

FARM 39 TRANSFORMATION: THE LOST 18 YEARS

PART 5 THE BENEFICIARIES

PART 6 EXISTING PROPERTY AND LAND USE RIGHTS

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Ward 2 Forum
SERVING THE COMMUNITY TOGETHER

Ward 2 Forum Team

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FARM 39 TRANSFORMATION: THE LOST 18 YEARS

PART 5 THE BENEFICIARIES

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 Beneficiaries

The beneficiaries are residents at the date of commencement of the Act on 2 November 1998, with rights to own property, and those with rights to use land. Act 94 defines them as:

- 1) Persons who ordinarily reside in a board area, which is an area of land to which the provisions of the Rural Areas Act 9 of 1987 applied immediately before commencement of this Act;
- 2) Or, under law are liable for the payment of assessment rates, rent, service charges or levies to the local municipality in respect of land situated in the board area.

There is no minimum age limit prescribed for an eligible resident or occupant as on 2 November 1998. However, DRDLR recommends that land reform beneficiaries must have perpetual right in law to a property, which may be willed or bequeathed.

The Act is not clear concerning eligible residents on 2 November 1998, who have since died, as to whether their inheritors will acquire the same rights. There is also a doubt concerning the eligibility of all the potential beneficiaries listed below to individual and/or group benefits.

The demographics should be re-examined as the census data is not at all reliable. The BKS Report, based on a sample of 945 households (4426 persons) indicated:

- About 40% of the population of Farm 39 were aged 18 years or less;
- About 27% of the population had some degree of employment;
- About 9% were 60 years or older.

Land Ownership beneficiaries include:

- All the residents who comply as above - single persons, families or households;
- Dependants of the above residing at the same address;
- Tenants residing at the same address;
- Family or household members working and residing elsewhere on the relevant date, who would otherwise be considered eligible;
- An entity consisting of all the above;

- There are other persons, who are not eligible because they only moved to the community after the prescribed date of commencement of the Act, who are considered by a majority of the Transformation Committee members to be in good standing, who may be offered the opportunity to be considered as legitimate beneficiaries.

It is understood that, by including the specified groups above, certain other persons have been necessarily excluded from being legitimate beneficiaries:

- Persons not considered eligible in terms of the Act;
- Persons who, in good faith or otherwise, have deeds of transfer of property in Farm 39 that have been officially transferred to them contrary to Acts 9 or 94.

Land Use beneficiaries include:

- All residents with existing, unexpired lease or other rights to specified areas of agricultural land or allotments in any part of Farm 39;
- All residents who apply for the use of specific land areas, and who are allocated such areas, in whole or in part, with agreement of the relevant management Committee, for an agreed period of time to suit the details of the particular project, for an agreed lease rental;
- Preference could be considered for those persons with a successful record of management;
- Automatic transfer of a land use back to the control of the management committee could be considered in the event of failure to comply with the project plan within a prescribed time period;
- Non-community members may be considered for partners or share holders on an agreed basis with land use beneficiaries, for the purposes of mentoring, providing necessary skills or expertise, or for other acceptable reasons;
- Workers on a land use project may be offered a dividend, based on performance or just as an employee.

Beneficiaries of the Entity

Every eligible resident could be granted an agreed and equal share, paid by a dividend or other method, as representing the audited value of the entity, comprising a share of all the development projects, in terms of profits realised and/or asset value increases. These shares must be offered firstly to the community, and secondly to DRDLR, if their owner wishes to sell them.

