegal whether done formally or informally. Based on the beneficiary survey conducted, it appears there is a general understanding that selling RDP houses is illegal, irrespective of the time limitation imposed by the pre-emptive clause. In fact, there is very little awareness about this pre-emptive clause. Instead, beneficiaries understand that selling or buying RDP houses is illegal, irrespective of time restrictions.

Furthermore, the state's uncertainty regarding RDP housing transactions creates market confusion, particularly for non-state actors such as banking institutions. According to most non-state respondents, the banks³⁸ are uncertain of what the state wants to achieve with the existing RDP housing stock. This uncertainty was raised by bank respondents as one of the reasons why they are reluctant to actively participate in this market segment. They also acknowledged that their reluctance was informed by various other factors, such as general economic and financial fundamentals within the low income sector.

Police stations as important state actors in transactions processes

Police stations are important actors in informal housing transactions. As state institutions, their mandate is to police, protect and enforce the law. They are by far the face of state law and justice in many low income communities. Due to their proximity to communities, they are a representation and embodiment of state law. They represent a paradoxical balance, at least in the view of low income RDP beneficiaries, between the centrality of state law and its plurality. A paradox in the sense that legal centralism in literature is defined as the view of

³⁸ Interviews with Affordable Housing managers of the 'big four' banks conducted in 2015.

law as singular and state-sanctioned (see Griffiths, 1986; van Niekerk, 2001). Legal pluralism is a view that accepts multiple interpretations of law (see Teubner, 1992; Walby, 2007). The findings indicate that RDP beneficiaries acknowledge police stations as a central representation of state-sanctioned law. In this way, they view state law as centralised.

Empirical evidence suggests that most RDP beneficiaries obtained affidavits from police stations to validate their informal housing transactions. In this instance, the state plays a legitimating and validating role in informal transactions. According to the findings, affidavits are to a very large extent seen as legal documentation that validates an informal transaction. To some degree, beneficiaries involved in an informal transaction view obtaining an affidavit from a police station as a necessary process of bringing their practice within the acceptable premise of state law.

Therefore, in this regard, the state's role in informal housing transaction is that of legitimising and validating informal housing transactions. It is a contradictory role than that of housing departments.

Deeds of Registry Office

According to respondent DO, the Deeds of Registry Office is an independent unit within the National Department of Rural Development and Land Reform. The primary mandate of the Registrar of Deeds is to keep a public register of land, preserve the records and provide information to the public (Parliamentary Monitoring Group, 2013). This mandate is practically applicable within formally registered land and property. For instance, the Deeds Registry Act 37 of 1937 is not applicable in customary land such as Ingonyama Trust Land. According to the Deeds Office respondents, the mandate of the Registrar of Deeds is limited to formally demarcated land.

The areas of jurisdiction of the Registrar of Deeds are predominantly urban areas and agricultural lands (DO respondents). The majority of RDP houses are constructed within urban areas and the jurisdiction of the Registrar of Deeds. The BNG explicitly identifies the need to ensure RDP beneficiaries have access to formal title as the leading public policy priority. This, as discussed earlier, was a primary objective of government to redress previous property ownership imbalances and support the nation-building efforts of the state.

The material contribution of the Registrar of Deeds is in the nature of due process and its structure of communication with the public. Non-state respondents (academics and practitioners) argued that the deeds registry process is too rigid and highly legalistic for RDP beneficiaries to follow when transacting formally. By its nature, it is an exclusive process that requires transacting agents to have both an understanding of the process and the financial means to pay for it. The deeds registry process requires that a conveyancer prepares and lodges deeds of transfer documents with the Deeds Office. This is primarily due to its legalistic process which only the conveyancer is able to fulfil. Although it is a purchaser who has an obligation to pay for conveyancing services, this still has an impact on the nature and ease of transaction. It appears that transaction prices in informal transaction process are negotiated without consideration of deeds registration costs. If, for instance, R30, 000 is an agreed purchase price, any additional amount for fulfilling the deeds registry process would mean the house becomes relatively more expensive for the purchaser. An amount as small as R500 is likely to have a significant impact on the decision to follow a formal or informal process. Furthermore, timeframes for transacting formally are lengthy and do not seem to respond to the immediate needs of both the purchaser and the seller.

Consequently, the Deeds Registry Office plays a largely prohibitive role in housing transactions. Due to the bureaucratic and highly legalistic nature of the deeds registry process, RDP beneficiaries are discouraged from transacting their houses formally. The ease of transacting informally becomes more attractive. The speed of transaction and zero transaction costs makes informal transactions a practice of choice for low income people.

8.11. Conclusion

This chapter has highlighted that the extent of informal transactions in eThekweni Municipality is minimal and not as high as largely speculated. Comparative to a city like Johannesburg, informal transactions in eThekweni are negligible. On the basis of empirical findings, only a handful of beneficiaries have transacted their houses informally. However, these minimal transactions have highlighted very important dynamics in transaction practices and processes. Informal transactions are not necessarily practiced outside of rules. They are guided by a set of socially-determined rules and etiquette which are themselves embedded in

cultural norms and behaviour. For instance, the common practice during the transaction process was the utilisation of witnesses as a form of socially-determined validation. In addition, buyers and sellers validated their transaction agreements using affidavits obtained at a police station. This indicates the coexistence between formal and informal practices. There is some level of acknowledgement of the 'paper rights' practice by the transactors within the informal process. This then indicates that informal transactions are not necessarily a parallel and independent process to formal transactions. Instead, there is coexistence and interdependency between formal and informal transaction practices.

Furthermore, practices used to validate transactions indicate a complex entanglement between customary and Western practices. This is exemplified by seller and buyer attempts to manually alter title deeds as a form of validating their transaction which was initially conducted using customary practice. Social and traditional practices further complicate transaction processes. The findings indicate that the character and nature of informal transactions in both communities is social rather than market-related. Beneficiaries primarily transact their properties in response to social shocks. Moreover, transaction prices are informed by various complex factors such as education, personal circumstances and so on.

Finally, informal transactions occur under complex stakeholder relations. A number of individual and institutional stakeholders were identified. Each stakeholder plays a significant role in informing the nature and character of transaction processes. The contradictory role of the state was highlighted as critical where the state acts, inadvertently so, as a facilitator and prohibitor of informal transactions. The role of the state is particularly interesting as it determines how other stakeholders such as banks and the private sector respond to RDP housing transactions. In idealistic terms, the state should provide policy direction as to the future of RDP transactions.

9. Chapter Nine: Interpretation of findings

9.1. Introduction

The purpose of this chapter is to interpret the research findings and develop arguments that link informal practices and processes to various discourses in housing literature. As a starting point, the chapter's first section discusses the extent and nature of informal transactions. It answers the question of whether informal transactions are a phenomenon or sporadic occurrences in the context of eThekweni Municipality. The second section discusses the evidence of entanglement between customary and Western practices in informal transaction processes. It outlines factors that influence this entanglement while providing examples of this apparent predicament between customary and Western practices. The third section discusses how informal practices are the poor's unwitting attempts to challenge how property relations are understood. Through innovative practices and processes, the poor challenge state ambitions about housing as an economically leverageable asset for accessing bank loans and facilitating the 'mythical' climb up the housing ladder. The findings instead indicate otherwise. The fourth section outlines how certain aspects of the housing policy program has unintentionally contributed to informal transactions.

9.2. Extent and nature of informal transactions

The extent and nature of informal transaction is complex and informed by various factors. The findings suggest that the extent of informal transactions is not as predominant as assumed. They seem to be *sporadic occurrences rather than a phenomenon*. There is no sufficient evidence to suggest an existence of supply and demand mechanisms. As a result, basic market mechanisms do not seem to exist in this case. Instead, evidence suggests that informal transactions occur as a result of other non-market factors. They are predominantly informed by socio-economic circumstances rather than market mechanisms of supply and demand. The forces of supply and demand are not as evident as widely assumed by both the state and practitioners. However, transaction practices seem to be a mere reaction to social pressures. They are influenced by historical spatial geographies, and economic and social circumstances of low income people (Robinson, 1997). The main argument is that there is limited evidence to suggest an existence of a market in a classical sense of the term. Instead,

the transactions depict rather deep issues of the poor's relationship with the post-apartheid city and the divergence of their property relations from state-sanctioned neoliberal ideals.

Moreover, there is a *lack of institutional arrangement* to support a sub-property market. Abolafia (1998) argues that the consequence of repeated transaction is the establishment of institutionalised relationships and systems of meaning. The current state of informal transaction in eThekweni Municipality does not indicate sufficient repetition or evidence of institutional formation and systems of meaning to assume that there is a market. The frequency with which transactions seem to occur does not indicate an active culture of market. Abolafia (1998) argues that the culture of markets must, at the very least, denote an existence of repeated transactions. Through these repeated transactions, a set of principles and rules are institutionalised, he further posits. Economic agents or market participants use these to pursue their interests and limit the range of alternatives available to each other (Abolafia, 1998). Informal RDP housing transactions lack the repetition and therefore the general culture of market does not seem to exist. The forces of supply and demand are unpredictable, vague and weak in this context, thus making difficult to claim the existence of these forces.

Furthermore, the research reveals a *lack of calculative agency* amongst the RDP beneficiaries. There are no clear indications that RDP beneficiaries have access to information that enables them to make sense of the possible states of economic world around them. Callon contends that,

[i]n order for calculative agents to be able to make decisions they need to at least be able to i) establish a list of possible states of the world (each state of the world being defined by a certain list of actors and goods, and by a certain distribution of these goods amongst the actors); ii) rank these states of the world (which gives a content and an object to the agent's preferences); iii) identify and describe the actions which allow for the production of each of the possible states of the world (1998, p. 4).

This is in line with the argument raised by Mahoney (2004) that microeconomic theory implicitly assumes that actors possess cognitive systems of agency that provide true models of the worlds about which they make choices. Lack of access to information about possible states of the world renders RDP beneficiaries incapable of participating in a market. At the current juncture, there is no sufficient information flow from the state or the market as to what is expected to happen with RDP properties. There is a severe lack on information on whether or not it is legal to transact RDP houses, on pricing models, banks' preparedness to accept RDP

houses for mortgage and so on. Their lack of calculativeness also adds to the inability to participate in economic exchanges within a market context. These assertions advance the argument that informal transactions in the context of eThekweni do not seem to be linked to market phenomenon but rather reflect sporadic social transactional relationships. In line with arguments advanced by North (1990), RDP beneficiaries engage in economic transactions not as acts of wealth-maximising behaviour but of altruism and self-imposed constraints.

Nature of transaction practices

The findings indicate that transaction processes are informal in nature and shaped by flexible terms that are embedded in localised realities. Generally, informal transaction practices are driven by socially-determined and personalised relations. They take place within personalised intermediaries such as informal estate agents that have both in-depth knowledge of local contexts and circumstances of local people. Moreover, it appears that the nature of transaction practices is dictated by the immediate socio-economic needs of the sellers and buyers. It is also influenced largely by the knowledge, or lack thereof, of those engaging in the transaction process. As highlighted in the findings chapter, the level of knowledge determines the capacity of transactors to negotiate terms. The lower the level of knowledge, the lower the negotiating power, and vice versa.

Furthermore, informal transaction practices symbolise a precarious and complex nature of the circumstances of low income people. Lack of acknowledgement of their practices contributes to their tenure insecure status and prohibits them from fully participating in the property market. More positively however, transaction practices in their informal nature allow the poor to realise equity in their assets using unorthodox methods. Transaction practices are also a form of expression of urban citizenship and the poor's attempt to claim their space in the property market.

It appears that transaction practices are driven by the idea that informality is not a linear process of exclusively informal actions. Instead, there are intersections between formal and informal processes and some degree of interdependence. In defining informal property rights, various authors (see Anderson and Hill, 1975; Jagannathan, 1987) have referred to them as sanctioned behavioural relationships among humans or a set of rules and sanctions. Mitchel

(2003) sees these behavioural relationships as denoting rules and constraints on human behaviour. Informal transactions carry similar characteristics as informal property rights.

9.3. The influence of geographies of practices on informal housing transactions

As indicated in the literature, land tenure practices in the South African context are informed by historical geographies and their complex dynamics. Rural areas under apartheid were predominantly part of Bantustans³⁹ and informed by primarily customary land tenure practices embedded in culture and tradition. In KwaZulu-Natal for instance, land tenure practices are predominantly informed by customary practices. The nature of land ownership, which is governed by customary rules and practiced through traditional norms, informs these practices. Therefore, the majority of the population from the former KwaZulu homeland are likely to utilise their lived experiences extracted from their historical geographies to transact and hold property and land. This argument confirms the assertion by Payne (2000) that one country may have diverse tenure systems that are legally recognised, however application of these systems may be such that if migrants move from customary areas to urban centres they may be considered to be behaving illegally simply because they are operating in accordance with systems not acceptable in their new location. Similarly, the calculativeness of their agencies is likely to be embedded in their historical geographies. In the context where historical geographies are seen as constitutive of culture—culture can be considered a variable for measuring calculativeness. According to DiMaggio (1994), culture is a significant factor in measuring the constitution of market societies. He argues further that if economic agents resist calculative rationality and hence the market, it is because they are embedded in the social or cultural frames which turn them away from it. This argument is not aimed at claiming that Black South Africans did not historically have calculative agency. However, it claims that property and land as assets were not necessarily subject to calculative agencies aimed at economic maximisation. Instead they were social assets meant for traditional expression.

The argument being advanced is that the cultural geographies of RDP beneficiaries determine the manner in which they practice land tenure transactions. Therefore the survey

³⁹ Bantustans is a term used to refer to reserves where African people of particular races were forced to reside. Bantustans were divided along ethnic lines, for example, KwaZulu Bantustan was for the Zulu-speaking population only. These were as a result of the Apartheid Group Areas Act of 1913 and subsequent racially and ethnically-driven demarcations.

attempted to ascertain these geographies in order to understand the lack of calculativeness and explain the nature of practice. More than 90% of respondents from both communities were originally from rural areas of KwaZulu-Natal and the Eastern Cape. Most considered their rural origins as their traditional homes. Their cultural socialisation is embedded in these historical spatial geographies. Therefore the assertion is that these geographies inform the nature of processes beneficiaries follow in transacting their properties. This assertion is articulated in detail in a later section of this chapter.

9.4. Value attribution

There is a disjuncture between state value attribution and RDP beneficiaries. On the one hand, the state has its own set of factors used to attribute value in RDP properties, which are contrary to how RDP beneficiaries attribute value. The state attributes value based on two main factors: 1) the capital amount used to produce the property (land, top structure and finishes); and 2) the emotional value of RDP properties based on the fact they are given to the poor for free. The state's argument is that the poor should show gratitude in this asset because it is given to them for free. On the other hand, beneficiaries use various sets of factors to attribute value to their properties, such as the level of investment they have put in their property, sentimental value based on the length of their wait before being allocated the house, and location also seems to play an important role in beneficiaries' value attribution process.

Furthermore, the state seems to place high economic value on title deeds. It perceives title deeds as a holy grail of property ownership and an important document for facilitating access to finance. The assumption is that once beneficiaries are given titles, they can use their properties as collateral for accessing finance from banks. It is important to note that this, as already argued in the literature, has not necessarily occurred as expected. Banks have been largely reluctant to take RDP houses as collateral for various reasons. The findings reveal that this reluctance is informed by unimproved economic fundamentals amongst RDP beneficiaries. Banking sector respondents cited dire unemployment, lack of savings culture, poor financial management and a general lack of consumer education as contributing factors to poor economic fundamentals (respondent NN). The quality of houses also does not meet banks' expectations. The lack of quality in RDP properties is extensively documented and has been further confirmed by the findings. Beyond these reasons, there has also been a historical reluctance of

banks to engage in low income housing markets. The risk averseness of the banking sector prohibits lending to the poor (respondent MR).

However, the findings indicate that the majority of RDP beneficiaries do not attribute high value in title deeds. They do not see title deeds as valuable to them but rather as valuable for proving ownership to the state. In this regard, the state is seen as a threat in the security of tenure. Some respondents indicated that they had seen people in their communities being evicted by the state because they did not have proof of ownership. This assumption could not be verified. However, it indicates that respondents viewed the state as a threat to their security of tenure. Title deeds are embedded in the ideals of private property ownership which, according to the findings, are alien to many beneficiaries. The relationship between title deeds and economic neoliberalism appears to be underdeveloped in the socio-cultural context of most beneficiaries. The rigidity of the title deeds process and complex institutional arrangements constrain many beneficiaries from accessing the process. As a result, they place limited value to title deeds.

9.5. State response to the housing need

The findings reveal a complex mismatch in the state's response to the housing need. This mismatch is perhaps articulated clearly by what Charlton refers to as a disjuncture between state ambitions and beneficiary practices. Clearly, the challenge started much earlier. The nature and character of the housing need in the post-transition period was homogenised as a need for ownership. The state attempted to use housing to address a multitude of urban challenges it had inherited from the previous dispensation. Some of these included redressing segregation, providing access to the city and reversing imbalances in land and property ownership in urban contexts. As a result, housing policy has since tended to respond, rather half-heartedly, to each of these challenges. Hence the bias towards ownership as a predominant model for housing delivery. Studies such as this one reveal that, while remarkable progress has been achieved in general terms, many challenges have persisted. What has arguably occurred is that the nature and character of these challenges has shifted from their original state. The challenge of title deeds, for instance, is a symptom of a larger problem of how the state responded to the housing need. The ripple effect of this challenge has contributed to yet another problem of informal transactions. What findings also reveal is that patchwork in the form of

legislative interventions, such as the pre-emptive clause, have exacerbated the problem rather than solve it. The combination of these layers of challenges and their symptoms have contributed to the state's discomfort with its inability to control what beneficiaries do with their RDP properties. This discomfort is exacerbated by the fact that the state does not understand the very complex relationship the poor have with their RDP properties. The state's discomfort is compounded by the fact that this complex relationship is embedded in a web of intricately woven networks of socio-cultural and economic conditions and behaviour of the poor.

The above are ripple effects of policy decisions taken during the transition period to adopt a neoliberal approach to respond to the very complex housing need. What is clear from the findings is that informal transactions and the related challenges are symptoms of what Bond refers to as welfarist-neoliberal policy confusion which has come about as a result of the State adopting a neoliberal paradigm which became heavily diluted by a Socialist model of delivery. The findings reveal rigid state attitudes informed by altruistic tendencies synonymous with a welfare state (Parnell & Pieterse, 2010). Yet, the state articulates long-term neoliberal ideals of collateralisation and property ladder as policy constructs, while adopting largely protectionist behaviour. What this research reveals is that these ideals are not necessarily accompanied by sound policy instruments. Instead, it seems that there is a lack of policy direction insofar as the state's expectations about the role of RDP housing in the property market is concerned.

Finally, on the basis of the findings, the state's over-reliance on private ownership as a predominant response to the housing need is questionable and has contributed to the current conundrum of informal transactions. It appears that this over-reliance was based on assumptions that low income beneficiaries had ambitions to become permanent urban residents. This assumption ignores deep seated and complex historical urban citizenship challenges. It also ignores the hangover from urban governance and structural constraints placed on new Black South African urban residents in their attempt to claim urban citizenship. For instance, urban bylaws are viewed by low income beneficiaries, who are all Black South Africans, as predominantly biased towards cultural and social practices of the white population. They are seen as a constraint to the cultural expressions and traditional practices of many beneficiaries. Therefore, the failure of the state's attempts to use housing to redress skewed ownership patterns in urban areas is reflected in its attempt to regulate and dictate how beneficiaries engage with their properties. This desire to regulate how beneficiaries transact, hold and transfer their properties is contrary to neoliberal principles of the free market. It also

ignores the circumstances of the poor which dictate their urban-rural or urban-urban movement. The findings reveal that the economic and social circumstances of the poor are precarious and unpredictable. As a result, they often do not have options on whether to move to another city or to remain. For instance, when a domestic worker suddenly finds a better paying job in a city 300km away from the city where she owns a house, she is likely to leave for the new city. Therefore, any constraint on whether she can transact her property or not disadvantages her participation in the property market.

9.6. Evidence of entanglement in informal transactions in RDP housing in eThekweni

It was noted that transaction processes took various forms and were not necessarily linear. They demonstrated a coexistence and interdependence between formal and informal practices which confirm assertions by Marx & Royson (2007). The findings also dispute, similarly to Royston (2006), the false polarisation that draws abstract parallels between formal and informal systems. Some transaction processes took a partially formal (Western) route but ended up informal (customary). For instance, sellers wanted to sell formally and went through the first steps of the formal process, but were prohibited by the costs and time it would have taken. They were also prohibited by a complex hierarchy of stakeholders they would have had to engage with in order to access the formal process. Most of the respondents who attempted the formal route were unfamiliar with institutional arrangements and actors in the formal process. The research found that the transaction process continued but informally. In the circumstances where the buyer and the seller were already in possession of the deeds of transfer documents which had been prepared for them, they instead utilised this document as a proof of transaction by altering the names on the document. In other cases, the buyer, after the transaction was complete, manually inserted their name in the title deed as proof of ownership. Two cases were recorded where the purchaser and the seller both had a copy of the deeds of transfer as proof of their agreement. These instances are outlined in detail later in this section.

During the research process, it was discovered that beneficiaries utilised transaction practices that mirrored those used in customary contexts but supplemented them with Western methods of practice, as indicated above. RDP beneficiaries, in transacting their properties, followed processes which can be referred to as customary in nature. It appears that transaction

agreements were based on customary contracts. Written documentation was merely a proof of ownership in case of dispute with the state. Beneficiaries used the social witness system to validate their agreement. The seller and buyer would each bring witnesses during the transaction process. Witnesses were usually family members or senior community members. This mirrors the process in rural areas where *izinduna*⁴⁰ and community elders witnessed and gave legitimacy to land transaction processes. The witness system served to preserve social memory of the agreement. In the event of any dispute, these witnesses could be called in to testify. Notably, disputes in this context, unlike in the rural settings where customary institutions are still prevalent, were usually dealt with by councillors. This further indicates entanglements between customary and Western practice, where democratically elected representatives preside over matters that are customary in nature. Very often councillors were not party to agreements between the seller and buyer, but disputes often forced them to get involved. This is not to suggest that councillors are generally not involved in informal transactions. There is indeed evidence that some councillors do, at times, get involved in informal transaction processes.

Furthermore, the findings indicate that RDP beneficiaries systematically engage in entangled processes of customary-Western practices in the manner in which they transact their properties. As indicated earlier, customary practices are embedded in traditional institutions and authority in rural areas of KwaZulu-Natal where neo-customary land practices exist. They are socially-accepted set of principles governing customary practices and are embedded in the customary land ownership system. On one hand, Western practices refer to a state-sanctioned formal land and property transaction system adapted into the democratic system. There are state-sanctioned principles embedded in legislative frameworks and driven by a hierarchy of institutional arrangements. On the other hand, customary practices are socially-driven and based on a set of traditional values and socially-determined hierarchy of actors. These practices are predominant in rural areas of KwaZulu-Natal. Contrary to popular assumptions, these practices are controlled by strict principles and conform to social norms and traditional principles. Customary transactions are subject to a socially-legitimated system of collective approval.

