

# FARM 39 TRANSFORMATION: THE LOST 18 YEARS

## PART 9: COMMUNAL LAND TENURE

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**Ward 2 Forum**  
SERVING THE COMMUNITY TOGETHER

**Ward 2 Forum Team**  
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## PART 9: COMMUNAL LAND TENURE

### Rural Development

The comprehensive Rural Development Plan (CRDP), adopted by Government in 2009 (note 1), serves as the overarching policy strategy for the Department of Rural Development and Land Reform (DRDLR). This strategy of agrarian transformation denotes the rapid and fundamental change in the systems and patterns of ownership and control of land, livestock, cropping and community.

A form of individual tenure for each household is established, with accumulated rights. The approach of starting with Communal Property Associations has caused strife and potentially compromises production on the land according to Part 7 of the Annual Report 2015-16 of CPAs (note 2).

Individual households should be formalised as title-holders acknowledging therefore that the household is the basic unit of production which has rights and duties (enshrined in the constitution), requires services and development opportunities, is consumer, pays taxes and votes. The rights include:

- Perpetual right to property in law, that may be willed or bequeathed;
- Right may be used as collateral, against development etc loans;
- Right to be protected from land sharks by automatically awarding first refusal to the entity to purchase the property, and second refusal to DRDLR;
- The right to alienate land, either residential erven or agricultural areas, only includes alienation to other registered residents, or the entity itself, thus maintaining the rights of future land occupiers and users, as prescribed in Act 94;

### Basic Guidelines

A number of relevant suggestions are offered below, intended to guide the process of determining the optimum combination of arrangements for the various beneficiaries:

- The governance structures will also be title-holders but only in respect of the communally owned areas of land – collective and individual enterprise, public areas, infrastructure, housing development, etc;
- Each enterprise that acquires external funding from DRDLR or other sources must be established such that all employees have an equity share in the business of 50% total, taking experience and years employed into account;
- All enterprises together must contribute to the entity through a general fund, maybe based on leasehold rental for the land used by the enterprise – lease to be initially very low, but increasing per annum, and adjusted for commercial valuation of the land;
- All listed eligible residents, as defined by the Act, entitled to a non-transferable share of the entity, which by general community agreement could be paid as a dividend – to ensure that reasonable benefit accrues to those not having a house or other property in their name, who maybe are unable to work or choose not to work;
- Management skills and expertise not available within the community may be imported from outside, either for individual development ventures or for the whole community;

- Farming skills and experience preferably from within the community, but not by legal necessity, with a training and mentorship plan to develop as required by the actual projects organised, which will include the specification and standards of work functions, and subsequent inspection and approval;
- Grants to be available for self-build housing, and for repairs/upgrade of existing houses; owner may be barred from any further Council housing benefit, unless grant repaid on sale of the property to another authorised resident;
- Land to be made available for low cost housing for the community, also selected areas to be developed for low density, high value housing and sold on the open market – all funds for the benefit of the entity, not individual leaseholders;
- Housing construction expertise from local residents where available at a budgeted cost (architectural, plans, drainage, land excavation, foundations, plumbing, electrical wiring etc). Specialist expertise only when needed from outside the community. Depending on availability of artisan skill, a degree of mentoring may be organised.

## DRDLR Policy Proposals

The following draft policy proposals were made by DRDLR in 2014, in order to strengthen the rights of people working on the land (note 3):

- Convert land into long term lease;
- Communal tenure of communal land with institutionalised Use rights;
- Loss of benefits if land is consistently under-utilised or abused;
- Evictions only under strict conditions;
- Combination of share-equity and co-management;
- No loss of share-equity if resident decides to work elsewhere, outside Farm 39;
- Duties and responsibilities on the worker as well as benefits and rights;
- Farmer retains 50%, workers get relative proportion for years worked on farm;
- Encouragement of increased share from increased investment;
- Pay-off for those wanting to retire as an option;
- Forfeit of their share for those who refuse to abide by the rules;
- Investment and Development Fund open to all, funded by Government;
- Additional rights to shares can be earned over time.

## The Land Issues

One of the many complicated issues with the Transformation process is the legal requirement in Act 94 for the *residents to be given reasonable preference* to acquire land (section 4(2)), the very clear assumption being that such acquisition represents a benefit, and that the residents, mutually and individually (section 3(2)) are the beneficiaries. The community must agree with the process of determining details of the distribution of the rights of tenure and of land use.