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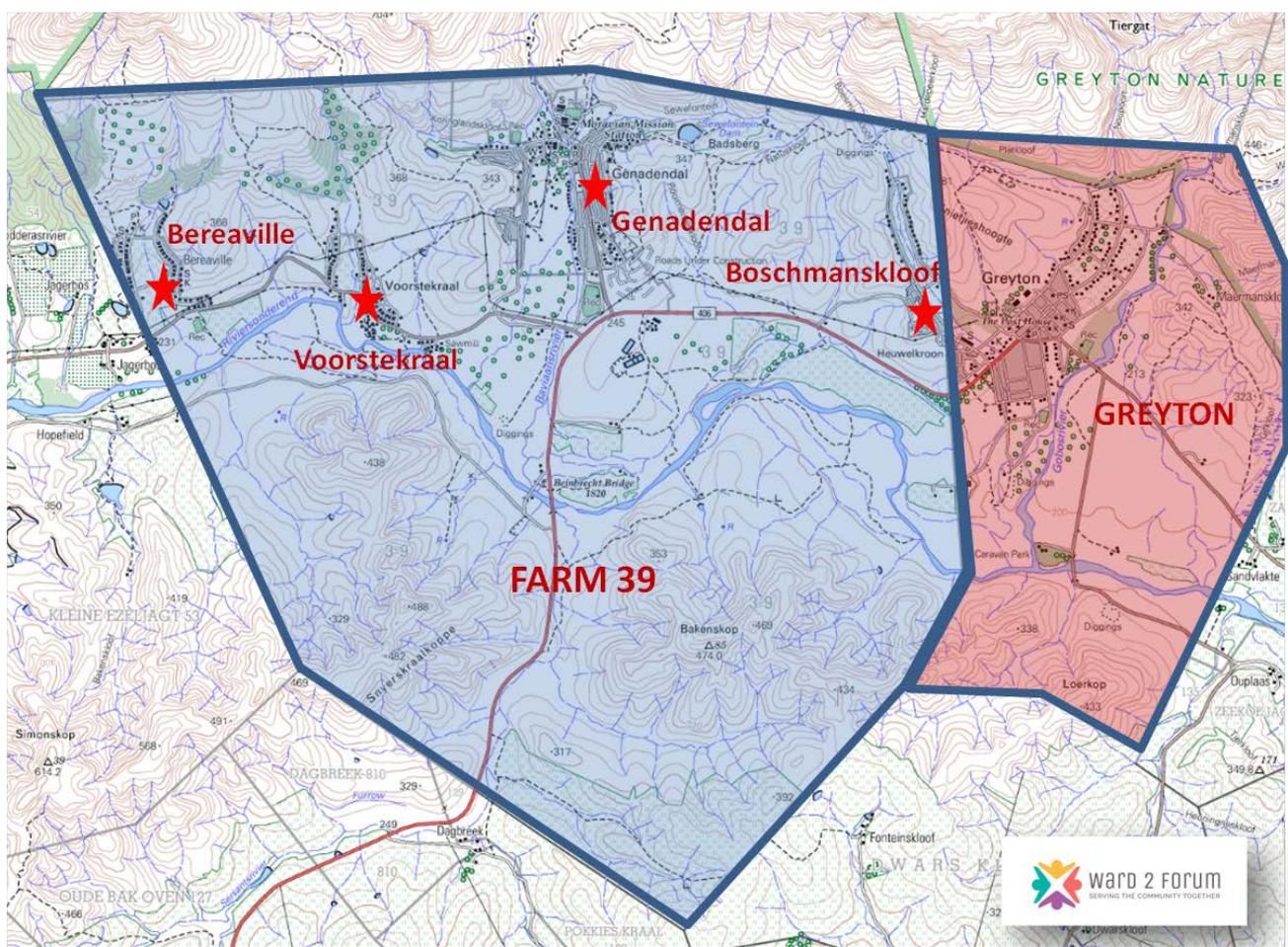
Records of Transfer Deeds

Approved General Plans are shown in Table 1.4 of the Land Use Report (reference 1). They total about 342 ha, of which about 206 ha are registered, which compares with a total of 4773 ha for the whole of Farm 39 that is subject to Act 94. The dates of these plans range from 1988 to 1998, *after* the commencement of Act 9 of 1987.

The report contains details only of 2 sets of Deeds, the main one being for 47.8 ha of Erf 1353 Genadendal, owned by TWKM (T13058/1996), the smaller one being for 1147 m² of Erf 1194 Genadendal, owned by Charles and Johanna Pullen (T96570/1998).

It is known that over 200 residential properties have been sold and transferred in Farm 39 to various persons, with the knowledge and assistance of TWKM, yet these are not recorded in the report. There are also a number of non-residential erven – police, schools, churches, municipal offices etc.