⁴⁰ A Zulu word for traditional herdsmen and assistants to the Chief.

The learned wisdom of most RDP beneficiaries who transacted their properties is based on this customary ‘mind-set’. The manner in which they transact their properties is embedded in a customary frame of reference. Research findings indicate that in beneficiaries’ attempt to conform to Western principles, they engage state institutions such as police stations and ward councillor offices to validate their transactions. As indicated in earlier sections, they obtained affidavits from police stations as proof of transactions. Most transactions were validated in this way. The seller and the purchaser would both co-sign the affidavit stating the nature of their transaction, how much had been paid and how much was outstanding. Police officers served as commissioners of oath in the affidavit. Police stations served as the RDP beneficiaries’ first point of access to a legal system and a government institution. This was done as an act of conformity to state rules and expectations. In instances reported earlier, the seller and buyer used unorthodox ways to validate their agreement using manually altered title deeds. Again, this indicates an effort at compliance with state expectations and conformity towards Western principles of ‘paper rights’. Most buyers of RDP properties kept these forms of unorthodox documentation as proof of ownership in case dispute arose between themselves and the state. Perhaps more interestingly, is that they did not anticipate a dispute between themselves and the seller. Somehow they felt comfortable with these unwritten social contracts. They seemed more worried about the state taking away their properties if they failed to produce evidence of the sale agreement. To many, the thought of being evicted by the state made them uncomfortable. In other circumstances, the buyer argued that the documentation was proof and protection against extended family members of the seller who might, in future, lay claim to the property. This was seen as a lesser threat than state eviction. It was unclear what influence the ‘political economy of fear’ of the state played considering that most beneficiaries had previously experienced some form of eviction by the state from the informal settlement they resided in before being moved to their new settlement.

An important factor that seems to contribute to customary-Western entanglement is the pluralistic nature of legal interpretation. From the perspective of most low income people, there is no distinction between various typologies or strands of the law and its institutions. In this sense, they do not make a distinction between property law, its institutions and criminal or civil law and its relevant institutions. This is typified by the popular reference to police as a representation of the centrality of state law. Therefore, respondents demonstrated plurality of interpretation in their understanding of state law as singular while also acknowledging the customary law. This corresponds with studies conducted by von Benda-Beckmann (2006) on

how law is viewed in pluralistic ways, perhaps exemplified by popular reference to police stations as *umthetho*, roughly translated to ‘law’ in isiZulu. In this regard, police stations are seen as embodiment of legal institutions and of state law. It is this understanding that allows RDP beneficiaries to believe they are conducting their business formally and legally by obtaining an affidavit from the police station. More important to note is that many, if not all, beneficiaries do not see their activities as informal. Instead they see it in terms of legality and illegality. This view is maybe predominant because of widely publicised state utterances on the illegality of selling RDP houses.

Furthermore, it is deduced that this entanglement is made more difficult by the fact that the state has accommodated traditional institutions and customary resources (such as land) into the democratic system without acknowledging customary practices that thrive in traditional systems within South Africa. This raises the question of wisdom on how the state has accommodated the traditional institutions and customary authority without necessarily incorporating the material practices prevalent in this system. Therefore, this entanglement is an outcome of this lack of systematic incorporation of traditional institutions and customary authority in the post-apartheid period.

The research noted that government-sanctioned Western practices are exclusive and require engagement with institutional hierarchies detached from the contextual realities of many RDP beneficiaries. This is confirmed by Ensminger’s (1997) assertion that entanglement results from institutional rigidity, high transaction costs of registration, the failure of complementary factor markets and, more importantly, the incompatibility with fundamental social norms. The rights-based practices of the Western system are premised on the idea of economic incentives where beneficiaries could use their title deeds to access finance from the banks. However, the reality on the ground indicates that in order to transact within Western practices, one requires skills, knowledge, education and resources that most beneficiaries do not have. The economic conditions of many RDP beneficiaries do not enable them to take advantage of the economic incentives of transacting formally. Aside from structural barriers to access, it was discovered that many beneficiaries were not necessarily transacting their properties for economic gain. Generally, beneficiaries were uncomfortable with the idea of using their properties as collateral for fear of losing their only asset. This corresponds with literature that indicates the poor’s unwillingness to risk their assets in collateralised agreements (see Durand-Lasserve, 2006; Calderon, 2004). Instead it was found that beneficiaries sold their

properties to respond to social emergencies and economic shocks. In two instances, beneficiaries sold their properties in order to bury their relatives (see Chapter Nine). In other instances, sellers sold so they could return to their rural homestead. These were usually discouraged jobseekers and the elderly.

Instances of inheritance were recorded as part of informal transaction processes. The research found inheritance in RDP properties to be a common way property rights were transferred. Properties were transferred through patrilineal and/or matrilineal processes and not necessarily recorded. Descendants of the deceased often struggled to provide the required proof for change of ownership, as documentation was often tangled in family disputes. The research recorded cases where young adults were occupying their deceased parent's house without any legal documentation. The biggest challenge they faced was access to Municipal services—and possibly the only reason why they wanted to obtain a title deed. The houses they inherited were said to be owing the Municipality for water and electricity services. In order for the Municipality to cancel the debt or offer a solution, they required documentation that proves that the house was owned by the deceased and that the descendant children were entitled to it. Some obtained affidavits to prove their right to the house which were rejected by the Municipality. In this instance, the state rejected the process of inheritance primarily because of a lack of documentation. There were no mechanisms for the state to recognise patrilineally or matrilineally-transferred property rights.

Deeds process as a contributing factor to entanglement

The findings confirmed well-documented evidence that the deeds process is highly legalistic, exclusive, rigid and costly for low income people to utilise. It is an affirmation that this system is based on legal principles and institutional hierarchies which are beyond the poor's access. Barriers to participation are high. The impersonal nature of actors in the system repels the poor from participating.

However, there seems to be sound reasons and wisdom for adopting this system of land registration. Firstly, the state acknowledges that the historical facts of land dispossessions and disenfranchisement of the Black majority from property ownership has forced it to adopt a legalistic process to redress this. The apparent state obsession with the deeds registry process is driven by the desire to provide legally-recognised security of tenure as an attempt to redress

the imbalance in ownership patterns. Secondly, it is apparent that the post-apartheid state as a democratic institution that subscribes to ideals of universal franchise uses the deeds registry system due to its perceived equality of treatment. This is driven by the subscription to neoliberal ideals that value private property ownership. This has forced the state to adopt a deeds registry system as universally applicable in the post-apartheid era. However, there is an indication of the rejection of this system of private property relations.

While state justifications for adopting the deeds registry process, which is largely Eurocentric and based on Western values of property ownership, are sound, they contribute immensely to this entanglement. They prohibit growth of a property sub-market in the RDP housing sector. They also alienate the poor from participating in property transaction processes in an economically productive manner.

Moreover, the slow pace and inadequacies around the issuing of title deeds timeously to beneficiaries contributes to this entanglement. In the absence of title deeds, beneficiaries are unable to transact formally and as a result, they are forced to resort to informal practices. Therefore, beneficiaries become tenure insecure and are vulnerable to state evictions.

9.7. RDP beneficiaries challenging property relations

The manner in which the poor transact and exchange their properties unwittingly challenges the status quo of how property relations are understood, particularly state perceptions of how the poor should hold and transact their properties. Through the poor's innovative practices and process, the general acquired wisdom of property relations is challenged. This is indicated by the ways in which they creatively use methods that are not state-sanctioned to transact properties and at the same time, use state institutions (police stations) to validate transactions. They realise equity in their properties in ways beyond state's expectations. Whether consciously or subconsciously, the poor challenge state-sanctioned institutional arrangements and processes of facilitating property transactions.

The findings also suggest that the poor's utilisation of their housing asset under distressed circumstances challenges state perceptions. This confirms Charlton's (2008) findings that there is a disjuncture between state ambitions and beneficiary practices in RDP

housing. It appears that beneficiaries use their housing asset to respond to social and cultural pressures. As indicated in the findings, some beneficiaries sold their houses to afford funeral costs for a member of their family. In this way, they leverage their equity in the asset to respond to social circumstances. This is contrary to state ambitions of how the RDP asset should be utilised by the poor; the ideals of collateralisation and aspirations to climb the housing ladder are not necessarily a priority. This thus confirms assertions by various authors (see Durand-Lasserve, 2006; Colchester, 2004).

African forms of property relations do not find space in the post-apartheid urban context. This is due primarily to the fact that institutional arrangements and service hierarchies are linked to Western forms of property relations. The RDP housing programme is centred on providing access to the city through provision of formal property titles and on expectations that transfer of these titles will occur within state-sanctioned institutional arrangements. The link between these state-sanctioned arrangements and access to services in the urban context disadvantages beneficiaries. The manner in which property rights are re-arranged by RDP beneficiaries complicates their access to urban services. Their ability to take advantage of the benefits of being urban citizens is curtailed by the connection between formal property rights and access to urban services. For instance, for a person to open a bank account, they must produce a water and electricity or rates bill as proof of address. However, most RDP beneficiaries who acquire their properties through customary (informal) processes are unable to produce such documentation, as Municipal bills remain in the name of previous owner(s).

9.8. Informal transactions as a cry for urban citizenship

According to Holston (2008), there is an intrinsic relationship between urban citizenship and property. The findings indicate that the state has inadvertently hindered RDP beneficiaries' right to self-actualisation and stalled their urban citizenship by restricting options on what they can and cannot do with their properties. There are various ways in which the state has done this: 1) subjecting beneficiaries to a rigid urban governance system that is not aligned to their social and cultural needs, thus limiting their right to express property relationships; 2) failure to resolve the title deeds backlog contributes to the struggle for the right to urban citizenship. This is not to argue that with title deeds the right to urban citizenship will be actualised. Speedy resolution of title deeds would no doubt contribute to improving the options

beneficiaries have; 3) state intervention aimed at restricting how and when beneficiaries transact their properties is counterproductive. If the main objectives of the state is to facilitate access, amongst other ideals, to urban citizenship through housing policy this intention is contradictory. As Lalloo (1999); Brown et al. (2010) write, citizenship confers on individuals certain duties, rights and obligations, and privileges of being a member of a spatial entity—be it a city or a town. Through restrictions such as the pre-emptive clause, the state hinders these rights and privileges. It restricts the poor’s freedom of movement and their agency to make choices about how and when they can realise equity in their properties. Their agency to engage in place-making processes is also taken away by such restrictions. These findings support assertions by Smith (1992), Bond and Tait (1997) and Lalloo (1999) which posit that the post-apartheid housing policy, due to its neoliberal leaning, has entrenched and reinforced apartheid spatial inequalities instead of dismantling it. Furthermore, the state’s insistence on a single form of property ownership and transaction process fails to acknowledge the cultural and social diversity of its urban residents. It also negates the historical imbalances between whom Holston (2008, 2009) refers to as entrenched and the insurgent urban citizens. RDP beneficiaries remain insurgent citizens in the urban context as the result of restrictions placed on their agency to express urban citizenship and enjoy privileges that come with being an urban citizen. Expression of urban citizenship includes the right to be able to make a choice of where to live within the city and access to urban amenities. It also includes the right to choose how to realise equity in one’s property within universally applicable rules and regulations.

9.9. Informality and state interventions

There is only one thing worse than state intervention and that is bad state intervention (respondent MR).

There is a history of a heavy-handed state reaction to informality. The reaction to informality has been particularly dismissive and at times harsh. Notably, state intervention and reaction to informality has largely been based on assumptions. There has been very negligible evidence informing state assumptions about informal transactions in RDP housing. Policy reaction has largely been informed by speculation and the state’s emotional discomfort with the lack of control within the RDP housing environment. As indicated by the findings, this speculation has led to misinformed conceptions of informal transactions in RDP housing. As a consequent, state reactions are often misinformed and inaccurate as they are not backed by

evidence. Rather, they are based on misconceptions of informality as a process engaged upon by the poor to deceive or defraud the state.

Furthermore, the state belittles beneficiaries' calculative agencies to self-determination about their housing need. To some degree, the state feels entitled to determine how beneficiaries engage with their housing product. It lacks foresight on the critical relationship between housing and culture and the entire housing economics value chain. There is an indication of state's obsession with control over what RDP beneficiaries do with their properties post-allocation. It is likely that this discomfort and uneasiness is informed by the state's perceptions that RDP beneficiaries who sell their properties return to informal settlements and thus perpetuate the housing backlog. This assumption has not yet been empirically proven and remains a research gap.

9.10. Housing policy discourse

It appears that the South African housing policy is influenced by numerous international discourses. They begin with adoption of neoliberal discourse which influenced how housing is perceived by the state, and ultimately, the adoption of concepts such as housing asset, legal titling and the ideals of collateralisation and the housing ladder. It seems the manner in which these discourses have been introduced into the housing program did not emphasise the socio-cultural contexts of how property relations are formulated (respondent MR). Instead, grand theories on property relations borrowed from Euro-American literature prevail as a 'Holy Grail' for engaging with the behavioural practices of RDP beneficiaries. There is evidence that policy has failed to manage infiltration by these discourses. There is also a lack of trial and error processes where these international ideas are tested against context and local circumstances.

By the same token, political sentiments also made their way into housing policy implementation, thus distorting the primary objectives of the housing program. In this way, the housing policy process lacked the rigidity necessary in order to see through its primary objectives. This is also partly due to the lack of systematic management of policy pressure points as reiterated by respondent MR. Seemingly, housing policy process has succumbed to the necessary lobbying and influence of civil society and other interest groups. Indeed, it is a

moral responsibility of these groups to apply pressure on various angles of the policy in order to influence it. It is however, the responsibility of the policy to strategically manage its pressure points so as to maintain necessary focus.

Policy responses have largely been based on ill-conceived economic ideals around what the poor want to do with their RDP properties. The sentiments linking housing to economic aspirations of climbing the housing ladder and collateralisation exemplify how the South African housing policy program has adopted undigested international discourses. In the process, the housing policy has failed to reflect the socio-cultural dynamics of housing beneficiaries. Perhaps informing this failure is the desire to create African cities that conform to Eurocentric ideals of how low income urban housing markets should behave.

The idea that government should restrict what RDP beneficiaries do with their asset is rejected by critics of the pre-emptive clause (respondent MR). It also seems to be contradictory to the principles of private ownership (Demsetz, 1967; Furubotn & Pejovich, 1972; Eggertsson, 1990). However, the government admits that it is impossible to enforce this clause but believed there was value in it (respondent RP). According to respondent RP, the reason this clause is impossible to enforce is that, by its nature, it is a civil prohibition rather than criminal prohibition. What this means is that in a situation where an RDP beneficiary received a title deed with the condition not to sell before the period of eight years and then they decide to sell, the state could go to court. In that regard, the state would have to provide practical proof that the condition has been broken and the court can reinstate ownership back to the state. Practical proof means that the state has an obligation to prove there has been a sale. When the property has been transacted informally, it is impossible for the state to provide practical proof. It is this reason the state has not been able to prosecute anyone who sells their RDP house. Of course, the debate is whether the state should even concern itself with enforcing such a clause in light of its ideals to position RDP housing as an asset which should serve as a catalyst for economic development. This clear contradiction between the state's ideals of facilitating upward social mobility through providing property ownership and the need to insert a limitation on when beneficiaries can sell their houses, is noted by state respondents (respondents BM and RP).

Another unclear government position on the selling of RDP housing is that shared by the Minister of Human Settlements in her budget vote speech, "[...] should their circumstances improve to the extent where they can sell the house, we require them to transact through the

formal route [...]” (Sisulu, 2015). This view negates the challenges that push RDP beneficiaries towards informal practices. As noted in the literature, informal practices are as a result of rigid formal systems that have high barriers to entry for low income people (see Kingwill, et al., 2006; Durand-Lasserve, 2006). There is a sizeable body of literature that indicates that formalisation of the poor’s informal practices does not improve their circumstances but instead put them in a vulnerable position (Durand-Lasserve, 2003; Cousins, et al., 2005; Leap, 2005; Payne & Durand-Lasserve, 2012). Formal processes are complicated and costly both in terms of money and time. Aside from formal processes being incompatible with the poor’s circumstances, the sentiment that RDP beneficiaries should transact through the formal route is ignorant of the fact that many RDP beneficiaries still do not have access to title deeds. The deeds backlog, as discussed later, has been identified as contributing to beneficiaries selling their RDP houses informally. It is only logical that in the absence of a title deed, a beneficiary who wants to sell their RDP house would not be able to do so formally even if they wanted to. The only means is the informal route primarily because it offers flexibility and ease. Informal processes are embedded in systems of practice more favourable to the poor and they are often in control of their circumstances (Gelder, 2007). One respondent argued that informal processes were not vastly different to the formal processes. They too are guided by rules and principles as is the formal sector. The point she was driving home is that substituting informality for formality does not solve the problem but compounds it. Research findings reiterate that formalisation of formal processes is not a solution. Instead, it creates unintended consequences for low income housing beneficiaries. The need to reconceptualise the housing asset debate beyond collateralisation and selling is imperative. This conceptualisation needs to expand beyond the confines of the formal market and somewhat narrow state understandings of what RDP housing asset could be used for. In order to do this, state institutions need to take into account the practices of the poor and adapt to them.

9.11. Summary

The findings of this research, although not generalizable, have contributed to several analytical understandings of informality as a process and a concept. Firstly, the research has informed perspectives of how formal properties become informalised through informal transaction processes. The study indicates that formality is transmutable under the pressure of informal forces. This dispels the prevailing notion that formality is less fluid and unlikely to

react to forces outside the formal realm. The manner in which beneficiaries navigate between formal and informal processes points towards this fluidity. Formality as a concept and practice is bound to become transmutable when challenged by a set of rules and practices that are outside of its regulatory framework. More importantly, the study has informed understandings of how the poor find ways to navigate between formality and informality, thus reinventing new rules and codes of practice. While these new sets of rules and codes may not be documented or even understood by the outside, they are entrenched within a particular social space.

Secondly, the research findings indicate that informal transactions are not necessarily a subject of the desire to maximise on economic benefits of property, but are rather informed by a complex set of socio-cultural pressures that the poor often find themselves in. While the reaction of the poor to these pressures may yield some economic benefits, they are however not primary motivations. The precarious social and economic conditions of the poor demand that they react to these pressures with their only asset, which under normal circumstances they are unlikely to utilise. This is primarily due to their lack of insulation from these pressures.

Thirdly, the findings have highlighted how culture is an important analytical lens through which housing should be understood. This indicates a need to engage with the anthropological role of housing in the post-apartheid context. More importantly, the research has highlighted the detrimental effects of ignoring geographies of practice, culture and tradition in our understanding of property relations in a context of South Africa's diversity.

Fourthly, informal transactions are informed by much deeper post-apartheid urban governance complexities. These complexities include urban citizenship for Africans in a predominantly Eurocentric urban environment. The assumption that the absence of legislated controls and limitations of urban citizenship for Africans automatically translates to urban citizenship equality is misleading. The legacy of urban exclusion still influences how Africans behave in the urban context.

10. Chapter Ten: Conclusions and recommendations

10.1. Introduction

The introductory chapter set out to unpack the problem statement and then outline research objectives. The problem statement pertains to the state sentiment that RDP housing beneficiaries are selling their houses informally and at amounts below the market rate.

This chapter provides a summary of key discussions raised in this thesis. It highlights main arguments discussed in various chapters. While various studies confirm state's concern, very little research has been done with regards to the process beneficiaries follow in transacting their houses. This research set out to close this research gap by investigating transaction processes and practices followed by beneficiaries.

10.2. Policy contradictions and the RDP sub-property market

South African housing policy has often been blamed for being contradictory and vague on some aspects (Bond & Tait, 1997; Lalloo, 1999). From the onset, the housing policy programme was stuck between the market and state paradigm of housing supply. While policy articulation was that housing would be delivered through market mechanisms, the implementation process was predominantly state driven. In this regard there was a contradiction in what policy had articulated vis-a-vis what occurred on the ground. Another contradiction was in the assumption that market mechanism was appropriate for housing delivery under the then economic fundamentals (Lalloo, 1999). To a large degree, this was driven by a sense of optimism during the early years of transition. There was hope that the new government would attract investment and grow the economy thus creating new employment. As reality would find, unemployment levels increased and economic growth slowed. This meant that the poor could not afford housing investment.

Policy contradiction emanates from the manner in which policy messages are transmitted. The contradiction is exacerbated by the confusing policy language and articulation around RDP housing as an asset. It seems to be common language among state officials and politicians to refer to RDP housing as 'state properties'. This implies that the state owns these

properties perpetually notwithstanding that beneficiaries hold title to these properties. There is an impression that the state has a responsibility and a legitimate right to control what beneficiaries do with their housing. As indicated in Chapter One the uproar from both politicians and officials about the selling of RDP housing indicates the state's desire to control how beneficiaries engage with their housing asset. Very frequently the state refers to those who either sell or rent out their properties as 'ungrateful' and 'underserving' of RDP houses. This is a language that does not recognise the broader policy objectives of creating an asset for low income people. While the policy objective of delivering RDP housing is to provide beneficiaries with an asset which they can use to improve their lives, this message is often distorted through political statements and official utterances.

Furthermore, the existence in policy of both 'housing as an asset' and the 'pre-emptive clause' is a contradiction in itself. The state's claim that it wants to provide beneficiaries with an asset which they can use to access finance through collateralisation -which is a flawed idea as has been argued in this thesis- cannot be realistic under the legislative conditions of the pre-emptive clause. This is particularly so in the context where the pre-emptive clause is often miscommunicated at both the official and political level. As noted in Chapter Eight and nine, very often state messages regarding the pre-emptive clause exclude the timeframes of the limitation thus creating a sense of perpetual illegality of transacting RDP housing. The clause indicates the state's confusion on what in fact it wants beneficiaries to do with their RDP housing assets. This also reveals a lack of clear and long term policy direction. The state fails to articulate how it envisages beneficiaries would do with their assets beyond the collateralisation and asset building rhetoric.

In addition, the above contradictions have a significant impact on the development of sub-property market within the RDP housing sector. The state's focus on controlling what beneficiaries do with their assets overshadows the need to create conducive conditions for the development of a sub-property market. Even under the context of existence of improved economic fundamentals and sound calculative agencies amongst RDP beneficiaries, a sub-property market is unlikely to develop under current policy conditions. The impact of current policy conditions creates a confusion for the private sector (particularly the banking industry) and beneficiaries alike as already elaborated on in Chapter Eight and Nine. This increases the banks and other relevant private institutions' reluctance to actively participate in the RDP housing market.

10.3. Calculative agency in informal transactions

The literature related to this topic is saturated with assumptions that actors in informal transactions have calculative agency. These assumptions are premised on the conviction that beneficiaries engage in informal transactions in order to maximise economic benefits associated with the exchange of property assets. This perspective assumes that beneficiaries have adequate information about what ‘the state of the world’ is (Callon, 1998). In fact, the findings indicate that beneficiaries do not have sufficient information about their assets and the market in order for them to participate. As indicated in Chapter Eight, beneficiaries do not have knowledge of the property market and the state does not provide sufficient information on the state of RDP houses with regards to transaction process.