To assist the understanding of the implications of this process, two specific aspects are examined:

- Different types of land areas;
- Relative values of the land areas.

## Different types of Land Areas

### Township Residential Erven:

- Provided by community funds (eg Moravian Church);
- Provided by TWKM/Provincial funding;
- Privately constructed/renovated;
- Renovated from Moravian Church/Dutch funds;
- In need of significant repairs;
- Selected erven for development and sale as high value residential property;
- Vacant erven;
- Mixed business and Residential erven.

### Township Allotments (tuingronde):

- For rent or lease to residential growers (vegetables, flowers, nursery);
- Availability as single or group units.

### Other Zoned Erven:

- Provincial services: Education, Police, Fire Service, roads, Clinic, Institutions;
- TWKM-provided functions: Open Space (sports, cemetery, conservation), community halls, municipal offices, roads, parking, materials and equipment stores;
- Businesses: including Light Industry, Tourism;
- Utilities: Eskom, Telkom, Telecommunications;
- Infrastructure: Waste Disposal, Waste Water Treatment; water and sewage reticulation, water reservoirs;
- The Glebe lands in Genadendal and BereaVille owned by the Moravian Church.

### Agricultural Areas (remainder land outside township):

- Crop growing areas (cultivated and irrigated);
- Animal grazing areas;
- Recreational/Conservation/Nature Reserve (mountain or riverside);
- Resort/special applications;
- Mineral Resources;
- Land used for communal access.

### Relative values of the land areas:

The following table shows estimated property values, based on rateable valuations in 2016, the final row giving potential free market values after land transformation:

| TOWNSHIP AREA                             | Range of value each | Range of Total value |
|---|---------------------|----------------------|
| 1751 residential erven                    | R30,000 – R600,000  | R53m – R1000m        |
| 118 other erven (uses unknown)            | Unknown             | unknown              |
| 696 vacant erven                          | R15,000 – R100,000  | R10m – R70m          |
| 2565 township erven potential (year 2016) | R0.5m – R2m         | R1300m – R5000m      |

The following table shows nominal values of land:

| VALUE OF LAND                        | Value per ha | Total value |
|--------------------------------------|--------------|-------------|
| Basic, uncultivated veld 2200 ha     | R18,000      | R40m        |
| Cultivated, irrigated fields 1300 ha | R45,000      | R60m        |
| Developed fruit farm 100 ha          | R640,000     | R64m        |

The following table shows the range of possible costs involved in basic housing, assuming a 2-bedroom house with 4 persons:

| OPTIONS  | COSTS                |
|--|----------------------|
| Municipal services                                 | Unknown and variable |
| Foundations construction                           | Owner                |
| Basic, local materials                             | R30,000+             |
| Construction labour                                | Owner                |
| Completed cost of new standard, serviced RDP house | R150,000             |
| Government major Repairs Grant                     | R20,000              |
| Government self-build Grant maximum                | R100,000             |
| Government RDP House cost for occupant (note 4)    | nil                  |

Following table shows effect of varied earnings and property value on Rates on a monthly basis (2016-17), assuming private ownership:

| <b>HOUSEHOLD OF 2 PERSONS</b> (note 5) | <b>Property Value</b> | <b>Rates payable</b>                 |
|--|-----------------------|--------------------------------------|
| Aged under 60, earning R4800 max       | Under R100,000        | nil                                  |
| Aged over 60, earning R6400 max        | Under R100,000        | nil                                  |
| Aged over 60, earning R6400 max        | Over R100,000         | R88 for every R100,000 over R100,000 |

It should be noted that all the values used above are not definitive, and should therefore only be used with caution.

The appetite for self-build housing is undetermined, but obviously could have a dramatic affect on the total number of houses that could be provided when the funds are severely limited (note 6).

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Note 1: The Communal Land Tenure Policy Framework, DRDLR (2009)

Note 2: [www.ruraldevelopment.gov.za](http://www.ruraldevelopment.gov.za) > Publications. See 2016 Annual Report

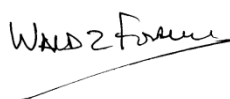
Note 3: Strengthening relative rights of people working the land (DRDLR Policy proposals, February 2014)

Note 4: RDP housing is free, and can be transferred to the occupant after 8 years, but if subsequently sold, the seller is prohibited from acquiring another RDP house

Note 5: Pensions per household of 2 persons are R3000, assuming total income below R4500 per month

Note 6: <https://lynedochecovillage.wordpress.com/>

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On behalf of Ward 2 Forum