Plan layouts are shown for the 4 residential areas as below:



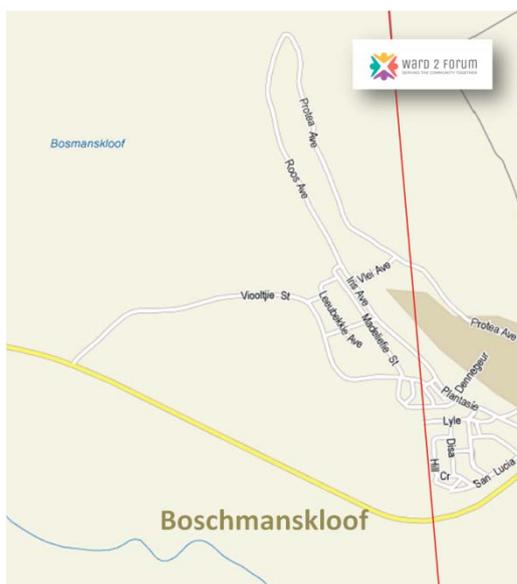
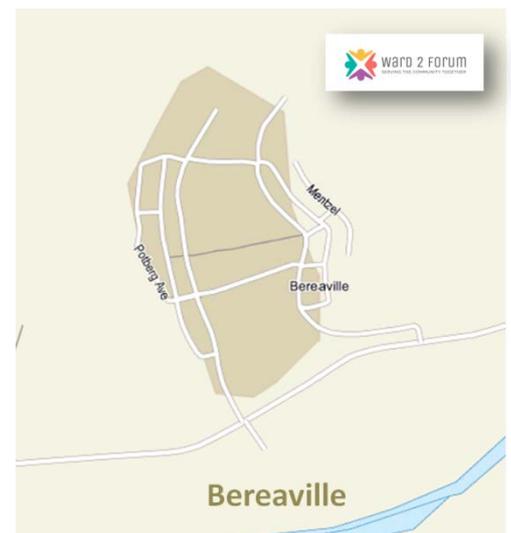


Voorstekraal

All the early village area as registered in 1989 is shown, including the central allotments area and open spaces, all represented as owned by TWKM, including 21 residential erven. The outer erven were registered in 1995-98. 11 additional erven are owned by the National Housing Board.

Bereaville

The central allotments area is shown, and most of the residential erven, as registered in 1990, with 2 smaller residential areas registered in 1995-98. The whole allotments area and a few individual erven are owned by the 'Community of Genadendal' (not defined), but there are no privately owned properties.



Boschmanskloof

Most of the area is shown, including the allotments area as registered in 1990, with 2 small areas adjacent to Heuwelkroon registered in 1995-98. No private owners recorded, all central and open spaces belong to the 'Community of Genadendal'.



Genadendal

This shows most of the township, including most of the open spaces, as registered in 1988 – 1990, with one small area registered in 1983, and 2 others in 1997 and 2001. Most of the open spaces, including the central allotments area, are owned by the National Housing Board, the rest by the ‘community of Genadendal’. No private ownership is recorded.

The Land Use Report (reference 1) also shows map inserts with existing zoning – schools, authority, churches etc – but no mention is made of ownership (or leasehold) of the actual erven.

The main land uses are shown below:

Erven	Voorstekraal	Bereaville	Boschmanskloof	Genadendal	Total
Residential	216	193	206	1136	1751
Vacant	163	134	121	278	696
Others	8	11	11	88	118
TOTALS	387	338	338	1502	2565

Note that TWKM property valuations for Rates shows 2956 erven

The Land Use Report presents a broad representation of the status of leaseholds for the agricultural area. In the first set of data (2005), the leased areas are shown mapped, 9 of which have no named lessees, and a table based on the same data shows 9 additional leased areas than on the map. The data for 2010 lists 24 leases, some with unidentified location and/or area, compared with 14 shown on the map.

Whether this is sloppy research done by the Consultants, or the result of missing records, is unknown, however no explanation is offered. Nevertheless, it was noted that most if not all of the leases had expired, and not apparently been renewed.

The allotment areas (tuingronde)

These are repeatedly mentioned throughout the reports as important areas, with good quality soil, along the streams and rivers that run through the townships, where vegetables are grown (some plots are uncultivated). A major omission from the reports is the lack of delineation of these plots and the basis on which they are used, the basis of their allocation and what leasehold arrangements apply, if any. They are not considered suitable for housing development.

The evident absence of reliable and comprehensive records of land transfers and land usage is considered to be a serious problem in resolving the transformation process.

Reference 1: Genadendal Transformation Process: Land Use Report by Urban Dynamics, 2010.

Reference 2: Summary and Recommendations Report by Urban Dynamics, 2010.



On behalf of Ward 2 Forum