Another important point is that calculation is embedded in cultural contexts and most beneficiaries come from a cultural background do not wholly and singularly base decisions on economic calculus. Therefore, the assumptions that RDP beneficiaries have calculative agency to engage in property contracts is limited. The link between culture and calculative agency is nuanced in the section below. The argument being advanced is that the study of housing behaviour in informal transactions needs to be considerate of cultural contexts before claims of calculation can be made. This research claims that calculative competence is a subject of cultural context and therefore cannot be divorced from each other.

10.4. Framework of analysis—beyond the market

There is evidence in the literature of over-reliance on framing the study of informal transactions in low income housing on the basis of market paradigms related to calculative agency. Methodologies and analytical frameworks place tremendous emphasis on markets as key variables in understanding why beneficiaries transact their properties. As a result, the role of culture and other social elements are ignored. Housing is a product of culture and cultural frames inform calculative competence as reiterated by Callon (1998). Therefore, to detach housing behaviour from cultural contexts is both limiting and incorrect. In the words of DiMaggio (1994), the role of culture in the constitution of market societies is important. He postulates that culture is a necessary premise for explaining the appearance of rational actors and the components of the market economy primarily because “their behaviour and calculative

capacities differ from one society to the next” (1994, p. 23) . The argument advanced here is that housing behaviour is embedded in cultural contexts and practices. As Callon would argue,

[i]rrespective of mediations through which influence is supposed to be exercised, it is asserted that in all cases certain social structures or cultural forms favour calculations and selfish interests while others induce agents to be altruistic, disinterested, generous and even to give for freely (1998, p. 5).

Therefore any housing analysis aimed at understanding the behavioural practices of actors should concern itself with understanding culture as a key element to shaping that behaviour. Although authors such as Gao (1998) find the ‘culturalist’ approach to be weak in its claim to explain the role of culture in blocking the emergence of calculative agencies, he still however uses culture as a premise for refuting this claim. This is an indication of how critical the cultural approach is in understanding housing phenomena such as informal transactions.

Furthermore, using the market as the basis of analysis negates the lack of calculative agency in various cultural contexts. According to DiMaggio (1994), calculativeness is embedded in culture. Some cultures promote calculative rationality while others restrict or limit it. There is certainly a relationship between calculativeness and participation in the market. According to Callon (2008), in contexts where culture limits calculative rationality, the capacity to participate in the market is also restricted. Therefore, Callon’s claims that calculative competence is a product of cultural frames rather than an intrinsic property of human beings is well-placed. His emphasis is on the cultural and social dimension of calculative competence as key in understanding the behaviour of actors.

In the context of informal transactions in South Africa, there is limited effort to study this practice from the cultural perspective. This leads to an insufficient understanding of the relationship between culture and housing in general. The complexity of this relationship is enhanced when the role of the state is taken into account. RDP housing is provided by the state which is already an interference with a cultural context. It is here where housing ceases to be purely a product of culture but becomes embedded in a web of institutional relationships and cultural importations and impositions. The state adopts certain cultural perspectives to housing behaviour—those related to individuality, private property and high calculative competence. It ignores other cultural perspectives which may have less calculative competence.

Although the findings of this study are not generalizable, they do indicate a need to explore informal transactions from the cultural perspective to better understand the nuances of calculativeness and competence among the beneficiaries of RDP housing. To assume a cultural shift from non-calculativeness to calculativeness without any attempt to understand or explain how suddenly the agents started to be calculative is dangerous. It neglects the importance of culture in the formulation of calculative competence.

Therefore, there is an imperative to consider the cultural dynamics of housing behaviour when studying informal transaction processes. Studies of housing behaviour should take into account the intricate social and cultural factors that influence behaviour. Without doing so, the current understanding of this phenomenon is likely to remain limited. This may lead to incompatible interventions which exacerbate the housing challenge.

10.5. Tenure dynamics in South Africa

Tenure dynamics in South Africa are complex and embedded in the history of the state's imposition of predominantly Western forms of tenure and property rights. In this instance, the state sees secure tenure as a provision of legal property rights in the form of title deeds (De Soto, 1989; van Gelder, 2009; Porio & Crisol, 2013). This is amid growing evidence that formal titling does not necessarily guarantee secure tenure. The state's insistence on using legal property rights to provide secure tenure is contradictory to how RDP beneficiaries engage with property relations. In line with the thesis advanced by van Gelder (2009) and Kombe and Kriebich (2000), this contradiction is an outcome of the state's failure to accept that the provision of secure tenure can also be facilitated by giving recognition to the informal processes the urban poor use to hold and transact their properties. There is clear evidence that the state does not recognise the broad range of tenure practices and processes in existence in the low income housing context. Neoliberal aspirations of formal titling as a conduit for accessing housing finance and promotion of housing investment has obviously contributed to this bias towards the formalisation of property rights as the only route to tenure security. This ignores the evidence that the formalisation of property rights has achieved limited results in this regard (Durand-Lasserve, 2006; Payne, 2000; Leap, 2005; Marx & Rubin, 2008). The result of this study confirms that the formalisation of property rights in low income housing has achieved limited results in meeting the neoliberal objectives of using property as a vehicle

for economic growth. Instead, it has perpetuated the exclusion of the urban poor from participating meaningfully in property relations.

While the state's intention to provide secure tenure is driven by the desire to redress skewed property ownership patterns, it has not adequately achieved this objective. One of the key reasons why this has not occurred is the nature of how the state has adopted rigid Western forms of tenure and property rights at the expense of socially legitimated ones embedded in RDP beneficiaries' realities. As elaborated in Chapter Eight, the state puts emphasis on title deeds as the only proof of tenure. There appears to be reluctance from the state to accept secure tenure as recognition of these socially-legitimated tenure practices. Tenure practices in urban areas are predominantly driven by principles of private ownership where property relations are defined primarily in economic terms. This is unlike most rural parts of South Africa where tenure practices are embedded in socio-cultural principles. This polarisation of tenure practices has collided in the post-apartheid urban context. They inform the friction between state-sanctioned property relations and entangled tenure practices of 'new' urban residents. This friction has resulted in the partial rejection of state-sanctioned property rights in favour of entangled property relations.

10.6. Contribution to knowledge

This research contributes to the South African housing discourse by highlighting the role and influence of policy language in the articulation of key housing ideas. It presents evidence of selective use of language in policy articulation as driven by performative 'aspects of language' (Jacobs, 2006). The research highlights several instances where language was used to establish what Foucault (1980) refers to as 'regimes of truth'. For instance, the manner in which the housing policy articulates both housing as an asset and the collateralisation idea indicates the state's attempt at establishing the neoliberalisation of housing delivery as a 'regime of truth'. However, the indication is that these neoliberal ideals are not compatible with the realities of the housing environment. The evidence is that policy language adds to the confusion in the housing policy discourse. The often incorrectly articulated pre-emptive clause also adds to this confusion and distortion in the policy discourse. As indicated in the findings, state officials and politicians, in their rejection of housing transactions in RDP settlements, selectively quote some parts of the clause and omit the crucial time limitation of the eight-year

period. This omission of the pre-emptive clause indicates what Jacobs (2006) refers to as the ‘performative aspect of [*policy*] language’. It can be seen as an act of control by state actors. The thesis therefore highlights the important of grappling with the policy language and its influence in shaping the dynamics of informal housing transactions and practices.

Furthermore, there is also a clear relationship between language and power with regards to how policy is articulated. Jacobs (2006) argues that state power is not reducible to individual agency but instead constituent of a network of relations. He further argues that state power is a creation of networks of relations through institutional arrangements. One key aspect that this research raises is the rigidity and unfamiliarity of state-sanctioned transaction processes, which are located within state-sanctioned institutional arrangements. These institutional arrangements are alien to the majority of the poor who are coerced by the state to utilise them in order to express their property relations. Therefore, this thesis argues that it is critical to understand how the state uses language to exercise power and how this power is then positioned and maintained through state-sanctioned institutional arrangements. The thesis highlights the exercise of power through these institutional arrangements as an important contributor to the nature of informal transaction processes. It argues that the resultant outcome of this exercise of power is the housing beneficiaries’ limited ability to navigate institutional hierarchies within the property transaction process. Ultimately, beneficiaries opt for alternative methods of exercising their property relations that are outside of state-sanctioned arrangements.

Political utterances about the selling of transaction practices as completely ‘illegal’ and symbolising a lack of gratitude on the part of the beneficiaries are other explicit examples of the use of language to control the actions of others. Such utterances contributed to beneficiaries transacting their RDP informally. It can also be argued that these utterances illegitimize beneficiary practices and thus constrain their ability to sufficiently realise equity in their properties. The research also indicates that political utterances stigmatise RDP properties as unsaleable.

The final contribution of this thesis is raising the importance of culture in understanding transaction practices. The thesis argues that the use of the market paradigm in studying transaction practices is limited and largely driven by narrow neoliberal assumptions of RDP beneficiaries as economic actors. It elevates the importance of culture in understanding calculative agencies amongst beneficiaries within transaction practices. Clarifying the role of

calculative agencies will contribute to a better understanding of property relations within the context of RDP housing.

10.7. Recommendations

These recommendations are based on the outcomes of this research and are meant as proposals to ensure that the process of transacting houses for low income beneficiaries is simplified and does not compromise their access to basic services or jeopardise their security of tenure. Recommendations are divided into two areas: future research and practice.

10.7.1. Recommendations for future research

There are claims that RDP beneficiaries sell their properties and return to informal settlements and thus perpetuate the housing backlog. However, there is a glaring lack of evidence to support this assumption. Therefore, there is a need to conduct extensive research to ascertain whether or not beneficiaries who sell their properties do in fact return to informal settlements. This research must engage with factors informing this perceived self-re-informalisation. It needs to identify the how and why questions in this regard.

Furthermore, data on post-occupancy is limited and therefore make it difficult for the state to assess whether the housing program has met its socio-economic objectives. Research into post-occupancy would allow the state to balance its width and depth housing objectives.

1. Conduct a comprehensive audit of all existing housing stock and ownership change.
2. Expand the knowledge base on informal transaction practices, which are inadequately studied from the anthropological perspective.
3. Conduct research into whether beneficiaries who sell their properties actually return to informal settlement. There is not enough empirical evidence to support the claim that this is the case.

10.7.2. Recommendations for practice

1. Simplify the deeds process by localising it within municipalities. Transacting parties should be able to walk into an office and change ownership. The transfer of deeds can then be lodged at a later stage by the Municipality. This would allow the Municipality

to adjust accounts for rates and services on a real-time basis. It would also protect buyers from purchasing properties without services or properties that owe municipalities money.

2. Introduce local structures consisting of councillors and Ward Committees responsible for property issues in each community:
 - a. The Committee would be responsible for ensuring that transactions are authentic and properties are being sold by rightful owners. In this way it would protect vulnerable property owners such as the elderly and orphans from fraudulent and predatory activities.
 - b. The Municipality should provide support to beneficiaries for the execution of deceased estates. This support should be targeted to orphans and other vulnerable groups of society.

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Dwelling number:

Annex A: Questionnaire Survey_ Household Surveys

Research Introduction: *The study investigates the nature, character and extent of informal transactions in RDP housing in two communities of Waterloo and Quarry Heights in Ethekwini Municipality, KwaZulu-Natal.*

1. Interviewer:

2. Interviewee:

3. Age (*Estimate age of the respondent or ask*)

Observations:

4. Type of dwelling

C1) original RDP

C2) RDP with minor improvements

C3) RDP with major improvements

Section A: Respondent's socio-economic data

5. Are you the household head?

a. Yes

b. No

6. How long have you lived in this community?

0 – 2 years	
2- 5 years	
5 -10 years	

Cannot remember	
-----------------	--

7. Where did you live before?

_____ (note whether the previous area was rural or urban)

8. Since when have you been an staying in this house? (please estimate the time you took occupation) *tick correct box*

0 – 2 years	
2- 5 years	
5 -10 years	
Cannot remember	

9. Are you formally employed? *If no, please skip to question 14*

10. Do you receive a payslip from your job?

11. What is your combined household income?

12. Do you have a bank account?

a. Yes

b. No

13. If yes, with which bank (optional)

Section B: Access to information and consumer literacy

14. Before taking occupation of your house, did you attend any consumer training?

a. Yes

b. No

(If no, please skip to question 17)

c. If yes, who provided the training?

15. How much of the training focused on property transactions and financial management?

1	0	
2	>25%	

3	>50%	
4	>75%	
5	>100%	

16. How would you rate the quality of the training?

a. Informative

1	Not informative	
2	A little Informative	
3	Informative	
4	Very informative	
5	A lot informative	

b. Relevance

1	Irrelevant	
2	A little relevant	
3	Relevant	
4	Very relevant	
5	A lot relevant	

17. Do you understand the value and importance of a title deed?

a. Yes

b. No

c. If yes, what do you think is the value and importance of the title deed?

18. Are you aware of the role of a conveyancer in property transactions?

a. Yes

b. No

19. Were you taught about property value?

a. Yes

b. No

c. If yes, what about property value were you taught?

20. Are you aware of the value of your property?

a) Yes

b) No

c) If yes, what do you think determines the value of your property?

21. How much do you think was a capital amount used to build your house?

22. Were you taught about property transactions?

a. Yes

b. No

c. If yes, what were you taught? (please list all that you still remember)

23. Are you aware of the pre-emptive clause that prohibits the selling of RDP houses before the period of 8 years?

a. Yes

b. No

c. If yes, what do you understand pre-emptive clause to mean?

24. Are you aware what to do if you wanted to sell your RDP house?

a. Yes

b. No

c. If yes, what is the process?

25. Are you aware of any bank products that could assist you with buying a property or renovating your property?

a. Yes

b. No

a. If yes, where did you learn about these products?

b. If yes, have you used any of these products?

26. Would you consider going to a bank for mortgage if you were to buy a house?

a. Yes

b. No

a. If no, why not?

27. Have you attended any training on financial management?

a. Yes

b. No

c. If yes, how would you rate relevance of the training programme?

1	Irrelevant	
2	A little relevant	
3	Relevant	
4	Very relevant	
5	A lot relevant	

Section C: Policy and legislation: Consumer perceptions and practice

28. Do you have any knowledge of the housing policy and legislation that relates to the selling and buying of RDP houses?

a. Yes

b. No

29. Have you undergone any policy and legislative workshop in your community?

a. Yes

b. No

a. If yes, who conducted the workshop?

30. Do you think selling and buying of RDP houses is illegal?

a. Yes

b. No

a. If yes, why do you think so?

Section D: Transaction process

31. Are you an original owner of this house? *(if yes, skip to Section E)*

a. Yes

b. No

c. If not, when and how did you acquire the house?

32. If purchased

a. How much did you pay for it?

b. Do you have a proof of ownership?

Please tick a correct box

a. Yes

b. No

c. If yes, what sort of proof do you have?

33. Did you sign any sale agreement with the seller?

Please tick a correct box

- a) Yes
- b) No

34. In purchasing your property, did you use the services of a conveyancer?

- a) Yes
- b) No
- c) If not, who or what legal services did you use?

i. If alternative services (other than conveyancers) were utilized, what form of documentation do you have as a proof of purchase?

35. How did you hear about the house?

Please tick the correct box

- a) Relatives, family, neighbours
- b) Estate agent
- c) Other, *please explain*

36. If purchased, where did you get the money to buy your house?

Please tick the correct box

a) Home loan/mortgage

If you tick a) please answer question 27

b) Personal loan (bank)

c) Savings

d) Stokvel

e) Micro-lender

Annex B: Interview Schedule_ Banking Sector

Research Introduction: *The study investigates the nature, character and extent of informal transactions in RDP housing in two communities of Waterloo and Quarry Heights in Ethekwini Municipality, KwaZulu-Natal.*

1. What is your bank's level of involvement in the affordable housing sector in South Africa
2. Within this market segment, what percentage of your market effort is directed towards the government subsidized RDP housing sector?
3. What is your lending policy on affordable housing sector in general?
4. Please list all your lending products for affordable housing
 - 4.1. Please indicate if any of these products are aimed at the RDP housing sector
5. Does your bank consider RDP housing product to be bankable asset?
6. What is your bank's acceptance of RDP housing products as an economic asset?
7. What factors do you consider as risks in lending to RDP housing sector?
8. There is growing evidence of property transactions in the RDP housing sector. Do you see your bank playing an active role in lending to this sector?
9. To what degree would you adjust your lending criteria to suit the nature of this market segment?

Annex C: Interview schedule_ Community Leadership

Research introduction: *The study investigates the nature, character and extent of informal transactions in RDP housing in two community of Waterloo and Quarry Heights in Ethekewini Municipality, KwaZulu-Natal.*

Respondent's data:

Name: _____

Position_____

1. How long have you been a councillor in this community?
2. What are your perceptions on informal selling and buying of RDP houses in this community?
3. What is your take on the practice?
4. Have you participated or facilitated in informal transaction agreements where an RDP house has been a product of transaction?
5. Based on your experience, what processes are involved in this practice?
 - 5.1.Can you kindly take us through this process as far as you understand it?
 - 5.2.What factors do you consider to be key drivers of this practice?
 - 5.3.Who do you consider to be key drivers of the practice in your community?
6. In your opinion, what drives informal transactions in your community?
7. Do you consider selling of RDP houses informally to be illegal?

a) Yes

b) No

7.1.If yes, kindly explain

7.2.If no, what informs your opinion?

8. How do you think this practice impacts on your community?

9. Have you dealt with cases of conflict resulting from informal RDP housing transactions?

9.1.If yes, what do you pick up to be the main cause of conflict?, please provide some case examples where possible

10. In the scale of 1 to 5: How would you rate the level of consumer knowledge regarding the RDP property transactions?

a) 1- very poor

b) 2- poor

c) 3- Basic

d) 4- good

e) 5 – very good

Annex D: Interview schedule_ Government officials

Research introduction: *The study investigates the nature, character and extent of informal transactions in RDP housing in two community of Waterloo and Quarry Heights in EtheKwini Municipality, KwaZulu-Natal.*

Respondent's data:

Name: _____

Position_____

1. What does the city understand as informal housing transactions?
2. What do you think is the extent of these housing transactions?
3. What do you think are the factors that influence these transactions?
4. What is the policy position of the city regarding this perceived phenomenon? (legal or illegal?)
5. Are there any interventions to deal with this phenomenon?
6. Do you think beneficiaries transacting informally are aware of policy and legislation that governs the RDP housing sector?
7. What do you think is the level of beneficiary knowledge of property transactions?
8. What is your take on using RDP houses as equity for economic progression?
9. Do you think the policy is well communicated?

Annex E: Interview Schedule_ Housing Finance NGOs

Research Introduction: *The study investigates the nature, character and extent of informal transactions in RDP housing in two communities of Waterloo and Quarry Heights in Ethekwini Municipality, KwaZulu-Natal.*

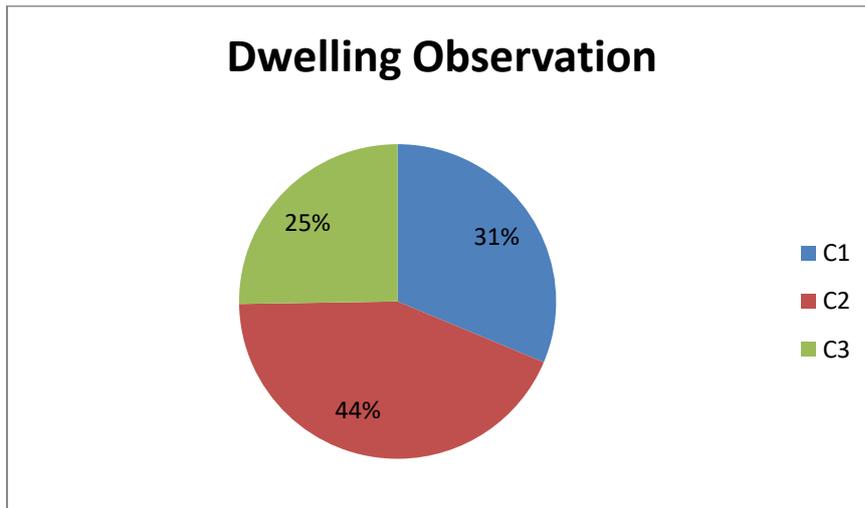
1. What is your level of involvement in the RDP housing markets in terms of housing finance?
2. Within this market segment, what percentage of your market effort is directed towards the government subsidized RDP housing sector?
3. What are your lending principles?
4. What is your lending criteria?
5. Please list all your lending products tailored for low-income housing sector
6. What factors do you consider as risks in lending to RDP sector?
7. Do you conduct any financial management training with your beneficiaries? If yes, what do you think is a value of doing this?
8. What is your overall experience in lending in this market segment?
9. What are some of the challenges that uTshani has experienced in lending in this market?
10. What is your general take on informal housing transactions in RDP housing? Is this a market that should be support or regulated by the state?

Annex F: Quarry Heights Household survey results

Quarry Heights sample = 219 households

Demographics and Section A

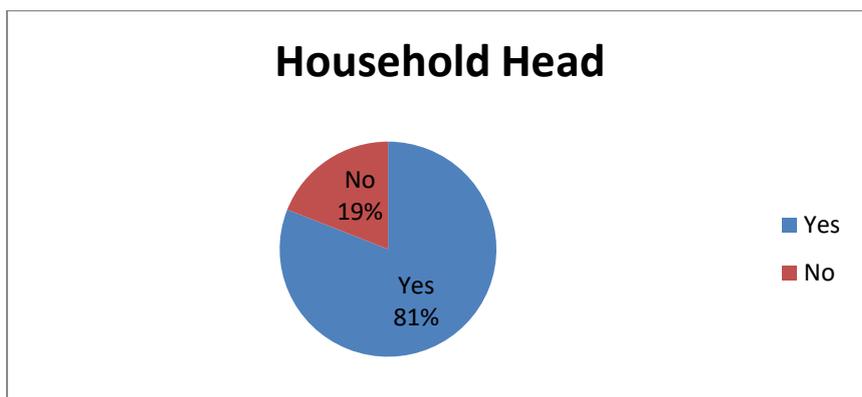
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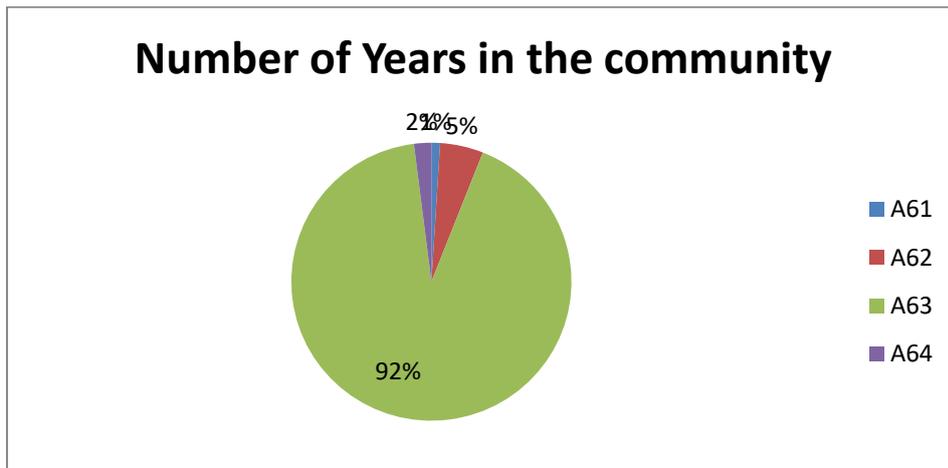
Quarry Heights dwelling type observation

Coding for Original RDP house is C1, these are the houses that were not extended or show any signs of improvements. In 219 dwellings 31% houses were still in their original state. Coding for RDP houses with minor improvements is C2, 44% of 219 dwellings had minor improvements. And coding for RDP houses with major improvements is C3, 25% of 219 dwellings had major improvements.

