

FARM 39 TRANSFORMATION: THE LOST 18 YEARS (Part 2 & 3)

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Ward 2 Forum Team
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PART 2 ROLE OF THE DRDLR (Department of Rural Development & Land Reform)

This article is part of a series published to shed some light onto the complex, sensitive and increasingly critical issue of the transformation of Farm 39. It attempts to address the lack of information available and the enormous apathy toward the subject, and to generate community support for its prompt solution.

The Department of Rural Development and Land Reform, which used to be the Dept of Land Affairs, is ultimately responsible (reference 1) for:

- Assisting the community of Farm 39 to understand the implications of the Transformation of Certain Rural Areas Act 94 of 1998 (TRANCRAA), particularly related to their experience with the transformation and redistribution of other land areas;
- Facilitating the choice that the community must make to be transferred to a particular 'entity', such as a Trust, Community Property Association, the local municipality, or other, or a combination of 'entities';
- Implementing the agreed recommendations of the community of Farm 39 in terms of the chosen entity.

To a large extent, the lack of development in the Rural Areas is caused by restrictions and inadequacy of Act 9 of 1987. The new Act 94 of 1998 makes provision for the:

- Transfer of land to local Municipalities and other entities;
- Lifting of restrictions on the transfer of land;
- Making of provision for mineral rights and related issues;
- Repeal of Act 9 of 1987;

The process consists of six distinct but overlapping phases dealing with the following:

- Preparation for transformation – liaison with all parties involved, establishment of committees;
- Land rights enquiry – to establish existing land use and land tenure/ownership and to list all qualifying residents;
- Land use planning – begin planning of development projects and allocation of resources;
- A tenure management plan – options for land tenure and land management;
- Choice of an entity – detailed consultation and referendum, decision by Minister;
- Implementation of this decision – over a period of time, by management of the transformation process.

All of these functions were supposed to have been carried out by Urban Dynamics, the appointed Consultants for TWKM, starting in 2003. The work was reported in October 2010, was not complete in any respect, with no reasons given for the failure to honour their contract, and no public record of payments made.

The DRDLR has established a number of strategic goals for the period 2015-2020 and beyond:

- Corporate governance and service excellence - to foster corporate governance and service excellence through compliance with the legal framework;
- Improve land administration - for integrated and sustainable growth and development;
- Promote inclusive and equitable access to and sustainable use of land for development;
- Promote sustainable rural livelihoods, with improved capabilities, income and jobs;
- Improved access to services and provision of suitable infrastructure;
- Sustainable rural enterprises and industries that are socially and environmentally viable;
- Restoration of Land rights – with equitable redress for all the community.

At the moment it seems that DRDLR are underplaying and undervaluing their importance and influence on the transformation of Farm 39, to the extent that TWKM have been allowed to apply a hugely negative approach to discussions with the Genadendal Transformation Committee, and their consultation of the community via their consultants Urban Dynamics. It is considered essential that DRDLR take control to ensure that the intent of Act 94 of 1998 is complied with.

DRDLR spent R9,000 million during 2015-16. Of particular interest to Farm 39, they supported 10 TRANCRA projects. They supported over 200 CPAs to become compliant. Their most urgent requirement will presumably be the review of work done on the Farm 39 project and to prioritise the outstanding items.

Reference 1: A to Z of the Transformation of Certain Rural Areas Act (DRDL 2010).

Reference 2: Department of rural development and land reform strategic plan 2015 – 2020.

PART 3 ACT 9 OF 1987

This Act, the Rural Areas Act (House of Representatives) No 9 of 1987 was the precursor to the Transformation Act 94 of 1998 (TRANCRAA), with the objective to provide for the control, improvement and development of rural areas and settlements, and disposal of land in such areas. TRANCRAA refers to Act 9 and also repeals the Act. The following show the relevance of Act 9 to the transformation process:

The Minister may permit any owner to retain his property in an area, or authorize a person who is not a qualified person to acquire property, if after consultation with the board of management he is of the opinion that any business undertaking will be of benefit to the community (section 9).

A person not qualified to retain ownership of a property may be entitled to compensation for relinquishing his rights.

The Minister (section 20) must appoint a person to:

- Determine a register of persons entitled to own and/or occupy land in the area, and their respective rights, with details of the properties or erven concerned;
- Establish an advisory board or board of management;
- Prepare a plan for the area, classify and subdivide into residential (including space for future expansion), business, authority, open space etc zones, service facilities, agricultural areas;
- Grant to every registered occupier an erf in a residential area, and any other erf which may be allocated to him;
- Subdivide the outer commonage into farms and grant each one to a registered resident.

Except with the approval of the board concerned, no property shall be alienated to any other than another qualified person.

The only part of Act 9 which is still applicable relates to townships concerning the issuing of title deeds. In effect this means that a Municipality may not transfer ownership of a piece of land in the township without the approval of the provincial authority. The concern here is that if the Municipality's actions are reviewed by a court of law, and it is confirmed that approval of the provincial authority did not happen, then land transfers in the townships might be found to be invalid. However, the Agreement of Settlement between DRDLR, the Transformation Committee and TWKM at Houw Hoek in 2007-08 included an immediate moratorium on sale of the Trust lands.



On behalf of Ward 2 Forum