5.

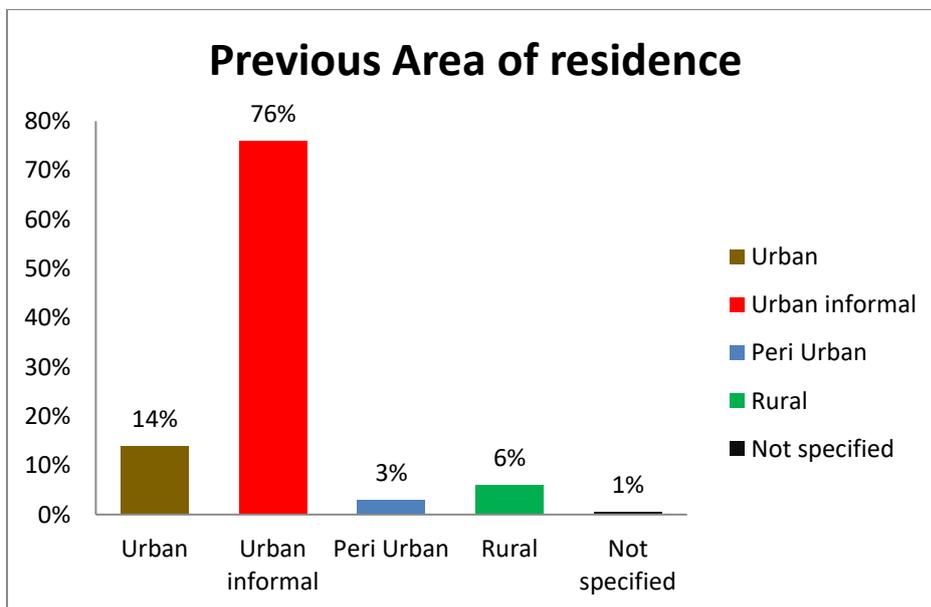


6.



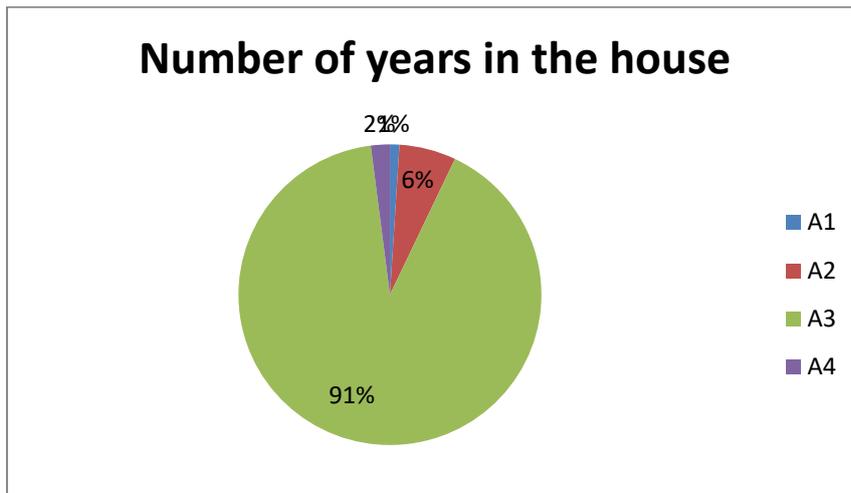
In a sample of 219 dwellings 92% have lived in the community for 5 – 10 years, these are coded as A63 on the chart. 5% that is coded as A62 are residents who have lived in the community for 2 – 5 years. A64 (2%) are residents who cannot remember how long they have lived in the community; they may have lived for more than 10 years or less. A61 are residents who have not been in the community for more than 2 years, 1% of 219 dwelling sample have lived for a period of 0 – 2 years in the community.

7.



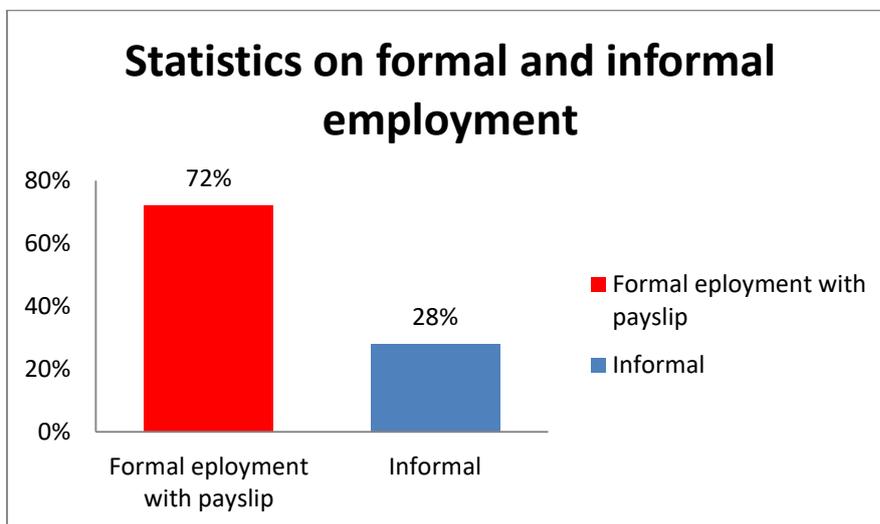
Previous areas of residence for 219 dwellings sampled in QH, most residents used to live in Effingham which is Informal settlements and a few came from peri urban areas.

8.



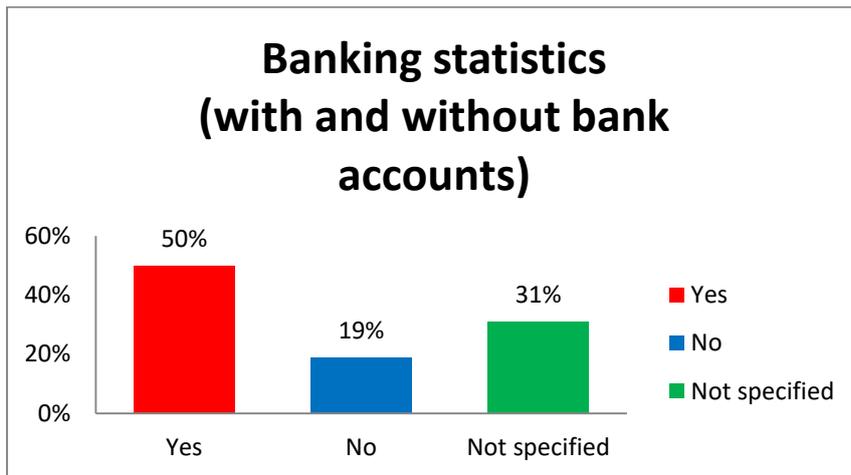
91% of 219 dwelling sample have been staying in the house for 5 – 10 years, these are coded as A3 on the chart above most of these residents are original owners of the houses and a few have inherited the houses. 6% that is coded as A2 are residents who have been staying in the house for 2 – 5 years, these residents either bought the houses or they inherited them. A4 (2%) are residents who cannot remember how long they have been staying in the house; they may have been staying for more than 10 years or less. A1 are residents who have not been in the house for more than 2 years, 1% of 219 dwelling sample have stayed for a period of 0 – 2 years in the house.

9 and 10.



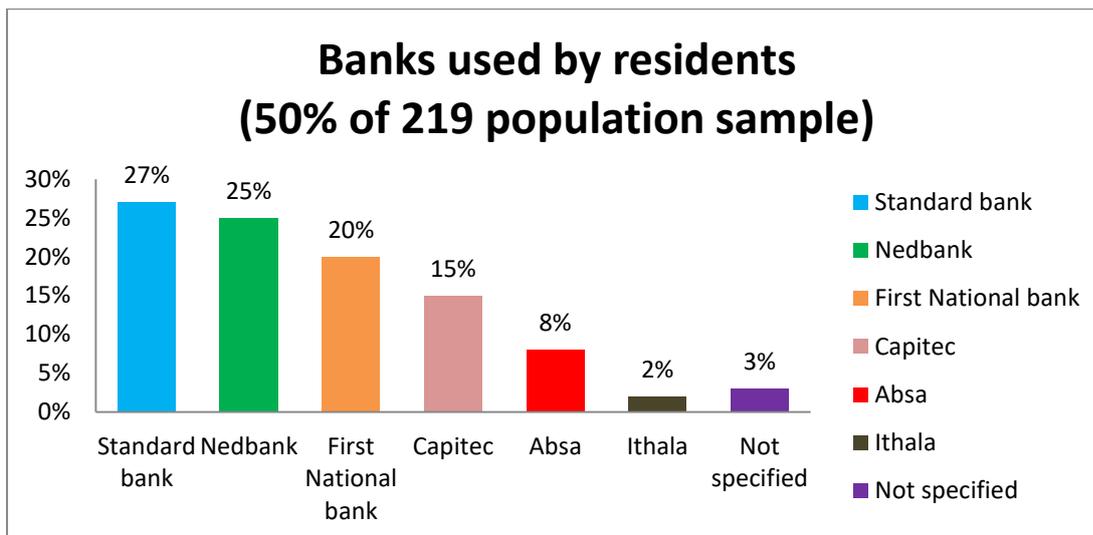
72% of residents from the sample are formally employed and receive pay-slips, while 28% are under informal employment. Informally employed meaning that they are employed but they do not receive pay-slips. In the same 28% others are self-employed

12.



From the sample 50% residents have bank accounts with different banks, 31% did not specify if they had bank accounts or not and 19% do not have bank accounts.

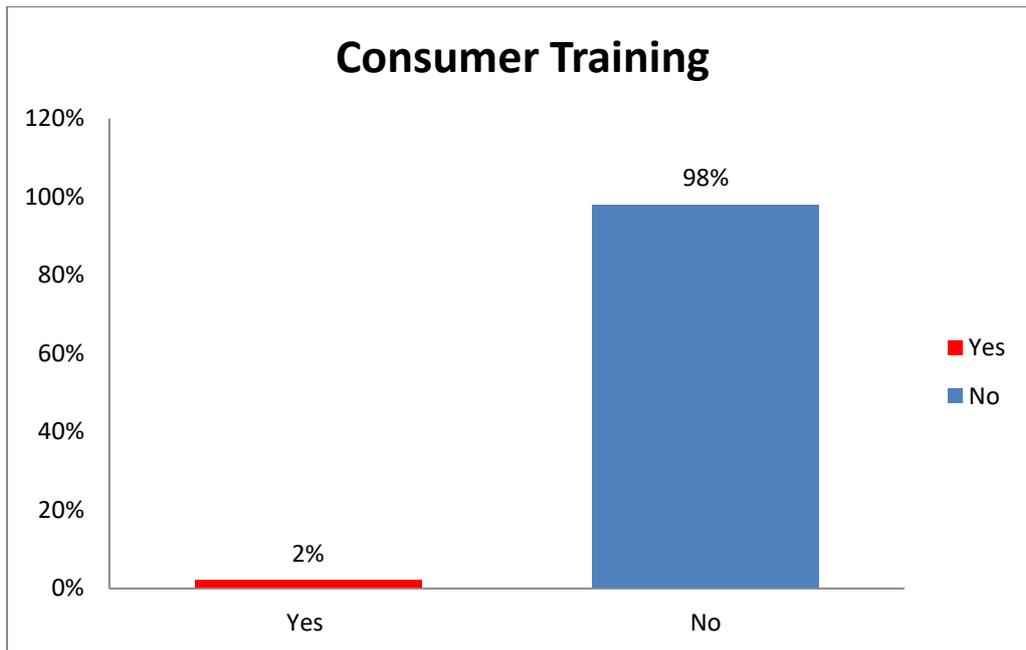
13.



On the 50% that declared to have bank accounts the chart above breaks down the 50% into different banks from Standard bank that has 27% residents banking with them to Ithala bank with 2% residents banking with them. Within the division there were also 3% of residents who did not specify banks that they bank with.

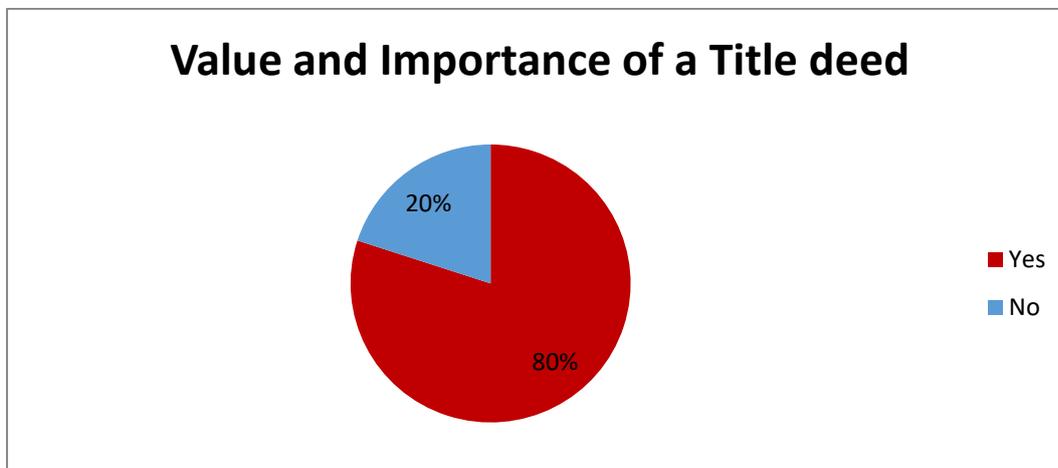
Section B: Access to information and consumer literacy

14.



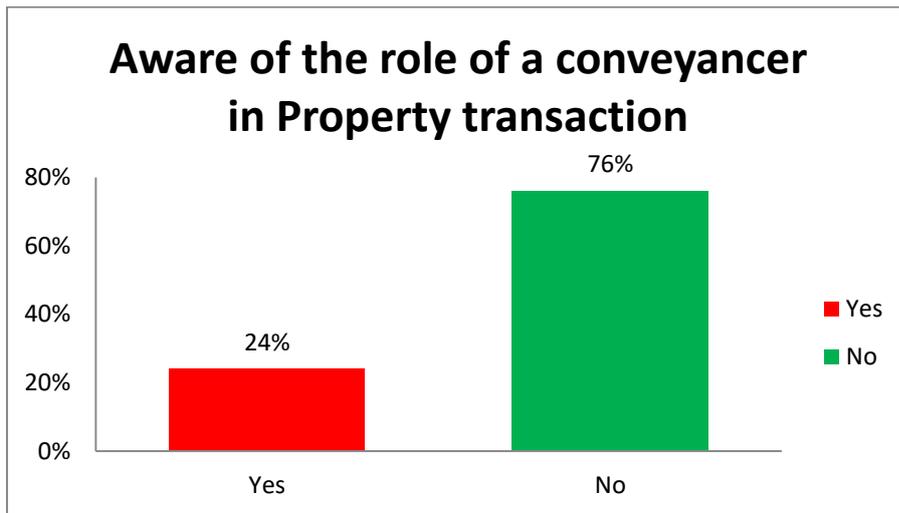
With consumer training only 2% declared to have attended consumer training and from that 2% only 1 out of 3 respondents remembered who conducted the training ‘water and municipality department’. 98% declared to not have attended any consumer training.

17.

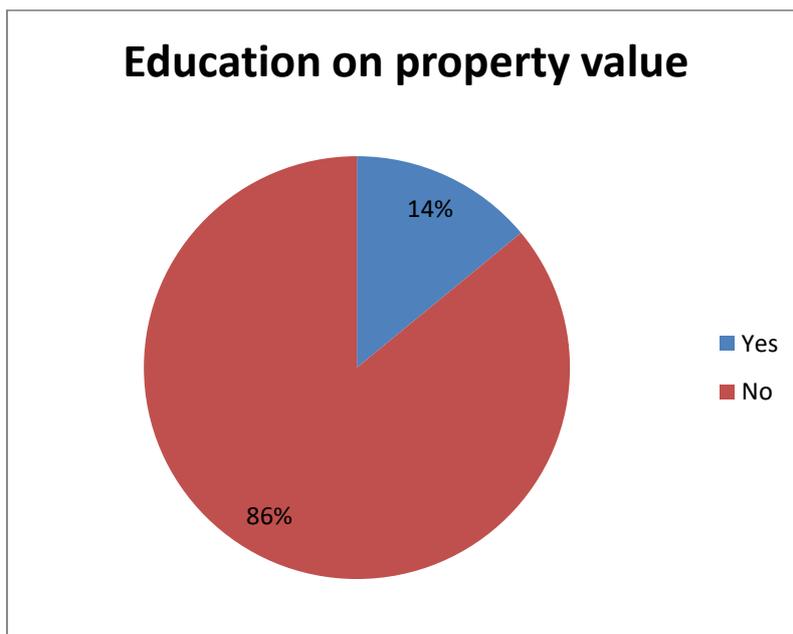


80% of residents from the sample declared to understand the value and importance of a title deed. It was more of the importance to them than value because most of them saw it as a document that gives them ownership to the house ‘it says you are the rightful owner’. 20% did not understand the value and importance of a title deed.

18.

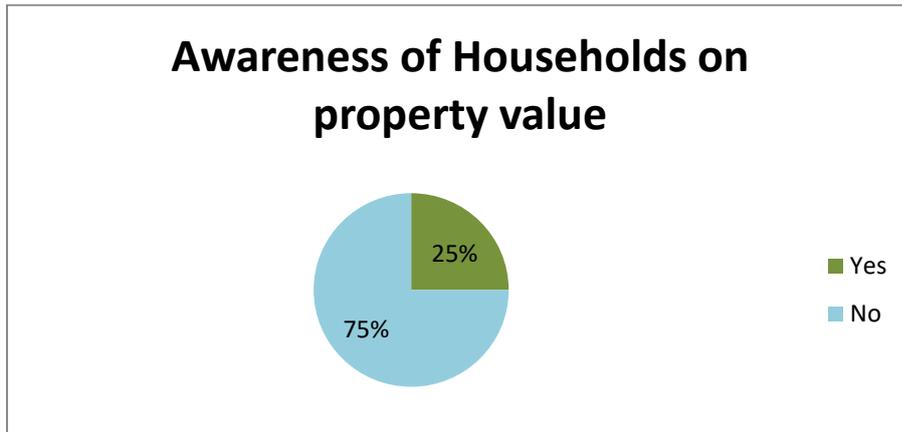


19.



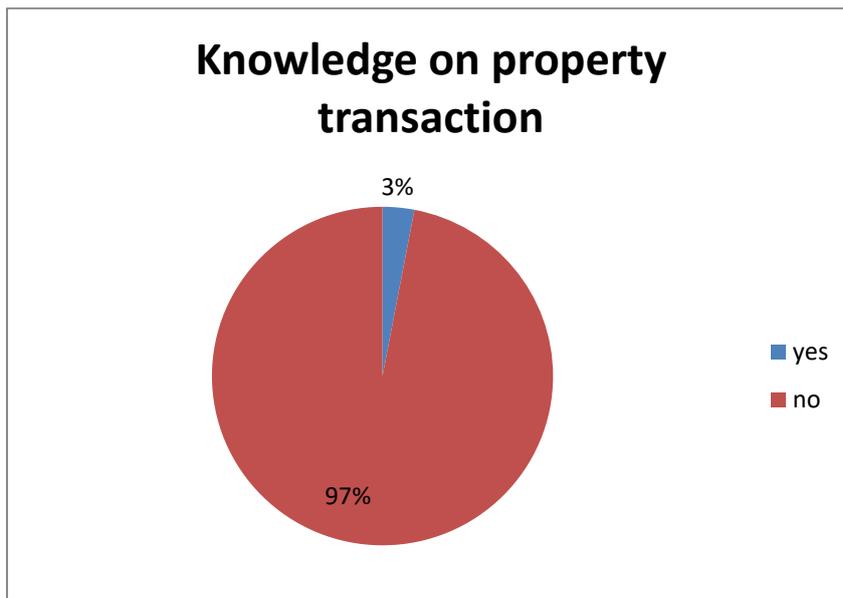
14% claim to have been taught about property value, “it’s not fixed and that non-material factors can contribute either negatively or positively to property value”. 86% declare to have never been taught about property value.

20.



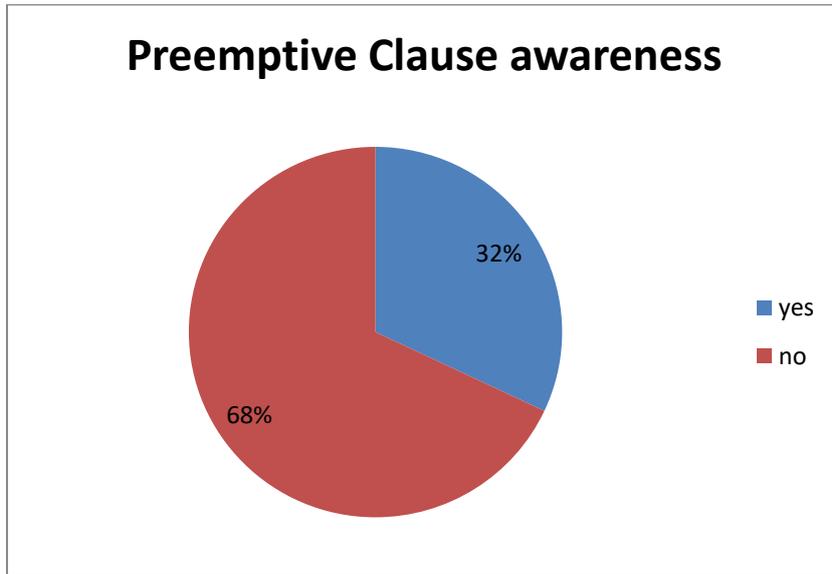
75% of residents on the sample in QH are not aware of the value of their properties and 25% is aware. On the 25% that is aware they reckon that ‘ extensions to the house, material and labour costs’ determines the value of their properties.

21.



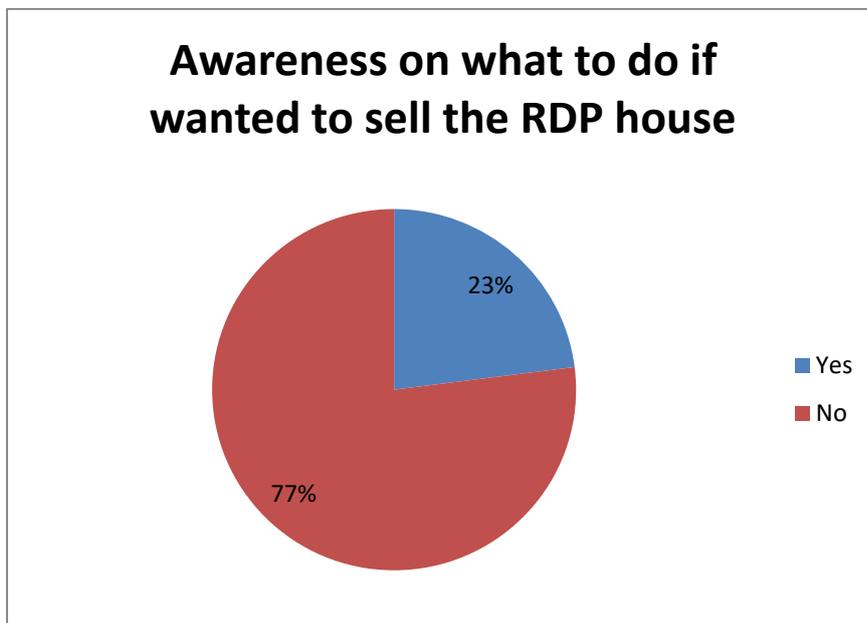
Only 3% out of the sample in QH has knowledge on property transaction while the rest (97%) has no ideas and were never taught of such.

22.



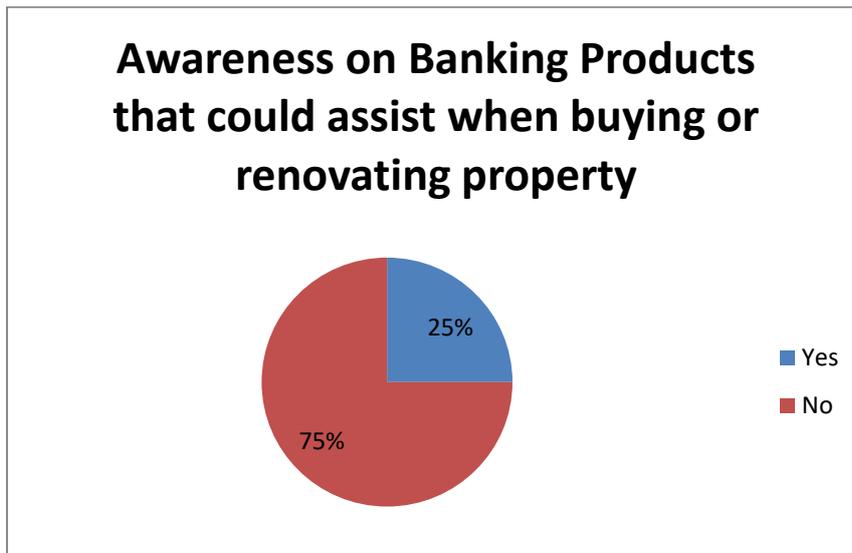
68% of residents in the sample have no idea and are not aware of what a preemptive clause is. While 32% is aware “ that you are not allowed to sell the house within 8 years”.

23.



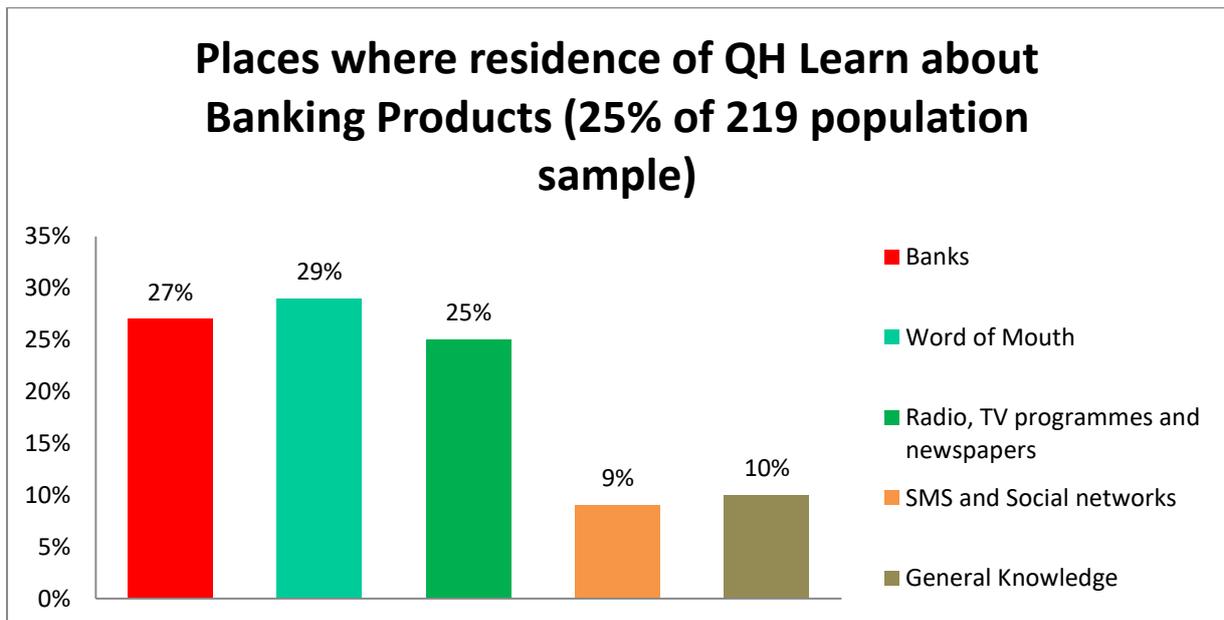
77% of residence on the sample in QH declared to have no knowledge on what they would do if they were to sell their RDP houses. While 23% said they had knowledge and were aware “ the seller and the buyer have to go to the councillor or police to fill in the affidavit” others would say “I would visit the department of housing and they would tell me the process”.

24.



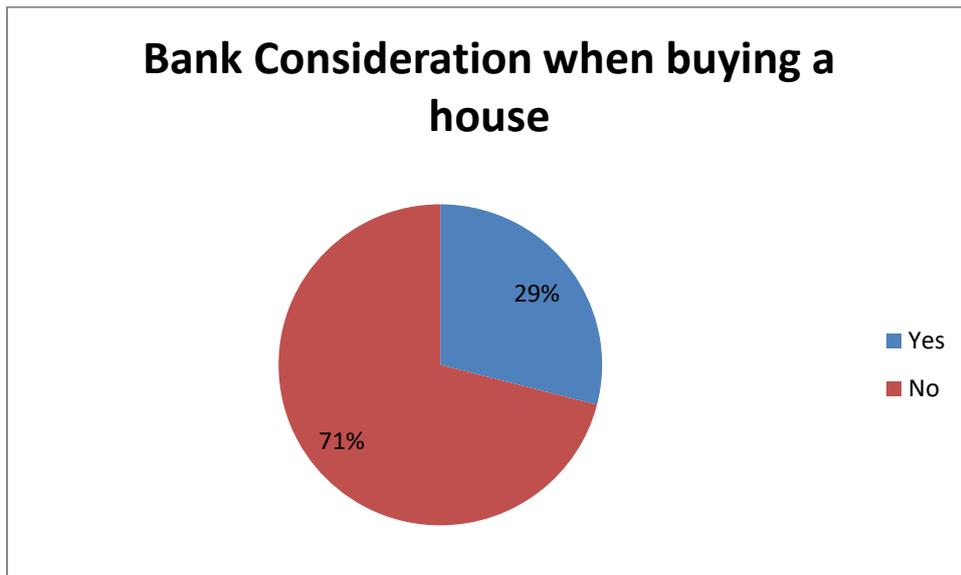
75% of the sample from QH declared to have no knowledge or awareness on banking products that could assist them when buying or renovating their properties while.

25 (i)



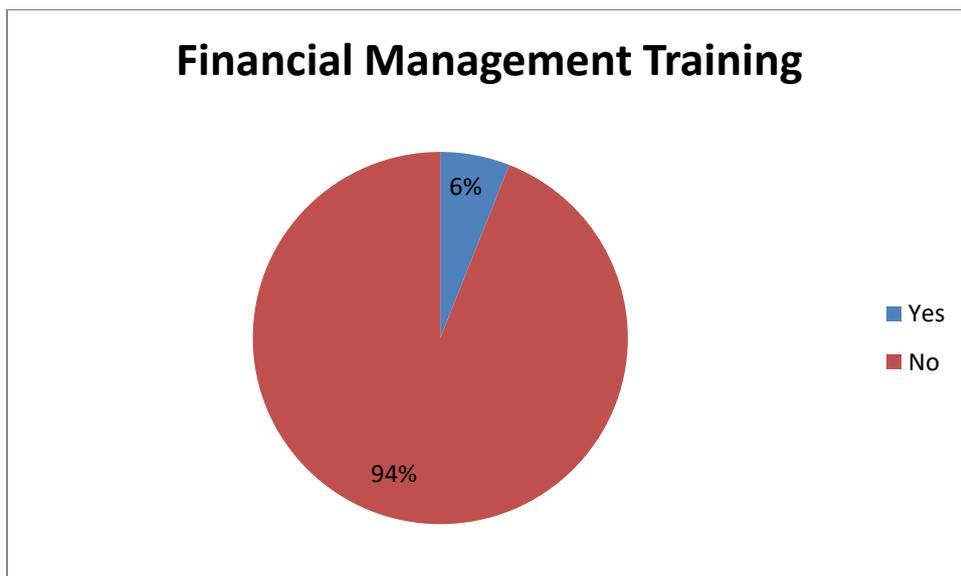
From the 25% who declared to be aware of banking products that could assist them with buying or renovating property, they had different sources where they get their information from. Most of their sources were from friends, family, friends and colleagues (word of mouth). The second source was Radio, TV programmes and newspapers. SMSs and Social networks are of influence but not as much as general knowledge.

26.



29% declared that they would consider going to the bank for mortgage when buying a house. While 71% said they would not consider going to the bank and most of their reasons were based on the fact that they did not have stable jobs.

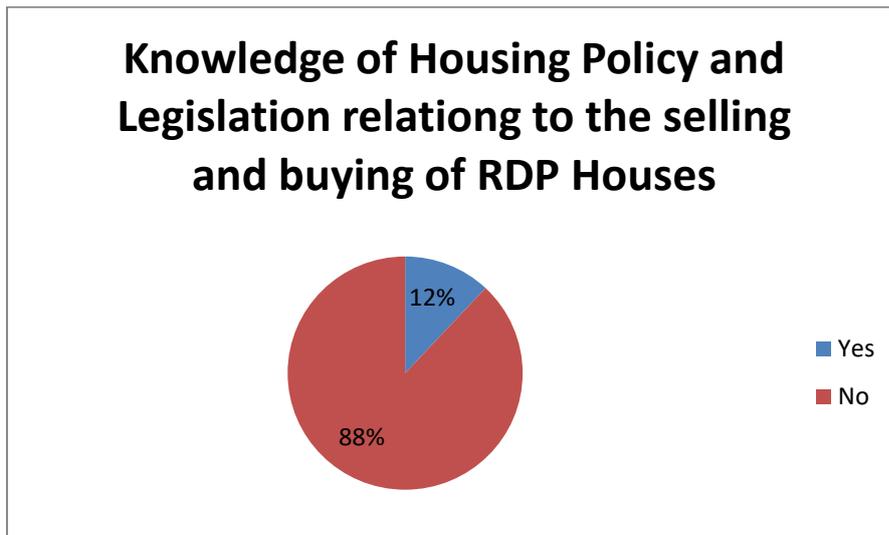
27.



From the sample 6% declared to have attended financial management training which and they claim that it was relevant, a few stated that it was not relevant at all. From the sample 94% residents state that they never attended such.

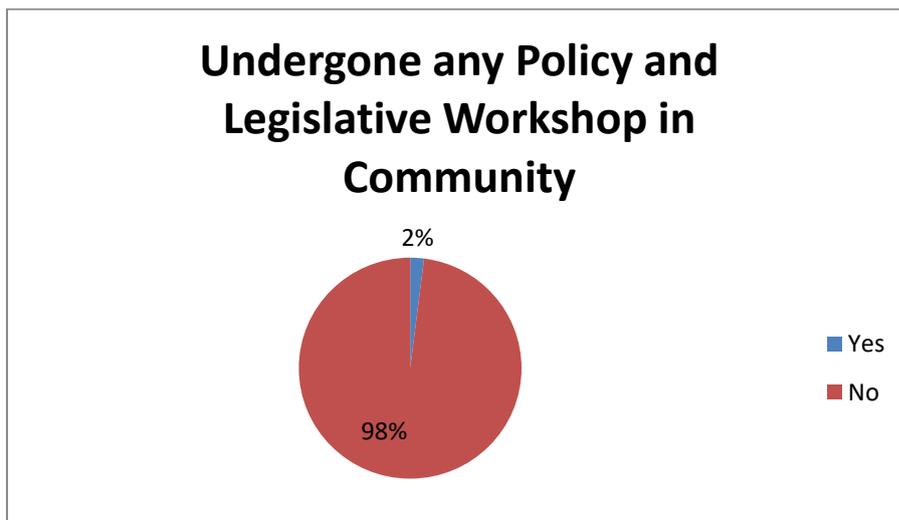
Section C: Policy and Legislation: Consumer perception and Practice

28.



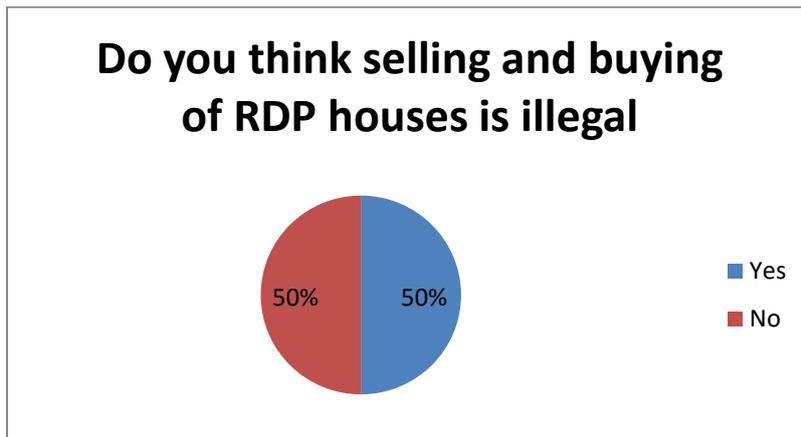
88% from the sample had no knowledge of housing policy and legislation relating to selling and buying of RDP houses while 12% declared to have knowledge on such.

29.



From the sample 2% declared to have undergone policy and legislative workshop in the community while 98% said they never attended such. From the 2% Bab Mjoli, the councillor and someone from metro appeared to be the ones who conducted the workshops.

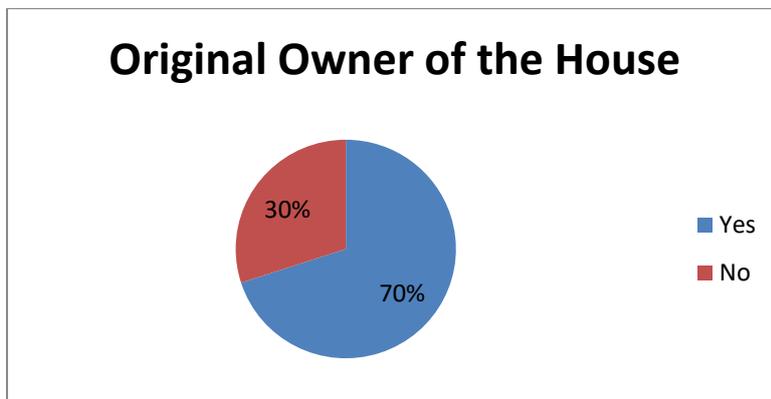
30.



In the 219 sample from QH 50% says it is illegal to sell an RDP house, they say it is illegal because ‘‘the houses were given to the residents for free when they were in need’’. 50% says that it is not illegal to sell or buy these houses; most of these responses that state that it is not illegal were from residents who have bought RDP houses.

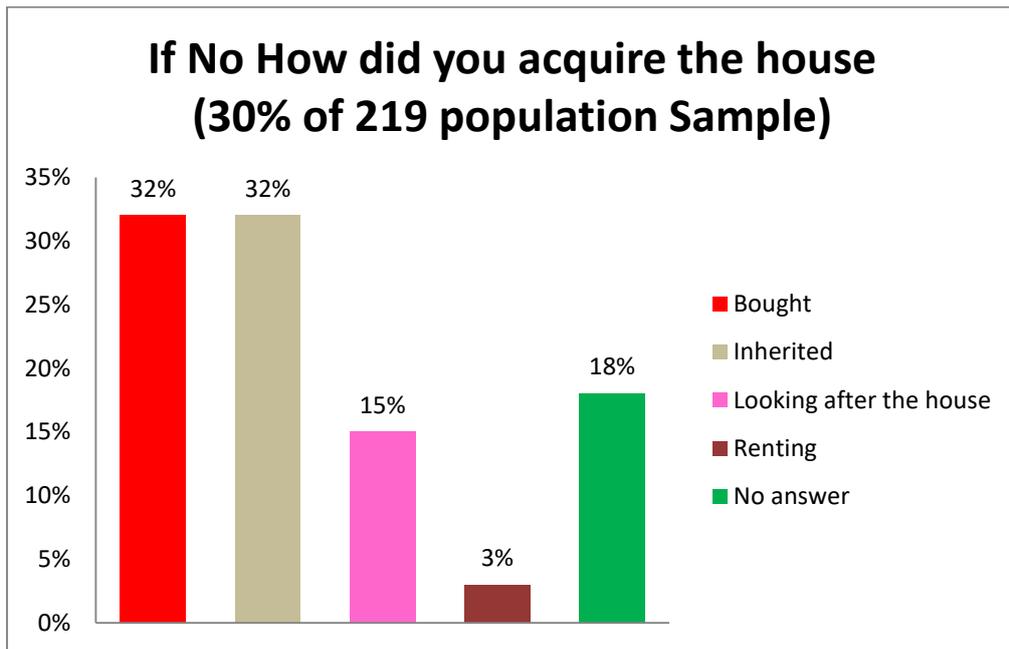
Section D: Transaction Process

31.

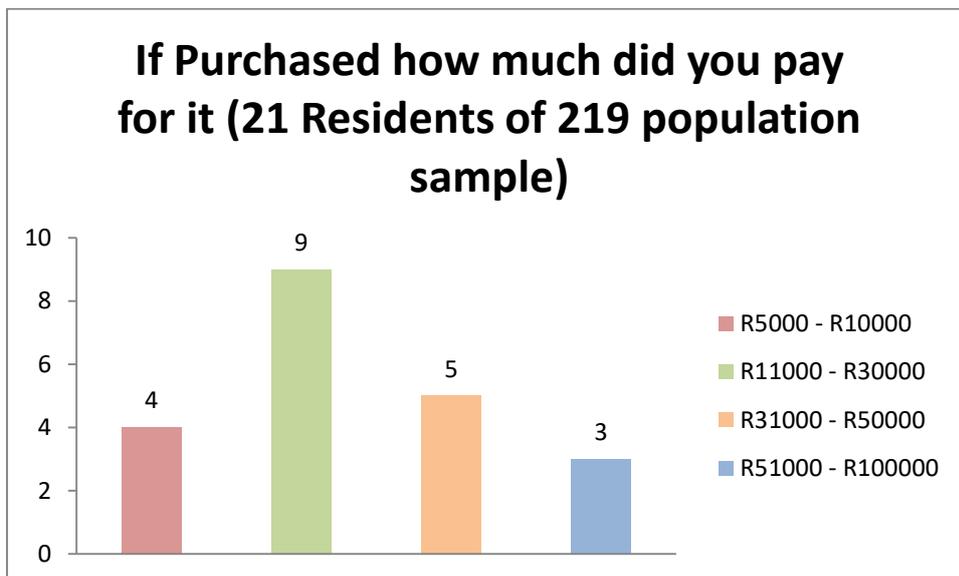


70% of houses in QH are still occupied by their original owners. And 30% are either residents who have inherited the house from their parents passing away or siblings. Most of the houses that are occupied by people who have inherited those houses do not have title deeds. In the same 30% of residents who are not original owners are occupants who are renting in the houses or occupants who are looking after the house for owners or occupants who have bought the house. The 30% is further divided accordingly on the chart below (31.c).

31 (c).

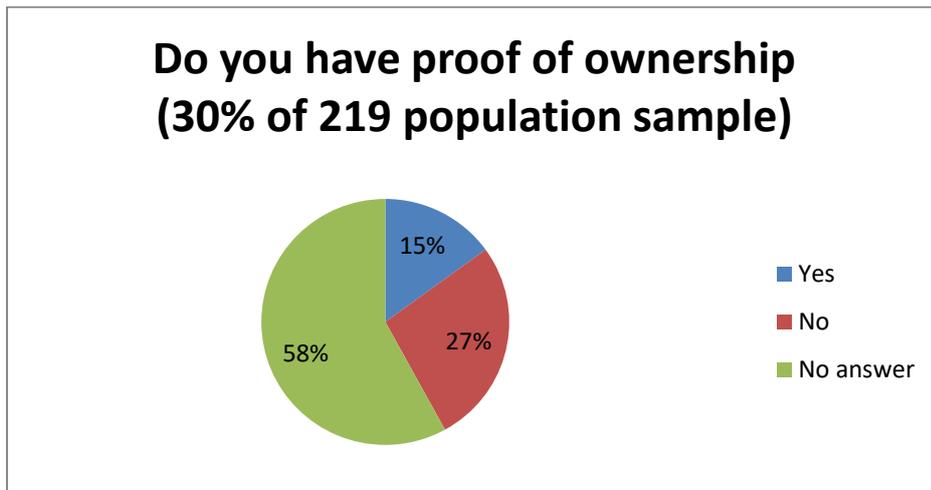


32.



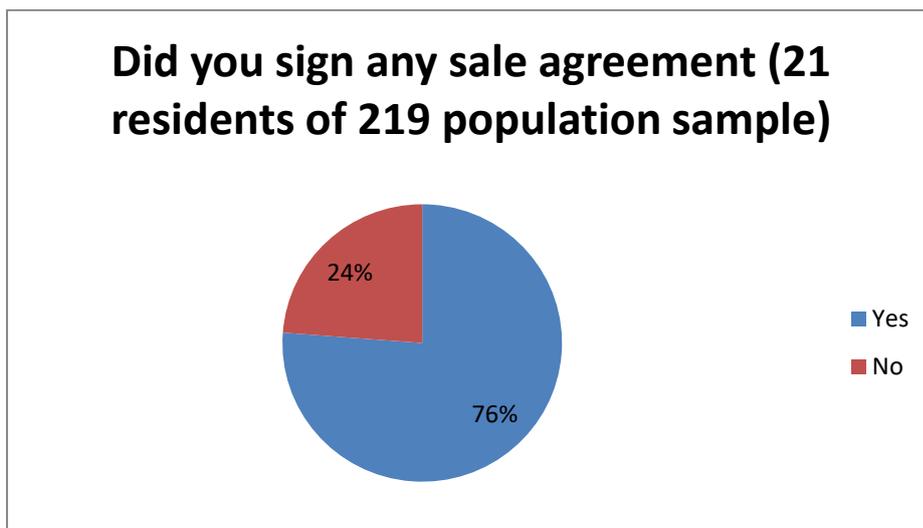
Prices for most houses that were purchased varied from R5000 – R100000. Most houses (9 houses) were between R11000 – R30000, and a few houses (3 houses) were between R51000 – R100000.

32 (b)



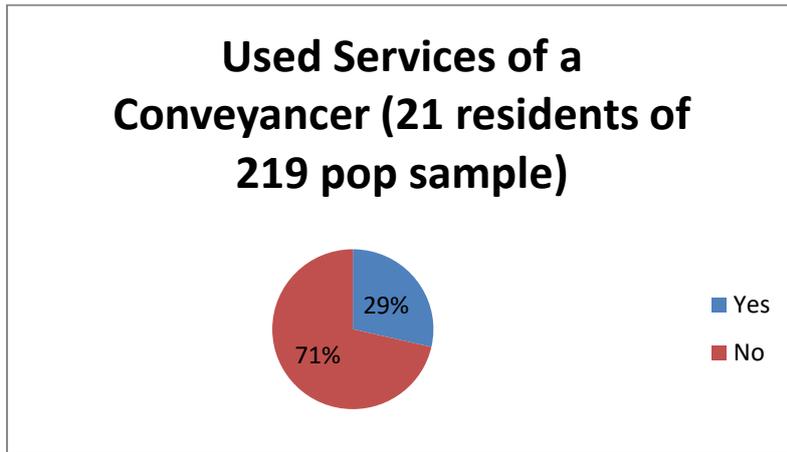
From the 30% of residents (66 of 219 residents) who are not original owners of the house, 58% did not answer if they had proof of ownership or not. And 27% did not have proof of ownership while 15% declared that they had proof of ownership.

33.



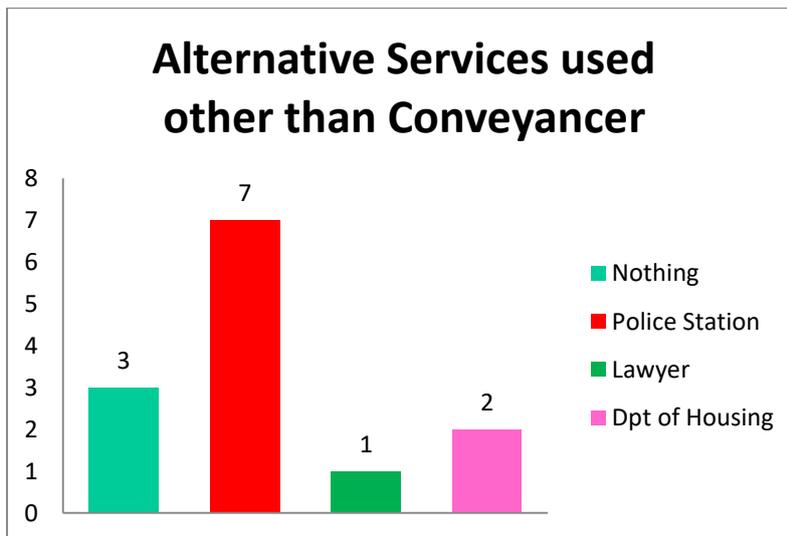
During the purchase/transaction of the house out of 21 residents who bought their houses 76% signed sale agreements and 24% did not sign.

34.



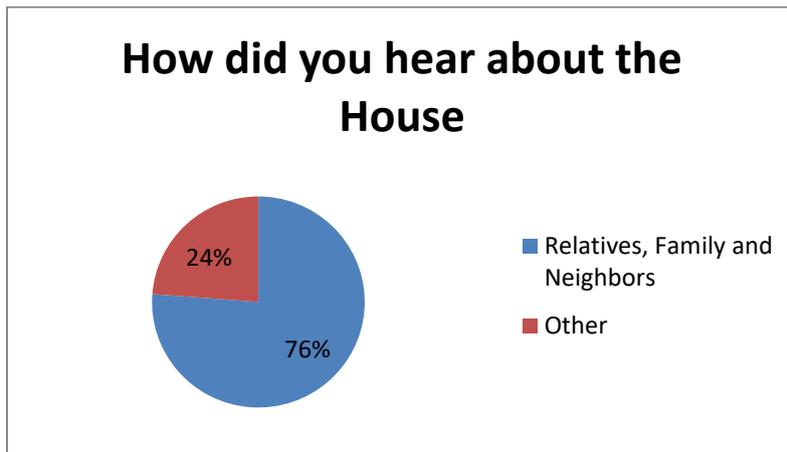
From 21 residents who bought their houses only 29% used services of a conveyancer and the rest (71%) used other alternatives such as police stations or nothing at all.

34 (c).



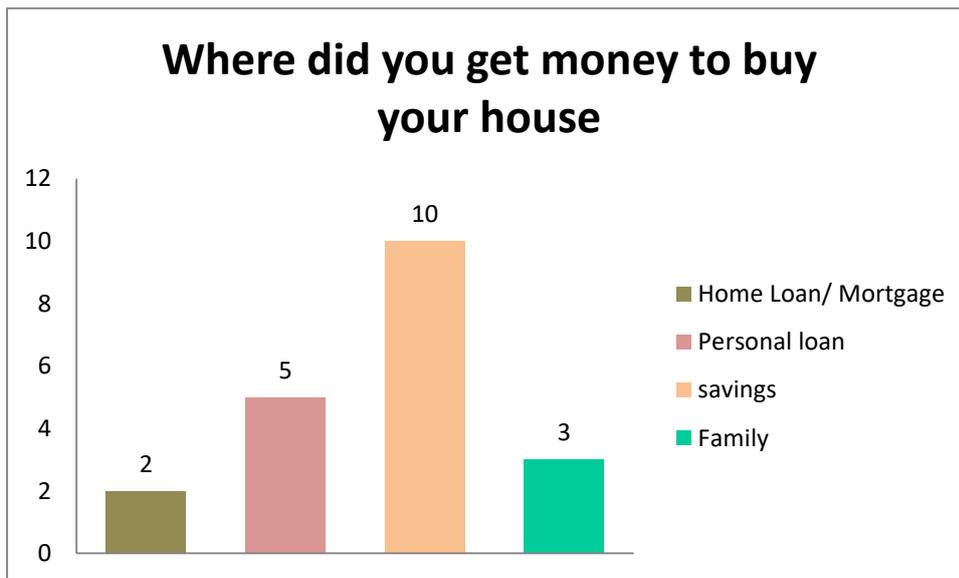
From 21 residents who bought their houses, most of them used police stations instead of using a conveyancer and as proof that they own their houses they have affidavits instead of title deeds.

35.



Out of 21 residents who had bought their houses 76% heard from relatives, family and neighbours about the houses they bought that they were for sale. And 24% were renting and bought the houses or went out looking around for houses that were for sale.

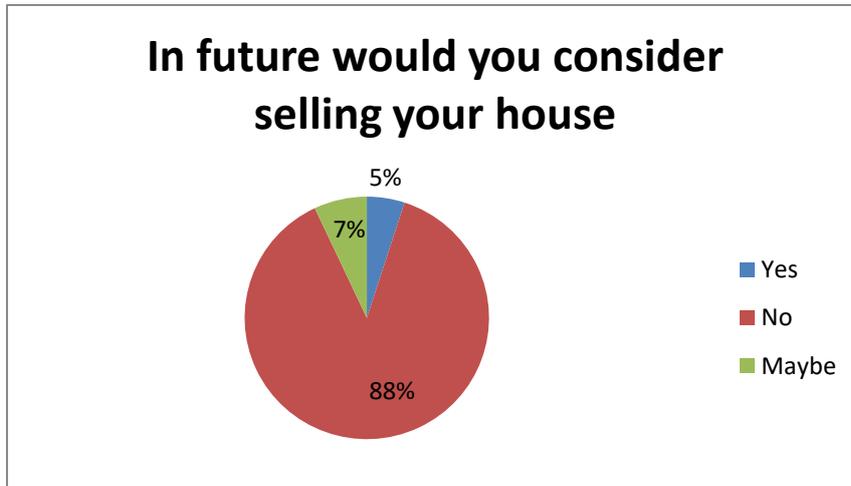
36.



In the sample conducted in QH 21 residents from the sample had bought their houses only 20 residents managed to answer where they got their money to buy their houses and 50% took it from their savings, while 25% used personal loans.

Section E: Forecasting

38.



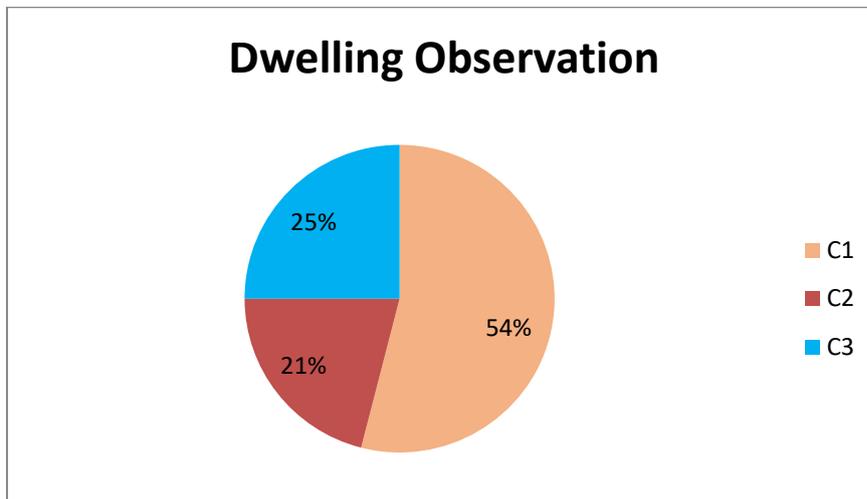
88% of 219 dwelling sample in QH would not sell their houses and 5% of the sample would consider selling while 7% is not sure if they would or would not sell.

Annex G: Waterloo household survey results

Waterloo sample = 105 households

Demographics and Section A

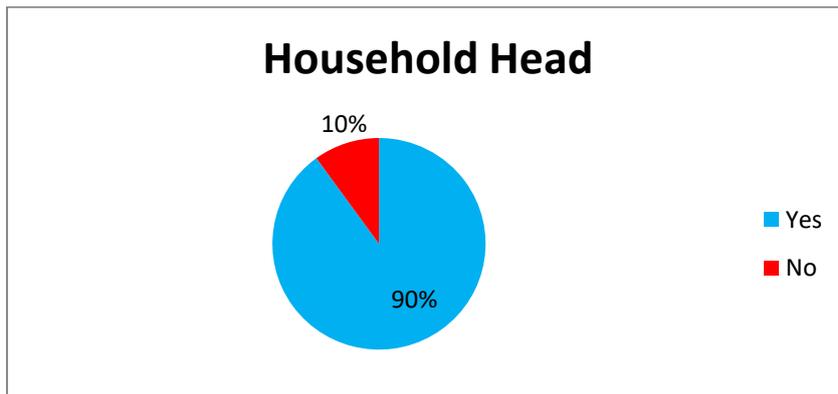
4.



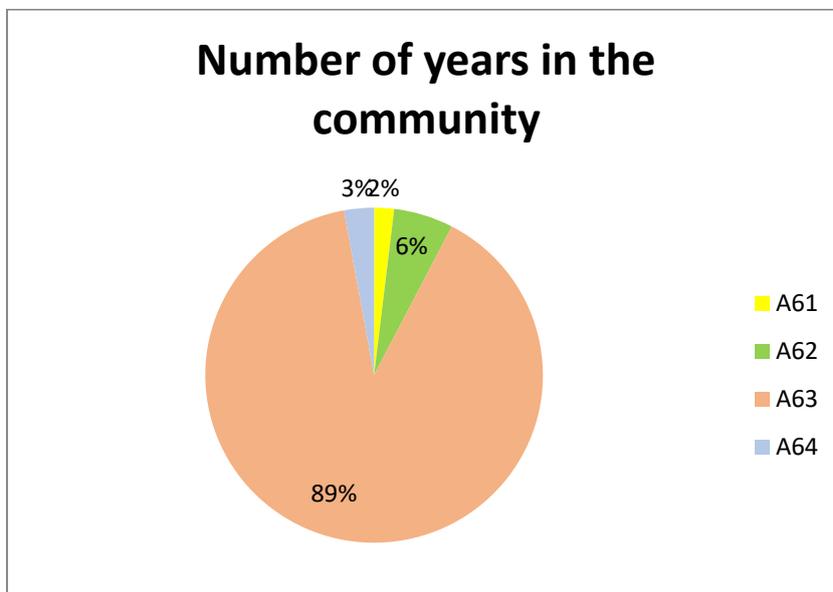
Waterloo dwelling type observation

C1 represents Original RDP house, Original RDP houses that were not extended and showed no signs of improvements. Out of 105 dwellings 54% were still original RDP houses. C2 represents RDP houses with improvements out of 105 dwellings 21% houses had minor improvements. C3 are houses with major improvements and 25% out of 105 dwellings had major improvements.

5.

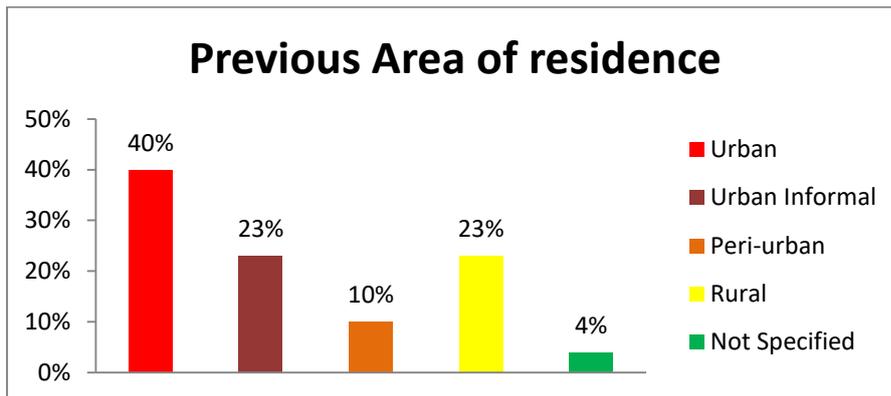


6.



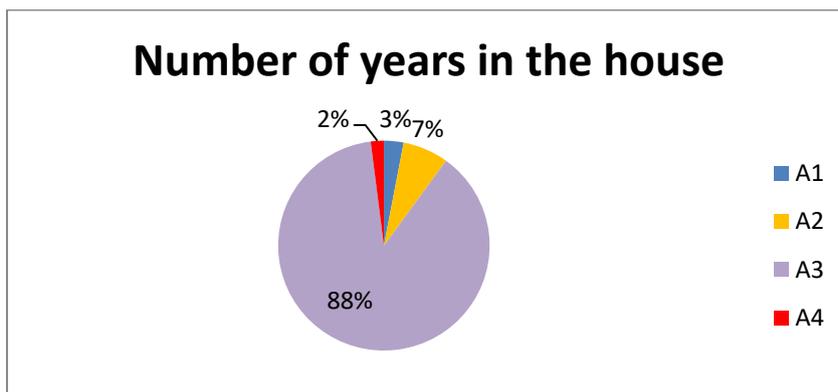
Households who have lived for a period of 0 – 2 years in the community were coded as A61 and in Waterloo out of 105 dwellings sampled only 2% have lived in the community for 2 years or less. A62 is coding for households who have lived in the community for 2 – 5 years and 6% in a sample of 105 dwellings have lived in the community for 2 – 5 years. Coding for households who had lived in the community for 5 – 10 years is A63, 89% of 105 households have lived in the community for 5 – 10 years. 3% of 105 households in a sample did not remember how long they have lived in the community coded A64.

7.



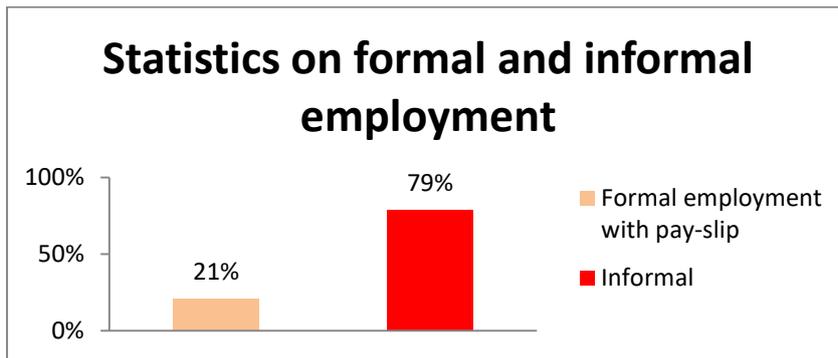
Waterloo has more residents who were previously from urban areas, on the bar graph above out of 105 households 40% stated that they were previously residing in urban areas. 23% from informal settlements and another 23% from rural areas, 10% households were from peri-urban areas and 4% did not specify their previous areas of origin.

8.



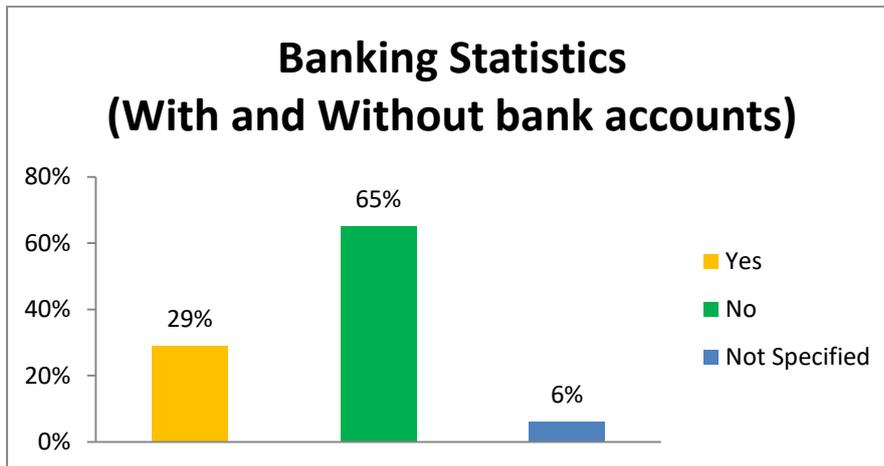
On the chart above A1 represents households who have been in the house for a period of 0 – 2 years, on a sample of 105 households in Waterloo only 3% of households have been in their houses for a period of 2 years and less. A2 represents households who have been in staying in their houses for a period of 2 – 5 years and 7% in a sample of 105 households have been staying in their houses for 2 – 5 years. A3 represents households who have been in their houses for a period of 5 – 10 years and 88% households stated that they have been in their houses for a period of 5 – 10 years. 2% households did not remember how long they have been staying in their houses coded as A4.

9 and 10.



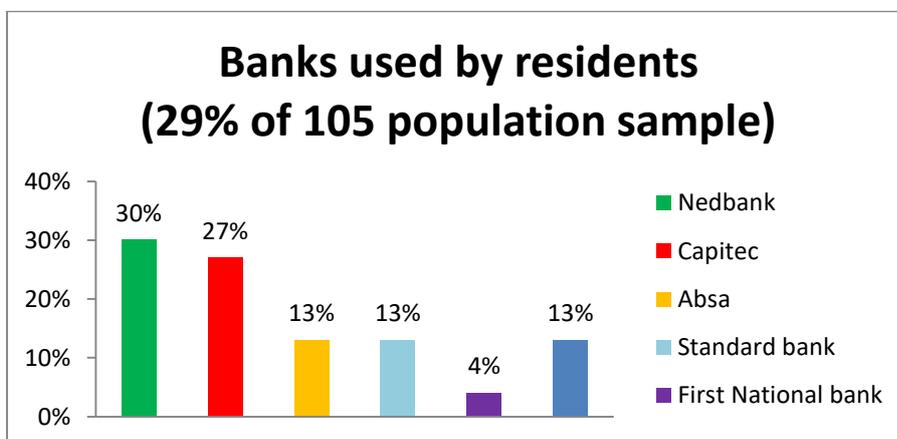
21% of residents from the sample are formally employed and receive pay-slips, while 79% are under informal employment. Informally employed meaning that they are employed but they do not receive pay-slips. In the same 79% others are self-employed

11.



65% of the 105 household sample had no bank accounts, 29% had bank accounts and 6% did not specify if they had bank accounts or not.

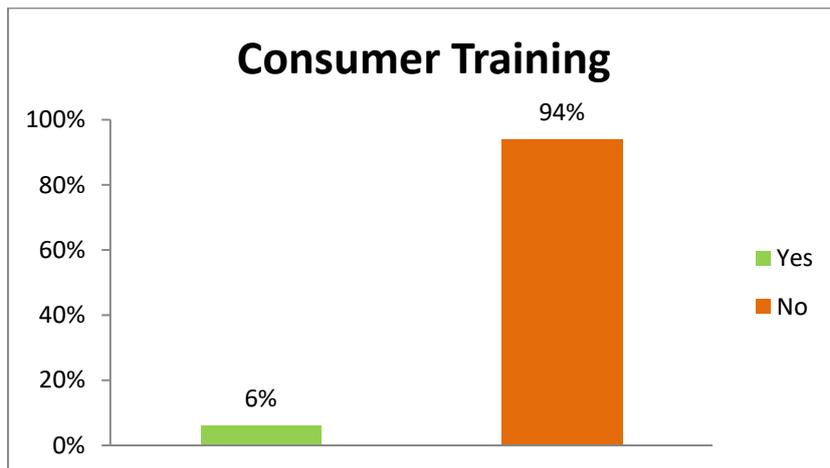
12.



On the 29% of 105 households who had stated that they have bank accounts the chart above divide the 25% into different banks. 30% of the 29% are Nedbank clients, 27% use Capitec bank, 13% are Absa clients, another 13% uses Standard bank, 4% are First National bank clients and 13% did not specify which banks they were banking with.

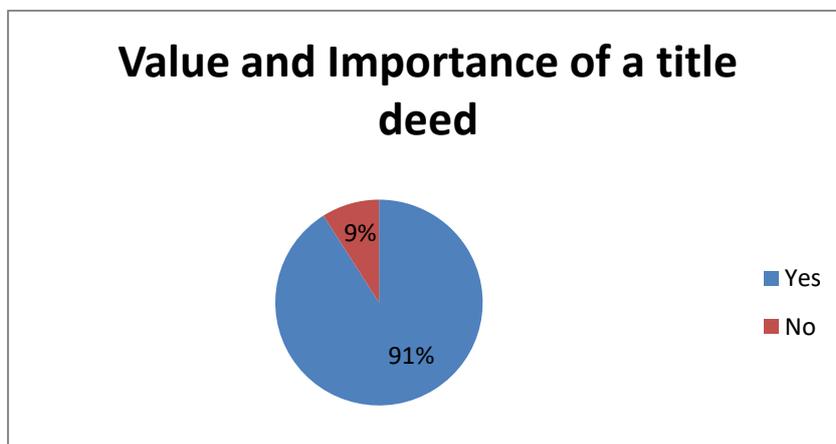
Section B: Access to information and consumer literacy

13.



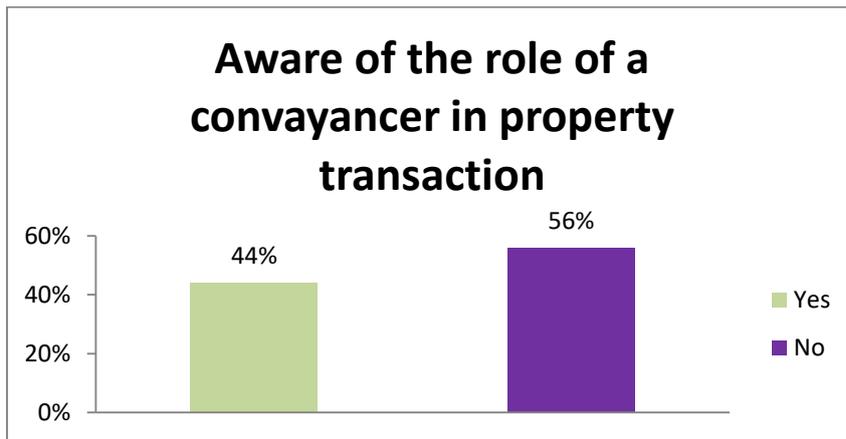
In Waterloo 6% of the 105 household surveys declared to have attended consumer training. 94% stated that they never attended any consumer training.

14.



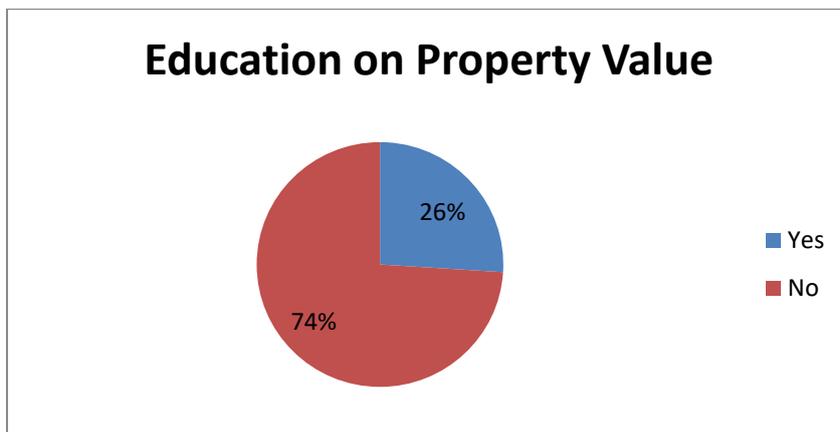
In Waterloo out of 105 households 91% declared to understand the value and importance of a title deed. And 9% of the 105 sample stated that they did not understand the value and importance of a title deed.

15.



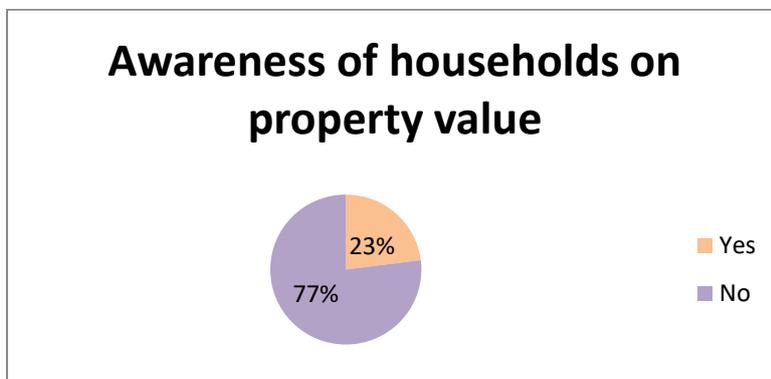
44% of the 105 households declared to be aware of the role of a conveyancer in property transactions while 56% had no knowledge of the conveyancer role in property transaction

16.



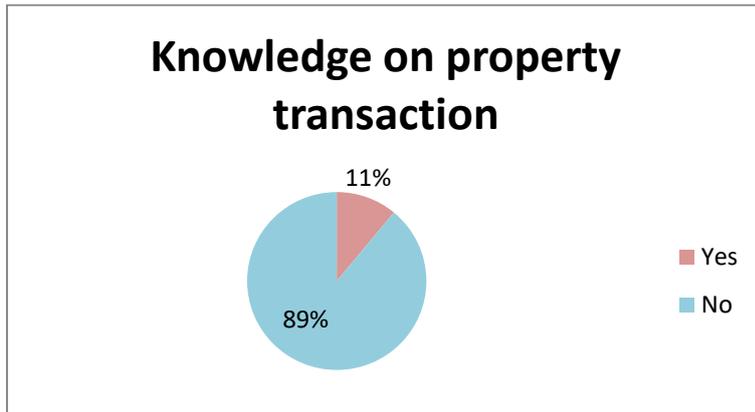
In Waterloo out of 105 households 26% declared to have taught about property value and 74% declared to have never been taught about property value.

17.



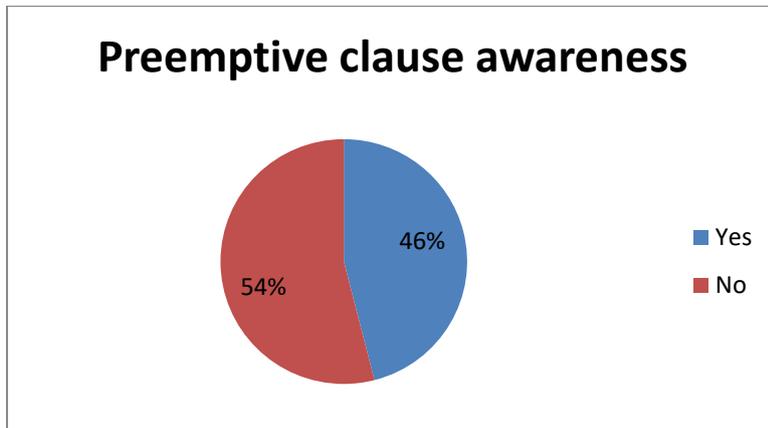
23% of the 105 households claim to be aware of their property value, while 77% of the households have no idea how much their properties are worth.

18.



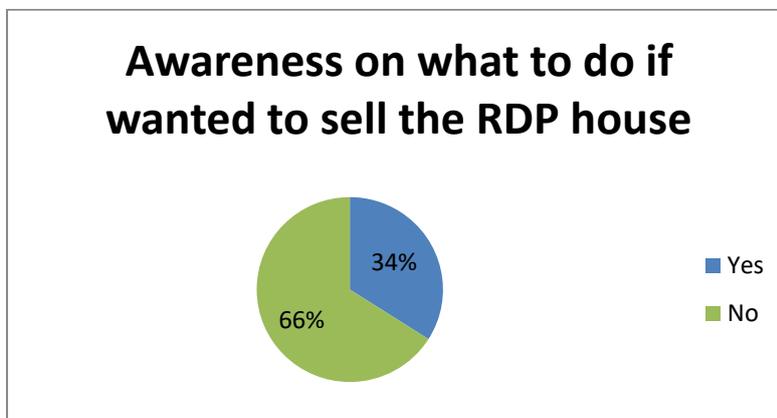
On 105 households in WL 11% stated that they had knowledge on property transactions and 89% had no knowledge and were never taught about it.

19.



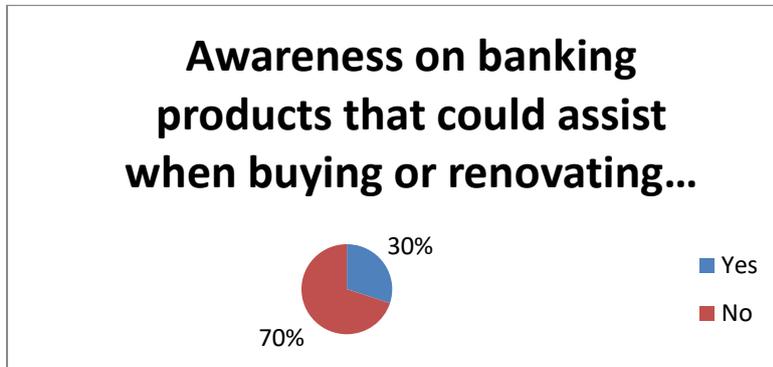
On the surveys conducted in WL 46% of 105 households declared that they had knowledge and were aware of the preemptive clause while 54% had no knowledge of it.

20.



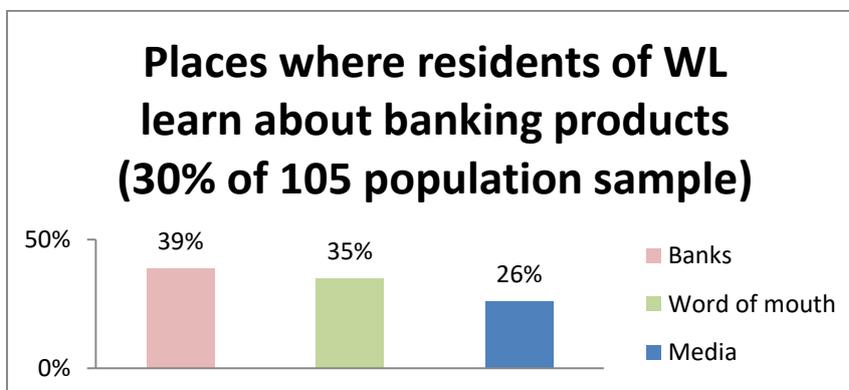
In WL 34% of 105 households stated that they had knowledge on what they would do if they were to sell their RDP houses, 66% stated that they had no knowledge and were not aware of what they would do if they were to sell their houses.

21.



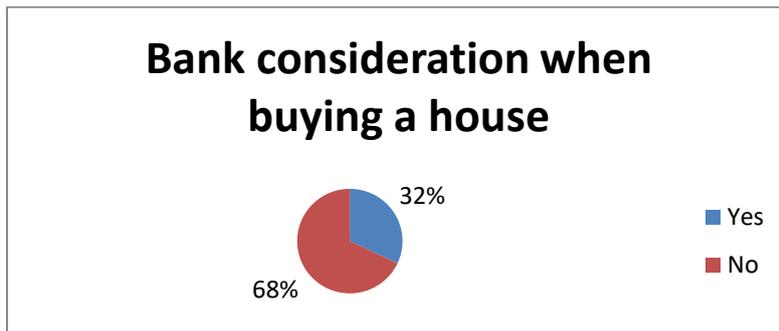
The chart above shows awareness of WL households on banking products, 30% of the 105 households stated that they were aware of banking products that could assist them when buying or renovating property. And 70% of the households stated that they had no knowledge and were not aware of those products.

22 (i).



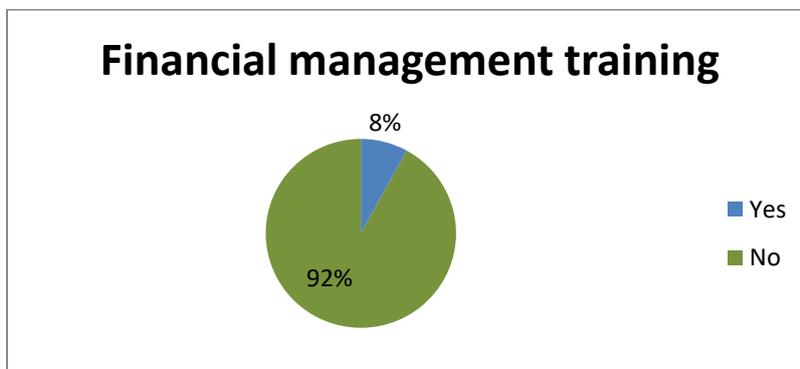
In WL 30% of residents declared to be aware of banking products that could assist them with buying or renovating property, from that 30% the above chart further reveals where they get their information from. 39% of the 30% gets the information from banks, 35% gets information from word of mouth and 26% from the media.

23.



In WL 32% stated that they would consider going to the bank for mortgage when buying a house. While 68% said they would not consider going to the bank

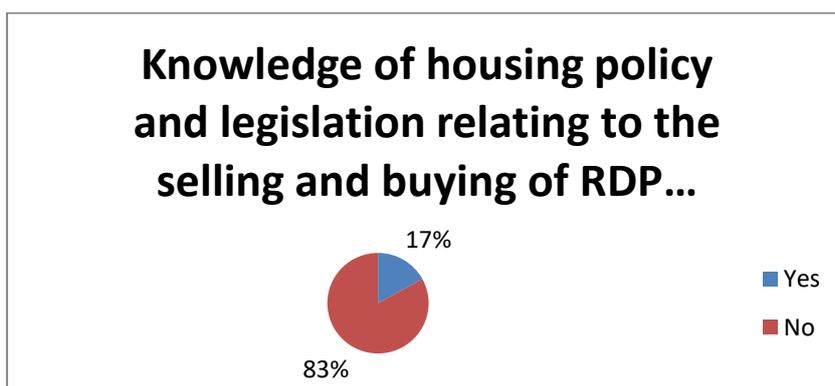
24.



From the sample 8% declared to have attended financial management training. And 92% residents state that they never attended such.

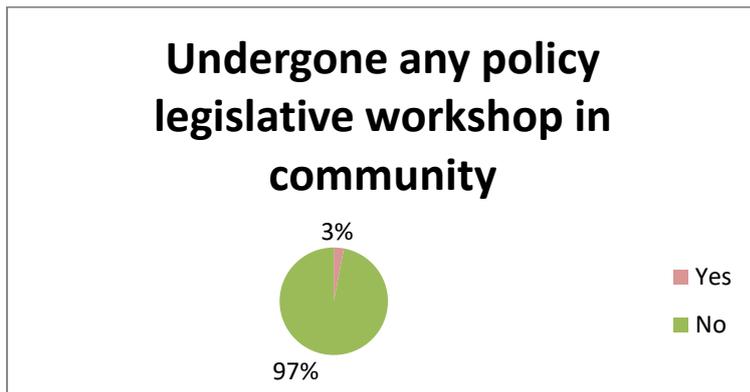
Section C: Policy and Legislation: Consumer perception and Practice

25.



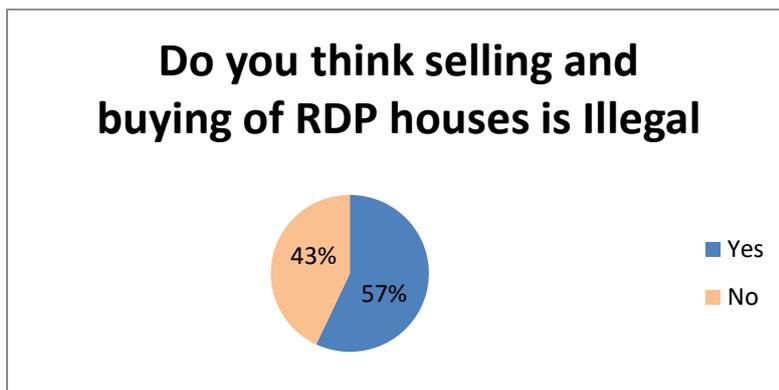
In WL from the 105 households 17% stated that had knowledge of housing policy and legislation relating to selling and buying of RDP houses and 83% declared to have no knowledge on that.

26.



3% of 105 households declared that they had undergone policy legislative workshop in the community and it was conducted by the councillor and community committee. While 97% stated that they have never undergone any policy legislative workshop in the community.

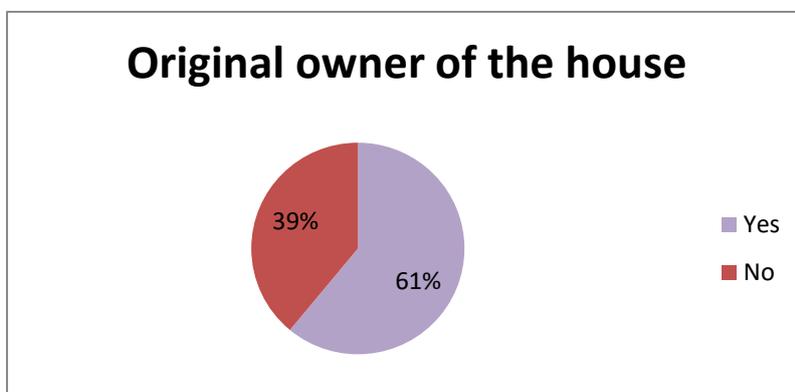
27.



57% of 105 households in WL stated that they think that it is illegal to sell or buy an RDP house while 43% stated that it was not illegal.

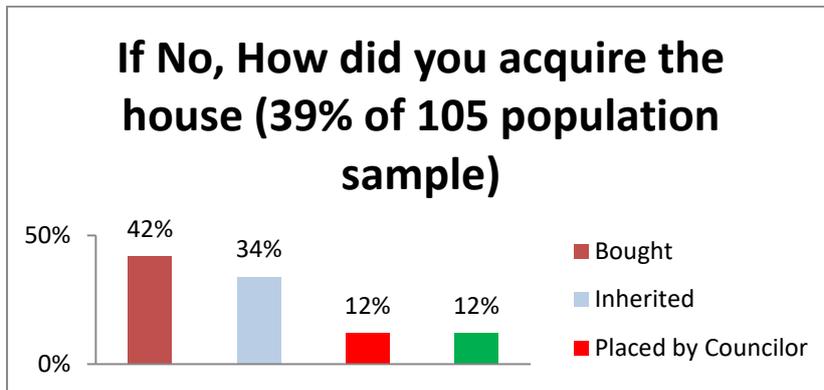
Section D: Transaction Process

28.



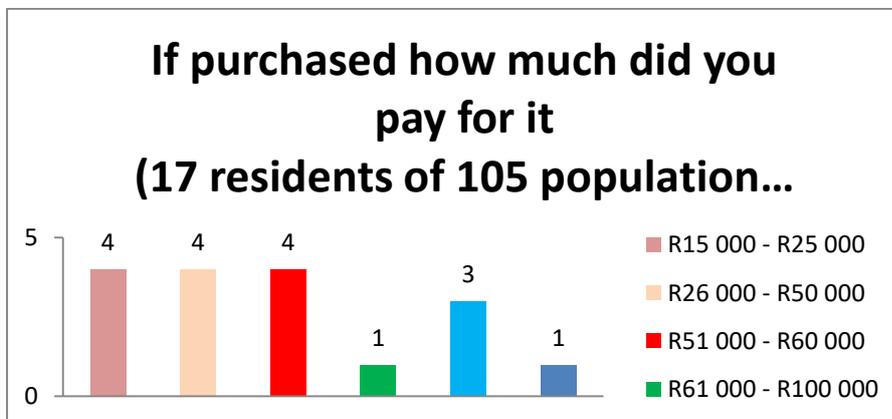
In WL 61% of 105 households are still occupied by their original owners and 39% are not original owners. 39% are households who bought, inherited or were placed by the councillor and in the same 39% some did not specify how they got the houses. This is further divided accordingly on the chart below (31.c).

31 (c).



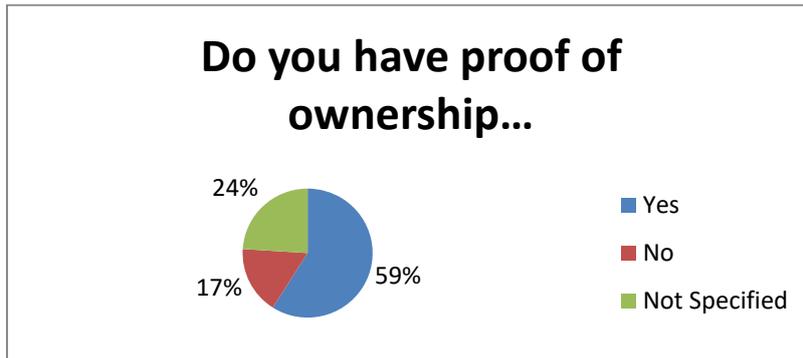
On the 39% households that are not original owners 42% bought their houses, 34% inherited their houses, 12% are households who were placed by a Councillor and another 12% did not specify how they got their houses.

32.



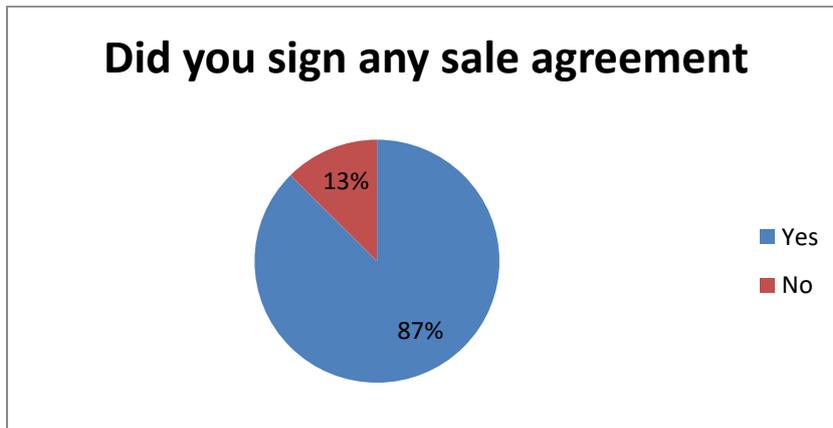
In WL from the 17 residents who had bought their houses (42% of 39% that were not original owners), 4 residents purchased their houses at a price between R15 000 – R25 000, another 4 were between R26 000 – R50 000, 4 were purchased at a price between R51 000 – R60 000. 1 house was between R61 000 – R100 000, 3 households did not specify how much their houses costed and 1 resident did not remember the price

32 (b).



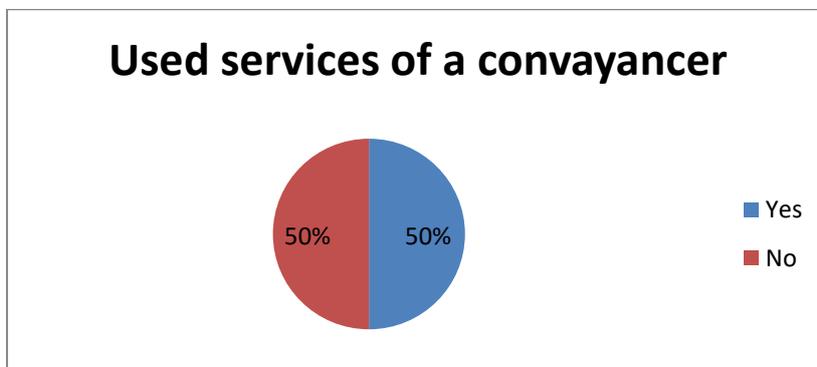
From the 39% of residents who are not original owners of the houses, 24% did not specify if they had proof of ownership or not. And 17% did not have proof of ownership while 59% declared that they had proof of ownership.

33.



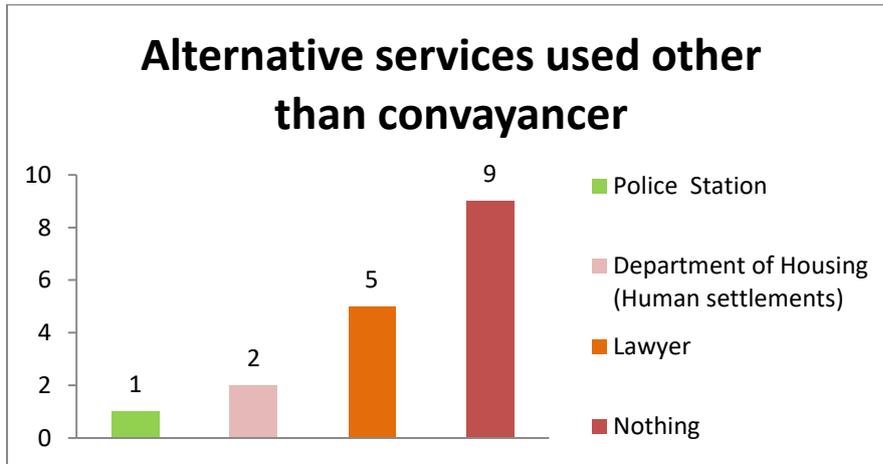
During the purchase/transaction of the house out of 17 residents who bought their houses 87% signed sale agreements and 13% did not sign any sale agreement.

34.



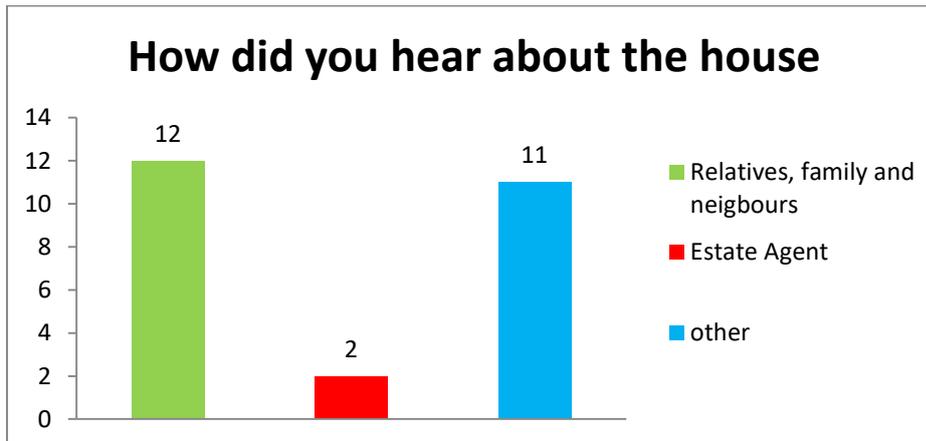
From 17 residents who bought their houses 50% used services of a conveyancer and 50% used other alternatives such as police stations or nothing at all.

34 (c).



From 17 residents who bought their houses, 9 residents used nothing, 5 residents used a lawyer 2 used the department of housing now known as Human settlements department and 1 resident used a police station

35.



There were 17 residents who stated that they bought their houses and 5 who did not specify how they acquired their houses while 5 residents were placed by the councillor. The stats on the chart above are inclusive of the responses that were given by 5 respondents who had not specified how they got their houses and 2 respondents from the 5 that had indicated that they were allocated by the Councillor.

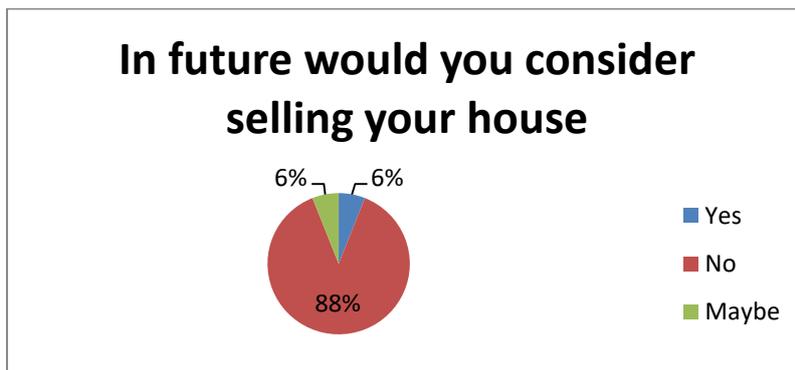
36.



From the 17 respondents who had indicated that they bought their houses 16 respondents were able to answer where they got the money to buy their houses.

Section E: Forecasting

37.



In WL from 105 households 6% would consider selling their houses in future, 88% would not sell and 6% said maybe they would sell in future.

Annex H: Translated questionnaire for household survey (isiZulu)

Imibuzo yocwaningo: Emphakathini

Isingeniso:

Uphenyo ngohlobo nendlela ezakhiwe ngayo nokudayiselana kwezindlu zomxhaso eWaterloo naseQuarry Heights kumasipala waseThekwini, KwaZulu Natali.

1. Obuzayo

2. Obuzwayo

3. Inombolo kamazisi (akaphoqelekile)

Okubonakalayo :

4. Uhlobo lwendawo yokuhlala

C1) Izindlu zomxhaso

C2) Umxhaso odinga ukulungiswa kancane

C3) Umxhaso odinga ukulungiswa kakhulu

Isigaba A: Ezenhlalo nezomnotho

5. Ngabe uyinhloko yekhaya?

a. Yebo

b. Cha

6. Unesikhathi esingakanani uhlala nalomphakathi?

0 - 2 (iminyaka)	
2 - 5 (iminyaka)	
5 - 10 (iminyaka)	

Angisakhumbuli/sesiside impela	
--------------------------------	--

7. Kade uhlala kuphi ngaphambili? (emakhaya/edolobheni)

8. Unesikhathi esingakanani uhlala kulendlu?

0 - 2 (iminyaka)	
2 - 5 (iminyaka)	
5 - 10 (iminyaka)	
Angisakhumbuli/sesiside impela	

9. Ngabe uqashwe ngokugcwele?

10. Uyasithola isaziso somholo?

11. Ungakanani umholo wekhaya usuhlanganisiwe?

12. Uyalisebenzisa ibhange?

- a) Yebo
- b) Cha

13. Uma uthi yebo/Uma uvuma, yiliphi? (akuphoqelekile)

Isigaba B: Ulwazi nokufundiswa ngokuthengiselana

14. Ngaphambi kokungena kulendlu, zikhona izinhlelo zokufundiswa enazithola?

- a) Yebo
- b) Cha

15. Kwaba yisikhathi esingakanani nifundiswa ngezindlu nokuphathelele nezimali?

1.	0	
2.	>25%	

3.	>50%	
4.	>75%	
5.	>100%	

16. Uma ucabanga, indlela owafundiswa ngayo yayinjani?

a. Ulwazi enaluthola

1.	Lwalungekho	
2.	Lwalukhonyana	
3.	Lwalukhona	
4.	Lwalukahle	
5.	Lwaluluningi	

b. Ukuhambisana nesimo sezindlu

1.	Akuhlangne/Akuhambisani	
2.	Kwakukhona okuncane	
3.	Kwakuhambisana khona	
4.	Kwakuhambisana impela	
5.	Kwakuhambisana kakhulu	

17. Kukhona ulwazi onalo ngamatayitela nokubaluleka kwawo?

- a) Yebo
- b) Cha
- c) Uma lukhona libaluleke ngani itayitela?

18. Unalo ulwazi lwabammeli abagunyaza izindawo?

- a) Yebo
- b) Cha

19. Nike nafundiseka ngamanani ezindlu?

- a) Yebo
- b) Cha
- c) Uma wafundiseka kwathiwa zibiza kanjani?

20. Eyakho uyoyazi ukuthi Ibiza kanjani?

- a) Yebo
- b) Cha

- c) Uma uyazi, yini eyenza ingalingani nezinye?
21. Uma ucabanga nje yakhiwa ngamalini?
22. Nafundiseka ukuthi zithengwa kanjani?
- a) Yebo
- b) Cha
- c) Uma wazi, nafundiswa ukuthini? (uzosho loko okukhumbulayo)
23. Unalo ulwazi ngezichibiyelo ezivimba ukudayiswa komxhaso ingakapheli iminyaka ewu 8?
- a) Yebo
- b) Cha
- c) Uma wazi, kusho ukuthini ukuchibiyela?
24. Uyazi ukuthi komele wenzenjani uma ufuna ukuyidayisa indlu yomxhaso?
- a) Yebo
- b) Cha
- c) Uma wazi, yimiphi imigudu okumele uyilandele?
25. Unalo ulwazi ngamabhange asiza ekuthengeni nasekulungiseni izindlu?
- a) Yebo
- b) Cha
- Uma wazi i. ulutholephi lolulwazi?
- ii.usuke wazama ukulusebenzisa lolulwazi ?
26. Wake wacabanga ukuyocela ibhange likuthengele umuzi?
- a) Yebo
- b) Cha
- i. Uma ungakaze, ngobani?
27. Wake wafundiswa ngokuphatha kwezimali?
- a) Yebo
- b) Cha
- c) Uma wafundiswa kwakungani?

1.	Kwakungahambisani	
2.	Kuncane ukuhambisana	
3.	Kwakuhambisana	
4.	Kwakuhambisana kakhulu	
5.	Kuningi nokunye engangingakwazi	

Isigaba C: Inqubomgomo nemithetho: Ukucabanga kwabathengi nendlela abacanga ngayo

28. Unalo ulwazi ngenqubomgomo nemithetho emayelana nokuthengwa nokudayiswa kezindlu zomxhaso?

- a) Yebo
- b) Cha

29. Ukhona umhlangano wokufundiswa ngenqubomgomo nemithetho emphakathini wenu?

- a) Yebo
- b) Cha

i. Uma ekhona wayeqhamukaphi, ewubani?

30. Ngabe ukuthenga noma ukudayisa indlu yomxhaso kusemthethweni?

- a) Yebo
- b) Cha

i. Uma uvuma, kungani/ngobani?

Isigaba D: Imigudu elandelwayo uma kudayiselwana

31. Ngabe ungumninindlu?

- a) Yebo
- b) Cha

c) Uma ungayena wayithola kanjani, nini pho indlu?

32. Uma wayithenga

a) Wayikhiphela malini?

b) Unabo ubufakazi bobunikazi?

a) Yebo

b) Cha

c) Uma unabo, nhloboni yobufakazi?

33. Kukhona ukusayina okwenzeka ngesikhathi nidayiselana?

a) Yebo

b) Cha

34. Ngalesikhathi nidayiselana ukhona ummeli owanisiza?

a) Yebo

b) Cha

c) Uma engekho, yisiphi isazi somthetho esasinimele?

i. Ngaphandle kwabameli ninahlobo luni lwamaphepha agunyaza ukudayiselana kwenu?

35. Wezwa noma wazi kanjani ngalendlu?

a) Isihlobo,umndeni, umakhelwane

b) Abadayisi bezindlu

c) Ngenye indlela, chaza

36. Uma wayithenga, uyithole kanjani imali?

a) Ngableka imali yokuthenga indlu ebhange

b) Ngableka imali nje

c) Imali engangiyibekile

d) Istokfela

e) Umashonisa

f) Usizo lwasemndenini

37. Kukhona owabambisa ngakho ukuze ubolekwe imali?

- a) Yebo
- b) Cha

Isigaba E: Ingomuso

38. Uyacabanga ukuyidayisa lendlu ngelinye ilanga?

- a) Yebo
- b) Cha
- c) Mhlawumbe
- i) Uma uthi yebo, ngamalini?

39. Yini engenza ufune ukudayisa?

40. Uma uyidayisa, loko ungakwenza ngasese noma ungalandela imigudu efanele?

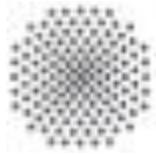
- a) Ngemigudu efanele
- b) Ngasese
- c) Uma kungasese kungaba yiziphi izizathu ezingabaga loko?

Annex I: Key informants interview schedule

No.	Name	Organisation	Position	Interview date	Place of interview
1.	Mr. Manie Annendale	Nedbank Group	Head of Affordable Housing	4 th Feb 15	Johannesburg
2.	Ms. Nolwazi Nzama	Standard Bank	Head of Affordable Housing	5 th Feb 15	Johannesburg
3.	Mrs. Malinda Barnard	FNB	Head of Affordable Housing	10 th Feb 15	Johannesburg
4.	Mr. Tony Pillay	ABSA	Manager of Affordable Housing	6 th Feb 15	Johannesburg
5.	Cllr Mxolisi Nzimbomvu	Waterloo	Community leader	28 th Jan 15	Durban
6.	Cllr Obed Qulo	Quarry Heights	Community leader	19 Feb 15	Durban
7.	Mr Xulu	Informal Real Estate	Community business person	25 th June 15	Durban
8.	Mr. Mark Bailey	Ethekwini Housing	Senior Manager	17 Feb 15	Durban
9.	Ms Lelo	Eyamaqwabe Properties	Estate agent	13 June 15	Durban
10	Minister Ravi Pillay	KZN Human Settlements	MEC	12th June 15	Durban
11	Mr. Bernard Sithole	KZN Human Settlements	General Manager- Capacity Building	12 Feb 15	Durban
12	Ms. Kecia Rust	FinMark Trust	Director	11 Feb 15	Telephonically

13	George Tsotetsi	Department of Rural Development and Land Affairs	Registrar of Deeds – Legal Support and Deeds Training	26 May 15	Pretoria
14	Mrs Greta Applegreen	KZN Human Settlements	HOD	20 th Feb 15	Durban
	Mrs Beryl Mphakathi	Ethekwini Housing Unit	Head	16 th Feb 15	Durban
15	Mr Jeff Lawrence	NEDBANK	Manager Retail – Affordable Housing	11 th Feb 15	Johannesburg
16	Nigel Gumede	Ethekwini Municipality EXCO	Chair – Human Settlements Portfolio Committee	12 th June 15	Durban
17	Warren Smit and Liza Carolia	Africa Centre for Cities: University of Cape Town	Researchers	1 st June 15	Cape Town
18	Dr Margot Rubin	University Witwatersrand	Senior Lecturer	27 th May 15	Johannesburg
19	Dr Sarah Charlton	University Witwatersrand	Senior Lecturer	27 th May 15	Johannesburg
20	Vanessa Baatjies	uTshani Fund		2 nd June 15	Cape Town

Annex J: Informed consent form



Städtebau-Institut Stuttgart

Fachbereich Internationaler

To whom it may concern

Universität Stuttgart

Fakultät 1

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SI Städtebau-Institut

Städtebau

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astrid.ley@si.uni-

stuttgart.de

6. May 2015

Informed Consent Form

Mr Sandile Mbatha is a researcher and a PhD candidate based at the University of Stuttgart in Germany, Faculty of Architecture and Urban Planning. He is a key contact person for this research project. The project is supervised by Professor Astrid Ley from the University of Stuttgart.

You are being invited to participate in a study that involves research into the nature, character and extent of informal housing transactions in government subsidized low income housing. The aim and purpose of this research is to investigate the nature and character and to measure the extent of these transactions in two communities of Waterloo and Quarry Heights in EtheKwini Municipality. The study will provide an empirical understanding of informal housing markets in EtheKwini Municipality thereby contributing to the generation of new knowledge and informing government policy interventions in this market segment.

In the event of any problems or concerns/questions you may contact the University of Stuttgart (see details on letter head) or the researcher, contact details as follows:

Researcher Contact Details:

Email: sandile.mbatha@gmail.com

Tel: [+27 \(0\)731731447](tel:+27(0)731731447) or [+49 \(0\)157 50394513](tel:+49(0)15750394513)

Participation in this research is voluntary. Participants may withdraw participation at any point, and in the event of refusal/withdrawal of participation, participants involvement will be terminated with immediate effect without any consequences.

There are no incentives for participation, nor will participants be reimbursed for costs incurred as a result of their participation.

In order to protect confidentiality of all participants, interviews will be kept strictly confidential. Names will not be revealed without permission. However, excerpts interviews may be part of the final research report.

Signature of the interviewee_____

Annex K: Project introduction letter_key informants

Study introduction brief

Research title:

“ Informal Transactions of Low Income Houses in South Africa: A Case Study of eThekweni Municipality”

The study is conducted as part of a PhD research. The primary objectives of the research is to investigate informal housing transactions in RDP housing in South Africa using the case studies of Waterloo and Quarry Heights in Ethekewini Municipality.

The study is concerned with answering the research question: What is the extent, nature and character of informal housing transactions in low income RDP housing in South Africa?

In order to answer this research question the follow research objectives have been identified.

- To measure the extent of RDP housing transactions
- To examine the nature of informal transaction in RDP housing sector
- To investigate the character of these transactions with regards to what informs them and who the stakeholders are
- To assess the level of property literacy on beneficiaries
- To investigate factors influencing informal selling and buying of RDP houses
- To examine the role of banking institutions in low income housing markets

The primary objective of the study is to provide a contextual understanding of informal housing transactions in the RDP housing sector. It will also provide an understanding of ‘extra-legal’ practices that inform these transactions and will identify informal institutional arrangements that facilitate the practice. By so doing, it is envisaged that the research will identify opportunities and challenges that are critical in the development of future interventions for the support of this property sub-market.

The expected outcome of the study is that it would provide a contextual framework under which these informal transactions occur. It will also outline a stakeholder map thereby identifying key role players in the sector and how each influence the level of informality in housing transactions. Moreover, it will provide a process flow of how this phenomenon of informal housing transactions unfold in RDP housing market.

Research approach

The research uses grounded theory as a methodological tool. A series of interviews with key research informants will be conducted. The interviews utilises open ended questions that allow the respondents to engage broadly with the subject of informal housing transactions in RDP housing. The outcomes of these interviews will inform the development of key themes. These themes will inform the research instrument for community surveys. The design of survey questionnaire will be informed by the themes that would have emerged from the key informants' data. The purpose of this approach is to build a theory grounded on empirical data while also comparing the assumptions of the professionals and officials versus perceptions and practice of low income housing beneficiaries.

Key research participants in this study include the Big Four Banks (ABSA, FNB, Nedbank and Standard Bank); KZN Human Settlements Officials; Ethekewini Housing Officials; Councillors from both communities; Deeds Office; Industry experts and RDP beneficiary households.

The academic home for this research is the University of Stuttgart. The KZN Department of Human Settlements and Ethekewini Municipality are providing resource support.

Annex L: Key informants by sector

Civil servants	Civil society	Academics	Practitioners	Elected leadership
6	1	4	10	4
2 – eThekwini officials 4 – KZN Provincial Human Settlements 2 – Department of Rural Development and Land Reform (Registrar of Deeds – Legal Support and Deeds Training	1 – uTshani Fund	2- Wits University 2 – Africa Centre for Cities at the University of Cape Town	1 – housing finance 2 – informal estate agents 7 – Banks officials from ABSA, FNB, Nedbank and Standard Bank (All heads of Affordable Housing Divisions)	2- ward councillors 1 - MEC Human Settlements Department 1 – eThekwini EXCO member and Chair of Human Settlements Portfolio Committee

Annex M: Community meeting invitation



**ISIMEMO
SOMHLANGANO
WARD 11**

Umphakathi wase Phase 4 & 5
uyamenywa emhlanganweni
ophuthumayo ohlelwe kanje:-

USUKU : 09 May 2015

ISIKHATHI: 14h00

**INDAWO : Phase 4 & 5
eSontweni
kwaMvuyane**

UHLELO

- Ucwangingo lwezindlu zomxhaso kwi-area.

Siyacela ukuba nigcine isikhathi.

**IKHISHWE IKOMITI
LEDAWO NOKHANSELA**

Annex N: Political sentiments on housing transactions



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ETHEKWINI EMPOWERS WOMEN



News: Page 3

UTILITY BILL QUERIES TO BE SENT TO CITY



News: Page 6

SERVICE DELIVERY PRIORITISED



Feature: Page 8

Houses intended for poor residents are not for sale

SILINDILE MALULEKA

ETHEKWINI Municipality has condemned the selling of government houses by recipients, which is rife especially in Breaking New Ground (RDP) housing projects.

The Municipality is taking a tough stance against beneficiaries of government housing who are selling their homes for financial gain. Human Settlements and Infrastructure Committee Chairperson Councillor Mondli Mthembu has issued a stern warning to those who are involved in this illegal practice.

"If government has issued a house to you and you put it on the market for sale, you will face the full might of the law. It is not allowed and is a criminal activity. If you are doing it, you will find yourself on the wrong side of the law," he said.

The City's Human Settlements Unit is working with the City Integrity and Investigations Unit to deal with fraudulent activities taking place in various housing projects in eThekweni.

Allocations Manager for the Human Settlements Unit Gugu Ngema said the selling of houses is a challenge which the City is working hard to eradicate.

"Beneficiaries who sell their houses must be aware that they cannot benefit from another housing project in South Africa because the Department of Human Settlements uses one system called the Housing Subsidy System. This system records the information which is available to any administrator working in the department irrespective of the province they are in," she said.

The Municipality is aware that some beneficiaries are selling their houses and returning to informal settlements or transit camps where they previously lived. A warning has also been issued to those buying RDP homes.

"To those who buy houses from beneficiaries, the title deed remains in the name of the approved beneficiary. If the beneficiary decides to come back and evict you, the Municipality cannot intervene because the title deed and records will prove who the owner is. The buyer will therefore lose their money," explained Ngema.

The Municipality is in possession of a court order to evict illegal occupants who have invaded the Comhuba Integrated Human Settlement Project.

The Human Settlements Unit has been approached by people in possession of false allocation letters under the pretence that they have



EtheKwini Mayor Zandile Gumede, Deputy Mayor Fawzia Peer and Human Settlements and Infrastructure Committee Chairperson Councillor Mondli Mthembu with an elated house recipient, Phumzile Mbambo, who was one of four beneficiaries of the newly built Breaking New Ground (RDP) houses in eTafeleni, Inanda during this year's Mandela Day celebrations on 18 July. Council has warned people not to sell government houses for financial gain.

Picture: ZAMANTUNGWA GUMEDE

been given the letters to use in order to collect their house keys.

The fake letters, titled "temporary title deed", are

being investigated by the Municipality along with all other housing related fraudulent activities that have been reported to

the City. Allocations for houses are done based on all approved beneficiaries by the Housing Subsidy system. This is followed by the allocation to the rightful owner. Ngema reiterated that government houses are not for sale.

silindile.maluleka@durban.gov.za